

115TH CONGRESS  
1ST SESSION

# H. R. 3565

To achieve domestic energy independence by empowering States to control the exploration, development, and production of oil and gas on all available Federal land, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 28, 2017

Mrs. BLACK (for herself, Mr. FLEISCHMANN, Mr. KUSTOFF of Tennessee, Mr. SESSIONS, Mr. STEWART, Mr. GOSAR, Mr. DUNCAN of South Carolina, Mr. ROE of Tennessee, Mrs. BLACKBURN, and Mr. DUNCAN of Tennessee) introduced the following bill; which was referred to the Committee on Natural Resources

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## A BILL

To achieve domestic energy independence by empowering States to control the exploration, development, and production of oil and gas on all available Federal land, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Federal Land Freedom  
5 Act”.

6 **SEC. 2. FINDINGS.**

7 Congress finds that—

1           (1) as of the date of the enactment of this  
2 Act—

3                   (A) 113,000,000 acres of onshore Federal  
4 land are open and accessible for oil and gas de-  
5 velopment; and

6                   (B) approximately 166,000,000 acres of  
7 onshore Federal land are off-limits or inaccess-  
8 sible for oil and gas development;

9           (2) despite the recent oil and gas boom in the  
10 United States, the number of acres of Federal land  
11 leased for oil and gas exploration has decreased by  
12 31 percent since 2008;

13           (3) in 2015, the Federal Government leased  
14 only 36,000,000 acres of Federal land, in contrast to  
15 the 131,000,000 acres that were leased in 1984;

16           (4) the reduction in leasing of Federal land  
17 harms economic growth and Federal revenues;

18           (5) in 2015, it took, on average, 220 days to  
19 process applications for permits to drill on Federal  
20 land; and

21           (6) States have extensive and sufficient regu-  
22 latory frameworks for permitting oil and gas devel-  
23 opment.

24 **SEC. 3. DEFINITIONS.**

25 In this Act:

1           (1) AVAILABLE FEDERAL LAND.—The term  
2 “available Federal land” means any Federal land  
3 that, as of May 31, 2017—

4           (A) is located within the boundaries of a  
5 State;

6           (B) is not held by the United States in  
7 trust for the benefit of a federally recognized  
8 Indian tribe;

9           (C) is not a unit of the National Park Sys-  
10 tem;

11           (D) is not a unit of the National Wildlife  
12 Refuge System;

13           (E) is not Congressionally approved wilder-  
14 ness area under the Wilderness Act (16 U.S.C.  
15 1131 et seq.); and

16           (F) has been identified as land available  
17 for lease for the exploration, development, and  
18 production of oil or gas—

19           (i) by the Bureau of Land Manage-  
20 ment under a Resource Management Plan  
21 pursuant to the process provided for in the  
22 Federal Land Management and Policy Act  
23 of 1976 (43 U.S.C. 1701 et seq.); or

24           (ii) by the Forest Service under a  
25 Forest Management Plan pursuant to the

1 process provided for in the National Forest  
2 Management Act of 1976 (16 U.S.C. 1600  
3 et seq.).

4 (2) STATE.—The term “State” means—

5 (A) one of the several States; and

6 (B) the District of Columbia.

7 (3) STATE REGULATORY PROGRAM.—The term  
8 “State regulatory program” means a program estab-  
9 lished pursuant to State law that regulates oil and  
10 gas exploration, development, and production on  
11 land located in the State.

12 **SEC. 4. STATE CONTROL OF OIL AND GAS EXPLORATION,**  
13 **DEVELOPMENT, AND PRODUCTION ON ALL**  
14 **AVAILABLE FEDERAL LAND.**

15 (a) SUBMISSION OF STATE REGULATORY PRO-  
16 GRAM.—Each State in which there may be the leasing,  
17 permitting, or regulating of oil and gas exploration, devel-  
18 opment, and production activities on available Federal  
19 lands, and which wishes to assume exclusive jurisdiction  
20 over the leasing, permitting, and regulation of such oil and  
21 gas activities, shall submit to the Secretaries of the Inte-  
22 rior and Agriculture a State regulatory program which  
23 demonstrates that such State has the capability of car-  
24 rying out the provisions of this Act and meeting its pur-  
25 poses through—

1           (1) a State law which provides for the leasing,  
2           regulation and permitting of oil and gas exploration,  
3           development, and production activities;

4           (2) a State law which provides sanctions for  
5           violations of State laws, regulations, or conditions of  
6           permits concerning oil and gas exploration, develop-  
7           ment, and production activities;

8           (3) a State regulatory authority with sufficient  
9           administrative and technical personnel, and suffi-  
10          cient funding to enable the State to lease, regulate  
11          and permit oil and gas exploration, development, and  
12          production activities; and

13          (4) a State law which provides for the effective  
14          implementation, maintenance, and enforcement of a  
15          permit system for oil and gas exploration, develop-  
16          ment, and production activities on available Federal  
17          lands within the State.

18          (b) APPROVAL OF STATE REGULATORY PROGRAM.—

19           (1) IN GENERAL.—The State regulatory pro-  
20          gram submitted under subsection (a) shall be  
21          deemed approved, unless, not later than 60 days  
22          after submission, the Secretaries of the Interior and  
23          Agriculture—

1 (A) find approval of a State regulatory  
2 program would result in decreased royalty pay-  
3 ments to the Federal Government; or

4 (B) determine that the State Regulatory  
5 Program submitted under subsection (a) does  
6 not have the capability to carry out the provi-  
7 sions of this Act.

8 (2) ADVERSE DETERMINATION.—For any ad-  
9 verse determination by the Secretaries, the Secre-  
10 taries shall—

11 (A) notify, in writing, the State applicant  
12 of the reason for the withholding of approval;  
13 and

14 (B) provide any additional information,  
15 data, or analysis upon which such determina-  
16 tion is based.

17 (c) EFFECT OF APPROVAL OF STATE REGULATORY  
18 PROGRAM.—Notwithstanding any other provision of law,  
19 on approval of a State regulatory program under sub-  
20 section (b), the State shall assume the Federal leasing,  
21 permitting and regulatory responsibilities for oil and gas  
22 exploration, development, and production on available  
23 Federal land located in the State in accordance with the  
24 approved plan.

1 (d) EFFECT OF STATE ACTION.—Any action by a  
2 State to lease, permit, or regulate oil and gas exploration,  
3 development, and production in accordance with an ap-  
4 proved State regulatory program shall not be subject to,  
5 or considered a Federal action, Federal permit, or Federal  
6 license under—

7 (1) subchapter II of chapter 5, and chapter 7,  
8 of title 5, United States Code (commonly known as  
9 the “Administrative Procedure Act”);

10 (2) chapter 3001 of title 54, United States  
11 Code;

12 (3) the Endangered Species Act of 1973 (16  
13 U.S.C. 1531 et seq.); or

14 (4) the National Environmental Policy Act of  
15 1969 (42 U.S.C. 4321 et seq.).

16 (e) REASSUMPTION OF REGULATORY AUTHORITY BY  
17 THE SECRETARY.—

18 (1) VOLUNTARY SURRENDER OF AUTHORITY.—

19 If a State regulatory program has been approved  
20 under subsection (b), such state may voluntarily re-  
21 voke such approval, and relinquish the duties under  
22 subsection (c) upon providing a 60-day notice to the  
23 Secretaries of the Interior and Agriculture. Upon  
24 the expiration of the 60-day period, the state shall  
25 no longer be permitted to lease, regulate, or permit

1 oil and gas exploration, development, and production  
2 activities on available Federal lands.

3 (2) INVOLUNTARY SURRENDER OF AUTHOR-  
4 ITY.—If the Secretaries of the Interior or Agri-  
5 culture determine a State regulatory program has  
6 resulted in a 20-percent decrease in royalties to the  
7 Federal government from the preceding year, the  
8 Secretaries shall notify the state of such decrease.  
9 Such notified state shall have 180 days to address  
10 the royalty deficiency. If a state fails to improve the  
11 amount of royalties paid to the federal government,  
12 then the Secretaries of the Interior and Agriculture  
13 may jointly determine to revoke the approval of the  
14 state regulatory program under subsection (b).

15 **SEC. 5. NO EFFECT ON FEDERAL REVENUES.**

16 (a) IN GENERAL.—Any lease or permit issued by a  
17 State under section 4 shall include provisions for the col-  
18 lection of royalties or other revenues in an amount equal  
19 to the amount of royalties or revenues that would have  
20 been collected if the lease or permit had been issued by  
21 the Federal Government.

22 (b) DISPOSITION OF REVENUES.—Any revenues col-  
23 lected under a lease or permit issued by a State under  
24 section 4 shall be deposited in the same Federal account  
25 in which the revenues would have been deposited if the



1 lease or permit had been issued by the Federal Govern-  
2 ment.

3 (c) EFFECT ON STATE PROCESSING FEES.—Nothing  
4 in this Act prohibits a State from collecting and retaining  
5 a fee from an applicant to cover the administrative costs  
6 of processing an application for a lease or permit.

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