



Legislative Bulletin..... November 19, 2013

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H.R. 1965 - Federal Lands Jobs and Energy Security Act

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Order of Business: The legislation is scheduled to be considered on November 19, 2013, under a combined rule, H.Res. 419, for both H.R. 1965 and H.R. 2728. The rule provides for the consideration of H.R. 1965 in the Committee of the Whole House on the state of the Union. The rule waives all points of order against the legislation and provides for one hour of general debate. After general debate, the legislation shall be considered for amendment under the five-minute rule. The rule makes in order those amendment summarized below in this document. After amendment debate the Committee shall rise and report the legislation to the House. The rule allows for one motion to recommit with or without instructions. The rule can be [viewed here](#).

Summary: The text of H.R. 1965 contains text similar to the following bills: H.R. 1965, H.R. 1394, H.R. 1964, H.R. 555, and H.R. 1548.

Title I – Federal Lands Jobs and Energy Security

The text of this title is similar to that of H.R. 1965, as introduced by Rep. Lamborn.

The legislation requires the Secretary to determine whether to issue a drilling permit within 30 days after receiving the application. The Secretary may extend this period for up an additional 30 days, if the Secretary provides written notice of the delay to the applicant. In cases where the permit is denied, the Secretary shall provide the applicant, in writing, with a clear and comprehensive explanation why the application was not accepted. The Secretary shall also provide the applicant an opportunity to remedy any deficiencies. If the Secretary has not made a decision on the application by the end of the 60 day period, the application is deemed approved, except in cases in which existing review under the National Environmental Policy Act or Endangered Species Act are incomplete.

The legislation establishes a single permit processing fee of \$6,500 per application from each applicant. The legislation also establishes a \$5,000 documentation fee to accompany each protest for a leases, right of way, or application for permit to drill.

The legislation establishes a Federal Permit Streamlining Project in every Bureau of Land Management field office with responsibility for permitting energy projects on federal land. The

legislation directs the Secretary of Interior to enter into a memorandum of understanding with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Chief of the Army Corps of Engineers. All signatories of the memorandum shall, if appropriate, assign to each BLM field office an employee with expertise in the regulatory issues relating to the particular office. This is meant to streamline the permitting process.

For any covered civil action, the legislation requires that it be filed no later than the end of the 90-day period after the final federal agency action to which it relates.

The legislation directs the Secretary of the Interior to provide matching funding for joint projects with states to conduct oil and gas resource assessments on federal lands with significant oil and gas potential. The federal share of the cost of activities shall not exceed 50-percent. The legislation authorizes for appropriation \$50,000,000 for fiscal years 2014 through 2017.

The legislation requires the Secretary of the Interior to offer for lease minimum acreage amounts for onshore lease sales. The Secretary shall offer for sale no less than 25-percent of the annual nominated acreage not previously made available for lease. The legislation prohibits leases from being offered to any person that is in violation of U.S. sanctions against Iran.

Title II – Planning for American Energy

The text of this title is similar to that of H.R. 1394, as introduced by Rep. Tipton.

The legislation directs the Secretary of Interior to develop and publish every four years a Quadrennial Federal Onshore Energy Production Strategy. This strategy shall direct federal land energy development and department resource allocation in order to promote the energy and national security of the U.S. in accordance with BLM's mission of promoting the multiple use of federal lands. When developing this strategy, the Secretary is shall consult with the Energy Information Administration on the projected energy demands of the U.S. for the next 30-year period, and how energy derived from federal onshore lands can put the U.S. on a trajectory to meet that demand during the next four year period. The Secretary is further directed to determine a domestic strategic production objective for the development of energy resources from federal onshore lands. The first Quadrennial Federal Onshore Energy Production Strategy shall be submitted to Congress within 18 months of enactment.

The legislation contains a sense of Congress that “federally recognized Indian tribes may elect to set their own production objectives as part of the Strategy under this section. The Secretary shall work in cooperation with any federally recognized Indian tribe that elects to participate in achieving its own strategic energy objectives designated under this subsection.”

Title III – National Petroleum Reserve in Alaska Access

The text of this title is similar to that of H.R. 1964, as introduced by Rep. Hastings.

The legislation directs the Secretary to conduct oil and gas lease sales in the National Petroleum Reserve in Alaska. The Secretary shall conduct at least one lease sale annually in those areas of the reserve most likely to produce commercial quantities of oil and natural gas each year in the period 2013 through 2023. The legislation directs the Secretary to consult with other appropriate

federal agencies to facilitate and ensure permits in a timely and environmentally responsible manner, for all surface development activities, including for the construction of pipelines and roads.

Permits for the construction for transportation of oil and natural gas produced under existing leases shall be approved within 60 days after the date of enactment of this act. Permits for construction and transportation of oil and natural gas produced under new leases shall be approved within six months after the drilling permit application is submitted to the Secretary.

Within 270 days after enactment, the Secretary shall submit to Congress a plan for approved rights-of-way for a plan for pipeline, road, and any other surface infrastructure that may be necessary infrastructure that all ensure that all leasable tracts in the Reserve are within 25 miles of an approved road and pipeline right-of-way.

Within 190 days of enactment, the Secretary shall issue a new proposed integrated activity plan from among the non-adopted alternatives in the National Petroleum Reserve Alaska Integrated Activity Plan Record of Decision issued by the Secretary on February 21, 2013.

Title IV – BLM Live Internet Auctions

The text of this title is similar to that of H.R. 555, as introduced by Rep. Johnson (R-OH).

The legislation allows the Secretary to conduct onshore lease sales through Internet-based bidding methods. Each individual Internet-based lease sale shall conclude within seven days. Within 90 days after the tenth Internet-based lease sale, the Secretary of the Interior shall analyze the first 10 lease sales and report to Congress the findings of the analysis. The report shall include estimates on increases or decreases in such lease sales, compared to sale conducted by oral bidding. It will also include an estimate on the total cost or savings to the Department of Interior as a result of such sales, as well as an evaluation of the demonstrated or expected effectiveness of different structure for lease sales which may provide an opportunity to better maximize bidder participation and ensure the higher return to the federal taxpayers.

Title V – Native American Energy

The text of this title is similar to that of H.R. 1548, as introduced by Rep. Young.

The legislation addresses regulations that impede energy exploration on tribal land.

The legislation sets a 30 day time limit by which the Secretary must review and provide a decision regarding an appraisal conducted by or for an Indian tribe regarding the trust assets of the tribe. The appraisal is deemed approved if, after 60 days, the Secretary has failed to approve or disapprove the appraisal. The legislation also sets a process by which Indian tribes may waive the appraisal requirements.

The legislation directs the Secretary of the Interior to implement procedures to ensure that each agency within the Department that is involved with the review, approval, and oversight of oil and gas activities on Indian lands shall use a uniform system of reference numbers and tracking systems for oil and gas wells.

The legislation requires that any judicial complaint be filed within the 60 day period beginning on the date of the final agency action. The legislation requires that all energy related actions under this section be brought in the U.S. District Court for the District of Columbia and shall be resolved within 180 days after the action is filed.

For each fiscal year 2014 through 2018, the Secretary is directed to enter into stewardship contracts or other agreements with Indian tribes to carry out Tribal Biomass Demonstration Projects on Indian forest land.

Committee Action: H.R. 1965 was introduced on May 14, 2013, and was referred to the House Judiciary Subcommittee on Regulatory Reform, Commercial and Antitrust Law, as well as the House Natural Resources Subcommittee on Energy and Mineral Resources. The Natural Resources Committee held a [markup on July 24, 2013](#), and reported the legislation by a [vote of 27 – 14](#).

Administration Position: According to a Statement of Administration Policy, the Administration strongly opposes H.R. 1965. If the President were presented with the legislation, his senior advisors would recommend that he veto the bill.

Cost to Taxpayers: A CBO report showing a score for H.R. 1965, as containing texts similar to H.R. 1965, H.R. 1394, H.R. 1964, and H.R. 555 is unavailable. However, individual scores for these bills are below.

H.R. 1965, as reported by the Committee: CBO estimates that enacting the legislation would increase offsetting receipts, which are treated as reductions in direct spending, by \$325 million over the 2014-2023 period; therefore, pay-as-you-go procedures apply. In addition, CBO estimates that implementing the legislation would cost \$186 million over the 2014-2018 period and \$329 million over the 2014-2023 period, assuming appropriation of the authorized and necessary amounts. CBO's report for H.R. 1965, as reported by the Committee, can be [viewed here](#).

H.R. 1394, as reported by the Committee: CBO estimates that implementing the legislation would cost \$15 million over the 2014-2018 period. CBO's report for H.R. 1394, as reported by the Committee, can be [viewed here](#).

H.R. 1964, as reported by the Committee: CBO estimates that implementing the legislation would cost \$2 million over the 2014-2015 period. CBO's report for H.R. 1964, as reported by the Committee, can be [viewed here](#).

H.R. 555, as reported by the Committee: CBO estimates that, assuming availability of appropriated funds, implementing the legislation would cost \$2 million over the 2014-2018 period. CBO's report for H.R. 555, as reported by the Committee, can be [viewed here](#).

H.R. 1548, as reported by the Committee: CBO estimates that implementing the bill would cost \$29 million over the 2014-2018 period, assuming appropriation action consistent with the bill. CBO's report for H.R. 1548, as reported by the Committee, can be [viewed here](#).

Amendments Made In Order:

DeFazio (D-OR): The amendment establishes a new account within the Treasury where the first \$10,000,000 received under leases from this act will be deposited. These funds will be made available to the Commodity Futures Trading Commission to use "to limit excessive speculation in energy markets." The text of the amendment can be [viewed here](#).

Lowenthal (D-CA): The amendment strikes a section in the underlying bill that prohibits the Secretary from requiring a finding of extraordinary circumstance in administering section 390 of the Energy Policy Act of 2005. The text of the amendment can be [viewed here](#).

Hanabusa (D-HI): In the domestic strategic production objective for the development of energy resources (established by the underlying bill), the amendment directs the strategy to include:

- "the best estimate, based upon commercial and scientific data, of the expected increase in domestic production of geothermal, solar, wind, or other renewable energy sources from 'available lands' (as such term is defined in section 203 of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.), and including any other lands deemed by the Territory or State of Hawaii, as the case may be, to be included within that definition) that the agency or department of the government of the State of Hawaii that is responsible for the administration of such lands selects to be used for such energy production."

The text of the amendment can be [viewed here](#).

Jackson Lee (D-TX): Regarding the administrative protect documentation reform section in the underlying bill, the amendment states that it shall "not be construed to abridge the right of the people to petition for the redress of grievances, in violation for he first article of amendment to the Constitution of the United States." The text of the amendment can be [viewed here](#).

Jackson Lee (D-TX): The amendment strikes a section in the underlying bill that places certain limits on attorneys' fees. The text of the amendment can be [viewed here](#).

Polis (D-CO): The amendment adds a new section at the end of the bill. The section requires the Secretary of Interior to enter into an arrangement with the National Academy of Sciences under which the Academy shall study and report to Congress on the effect of flooding on oil and gas facilities, and the resulting instances of leaking and spills from tanks, wells, and pipelines. The text of the amendment can be [viewed here](#).

Hastings (R-WA): The amendment reduces the limit for the amount of fees that are made available to BLM field offices to facilitate permitting from \$10,000,000, to \$5,000,000. The text of the amendment can be [viewed here](#).

Marino (R-PA): When determining a domestic strategic project object for the development of energy resources from federal onshore lands, the amendment directs the Secretary to include “a plan for addressing new demands from transmission lines and pipelines for distribution of oil and gas across federal lands to ensure that energy produced can be distributed to areas of need.” The text of the amendment can be [viewed here](#).

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: According to CBO: H.R. 1548 would impose an intergovernmental and private-sector mandate by requiring plaintiffs, including public and private entities, to post a bond when seeking a preliminary injunction to stop Native American energy projects.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: No.

Constitutional Authority: Rep. Lamborn states: “Congress has the power to enact this legislation pursuant to the following: Article IV, Section 3 of the Constitution.”

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