

PROVIDING LEASING CERTAINTY FOR AMERICAN
ENERGY ACT OF 2012

—————
JUNE 15, 2012.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
—————

Mr. HASTINGS of Washington, from the Committee on Natural
Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4382]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4382) to ensure Federal oil and natural gas lease sales occur, eliminate redundant leasing bureaucracy, and provide leasing certainty, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Providing Leasing Certainty for American Energy Act of 2012”.

SEC. 2. MINIMUM ACREAGE REQUIREMENT FOR ONSHORE LEASE SALES.

In conducting lease sales as required by section 17(a) of the Mineral Leasing Act (30 U.S.C. 226(a)), each year the Secretary of the Interior shall perform the following:

(1) The Secretary shall offer for sale no less than 25 percent of the annual nominated acreage not previously made available for lease. Acreage offered for lease pursuant to this paragraph shall not be subject to protest and shall be eligible for categorical exclusions under section 390 of the Energy Policy Act of 2005 (42 U.S.C. 15492), except that it shall not be subject to the test of extraordinary circumstances.

(2) In administering this section, the Secretary shall only consider leasing of Federal lands that are available for leasing at the time the lease sale occurs.

SEC. 3. LEASING CERTAINTY.

Section 17(a) of the Mineral Leasing Act (30 U.S.C. 226(a)) is amended by inserting “(1)” before “All lands”, and by adding at the end the following:

“(2)(A) The Secretary shall not withdraw any covered energy project issued under this Act without finding a violation of the terms of the lease by the lessee.

“(B) The Secretary shall not infringe upon lease rights under leases issued under this Act by indefinitely delaying issuance of project approvals, drilling and seismic permits, and rights of way for activities under such a lease.

“(C) No later than 18 months after an area is designated as open under the current land use plan the Secretary shall make available nominated areas for lease under the criteria in section 2.

“(D) Notwithstanding any other law, the Secretary shall issue all leases sold no later than 60 days after the last payment is made.

“(E) The Secretary shall not cancel or withdraw any lease parcel after a competitive lease sale has occurred and a winning bidder has submitted the last payment for the parcel.

“(F) Not later than 60 days after a lease sale held under this Act, the Secretary shall adjudicate any lease protests filed following a lease sale. If after 60 days any protest is left unsettled, said protest is automatically denied and appeal rights of the protestor begin.

“(G) No additional lease stipulations may be added after the parcel is sold without consultation and agreement of the lessee, unless the Secretary deems such stipulations as emergency actions to conserve the resources of the United States.”.

SEC. 4. LEASING CONSISTENCY.

Federal land managers must follow existing resource management plans and continue to actively lease in areas designated as open when resource management plans are being amended or revised, until such time as a new record of decision is signed.

SEC. 5. REDUCE REDUNDANT POLICIES.

Bureau of Land Management Instruction Memorandum 2010–117 shall have no force or effect.

PURPOSE OF THE BILL

The purpose of H.R. 4382, as ordered reported, is to ensure Federal oil and natural gas lease sales occur, eliminate redundant leasing bureaucracy, and provide leasing certainty.

BACKGROUND AND NEED FOR LEGISLATION

The Department of the Interior is required by law under the Mineral Leasing Act to hold competitive auctions to allow oil and natural gas developers the opportunity to acquire federal land for energy development. Each year, millions of acres throughout the nation are nominated as areas where there is interest in oil and natural gas development to give the Bureau of Land Management (BLM) a general idea of where to hold lease sales. While many states depend on the energy industry as a chief driver of their economies, statistics show the percentage of land leased by BLM versus the number of acres nominated have drastically decreased over the course of the Obama Administration. In fact, in some states BLM has not leased a single acre for energy development, despite abundant interest from industry.

For example, in 2011 in Colorado, interest was expressed in 219,651 acres for development. However, BLM chose to only lease 5,527 acres—equating to 3 percent. In California, BLM only leased 8 percent of the nominated acreage (10,299 of 128,140 acres). Furthermore, in Arizona the Obama Administration has not held single lease sale since coming into office, despite interest in nearly 50,000 acres for development.

H.R. 4382 would ensure that a minimum number of acres are leased to guarantee that onshore leasing continues to move forward in the United States.

The Department of the Interior is to promote a “multiple use policy” for federal lands. This policy allows federal lands to be enjoyed by all citizens and used for a variety of purposes—recreation, hunting, ranching, grazing, and energy development. These land uses have historically been compatible on public lands and this legislation does not impact the multiple land use policy under the Federal Land Management and Policy Act (FLPMA). It gives the Secretary of the Interior the flexibility under FLPMA to continue to manage federal lands in a way that accommodates all activities Americans have come to enjoy on these lands.

A variety of other bureaucratic actions have delayed energy development and made leasing uncertain for developers who no longer have assurance that they will actually be able to move forward with development on the land they lease. Since coming into office, the Obama Administration has withdrawn leases after selling them at public auction despite having received full payment for these leases, deferred lease nominations indefinitely, added unexpected and additional lease terms and stipulations following lease sales, and taken years to issue leases despite language in the Mineral Leasing Act that specifies that the federal government shall issue leases sixty days after accepting payment. In 2009, the Department of the Interior went so far as to completely withdraw 77 oil and gas leases in Utah after the lease parcels had been sold and final payment received. In September 2010, a U.S. District Court judge ruled that Interior Secretary Salazar had exceeded his authority by withdrawing these leases.

In 2012, Secretary Salazar issued BLM Instruction Memorandum 2010–117. This Master Leasing Plan (MLP) policy required a new layer of environmental analysis for certain federal land areas, even though the new analysis is redundant with analysis already required in the Resource Management Plans (RMP) for these lands. The intent of the MLPs was to re-do RMPs completed since 2005 by requiring RMP amendments. These amendments routinely take several years to complete. The MLP seems intended to simply identify new restrictions on lands available for oil and natural gas development beyond those identified in the previously existing analysis.

The “Providing Leasing Certainty for American Energy Act of 2012” would encourage companies to seek out federal land for production by creating certainty that they would receive their leases in a timely fashion, lease terms would not be changed after the lease has been issued, and leases could not be withdrawn after they have been paid for.

While the Obama Administration has recently attempted to take credit for our nation’s increase production in oil and gas, the reality is that production on federal lands has, in fact, decreased under the Administration—while production on state and private lands has increased significantly, North Dakota being a prime example. According to a study recently released by the American Petroleum Institute, “at no time in the last 25 years has the number of new onshore federal oil and gas leases been lower than the number of new

leases issued in 2009 and 2011,” with new leases numbering 44 percent less in 2009 and 2010 when compared to 2007 and 2008.

The policies of this Administration have made it more difficult, time consuming and expensive to bring a lease through to production—and in some cases have even cast doubt on whether the lease, once paid for, will even be able to be developed. This legislation seeks to provide certainty and efficiency to the BLM leasing process which has fallen into disrepair under the current Administration. By doing so, the bill can foster increased energy development on federal lands.

Because there are no guidelines to ensure regular leasing occurs, the number of acres leased has been extremely sporadic through the years and has varied greatly as Administrations have changed. This gives industry little certainty that new areas will regularly be leased and new development can occur. Currently, the federal government leases less than 3 percent of the federal offshore areas and less than 6 percent of the federal onshore areas for oil and gas production. Furthermore, the Obama Administration has issued fewer new federal leases than any administration in nearly thirty years.

COMMITTEE ACTION

H.R. 4382 was introduced on April 18, 2012, by Congressman Mike Coffman (R-CO). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On April 26, 2012, the Subcommittee held a hearing on the bill. On May 16, 2012, the Full Natural Resources Committee met to consider the bill. The Subcommittee on Energy and Mineral Resources was discharged by unanimous consent. Congressman Coffman offered amendment designated #1 to the bill; the amendment was adopted by voice vote. Congressman Rush Holt (D-NJ) offered amendment designated .007 to the bill; the amendment was not adopted by a bipartisan roll call vote of 14 to 25, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: May 16, 2012

Recorded Vote #: 7

Meeting on / Amendment: **HR 4382** – An amendment offered by Mr. Holt.007 was NOT AGREED TO by a roll call vote of 14 yeas and 25 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA Chairman | | X | | <i>Mr. Heinrich, NM</i> | X | | |
| <i>Mr. Markey, MA Ranking</i> | X | | | Mr. Benishke, MI | | X | |
| Mr. Young, AK | | | | <i>Mr. Lujan, NM</i> | X | | |
| <i>Mr. Kildee, MI</i> | | | | Mr. Rivera, FL | | | |
| Mr. Duncan of TN | | X | | <i>Ms. Sutton, OH</i> | X | | |
| <i>Mr. DeFazio, OR</i> | X | | | Mr. Duncan of SC | | X | |
| Mr. Gohmert, TX | | | | <i>Ms. Tsongas, MA</i> | X | | |
| <i>Mr. Faleomavaega, AS</i> | | | | Mr. Tipton, CO | | X | |
| Mr. Bishop, UT | | X | | <i>Mr. Pierluisi, PR</i> | X | | |
| <i>Mr. Pallone, NJ</i> | X | | | Mr. Gosar, AZ | | X | |
| Mr. Lamborn, CO | | X | | <i>Mr. Garamendi, CA</i> | X | | |
| <i>Mrs. Napolitano, CA</i> | X | | | Mr. Labrador, ID | | | |
| Mr. Wittman, VA | | x | | <i>Ms. Hanabusa, HI</i> | X | | |
| <i>Mr. Holt, NJ</i> | X | | | Ms. Noem, SD | | X | |
| Mr. Broun, GA | | X | | <i>Mr. Tonko, NY</i> | | | |
| <i>Mr. Grijalva, AZ</i> | X | | | Mr. Southerland, FL | | X | |
| Mr. Fleming, LA | | X | | Mr. Flores, TX | | X | |
| <i>Ms. Bordallo, GU</i> | X | | | Mr. Harris, MD | | X | |
| Mr. Coffman, CO | | X | | Mr. Landry, LA | | X | |
| <i>Mr. Costa, CA</i> | | X | | Mr. Runyan, NJ | | X | |
| Mr. McClintock, CA | | X | | Mr. Johnson, OH | | X | |
| <i>Mr. Boren, OK</i> | | X | | Mr. Amodei, NV | | X | |
| Mr. Thompson, PA | | X | | | | | |
| <i>Mr. Sablan, CNMI</i> | | | | | | | |
| Mr. Denham, CA | | X | | | | | |
| | | | | | | | |
| | | | | TOTALS | 14 | 25 | |

Congressman Ben Luján (D–NM) offered amendment designated .004 to the bill; the amendment was not adopted by a roll call vote of 18 to 22, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: May 16, 2012

Recorded Vote #: 8

Meeting on / Amendment: **HR 4382** – An amendment offered by Mr. Lujan was NOT AGREED TO by a roll call vote of 18 yeas and 22 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA Chairman | | X | | <i>Mr. Heinrich, NM</i> | X | | |
| <i>Mr. Markey, MA Ranking</i> | X | | | Mr. Benishke, MI | | X | |
| Mr. Young, AK | | | | <i>Mr. Lujan, NM</i> | X | | |
| <i>Mr. Kildee, MI</i> | | | | Mr. Rivera, FL | X | | |
| Mr. Duncan of TN | | X | | <i>Ms. Sutton, OH</i> | | | |
| <i>Mr. Defazio, OR</i> | X | | | Mr. Duncan of SC | | X | |
| Mr. Gohmert, TX | | | | <i>Ms. Tsongas, MA</i> | X | | |
| <i>Mr. Faleomavaega, AS</i> | | | | Mr. Tipton, CO | X | | |
| Mr. Bishop, UT | | X | | <i>Mr. Pierluisi, PR</i> | X | | |
| <i>Mr. Pallone, NJ</i> | X | | | Mr. Gosar, AZ | | X | |
| Mr. Lamborn, CO | | X | | <i>Mr. Garamendi, CA</i> | X | | |
| <i>Mrs. Napolitano, CA</i> | X | | | Mr. Labrador, ID | | | |
| Mr. Wittman, VA | | X | | <i>Ms. Hanabusa, HI</i> | X | | |
| <i>Mr. Holt, NJ</i> | X | | | Ms. Noem, SD | | X | |
| Mr. Broun, GA | | X | | <i>Mr. Tonko, NY</i> | X | | |
| <i>Mr. Grijalva, AZ</i> | X | | | Mr. Southerland, FL | | X | |
| Mr. Fleming, LA | | X | | Mr. Flores, TX | | X | |
| <i>Ms. Bordallo, GU</i> | X | | | Mr. Harris, MD | | X | |
| Mr. Coffman, CO | | X | | Mr. Landry, LA | | X | |
| <i>Mr. Costa, CA</i> | X | | | Mr. Runyan, NJ | | X | |
| Mr. McClintock, CA | | X | | Mr. Johnson, OH | | X | |
| <i>Mr. Boren, OK</i> | X | | | Mr. Amodei, NV | | X | |
| Mr. Thompson, PA | | X | | | | | |
| <i>Mr. Sablan, CNMI</i> | | | | | | | |
| Mr. Denham, CA | | X | | | | | |
| | | | | | | | |
| | | | | TOTALS | 18 | 22 | |

Congressman Paul Tonko (D-NY) offered amendment designated .003 to the bill; the amendment was not adopted by a bipartisan roll call vote of 15 to 25, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: May 16, 2012

Recorded Vote #: 9

Meeting on / Amendment: **HR 4382** – An amendment offered by Mr. Tonko.003 was NOT AGREED TO by a roll call vote of 15 yeas and 25 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA Chairman | | X | | <i>Mr. Heinrich, NM</i> | X | | |
| <i>Mr. Markey, MA Ranking</i> | X | | | Mr. Benishek, MI | | X | |
| Mr. Young, AK | | | | <i>Mr. Lujan, NM</i> | X | | |
| <i>Mr. Kildee, MI</i> | | | | Mr. Rivera, FL | | | |
| Mr. Duncan of TN | | X | | <i>Ms. Sutton, OH</i> | X | | |
| <i>Mr. DeFazio, OR</i> | X | | | Mr. Duncan of SC | | X | |
| Mr. Gohmert, TX | | | | <i>Ms. Tsongas, MA</i> | X | | |
| <i>Mr. Faleomavaega, AS</i> | | | | Mr. Tipton, CO | | X | |
| Mr. Bishop, UT | | X | | <i>Mr. Pierluisi, PR</i> | X | | |
| <i>Mr. Pallone, NJ</i> | X | | | Mr. Gosar, AZ | | X | |
| Mr. Lamborn, CO | | X | | <i>Mr. Garamendi, CA</i> | X | | |
| <i>Mrs. Napolitano, CA</i> | X | | | Mr. Labrador, ID | | | |
| Mr. Wittman, VA | | x | | <i>Ms. Hanabusa, HI</i> | X | | |
| <i>Mr. Holt, NJ</i> | X | | | Ms. Noem, SD | | X | |
| Mr. Broun, GA | | X | | <i>Mr. Tonko, NY</i> | X | | |
| <i>Mr. Grijalva, AZ</i> | X | | | Mr. Southerland, FL | | X | |
| Mr. Fleming, LA | | X | | Mr. Flores, TX | | X | |
| <i>Ms. Bordallo, GU</i> | X | | | Mr. Harris, MD | | X | |
| Mr. Coffman, CO | | X | | Mr. Landry, LA | | X | |
| <i>Mr. Costa, CA</i> | | X | | Mr. Runyan, NJ | | X | |
| Mr. McClintock, CA | | X | | Mr. Johnson, OH | | X | |
| <i>Mr. Boren, OK</i> | | X | | Mr. Amodei, NV | | X | |
| Mr. Thompson, PA | | X | | | | | |
| <i>Mr. Sablan, CNMI</i> | | | | | | | |
| Mr. Denham, CA | | X | | | | | |
| | | | | | | | |
| | | | | TOTALS | 15 | 25 | |

Congressman Ed Markey (D-MA) offered amendment designated .002 to the bill; the amendment was not adopted by a roll call vote of 16 to 25, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: May 16, 2012

Recorded Vote #: 10

Meeting on / Amendment: **HR 4382** – An amendment offered by Mr. Markey.002 was NOT AGREED TO by a roll call vote of 16 yeas and 25 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA Chairman | | X | | <i>Mr. Heinrich, NM</i> | X | | |
| <i>Mr. Markey, MA Ranking</i> | X | | | Mr. Benishek, MI | | X | |
| Mr. Young, AK | | | | <i>Mr. Lujan, NM</i> | X | | |
| <i>Mr. Kildee, MI</i> | X | | | Mr. Rivera, FL | | | |
| Mr. Duncan of TN | | X | | <i>Ms. Sutton, OH</i> | X | | |
| <i>Mr. DeFazio, OR</i> | X | | | Mr. Duncan of SC | | X | |
| Mr. Gohmert, TX | | | | <i>Ms. Tsongas, MA</i> | X | | |
| <i>Mr. Faleomavaega, AS</i> | | | | Mr. Tipton, CO | | X | |
| Mr. Bishop, UT | | X | | <i>Mr. Pterluisi, PR</i> | X | | |
| <i>Mr. Pallone, NJ</i> | X | | | Mr. Gosar, AZ | | X | |
| Mr. Lamborn, CO | | X | | <i>Mr. Garamendi, CA</i> | X | | |
| <i>Mrs. Napolitano, CA</i> | X | | | Mr. Labrador, ID | | | |
| Mr. Wittman, VA | | X | | <i>Ms. Hanabusa, HI</i> | X | | |
| <i>Mr. Holt, NJ</i> | X | | | Ms. Noem, SD | | X | |
| Mr. Broun, GA | | X | | <i>Mr. Tonko, NY</i> | X | | |
| <i>Mr. Grijalva, AZ</i> | X | | | Mr. Southerland, FL | | X | |
| Mr. Fleming, LA | | X | | Mr. Flores, TX | | X | |
| <i>Ms. Bordallo, GU</i> | X | | | Mr. Harris, MD | | X | |
| Mr. Coffman, CO | | X | | Mr. Landry, LA | | X | |
| <i>Mr. Costa, CA</i> | | X | | Mr. Runyan, NJ | | X | |
| Mr. McClintock, CA | | X | | Mr. Johnson, OH | | X | |
| <i>Mr. Boren, OK</i> | | X | | Mr. Amodei, NV | | X | |
| Mr. Thompson, PA | | X | | | | | |
| <i>Mr. Sablan, CNMI</i> | | | | | | | |
| Mr. Denham, CA | | X | | | | | |
| | | | | | | | |
| | | | | TOTALS | 16 | 25 | |

Congressman Ed Markey (D-MA) offered amendment designated .005 to the bill; the amendment was not adopted by a bipartisan roll call vote of 14 to 27, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: May 16, 2012

Recorded Vote #: 11

Meeting on / Amendment: **HR 4382** – An amendment offered by Mr. Markey.005 was NOT AGREED TO by a roll call vote of 14 yeas and 27 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA Chairman | | X | | <i>Mr. Heinrich, NM</i> | | X | |
| <i>Mr. Markey, MA Ranking</i> | X | | | Mr. Benishek, MI | | X | |
| Mr. Young, AK | | | | <i>Mr. Lujan, NM</i> | | X | |
| <i>Mr. Kildee, MI</i> | X | | | Mr. Rivera, FL | | | |
| Mr. Duncan of TN | | X | | <i>Ms. Sutton, OH</i> | X | | |
| <i>Mr. DeFazio, OR</i> | X | | | Mr. Duncan of SC | | X | |
| Mr. Gohmert, TX | | | | <i>Ms. Tsongas, MA</i> | X | | |
| <i>Mr. Faleomavaega, AS</i> | | | | Mr. Tipton, CO | | X | |
| Mr. Bishop, UT | | X | | <i>Mr. Pierluisi, PR</i> | X | | |
| <i>Mr. Pallone, NJ</i> | X | | | Mr. Gosar, AZ | | X | |
| Mr. Lamborn, CO | | X | | <i>Mr. Garamendi, CA</i> | X | | |
| <i>Mrs. Napolitano, CA</i> | X | | | Mr. Labrador, ID | | | |
| Mr. Wittman, VA | | X | | <i>Ms. Hanabusa, HI</i> | X | | |
| <i>Mr. Holt, NJ</i> | X | | | Ms. Noem, SD | | X | |
| Mr. Broun, GA | | X | | <i>Mr. Tonko, NY</i> | X | | |
| <i>Mr. Grijalva, AZ</i> | X | | | Mr. Southerland, FL | | X | |
| Mr. Fleming, LA | | X | | Mr. Flores, TX | | X | |
| <i>Ms. Bordallo, GU</i> | X | | | Mr. Harris, MD | | X | |
| Mr. Coffman, CO | | X | | Mr. Landry, LA | | X | |
| <i>Mr. Costa, CA</i> | | X | | Mr. Runyan, NJ | | X | |
| Mr. McClintock, CA | | X | | Mr. Johnson, OH | | X | |
| <i>Mr. Boren, OK</i> | | X | | Mr. Amodei, NV | | X | |
| Mr. Thompson, PA | | X | | | | | |
| <i>Mr. Sablan, CNMI</i> | | | | | | | |
| Mr. Denham, CA | | X | | | | | |
| | | | | | | | |
| | | | | TOTALS | 14 | 27 | |

The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 24 to 17, as follows:

Committee on Natural Resources
U.S. House of Representatives
112th Congress

Date: May 16, 2012

Recorded Vote #: 12

Meeting on / Amendment: **HR 4382** – Adopted and favorably reported to the House of Representatives, as amended, by a roll call vote of 24 yeas and 17 nays.

| MEMBERS | Yea | Nay | Pres | MEMBERS | Yea | Nay | Pres |
|----------------------------------|-----|-----|------|----------------------------|-----|-----|------|
| Mr. Hastings, WA Chairman | X | | | <i>Mr. Heinrich, NM</i> | | X | |
| <i>Mr. Markey, MA Ranking</i> | | X | | Mr. Benishek, MI | X | | |
| Mr. Young, AK | | | | <i>Mr. Lujan, NM</i> | | X | |
| <i>Mr. Kildee, MI</i> | | X | | Mr. Rivera, FL | | | |
| Mr. Duncan of TN | X | | | <i>Ms. Sutton, OH</i> | | X | |
| <i>Mr. DeFazio, OR</i> | | X | | Mr. Duncan of SC | X | | |
| Mr. Gohmert, TX | | | | <i>Ms. Tsongas, MA</i> | | X | |
| <i>Mr. Faleomavaega, AS</i> | | | | Mr. Tipton, CO | X | | |
| Mr. Bishop, UT | X | | | <i>Mr. Pierluisi, PR</i> | | X | |
| <i>Mr. Pallone, NJ</i> | | X | | Mr. Gosar, AZ | X | | |
| Mr. Lamborn, CO | X | | | <i>Mr. Garamendi, CA</i> | | X | |
| <i>Mrs. Napolitano, CA</i> | | X | | Mr. Labrador, ID | | | |
| Mr. Wittman, VA | X | | | <i>Ms. Hanabusa, HI</i> | | X | |
| <i>Mr. Holt, NJ</i> | | X | | Ms. Noem, SD | X | | |
| Mr. Broun, GA | X | | | <i>Mr. Tonko, NY</i> | | X | |
| <i>Mr. Grijalva, AZ</i> | | X | | Mr. Southerland, FL | X | | |
| Mr. Fleming, LA | X | | | Mr. Flores, TX | X | | |
| <i>Ms. Bordallo, GU</i> | | X | | Mr. Harris, MD | X | | |
| Mr. Coffman, CO | X | | | Mr. Landry, LA | X | | |
| <i>Mr. Costa, CA</i> | | X | | Mr. Runyan, NJ | X | | |
| Mr. McClintock, CA | X | | | Mr. Johnson, OH | X | | |
| <i>Mr. Boren, OK</i> | X | | | Mr. Amodei, NV | X | | |
| Mr. Thompson, PA | X | | | | | | |
| <i>Mr. Sablan, CNMI</i> | | | | | | | |
| Mr. Denham, CA | X | | | | | | |
| | | | | | | | |
| | | | | TOTALS | 24 | 17 | |

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

The title of the bill is the “Providing Leasing Certainty for American Energy Act of 2012.”

Section 2. Minimum acreage requirement for onshore lease sales

Section 2 requires the Secretary of the Interior to annually lease at least 25% of nominated acreage not previously made available for lease.

Section 3. Leasing certainty

This section prohibits the Secretary from withdrawing lease parcels after they have been leased or adding additional lease stipulations after the lease sale. It also sets timelines for the adjudication of lease protests and requires the Secretary to issue leases in a timely fashion.

Section 4. Leasing consistency

Section 4 requires land managers to continue leasing in open areas when they are amending current resource management plans.

Section 5. Reduce redundant policies

This section overturns the Bureau of Land Management’s Instruction Memorandum 2010–117 (Master Leasing Plans).

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(1) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(2)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

H.R. 4382—Providing Leasing Certainty for American Energy Act of 2012

CBO estimates that enacting H.R. 4382 would increase offsetting receipts from bonus bids by \$2 million over the 2013–2022 period; therefore, pay-as-you-go procedures apply. We estimate that implementing the bill would not affect discretionary spending. Enacting H.R. 4382 would not affect revenues.

H.R. 4382 would require the Secretary of the Interior to offer for sale at least 25 percent of onshore federal lands nominated by firms for oil and gas leasing. Based on information provided by the Bureau of Land Management (BLM) about the amount of nominated lands leased, CBO estimates that implementing that provision would not affect the federal budget because, under current law, the agency already offers for sale more than 25 percent of the acreage nominated. The bill also would prevent the Secretary from taking certain actions that would delay or cancel leases, lease sales, or project approvals. CBO estimates that this provision also would not affect the federal budget because, under current law, the Secretary rarely takes such actions and the budgetary effects of those actions are typically small.

H.R. 4382 would prohibit the Secretary from deferring lease sales in areas where BLM is revising existing land use plans. Because leasing is deferred for up to five years in areas undergoing land use planning, CBO expects that certain areas would be leased sooner under H.R. 4382 than under current law. Based on information provided by BLM, CBO expects that leasing activities are deferred on about 150,000 new acres per year. Based on information about the amount of acres leased annually relative to the amount of acres available for lease, CBO estimates that accelerating leasing of those lands would increase offsetting receipts from bonus bids by \$2 million over the 2013–2022 period.

H.R. 4382 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

2. Section 308(a) of Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. CBO estimates that enacting H.R. 4382 would increase offsetting receipts from bonus bids by \$2 million over the 2013–2022 period; therefore, pay-as-you-go procedures apply. CBO estimates that implementing the bill would not affect discretionary spending.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill, as ordered reported, is to ensure Federal oil and natural gas lease sales occur, eliminate redundant leasing bureaucracy, and provide leasing certainty.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic and existing law in which no change is proposed is shown in roman):

MINERAL LEASING ACT

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SEC. 17. (a)(1) All lands subject to disposition under this Act which are known or believed to contain oil or gas deposits may be leased by the Secretary.

(2)(A) The Secretary shall not withdraw any covered energy project issued under this Act without finding a violation of the terms of the lease by the lessee.

(B) The Secretary shall not infringe upon lease rights under leases issued under this Act by indefinitely delaying issuance of project approvals, drilling and seismic permits, and rights of way for activities under such a lease.

(C) No later than 18 months after an area is designated as open under the current land use plan the Secretary shall make available nominated areas for lease under the criteria in section 2.

(D) Notwithstanding any other law, the Secretary shall issue all leases sold no later than 60 days after the last payment is made.

(E) The Secretary shall not cancel or withdraw any lease parcel after a competitive lease sale has occurred and a winning bidder has submitted the last payment for the parcel.

(F) Not later than 60 days after a lease sale held under this Act, the Secretary shall adjudicate any lease protests filed following a lease sale. If after 60 days any protest is left unsettled, said protest is automatically denied and appeal rights of the protestor begin.

(G) No additional lease stipulations may be added after the parcel is sold without consultation and agreement of the lessee, unless the Secretary deems such stipulations as emergency actions to conserve the resources of the United States.

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DISSENTING VIEWS

We oppose H.R. 4382 because it would set an arbitrary requirement that the Department of the Interior offer oil companies at least 25 percent of whatever onshore areas industry nominates every year, regardless of whether or not drilling in these areas would be appropriate. Under this legislation, the Interior Department could no longer lease in areas nominated by the industry that have the greatest resource potential and where drilling makes the most sense. Under H.R. 4382, there is no limit to the acreage that can be nominated by the oil industry. This legislation would therefore threaten other important uses of our public lands such as hunting, fishing, livestock grazing and recreational shooting by requiring leasing in areas that may threaten these important values.

This arbitrary requirement that a certain percentage of acres be offered for lease also completely disregards the fact that industry already has 25 million acres of public land under lease onshore on which it is not producing. As we have seen, handcuffing the Department by requiring that we give away more public land to the oil industry in no way guarantees that the industry will actually begin producing on those leases.

This misguided legislation would also invalidate the BLM's new leasing reforms, which are designed to increase certainty for the oil and gas industry and reduce the number of lease areas that are protested. Under the BLM's leasing reforms, the number of protested parcels has already dropped by 8 percent. Yet, this bill would throw out those reforms and instead create a process with less public involvement and less certainty for industry.

H.R. 4382 would also require the BLM to continue "actively leasing" in areas where land use plans are being updated or revised to protect wildlife or other resource values, deal with a growing population, or incorporate a new recreational activity. Land-use planning is a proactive tool to ensure that we protect various land uses under the Federal Lands Policy and Management Act of 1976 (FLPMA). According to the Interior Department "continuing to lease in some open areas in which recreational or ecological values are at risk could prevent the BLM from protecting important resource values. It could be counterproductive to efforts to develop energy resources on Federal lands if the result is greater near-term resource damage that, in turn, would necessitate more onerous restrictions on future energy development activities." Rather than allowing for smart planning ahead of time that includes greater public participation, this legislation would reduce public participation and certainty for the oil industry in the leasing process.

The Majority rejected an amendment from Representative Luján (D-NM) that would have allowed the Secretary to offer less than 25 percent of the areas nominated by the oil and gas industry if it was necessary to protect hunting, fishing, grazing or recreational

shooting. The Majority also rejected an amendment from Representative Tonko (D–NY) that would have required oil companies seeking new leases under this bill to disclose all political contributions over the previous five years, in the wake of the Citizens United Supreme Court decision. These oil and gas resources on public lands belong to the American people and they have a right to know how companies benefiting from accessing those resources are influencing elections. The Majority voted down an amendment from Ranking Member Markey (D–MA) that would have made drilling safer by increasing the fines that can be assessed for oil companies who violate regulations for things such as drilling without a blowout preventer; fines which were set 30 years ago and which the Department cannot raise through administrative action. The Majority also rejected an amendment from Ranking Member Markey to ensure that all the oil and natural gas produced from the leases issued under this bill could not be exported. Finally, the Majority rebuffed an amendment from Energy and Mineral Resources Subcommittee Ranking Member Holt (D–NJ) that would have sought to end the royalty free drilling in the Gulf that is projected to cost American taxpayers nearly \$10 billion over the next decade.

We shouldn't be seeking to shut the public out of the management of our public lands as this bill would do. There is also no reason to threaten hunting, fishing and the other uses of our public lands when oil companies already have 25 million acres of public lands onshore under lease on which they are not producing.

EDWARD J. MARKEY.
RUSH D. HOLT.
PAUL TONKO.
GRACE F. NAPOLITANO.
MADELEINE Z. BORDALLO.
RAÚL M. GRIJALVA.
BEN RAY LUJÁN.

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