



CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

December 1, 2017

H.R. 4239 **SECURE American Energy Act**

*As ordered reported by the House Committee on Natural Resources
on November 8, 2017*

SUMMARY

H.R. 4239 would amend existing laws regarding energy development on federal lands. Major provisions in the bill would:

- Increase the share of mineral receipts paid to states under the Mineral Leasing Act (MLA) if states assumed certain administrative functions related to oil and gas development on federal lands;
- Require the Department of the Interior (DOI) to assess inspection fees for offshore oil and gas leases, thereby changing the budgetary classification of those fees;
- Clarify DOI's authority to auction oil and gas leases on both the Alaska Outer Continental Shelf (OCS) and the Atlantic OCS;
- Authorize new direct spending of OCS receipts for payments to states and other programs; and
- Authorize DOI to auction leases for developing wind and mineral resources off the coast of certain U.S. territories.

CBO estimates that enacting H.R. 4239 would reduce net direct spending by \$187 million over the 2018-2027 period. In addition, CBO estimates that implementing the bill would cost \$186 million over the 2018-2022 period, subject to appropriation of the necessary amounts. Enacting H.R. 4239 would affect direct spending; therefore, pay-as-you-go procedures apply. Enacting the bill would not affect revenues.

CBO cannot determine whether enacting the bill would increase net direct spending or on-budget deficits by more than \$2.5 billion in any of the four consecutive 10-year periods beginning in 2028.

H.R. 4239 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by requiring state agencies to send the Bureau of Land Management (BLM) a copy of each state regulation that applies to hydraulic fracturing on federal land as well as a copy of each state regulation that requires disclosure of chemicals used in hydraulic fracturing. Because of the low administrative cost for each state to submit those reports to BLM, CBO estimates that the costs of the mandate would be small and well below the annual threshold established in UMRA for intergovernmental mandates (\$78 million in 2017, adjusted for inflation).

The bill contains no private-sector mandates as defined in UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary effects of H.R. 4239 are shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and the environment), 800 (general government), and 950 (undistributed offsetting receipts).

BASIS OF ESTIMATE

For this estimate, CBO assumes that H.R. 4239 will be enacted in fiscal year 2018 and that the necessary amounts will be appropriated for each year.

Direct Spending

CBO estimates that enacting H.R. 4239 would reduce net direct spending by \$187 million over the 2018-2027 period.

Payments to States Under the MLA. When companies acquire oil and gas leases on federal lands, an application for a permit to drill (APD) must be approved for each well. To obtain approval, companies must submit a drilling plan; a surface use plan, which requires the completion of an environmental analysis to ensure compliance with the National Environmental Policy Act; and other materials that must be approved by DOI before a permit to drill is issued.

	By Fiscal Year, in Millions of Dollars											2018-	2018-
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2022	2027	
INCREASES OR DECREASES (-) IN DIRECT SPENDING													
Payments to States Under the MLA													
Estimated Budget Authority	0	23	31	31	32	33	35	36	37	38	117	296	
Estimated Outlays	0	23	31	31	32	33	35	36	37	38	117	296	
Fees from Applications for Permits to Drill													
Estimated Budget Authority	1	1	1	0	0	0	0	0	0	0	3	3	
Estimated Outlays	1	1	1	0	0	0	0	0	0	0	3	3	
Inspection Fees for Offshore Oil and Gas Operations													
Estimated Budget Authority	0	-40	-50	-45	-45	-45	-45	-45	-45	-45	-180	-405	
Estimated Outlays	0	-40	-50	-45	-45	-45	-45	-45	-45	-45	-180	-405	
Authority to Offer Leases on the Alaska and the Atlantic OCS													
Estimated Budget Authority	0	0	0	0	0	-26	-26	-26	-26	-26	0	-130	
Estimated Outlays	0	0	0	0	0	-26	-26	-26	-26	-26	0	-130	
Spending of Receipts from the Alaska and the Atlantic OCS													
Estimated Budget Authority	0	0	0	0	1	0	9	19	20	20	1	69	
Estimated Outlays	0	0	0	0	1	0	9	19	20	20	1	69	
Renewable Energy Leases on the OCS													
Estimated Budget Authority	0	0	0	0	0	-4	-4	-4	-4	-4	0	-20	
Estimated Outlays	0	0	0	0	0	-4	-4	-4	-4	-4	0	-20	
Total Changes													
Estimated Budget Authority	1	-16	-18	-14	-12	-42	-31	-20	-18	-17	-59	-187	
Estimated Outlays	1	-16	-18	-14	-12	-42	-31	-20	-18	-17	-59	-187	
INCREASES IN SPENDING SUBJECT TO APPROPRIATION													
Estimated Authorization Level	6	40	50	45	45	46	45	45	46	45	186	413	
Estimated Outlays	0	42	52	47	45	45	46	45	45	46	186	413	

Components may not sum to totals because of rounding. MLA = Mineral Leasing Act; OCS = Outer Continental Shelf.

H.R. 4239 would authorize DOI to grant states the authority to carry out administrative tasks associated with APDs. Under the bill, states could request either a more limited authority to take over the approval of drilling plans or they could opt to manage the entire APD process, which would require them to review surface use plans and other materials in addition to drilling plans. Any state that chose to take over either of those functions would be entitled to an additional 1 percent share of amounts paid to DOI by the companies that extract minerals from federal lands. Under the MLA, states receive

49 percent of all royalties, rents, and bonus bids, which are amounts that companies must pay to the federal government to acquire leases.¹

Using information provided by DOI and by officials in states with significant oil and gas production on federal lands, CBO expects that states would prefer the more limited authority to approve drilling plans rather than the authority to manage the entire APD process, because managing the entire process would place a significantly higher administrative burden on state agencies. CBO also expects that all states with federal mineral leases under the MLA would pursue the more limited authority because they would receive a higher share of proceeds from federal leases. Under an assumption that DOI would grant all states the authority to approve drilling plans within two years of enactment, CBO estimates that this provision would cost \$296 million over the 2019-2027 period for a 1 percent increase in royalty payments to states.²

Fees From Applications for Permits to Drill. Under H.R. 4239, companies would no longer need an approved APD for operations on lands where the surface estate is owned by a nonfederal entity and the federal interest in the mineral estate is less than 50 percent. In 2017, DOI collected a total of \$31 million in fees from APDs. The agency is authorized to spend, without further appropriation, 85 percent of the amounts collected to administer the APD program through 2020. After 2020, the agency can spend all proceeds from APD fees. CBO expects that gross fee collections will total between \$31 million and \$37 million and that net collections will total \$5 million each year. The type of lands affected by this provision account for between 10 percent and 30 percent of all APDs issued, and CBO estimates that enacting this provision would reduce net receipts by a similar amount. Thus, enacting this provision would cost \$3 million over the 2018-2020 period.

Inspection Fees for Offshore Oil and Gas Operations. H.R. 4239 would direct DOI to collect annual fees to cover the cost of inspecting OCS facilities and drilling operations, subject to certain conditions. The bill would specify the amounts due for various types of activities and allow DOI to adjust those fees for inflation in future years. Amounts collected under the bill would be deposited into a new fund in the Treasury, and that money could be spent only if appropriated in annual appropriation acts.

Based on information from DOI and on historical trends in such activities, CBO estimates that collecting the inspection fees in H.R. 4239 would increase offsetting receipts by \$405 million over the 2018-2027 period. Annual appropriation acts have authorized DOI to assess similar fees each year, but that authority expires at the end of 2018. For this

-
1. The state of Alaska is an exception to this provision of the MLA. It receives 90 percent of royalties, rents, and bonus bids from federal leases outside of the National Petroleum Reserve in Alaska.
 2. CBO expects that enacting this provision would reduce the amount of appropriated funds necessary to administer APDs; however, any reduction in amounts used for that purpose would be offset by increased spending on other DOI activities.

estimate, CBO assumes that the fees authorized by H.R. 4239 would take effect in fiscal year 2019.

Authority to Offer Leases on the Alaska and the Atlantic OCS. H.R. 4239 would expressly revoke existing restrictions on oil and gas leasing on certain portions of the Alaska and Atlantic OCS. Although the Administration issued an executive order in April 2017 to reverse those restrictions, that action is currently under judicial review. Given the legal uncertainty surrounding DOI's authority to offer leases in those areas, CBO's baseline projections reflect the assumption that there is a 50 percent chance that the April 2017 executive order will be upheld. Because H.R. 4239 would eliminate that uncertainty, CBO estimates that enacting the bill would increase potential receipts from those areas by a corresponding amount. Thus, enacting this provision would increase offsetting receipts by about \$130 million over the 2018-2027 period, relative to current law. CBO estimates that most of those additional receipts would stem from leases on the Alaska OCS.

Spending of Receipts from the Alaska and the Atlantic OCS. H.R. 4239 would authorize direct spending of a portion of the offsetting receipts from leases awarded after the date of enactment for the Alaska, mid-Atlantic, and south Atlantic OCS. Under the bill, the portion spent each year would depend on the timing of OCS lease sales, rising from 12.5 percent to 50 percent over a period of several years. The bill would allocate that spending for various purposes, including payments to states and for certain other programs. Funds would be disbursed the year after receipts were collected.

CBO estimates that the receipts that would be available for direct spending under this provision would total \$315 million over the 2018-2027 period—\$210 million that will be collected under current law and \$105 million that would result from new authority in the bill.³ Over the 2018-2029 period, the formulas in the bill would authorize an average of 22 percent to be spent without further appropriation. Thus, CBO estimates that implementing this provision would increase direct spending by \$69 million over the 10- year period, with almost all of those costs occurring after 2022.⁴

-
3. CBO's estimate of receipts subject to revenue sharing reflects the one-year lag between the time receipts are collected and spent. It consists of \$95 million from leases on the Atlantic OCS under current law and about \$220 million from the Alaska OCS (\$115 million under current law and another \$105 million assuming enactment of provisions in H.R. 4239 that would clarify DOI's leasing authority in areas previously subject to restrictions).
 4. CBO estimates that most of the direct spending on would occur after 2022 because the current five-year plan for OCS lease sales does not include auctions on the Atlantic or most of the Alaska OCS over the 2017-2022 period. Decisions about whether to include those areas in future five-year plans will be made administratively in consultation with industry and states. Because scheduling policies for lease sales have varied among Administrations, CBO assumes that there is a 50 percent chance that the affected areas would be included in the five-year plan covering 2023 to 2027. If a new five-year plan is adopted before 2023, CBO will update its baseline projections to reflect the revised auction schedule.

Renewable Energy Leases on the OCS. H.R. 4239 would direct DOI to study the potential for production of electricity generated by wind off the coasts of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Northern Marianas Islands. If those studies showed that developing offshore wind resources was feasible, the bill would direct DOI to conduct lease sales in those areas. CBO estimates that implementing those provisions would increase offsetting receipts by \$20 million over the 2018-2027 period, net of payments to states and territories.

Since 2013, auctions from leases of wind resources along the Atlantic coast have generated gross receipts of almost \$70 million, or a net of \$50 million after payments to states. Several factors suggest that receipts from auctions in the Caribbean and Pacific may be considerably lower, at least for the next few years. For example, technological advances are needed to deploy systems that can withstand category 5 hurricane-force winds in the Caribbean. Similarly, current technologies for producing electricity from offshore wind may not be economically viable for the relatively small markets in the Pacific territories. CBO estimates that any auctions in the new areas probably would occur toward the end of the 10-year period and that the proceeds would be similar to the amounts received for smaller sales (between \$1 million and \$10 million each).

Finally, the bill also would direct DOI to study and then to conduct lease sales for wind resources off the coasts of California and Hawaii. CBO estimates that those requirements would have no significant net effect on offsetting receipts because such auctions are expected to occur under current law as soon as practical.

Mineral Licenses for the OCS Adjacent to U.S. Territories and Possessions.

H.R. 4239 would authorize DOI to issue licenses to companies to explore and develop mineral resources other than oil and gas in areas within the exclusive economic zone (EEZ) on the OCS adjacent to any territory or possession of the United States. The duration of and compensation for such licenses would be determined by the Secretary of the Interior and could be awarded noncompetitively. A licensee would be entitled to a lease for the area for development if valuable minerals were discovered, subject to royalty rates and lease terms specified by the Secretary.

Based on the available information regarding deep-sea mining opportunities in the South Pacific, CBO estimates that any proceeds from issuing licenses for such mining would be negligible over the 2018-2027 period. According to the World Bank and others, the EEZs off the coast of American Samoa and other territories are relatively small and no large nodules of precious metals or minerals have been discovered.⁵

5. See, for example, World Bank *Precautionary Management of Deep Sea Mining Potential in Pacific Island Countries* (draft for discussion, accessed November 29, 2017). <http://tinyurl.com/y9a81q18> (PDF, 3.4 MB).

Spending Subject to Appropriation

CBO estimates that implementing H.R. 4239 would cost \$186 million over the 2018-2022 period, subject to appropriation of the necessary amounts, largely as a result of provisions changing the budgetary classification of fees for inspections of OCS facilities.

Based on historical trends in spending for similar activities, CBO estimates that completing the studies and activities related to leasing off the coast of U.S. territories would cost about \$6 million over the 2018-2022 period. Most of that spending would be for the technical and environmental assessments of offshore wind and mineral development off the coasts of U.S. territories in the Caribbean and South Pacific. CBO estimates that conducting lease sales in those areas would cost about \$2 million, but expects that such spending would occur after 2022.

Under H.R. 4239, the proceeds from fees on inspections of OCS facilities would be treated as reductions in direct spending. In recent years, the authority for DOI to collect fees for OCS inspections has been provided in annual appropriation acts, and the proceeds were netted against discretionary appropriations. As a result, CBO estimates that implementing this change would increase DOI's net spending subject to appropriation by a corresponding amount—\$180 million over the 2018-2022 period and \$405 million over the 2018-2027 period. CBO estimates that implementing H.R. 4239 would have no significant effect on the discretionary cost of inspecting OCS operations.

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. 4239, as ordered reported by the House Committee on Natural Resources on November 8, 2017

	By Fiscal Year, in Millions of Dollars											
	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018-2022	2018-2027
NET INCREASE OR DECREASE (-) IN THE DEFICIT												
Statutory Pay-As-You-Go Impact	1	-16	-18	-14	-12	-42	-31	-20	-18	-17	-59	-187

INCREASE IN LONG-TERM DIRECT SPENDING AND DEFICITS

CBO cannot determine whether enacting H.R. 4239 would increase net direct spending by more than \$2.5 billion or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028. Under H.R. 4239, DOI would be authorized to spend proceeds from federal oil and gas leases for several purposes without further appropriation after 2027. CBO expects that outlays resulting from the bill would be less than \$2.5 billion in each of the respective decades if the resources found on the Atlantic OCS remain undeveloped, but would exceed \$2.5 billion in at least one of the decades if market conditions spurred production and generated significant bonus payments and royalties from that area.

Spending of Receipts from the Gulf of Mexico OCS

The bill would increase the amount authorized to be spent from proceeds from leases in the Gulf of Mexico by \$150 million a year from 2029 through 2055, or by a total of \$1.5 billion in certain decades. H.R. 4239 would change the statutory cap on those payments to about \$650 million a year during the 2029-2059 period. Under the technical and economic assumptions used in CBO's June 2017 baseline projections CBO estimates that enacting this provision would increase outlays by \$150 million each year over the 2029-2055 period. Applying that cap to spending over the 2056-2059 period could reduce direct spending in those years relative to current law.

Spending of Receipts from the Alaska and the Atlantic OCS

In addition, the bill would authorize DOI to spend 50 percent of the proceeds from leasing on the Alaska and Atlantic OCS during the period.⁶ Whether spending from the bonus bids, rents, and royalties from the Atlantic OCS would equal or exceed \$1 billion in any decade (an average of \$100 million a year) would depend on the nature of the resources in the area as well as on market conditions. Estimates of future bonus payments and royalties are inherently uncertain, especially for areas that have not been developed. During the 1970s and 1980s, for example, companies spent \$2.8 billion (\$7.7 billion in today's dollars) for leases on the Atlantic OCS although none produced any oil or gas.

Starting in 2029, H.R. 4239 would increase direct spending of receipts from certain leases on the OCS. Under current law, a portion of the receipts from leases issued after 2006 in the Central and Western Gulf of Mexico may be spent for payments to certain states and the Land and Water Conservation Fund without further appropriation. Current law caps

6. The net effect of the legislation on direct spending from new leases on the Alaska OCS after 2027 depends on the outcome of the judicial review of Presidential actions restricting development. CBO currently estimates that the cost of provisions authorizing direct spending of receipts from the Alaska OCS would be offset by the additional income stemming from provisions in the bill that increase the probability that leasing would occur there. That estimate could change, however, depending on the outcome of the judicial review.

those payments at \$500 million a year through 2055, after which payments will be determined by formula.

MANDATES

H.R. 4239 would impose an intergovernmental mandate as defined in UMRA by requiring state agencies to send BLM a copy of each state regulation that applies to hydraulic fracturing on federal land as well as a copy of each state regulation that requires disclosure of chemicals used in hydraulic fracturing. Because of the low administrative cost of meeting those requirements, CBO estimates that the costs of the mandate would be small and well below the annual threshold established in UMRA for intergovernmental mandates (\$78 million in 2017, adjusted for inflation).

The legislation would benefit state and local governments by increasing the generation of royalties from oil and gas production on public lands and in federal waters. Portions of the royalties would be shared with those governments under formulas specified by the bill and under federal laws governing oil and gas production. Over the 2018-2027 period, CBO estimates, state and local governments in which production occurs would receive a total of about \$370 million in royalties.

The bill contains no private-sector mandates as defined in UMRA.

ESTIMATE PREPARED BY:

Federal Costs: Kathleen Gramp and Jeff LaFave
Mandates: Jon Sperl

ESTIMATE APPROVED BY:

H. Samuel Papenfuss
Deputy Assistant Director for Budget Analysis