

117TH CONGRESS
1ST SESSION

H. R. 4334

To empower States to manage the development and production of oil and gas on available Federal land, to distribute revenues from oil and gas leasing on the Outer Continental Shelf to certain coastal States, to promote alternative energy development, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 1, 2021

Mr. SCALISE (for himself and Mr. WESTERMAN) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To empower States to manage the development and production of oil and gas on available Federal land, to distribute revenues from oil and gas leasing on the Outer Continental Shelf to certain coastal States, to promote alternative energy 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 “American Energy First Act”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is the following:

Sec. 1. Short title; table of contents.

TITLE I—ONSHORE OIL AND GAS

- Sec. 101. Cooperative federalism in oil and gas permitting on available Federal land.
 Sec. 102. Conveyance to certain States of property interest in State share of royalties and other payments.
 Sec. 103. Access to Federal oil and gas from non-Federal surface estate.
 Sec. 104. Exemption of certain payments from sequestration.
 Sec. 105. State and Tribal authority for hydraulic fracturing regulation.
 Sec. 106. Protested lease sales.
 Sec. 107. Clarification regarding liability under Migratory Bird Treaty Act.
 Sec. 108. Amendments to the Energy Policy Act of 2005.
 Sec. 109. Administrative protest process reform.
 Sec. 110. Notifications of permit to drill.

TITLE II—OFFSHORE OIL AND GAS

- Sec. 201. Limitation of authority of the President to withdraw areas of the Outer Continental Shelf from oil and gas leasing.
 Sec. 202. Disposition of revenue from oil and gas leasing on the Outer Continental Shelf to Atlantic States and Alaska.
 Sec. 203. Gulf of Mexico Outer Continental Shelf revenue.
 Sec. 204. Addressing permits for taking of marine mammals.
 Sec. 205. Energy development in the Eastern Gulf of Mexico.
 Sec. 206. Annual lease sales in Gulf of Mexico region.

TITLE III—ALTERNATIVE ENERGY

- Sec. 301. Geothermal, solar, and wind leasing priority areas.
 Sec. 302. Geothermal production on Federal lands.
 Sec. 303. Application of Outer Continental Shelf Lands Act with respect to territories of the United States.
 Sec. 304. Disposition of revenues with respect to territories of the United States.
 Sec. 305. Wind lease sales for areas of Outer Continental Shelf.
 Sec. 306. Establishment of Coral Reef Conservation Fund.
 Sec. 307. Parity in offshore wind revenue sharing.
 Sec. 308. Energy and environmental remediation demonstration project for biochar.

TITLE IV—LIMITATIONS ON LEASING MORATORIUMS

- Sec. 401. Coal leases.
 Sec. 402. Congressional authority requirement.
 Sec. 403. Prohibition on moratoria of new energy leases on certain Federal land and on withdrawal of Federal land from energy development.

1 **TITLE I—ONSHORE OIL AND GAS**

2 **SEC. 101. COOPERATIVE FEDERALISM IN OIL AND GAS PER-**
 3 **MITTING ON AVAILABLE FEDERAL LAND.**

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

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

7 and

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

10 **“SEC. 44. COOPERATIVE FEDERALISM IN OIL AND GAS PER-**
 11 **MITTING ON AVAILABLE FEDERAL LAND.**

12 “(a) AUTHORIZATIONS.—

13 “(1) IN GENERAL.—Upon receipt of an applica-
 14 tion under subsection (b), the Secretary may dele-
 15 gate to a State exclusive authority—

16 “(A) to issue an Application for Permit to
 17 Drill on available Federal land; or

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

20 “(2) SUNDRY NOTICES.—Any authorization
 21 under paragraph (1) may, upon the request of the
 22 State, include authority to process sundry notices.

23 “(3) INSPECTION AND ENFORCEMENT.—Any
 24 authorization under paragraph (1) may, upon the re-
 25 quest of the State, include authorization to inspect

1 and enforce an Application for Permit to Drill or
2 drilling plan, as applicable. An authorization under
3 paragraph (1)(A) shall not affect the ability of the
4 Secretary to collect inspection fees under section
5 108(d) of the Federal Oil and Gas Royalty Manage-
6 ment Act of 1982 (30 U.S.C. 1718(d)).

7 “(b) STATE APPLICATION PROCESS.—

8 “(1) SUBMISSION OF APPLICATION.—A State
9 may submit an application under subparagraph (A)
10 or (B) of subsection (a)(1) to the Secretary at such
11 time and in such manner as the Secretary may re-
12 quire.

13 “(2) CONTENT OF APPLICATION.—An applica-
14 tion submitted under this subsection shall include—

15 “(A) a description of the State program
16 that the State proposes to administer under
17 State law, including a State drilling plan; and

18 “(B) a statement from the Governor or at-
19 torney general of such State that the laws of
20 such State provide adequate authority to carry
21 out the State program.

22 “(3) DEADLINE FOR APPROVAL OR DIS-
23 APPROVAL.—Not later than 180 days after the date
24 of receipt of an application under this subsection,

1 the Secretary shall approve or disapprove such appli-
2 cation.

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

6 “(A) determined that the State applicant
7 would be at least as effective as the Secretary
8 in issuing Applications for Permit to Drill or in
9 approving drilling plans, as applicable;

10 “(B) determined that the State program of
11 the State applicant—

12 “(i) complies with this Act; and

13 “(ii) provides for the termination or
14 modification of an issued Application for
15 Permit to Drill or approved drilling plan,
16 as applicable, for cause, including for—

17 “(I) the violation of any condi-
18 tion of the issued Application for Per-
19 mit to Drill or approved drilling plan;

20 “(II) obtaining the issued Appli-
21 cation for Permit to Drill or approved
22 drilling plan by misrepresentation; or

23 “(III) failure to fully disclose in
24 the application all relevant facts;

1 “(C) determined that the State applicant
2 has sufficient administrative and technical per-
3 sonnel and sufficient funding to carry out the
4 State program;

5 “(D) provided notice to the public, solicited
6 public comment, and held a public hearing with-
7 in such State;

8 “(E) determined that approval of the ap-
9 plication would not result in decreased royalty
10 payments owed to the United States under sec-
11 tion 35(a), except as provided in subsection (e)
12 of that section; and

13 “(F) in the case of a State applicant seek-
14 ing authority under subsection (a)(3) to inspect
15 and enforce Applications for Permit to Drill or
16 drilling plans, as applicable, entered into a
17 memorandum of understanding with such State
18 applicant that delineates the Federal and State
19 responsibilities with respect to such inspection
20 and enforcement.

21 “(5) DISAPPROVAL.—If the Secretary dis-
22 approves an application submitted under this sub-
23 section, then the Secretary shall—

24 “(A) notify, in writing, such State appli-
25 cant of the reason for the disapproval and any

1 revisions or modifications necessary to obtain
2 approval; and

3 “(B) provide any additional information,
4 data, or analysis upon which the disapproval is
5 based.

6 “(6) RESUBMITTAL OF APPLICATION.—A State
7 may resubmit an application under this subsection
8 at any time.

9 “(7) STATE MEMORANDUM OF UNDER-
10 STANDING.—Before a State submits an application
11 under this subsection, the Secretary may, at the re-
12 quest of such State, enter into a memorandum of
13 understanding with such State regarding the pro-
14 posed State program—

15 “(A) to delineate the Federal and State re-
16 sponsibilities for oil and gas regulations;

17 “(B) to provide technical assistance; and

18 “(C) to share best management practices.

19 “(c) ADMINISTRATIVE FEES FOR APPLICATIONS FOR
20 PERMIT TO DRILL.—

21 “(1) IN GENERAL.—A State for which authority
22 has been delegated under subsection (a)(1)(A) may
23 collect a fee for each application for an Application
24 for Permit to Drill that is submitted to the State.

1 “(2) NO COLLECTION OF FEE BY SEC-
2 RETARY.—The Secretary may not collect a fee from
3 the applicant or from the State for an application
4 for an Application for Permit to Drill that is sub-
5 mitted to a State for which authority has been dele-
6 gated under subsection (a)(1)(A).

7 “(3) FEE AMOUNT.—The fee collected under
8 paragraph (1) shall be less than or equal to the
9 amount of the fee described in section 35(d)(2).

10 “(4) USE.—A State shall use 100 percent of
11 the fees collected under this subsection for the ad-
12 ministration of the approved State program of the
13 State.

14 “(d) VOLUNTARY TERMINATION OF AUTHORITY.—A
15 State may voluntarily terminate any authority delegated
16 to such State under subsection (a) upon providing written
17 notice to the Secretary 60 days in advance of the date
18 of termination. Upon expiration of such 60-day period, the
19 Secretary shall resume any activities for which authority
20 was delegated to the State under subsection (a).

21 “(e) APPEAL OF DENIAL OF APPLICATION FOR AP-
22 PLICATION FOR PERMIT TO DRILL OR APPLICATION FOR
23 APPROVAL OF DRILLING PLAN.—

24 “(1) IN GENERAL.—If a State for which the
25 Secretary has delegated authority under subsection

1 (a)(1) denies an application for an Application for
2 Permit to Drill or an application for approval of a
3 drilling plan, the applicant may appeal such decision
4 to the Department of the Interior Office of Hearings
5 and Appeals.

6 “(2) FEE ALLOWED.—The Secretary may
7 charge the applicant a fee for the appeal referred to
8 in paragraph (1).

9 “(f) FEDERAL ADMINISTRATION OF STATE PRO-
10 GRAM.—

11 “(1) NOTIFICATION.—If the Secretary has rea-
12 son to believe that a State is not administering or
13 enforcing an approved State program, the Secretary
14 shall notify the relevant State regulatory authority
15 of any possible deficiencies.

16 “(2) STATE RESPONSE.—Not later than 30
17 days after the date on which a State receives notifi-
18 cation of a possible deficiency under paragraph (1),
19 the State shall—

20 “(A) take appropriate action to correct the
21 possible deficiency; and

22 “(B) notify the Secretary of the action in
23 writing.

24 “(3) DETERMINATION.—

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

11 “(B) APPEAL.—A State may appeal the
12 determination of the Secretary under subpara-
13 graph (A) in the applicable United States dis-
14 trict court. The Secretary may not resume ac-
15 tivities under paragraph (4) pending the resolu-
16 tion of the appeal.

17 “(4) RESUMPTION BY SECRETARY.—Subject to
18 paragraph (3)(B), 30 days after the date on which
19 the Secretary issues the public notice described in
20 paragraph (3)(A), the Secretary shall resume any
21 activities for which authority was delegated to the
22 State during the period—

23 “(A) beginning on the date 30 days after
24 the date on which the Secretary issues the pub-
25 lic notice under paragraph (3)(A); and

1 “(B) ending on the date on which the Sec-
2 retary determines that the State will administer
3 or enforce, as applicable, such State’s approved
4 State program.

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

8 “(g) DEFINITIONS.—In this section:

9 “(1) APPLICATION FOR PERMIT TO DRILL.—
10 The term ‘Application for Permit to Drill’ or ‘Appli-
11 cations for Permit to Drill’ means a permit—

12 “(A) that grants authority to drill for oil
13 and gas; and

14 “(B) for which an application has been re-
15 ceived that contains—

16 “(i) a drilling plan;

17 “(ii) a surface use plan of operations
18 described under section 3162.3–1(f) of title
19 43, Code of Federal Regulations (or suc-
20 cessor regulation);

21 “(iii) evidence of bond coverage; and

22 “(iv) such other information as may
23 be required by applicable orders and no-
24 tices.

1 “(2) AVAILABLE FEDERAL LAND.—The term
2 ‘available Federal land’ means any Federal land
3 that—

4 “(A) is located within the boundaries of a
5 State;

6 “(B) is not held by the United States in
7 trust for the benefit of a federally recognized
8 Indian Tribe or a member of such an Indian
9 Tribe;

10 “(C) is not a unit of the National Park
11 System;

12 “(D) is not a unit of the National Wildlife
13 Refuge System, except for the portion of such
14 unit for which oil and gas drilling is allowed
15 under law;

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

19 “(F) has been identified as land available
20 for lease or has been leased for the exploration,
21 development, and production of oil and gas—

22 “(i) by the Bureau of Land Manage-
23 ment under—

24 “(I) a resource management plan
25 under the process provided for in the

1 Federal Land Policy and Management
2 Act of 1976 (43 U.S.C. 1701 et seq.);
3 or

4 “(II) an integrated activity plan
5 with respect to the National Petro-
6 leum Reserve in Alaska; or

7 “(ii) by the Forest Service under a
8 National Forest management plan under
9 the Forest and Rangeland Renewable Re-
10 sources Planning Act of 1974 (16 U.S.C.
11 1600 et seq.).

12 “(3) DRILLING PLAN.—The term ‘drilling plan’
13 means a plan described under section 3162.3–1(e) of
14 title 43, Code of Federal Regulations (or successor
15 regulation).

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

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

20 “(6) STATE APPLICANT.—The term ‘State ap-
21 plicant’ means a State that has submitted an appli-
22 cation 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 Applications for Permit to Drill
2 or approve drilling plans, as applicable, on
3 available Federal land; and

4 “(B) impose sanctions for violations of
5 State laws, regulations, or any condition of an
6 issued Application for Permit to Drill or ap-
7 proved drilling plan, as applicable.

8 “(8) SUNDRY NOTICE.—The term ‘sundry no-
9 tice’ means a written request—

10 “(A) to perform work not covered under an
11 Application for Permit to Drill or drilling plan;
12 or

13 “(B) for a change to operations covered
14 under an Application for Permit to Drill or
15 drilling plan.”.

16 (b) INSPECTION FEES.—Section 108 of the Federal
17 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
18 1718) is amended by adding at the end the following:

19 “(d) INSPECTION FEES FOR CERTAIN STATES.—

20 “(1) IN GENERAL.—The Secretary shall con-
21 duct inspections of operations under each oil and gas
22 lease. The Secretary shall collect annual nonrefund-
23 able inspection fees in the amount specified in para-
24 graph (2), from each designated operator under each
25 oil and gas lease on Federal land that is subject to

1 inspection under subsection (b) and that is located
2 in a State for which the Secretary has delegated au-
3 thority under section 44(a)(1)(A) of the Mineral
4 Leasing Act.

5 “(2) AMOUNT.—The amount of the fees col-
6 lected under paragraph (1) shall be—

7 “(A) \$700 for each lease or unit or
8 communitization agreement with no active or
9 inactive wells, but with surface use, disturb-
10 ance, or reclamation;

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

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

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

22 “(3) ONSHORE ENERGY SAFETY FUND.—There
23 is established in the Treasury a fund, to be known
24 as the Onshore Energy Safety Fund (referred to in
25 this subsection as the ‘Fund’), into which shall be

1 deposited all amounts collected as fees under para-
2 graph (1).

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 only to the extent
9 provided for in advance in an appropriations
10 Act; and

11 “(C) shall only be available for expenditure
12 for purposes of carrying out inspections of on-
13 shore oil and gas operations in those States for
14 which the Secretary has delegated authority
15 under section 44(a)(1)(A) of the Mineral Leas-
16 ing Act.

17 “(5) PAYMENT DUE DATE.—The Secretary
18 shall require payment of any fee assessed under this
19 subsection not later than 30 days after the Secretary
20 provides notice of the assessment of the fee after the
21 completion of an inspection.

22 “(6) PENALTY.—If a designated operator as-
23 sessed a fee under this subsection fails to pay the
24 full amount of the fee as prescribed in this sub-
25 section, the Secretary may, in addition to using any

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

5 “(7) NOTIFICATION TO STATE OF NONCOMPLI-
 6 ANCE.—If, on the basis of any inspection under sub-
 7 section (b), the Secretary determines that an oper-
 8 ator is in noncompliance with the requirements of
 9 mineral leasing laws and this chapter, the Secretary
 10 shall notify the State of such noncompliance imme-
 11 diately.”.

12 **SEC. 102. CONVEYANCE TO CERTAIN STATES OF PROPERTY**
 13 **INTEREST IN STATE SHARE OF ROYALTIES**
 14 **AND OTHER PAYMENTS.**

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

17 (1) in subsection (a), by striking “shall be paid
 18 into the Treasury” and inserting “shall, except as
 19 provided in subsection (e), be paid into the Treas-
 20 ury”;

21 (2) in subsection (c)(1), by inserting “and ex-
 22 cept as provided in subsection (e)” before “, any
 23 rentals”; and

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

1 “(e) CONVEYANCE TO CERTAIN STATES OF PROP-
2 ERTY INTEREST IN STATE SHARE.—

3 “(1) IN GENERAL.—Notwithstanding any other
4 provision of law, on request of a State and in lieu
5 of any payments to the State under subsection (a),
6 the Secretary of the Interior shall convey to the
7 State all right, title, and interest in and to the per-
8 centage specified in that subsection for that State
9 that would otherwise be required to be paid into the
10 Treasury under that subsection.

11 “(2) AMOUNT.—Notwithstanding any other
12 provision of law, after a conveyance to a State under
13 paragraph (1), any person shall pay directly to the
14 State any amount owed by the person for which the
15 right, title, and interest has been conveyed to the
16 State under this subsection.

17 “(3) NOTICE.—The Secretary of the Interior
18 shall promptly provide to each holder of a lease of
19 public land to which subsection (a) applies that is lo-
20 cated in a State to which right, title, and interest is
21 conveyed under this subsection notice that—

22 “(A) the Secretary of the Interior has con-
23 veyed to the State all right, title, and interest
24 in and to the amounts referred to in paragraph
25 (1); and

1 “(B) the leaseholder is required to pay the
2 amounts directly to the State.

3 “(4) REPORT.—A State that has received a
4 conveyance under this subsection shall report month-
5 ly to the Office of Natural Resources Revenue of the
6 Department of the Interior the amount paid to such
7 State pursuant to this subsection.

8 “(5) APPLICATION WITH RESPECT TO FEDERAL
9 OIL AND GAS ROYALTY MANAGEMENT ACT.—With
10 respect to the interest conveyed to a State under
11 this subsection from sales, bonuses, royalties (includ-
12 ing interest charges), and rentals collected under the
13 Federal Oil and Gas Royalty Management Act of
14 1982 (30 U.S.C. 1701 et seq.), this subsection shall
15 only apply with respect to States for which the Sec-
16 retary has delegated any authority under section
17 44(a)(1).”.

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

23 (c) CONFORMING AMENDMENT.—Section 205(f) of
24 the Federal Oil and Gas Royalty Management Act of 1982
25 (30 U.S.C. 1735(f)) is amended by striking “All moneys”

1 and inserting “Subject to subsection (e) of section 35 of
2 the Mineral Leasing Act (30 U.S.C. 191), all moneys”.

3 **SEC. 103. ACCESS TO FEDERAL OIL AND GAS FROM NON-**
4 **FEDERAL SURFACE ESTATE.**

5 Section 17 of the Mineral Leasing Act (30 U.S.C.
6 226) is amended by adding at the end the following:

7 “(q) NO FEDERAL PERMIT REQUIRED FOR OIL AND
8 GAS ACTIVITIES ON CERTAIN LAND.—

9 “(1) IN GENERAL.—The Secretary shall not re-
10 quire an operator to obtain a Federal drilling permit
11 for oil and gas exploration and production activities
12 conducted on non-Federal surface estate, provided
13 that—

14 “(A) the United States holds an ownership
15 interest of less than 50 percent of the sub-
16 surface mineral estate to be accessed by the
17 proposed action; and

18 “(B) the operator submits to the Secretary
19 a State permit to conduct oil and gas explo-
20 ration and production activities on the non-Fed-
21 eral surface estate.

22 “(2) NO FEDERAL ACTION.—An oil and gas ex-
23 ploration and production activity carried out under
24 paragraph (1)—

1 “(A) shall require no additional Federal
2 action;

3 “(B) may commence 30 days after submis-
4 sion of the State permit to the Secretary;

5 “(C) shall be categorically excluded from
6 any further analysis and documentation under
7 the National Environmental Policy Act of 1969
8 (42 U.S.C. 4321 et seq.) if the activity is con-
9 ducted pursuant to the Mineral Leasing Act (30
10 U.S.C. 181 et seq.) for the purpose of explo-
11 ration or development of oil or gas; and

12 “(D) shall not be subject to—

13 “(i) section 306108 of title 54, United
14 States Code (commonly known as the Na-
15 tional Historic Preservation Act of 1966);
16 and

17 “(ii) section 7 of the Endangered Spe-
18 cies Act of 1973 (16 U.S.C. 1536).

19 “(3) ROYALTIES AND PRODUCTION ACCOUNT-
20 ABILITY.—(A) Nothing in this subsection shall affect
21 the amount of royalties due to the United States
22 under this Act from the production of oil and gas,
23 or alter the Secretary’s authority to conduct audits
24 and collect civil penalties pursuant to the Federal

1 Oil and Gas Royalty Management Act of 1982 (30
2 U.S.C. 1701 et seq.).

3 “(B) The Secretary may conduct onsite reviews
4 and inspections to ensure proper accountability,
5 measurement, and reporting of production of Fed-
6 eral oil and gas, and payment of royalties.

7 “(4) EXCEPTIONS.—This subsection shall not
8 apply to actions on Indian lands or resources man-
9 aged in trust for the benefit of Indian Tribes.”.

10 **SEC. 104. EXEMPTION OF CERTAIN PAYMENTS FROM SE-**
11 **QUESTRATION.**

12 (a) IN GENERAL.—Section 255(g)(1)(A) of the Bal-
13 anced Budget and Emergency Deficit Control Act of 1985
14 (2 U.S.C. 905(g)(1)(A)) is amended by inserting after
15 “Payments to Social Security Trust Funds (28–0404–0–
16 1–651).” the following:

17 “Payments to States pursuant to section 35 of
18 the Mineral Leasing Act (30 U.S.C. 191) (014-
19 5003-0-2-806).”.

20 (b) APPLICABILITY.—The amendment made by this
21 section shall apply to any sequestration order issued under
22 the Balanced Budget and Emergency Deficit Control Act
23 of 1985 (2 U.S.C. 900 et seq.) on or after the date of
24 enactment of this Act.

1 **SEC. 105. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**
2 **FRACTURING REGULATION.**

3 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
4 amended by inserting after section 44 (as added by section
5 101) the following:

6 **“SEC. 45. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC**
7 **FRACTURING REGULATION.**

8 “(a) IN GENERAL.—The Secretary of the Interior
9 shall not enforce any Federal regulation, guidance, or per-
10 mit requirement regarding hydraulic fracturing relating to
11 oil, gas, or geothermal production activities on or under
12 any land in any State that has regulations, guidance, or
13 permit requirements for that activity.

14 “(b) STATE AUTHORITY.—The Secretary of the Inte-
15 rior shall defer to State regulations, guidance, and permit
16 requirements for all activities regarding hydraulic frac-
17 turing relating to oil, gas, or geothermal production activi-
18 ties on Federal land.

19 “(c) TRANSPARENCY OF STATE REGULATIONS.—

20 “(1) IN GENERAL.—Each State shall submit to
21 the Bureau of Land Management a copy of the reg-
22 ulations of such State that apply to hydraulic frac-
23 turing operations on Federal land, including those
24 that require disclosure of chemicals used in hydrau-
25 lic fracturing operations.

1 “(2) AVAILABILITY.—The Secretary of the In-
 2 terior shall make available to the public on the
 3 website of the Secretary the regulations submitted
 4 under paragraph (1).

5 “(d) TRIBAL AUTHORITY ON TRUST LAND.—The
 6 Secretary of the Interior shall not enforce any Federal reg-
 7 ulation, guidance, or permit requirement with respect to
 8 hydraulic fracturing on any land held in trust or restricted
 9 status for the benefit of a federally recognized Indian
 10 Tribe or a member of such an Indian Tribe, except with
 11 the express consent of the beneficiary on whose behalf
 12 such land is held in trust or restricted status.

13 “(e) HYDRAULIC FRACTURING DEFINED.—In this
 14 section, the term ‘hydraulic fracturing’ means the process
 15 of creating small cracks, or fractures, in underground geo-
 16 logical formations for well stimulation purposes of bring-
 17 ing hydrocarbons into the wellbore and to the surface for
 18 capture.”.

19 **SEC. 106. PROTESTED LEASE SALES.**

20 Section 17(b)(1)(A) of the Mineral Leasing Act (30
 21 U.S.C. 226(b)(1)(A)) is amended by inserting “The Sec-
 22 retary shall resolve any protest to a lease sale not later
 23 than 60 days after such payment.” after “annual rental
 24 for the first lease year.”.

1 **SEC. 107. CLARIFICATION REGARDING LIABILITY UNDER**
2 **MIGRATORY BIRD TREATY ACT.**

3 Section 2 of the Migratory Bird Treaty Act (16
4 U.S.C. 703) is amended by adding at the end the fol-
5 lowing:

6 “(c) LIMITATION ON APPLICATION TO ACCIDENTAL
7 OR INCIDENTAL TAKE.—This Act shall not apply to any
8 activity described in subsection (a) that is accidental or
9 incidental to the presence or operation of an otherwise
10 lawful activity.”.

11 **SEC. 108. AMENDMENTS TO THE ENERGY POLICY ACT OF**
12 **2005.**

13 Section 390 of the Energy Policy Act of 2005 (42
14 U.S.C. 15942) is amended to read as follows:

15 **“SEC. 390. NATIONAL ENVIRONMENTAL POLICY ACT RE-**
16 **VIEW.**

17 “(a) NATIONAL ENVIRONMENTAL POLICY ACT RE-
18 VIEW.—Action by the Secretary of the Interior, in man-
19 aging the public lands, or the Secretary of Agriculture,
20 in managing National Forest System lands, with respect
21 to any of the activities described in subsection (d) shall
22 be categorically excluded from any further analysis and
23 documentation under the National Environmental Policy
24 Act of 1969 (42 U.S.C. 4321 et seq.) if the activity is
25 conducted pursuant to the Mineral Leasing Act (30

1 U.S.C. 181 et seq.) for the purpose of exploration or devel-
2 opment of oil or gas.

3 “(b) CATEGORICAL EXCLUSION.—Use of a categor-
4 ical exclusion created in this section—

5 “(1) shall not require a finding of no extraor-
6 dinary circumstances; and

7 “(2) shall be effective for the full term of the
8 authorized permit or approval.

9 “(c) APPLICATION.—This section shall not apply to
10 an action of the Secretary of the Interior or the Secretary
11 of Agriculture on Indian lands or resources managed in
12 trust for the benefit of Indian Tribes.

13 “(d) ACTIVITIES DESCRIBED.—The activities re-
14 ferred to in subsection (a) are as follows:

15 “(1) Reinstating a lease pursuant to section 31
16 of the Mineral Leasing Act (30 U.S.C. 188).

17 “(2) The following activities, provided that any
18 new surface disturbance is contiguous with the foot-
19 print of the original authorization and does not ex-
20 ceed 20 acres or the acreage evaluated in a docu-
21 ment previously prepared under section 102(2)(C) of
22 the National Environmental Policy Act of 1969 (42
23 U.S.C. 4332(2)(C)) with respect to such activity,
24 whichever is greater:

1 “(A) Drilling an oil or gas well at a well
2 pad site at which drilling has occurred pre-
3 viously.

4 “(B) Expansion of an existing oil or gas
5 well pad site to accommodate an additional well.

6 “(C) Expansion or modification of an ex-
7 isting oil or gas well pad site, road, pipeline, fa-
8 cility, or utility submitted in a sundry notice.

9 “(3) Drilling of an oil or gas well at a new well
10 pad site, provided that the new surface disturbance
11 does not exceed 20 acres or the acreage evaluated in
12 a document previously prepared under section
13 102(2)(C) of the National Environmental Policy Act
14 of 1969 (42 U.S.C. 4332(2)(C)) with respect to such
15 activity, whichever is greater.

16 “(4) Construction or realignment of a road,
17 pipeline, or utility within an existing right-of-way or
18 within a right-of-way corridor established in a land
19 use plan.

20 “(5) The following activities when conducted
21 from non-Federal surface into federally owned min-
22 erals, provided that the operator submits to the Sec-
23 retary concerned certification of a surface use agree-
24 ment with the non-Federal landowner:

1 “(A) Drilling an oil or gas well at a well
2 pad site at which drilling has occurred pre-
3 viously.

4 “(B) Expansion of an existing oil or gas
5 well pad site to accommodate an additional well.

6 “(C) Expansion or modification of an ex-
7 isting oil or gas well pad site, road, pipeline, fa-
8 cility, or utility submitted in a sundry notice.

9 “(6) Drilling of an oil or gas well from non-
10 Federal surface and non-Federal subsurface into
11 Federal mineral estate.

12 “(7) Construction of up to 1 mile of new road
13 on Federal or non-Federal surface, not to exceed 2
14 miles in total.

15 “(8) Construction of up to 3 miles of individual
16 pipelines or utilities, regardless of surface owner-
17 ship.”.

18 **SEC. 109. ADMINISTRATIVE PROTEST PROCESS REFORM.**

19 Section 17 of the Mineral Leasing Act (30 U.S.C.
20 226), as amended by section 103 of this Act, is further
21 amended by adding at the end the following:

22 “(r) PROTEST FILING FEE.—

23 “(1) IN GENERAL.—Before processing any pro-
24 test filed under this section, the Secretary shall col-
25 lect a filing fee in the amount described in para-

1 graph (2) from the protestor to recover the cost for
2 processing documents filed for each administrative
3 protest.

4 “(2) AMOUNT.—The amount described in this
5 paragraph is calculated as follows:

6 “(A) For each protest filed in a submission
7 not exceeding 10 pages in length, the base filing
8 fee shall be \$150.

9 “(B) For each submission exceeding 10
10 pages in length, in addition to the base filing
11 fee, an assessment of \$5 per page in excess of
12 10 pages shall apply.

13 “(C) For protests that include more than
14 one oil and gas lease parcel, right-of-way, or ap-
15 plication for permit to drill in a submission, an
16 additional assessment of \$10 per additional
17 lease parcel, right-of-way, or application for
18 permit to drill shall apply.

19 “(3) ADJUSTMENT.—

20 “(A) IN GENERAL.—Beginning on January
21 1, 2022, and annually thereafter, the Secretary
22 shall adjust the filing fees established in this
23 subsection to whole dollar amounts to reflect
24 changes in the Producer Price Index, as pub-

1 lished by the Bureau of Labor Statistics, for
2 the previous 12 months.

3 “(B) PUBLICATION OF ADJUSTED FILING
4 FEES.—At least 30 days before the filing fees
5 as adjusted under this paragraph take effect,
6 the Secretary shall publish notification of the
7 adjustment of such fees in the Federal Reg-
8 ister.”.

9 **SEC. 110. NOTIFICATIONS OF PERMIT TO DRILL.**

10 The Mineral Leasing Act (30 U.S.C. 181 et seq.) is
11 amended by inserting after section 45 (as added by section
12 104 of this Act) the following:

13 **“SEC. 46. NOTIFICATIONS OF PERMIT TO DRILL.**

14 “(a) IN GENERAL.—Not later than 1 year after the
15 date of enactment of this section, the Secretary shall es-
16 tablish procedures by which an operator may conduct drill-
17 ing and production activities on available Federal land and
18 non-Federal land that is located in a State to which the
19 Secretary has not delegated exclusive authority under sec-
20 tion 44(a)(1) after sending to the Secretary a notification
21 of permit to drill under this section in lieu of obtaining
22 an Application for Permit to Drill.

23 “(b) CONTENT OF NOTIFICATION.—To be considered
24 a complete notification of permit to drill under this sec-

tion, an operator shall include in the notification of permit
to drill submitted under this section—

“(1) a notification of permit to drill form;

“(2) a surface use plan of operations;

“(3) a drilling plan;

“(4) a well plat certified by a registered surveyor;

“(5) an operator certification;

“(6) evidence of bond coverage; and

“(7) a notification of permit to drill fee in an amount to be determined by the Secretary.

“(c) JUSTIFICATIONS FOR OBJECTION.—

“(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary may not object to a notification of permit to drill under this section if the notification—

“(A) demonstrates that the drilling operations described in the notification of permit to drill will be located in—

“(i) a developed field, where there are existing oil and gas wells within a 5-mile radius and for which an approved land use plan or environmental review was prepared within the last 10 years under the National Environmental Policy Act of 1969 (42

1 U.S.C. 4321 et seq.) that analyzed such
2 drilling operations as a reasonably foresee-
3 able activity;

4 “(ii) a location or well pad site at
5 which drilling has occurred within 10 years
6 before the date of spudding the well and
7 the proposed operations do not increase
8 the surface disturbance on the location or
9 well pad site;

10 “(iii) an area consisting of individual
11 surface disturbances of less than 10 acres
12 and the total surface disturbance on the
13 lease is not greater than 150 acres and for
14 which an approved land use plan or envi-
15 ronmental review was prepared within the
16 last 10 years under the National Environ-
17 mental Policy Act of 1969 (42 U.S.C.
18 4321 et seq.) that analyzed such drilling
19 operations as a reasonably foreseeable ac-
20 tivity;

21 “(iv) an area consisting of Federal
22 mineral interests that is located within the
23 boundaries of a communitization agree-
24 ment or unit agreement which contains
25 minerals leased by a State or private min-

1 eral owner for which a drilling permit has
2 been approved by a State regulatory agen-
3 cy; or

4 “(v) an area in which a categorical ex-
5 clusion under the National Environmental
6 Policy Act of 1969 (42 U.S.C. 4321 et
7 seq.) applies for oil and gas drilling or re-
8 entry activities; or

9 “(B) includes—

10 “(i) an environmental review that con-
11 cludes that actions described in the notifi-
12 cation of permit to drill pose no significant
13 effects on the human environment or
14 threatened or endangered species; and

15 “(ii) an archaeological review that
16 concludes that actions described in the no-
17 tification of permit to drill pose no signifi-
18 cant effects on cultural or historic prop-
19 erties or resources.

20 “(2) ENDANGERED SPECIES PROTECTION.—

21 “(A) IN GENERAL.—Notwithstanding para-
22 graph (1), the Secretary shall object to a notifi-
23 cation of permit to drill if the activity described
24 in such notification of permit to drill is likely to
25 jeopardize the continued existence of a species

1 that is a threatened species or endangered spe-
2 cies under the Endangered Species Act of 1973
3 (16 U.S.C. 1531 et seq.) or result in the de-
4 struction or adverse modification of critical
5 habitat of such species.

6 “(B) WITHDRAWAL OF OBJECTION.—The
7 Secretary may withdraw an objection under
8 subparagraph (A) if the operator consults with
9 the Secretary on such objection and places con-
10 ditions on the notification of permit to drill suf-
11 ficient to comply with the Endangered Species
12 Act of 1973 (16 U.S.C. 1531 et seq.).

13 “(3) NATIONAL HISTORIC PRESERVATION.—

14 “(A) IN GENERAL.—Notwithstanding para-
15 graph (1), the Secretary shall object to a notifi-
16 cation of permit to drill if the activity described
17 in such notification of permit to drill is likely to
18 affect properties listed, or eligible for listing, in
19 the National Register of Historic Places under
20 section 306108 of title 54, United States Code
21 (commonly known as the National Historic
22 Preservation Act of 1966).

23 “(B) WITHDRAWAL OF OBJECTION.—The
24 Secretary may withdraw an objection under
25 subparagraph (A) if the operator consults with

1 the Secretary on such objection and places con-
2 ditions on the notification of permit to drill suf-
3 ficient to comply with section 306108 of title
4 54, United States Code (commonly known as
5 the National Historic Preservation Act of
6 1966).

7 “(d) OBJECTION OR NO ACTION.—

8 “(1) NOTIFICATION OF INCOMPLETE NOTIFICA-
9 TION.—Not later than 15 days after receipt of a no-
10 tification of permit to drill or a revised notification
11 of permit to drill from an operator under this sec-
12 tion, the Secretary shall notify the operator in writ-
13 ing if the notification of permit to drill is not com-
14 plete.

15 “(2) NOTIFICATION OF OBJECTIONS.—The Sec-
16 retary shall notify an operator of any objections to
17 the notification of permit to drill not later than 45
18 days after receipt of a complete notification of per-
19 mit to drill from an operator under this section.

20 “(3) NO ACTION REQUIRED.—If the Secretary
21 has not notified an operator under either paragraph
22 (1) or paragraph (2) within 45 days after receipt of
23 a notification of permit to drill from the operator
24 under this section, the operator may, without further
25 action from the Secretary, conduct the drilling and

1 production activities for which the notification of
2 permit to drill was submitted.

3 “(4) OPPORTUNITY TO RESUBMIT NOTIFICA-
4 TION.—If the Secretary notifies an operator under
5 paragraph (1) of an incomplete notification or para-
6 graph (2) of an objection, the Secretary shall allow
7 the operator to address such incomplete notification
8 or objection and revise and resubmit the notification
9 of permit to drill.

10 “(5) OPPORTUNITY TO RESUBMIT NOTIFICA-
11 TION AS APPLICATION FOR PERMIT TO DRILL.—If
12 the Secretary notifies an operator under paragraph
13 (2) of an objection, the Secretary shall allow the op-
14 erator to resubmit such information in the form of
15 an Application for Permit to Drill.

16 “(e) NOTIFICATION FEE.—The Secretary may not
17 charge an operator under this section a fee for submitting
18 a notification of permit to drill greater than the fee the
19 Secretary charges an applicant for an Application for Per-
20 mit to Drill.

21 “(f) ENVIRONMENTAL REVIEW.—

22 “(1) IN GENERAL.—An environmental review or
23 archaeological review described in subsection
24 (c)(1)(B) may be completed by a third-party con-
25 tractor approved by the Secretary or pursuant to a

1 memorandum of understanding between the operator
2 and the Secretary.

3 “(2) FIELD WORK AUTHORIZATION.—The Sec-
4 retary shall issue a field work authorization to a
5 third-party contractor for the purposes of paragraph
6 (1) within a reasonable time.

7 “(3) REQUEST FOR CONCURRENCE.—The Sec-
8 retary shall allow a third-party contractor to submit
9 a request to the State Historic Preservation Office
10 on behalf of the Secretary.

11 “(g) ADDITIONAL SURFACE USE PERMITS.—The
12 Secretary may not require an operator that has submitted
13 a notification of permit to drill for which the Secretary
14 did not object to obtain a surface use permit for an action
15 included in the notification of permit to drill.

16 “(h) SITE INSPECTION.—The Secretary may not re-
17 quire an operator that has submitted a notification of per-
18 mit to drill for which the Secretary did not object to sub-
19 mit to a site inspection before commencement of the activi-
20 ties described in the notification of permit to drill.

21 “(i) FEDERAL ENFORCEMENT.—The Secretary may
22 conduct inspections of and evaluate activities described in
23 a notification of permit to drill for purposes of bringing
24 an enforcement action. The Secretary may suspend en-
25 forcement proceedings if the operator modifies its activi-

1 ties to comply with the notification of permit to drill or
 2 obtains an Application for Permit to Drill for such activi-
 3 ties.

4 “(j) APPLICATION OF THE NATIONAL ENVIRON-
 5 MENTAL POLICY ACT.—

6 “(1) NO ACTION BY SECRETARY.—The decision
 7 by the Secretary to take no action under subsection
 8 (c)(1)(B)(2) shall not constitute a major Federal ac-
 9 tion for the purposes of section 102(2)(C) of the Na-
 10 tional Environmental Policy Act of 1969 (42 U.S.C.
 11 4332(2)(C)).

12 “(2) DEVELOPMENT OF REGULATIONS.—The
 13 development of any regulation pursuant to this sec-
 14 tion shall constitute a major Federal action for the
 15 purposes of section 102(2)(C) of the National Envi-
 16 ronmental Policy Act of 1969 (42 U.S.C.
 17 4332(2)(C)).

18 “(k) DEFINITIONS.—In this section:

19 “(1) IN GENERAL.—The terms ‘Application for
 20 Permit to Drill’, ‘Applications for Permit to Drill’,
 21 ‘available Federal land’, and ‘drilling plan’ have the
 22 meaning given those terms in section 44.

23 “(2) SURFACE USE PLAN OF OPERATION.—The
 24 term ‘surface use plan of operation’ means a plan
 25 containing—

- 1 “(A) the road and drill pad location;
 2 “(B) details of pad construction;
 3 “(C) methods for containment and disposal
 4 of waste material;
 5 “(D) plans for reclamation of the surface;
 6 “(E) any other information specified in ap-
 7 plicable orders or notices; and
 8 “(F) any other pertinent data as the Sec-
 9 retary may require.”.

10 **TITLE II—OFFSHORE OIL AND** 11 **GAS**

12 **SEC. 201. LIMITATION OF AUTHORITY OF THE PRESIDENT** 13 **TO WITHDRAW AREAS OF THE OUTER CONTI-** 14 **NENTAL SHELF FROM OIL AND GAS LEASING.**

15 (a) RESERVATIONS.—Section 12(a) of the Outer
 16 Continental Shelf Lands Act (43 U.S.C. 1341(a)) is
 17 amended to read as follows:

18 “(a) LIMITATION ON WITHDRAWAL.—

19 “(1) IN GENERAL.—Except as otherwise pro-
 20 vided in this section, no submerged lands of the
 21 Outer Continental Shelf may be withdrawn from dis-
 22 position except by an Act of Congress.

23 “(2) NATIONAL MARINE SANCTUARIES.—The
 24 President may withdraw from disposition any of the
 25 unleased submerged lands of the Outer Continental

1 Shelf that are located in a national marine sanc-
2 tuary designated—

3 “(A) in accordance with the National Ma-
4 rine Sanctuaries Act (16 U.S.C. 1431 et seq.);
5 or

6 “(B) by an Act of Congress.

7 “(3) EXISTING WITHDRAWALS.—

8 “(A) IN GENERAL.—Except for the with-
9 drawals described in subparagraph (B), any
10 withdrawal from disposition of submerged lands
11 of the Outer Continental Shelf before the date
12 of the enactment of this subsection shall have
13 no force or effect.

14 “(B) EXCEPTIONS.—Subparagraph (A)
15 shall not apply to the following withdrawals:

16 “(i) Any withdrawal from disposition
17 of submerged lands of the Outer Conti-
18 nental Shelf that are located in a national
19 marine sanctuary designated in accordance
20 with the National Marine Sanctuaries Act
21 (16 U.S.C. 1431 et seq.).

22 “(ii) Any withdrawal from disposition
23 of submerged lands of the Outer Conti-
24 nental Shelf that are located in the bound-
25 ary of a national monument declared under

1 section 320301 of title 54, United States
2 Code.

3 “(iii) Any withdrawal from disposition
4 of the North Aleutian Basin planning area,
5 including Bristol Bay (as such planning
6 area is depicted in the document titled
7 ‘2017–2022 Outer Continental Shelf Oil
8 and Gas Leasing Proposed Final Pro-
9 gram’, dated November 2016, or a subse-
10 quent oil and gas leasing program devel-
11 oped under section 18 of the Outer Conti-
12 nental Shelf Lands Act (43 U.S.C.
13 1344)).”.

14 (b) TERMINATION OF AUTHORITY TO ESTABLISH
15 MARINE NATIONAL MONUMENTS.—Section 320301 of
16 title 54, United States Code, is amended—

17 (1) in subsection (a), by striking “The Presi-
18 dent may,” and inserting “Except as provided in
19 subsection (e), the President may,”;

20 (2) in subsection (b), by striking “The Presi-
21 dent may” and inserting “Except as provided in
22 subsection (e), the President may”; and

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

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

1 “(1) IN GENERAL.—The President may not de-
 2 clare or reserve any ocean waters (as such term is
 3 defined in section 3 of the Marine Protection, Re-
 4 search, and Sanctuaries Act of 1972 (33 U.S.C.
 5 1402)) or submerged lands as a national monument.

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

11 **SEC. 202. DISPOSITION OF REVENUE FROM OIL AND GAS**
 12 **LEASING ON THE OUTER CONTINENTAL**
 13 **SHELF TO ATLANTIC STATES AND ALASKA.**

14 Section 9 of the Outer Continental Shelf Lands Act
 15 (43 U.S.C. 1338) is amended—

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

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

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

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

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

24 “(A) COVERED PLANNING AREA.—

1 “(i) IN GENERAL.—Subject to clause
2 (ii), the term ‘covered planning area’
3 means each of the following planning areas
4 (as such planning areas are depicted in the
5 document titled ‘2017–2022 Outer Conti-
6 nental Shelf Oil and Gas Leasing Proposed
7 Final Program’, dated November 2016, or
8 a subsequent oil and gas leasing program
9 developed under section 18 of the Outer
10 Continental Shelf Lands Act (43 U.S.C.
11 1344)):

12 “(I) The Mid-Atlantic planning
13 area.

14 “(II) The South Atlantic plan-
15 ning area.

16 “(III) Any planning area located
17 off the coast of the State of Alaska.

18 “(ii) EXCLUSIONS.—The term ‘cov-
19 ered planning area’ does not include any
20 area in the Atlantic Ocean—

21 “(I) north of the southernmost
22 lateral seaward administrative bound-
23 ary of the State of Maryland; or

1 “(II) south of the northernmost
2 lateral seaward administrative bound-
3 ary of the State of Florida.

4 “(B) PRODUCING STATE.—

5 “(i) IN GENERAL.—The term ‘pro-
6 ducing State’ means each of the following
7 States:

8 “(I) Virginia.

9 “(II) North Carolina.

10 “(III) South Carolina.

11 “(IV) Georgia.

12 “(V) Alaska.

13 “(ii) EXCLUSION.—The term ‘pro-
14 ducing State’ does not include any State
15 the coastal seaward boundary of which is
16 further than 200 nautical miles from the
17 geographic center of any leased tract of the
18 Outer Continental Shelf.

19 “(C) QUALIFIED REVENUE.—

20 “(i) IN GENERAL.—The term ‘quali-
21 fied revenue’ means any revenue derived
22 from rentals, royalties, bonus bids, and
23 other sums due and payable to the United
24 States under an oil and gas lease with re-
25 spect to a covered planning area entered

1 into on or after the date of the enactment
2 of this subsection.

3 “(ii) EXCLUSIONS.—The term ‘quali-
4 fied revenue’ does not include—

5 “(I) revenue from the forfeiture
6 of a bond or other surety securing ob-
7 ligations other than royalties, civil
8 penalties, or royalties taken by the
9 Secretary in kind and not sold;

10 “(II) revenue generated from a
11 lease subject to section 8(g); and

12 “(III) the portion of the rental
13 revenue in excess of the amount of
14 rental revenue that would have been
15 collected at the rates in effect before
16 August 5, 1993.

17 “(2) DEPOSIT OF QUALIFIED REVENUE.—

18 “(A) PHASE I.—With respect to qualified
19 revenue from leases awarded under the first
20 leasing program approved under section 18(a)
21 that takes effect after the date of the enact-
22 ment of this subsection, the Secretary of the
23 Treasury shall deposit or allocate, as applica-
24 ble—

1 “(i) 87.5 percent of such qualified
2 revenue into the general fund of the Treas-
3 ury; and

4 “(ii) 12.5 percent of such qualified
5 revenue to producing States in accordance
6 with paragraph (3).

7 “(B) PHASE II.—With respect to qualified
8 revenue from leases awarded under the second
9 leasing program approved under section 18(a)
10 that takes effect after the date of the enact-
11 ment of this subsection, the Secretary of the
12 Treasury shall deposit or allocate, as applica-
13 ble—

14 “(i) 75 percent of such qualified rev-
15 enue into the general fund of the Treasury;
16 and

17 “(ii) 25 percent of such qualified rev-
18 enue to producing States in accordance
19 with paragraph (3).

20 “(C) PHASE III.—With respect to qualified
21 revenue from leases awarded under the third
22 leasing program approved under section 18(a)
23 that takes effect after the date of the enact-
24 ment of this subsection, and under any subse-
25 quent such leasing program, the Secretary of

1 the Treasury shall deposit or allocate, as appli-
2 cable—

3 “(i) 50 percent of such qualified rev-
4 enue into the general fund of the Treasury;
5 and

6 “(ii) 50 percent of such qualified rev-
7 enue into a special account in the Treasury
8 from which the Secretary of the Treasury
9 shall disburse—

10 “(I) 75 percent to States in ac-
11 cordance with paragraph (3); and

12 “(II) 25 percent to the Secretary
13 of the Interior for units of the Na-
14 tional Park System.

15 “(3) ALLOCATION TO PRODUCING STATES.—

16 “(A) IN GENERAL.—In accordance with
17 subparagraphs (B) and (C), the Secretary of
18 the Treasury shall annually allocate the
19 amounts made available under subparagraphs
20 (A)(ii), (B)(ii), and (C)(ii)(I) of paragraph (2)
21 to each producing State in an amount (based
22 on a formula established by the Secretary by
23 regulation) that—

24 “(i) is inversely proportional to the re-
25 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; and

7 “(ii) is not less than 10 percent of the
 8 qualified revenue for a given leasing pro-
 9 gram.

10 “(B) ALLOCATION TO NONCONTIGUOUS
 11 COASTAL STATES.—

12 “(i) IN GENERAL.—With respect to
 13 each producing State that is a noncontig-
 14 uous coastal State, the Secretary of the
 15 Treasury shall allocate 20 percent of the
 16 allocable share of such State determined
 17 under this paragraph to the coastal polit-
 18 ical subdivisions of such State.

19 “(ii) ALLOCATION.—The amount allo-
 20 cated by the Secretary of the Treasury to
 21 coastal political subdivisions under this
 22 subparagraph shall be allocated to each
 23 such coastal political subdivision in accord-
 24 ance with subparagraphs (B) and (E) of
 25 section 31(b)(4).

1 “(iii) DEFINITION OF COASTAL POLIT-
2 ICAL SUBDIVISION.—In this subparagraph,
3 the term ‘coastal political subdivision’
4 means—

5 “(I) a county-equivalent subdivi-
6 sion of a State for which—

7 “(aa) all or part of such
8 subdivision lies within the coastal
9 zone of the State (as defined in
10 section 304 of the Coastal Zone
11 Management Act of 1972 (16
12 U.S.C. 1453)); and

13 “(bb) the closest coastal
14 point of such subdivision is not
15 more than 200 nautical miles
16 from the geographical center of
17 any leased tract on the Outer
18 Continental Shelf; or

19 “(II) a municipal subdivision of a
20 State—

21 “(aa) for which the closest
22 point of such subdivision is not
23 more than 200 nautical miles
24 from the geographical center of a

1 leased tract on the Outer Conti-
2 nental Shelf; and

3 “(bb) that the State deter-
4 mines is a significant staging
5 area for oil and gas servicing,
6 supply vessels, operations, sup-
7 pliers, or workers.

8 “(C) ALLOCATION TO CONTIGUOUS COAST-
9 AL STATES.—

10 “(i) IN GENERAL.—With respect to
11 each producing State that is a contiguous
12 coastal State, the Secretary of the Treas-
13 ury shall allocate—

14 “(I) 50 percent of the allocable
15 share of such State determined under
16 this paragraph to the State treasury
17 to be used by the State in accordance
18 with clause (ii);

19 “(II) 25 percent of the allocable
20 share of such State determined under
21 this paragraph to coastal towns; and

22 “(III) 25 percent of the allocable
23 share of such State determined under
24 this paragraph to coastal counties.

1 “(ii) USE OF FUNDS.—Funds allo-
2 cated to a producing State under clause
3 (i)(I) shall be used by such State—

4 “(I) to enhance State land and
5 water conservation efforts, particu-
6 larly in inlets, waterways, and beach-
7 es;

8 “(II) for the purposes of beach
9 nourishment and coastline enhance-
10 ments;

11 “(III) for the protection of coast-
12 al wildlife;

13 “(IV) to support estuary health
14 and aquaculture management;

15 “(V) for dredging and port infra-
16 structure development;

17 “(VI) to provide grants to sup-
18 port the geological and geophysical
19 sciences or petroleum engineering pro-
20 grams or departments at institutions
21 of higher education (as such term is
22 defined in section 101 of the Higher
23 Education Act of 1965 (20 U.S.C.
24 1001)) that—

1 “(aa) are accredited by the
2 Accreditation Board for Engi-
3 neering and Technology; and

4 “(bb) are located within the
5 producing State; or

6 “(VII) for any other purpose that
7 enhances coastal communities, as de-
8 termined by the Governor of the pro-
9 ducing State.

10 “(iii) DEFINITION OF COASTAL
11 TOWN.—In this subparagraph, the term
12 ‘coastal town’ means an economic and resi-
13 dential center that is not more than 20
14 miles from the coast of the producing
15 State.

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

18 “(A) be made available, without further
19 appropriation, in accordance with this sub-
20 section;

21 “(B) remain available until expended;

22 “(C) be in addition to any amounts appro-
23 priated under—

24 “(i) chapter 2003 of title 54, United
25 States Code;

1 “(ii) any other provision of this Act;
 2 and
 3 “(iii) any other provision of law; and
 4 “(D) be made available during the fiscal
 5 year immediately following the fiscal year in
 6 which such amounts were received.”.

7 **SEC. 203. GULF OF MEXICO OUTER CONTINENTAL SHELF**
 8 **REVENUE.**

9 (a) DISTRIBUTION OF OUTER CONTINENTAL SHELF
 10 REVENUE TO GULF PRODUCING STATES.—Section 105 of
 11 the Gulf of Mexico Energy Security Act of 2006 (43
 12 U.S.C. 1331 note) is amended—

13 (1) in subsection (a)—

14 (A) in paragraph (1), by striking “50” and
 15 inserting “37.5”; and

16 (B) in paragraph (2)—

17 (i) by striking “50” and inserting
 18 “62.5”;

19 (ii) in subparagraph (A), by striking
 20 “75” and inserting “80”; and

21 (iii) in subparagraph (B), by striking
 22 “25” and inserting “20”; and

23 (2) by striking subsection (f).

24 (b) EXEMPTION OF CERTAIN PAYMENTS FROM SE-
 25 QUESTRATION.—

1 (1) IN GENERAL.—Section 255(g)(1)(A) of the
 2 Balanced Budget and Emergency Deficit Control
 3 Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by
 4 inserting after “Payments to Social Security Trust
 5 Funds (28–0404–0–1–651).” the following:

6 “Payments to States pursuant to section
 7 105(a)(2)(A) of the Gulf of Mexico Energy Security
 8 Act of 2006 (Public Law 109–432; 43 U.S.C. 1331
 9 note) (014–5535–0–2–302).”.

10 (2) APPLICABILITY.—The amendment made by
 11 this subsection shall apply to any sequestration
 12 order issued under the Balanced Budget and Emer-
 13 gency Deficit Control Act of 1985 (2 U.S.C. 900 et
 14 seq.) on or after the date of enactment of this Act.

15 **SEC. 204. ADDRESSING PERMITS FOR TAKING OF MARINE**
 16 **MAMMALS.**

17 Section 101(a)(5)(D) of the Marine Mammal Protec-
 18 tion Act of 1972 (16 U.S.C. 1371(a)(5)(D)) is amended
 19 as follows:

20 (1) In clause (i)—

21 (A) by striking “citizens of the United
 22 States” and inserting “persons”;

23 (B) by striking “within a specific geo-
 24 graphic region”;

25 (C) by striking “of small numbers”;

1 (D) by striking “such citizens” and insert-
2 ing “such persons”; and

3 (E) by striking “within that region”.

4 (2) In clause (ii)—

5 (A) in subclause (I), by striking “, and
6 other means of effecting the least practicable
7 impact on such species or stock and its habi-
8 tat”;

9 (B) in subclause (III), by striking “re-
10 quirements pertaining to the monitoring and re-
11 porting of such taking by harassment, includ-
12 ing” and inserting “efficient and practical re-
13 quirements pertaining to the monitoring of such
14 taking by harassment while the activity is being
15 conducted and the reporting of such taking, in-
16 cluding, as the Secretary determines nec-
17 essary,”; and

18 (C) by adding at the end the following:
19 “Any condition imposed pursuant to subclause (I), (II),
20 or (III) may not result in more than a minor change to
21 the specified activity and may not alter the basic design,
22 location, scope, duration, or timing of the specified activ-
23 ity.”.

24 (3) In clause (iii), by striking “receiving an ap-
25 plication under this subparagraph” and inserting

1 “an application is accepted or required to be consid-
 2 ered complete under subclause (I)(aa), (II)(aa), or
 3 (IV) of clause (viii), as applicable,”.

4 (4) In clause (vi), by striking “a determination
 5 of ‘least practicable adverse impact on such species
 6 or stock’ under clause (i)(I)” and inserting “condi-
 7 tions imposed under subclause (I), (II), or (III) of
 8 clause (ii)”.

9 (5) By adding at the end the following:

10 “(viii)(I) The Secretary shall—

11 “(aa) accept as complete a written re-
 12 quest for authorization under this subpara-
 13 graph for incidental taking described in
 14 clause (i), by not later than 45 days after
 15 the date of submission of the request; or

16 “(bb) provide to the requester, by not
 17 later than 15 days after the date of sub-
 18 mission of the request, a written notice de-
 19 scribing any additional information re-
 20 quired to complete the request.

21 “(II) If the Secretary provides notice
 22 under subclause (I)(bb), the Secretary shall, by
 23 not later than 30 days after the date of submis-
 24 sion of the additional information described in
 25 the notice—

1 “(aa) accept the written request for
2 authorization under this subparagraph for
3 incidental taking described in clause (i); or

4 “(bb) deny the request and provide
5 the requester a written explanation of the
6 reasons for the denial.

7 “(III) The Secretary may not make a sec-
8 ond request for information, request that the
9 requester withdraw and resubmit the request,
10 or otherwise delay a decision on the request.

11 “(IV) If the Secretary fails to respond to
12 a request for authorization under this subpara-
13 graph in the manner provided in subclause (I)
14 or (II), the request shall be considered to be
15 complete.

16 “(ix)(I) At least 90 days before the expira-
17 tion of any authorization issued under this sub-
18 paragraph, the holder of such authorization
19 may apply for a one-year extension of such au-
20 thorization. The Secretary shall grant such ex-
21 tension not later than 14 days after the date of
22 such request on the same terms and without
23 further review if there has been no substantial
24 change in the activity carried out under such
25 authorization nor in the status of the marine

1 mammal species or stock, as applicable, as re-
2 ported in the final annual stock assessment re-
3 ports for such species or stock.

4 “(II) In subclause (I), the term ‘substan-
5 tial change’ means a change that prevents the
6 Secretary from making the required findings to
7 issue an authorization under clause (i) with re-
8 spect to such species or stock.

9 “(III) The Secretary shall notify the appli-
10 cant of such substantial changes with specificity
11 and in writing not later than 14 days after the
12 applicant’s submittal of the extension request.

13 “(x) If the Secretary fails to make the re-
14 quired findings and, as appropriate, issue the
15 authorization not later than 120 days after the
16 application is accepted or required to be consid-
17 ered complete under subclause (I)(aa), (II)(aa),
18 or (III) of clause (viii), as applicable, the au-
19 thorization is deemed to have been issued on
20 the terms stated in the application and without
21 further process or restrictions under this Act.

22 “(xi) Any taking of a marine mammal in
23 compliance with an authorization under this
24 subparagraph is exempt from the prohibition on
25 taking in section 9 of the Endangered Species

1 Act of 1973 (16 U.S.C. 1538). Any Federal
2 agency authorizing, funding, or carrying out an
3 action that results in such taking, and any
4 agency action authorizing such taking, is ex-
5 empt from the requirement to consult regarding
6 potential impacts to marine mammal species or
7 designated critical habitat under section 7(a)(2)
8 of such Act (16 U.S.C. 1536(a)(2)).”.

9 **SEC. 205. ENERGY DEVELOPMENT IN THE EASTERN GULF**
10 **OF MEXICO.**

11 (a) COMPATIBILITY BETWEEN MILITARY MISSION
12 AND OIL AND GAS OPERATIONS.—

13 (1) UPDATING MEMORANDUM OF AGREE-
14 MENT.—Not later than 270 days after the date of
15 the enactment of this Act, the Secretary of the Inte-
16 rior and the Secretary of Defense shall update the
17 memorandum of agreement entitled “Memorandum
18 of Agreement Between the Department of Defense
19 and the Department of the Interior on Mutual Con-
20 cerns on the Outer Continental Shelf” to ensure
21 compatibility between the military mission and oil
22 and gas operations in the Eastern Gulf of Mexico.

23 (2) RESERVATIONS.—Nothing in this section
24 affects section 12 of the Outer Continental Shelf
25 Lands Act (43 U.S.C. 1341).

1 (3) EXISTING LEASES.—The stipulations and
2 restrictions developed under this subsection shall not
3 apply to existing leases in the Eastern Planning
4 Area.

5 (b) DIRECTED LEASE SALES.—

6 (1) IN GENERAL.—Notwithstanding the omis-
7 sion of any of these areas from the Outer Conti-
8 nental Shelf oil and gas leasing program approved
9 by the Secretary of the Interior under section 18 of
10 the Outer Continental Shelf Lands Act (43 U.S.C.
11 1344), as in effect at the time of the lease sale, but
12 subject to paragraph (2) of this subsection, the Sec-
13 retary shall offer the following areas for oil and gas
14 leasing under such Act:

15 (A) All acreage of the Eastern Planning
16 Area that is not subject to section 104(a) of the
17 Gulf of Mexico Energy Security Act of 2006
18 (43 U.S.C. 1331 note), as in effect on the date
19 of the enactment of this Act, by holding at least
20 two lease sales before December 31, 2021.

21 (B) All acreage of the Eastern Planning
22 Area by holding at least one additional sale
23 after June 30, 2022, and before December 31,
24 2022, and at least two additional sales each
25 subsequent year.

1 (2) NATIONAL ENVIRONMENTAL POLICY ACT
2 REQUIREMENTS.—The Secretary and all other Fed-
3 eral officials shall complete all actions required by
4 section 102(2)(C) of the National Environmental
5 Policy Act of 1969 (42 U.S.C. 4332(2)(C)) with re-
6 spect to such lease sales by not later than 1 year be-
7 fore the final lease sale conducted under paragraph
8 (1).

9 (3) DEFINITIONS.—In this section, the term
10 “Eastern Planning Area” means the Eastern Gulf of
11 Mexico Planning Area of the Outer Continental
12 Shelf, as such planning area is depicted in the docu-
13 ment titled “2017–2022 Outer Continental Shelf Oil
14 and Gas Leasing Proposed Final Program”, dated
15 November 2016, or a subsequent oil and gas leasing
16 program developed under section 18 of the Outer
17 Continental Shelf Lands Act (43 U.S.C. 1344).

18 (c) LEASE TERMS.—

19 (1) IN GENERAL.—Section 8(b)(2) of the Outer
20 Continental Shelf Lands Act (43 U.S.C. 1337(b)(2))
21 is amended to read as follows:

22 “(2) be for an initial period of not more than—

23 “(A) 5 years;

24 “(B) 10 years if the Secretary finds that
25 a longer period is necessary to encourage explo-

1 ration and development in areas with unusually
2 deep water or other unusually adverse condi-
3 tions; or

4 “(C) 15 years for leases located in water
5 depths of more than 1,500 meters and as long
6 as—

7 “(i) oil or gas is produced from the
8 area in paying quantities; or

9 “(ii) drilling or well reworking oper-
10 ations approved by the Secretary are con-
11 ducted;”.

12 (2) EXTENSION OF EXISTING LEASES.—

13 (A) IN GENERAL.—Not later than 180
14 days after the date of the enactment of this
15 Act, the Secretary of the Interior shall issue
16 regulations under which the Secretary may ex-
17 tend by 5 years the term of an oil and gas lease
18 under section 18 of the Outer Continental Shelf
19 Lands Act (43 U.S.C. 1344) for a tract located
20 in water depths of more than 1,500 meters.

21 (B) APPLICATION; PAYMENT.—Regulations
22 issued under this paragraph shall require—

23 (i) submission of an application for
24 such extension; and

1 (ii) payment of a minimum bid
2 amount.

3 (C) LIMITATION.—The Secretary may not
4 extend the term of a lease under this paragraph
5 more than once.

6 (d) REPORT.—

7 (1) IN GENERAL.—The Secretary of the Inte-
8 rior shall submit to the Committee on Natural Re-
9 sources of the House of Representatives and the
10 Committee on Energy and Natural Resources of the
11 Senate a report regarding options for sharing the
12 revenue collected from oil and gas leasing in the
13 Eastern Gulf of Mexico Planning Area with the Gulf
14 States consistent with section 105 of the Gulf of
15 Mexico Energy Security Act of 2006 (43 U.S.C.
16 1331 note), as amended by section 203 of this Act.

17 (2) INCLUSION.—The report shall include anal-
18 ysis of potential economic benefits to the Gulf States
19 and recommendations for authorizing the use of the
20 revenue for coastal restoration, recovering endan-
21 gered species, coral restoration, and mitigation of
22 harmful algal blooms.

1 **SEC. 206. ANNUAL LEASE SALES IN GULF OF MEXICO RE-**
2 **GION.**

3 Section 18 of the Outer Continental Shelf Lands Act
4 (43 U.S.C. 1344) is amended by adding at the end the
5 following:

6 “(i) ANNUAL LEASE SALES IN GULF OF MEXICO RE-
7 GION.—

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

9 “(A) CENTRAL GULF OF MEXICO PLAN-
10 NING AREA.—The term ‘Central Gulf of Mexico
11 Planning Area’ has the meaning given the term
12 ‘Central Planning Area’ in section 102 of the
13 Gulf of Mexico Energy Security Act of 2006
14 (43 U.S.C. 1331 note; Public Law 109–432).

15 “(B) WESTERN GULF OF MEXICO PLAN-
16 NING AREA.—The term ‘Western Gulf of Mex-
17 ico Planning Area’ means the Western Gulf of
18 Mexico Planning Area of the Outer Continental
19 Shelf, as designated in the document entitled
20 ‘Draft Proposed Program Outer Continental
21 Shelf Oil and Gas Leasing Program 2007–
22 2012’ and dated February 2006.

23 “(2) ANNUAL LEASE SALES.—Notwithstanding
24 any other provision of law, beginning in fiscal year
25 2022, the Secretary shall hold a minimum of 2 re-
26 gionwide lease sales annually in the Gulf of Mexico

1 pursuant to this Act, each of which shall include
2 areas in—

3 “(A) the Central Gulf of Mexico Planning
4 Area; and

5 “(B) the Western Gulf of Mexico Planning
6 Area.

7 “(3) REQUIREMENTS.—

8 “(A) IN GENERAL.—In carrying out the
9 lease sales under paragraph (2), the Secretary
10 shall issue leases to the highest responsible
11 qualified bidder or bidders.

12 “(B) AREAS INCLUDED IN LEASE SALES.—
13 In carrying out the lease sales under paragraph
14 (2), the Secretary shall include in each lease
15 sale all unleased areas that are not subject to
16 restrictions as of the date of the lease sale.

17 “(4) ENVIRONMENTAL REVIEW.—

18 “(A) IN GENERAL.—With respect to each
19 lease sale required under paragraph (2), the
20 Secretary shall conduct any environmental re-
21 views required by the National Environmental
22 Policy Act of 1969 (42 U.S.C. 4321 et seq.).

23 “(B) DEADLINE.—

24 “(i) INDIVIDUAL REVIEW.—If the Sec-
25 retary conducts environmental reviews with

1 respect to a lease sale under subparagraph
2 (A) for each individual lease included in
3 the lease sale, the Secretary shall complete
4 all environmental reviews for the lease sale,
5 including by issuing a finding of no signifi-
6 cant impact or a record of decision, if ap-
7 plicable, in less than 365 calendar days.

8 “(ii) PROGRAMMATIC REVIEW.—If the
9 Secretary conducts a programmatic envi-
10 ronmental review with respect to a lease
11 sale under subparagraph (A) for all leases
12 under the lease sale, the Secretary shall
13 complete the programmatic environmental
14 review, including by issuing a finding of no
15 significant impact or a record of decision,
16 if applicable, in less than 180 calendar
17 days.

18 “(j) PERMITTING.—

19 “(1) IN GENERAL.—Pursuant to sovereign con-
20 tracting rights and obligations, the Secretary shall
21 review and grant or deny in accordance with para-
22 graph (2) any application for a permit or other ap-
23 proval for offshore oil and natural gas exploration,
24 development, and production activities under a lease

1 issued pursuant to this Act by not later than the
2 earlier of—

3 “(A) 75 calendar days after the date on
4 which the application is received by the Bureau
5 of Ocean Energy Management or the Bureau of
6 Safety and Environmental Enforcement; or

7 “(B) any other applicable deadline re-
8 quired by law.

9 “(2) APPROVAL OR DENIAL.—

10 “(A) IN GENERAL.—Absent clear grounds
11 for denial of an application for a permit or
12 other approval described in paragraph (1), the
13 Secretary shall grant the permit or approval.

14 “(B) REQUIREMENT.—If the Secretary de-
15 nies an application for a permit or other ap-
16 proval under subparagraph (A), the Secretary
17 shall provide to the applicant written notice ex-
18 plaining the grounds for the denial.”.

19 **TITLE III—ALTERNATIVE** 20 **ENERGY**

21 **SEC. 301. GEOTHERMAL, SOLAR, AND WIND LEASING PRI-** 22 **ORITY AREAS.**

23 (a) DEFINITIONS.—In this section, the following
24 terms apply:

1 (1) COVERED LAND.—The term “covered land”
2 means land that is—

3 (A) Federal land; and

4 (B) not excluded from the development of
5 geothermal energy under—

6 (i) a land use plan established under
7 the Federal Land Policy and Management
8 Act of 1976 (43 U.S.C. 1701 et seq.); or

9 (ii) any other Federal law.

10 (2) PRIORITY AREA.—The term “priority area”
11 means covered land identified by the land use plan-
12 ning process of the Bureau of Land Management as
13 being a preferred location for a renewable energy
14 project for solar, wind, or geothermal energy.

15 (3) SOLAR DESIGNATED LEASING AREA.—The
16 term “solar designated leasing area” means covered
17 land identified by the land use planning process of
18 the Bureau of Land Management as being a pre-
19 ferred location for a solar energy project, including
20 the solar energy zones established by the 2012 West-
21 ern Solar Plan of the Bureau of Land Management,
22 and any subsequent land use plan amendments.

23 (b) DESIGNATION OF GEOTHERMAL, SOLAR, AND
24 WIND LEASING PRIORITY AREAS.—

1 (1) IN GENERAL.—The Secretary, in consulta-
2 tion with the Secretary of Energy, shall establish
3 priority areas on covered land for geothermal, solar,
4 and wind energy projects.

5 (2) DEADLINE.—

6 (A) GEOTHERMAL AND WIND ENERGY.—

7 With respect to geothermal and wind energy,
8 the Secretary shall establish priority areas as
9 soon as practicable, but not later than 5 years
10 after the date of enactment of this Act.

11 (B) SOLAR ENERGY.—Solar designated
12 leasing areas shall be considered to be priority
13 areas for solar energy leases. The Secretary
14 shall establish additional priority areas for solar
15 energy as soon as practicable, but not later
16 than 3 years after the date of enactment of this
17 Act.

18 (c) CRITERIA FOR SELECTION.—In determining
19 which covered land to designate as a priority area for geo-
20 thermal, solar, or wind leasing under subsection (b), the
21 Secretary, in consultation with the Secretary of Energy,
22 shall consider if—

23 (1) the covered land is preferable for geo-
24 thermal, solar, or wind leasing;

1 (2) production of geothermal, solar, or wind en-
2 ergy on such land is economically viable, including if
3 such land has access to methods of energy trans-
4 mission; and

5 (3) the designation would be in compliance with
6 section 202 of the Federal Land Policy and Manage-
7 ment Act of 1976 (43 U.S.C. 1712), including sub-
8 section (c)(9) of that section.

9 (d) REVIEW AND MODIFICATION.—Not less fre-
10 quently than once every 5 years, the Secretary shall—

11 (1) review covered land and, if appropriate,
12 make additional designations of priority areas for
13 geothermal, solar, or wind leasing; and

14 (2) review each area designated as a priority
15 area for geothermal, solar, or wind energy leasing
16 under this section and, if appropriate, remove such
17 designation.

18 (e) COMPLIANCE WITH THE NATIONAL ENVIRON-
19 MENTAL POLICY ACT.—For the purposes of this section,
20 compliance with the National Environmental Policy Act
21 of 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

22 (1) with respect to geothermal energy, by
23 supplementing the October 2008 final programmatic
24 environmental impact statement for geothermal leas-
25 ing in the Western United States and incorporating

1 any additional regional analyses that have been com-
2 pleted by Federal agencies since such programmatic
3 environmental impact statement was finalized;

4 (2) with respect to solar energy, by
5 supplementing the July 2012 final programmatic en-
6 vironmental impact statement for solar energy devel-
7 opment and incorporating any additional regional
8 analyses that have been completed by Federal agen-
9 cies since such programmatic environmental impact
10 statement was finalized; and

11 (3) with respect to wind energy, by
12 supplementing the July 2005 final programmatic en-
13 vironmental impact statement for wind energy devel-
14 opment and incorporating any additional regional
15 analyses that have been completed by Federal agen-
16 cies since such programmatic environmental impact
17 statement was finalized.

18 (f) ADDITIONAL ENVIRONMENTAL REVIEW.—If the
19 Secretary determines that additional environmental review
20 under the National Environmental Policy Act of 1969 (42
21 U.S.C. 4321 et seq.) is necessary for a proposed renewable
22 energy project, the Secretary shall—

23 (1) rely on the analysis in the programmatic en-
24 vironmental impact statement conducted under sub-

1 section (e), to the maximum extent practicable when
 2 analyzing the potential impacts of the project;

3 (2) complete any such environmental review
 4 document by not later than 364 days; and

5 (3) limit any such review documents to 150
 6 pages in length.

7 **SEC. 302. GEOTHERMAL PRODUCTION ON FEDERAL LANDS.**

8 The Geothermal Steam Act of 1970 (30 U.S.C. 1001
 9 et seq.) is amended by adding at the end the following:

10 **“SEC. 30. GEOTHERMAL EXPLORATION TEST PROJECTS.**

11 “(a) DEFINITION OF GEOTHERMAL EXPLORATION
 12 TEST PROJECT.—In this section, the term ‘geothermal ex-
 13 ploration test project’ means the drilling of a well to test
 14 or explore for geothermal resources on lands for which the
 15 Secretary has issued a lease under this Act, that—

16 “(1) is carried out by the holder of the lease;

17 “(2) causes—

18 “(A) less than 5 acres of soil or vegetation
 19 disruption at the location of each geothermal
 20 exploration well; and

21 “(B) not more than an additional 5 acres
 22 of soil or vegetation disruption during access or
 23 egress to the test site;

24 “(3) is developed—

1 “(A) with a bore well measuring less than
2 9 inches in diameter;

3 “(B) in a manner that does not require
4 off-road motorized access other than to and
5 from the well site along an identified off-road
6 route;

7 “(C) without construction of new roads
8 other than upgrading of existing drainage cross-
9 ings for safety purposes;

10 “(D) with the use of rubber-tired digging
11 or drilling equipment vehicles; and

12 “(E) without the use of high-pressure well
13 stimulation;

14 “(4) is completed in less than 90 days, includ-
15 ing the removal of any surface infrastructure from
16 the site; and

17 “(5) requires the restoration of the project site
18 not later than 3 years after the date of first explo-
19 ration drilling to approximately the condition that
20 existed at the time the project began, unless the site
21 is subsequently used as part of energy development
22 under the lease.

23 “(b) CATEGORICAL EXCLUSION.—

24 “(1) IN GENERAL.—Unless extraordinary cir-
25 cumstances exist, a project that the Secretary deter-

1 mines under subsection (c) is a geothermal explo-
2 ration test project shall be categorically excluded
3 from the requirements for an environmental assess-
4 ment or an environmental impact statement under
5 the National Environmental Policy Act of 1969 (42
6 U.S.C. 4321 et seq.) or section 1508.4 of title 40,
7 Code of Federal Regulations (or a successor regula-
8 tion).

9 “(2) EXTRAORDINARY CIRCUMSTANCES.—The
10 term ‘extraordinary circumstances’ has the meaning
11 give that term in the Department of the Interior De-
12 partmental Manual, 516 DM 2.3A(3) and 516 DM
13 2, 3 Appendix 2 (or successor provisions).

14 “(c) PROCESS.—

15 “(1) REQUIREMENT TO PROVIDE NOTICE.—A
16 leaseholder shall provide notice to the Secretary of
17 the leaseholder’s intent to carry out a geothermal ex-
18 ploration test project at least 30 days before the
19 date on which drilling under the project will begin.

20 “(2) REVIEW AND DETERMINATION.—Not later
21 than 10 days after receipt of a notice of intent
22 under paragraph (1), the Secretary shall, with re-
23 spect to the project described in the notice of in-
24 tent—

1 “(A) determine if the project qualifies for
2 a categorical exclusion under subsection (b);
3 and

4 “(B) notify the leaseholder of such deter-
5 mination.

6 “(3) OPPORTUNITY TO REMEDY.—If the Sec-
7 retary determines under paragraph (2)(A) that the
8 project does not qualify for a categorical exclusion
9 under subsection (b), the Secretary shall—

10 “(A) include in such notice clear and de-
11 tailed findings on any deficiencies in the project
12 that resulted in such determination; and

13 “(B) allow the leaseholder to remedy any
14 such deficiencies and resubmit the notice of in-
15 tent under paragraph (1).”.

16 **SEC. 303. APPLICATION OF OUTER CONTINENTAL SHELF**
17 **LANDS ACT WITH RESPECT TO TERRITORIES**
18 **OF THE UNITED STATES.**

19 (a) IN GENERAL.—Section 2 of the Outer Conti-
20 nental Shelf Lands Act (43 U.S.C. 1331) is amended—

21 (1) in subsection (a), by inserting before the
22 semicolon the following: “or lying within the exclu-
23 sive economic zone of the United States and the
24 Outer Continental Shelf adjacent to any territory or
25 possession of the United States, except that such

1 term shall not include any area conveyed by Con-
2 gress to a territorial government for administra-
3 tion”;

4 (2) in subsection (p), by striking “and” after
5 the semicolon at the end;

6 (3) in subsection (q), by striking the period at
7 the end and inserting “; and”; and

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

9 “(r) The term ‘State’ means the several States, the
10 Commonwealth of Puerto Rico, Guam, American Samoa,
11 the United States Virgin Islands, and the Commonwealth
12 of the Northern Mariana Islands.”.

13 (b) EXCLUSIONS.—Section 18 of the Outer Conti-
14 nental Shelf Lands Act (43 U.S.C. 1344), as amended by
15 section 206 of this Act, is further amended by adding at
16 the end the following:

17 “(k) EXCLUSIONS.—This section shall not apply to
18 the scheduling of lease sales in the Outer Continental
19 Shelf adjacent to the territories and possessions of the
20 United States.”.

21 **SEC. 304. DISPOSITION OF REVENUES WITH RESPECT TO**
22 **TERRITORIES OF THE UNITED STATES.**

23 Section 9 of the Outer Continental Shelf Lands Act
24 (43 U.S.C. 1338) is amended—

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

3 “(a) IN GENERAL.—Except as otherwise provided in
4 law, all rentals”; and

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

6 “(b) DISPOSITION OF REVENUES TO TERRITORIES
7 OF THE UNITED STATES.—Of the bonuses, rentals, royal-
8 ties, and other sums paid to the Secretary under this Act
9 from a lease for an area of land on the Outer Continental
10 Shelf adjacent to a territory and lying within the exclusive
11 economic zone of the United States pertaining to such ter-
12 ritory, and not otherwise obligated or appropriated—

13 “(1) 50 percent shall be deposited in the Treas-
14 ury and credited to miscellaneous receipts;

15 “(2) 12.5 percent shall be deposited in the
16 Coral Reef Conservation Fund established under
17 section 211 of the Coral Reef Conservation Act of
18 2000; and

19 “(3) 37.5 percent shall be disbursed to terri-
20 tories of the United States in an amount for each
21 territory (based on a formula established by the Sec-
22 retary by regulation) that is inversely proportional to
23 the respective distance between the point on the
24 coastline of the territory that is closest to the geo-

1 graphic center of the applicable leased tract and the
 2 geographic center of the leased tract.”.

3 **SEC. 305. WIND LEASE SALES FOR AREAS OF OUTER CONTI-**
 4 **NENTAL SHELF.**

5 (a) CONDITIONAL WIND LEASE SALES IN TERRI-
 6 TORIES OF THE UNITED STATES.—The Outer Continental
 7 Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by
 8 adding at the end the following:

9 **“SEC. 33. WIND LEASE SALES FOR AREAS OF OUTER CONTI-**
 10 **NENTAL SHELF.**

11 “(a) AUTHORIZATION.—The Secretary may conduct
 12 wind lease sales on the Outer Continental Shelf.

13 “(b) WIND LEASE SALE PROCEDURE.—Any wind
 14 lease sale conducted under this section shall be considered
 15 a lease under section 8(p).

16 “(c) WIND LEASE SALES OFF COASTS OF TERRI-
 17 TORIES OF THE UNITED STATES.—

18 “(1) STUDY ON FEASIBILITY OF CONDUCTING
 19 WIND LEASE SALES.—

20 “(A) IN GENERAL.—The Secretary shall
 21 conduct a study on the feasibility, including the
 22 technological and long-term economic feasibility,
 23 of conducting wind lease sales on an area of the
 24 Outer Continental Shelf within the territorial
 25 jurisdiction of American Samoa, Guam, the

1 Commonwealth of the Northern Mariana Is-
2 lands, the Commonwealth of Puerto Rico, and
3 the United States Virgin Islands.

4 “(B) CONSULTATION.—In conducting the
5 study required in paragraph (A), the Secretary
6 shall consult—

7 “(i) the National Laboratories, as
8 that term is defined in section 2(3) of the
9 Energy Policy Act of 2005 (42 U.S.C.
10 15801(3));

11 “(ii) the Governor of each of Amer-
12 ican Samoa, Guam, the Commonwealth of
13 the Northern Mariana Islands, the Com-
14 monwealth of Puerto Rico, and the United
15 States Virgin Islands; and

16 “(iii) the National Oceanic and At-
17 mospheric Administration, including the
18 Office of National Marine Sanctuaries and
19 the National Marine Fisheries Service.

20 “(C) PUBLICATION.—The findings and de-
21 terminations of the study required in subpara-
22 graph (A) shall be published in the Federal
23 Register and open for public comment for not
24 fewer than 60 days.

1 “(D) SUBMISSION OF RESULTS.—Not later
2 than 18 months after the date of enactment of
3 this section, the Secretary shall submit the re-
4 sults of the study conducted under subpara-
5 graph (A) to—

6 “(i) the Committee on Energy and
7 Natural Resources of the Senate;

8 “(ii) the Committee on Natural Re-
9 sources of the House of Representatives;
10 and

11 “(iii) each of the delegates or resident
12 commissioner to the House of Representa-
13 tives from American Samoa, Guam, the
14 Commonwealth of the Northern Mariana
15 Islands, the Commonwealth of Puerto
16 Rico, and the United States Virgin Islands,
17 respectively.

18 “(E) PUBLIC AVAILABILITY.—The findings
19 and determinations of the study published
20 under subparagraph (C) shall be made readily
21 available on a public website.

22 “(2) CALL FOR INFORMATION AND NOMINA-
23 TIONS.—The Secretary shall issue a call for informa-
24 tion and nominations for proposed wind lease sales

1 for areas determined to be feasible under the study
2 conducted under paragraph (1).

3 “(3) CONDITIONAL WIND LEASE SALES.—

4 “(A) IN GENERAL.—For each territory
5 specified in paragraph (1), the Secretary shall
6 conduct not less than one wind lease sale on an
7 area of the Outer Continental Shelf within the
8 territorial jurisdiction of each such territory
9 that meets each of the following criteria:

10 “(i) The study required under para-
11 graph (1) concluded that a wind lease sale
12 on the area is feasible.

13 “(ii) The Secretary has determined
14 that the call for information has generated
15 sufficient interest for the area.

16 “(iii) The Secretary has consulted
17 with the Secretary of Defense regarding
18 such a sale.

19 “(B) EXCEPTION.—If no area of the Outer
20 Continental Shelf within the territorial jurisdic-
21 tion of a territory meets each of the criteria in
22 clauses (i) through (iii) of subparagraph (A),
23 the requirement under subparagraph (A) shall
24 not apply to such territory.”.

1 **SEC. 306. ESTABLISHMENT OF CORAL REEF CONSERVA-**
2 **TION FUND.**

3 (a) IN GENERAL.—The Coral Reef Conservation Act
4 of 2000 (16 U.S.C. 6401 et seq.) is amended by adding
5 at the end the following:

6 **“SEC. 211. CORAL REEF CONSERVATION FUND.**

7 “(a) ESTABLISHMENT.—There is established in the
8 Treasury the Coral Reef Conservation Fund, (in this sec-
9 tion referred to as the ‘Fund’).

10 “(b) DEPOSITS.—For each fiscal year, there shall be
11 deposited in the Fund the portion of such revenues due
12 and payable to the United States under subsection (b)(2)
13 of section 9 of the Outer Continental Shelf Lands Act (43
14 U.S.C. 1338).

15 “(c) USES.—Amounts deposited in the Fund under
16 this section and appropriated to the Secretary of Com-
17 merce under subsection (f) shall be used by the Secretary
18 of Commerce to carry out this Act, with priority given to
19 carrying out sections 204 and 206.

20 “(d) AVAILABILITY.—Amounts deposited in the Fund
21 shall remain in the Fund until appropriated by Congress.

22 “(e) REPORTING.—The President shall include with
23 the proposed budget for the United States Government
24 submitted to Congress for a fiscal year a comprehensive
25 statement of deposits into the Fund during the previous

1 fiscal year and estimated requirements during the fol-
 2 lowing fiscal year for appropriations from the Fund.

3 “(f) AUTHORIZATION OF APPROPRIATIONS.—There
 4 is authorized to be appropriated from the Fund to the Sec-
 5 retary of Commerce, an amount equal to the amount de-
 6 posited in the Fund in the previous fiscal year.

7 “(g) NO LIMITATION.—Appropriations from the
 8 Fund pursuant to this section may be made without fiscal
 9 year limitation.”.

10 (b) RENAMING OF EXISTING FUND.—Section 205 of
 11 the Coral Reef Conservation Act of 2000 (16 U.S.C. 6404)
 12 is amended—

13 (1) in the heading, by striking “**CORAL REEF**
 14 **CONSERVATION FUND**” and inserting “**CORAL**
 15 **REEF PUBLIC-PRIVATE PARTNERSHIP**”;

16 (2) in subsection (a)—

17 (A) in the subsection heading, by striking
 18 “FUND” and inserting “PUBLIC-PRIVATE
 19 PARTNERSHIP”; and

20 (B) by striking “, hereafter referred to as
 21 the Fund,”; and

22 (3) in subsection (b), by striking “Fund” and
 23 inserting “separate interest bearing account”.

1 **SEC. 307. PARITY IN OFFSHORE WIND REVENUE SHARING.**

2 (a) PAYMENTS AND REVENUES.—Section 8(p)(2) of
3 the Outer Continental Shelf Lands Act (43 U.S.C.
4 1337(p)(2)) is amended—

5 (1) in subparagraph (A), by striking “(A) The
6 Secretary” and inserting the following:

7 “(A) IN GENERAL.—Subject to subpara-
8 graphs (B) and (C), the Secretary”;

9 (2) in subparagraph (B), by striking “(B) The
10 Secretary” and inserting the following:

11 “(B) DISPOSITION OF REVENUES FOR
12 PROJECTS LOCATED WITHIN 3 NAUTICAL MILES
13 SEAWARD OF STATE SUBMERGED LAND.—The
14 Secretary”; and

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

16 “(C) DISPOSITION OF REVENUES FOR OFF-
17 SHORE WIND PROJECTS IN CERTAIN AREAS.—

18 “(i) DEFINITIONS.—In this subpara-
19 graph:

20 “(I) COVERED OFFSHORE WIND
21 PROJECT.—The term ‘covered off-
22 shore wind project’ means a wind
23 powered electric generation project in
24 a wind energy area on the outer Con-
25 tinental Shelf that is not wholly or

1 partially located within an area sub-
2 ject to subparagraph (B).

3 “(II) ELIGIBLE STATE.—The
4 term ‘eligible State’ means a State a
5 point on the coastline of which is lo-
6 cated within 75 miles of the geo-
7 graphic center of the covered offshore
8 wind project.

9 “(ii) REQUIREMENT.—

10 “(I) IN GENERAL.—Of the oper-
11 ating fees, rentals, bonuses, royalties,
12 and other payments that are paid to
13 the Secretary under subparagraph (A)
14 from covered offshore wind projects—

15 “(aa) 12.5 percent shall be
16 deposited in the Treasury and
17 credited to miscellaneous re-
18 ceipts;

19 “(bb) 37.5 percent shall be
20 deposited in the North American
21 Wetlands Conservation Fund;

22 “(cc) 50 percent shall be de-
23 posited in a special account in
24 the Treasury, from which the
25 Secretary, subject to subclause

(II), shall disburse to each eligible State an amount (based on a formula established by the Secretary of the Interior by rulemaking not later than 180 days after the date of enactment of the American Energy First Act) that is inversely proportional to the respective distances between—

“(AA) the point on the coastline of each eligible State that is closest to the geographic center of the applicable leased tract; and

“(BB) the geographic center of the leased tract.

“(II) WIND REVENUE SHARING ALLOCATIONS.—

“(aa) MINIMUM ALLOCATION.—The amount allocated to an eligible State each fiscal year under item (cc) of subclause (I) shall be at least 10 percent of the

1 amounts available under that
2 item.

3 “(bb) PAYMENTS TO COAST-
4 AL POLITICAL SUBDIVISIONS.—

5 “(AA) IN GENERAL.—

6 The Secretary shall pay 20
7 percent of the allocable
8 share of each Gulf producing
9 State, as determined under
10 paragraphs (1) and (2) of
11 section 105(b) of the Gulf of
12 Mexico Energy Security Act
13 (43 U.S.C. 1331 note), to
14 the coastal political subdivi-
15 sions of the Gulf producing
16 State.

17 “(BB) ALLOCATION.—

18 The amount paid by the
19 Secretary to coastal political
20 subdivisions shall be allo-
21 cated to each coastal polit-
22 ical subdivision in accord-
23 ance with subparagraphs
24 (B), (C), and (E) of section
25 31(b)(4) of the Outer Conti-

1 nental Shelf Lands Act (43
2 U.S.C. 1356a(b)(4)).

3 “(iii) TIMING.—The amounts required
4 to be deposited under item (cc) of clause
5 (ii)(I) for the applicable fiscal year shall be
6 made available in accordance with that
7 item during the fiscal year immediately fol-
8 lowing the applicable fiscal year.

9 “(iv) AUTHORIZED USES.—

10 “(I) IN GENERAL.—Subject to
11 subclause (II), each State shall use all
12 amounts received under clause
13 (ii)(I)(cc) in accordance with all appli-
14 cable Federal and State laws, only for
15 1 or more of the following purposes:

16 “(aa) Projects and activities
17 for the purposes of coastal pro-
18 tection, including conservation,
19 coastal restoration, hurricane
20 protection, and infrastructure di-
21 rectly affected by coastal wetland
22 losses.

23 “(bb) Mitigation of damage
24 to fish, wildlife, or natural re-

1 sources, including through fish-
2 eries science and research.

3 “(cc) Implementation of a
4 federally approved marine, coast-
5 al, or comprehensive conservation
6 management plan.

7 “(dd) Mitigation of the im-
8 pact of outer Continental Shelf
9 activities through the funding of
10 onshore infrastructure projects.

11 “(ee) Planning assistance
12 and the administrative costs of
13 complying with this section.

14 “(II) LIMITATION.—Of the
15 amounts received by a State under
16 clause (ii)(I)(cc), not more than 3 per-
17 cent shall be used for the purposes de-
18 scribed in subclause (I)(ee).

19 “(v) ADMINISTRATION.—Subject to
20 clause (vi)(III), amounts made available
21 under clauses (ii)(I)(aa) and (ii)(I)(cc)
22 shall—

23 “(I) be made available, without
24 further appropriation, in accordance
25 with this paragraph;

1 “(II) remain available until ex-
2 pended; and

3 “(III) be in addition to any
4 amount appropriated under any other
5 Act.

6 “(vi) REPORTING REQUIREMENT.—

7 “(I) IN GENERAL.—Not later
8 than 180 days after the end of each
9 fiscal year, the Governor of each eligi-
10 ble State that receives amounts under
11 clause (ii)(I)(cc) for the applicable fis-
12 cal year shall submit to the Secretary
13 a report that describes the use of the
14 amounts by the eligible State during
15 the period covered by the report.

16 “(II) PUBLIC AVAILABILITY.—On
17 receipt of a report under subclause
18 (I), the Secretary shall make the re-
19 port available to the public on the
20 website of the Department of the In-
21 terior.

22 “(III) LIMITATION.—If the Gov-
23 ernor of an eligible State that receives
24 amounts under clause (ii)(I)(cc) for
25 the applicable fiscal year fails to sub-

1 mit the report required under sub-
 2 clause (I) by the deadline specified in
 3 that subclause, any amounts that
 4 would otherwise be provided to the eli-
 5 gible State under clause (ii)(I)(cc) for
 6 the succeeding fiscal year shall be de-
 7 posited in the Treasury and credited
 8 to miscellaneous receipts.”.

9 (b) EXEMPTION OF CERTAIN PAYMENTS FROM SE-
 10 QUESTRATION.—

11 (1) IN GENERAL.—Section 255(g)(1)(A) of the
 12 Balanced Budget and Emergency Deficit Control
 13 Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by
 14 inserting after “Payments to Social Security Trust
 15 Funds (28–0404–0–1–651).” the following:

16 “Payments to States pursuant to subparagraph
 17 (C)(ii)(I)(cc) of section 8(p)(2) of the Outer Conti-
 18 nental Shelf Lands Act (43 U.S.C. 1337(p)(2)).”.

19 (2) APPLICABILITY.—The amendment made by
 20 this subsection shall apply to any sequestration
 21 order issued under the Balanced Budget and Emer-
 22 gency Deficit Control Act of 1985 (2 U.S.C. 900 et
 23 seq.) on or after the date of enactment of this Act.

1 **SEC. 308. ENERGY AND ENVIRONMENTAL REMEDIATION**

2 **DEMONSTRATION PROJECT FOR BIOCHAR.**

3 (a) DEMONSTRATION PROJECTS.—

4 (1) ESTABLISHMENT.—

5 (A) IN GENERAL.—Not later than 2 years
6 after the date of the enactment of this section,
7 the Secretary shall establish a program to enter
8 into partnerships with eligible entities to carry
9 out demonstration projects to support the devel-
10 opment and commercialization of biochar in ac-
11 cordance with this subsection.

12 (B) LOCATION OF DEMONSTRATION
13 PROJECTS.—The Secretary shall, to the max-
14 imum extent practicable, establish biochar dem-
15 onstration projects in geographically diverse re-
16 gions.

17 (2) PROPOSALS.—To be eligible to enter into a
18 partnership to carry out a biochar demonstration
19 project under paragraph (1)(A), an eligible entity
20 shall submit to the Secretary a proposal at such
21 time, in such manner, and containing such informa-
22 tion as the Secretary may require.

23 (3) PRIORITY.—In selecting proposals under
24 paragraph (2), the Secretary shall give priority to
25 partnering with eligible entities that submit pro-

1 posals to carry out biochar demonstration projects
2 that—

3 (A) have the most carbon sequestration po-
4 tential;

5 (B) will create new jobs and contribute to
6 local economies, particularly in rural areas;

7 (C) will demonstrate—

8 (i) new and innovative uses of biochar;

9 (ii) viable markets for cost-effective
10 biochar-based products;

11 (iii) the ecosystem services of biochar;

12 or

13 (iv) any combination of purposes spec-
14 ified in clauses (i) through (iii);

15 (D) are located in local markets that have
16 the greatest need for the biochar production
17 units due to—

18 (i) availability of sufficient quantities
19 of feedstocks; or

20 (ii) a high level of demand for biochar
21 or other commercial byproducts of biochar;

22 or

23 (E) meet any combination of criteria speci-
24 fied in subparagraphs (A) through (D).

1 (4) USE OF FUNDS.—In carrying out the pro-
2 gram established under paragraph (1)(A), the Sec-
3 retary may enter into partnerships and provide
4 funding to carry out demonstration projects that—

5 (A) acquire and test various feedstocks and
6 their efficacy;

7 (B) develop and optimize commercially and
8 technologically viable biochar production units,
9 including mobile and permanent units;

10 (C) build, expand, or establish biochar fa-
11 cilities;

12 (D) conduct research on new and innova-
13 tive uses of biochar or demonstrate cost-effec-
14 tive market opportunities for biochar and
15 biochar-based products;

16 (E) carry out any other activities the Sec-
17 retary determines appropriate; or

18 (F) meet any combination of the criteria
19 specified in subparagraphs (A) through (E).

20 (5) REVIEW OF BIOCHAR DEMONSTRATION.—

21 (A) IN GENERAL.—The Secretary shall
22 conduct regionally specific research, including
23 economic analyses and life-cycle assessments, on
24 the biochar produced from the demonstration
25 projects under this subsection, including—

1 (i) the effects of such biochar on—

2 (I) carbon capture and sequestra-
3 tion, including increasing soil carbon
4 in the short term and long term;

5 (II) environmental remediation
6 activities, including abandoned mine
7 land remediation; and

8 (III) other ecosystem services of
9 biochar;

10 (ii) the efficacy of biochar as a co-
11 product of biofuels or in biochemicals; and

12 (iii) whether biochar can effectively be
13 used to produce any other technologically
14 and commercially viable outcome.

15 (B) COORDINATION.—The Secretary shall,
16 to the maximum extent practicable, provide
17 data, analysis, and other relevant information
18 collected under subparagraph (A) to eligible in-
19 stitutions conducting research and development
20 activities on biochar.

21 (6) LIMITATION ON FUNDING FOR ESTAB-
22 LISHING BIOCHAR FACILITIES.—In the case of an el-
23 igible entity that enters into a partnership to carry
24 out a biochar demonstration project under this sub-
25 section and seeks to establish a biochar facility

1 under such demonstration project, the Secretary
2 may not provide funding to such eligible entity in an
3 amount greater than 35 percent of the capital cost
4 of establishing such biochar facility.

5 (b) REPORTS.—

6 (1) REPORT TO CONGRESS.—Not later than 2
7 years after the date of the enactment of this section,
8 the Secretary shall submit a report to Congress
9 that—

10 (A) includes policy and program rec-
11 ommendations to improve the widespread use of
12 biochar;

13 (B) identifies the areas of research needed
14 to advance biochar commercialization and op-
15 portunities to expand markets for biochar and
16 create jobs, particularly in rural areas;

17 (C) identifies barriers to further biochar
18 commercialization, including permitting and
19 siting considerations; and

20 (D) identifies best management practices
21 of biochar and biochar-based products to maxi-
22 mize—

23 (i) carbon sequestration benefits;

1 (ii) applications in environmental re-
2 mediation, including abandoned mine land
3 remediation; and

4 (iii) applications as a coproduct of
5 biofuels or in biochemicals.

6 (2) PRESIDENT’S ANNUAL BUDGET REQUEST.—

7 Beginning 2 years after the date of the enactment
8 of this section and annually until the date described
9 in subsection (c), the Secretary shall include in the
10 budget materials submitted to Congress in support
11 of the President’s annual budget request (submitted
12 to Congress pursuant to section 1105 of title 31,
13 United States Code) for each fiscal year a report on
14 the status of the demonstration projects carried out
15 under subsection (a).

16 (c) SUNSET.—The authority to carry out this section
17 shall terminate on the date that is 10 years after the date
18 of the enactment of this section.

19 (d) DEFINITIONS.—In this section:

20 (1) BIOCHAR.—The term “biochar” means car-
21 bonized biomass produced by converting feedstock
22 through reductive thermal processing for nonfuel
23 uses.

24 (2) ELIGIBLE ENTITY.—The term “eligible enti-
25 ty” means—

- 1 (A) State, local, and Tribal governments;
- 2 (B) eligible institutions; and
- 3 (C) private, nonprivate, or cooperative enti-
- 4 ties.

5 (3) ELIGIBLE INSTITUTION.—The term “eligi-

6 ble institution” means land-grant colleges and uni-

7 versities, including institutions eligible for funding

8 under the—

- 9 (A) Act of July 2, 1862;
- 10 (B) Act of August 30, 1890, including
- 11 Tuskegee University;
- 12 (C) Public Law 87–788 (commonly known
- 13 as the McIntire-Stennis Act of 1962); or
- 14 (D) Equity in Educational Land-Grant
- 15 Status Act of 1994 (7 U.S.C. 301 note).

16 (4) FEEDSTOCK.—The term “feedstock” means

17 excess biomass in the form of plant matter or mate-

18 rials that serves as the raw material for the produc-

19 tion of biochar.

20 (5) SECRETARY.—The term “Secretary” means

21 the Secretary of the Interior.

TITLE IV—LIMITATIONS ON LEASING MORATORIUMS

SEC. 401. COAL LEASES.

Section 2(a)(1) of the Mineral Leasing Act (30 U.S.C. 201(a)(1)) is amended by striking “in his discretion, upon the request of any qualified applicant or on his own motion from time to time” and inserting “at the Secretary’s discretion or upon the request of any qualified applicant”.

SEC. 402. CONGRESSIONAL AUTHORITY REQUIREMENT.

Notwithstanding any other provision of law, the Secretary of the Interior may not declare a moratorium on the leasing of Federal lands, including on the Outer Continental Shelf, for the drilling, mining, or collection of oil, gas, or coal, or related activities unless such moratorium is authorized by an Act of Congress.

SEC. 403. PROHIBITION ON MORATORIA OF NEW ENERGY LEASES ON CERTAIN FEDERAL LAND AND ON WITHDRAWAL OF FEDERAL LAND FROM EN- ERGY DEVELOPMENT.

(a) DEFINITIONS.—In this section—

(1) the term “critical mineral” means any mineral included on the list of critical minerals published in the notice of the Secretary of the Interior

1 entitled “Final List of Critical Minerals 2018” (83
2 Fed. Reg. 23295 (May 18, 2018));

3 (2) the term “Federal land”—

4 (A) means—

5 (i) National Forest System land;

6 (ii) public lands (as defined in section
7 103 of the Federal Land Policy and Man-
8 agement Act of 1976 (43 U.S.C. 1702));

9 (iii) the Outer Continental Shelf (as
10 defined in section 2 of the Outer Conti-
11 nental Shelf Lands Act (43 U.S.C. 1331));

12 and

13 (iv) land managed by the Secretary of
14 Energy; and

15 (B) includes land described in clauses (i)
16 through (iv) of subparagraph (A) for which the
17 rights to the surface estate or subsurface estate
18 are owned by a non-Federal entity; and

19 (3) the term “President” means the President
20 or any designee, including—

21 (A) the Secretary of Agriculture;

22 (B) the Secretary of Energy; and

23 (C) the Secretary of the Interior.

24 (b) PROHIBITIONS.—

1 (1) IN GENERAL.—Notwithstanding any other
2 provision of law, the President may not carry out
3 any action that would prohibit or substantially delay
4 the issuance of any of the following on Federal land,
5 unless such an action has been authorized by an Act
6 of Congress:

7 (A) New oil and gas leases, drill permits,
8 approvals, or authorizations.

9 (B) New coal leases, permits, approvals, or
10 authorizations.

11 (C) New hard rock leases, permits, approv-
12 als, or authorizations.

13 (D) New critical minerals leases, permits,
14 approvals, or authorizations.

15 (2) PROHIBITION ON WITHDRAWAL.—Notwith-
16 standing any other provision of law, the President
17 may not withdraw any Federal land from forms of
18 entry, appropriation, or disposal under the public
19 land laws, location, entry, and patent under the min-
20 ing laws, or disposition under laws pertaining to
21 mineral and geothermal leasing or mineral materials
22 unless the withdrawal has been authorized by an Act
23 of Congress.

○