

112TH CONGRESS
1ST SESSION

H. R. 2983

To amend the Outer Continental Shelf Lands Act to require the Secretary of the Interior to conduct offshore oil and gas leasing, to deposit use revenues from such activity into the Inland Waterways Trust Fund and the Highway Trust Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 21, 2011

Mrs. CAPITO introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on the Judiciary, Ways and Means, and Transportation and Infrastructure, 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 amend the Outer Continental Shelf Lands Act to require the Secretary of the Interior to conduct offshore oil and gas leasing, to deposit use revenues from such activity into the Inland Waterways Trust Fund and the Highway Trust Fund, 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 “Rebuilding American Roads Act”.

1 (b) TABLE OF CONTENTS.—The table of contents for
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—OFFSHORE LEASING AND OTHER ENERGY PROVISIONS

Subtitle A—Offshore Leasing

- Sec. 101. Leasing program considered approved.
- Sec. 102. Lease sales.
- Sec. 103. Seaward boundaries of States.
- Sec. 104. Military operations.
- Sec. 105. Coordination with Adjacent States.
- Sec. 106. Gulf of Mexico oil and gas.
- Sec. 107. Use of revenues.
- Sec. 108. Inventory of offshore energy resources.
- Sec. 109. Prohibitions on surface occupancy and other appropriate environmental safeguards.

Subtitle B—Expedited Judicial Review

- Sec. 121. Definitions.
- Sec. 122. Exclusive jurisdiction over causes and claims relating to covered oil and natural gas activities.
- Sec. 123. Time for filing petition; standing.
- Sec. 124. Timetable.
- Sec. 125. Limitation on scope of review and relief.
- Sec. 126. Presidential waiver.
- Sec. 127. Legal fees.
- Sec. 128. Exclusion.

Subtitle C—Other Energy Provisions

- Sec. 131. Policies regarding buying and building American.

3 **TITLE I—OFFSHORE LEASING**
 4 **AND OTHER ENERGY PROVI-**
 5 **SIONS**

6 **Subtitle A—Offshore Leasing**

7 **SEC. 101. LEASING PROGRAM CONSIDERED APPROVED.**

8 (a) IN GENERAL.—The Draft Proposed Outer Conti-
 9 nental Shelf Oil and Gas Leasing Program 2010–2015
 10 issued by the Secretary of the Interior (referred to in this
 11 section as the “Secretary”) under section 18 of the Outer

1 Continental Shelf Lands Act (43 U.S.C. 1344) is consid-
2 ered to have been approved by the Secretary as a final
3 oil and gas leasing program under that section, and is con-
4 sidered to be in full compliance with and in accordance
5 with all requirements of the Outer Continental Shelf
6 Lands Act.

7 (b) FINAL ENVIRONMENTAL IMPACT STATEMENT.—
8 The Secretary is considered to have issued a final environ-
9 mental impact statement for the program described in
10 subsection (a) in accordance with all requirements under
11 section 102(2)(C) of the National Environmental Policy
12 Act of 1969 (42 U.S.C. 4332(2)(C)).

13 (c) CORRECTION OF DATES.—The Secretary of the
14 Interior shall update the dates and deadlines proscribed
15 in the program described in subsection (a) to reflect the
16 time that has passed between the date the program was
17 issued and the date of enactment of this Act.

18 **SEC. 102. LEASE SALES.**

19 (a) OUTER CONTINENTAL SHELF.—

20 (b) IN GENERAL.—Except as provided in paragraph
21 (2), not later than 30 days after the date of enactment
22 of this Act and every 270 days thereafter, the Secretary
23 of the Interior (referred to in this section as the “Sec-
24 retary”) shall conduct a lease sale in each outer Conti-
25 nental Shelf planning area for which the Secretary deter-

1 mines that there is a commercial interest in purchasing
2 Federal oil and gas leases for production on the outer Con-
3 tinental Shelf.

4 (c) **SUBSEQUENT DETERMINATIONS AND SALES.**—If
5 the Secretary determines that there is not a commercial
6 interest in purchasing Federal oil and gas leases for pro-
7 duction on the outer Continental Shelf in a planning area
8 under this subsection, not later than 2 years after the date
9 of enactment of the determination and every 2 years there-
10 after, the Secretary shall—

11 (1) determine whether there is a commercial in-
12 terest in purchasing Federal oil and gas leases for
13 production on the outer Continental Shelf in the
14 planning area; and

15 (2) if the Secretary determines that there is a
16 commercial interest described in paragraph (1), con-
17 duct a lease sale in the planning area.

18 **SEC. 103. SEAWARD BOUNDARIES OF STATES.**

19 (a) **SEAWARD BOUNDARIES.**—Section 4 of the Sub-
20 merged Lands Act (43 U.S.C. 1312) is amended by strik-
21 ing “three geographical miles” each place it appears and
22 inserting “9 nautical miles”.

23 (b) **CONFORMING AMENDMENTS.**—Section 2 of the
24 Submerged Lands Act (43 U.S.C. 1301) is amended—

1 (1) in subsection (a)(2), by striking “three geo-
2 graphical miles” and inserting “9 nautical miles”;
3 and

4 (2) in subsection (b)—

5 (A) by striking “three geographical miles”
6 and inserting “9 nautical miles”; and

7 (B) by striking “three marine leagues” and
8 inserting “9 nautical miles”.

9 (c) EFFECT OF AMENDMENTS.—

10 (1) IN GENERAL.—Subject to paragraphs (2)
11 through (4), the amendments made by this section
12 shall not effect Federal oil and gas mineral rights
13 and should not effect the States’ current authority
14 within existing State boundaries.

15 (2) EXISTING LEASES.—The amendments made
16 by this section shall not affect any Federal oil and
17 gas lease in effect on the date of enactment of this
18 Act.

19 (3) TAXATION.—

20 (A) IN GENERAL.—A State may exercise
21 all of the sovereign powers of taxation of the
22 State within the entire extent of the seaward
23 boundaries of the State (as extended by the
24 amendments made by this section).

1 (B) LIMITATION.—Nothing in this para-
2 graph affects the authority of a State to tax
3 any Federal oil and gas lease in effect on the
4 date of enactment of this Act.

5 **SEC. 104. MILITARY OPERATIONS.**

6 The Secretary shall consult with the Secretary of De-
7 fense regarding military operations needs in the Outer
8 Continental Shelf. The Secretary shall work with the Sec-
9 retary of Defense to resolve any conflicts that might arise
10 between such operations and leasing under this title. If
11 the Secretaries are unable to resolve all such conflicts, any
12 unresolved issues shall be referred by the Secretaries to
13 the President in a timely fashion for immediate resolution.

14 **SEC. 105. COORDINATION WITH ADJACENT STATES.**

15 Section 19 of the Outer Continental Shelf Lands Act
16 (43 U.S.C. 1345) is amended—

17 (1) in subsection (a) in the first sentence by in-
18 serting “, for any tract located within the Adjacent
19 State’s Adjacent Zone,” after “government”; and

20 (2) by adding the following:

21 “(f)(1) Prior to issuing a permit or approval for the
22 construction of a pipeline to transport crude oil, natural
23 gas or associated liquids production withdrawn from oil
24 and gas leases on the outer Continental Shelf, a Federal
25 agency must seek the concurrence of the Adjacent State

1 if the pipeline is to transit the Adjacent State’s Adjacent
2 Zone between the outer Continental Shelf and landfall. No
3 State may prohibit construction of such a pipeline within
4 its Adjacent Zone or its State waters. However, an Adja-
5 cent State may require routing of such a pipeline to one
6 of two alternate landfall locations in the Adjacent State,
7 designated by the Adjacent State, located within 60 miles
8 on either side of a proposed landfall location.

9 “(2) In this subsection:

10 “(A) The term ‘Adjacent State’ means, with re-
11 spect to any program, plan, lease sale, leased tract
12 or other activity, proposed, conducted, or approved
13 pursuant to the provisions of this Act, any State the
14 laws of which are declared, pursuant to section
15 4(a)(2), to be the law of the United States for the
16 portion of the outer Continental Shelf on which such
17 program, plan, lease sale, leased tract, or activity
18 appertains or is, or is proposed to be, conducted.
19 For purposes of this subparagraph, the term ‘State’
20 includes the Commonwealth of Puerto Rico, the
21 Commonwealth of the Northern Mariana Islands,
22 the Virgin Islands, American Samoa, Guam, and the
23 other territories of the United States.

24 “(B) The term ‘Adjacent Zone’ means, with re-
25 spect to any program, plan, lease sale, leased tract,

1 or other activity, proposed, conducted, or approved
2 pursuant to the provisions of this Act, the portion
3 of the outer Continental Shelf for which the laws of
4 a particular Adjacent State are declared, pursuant
5 to section 4(a)(2), to be the law of the United
6 States.”.

7 **SEC. 106. GULF OF MEXICO OIL AND GAS.**

8 (a) REPEAL.—Section 104 of division C of the Tax
9 Relief and Health Care Act of 2006 (Public Law 109–
10 432; 120 Stat. 3003) is repealed.

11 (b) LEASING PLAN FOR THE EASTERN GULF OF
12 MEXICO.—Pursuant to sections 101 and 102 of this Act,
13 the Secretary of the Interior shall issue a final leasing plan
14 for the Eastern Gulf of Mexico within 180 days after the
15 date of enactment of this Act for all areas where there
16 exists commercial interest in purchasing Federal oil and
17 gas leases for production.

18 **SEC. 107. USE OF REVENUES.**

19 (a) IN GENERAL.—Section 8(g) of the Outer Conti-
20 nental Shelf Lands Act (43 U.S.C. 1337(g)) is amended—

21 (1) in paragraph (2) by striking “Notwith-
22 standing” and inserting “Except as provided in
23 paragraph (6), and notwithstanding”;

24 (2) by redesignating paragraphs (6) and (7) as
25 paragraphs (7) and (8); and

1 (3) by inserting after paragraph (5) the fol-
2 lowing:

3 “(6) BONUS BIDS, ROYALTIES, RENTALS, AND
4 OTHER SUMS UNDER QUALIFIED LEASES.—

5 “(A) IN GENERAL.—Of the amounts re-
6 ceived by the United States as bonus bids, roy-
7 alties, rentals, and other sums collected under
8 any new qualified lease on submerged lands
9 made available for leasing under this Act by the
10 enactment of the Rebuilding American Roads
11 Act—

12 “(i) 4 percent shall be available to the
13 Secretary of the Interior for coordination
14 of cleanup and inspection of tracts leased
15 under this Act;

16 “(ii) \$500,000,000 shall be deposited
17 each fiscal year into the Inland Waterways
18 Trust Fund for maintenance and construc-
19 tion along the inland waterway system;
20 and

21 “(iii) the remainder shall be deposited
22 into the Highway Trust Fund and used for
23 maintenance and construction of highways,
24 bridges, and tunnels.

1 “(B) QUALIFIED LEASE DEFINED.—In this
2 paragraph the term ‘qualified lease’ means a
3 natural gas or oil lease made available under
4 this Act granted after the date of the enact-
5 ment of the Rebuilding American Roads Act,
6 for an area that is available for leasing as a re-
7 sult of enactment of section 101 of that Act.

8 “(C) APPLICATION.—This paragraph shall
9 apply to bonus bids and royalties received by
10 the United States under qualified leases after
11 implementation of sections 105 and 106 of the
12 Rebuilding American Roads Act.

13 “(D) EXISTING REVENUES.—All revenues,
14 including bonus bids, royalties, rentals, and
15 other sums, collected from leases issued under
16 this Act prior to the enactment Rebuilding
17 American Roads Act, shall not be affected by
18 the provisions of that Act.”.

19 (b) ESTABLISHMENT OF STATE SEAWARD BOUND-
20 ARIES.—Section 4(a)(2)(A) of the Outer Continental Shelf
21 Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended in the
22 first sentence by striking “, and the President” and all
23 that follows through the end of the sentence and inserting
24 the following: “. Such extended lines are deemed to be as
25 indicated on the maps for each Outer Continental Shelf

1 region entitled ‘Alaska Outer Continental Shelf Region
2 State Adjacent Zone and Outer Continental Shelf Plan-
3 ning Areas’, ‘Pacific Outer Continental Shelf Region State
4 Adjacent Zones and Outer Continental Shelf Planning
5 Areas’, ‘Gulf of Mexico Outer Continental Shelf Region
6 State Adjacent Zones and Outer Continental Shelf Plan-
7 ning Areas’, and ‘Atlantic Outer Continental Shelf Region
8 State Adjacent Zones and Outer Continental Shelf Plan-
9 ning Areas’, all of which are dated September 2005 and
10 on file in the Office of the Director, Minerals Management
11 Service. The preceding sentence shall not apply with re-
12 spect to the treatment under section 105 of the Gulf of
13 Mexico Energy Security Act of 2006 (title I of division
14 C of Public Law 109–432) of qualified outer Continental
15 Shelf revenues deposited and disbursed under subsection
16 (a)(2) of that section.”.

17 **SEC. 108. INVENTORY OF OFFSHORE ENERGY RESOURCES.**

18 (a) IN GENERAL.—The Secretary of the Interior (in
19 this section referred to as the “Secretary”) shall promptly
20 prepare an inventory of offshore energy resources of the
21 United States, including through conduct of geological and
22 geophysical explorations by private industry in all of the
23 United States outer Continental Shelf areas of the Atlan-
24 tic Ocean and the Pacific Ocean under part 251 of title

1 30, Code of Federal Regulations (or successor regula-
2 tions).

3 (b) ENVIRONMENTAL STUDIES.—Not later than 180
4 days after the date of enactment of this Act, the Secretary
5 shall complete any environmental studies necessary to
6 gather information essential to an accurate inventory, in-
7 cluding geological and geophysical explorations under part
8 251 of title 30, Code of Federal Regulations (or successor
9 regulations).

10 (c) EFFECT ON OIL AND GAS LEASING.—No inven-
11 tory that is conducted under this section or any other Fed-
12 eral law (including regulations) shall restrict, limit, delay,
13 or otherwise adversely affect—

14 (1) the development of any Outer Continental
15 Shelf leasing program under section 18 of the Outer
16 Continental Shelf Lands Act (43 U.S.C. 1344); or

17 (2) any leasing, exploration, development, or
18 production of any Federal offshore oil and gas
19 leases.

20 (d) FUNDING.—

21 (1) IN GENERAL.—Notwithstanding paragraph
22 (6) of section 8(g) of the Outer Continental Shelf
23 Lands Act (43 U.S.C. 1337(g)), as amended by this
24 Act, the Secretary of the Treasury shall make a 1-
25 time transfer to the Secretary, without further ap-

1 appropriation and from royalties collected by the
2 United States in conjunction with the production of
3 oil and gas, of such sums as are necessary for the
4 Secretary to carry out this section.

5 (2) LIMITATION.—The amount transferred
6 under paragraph (1) shall not exceed \$50,000,000.

7 (3) RELATIONSHIP TO OTHER LAW.—Para-
8 graph (6) of section 8(g) of the Outer Continental
9 Shelf Lands Act (43 U.S.C. 1337(g)), as amended
10 by this Act, shall be applied with respect to amounts
11 remaining after the transfer required by this sub-
12 section.

13 **SEC. 109. PROHIBITIONS ON SURFACE OCCUPANCY AND**
14 **OTHER APPROPRIATE ENVIRONMENTAL**
15 **SAFEGUARDS.**

16 (a) REGULATIONS.—

17 (1) IN GENERAL.—

18 (A) ENVIRONMENTAL SAFEGUARDS.—The
19 Secretary of the Interior shall promulgate regu-
20 lations that establish appropriate environmental
21 safeguards for the exploration and production
22 of oil and natural gas on the outer Continental
23 Shelf.

24 (B) SAFETY PROTOCOLS.—All operations,
25 including under any permit issued pursuant to

1 an application for a permit to drill or an appli-
2 cation for a permit to sidetrack, that has been
3 approved by the Minerals Management Service
4 or the Bureau of Ocean Energy Management,
5 Regulation and Enforcement, for purposes of
6 outer Continental Shelf energy exploration or
7 development and production, shall be carried
8 out in accordance with the safety protocols con-
9 tained in part 250 of title 30, Code of Federal
10 Regulations.

11 (2) REQUIREMENTS.—The regulations shall in-
12 clude provisions ensuring that—

13 (A) no surface facility shall be installed for
14 the purpose of production of oil or gas re-
15 sources in any area that is within 10 miles from
16 the shore of any coastal State, in any area of
17 the outer Continental Shelf that has not pre-
18 viously been made available for oil and gas leas-
19 ing;

20 (B) only temporary surface facilities are
21 installed for areas that are located—

22 (i) beyond 10 miles from the shore
23 from the shore of any coastal State, in any
24 area of the Outer Continental Shelf that

1 has not previously been made available for
2 oil and gas leasing; and

3 (ii) not more than 20 miles from the
4 shore;

5 (C) the impact of offshore production fa-
6 cilities on coastal vistas is otherwise mitigated;
7 and

8 (D) onshore facilities that are able to draw
9 upon the resources of the outer Continental
10 Shelf within 10 miles of shore are allowed.

11 (b) CONFORMING AMENDMENT.—Section 105 of the
12 Department of the Interior, Environment, and Related
13 Agencies Appropriations Act, 2006 (Public Law 109–54;
14 119 Stat. 521) (as amended by section 103(d) of the Gulf
15 of Mexico Energy Security Act of 2006 (43 U.S.C. 1331
16 note; Public Law 109–432)) is amended by inserting “and
17 any other area that the Secretary of the Interior may offer
18 for leasing, preleasing, or any related activity under sec-
19 tion 104 of that Act” after “2006”).

20 **Subtitle B—Expedited Judicial**
21 **Review**

22 **SEC. 121. DEFINITIONS.**

23 In this subtitle:

24 (1) AUTHORIZING LEASING STATUTE.—The
25 term “authorizing leasing statute” means the Outer

1 Continental Shelf Lands Act (43 U.S.C. 1331 et
2 seq.), the Mineral Leasing Act (30 U.S.C. 181 et
3 seq.), the Mineral Leasing Act for Acquired Lands
4 (30 U.S.C. 351 et seq.), and any other law of the
5 United States directing or authorizing the leasing of
6 Federal lands for oil and gas production or trans-
7 mission.

8 (2) COVERED OIL AND NATURAL GAS ACTIV-
9 ITY.—The term “covered oil and natural gas activ-
10 ity” means—

11 (A) the leasing of any lands pursuant to
12 an authorizing leasing statute for the explo-
13 ration, development, production, processing, or
14 transmission of oil, natural gas, or associated
15 hydrocarbons, including actions or decisions re-
16 lating to the selection of which lands may or
17 shall be made available for such leasing; and

18 (B) any activity taken or proposed to be
19 taken pursuant or in relation to such leases, in-
20 cluding their suspension, and any environ-
21 mental analyses relating to such activity.

1 **SEC. 122. EXCLUSIVE JURISDICTION OVER CAUSES AND**
2 **CLAIMS RELATING TO COVERED OIL AND**
3 **NATURAL GAS ACTIVITIES.**

4 Notwithstanding any other provision of law, any Fed-
5 eral action approving any covered oil and natural gas ac-
6 tivity shall be subject to judicial review only—

7 (1) in the United States Court of Appeals for
8 the District of Columbia Circuit; and

9 (2) after the person filing a petition seeking
10 such judicial review has exhausted all available ad-
11 ministrative remedies with respect to such Federal
12 action.

13 **SEC. 123. TIME FOR FILING PETITION; STANDING.**

14 (a) **IN GENERAL.**—All petitions referred to in section
15 122 must be filed within 30 days after the latter of the
16 challenged Federal action or the exhaustion of all available
17 administrative remedies with respect to such Federal ac-
18 tion. A claim or challenge shall be barred unless it is filed
19 within the time specified.

20 (b) **STANDING.**—No person whose legal rights will
21 not be directly and adversely affected by the challenged
22 action, and who is not within the zone of interest protected
23 by each Act under which the challenge is brought, shall
24 have standing to file any petition referred to in section
25 122.

1 **SEC. 124. TIMETABLE.**

2 The United States Court of Appeals for the District
3 of Columbia Circuit shall complete all judicial review, in-
4 cluding rendering a judgment, before the end of the 120-
5 day period beginning on the date on which a petition re-
6 ferred to in section 122 is filed, unless all parties to such
7 proceeding agree to an extension of such period.

8 **SEC. 125. LIMITATION ON SCOPE OF REVIEW AND RELIEF.**

9 (a) ADMINISTRATIVE FINDINGS AND CONCLU-
10 SIONS.—In any judicial review referred to in section 122,
11 any administrative findings and conclusions relating to the
12 challenged Federal action shall be presumed to be correct
13 unless shown otherwise by clear and convincing evidence
14 contained in the administrative record.

15 (b) LIMITATION ON PROSPECTIVE RELIEF.—In any
16 judicial review referred to in section 122, the Court shall
17 not grant or approve any prospective relief unless the
18 court finds that such relief is narrowly drawn, extends no
19 further than necessary to correct the violation of a Federal
20 law requirement, and is the least intrusive means nec-
21 essary to correct the violation concerned.

22 **SEC. 126. PRESIDENTIAL WAIVER.**

23 Notwithstanding any other provision of law, the
24 President may waive any legal requirement relating to the
25 approval of any covered oil and natural gas activity if the
26 President determines in the President's sole discretion

1 that such activity is important to the national interest and
2 outweighs such legal requirement.

3 **SEC. 127. LEGAL FEES.**

4 Any person filing a petition referred to in section 122
5 who is not a prevailing party shall pay to the prevailing
6 parties (including intervening parties), other than the
7 United States, fees and other expenses incurred by that
8 party in connection with the judicial review, unless the
9 Court finds that the position of the person was substan-
10 tially justified or that special circumstances make an
11 award unjust.

12 **SEC. 128. EXCLUSION.**

13 Section 122 shall not apply to disputes between the
14 parties to a lease issued pursuant to an authorizing leas-
15 ing statute regarding the obligations of such lease or the
16 alleged breach thereof.

17 **Subtitle C—Other Energy**
18 **Provisions**

19 **SEC. 131. POLICIES REGARDING BUYING AND BUILDING**
20 **AMERICAN.**

21 (a) INTENT OF CONGRESS.—It is the intent of the
22 Congress that this Act, among other things, result in a
23 healthy and growing American industrial, manufacturing,
24 transportation, and service sector employing the vast tal-
25 ents of America’s workforce to assist in the development

1 of energy from domestic sources. Moreover, the Congress
2 intends to monitor the deployment of personnel and mate-
3 rial onshore and offshore to encourage the development
4 of American technology and manufacturing to enable
5 United States workers to benefit from this Act by good
6 jobs and careers, as well as the establishment of important
7 industrial facilities to support expanded access to Amer-
8 ican resources.

9 (b) SAFEGUARD FOR EXTRAORDINARY ABILITY.—
10 Section 30(a) of the Outer Continental Shelf Lands Act
11 (43 U.S.C. 1356(a)) is amended in the matter preceding
12 paragraph (1) by striking “regulations which” and insert-
13 ing “regulations that shall be supplemental and com-
14 plimentary with and under no circumstances a substi-
15 tution for the provisions of the Constitution and laws of
16 the United States extended to the subsoil and seabed of
17 the outer Continental Shelf pursuant to section 4 of this
18 Act, except insofar as such laws would otherwise apply to
19 individuals who have extraordinary ability in the sciences,
20 arts, education, or business, which has been demonstrated
21 by sustained national or international acclaim, and that”.

22 (c) WORK STANDARDS.—All construction, repair, or
23 alteration of public buildings and public works of the Gov-
24 ernment and buildings or works financed or otherwise as-
25 sisted in whole or in part under this Act by a loan, loan

1 guarantee, grant, annual contribution, credit enhance-
2 ment, or any other form of Federal assistance authorized
3 under this Act shall be performed in accordance with the
4 standards applicable to comparable activity under any
5 other provision of law, without regard to the form or type
6 of Federal assistance provided thereunder.

○