

ROYALTY RESILIENCY ACT

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JUNE 27, 2024.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed
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Mr. WESTERMAN, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 7377]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 7377) to amend the Federal Oil and Gas Royalty Management Act of 1982 to improve the management of royalties from oil and gas leases, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends 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 “Royalty Resiliency Act”.

SEC. 2. DETERMINATION OF ALLOCATIONS OF PRODUCTION FOR UNITS AND COMMUNITIZATION AGREEMENTS.

Section 111(j) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1721(j)), as amended by the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (Public Law 104–185), is amended to read as follows:

“(j) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. Until the Secretary issues the determination, the lessee or its designee of a lease in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month in accordance with the terms of the proposed allocation of production for the unit or communitization agreement. After the Secretary issues the determination, the lessee or its designee shall, as necessary, correct such reports and the amount of royalties paid on oil and gas production under the unit or communitization agreement by not later than the end of the third month following the month in which the lessee or its designee receives the determination from the Secretary. Subject to the full and timely monthly payment of royalties to all parties in accordance with the terms of the proposed allocation of production for the unit or communitization agreement, the Secretary shall waive interest due on obligations subject to the determination until the end of the third month following the month in which the lessee or its designee receives the deter-

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mination from the Secretary. This subsection shall not apply to unit or communization agreements containing Indian lands.”.

PURPOSE OF THE LEGISLATION

The purpose of H.R. 7377 is to amend the Federal Oil and Gas Royalty Management Act of 1982 to improve the management of royalties from oil and gas leases, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

The Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) grants the Secretary of the Interior authority to manage and collect oil and gas royalties from leases on federal and Indian lands. This includes the establishment of a comprehensive inspection, collection, and production auditing system for accurately determining royalties, interests, fines, penalties, fees, deposits, and other payments owed on leases.¹ FOGRMA also sets forth the duties of operators on oil and gas leases. For example, lessees are required to make royalty payments on time and notify the Secretary of the Interior of any assignments of interest on a lease or production on new wells.

The Department of the Interior’s Office of Natural Resources Revenue (ONRR) is responsible for accounting for, verifying, and collecting mineral leasing revenues from all federal onshore areas, including oil and gas royalties. When an oil and gas project involving a federal lease cannot be independently developed because of other state or private assets, the Bureau of Land Management (BLM) may approve a communitization agreement (CA) upon a determination that it is in the public interest. CAs are essentially revenue-sharing agreements for oil and gas projects that involve federal, state, and private property. Under current law, BLM is responsible for approving CAs within 120 days and determining allocations of production for royalty payments between lessees.² Despite the statutory timeline, operators have experienced wait times of up to three years for CAs.

ONRR currently requires operators to pay a 100% royalty to the federal government until the BLM approves the CA, meaning operators are forced to pay excess royalties for years while they wait for BLM approval. For example, if the mineral ownership for a project is 50% state, 25% private, and 25% federal, the operator would be required to pay a royalty of 175% until the BLM approves the CA (50% state, 25% private, and 100% federal). H.R. 7377 would solve this issue by allowing lessees to pay a royalty to ONRR that is based on the apportionment in their proposed CA rather than a blanket 100%. If the apportionment is found to be incorrect when the CA is approved (which is rare), the lessee must pay the government back within three months.

COMMITTEE ACTION

H.R. 7377 was introduced on February 15, 2024, by Representative Wesley Hunt (R–TX). The bill was referred to the Committee

¹ BOEM, Federal Oil and Gas Royalty Management Act, <https://www.boem.gov/sites/default/files/documents/about-boem/regulations-guidance/Federal%20Oil%20and%20Gas%20Royalty%20Management%20Act.pdf>

² 30 U.S.C. § 1721(j).

on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On March 6, 2024, the Subcommittee on Energy and Mineral Resources held a hearing on the bill. On April 16, 2024, the Committee on Natural Resources met to consider the bill. The Subcommittee on Energy and Mineral Resources was discharged from further consideration of H.R. 7377 by unanimous consent. Rep. Hunt (R-TX) offered an Amendment in the Nature of a Substitute designated Hunt ANS_01. The Amendment in the Nature of a Substitute was agreed to by unanimous consent. The bill, as amended, was ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Energy and Mineral Resources held on March 6, 2024.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

Designates the bill as the “Royalty Resiliency Act”.

Section 2. Determination of allocations of production for units and communitization agreements

Section 2 amends Section 111(j) of the Federal Oil and Gas Royalty Management Act of 1982 by allowing lessees to pay a royalty to ONRR that is based on the apportionment in their proposed CA rather than a blanket 100%. If the apportionment is found to be incorrect when the CA is approved, the lessee would be required to pay the government back within three months. The bill would not apply to CAs that involve Indian lands.

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 AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

H.R. 7377, Royalty Resiliency Act			
As ordered reported by the House Committee on Natural Resources on April 16, 2024			
By Fiscal Year, Millions of Dollars	2024	2024-2029	2024-2034
Direct Spending (Outlays)	*	*	*
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	*	*	*
Spending Subject to Appropriation (Outlays)	0	0	0
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2035?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between -\$500,000 and \$500,000.			

H.R. 7377 would amend the Federal Oil and Gas Royalty Management Act of 1982 to change how leaseholders that are applying to jointly develop federal land allocate royalty payments before the Department of the Interior (DOI) approves the final allocations.

Oil and gas leaseholders can enter into joint agreements to develop leased land and drill wells in areas where they could not independently comply with certain regulations. Such a joint application includes the proposed apportionment of production and royalties to be paid by each producer.

Under current law, until DOI approves the final royalty allocations, the first leaseholder to drill pays any royalties due to the federal government for all production on land subject to the proposed agreement. After DOI approves the final allocations, that leaseholder is reimbursed by the other participants in the agreement for their share of the payments.

The bill would require oil and gas leaseholders that seek to form such agreements to make royalty payments based on the proposed production allocation under the agreement application until DOI approves the final allocations.

Royalties paid on oil and gas produced on federal land are recorded in the budget as offsetting receipts, that is, as reductions in direct spending. A portion of those offsetting receipts are spent without further appropriation.

CBO expects that enacting H.R. 7377 would not change the total amount of royalties owed to the federal government, but it could affect when those payments are received. Thus, CBO estimates that enacting the bill would have an insignificant effect on direct spending over the 2024–2034 period.

The CBO staff contacts for this estimate are David Hughes (for offshore leasing) and Lilia Ledezma (for onshore leasing). The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

PHILLIP L. SWAGEL,
Director, Congressional Budget Office.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goal or objective

of this bill is to amend the Federal Oil and Gas Royalty Management Act of 1982 to improve the management of royalties from oil and gas leases, and for other purposes.

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.

UNFUNDED MANDATES REFORM ACT STATEMENT

According to the Congressional Budget Office, H.R. 7377 contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

EXISTING PROGRAMS

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

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 (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

FEDERAL OIL AND GAS ROYALTY MANAGEMENT ACT OF 1982

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TITLE I—FEDERAL ROYALTY MANAGEMENT AND
ENFORCEMENT

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ROYALTY TERMS AND CONDITIONS, INTEREST, AND PENALTIES

SEC. 111. (a) In the case of oil and gas leases where royalty payments are not received by the Secretary on the date that such payments are due, or are less than the amount due, the Secretary shall charge interest on such late payments or underpayments at the rate applicable under section 6621 of the Internal Revenue Code of 1954. In the case of an underpayment or partial payment, interest shall be computed and charged only on the amount of the deficiency and not on the total amount due.

(b) Any payment made by the Secretary to a State under section 35 of the Mineral Leasing Act of 1920 (30 U.S.C. 191) and any other payment made by the Secretary to a State from any oil or gas royalty received by the Secretary which is not paid on the date required under section 35 shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(c) All interest charges collected under this Act or under other applicable laws because of nonpayment, late payment or underpayment of royalties due and owing an Indian tribe or an Indian allottee shall be deposited to the same account as the royalty with respect to which such interest is paid.

(d) Any deposit of royalty funds made by the Secretary to an Indian account which is not made by the date required under subsection 104(b) shall include an interest charge computed at the rate applicable under section 6621 of the Internal Revenue Code of 1954.

(e) Notwithstanding any other provision of law, no State will be assessed for any interest or penalties found to be due against the Secretary for failure to comply with the Emergency Petroleum Allocation Act of 1973 or regulation of the Secretary of Energy thereunder concerning crude oil certification or pricing with respect to crude oil taken by the Secretary in kind as royalty. Any State share of an overcharge, resulting from such failure to comply, shall be assessed against moneys found to be due and owing to such State as a result of audits of royalty accounts for transactions which took place prior to the date of the enactment of this Act except that if after the completion of such audits, sufficient moneys have not been found due and owing to any State, the State shall be assessed the balance of that State's share of the overcharge.

(f) Interest shall be charged under this section only for the number of days a payment is late.

(g) The first sentence of section 35 of the Act of February 25, 1920 is amended by inserting "including interest charges collected under the Federal Oil and Gas Royalty Management Act of 1982" between "royalties" and "and".

(h) A lessee or its designee may make a payment for the approximate amount of royalties (hereinafter in this subsection "estimated payment") that would otherwise be due for such lease by the date royalties are due for that lease. When an estimated payment is made, actual royalties are payable at the end of the month fol-

lowing the month in which the estimated payment is made. If the estimated payment was less than the amount of actual royalties due, interest is owed on the underpaid amount. If the lessee or its designee makes a payment for such actual royalties, the lessee or its designee may apply the estimated payment to future royalties. Any estimated payment may be adjusted, recouped, or reinstated at any time by the lessee or its designee.

(i)(1) Except as otherwise provided by this subsection—

(A) a lessee or its designee of a lease in a unit or communitization agreement which contains only Federal leases with the same royalty rate and funds distribution shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee;

(B) a lessee or its designee of a lease in any other unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the volume of oil and gas produced from such agreement and allocated to the lease in accordance with the terms of the agreement; and

(C) a lessee or its designee of a lease that is not contained in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month based on the actual volume of production sold by or on behalf of that lessee.

(2) This subsection applies only to requirements for reporting and paying royalties. Nothing in this subsection is intended to alter a lessee's liability for royalties on oil or gas production based on the share of production allocated to the lease in accordance with the terms of the lease, a unit or communitization agreement, or any other agreement.

(3) For any unit or communitization agreement if all lessees contractually agree to an alternative method of royalty reporting and payment, the lessees may submit such alternative method to the Secretary or the delegated State for approval and make payments in accordance with such approved alternative method so long as such alternative method does not reduce the amount of the royalty obligation.

(4) The Secretary or the delegated State shall grant an exception from the reporting and payment requirements for marginal properties by allowing for any calendar year or portion thereof royalties to be paid each month based on the volume of production sold. Interest shall not accrue on the difference for the entire calendar year or portion thereof between the amount of oil and gas actually sold and the share of production allocated to the lease until the beginning of the month following such calendar year or portion thereof. Any additional royalties due or overpaid royalties and associated interest shall be paid, refunded, or credited within six months after the end of each calendar year in which royalties are paid based on volumes of production sold. For the purpose of this subsection, the term "marginal property" means a lease that produces on average the combined equivalent of less than 15 barrels of oil per well per day or 90 thousand cubic feet of gas per well per day, or a combination thereof, determined by dividing the average daily production of crude oil and natural gas from producing wells on

such lease by the number of such wells, unless the Secretary, together with the State concerned, determines that a different production is more appropriate.

(5) Not later than two years after the date of the enactment of this subsection, the Secretary shall issue any appropriate demand for all outstanding royalty payment disputes regarding who is required to report and pay royalties on production from units and communitization agreements outstanding on the date of the enactment of this subsection, and collect royalty amounts owed on such production.

[(j) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. If the Secretary fails to issue a determination within such 120-day period, the Secretary shall waive interest due on obligations subject to the determination until the end of the month following the month in which the determination is made.]

(j) The Secretary shall issue all determinations of allocations of production for units and communitization agreements within 120 days of a request for determination. Until the Secretary issues the determination, the lessee or its designee of a lease in a unit or communitization agreement shall report and pay royalties on oil and gas production for each production month in accordance with the terms of the proposed allocation of production for the unit or communitization agreement. After the Secretary issues the determination, the lessee or its designee shall, as necessary, correct such reports and the amount of royalties paid on oil and gas production under the unit or communitization agreement by not later than the end of the third month following the month in which the lessee or its designee receives the determination from the Secretary. Subject to the full and timely monthly payment of royalties to all parties in accordance with the terms of the proposed allocation of production for the unit or communitization agreement, the Secretary shall waive interest due on obligations subject to the determination until the end of the third month following the month in which the lessee or its designee receives the determination from the Secretary. This subsection shall not apply to unit or communitization agreements containing Indian lands.

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