Amendment Text

AMENDMENT NO. VITTER # 1 Calendar No._____

Purpose: To reduce U.S. dependence on foreign oil by permitting, under certain circumstances, the exploration for natural gas off the coast of certain states

IN THE SENATE OF THE UNITED STATES-110TH Cong., 1st Sess.

S. 2191

To direct the Administrator of the Environmental Protection Agency to establish a program to decrease emissions of greenhouse gases, and for other purposes

Referred to the Committee on and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT to S. 2191, as amended, intended to be proposed by Mr. Vitter (and Mr. Voinovich and Mr. Craig)

Viz:

Insert after line 16, page 303, a new Title as follows:

Title XII—EXPANSION OF ENERGY SUPPLY

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title- This Act may be cited as the Strategic Exploration Act
(b) Table of Contents- The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Determination of adjacent zones and planning areas.
Sec. 3. Leasing moratoria in the OCS.
Sec. 4. State requests to examine energy areas.
Sec. 5. Availability of certain areas for leasing.
Sec. 6. Neighboring State concurrence.
Sec. 7. Revenue sharing from moratorium areas.
Sec. 8. Revenue sharing from areas in Alaska Adjacent Zone.
Sec. 9. Repurchase of certain leases.

SEC. 2. DETERMINATION OF ADJACENT ZONES AND PLANNING AREAS.

Section 4(a)(2)(A) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(2)(A)) is amended--

(1) by designating the first, second, and third sentences as clause (i), (iii), and (iv), respectively;

(2) in clause (i) (as so designated), by striking `, and the President' and all that follows through the end of the sentence; and

(3) by inserting after clause (i) (as so designated) the following:

`(ii) The lines extending seaward and defining the Adjacent Zone of each State, and each Planning Area of the outer Continental Shelf, shall be as indicated on the maps for each outer Continental Shelf region entitled--

`(I) `Alaska OCS Region State Adjacent Zone and OCS Planning Areas';

`(II) `Pacific OCS Region State Adjacent Zones and OCS Planning Areas';

`(III) `Gulf of Mexico OCS Region State Adjacent Zones and OCS Planning Areas'; and

`(IV) `Atlantic OCS Region State Adjacent Zones and OCS Planning Areas';

all of which are dated September 2005 and on file in the Office of the Director, Minerals Management Service.'.

SEC. 3. LEASING MORATORIA IN THE OCS.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) is amended by adding at the end the following:

`(i) Leasing Within Certain Areas of the Outer Continental Shelf-

`(1) PROHIBITION AGAINST LEASING- Except as otherwise provided in this subsection and subsection (k), prior to June 30, 2012, the Secretary shall not offer for leasing gas--

`(A) any area withdrawn from disposition by leasing in the Atlantic OCS Region, the Pacific OCS Region, or the Gulf of Mexico OCS Region Eastern Planning Area, as depicted on the applicable map described in subparagraph (B), under the `Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998.

SEC. 4. STATE REQUESTS TO EXAMINE ENERGY AREAS.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) (as amended by section 4) is amended by adding at the end the following:

`(j) State Requests to Examine Energy Areas-

`(1) DEFINITIONS- In this subsection through subsection (m):

`(A) SOUTHEASTERN STATE – The term ‘Southeastern State’ means the States of Georgia, North Carolina, South Carolina and Virginia.

`(B) MORATORIUM AREA- The term `moratorium area' means--

`(i) any area withdrawn from disposition by leasing by the `Memorandum on Withdrawal of Certain Areas of the United States Outer Continental Shelf from Leasing Disposition', from 34 Weekly Comp. Pres. Doc. 1111, dated June 12, 1998; or

`(ii) any area of the outer Continental Shelf as to which Congress has denied the use of appropriated funds or other means for preleasing, leasing, or related activities.

`(2) RESOURCE ESTIMATES-

`(A) REQUESTS- At any time, the Governor or the Legislature of a Southeastern State or the Governor or the Legislature of Alaska (acting on behalf of the State) may request the Secretary to provide a current estimate of proven and potential oil and natural gas resources that may exist, and resulting State revenues (if the area were to be developed), in any moratorium area (or any part of the moratorium area the Governor or the Legislature identifies) adjacent to, or lying seaward of the coastline of, that State.

`(B) RESPONSE OF SECRETARY- Not later than 45 days after the date on which the Governor or the Legislature of a State requests an estimate under subparagraph (A), the Secretary shall provide--

`(i) a current estimate of proven and potential natural gas resources in any moratorium areas off the shore of a State;

`(ii) an estimate of potential revenues that could be shared under this Act if resources were developed and produced; and

`(iii) an explanation of the planning processes that could lead to the leasing, exploration, development, and production of the natural gas resources within the area identified.'.

SEC. 5. AVAILABILITY OF CERTAIN AREAS FOR LEASING.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) (as amended by section 6) is amended by adding at the end the following:

`(k) Availability of Certain Areas for Leasing-

`(1) PETITION-

`(A) IN GENERAL- At any time, the Governor or the Legislature of a Southeastern State may submit to the Secretary a petition requesting that the Secretary make available for leasing any portion of a moratorium area in the Adjacent Zone of the State.

`(B) CONTENTS- In a petition under subparagraph (A), a Governor or the Legislator of a Southeastern State may request that an area described in subparagraph (A) be made available for leasing under subsection (b) or (q), or both, of section 8.

`(2) ACTION BY SECRETARY- Not later than 90 days after the date of receipt of a petition under paragraph (1), the Secretary shall approve the petition unless the Secretary determines that leasing in the affected area presents a significant likelihood of incidents associated with the development of resources that would cause serious harm or damage to the marine resources of the area or of an adjacent State.

`(3) FAILURE TO ACT- If the Secretary fails to approve or deny a petition in accordance with paragraph (2), the petition shall be considered to be approved as of the date that is 90 days after the date of receipt of the petition.

`(4) TREATMENT- Notwithstanding any other provision of this section, not later than 180 days after the date on which a petition is approved, or considered to be approved, under paragraph (2) or (3), the Secretary shall--

`(A) treat the petition of the Governor or the Legislature of a Southeastern State under paragraph (1) as a proposed revision to a leasing program under this section; and

`(B) except as provided in paragraph (5), initiate a new 5-year outer Continental Shelf oil and gas leasing program to replace the outer Continental Shelf oil and gas leasing program in effect as of that date, which shall include any lease sale for any area covered by the petition.

`(5) INCLUSION IN SUBSEQUENT PLANS-

`(A) IN GENERAL- If there are less than 18 months remaining in the 5-year outer Continental Shelf oil and gas leasing program described in paragraph (4)(B), the Secretary, without consultation with any State, shall include the areas covered by the petition in lease sales under the proposed 5-year outer Continental Shelf oil and gas leasing program.

`(B) ENVIRONMENTAL ASSESSMENT- Before modifying a 5-Year outer Continental Shelf oil and gas leasing program underway for the next 5-year period, the Secretary shall complete an environmental assessment that describes any anticipated environmental effect of leasing in the area covered by the petition.

`(6) SPENDING LIMITATIONS- Any Federal spending limitation with respect to preleasing, leasing, or a related activity in an area made available for leasing under this subsection shall terminate as of the date on which the petition of the Governor relating to the area is approved, or considered to be approved, under paragraph (2) or (3).

`(7) APPLICATION- This subsection shall not apply to--

`(A) any area designated as a national marine sanctuary or a national wildlife refuge;

`(B) any area not included in the outer Continental Shelf;

`(C) the Great Lakes (as defined in section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)); or

`(D) the eastern coast of the State of Florida.

`(8) GREAT LAKES- The Great Lakes (as defined in section 118(a)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1268(a)(3)))--

`(A) shall not be considered part of the outer Continental Shelf under this Act; and

`(B) shall not be subject to production.'.

SEC. 6. NEIGHBORING STATE CONCURRENCE.

(a) Notice- The Secretary of the Interior shall provide notice to a neighboring State of any proposed lease of natural gas if the lease would be located within 20 miles of the nearest point on the coastline of the State.
(b) Objection- Not later than 30 days after receiving the notice, the Governor of the State may object to the lease sale on grounds that it presents a significant risk to environmental and economic resources of the State.
(c) Secretary Review- If the Secretary, after review of the objection and consultation with the adjacent State, concurs that the lease would present a significant risk described in subsection (b), and that the risk cannot be reasonably mitigated--

(1) the Secretary shall not include the area for lease.

(d) Nonapplicability- This section does not apply to a State covered by section 12.

SEC. 7. REVENUE SHARING FROM MORATORIUM AREAS.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) (as amended by section 7) is amended by adding at the end the following:
`(l) Revenue Sharing From Moratorium Areas-

`(1) BONUS BIDS- If the Governor or the Legislature of a Southeastern State requests the Secretary to allow leasing in a moratorium area and the Secretary allows the leasing, the State shall, without further appropriation or action, receive 37.5 percent of any bonus bid paid for leasing rights in the area.
`(2) POST LEASING REVENUES- In addition to bonus bids under paragraph (1), a State described in paragraph (1) shall receive, from leasing of the area, 37.5 percent of--

`(A) any lease rental payments;
`(B) any lease royalty payments;
`(C) any royalty proceeds from a sale of royalties taken in kind by the Secretary; and
`(D) any other revenues from a bidding system under section 8.

`(3) CONSERVATION ROYALTIES- After making distributions in accordance with paragraphs (1) and (2) and in accordance with section 31, the Secretary shall, without further appropriation or action, distribute a conservation royalty equal to 12.5 percent of Federal royalty revenues derived from an area leased under this section in an amount not to exceed $1,250,000,000 from all areas leased under this section for any year, into the following programs that distribute conservation funds to States:

`(A) The Federal aid to wildlife restoration fund established under section 3(a)(1) of the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669b(a)(1)).
`(B) The land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460l-5) to

provide financial assistance to States under section 6 of that Act (16 U.S.C. 460l-8).'.

SEC. 8. REVENUE SHARING FROM AREAS IN ALASKA ADJACENT ZONE.

Section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344) (as amended by section 9) is amended by adding at the end the following:

`(m) Revenue Sharing From Areas in Alaska Adjacent Zone - Revenues from production that occurs beginning on the date that is 5 years after the date of enactment of this subsection in an area in the Alaska Adjacent Zone shall be distributed in the same proportion and for the same uses as provided in subsection (l).'.

SEC. 9. REPURCHASE OF CERTAIN LEASES.

(a) In General- The Secretary of the Interior (referred to in this section as the `Secretary') shall repurchase and cancel any Federal lease in the outer Continental Shelf, if the Secretary finds that the lease qualifies for repurchase and cancellation under the regulations authorized by this section.

(b) Regulations-

(1) IN GENERAL- Not later than 1 year after the date of enactment of this Act, the Secretary shall publish a final regulation prescribing the conditions under which a lease referred to in subsection (a) would qualify for repurchase and cancellation, and the process to be followed regarding repurchase and cancellation, in a manner consistent with this subsection.

(2) FINDING- The Secretary shall repurchase and cancel a lease under this section on a written request by the lessee and a finding by the Secretary that--

(A) a request by the lessee for a required permit or other approval complied with applicable law (other than the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.)) and terms of the lease and the permit or other approval was denied;

(B) a Federal agency failed to act on a request by the lessee for a required permit, other approval, or administrative appeal--

(i) within a time period established by law (including regulations) for the requested action, whether advisory or mandatory; or

(ii) if no such period is established, within 180 days after receipt of the request; or

(C) a Federal agency attached a condition of approval, without agreement by the lessee, to a required permit or other approval that--

(i) was not required by Federal law (including regulations) in effect on the date of lease issuance; or

(ii) was not specifically allowed under the terms of the lease.

(3) EXHAUSTION OF REMEDIES- A lessee shall not be required to exhaust administrative remedies regarding a permit request, administrative appeal, or other required request for approval under this section.

(4) DEADLINE- The Secretary shall make a final agency decision on a request by a lessee under this section not later than 180 days after receipt of the request.

(5) COMPENSATION-

(A) AMOUNT- The amount of compensation to a lessee to repurchase and cancel a lease under this section shall be equal to the amount that a lessee would receive in a restitution case for a material breach of contract.

(B) FORM- The compensation shall be in the form of a check or electronic transfer from the Secretary of the Treasury from funds deposited into miscellaneous receipts under the authority of the Act that authorized the issuance of the lease being repurchased.

(C) DEADLINE- The failure of the Secretary to make a final agency decision on a request by a lessee under this section in accordance with paragraph (4) shall result in a percent increase in the compensation due to the lessee if the lease is ultimately repurchased.

(c) Other Rights- This section does not affect any other right the lessee may have in the absence of this section.