

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

# S. 158

To provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 5, 1995

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

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## A BILL

To provide for the energy security of the Nation through encouraging the production of domestic oil and gas resources in deep water on the Outer Continental Shelf in the Gulf of Mexico, 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       That this Act may be referred to as the “Outer Continen-  
4       tal Shelf Deep Water Royalty Relief Act”.

1 **SEC. 2. AMENDMENTS TO THE OUTER CONTINENTAL**  
2 **SHELF LANDS ACT.**

3 Section 8(a) of the Outer Continental Shelf Lands  
4 Act, (43 U.S.C. 1337 (a)(3)), is amended by striking para-  
5 graph (3) in its entirety and inserting the following:

6 “(3)(A) The Secretary may, in order to—

7 “(i) promote development or increased pro-  
8 duction on producing or non-producing leases;  
9 or

10 “(ii) encourage production of marginal re-  
11 sources on producing or non-producing leases;  
12 through primary, secondary, or tertiary recovery  
13 means, reduce or eliminate any royalty or net profit  
14 share set forth in the lease(s). With the lessee’s con-  
15 sent, the Secretary may make other modifications to  
16 the royalty or net profit share terms of the lease in  
17 order to achieve these purposes.

18 “(B)(i) Notwithstanding the provisions of this  
19 Act other than this subparagraph, with respect to  
20 any lease or unit in existence on the date of enact-  
21 ment of the Outer Continental Shelf Deep Water  
22 Royalty Relief Act meeting the requirements of this  
23 subparagraph, no royalty payments shall be due on  
24 new production, as defined in clause (iv) of this sub-  
25 paragraph, from any lease or unit located in water  
26 depths of 200 meters or greater in the Western and

1 Central Planning Areas of the Gulf of Mexico, in-  
2 cluding that portion of the Eastern Planning Area  
3 of the Gulf of Mexico encompassing whole lease  
4 blocks lying west of 87 degrees, 30 minutes West  
5 longitude, until such volume of production as deter-  
6 mined pursuant to clause (ii) has been produced by  
7 the lessee.

8 (ii) Upon submission of a complete application  
9 by the lessee, the Secretary shall determine within  
10 180 days of such application whether new produc-  
11 tion from such lease or unit would be economic in  
12 the absence of the relief from the requirement to pay  
13 royalties provided for by clause (i) of this subpara-  
14 graph. In making such determination, the Secretary  
15 shall consider the increase technological and finan-  
16 cial risk of deep water development and all costs as-  
17 sociated with exploring, developing, and producing  
18 from the lease. The lessee shall provide information  
19 required for a complete application to the Secretary  
20 prior to such determination. The Secretary shall  
21 clearly define the information required for a com-  
22 plete application under this section. Such application  
23 may be made on the basis of an individual lease or  
24 unit. If the Secretary determines that such new pro-  
25 duction would be economic in the absence of the re-

1        relief from the requirement to pay royalties provided  
2        for by clause (i) of this subparagraph, the provisions  
3        of clause (i) shall not apply to such production. If  
4        the Secretary determines that such new production  
5        would not be economic in the absence of the relief  
6        from the requirement to pay royalties provided for  
7        by clause (i), the Secretary must determine the vol-  
8        ume of production from the lease or unit on which  
9        no royalties would be due in order to make such new  
10       production economically viable; except that for new  
11       production as defined in clause (iv)(I), in no case  
12       will that volume be less than 17.5 million barrels of  
13       oil equivalent in water depths of 200 to 400 meters,  
14       52.5 million barrels of oil equivalent in 400–800 me-  
15       ters of water, and 87.5 million barrels of oil equiva-  
16       lent in water depths greater than 800 meters. Rede-  
17       termination of the applicability of clause (i) shall be  
18       undertaken by the Secretary when requested by the  
19       lessee prior to the commencement of the new pro-  
20       duction and upon significant change in the factors  
21       upon which the original determination was made.  
22       The Secretary shall make such redetermination with-  
23       in 120 days of submission of a complete application.  
24       The Secretary may extend the time period for mak-  
25       ing any determination or redetermination under this

1 clause for 30 days, or longer if agreed to by the ap-  
2 plicant, if circumstances so warrant. The lessee shall  
3 be notified in writing of any determination or rede-  
4 termination and the reasons for and assumptions  
5 used for such determination. Any determination or  
6 redetermination under this clause shall be a final  
7 agency action. The Secretary's determination or re-  
8 determination shall be judicially reviewable under  
9 section 10(a) of the Administrative Procedures Act  
10 (5 U.S.C. 702), only for actions filed within 30 days  
11 of the Secretary's determination or redetermination.

12 “(iii) In the event that the Secretary fails to  
13 make the determination or redetermination called  
14 for in clause (ii) upon application by the lessee with-  
15 in the time period, together with any extension  
16 thereof, provided for by clause (ii), no royalty pay-  
17 ments shall be due on new production as follows:

18 “(I) For new production, as defined in  
19 clause (iv)(I) of this subparagraph, no royalty  
20 shall be due on such production according to  
21 the schedule of minimum volumes specified in  
22 clause (ii) of this subparagraph.

23 “(II) For new production, as defined in  
24 clause (iv)(II) of this subparagraph, no royalty

1 shall be due on such production for one year  
2 following the start of such production.

3 “(iv) For purposes of this subparagraph, the  
4 term ‘new production’ is—

5 (I) any production from a lease from which  
6 no royalties are due on production, other than  
7 test production, prior to the date of enactment  
8 of the Outer Continental Shelf Deep Water  
9 Royalty Relief Act; or

10 (II) any production resulting from lease  
11 development activities pursuant to a Develop-  
12 ment Operations Coordination Document, or  
13 supplement thereto that would expand produc-  
14 tion significantly beyond the level anticipated in  
15 the Development Operations Coordination Doc-  
16 ument, approved by the Secretary after the date  
17 of enactment of the Outer Continental Shelf  
18 Deep Water Royalty Relief Act.

19 “(v) During the production of volumes deter-  
20 mined pursuant to clauses (ii) or (iii) of this sub-  
21 paragraph, in any year during which the arithmetic  
22 average of the closing prices on the New York Mer-  
23 cantile Exchange for light sweet crude oil exceeds  
24 \$28 per barrel, any production of oil will be subject  
25 to royalties at the lease stipulated royalty rate. Any

1 production subject to this clause shall be counted to-  
2 ward the production volume determined pursuant to  
3 clause (ii) or (iii). Estimated royalty payments will  
4 be made if such average of the closing prices for the  
5 previous year exceeds \$28. After the end of the cal-  
6 endar year, when the new average price can be cal-  
7 culated, lessees will pay any royalties due, with in-  
8 terest but without penalty, or can apply for a re-  
9 fund, with interest, of any overpayment.

10 “(vi) During the production of volumes deter-  
11 mined pursuant to clause (ii) or (iii) of this subpara-  
12 graph, in any year during which the arithmetic aver-  
13 age of the closing prices on the New York Mer-  
14 cantile Exchange for natural gas exceeds \$3.50 per  
15 million British thermal units, any production of nat-  
16 ural gas will be subject to royalties at the lease stip-  
17 ulated royalty rate. Any production subject to this  
18 clause shall be counted toward the production vol-  
19 ume determined pursuant to clauses (ii) or (iii). Es-  
20 timated royalty payments will be made if such aver-  
21 age of the closing prices for the previous year ex-  
22 ceeds \$3.50. After the end of the calendar year,  
23 when the new average price can be calculated, les-  
24 sees will pay any royalties due, with interest but

1 without penalty, or can apply for a refund, with in-  
2 terest, of any overpayment.

3 “(vii) The prices referred to in clauses (v) and  
4 (vi) of this subparagraph shall be changed during  
5 any calendar year after 1994 by the percentage, if  
6 any, by which the implicit price deflator for the  
7 gross domestic product changed during the preced-  
8 ing calendar year.”.

9 **SEC. 3. NEW LEASES.**

10 (a) Section 8(a)(1) of the Outer Continental Shelf  
11 Lands Act, as amended (43 U.S.C. 1337 (a)(1)), is  
12 amended as follows:

13 (1) Redesignate section 8(a)(1)(H) as section  
14 8(a)(1)(I);

15 (2) Add a new section 8(a)(1)(H) as follows:

16 “(H) cash bonus bid with royalty at no less  
17 than 12½ per centum fixed by the Secretary in  
18 amount or value of production saved, removed,  
19 or sold, and with suspension of royalties for a  
20 period, volume, or value of production deter-  
21 mined by the Secretary. Such suspensions may  
22 vary based on the price of production from the  
23 lease.”.

24 (b) For all tracts located in water depths of 200 me-  
25 ters or greater in the Western and Central Planning Areas

1 of the Gulf of Mexico including that portion of the Eastern  
2 Planning Area of the Gulf of Mexico encompassing whole  
3 lease blocks lying west of 87 degrees, 30 minutes West  
4 longitude, any lease sale within five years of the date of  
5 enactment of this Act, shall use the bidding system au-  
6 thorized in section 8(a)(1)(H) of the Outer Continental  
7 Shelf Lands Act, as amended by this Act, except that the  
8 suspension of royalties shall be set at a volume of not less  
9 than the following:

10 (1) 17.5 million barrels of oil equivalent for  
11 leases in water depths of 200 to 400 meters;

12 (2) 52.5 million barrels of oil equivalent for  
13 leases in 400 to 800 meters of water; and

14 (3) 87.5 million barrels of oil equivalent for  
15 leases in water depths greater than 800 meters.

16 **SEC. 4. REGULATIONS.**

17 The Secretary shall promulgate such rules and regu-  
18 lations as are necessary to implement the provisions of this  
19 Act within 180 days after the enactment of this Act.

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