To achieve domestic energy independence by empowering States to control the exploration, development, and production of oil and gas on all available Federal land, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mrs. BLACK (for herself, Mr. FLEISCHMANN, Mr. KUSTOFF of Tennessee, Mr. SESSIONS, Mr. STEWART, Mr. GOSAR, Mr. DUNCAN of South Carolina, Mr. ROE of Tennessee, Mrs. BLACKBURN, and Mr. DUNCAN of Tennessee) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To achieve domestic energy independence by empowering States to control the exploration, development, and production of oil and gas on all available Federal land, and for other purposes.

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

3   SECTION 1. SHORT TITLE.

4   This Act may be cited as the “Federal Land Freedom
5   Act”.

6   SEC. 2. FINDINGS.

7   Congress finds that—
(1) as of the date of the enactment of this Act—

(A) 113,000,000 acres of onshore Federal land are open and accessible for oil and gas development; and

(B) approximately 166,000,000 acres of onshore Federal land are off-limits or inaccessible for oil and gas development;

(2) despite the recent oil and gas boom in the United States, the number of acres of Federal land leased for oil and gas exploration has decreased by 31 percent since 2008;

(3) in 2015, the Federal Government leased only 36,000,000 acres of Federal land, in contrast to the 131,000,000 acres that were leased in 1984;

(4) the reduction in leasing of Federal land harms economic growth and Federal revenues;

(5) in 2015, it took, on average, 220 days to process applications for permits to drill on Federal land; and

(6) States have extensive and sufficient regulatory frameworks for permitting oil and gas development.

SEC. 3. DEFINITIONS.

In this Act:
(1) AVAILABLE FEDERAL LAND.—The term “available Federal land” means any Federal land that, as of May 31, 2017—

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

(B) is not held by the United States in trust for the benefit of a federally recognized Indian tribe;

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

(D) is not a unit of the National Wildlife Refuge System;

(E) is not Congressionally approved wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.); and

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

(i) by the Bureau of Land Management under a Resource Management Plan pursuant to the process provided for in the Federal Land Management and Policy Act of 1976 (43 U.S.C. 1701 et seq.); or

(ii) by the Forest Service under a Forest Management Plan pursuant to the
process provided for in the National Forest
Management Act of 1976 (16 U.S.C. 1600
et seq.).

(2) STATE.—The term “State” means—
(A) one of the several States; and
(B) the District of Columbia.

(3) STATE REGULATORY PROGRAM.—The term
“State regulatory program” means a program estab-
lished pursuant to State law that regulates oil and
gas exploration, development, and production on
land located in the State.

SEC. 4. STATE CONTROL OF OIL AND GAS EXPLORATION,
development, and production on all
available Federal land.

(a) SUBMISSION OF STATE REGULATORY PRO-
gram.—Each State in which there may be the leasing,
permitting, or regulating of oil and gas exploration, de-
velopment, and production activities on available Federal
lands, and which wishes to assume exclusive jurisdiction
over the leasing, permitting, and regulation of such oil and
gas activities, shall submit to the Secretaries of the Inte-
rior and Agriculture a State regulatory program which
demonstrates that such State has the capability of car-
rying out the provisions of this Act and meeting its pur-
poses through—
(1) a State law which provides for the leasing, regulation and permitting of oil and gas exploration, development, and production activities;

(2) a State law which provides sanctions for violations of State laws, regulations, or conditions of permits concerning oil and gas exploration, development, and production activities;

(3) a State regulatory authority with sufficient administrative and technical personnel, and sufficient funding to enable the State to lease, regulate and permit oil and gas exploration, development, and production activities; and

(4) a State law which provides for the effective implementation, maintenance, and enforcement of a permit system for oil and gas exploration, development, and production activities on available Federal lands within the State.

(b) APPROVAL OF STATE REGULATORY PROGRAM.—

(1) IN GENERAL.—The State regulatory program submitted under subsection (a) shall be deemed approved, unless, not later than 60 days after submission, the Secretaries of the Interior and Agriculture—
(A) find approval of a State regulatory program would result in decreased royalty payments to the Federal Government; or

(B) determine that the State Regulatory Program submitted under subsection (a) does not have the capability to carry out the provisions of this Act.

(2) ADVERSE DETERMINATION.—For any adverse determination by the Secretaries, the Secretaries shall—

(A) notify, in writing, the State applicant of the reason for the withholding of approval; and

(B) provide any additional information, data, or analysis upon which such determination is based.

(c) EFFECT OF APPROVAL OF STATE REGULATORY PROGRAM.—Notwithstanding any other provision of law, on approval of a State regulatory program under subsection (b), the State shall assume the Federal leasing, permitting and regulatory responsibilities for oil and gas exploration, development, and production on available Federal land located in the State in accordance with the approved plan.
(d) **Effect of State Action.**—Any action by a State to lease, permit, or regulate oil and gas exploration, development, and production in accordance with an approved State regulatory program shall not be subject to, or considered a Federal action, Federal permit, or Federal license under—

1. subchapter II of chapter 5, and chapter 7, of title 5, United States Code (commonly known as the “Administrative Procedure Act”);
2. chapter 3001 of title 54, United States Code;
3. the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); or
4. the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(e) **Reassumption of Regulatory Authority by the Secretary.**—

1. **Voluntary Surrender of Authority.**—If a State regulatory program has been approved under subsection (b), such state may voluntarily revoke such approval, and relinquish the duties under subsection (c) upon providing a 60-day notice to the Secretaries of the Interior and Agriculture. Upon the expiration of the 60-day period, the state shall no longer be permitted to lease, regulate, or permit
oil and gas exploration, development, and production activities on available Federal lands.

(2) INVOLUNTARY SURRENDER OF AUTHORITY.—If the Secretaries of the Interior or Agriculture determine a State regulatory program has resulted in a 20-percent decrease in royalties to the Federal government from the preceding year, the Secretaries shall notify the state of such decrease. Such notified state shall have 180 days to address the royalty deficiency. If a state fails to improve the amount of royalties paid to the federal government, then the Secretaries of the Interior and Agriculture may jointly determine to revoke the approval of the state regulatory program under subsection (b).

SEC. 5. NO EFFECT ON FEDERAL REVENUES.

(a) IN GENERAL.—Any lease or permit issued by a State under section 4 shall include provisions for the collection of royalties or other revenues in an amount equal to the amount of royalties or revenues that would have been collected if the lease or permit had been issued by the Federal Government.

(b) DISPOSITION OF REVENUES.—Any revenues collected under a lease or permit issued by a State under section 4 shall be deposited in the same Federal account in which the revenues would have been deposited if the
lease or permit had been issued by the Federal Government.

(c) Effect on State Processing Fees.—Nothing in this Act prohibits a State from collecting and retaining a fee from an applicant to cover the administrative costs of processing an application for a lease or permit.