

PROTECTING INVESTMENT IN OIL SHALE THE NEXT
GENERATION OF ENVIRONMENTAL, ENERGY, AND RE-
SOURCE SECURITY ACT

FEBRUARY 9, 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. 3408]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3408) to set clear rules for the development of United States oil shale resources, to promote shale technology research and development, and for other purposes, 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 “Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act” or the “PIONEERS Act”.

SEC. 2. EFFECTIVENESS OF OIL SHALE REGULATIONS, AMENDMENTS TO RESOURCE MANAGEMENT PLANS, AND RECORD OF DECISION.

(a) REGULATIONS.—Notwithstanding any other law or regulation to the contrary, the final regulations regarding oil shale management published by the Bureau of Land Management on November 18, 2008 (73 Fed. Reg. 69,414) are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109–58), and the Secretary of the Interior shall implement those regulations, including

the oil shale leasing program authorized by the regulations, without any other administrative action necessary.

(b) **AMENDMENTS TO RESOURCE MANAGEMENT PLANS AND RECORD OF DECISION.**—Notwithstanding any other law or regulation to the contrary, the November 17, 2008 U.S. Bureau of Land Management Approved Resource Management Plan Amendments/Record of Decision for Oil Shale and Tar Sands Resources to Address Land Use Allocations in Colorado, Utah, and Wyoming and Final Programmatic Environmental Impact Statement are deemed to satisfy all legal and procedural requirements under any law, including the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Energy Policy Act of 2005 (Public Law 109–58), and the Secretary of the Interior shall implement the oil shale leasing program authorized by the regulations referred to in subsection (a) in those areas covered by the resource management plans amended by such amendments, and covered by such record of decision, without any other administrative action necessary.

SEC. 3. OIL SHALE LEASING.

(a) **ADDITIONAL RESEARCH AND DEVELOPMENT LEASE SALES.**—The Secretary of the Interior shall hold a lease sale within 180 days after the date of enactment of this Act offering an additional 10 parcels for lease for research, development, and demonstration of oil shale resources, under the terms offered in the solicitation of bids for such leases published on January 15, 2009 (74 Fed. Reg. 10).

(b) **COMMERCIAL LEASE SALES.**—No later than January 1, 2016, the Secretary of the Interior shall hold no less than 5 separate commercial lease sales in areas considered to have the most potential for oil shale development, as determined by the Secretary, in areas nominated through public comment. Each lease sale shall be for an area of not less than 25,000 acres, and in multiple lease blocs.

SEC. 4. POLICIES REGARDING BUYING, BUILDING, AND WORKING FOR AMERICA.

(a) **CONGRESSIONAL INTENT.**—It is the intent of the Congress that—

(1) this Act will support a healthy and growing United States domestic energy sector that, in turn, helps to reinvigorate American manufacturing, transportation, and service sectors by employing the vast talents of United States workers to assist in the development of energy from domestic sources;

(2) to ensure a robust oil shale industry and ensure that the benefits of development support local communities, under this Act, the Secretary shall make every effort to promote the development of oil shale in a manner that will support the long-term commercial development of oil shale, and shall take into consideration the socioeconomic impacts, infrastructure requirements, and fiscal stability for local communities located within areas containing oil shale resources; and

(3) the Congress will monitor the deployment of personnel and material onshore to encourage the development of American technology and manufacturing to enable United States workers to benefit from this Act through good jobs and careers, as well as the establishment of important industrial facilities to support expanded access to American resources.

(b) **REQUIREMENT.**—The Secretary of the Interior shall when possible, and practicable, encourage the use of United States workers and equipment manufactured in the United States in all construction related to mineral resource development under this Act.

PURPOSE OF THE BILL

The purpose of H.R. 3408, as ordered reported, is to set clear rules for the development of United States oil shale resources and to promote shale technology research and development.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 3408 would facilitate the production of our Nation’s oil shale to create American jobs and advance our Nation’s energy security. The bill would direct the Secretary of the Interior to conduct both commercial and research, development, and demonstration leasing sales for oil shale. It also codifies the 2008 Bureau of Land Management Final Programmatic Environmental Impact Statement (PEIS) and Resource Management Plan (RMP) amendments that allow for oil shale development on public land.

American Resources

The lower 48 States contain nearly 75 percent of the world's recoverable oil shale resources. U.S. oil shale holds tremendous promise for domestic energy production, the creation of American jobs, and decreasing dependence on foreign oil. According to the U.S. Geological Survey, the western United States may hold more than 1.5 trillion barrels of oil—six times Saudi Arabia's proven resources, and enough to provide the United States with energy for the next 200 years. The U.S. western oil shales are more concentrated on a resource per acre basis than Alaskan North Slope oil or Alberta's tar sands. The largest known deposits of oil shale are located in a 16,000-square mile area in the Green River formation in Colorado, Utah and Wyoming. Additionally, the development of American oil shale has the potential to create hundreds of thousands of American jobs.

While the Congressional Budget Office estimated that H.R. 3408 would not generate any new revenue to the federal government, it is important to note that the PIONEERS Act would begin to create American jobs shortly after its enactment. While CBO estimates that in the ten year baseline budget H.R. 3408 would not create new revenue, it would ensure increased revenue earlier in the budget than originally projected. This means that the federal government will both receive these revenues sooner and, most importantly, thousands of jobs will start to be created now rather than far off into the future. Creating jobs now and boosting the federal budget sooner has tremendous positive economic impacts on these states and the nation as whole. In contrast, this Administration is rewriting regulations and imposing policies that will block and delay job creation and oil shale development. The Administration is actively working to close prime areas in the West from leasing for oil shale development and to inject uncertainty and risk to job creators through new oil shale regulations. This bill sets a clear path, a clear plan and provides real opportunities for job creation, domestic investment and energy production that does not currently exist in law.

Oil Shale Development

Although Brazil, China, and Estonia have substantial oil shale industries, the U.S. does not. Beginning in 1912, when the Naval Petroleum and Oil Shale Reserves Program was established, oil shale development in the United States has traditionally been subject to a "boom and bust" cycle of development. This has been due to inconsistent U.S. resources directed towards oil shale due to the fluctuating global price of traditional crude oil with which it competes. However, because of traditional crude price increases, decreasing global supply, increasing energy demand, and the need for energy production to ensure our energy security, oil shale development is once again becoming a focal point of an ever-expanding domestic energy portfolio.

In addition, inconsistent and combative federal policies regarding leasing and land development have also hindered the commercial development of oil shale. The Department of the Interior owns and manages about 73 percent of the lands that contain significant oil shale deposits in the West. Federal lands contain about 80 percent of the known recoverable resource in Colorado, Utah, and Wyo-

ming. Unfortunately, an executive order signed by President Hoover prohibits the leasing of federal oil shale lands. The ban can only be lifted by the Secretary of the Interior. This has occurred only twice since 1930—once in the early 1970s when the Federal Prototype Oil Shale leasing Program was established and once after the Energy Policy Act of 2005 (Public Law 109–58) required leasing of oil shale lands for experimental purposes. Accordingly, in 2007, six 160-acre tracts were leased to three companies. Each developer has ten years to successfully verify that its technology is technically viable, environmentally acceptable and sustainable before expanding each lease to as much as 5,120 acres for commercial production. In 2008, the Bureau of Land Management (BLM) published a Final PEIS that expanded the acreage potentially available for commercial tar-sands leasing and amended eight RMPs in Utah, Colorado, and Wyoming to make approximately 1.9 million acres of public lands potentially available for commercial oil shale development.

Recent Administration Actions

Under the Obama Administration, the Department of the Interior has essentially withdrawn its support of the provisions in Energy Policy Act of 2005 that supported the commercial leasing of oil shale and has made little progress on the industry's advancement. Admittedly in 2009, the Bureau of Land Management (BLM) solicited a second round of 160-acre oil shale Research Demonstration and Development (RD&D); however, the lease terms were less than favorable to oil shale production. The initial potential for 5,120 acres of commercial development pending a successful project was decreased to 480 acres. Because of this, there was a lack of interest in the second round of BLM leases as many firms believed a commercial project could not be established on such a small footprint. Therefore, it is not surprising that only two proposals were submitted. These RD&D leases have yet to be issued, as BLM continues to hold public meetings and conduct reviews on the proposals and has not indicated when a decision will be made.

Additionally, as a result of a legal settlement, in February the Obama Administration announced it would be re-reviewing the Bush Administration era rules for commercial oil shale leasing, adding further delays to an already unreasonably prolonged process. H.R. 3408 codifies the Bush Administration's oil shale leasing regulations to provide certainty and allow oil shale development in the United States to move forward. As a result of the current Administration's delays and inconsistent policies regarding oil shale, companies continue to invest in oil shale research and development, but in foreign nations rather than here in the United States. Ensuring that there are clear commercial rules and a sound research and development program will help drive jobs and investment here in the U.S.

COMMITTEE ACTION

H.R. 3408 was introduced on November 14, 2011, by Congressman Doug Lamborn (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 November 18, 2011, the Subcommittee held a hearing on a draft version of the

bill. On February 1, 2012, the Full Natural Resources Committee met to consider the introduced version of H.R. 3408. The Subcommittee on Energy and Mineral Resources was discharged by unanimous consent. Congressman Doug Lamborn (R-CO) offered an amendment in the nature of a substitute to the bill. Congressman David Rivera (R-FL) offered amendment designated .016 to the amendment in the nature of a substitute; the amendment was withdrawn. Congressman Scott Tipton (R-CO) offered an amendment to the amendment in the nature of a substitute. Congressman John Garamendi (D-CA) offered a substitute amendment designated .072 to the Tipton amendment; the Garamendi amendment was not adopted by a bipartisan roll call vote of 13 to 26, as follows:

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

Date: February 1, 2012

Recorded Vote #: 1

Meeting on / Amendment: **HR 3408** – A Substitute Amendment to the Tipton Amendment in the Nature of a Substitute offered by Mr. Garamendi.072 was NOT AGREED TO by a roll call vote of 13 yeas and 26 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		X		<i>Mr. Lujan, NM</i>			
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>			
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas</i>	X		
<i>Mr. Pallone, NJ</i>				Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</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>				Mr. Harris, MD			
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>				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>	X						
Mr. Denham, CA		X					
				TOTALS	13	26	

The Tipton amendment to the amendment in the nature of a substitute was then adopted by voice vote. Congressman Grace Napolitano (D-CA) offered amendment designated .002 to the amendment in the nature of a substitute; the amendment was not adopted by a bipartisan roll call vote of 14 to 26, as follows:

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

Date: February 1, 2012

Recorded Vote #: 2

Meeting on / Amendment: **HR 3408** – An Amendment to the Amendment in the Nature of a Substitute offered by Mrs. Napolitano.002 was NOTAGREED TO by a roll call vote of 14 yeas and 26 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		X		<i>Mr. Lujan, NM</i>			
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>	X		
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas</i>	X		
<i>Mr. Pallone, NJ</i>				Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>			
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</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>				Mr. Harris, MD			
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>				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>	X						
Mr. Denham, CA		X					
				TOTALS	14	26	

Congressman Rush Holt (D-NJ) offered amendment designated .001 to the amendment in the nature of a substitute; the amendment was not adopted by a bipartisan roll call vote of 15 to 26, as follows:

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

Date: February 1, 2012

Recorded Vote #: 3

Meeting on / Amendment: **HR 3408** – An Amendment to the Amendment in the Nature of a Substitute offered by Mr. Holt.001 was NOT AGREED TO by a roll call vote of 15 yeas and 26 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		X		<i>Mr. Lujan, NM</i>			
<i>Mr. Kildee, MI</i>	X			Mr. Rivera, FL		X	
Mr. Duncan of TN		X		<i>Mr. Sarbanes, MD</i>	X		
<i>Mr. Defazio, OR</i>	X			Mr. Duncan of SC		X	
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>	X		
<i>Mr. Faleomavaega, AS</i>	X			Mr. Tipton, CO		X	
Mr. Bishop, UT		X		<i>Ms. Tsongas</i>	X		
<i>Mr. Pallone, NJ</i>				Mr. Gosar, AZ		X	
Mr. Lamborn, CO		X		<i>Mr. Pierluisi, PR</i>	X		
<i>Mrs. Napolitano, CA</i>	X			Mr. Labrador, ID		X	
Mr. Wittman, VA		X		<i>Mr. Garamendi, CA</i>	X		
<i>Mr. Holt, NJ</i>	X			Ms. Noem, SD		X	
Mr. Broun, GA		X		<i>Ms. Hanabusa, HI</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>				Mr. Harris, MD			
Mr. Coffman, CO		X		Mr. Landry, LA		X	
<i>Mr. Costa, CA</i>				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>	X						
Mr. Denham, CA		X					
				TOTALS	15	26	

The Lamborn amendment in the nature of a substitute, as amended, was adopted by voice vote. The bill, as amended, was then adopted and ordered favorably reported to the House of Representatives by a bipartisan roll call vote of 27 to 16, as follows:

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

Date: February 1, 2012

Recorded Vote #: 4

Meeting on / Amendment: **HR 3408** – Adopted and favorably reported to the House of Representatives, as amended, by a roll call vote of 27 yeas and 16 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	X			<i>Mr. Lujan, NM</i>		X	
<i>Mr. Kildee, MI</i>		X		Mr. Rivera, FL	X		
Mr. Duncan of TN	X			<i>Mr. Sarbanes, MD</i>		X	
<i>Mr. Defazio, OR</i>		X		Mr. Duncan of SC	X		
Mr. Gohmert, TX				<i>Ms. Sutton, OH</i>		X	
<i>Mr. Faleomavaega, AS</i>		X		Mr. Tipton, CO	X		
Mr. Bishop, UT	X			<i>Ms. Tsongas</i>		X	
<i>Mr. Pallone, NJ</i>				Mr. Gosar, AZ	X		
Mr. Lamborn, CO	X			<i>Mr. Pierluisi, PR</i>		X	
<i>Mrs. Napolitano, CA</i>		X		Mr. Labrador, ID	X		
Mr. Wittman, VA	X			<i>Mr. Garamendi, CA</i>		X	
<i>Mr. Holt, NJ</i>		X		Ms. Noem, SD	X		
Mr. Broun, GA	X			<i>Ms. Hanabusa, HI</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>				Mr. Harris, MD			
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>		X					
Mr. Denham, CA	X						
				TOTALS	27	16	

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This Act is designated as the “Protecting Investment in Oil Shale the Next Generation of Environmental, Energy, and Resource Security Act” (PIONEERS Act).

Section 2. Effectiveness of oil shale regulations, amendments to resource management plans, and record of decision

This section deems the final regulations regarding oil shale management published by the Bureau of Land Management (BLM) on November 18, 2008, and the BLM Resource Management Plan Amendments of November 17, 2008, as satisfying all requirements under any law.

Section 3. Oil shale leasing

This section requires the Secretary of the Interior to hold a 10 parcel research, development and demonstration lease sale within 180 days of enactment. No later than January 1, 2016 the Secretary will hold no less than 5 commercial lease sales for oil shale development.

Section 4. Policies regarding buying, building and working for America

This section provides that to the extent possible, the Secretary will encourage the hiring of American workers and the use of equipment and materials manufactured in the United States.

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. 3408—PIONEERS Act

Summary: H.R. 3408 would direct the Secretary of the Interior to implement a commercial leasing program for oil shale on certain federal lands by 2016. Oil shale is rock that can be heated to extract an organic compound used to produce synthetic crude oil. The bill also would require the Secretary to offer 10 leases on federal

lands in 2013 for the purpose of conducting research and demonstration projects for oil shale development.

Based on information provided by the Department of the Interior (DOI) and individuals working in the oil shale industry, CBO estimates that enacting H.R. 3408 would affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effects would not be significant over the 2012–2022 period. Enacting the legislation would not affect revenues. CBO estimates that additional administrative costs to implement the leasing program under the bill would be small and subject to the availability of appropriated funds.

H.R. 3408 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3408 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 800 (general government).

	By fiscal year, in millions of dollars—												
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2012–2017	2012–2022
CHANGES IN DIRECT SPENDING													
Estimated Budget Authority	0	*	0	0	–5	*	*	*	*	*	5	–5	0
Estimated Outlays	0	*	0	0	–5	*	*	*	*	*	5	–5	0

Note: * = Between –\$500,000 and \$0.

Basis of Estimate: For this estimate, CBO assumes that the legislation will be enacted during 2012.

H.R. 3408 would direct the Secretary of the Interior to offer leases for research and commercial development of oil shale on certain federal lands in Colorado, Wyoming, and Utah by 2016. DOI has the authority, under current law, to lease federal land in those states for oil shale research as well as commercial development. For that reason, CBO estimates that while the bill would expedite some leasing, implementing the legislation would have no significant net impact on the federal budget over the 2012–2022 period.

The bill would require the Secretary to hold 5 commercial lease sales by early 2016 and to offer at least 25,000 acres of land for lease at each sale. Those sales would be conducted in accordance with procedures established by DOI for leasing oil shale resources on federal lands. For each commercial lease awarded under the bill, lessees would be required to pay the federal government a bonus bid to acquire the leases, annual rental payments to retain the leases, and royalty payments based on the value of any resources produced from the leases. Half of the gross proceeds from those payments would be distributed to the states where the leases are located. The remainder would be deposited in the U.S. Treasury. In addition to expediting commercial leasing of lands for oil shale development, the bill would require the Secretary to offer 10 leases of federal lands for research and demonstration projects related oil shale development.

Bonus bids for commercial leases

CBO estimates that implementing H.R. 3408 would increase net offsetting receipts by \$5 million in 2016, because the bill would require DOT to offer leases for the commercial development of oil shale sooner than we expect it would have under current law. CBO also estimates that implementing the bill would reduce net offsetting receipts by \$5 million in 2022, because we expect that lands offered for lease in 2016 under the bill would have been offered for lease by 2022 under current law. CBO estimates that expediting commercial lease sales, as required under the bill, would have no significant net impact on the federal budget over the 2012–2022 period.

The commercial leasing program established under the bill would allow companies to pay bonus bids in five equal installments (without interest) over a 5-year period. Because the sale of government property on credit terms is classified as a direct loan under the Federal Credit Reform Act, our estimate of receipts from lease sales represents our best estimate of the present value of any winning bonus bids discounted for the probability that the federal government would not receive the entire bonus bid amount over the installment period.

Estimates of bonus bids for leases to develop oil shale are uncertain. Few companies have acquired leases on state or private lands in the United States for the purpose of developing commercial quantities of oil shale, and limited data is available to indicate the amounts that companies paid to acquire those leases. In addition, several economic, technical, and environmental factors could affect whether companies would pay the current minimum bid amount (\$1,000 per acre) to acquire leases of federal lands to develop oil shale over the next decade.

Other receipts

Under H.R. 3408, CBO estimates that the federal government would collect net receipts from rental payments on commercial leases totaling less than \$100,000 a year over the 2016–2022 period. If those leases produce commercial quantities of oil, the federal government would also receive royalty payments; however, based on information from individuals working in the oil shale industry, CBO does not expect that the federal government would receive any significant royalty payments until after 2022. Finally, the federal government would collect fees from entities that apply for leases to conduct oil shale research, development, and demonstration projects, but CBO estimates that those fee collections would be negligible.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 3408 AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON FEBRUARY 1, 2012

	By fiscal year, in millions of dollars—													2012–2017	2012–2022
	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022				
	NET INCREASE OR DECREASE (–) IN THE DEFICIT														
Statutory Pay-As-You-Go Impact	0	0	0	0	–5	0	0	0	0	0	0	5	–5	0	

Intergovernmental and private-sector impact: H.R. 3408 contains no intergovernmental or private-sector mandates as defined in UMRA and would impose no costs on state, local, or tribal governments.

Estimate prepared by: Federal costs: Jeff LaFave; Impact on state, local, and tribal governments: Melissa Merrell; Impact on the private sector: Amy Petz.

Estimate 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. 3408 would affect direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that the net effects would not be significant over the 2012–2022 period. Enacting the legislation would not affect revenues. CBO estimates that additional administrative costs to implement the leasing program under the bill would be small and subject to the availability of appropriated funds.

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 set clear rules for the development of United States oil shale resources and to promote shale technology research and development.

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

If enacted, this bill would make no changes in existing law.

DISSENTING VIEWS

We oppose H.R. 3408 because it would prematurely open up swaths of Utah, Colorado and Wyoming to large-scale oil shale development; enshrine Bush administration policies limiting royalty collection; and halt additional environmental reviews required by a 2009 court settlement.

The Majority argues current policies are the only barrier to wide-scale development and investment in oil shale, ignoring the fact that six Research Development and Demonstration (RD&D) leases have already been issued. Each of the 160-acre RD&D leases can be expanded to commercial leases of 5,120 acres, if companies prove they are making progress toward commercially viable technology. The BLM is assessing three more RD&D leases that have been applied for under current regulations.

The oil industry says such technological advances are likely a decade or more away. The Interior Department testified that “H.R. 3408 disregards the fact that there are currently no known economically viable and environmentally sound ways in the United States to extract liquid fuel or suitable refinery feedstock from oil shale at a commercial level.” An expert with the RAND Corporation characterized the future of oil shale development as “unclear” in testimony to the House Energy and Commerce Committee in June, 2011.

Despite the lack of viable technology, the bill would require the BLM to open 125,000 acres of federal land for commercial oil shale development by 2016. It would also require the issuance of 10 more RD&D leases within 180 days of the bill’s passage.

The unfulfilled promise of oil shale, which has repeatedly been cited as the next big boom, has a history dating back nearly 100 years. The 1970s brought a rush of oil speculation to western Colorado, but ended abruptly in 1982 when Exxon laid off 2,200 workers in a single day an event that became known as “Black Sunday.” The Energy Policy Act of 2005 required that the BLM develop a leasing program that included waiving royalties and rental payments to spur commercial interest in the shale, which has proven time and again to be too costly for investment.

Serious questions also remain about oil shale’s impact on the environment, particularly regarding impacts to scarce water resources in the West. The Government Accountability Office has found that the impacts on water quality and quantity could be significant and are currently unknown. We are also concerned about the ability of oil shale to produce revenue for the government, a key question since the Majority has introduced this bill in a suite of legislation aimed at raising money for highways, roads, bridges and mass transportation.

The Majority rejected an amendment offered by Representative Napolitano (D-CA) that would have required the United States Ge-

ological Survey to conduct a study of water impacts, so that Congress and affected local populations would have better sense of whether the water needs of oil shale development might come at the expense of water supplies currently intended for consumer, agricultural, or other uses. The Majority rejected an amendment from Mr. Garamendi that would have required oil and gas facilities to be constructed primarily using American-made equipment in order to create jobs here. The Majority also rejected an amendment from Representative Holt (D-NJ) that would have kept the bill from taking effect unless the Congressional Budget Office stated that it would actually raise revenue.

We oppose H.R. 3408 because we believe, along with the oil shale industry, BLM and other experts, that it is not ready for commercial development. As a result, a rush to judgment without regard to potential environmental impacts is both unwarranted and unwise. The current leasing program is a more prudent path that gives weight both to environmental stewardship and realities of the marketplace as it now stands.

EDWARD J. MARKEY.
 GRACE F. NAPOLITANO.
 RUSH HOLT.
 FRANK PALLONE, Jr.
 GREGORIO KILILI CAMACHO
 SABLAN.
 MADELEINE Z. BORDALLO.
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