

116TH CONGRESS
2D SESSION

S. 4223

To amend the Mineral Leasing Act to ensure market competition in onshore oil and gas leasing, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 20, 2020

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

A BILL

To amend the Mineral Leasing Act to ensure market competition in onshore oil and gas leasing, 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 “Leasing Market Effi-
5 ciency Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

8 (1) pursuant to the Federal Land Policy and
9 Management Act of 1976 (43 U.S.C. 1701 et seq.)
10 and the Forest and Rangeland Renewable Resources

1 Planning Act of 1974 (16 U.S.C. 1600 et seq.), pub-
2 lic land and National Forest System land are to be
3 managed for multiple uses, including recreation,
4 range, timber, minerals, watershed, wildlife and fish,
5 and natural scenic, scientific, and historical values;

6 (2) existing oil and gas leases, even if undevel-
7 oped, can and do prevent the Bureau of Land Man-
8 agement from managing tracts of land for other
9 multiple uses;

10 (3) oil and gas lease parcels that do not receive
11 bids at competitive auction have been tested by the
12 competitive market and found to have minimal or no
13 present value for oil and gas development;

14 (4) noncompetitive leasing does not provide a
15 fair return to taxpayers since noncompetitive leasing
16 allows companies and individuals to pay less than
17 the minimum \$2 bid for the use of public land;

18 (5) noncompetitively issued leases are usually
19 not developed and account for only a small fraction
20 of royalty-generating production;

21 (6) companies and individuals frequently pur-
22 chase oil and gas leases noncompetitively, despite
23 lacking the intent or capability to develop them, as
24 a form of speculation;

1 (7) relative to leases issued competitively, leases
2 issued noncompetitively are significantly more likely
3 to be terminated for failure to pay rent;

4 (8) the noncompetitive leasing program drains
5 administrative resources from the Bureau of Land
6 Management, in the form of personnel time and ef-
7 fort to issue, monitor, and frequently terminate and
8 reinstate noncompetitive leases;

9 (9) noncompetitive leasing has increased in re-
10 cent years, with the number of leases issued non-
11 competitively in calendar year 2018 marking a 10-
12 year high;

13 (10) several States, including Colorado and por-
14 tions of New Mexico, do not regularly issue leases
15 noncompetitively, and yet maintain a robust and
16 profitable oil and gas program; and

17 (11) the Federal onshore oil and gas leasing
18 program is best served by—

19 (A) issuing oil and gas leases only through
20 a competitive process; and

21 (B) leaving land that does not receive bids
22 at competitive auction to be managed for other
23 uses.

1 **SEC. 3. POLICY OF THE UNITED STATES; SENSE OF CON-**
2 **GRESS.**

3 (a) POLICY OF THE UNITED STATES.—It is the pol-
4 icy of the United States that the Secretary of the Interior
5 shall not issue onshore oil and gas leases except through
6 a competitive bidding process.

7 (b) SENSE OF CONGRESS.—It is the sense of Con-
8 gress that the policy of the United States described in sub-
9 section (a)—

10 (1) will discourage speculation in the Federal
11 onshore oil and gas leasing program;

12 (2) will conserve limited Federal resources that
13 can be better applied elsewhere;

14 (3) will avoid opportunity costs that impact the
15 management of other resources, such as wildlife
16 habitat management;

17 (4) will benefit taxpayers from the receipt by
18 the Secretary of the Interior of at least the min-
19 imum bid value for onshore oil and gas leases issued
20 by the Secretary of the Interior;

21 (5) is in keeping with the goals of multiple use
22 land management; and

23 (6) is not to the detriment of the fiscal interests
24 or energy security of the United States.

1 **SEC. 4. ELIMINATION OF NONCOMPETITIVE LEASING.**

2 (a) OIL AND GAS LEASING.—Section 17 of the Min-
3 eral Leasing Act (30 U.S.C. 226) is amended—

4 (1) by striking subsection (a) and inserting the
5 following:

6 “(a) LEASING AUTHORITY.—

7 “(1) IN GENERAL.—All land subject to disposi-
8 tion under this Act that is known or believed to con-
9 tain oil or gas deposits may be leased by the Sec-
10 retary.

11 “(2) RECEIPT OF FAIR MARKET VALUE.—In
12 conducting leasing activities under this Act, the Sec-
13 retary shall ensure the receipt by the United States
14 of fair market value for—

15 “(A) any land or resources leased by the
16 United States; and

17 “(B) any rights conveyed by the United
18 States.”;

19 (2) in subsection (b)—

20 (A) in paragraph (1)(A)—

21 (i) in the first sentence, by striking
22 “paragraphs (2) and (3) of this sub-
23 section” and inserting “paragraph (2)”;
24 and

25 (ii) by striking the last sentence; and

26 (B) by striking paragraph (3);

1 (3) by striking subsection (c) and inserting the
2 following:

3 “(c) ADDITIONAL ROUNDS OF COMPETITIVE BID-
4 DING.—Land made available for leasing under subsection
5 (b)(1) for which no bid is accepted or received may be
6 made available by the Secretary for a new round of com-
7 petitive bidding under that subsection.”; and

8 (4) in subsection (e)—

9 (A) in the third sentence, by striking “Any
10 lease” and inserting the following:

11 “(3) ADDITIONAL EXTENSIONS.—Any lease”;

12 (B) in the second sentence, by striking
13 “Each such lease” and inserting the following:

14 “(2) EXTENSION OF LEASE AFTER PRIMARY
15 TERM.—A lease described in paragraph (1)”;

16 (C) by striking the subsection designation
17 and all that follows through the period at the
18 end of the first sentence and inserting the fol-
19 lowing:

20 “(e) TERM OF LEASE.—

21 “(1) IN GENERAL.—Any lease issued under this
22 section, including a lease for tar sand areas, shall be
23 for a primary term of 10 years.”.

1 (b) FAILURE TO COMPLY WITH PROVISIONS OF
 2 LEASE.—Section 31 of the Mineral Leasing Act (30
 3 U.S.C. 188) is amended—

4 (1) in subsection (d)(1), in the first sentence,
 5 by striking “or section 17(e) of this Act”;

6 (2) in subsection (e)—

7 (A) in paragraph (2)—

8 (i) by striking “either”; and

9 (ii) by striking “or the inclusion” and
 10 all that follows through “, all”; and

11 (B) in paragraph (3)—

12 (i) in subparagraph (A), by adding
 13 “and” after the semicolon;

14 (ii) by striking subparagraph (B); and

15 (iii) by striking “(3)(A) payment” and
 16 inserting the following:

17 “(3) payment”;

18 (3) in subsection (g)—

19 (A) in paragraph (1), by striking “as a
 20 competitive” and all that follows through “of
 21 this Act” and inserting “in the same manner as
 22 the original lease issued pursuant to section
 23 17”;

24 (B) by striking paragraph (2);

1 (C) by redesignating paragraphs (3) and
 2 (4) as paragraphs (2) and (3), respectively; and
 3 (D) in paragraph (2) (as so redesignated),
 4 by striking “applicable to leases issued under
 5 subsection 17(e) of this Act (30 U.S.C. 226(e))
 6 except,” and inserting “except”;
 7 (4) in subsection (h), by striking “subsections
 8 (d) and (f) of this section” and inserting “subsection
 9 (d)”;
 10 (5) in subsection (i), by striking “(i)(1) In act-
 11 ing” and all that follows through “of this section”
 12 in paragraph (2) and inserting the following:
 13 “(i) ROYALTY REDUCTION IN REINSTATED
 14 LEASES.—In acting on a petition for reinstatement pursu-
 15 ant to subsection (d)”;
 16 (6) by striking subsection (f); and
 17 (7) by redesignating subsections (g) through (j)
 18 as subsections (f) through (i), respectively.

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