NABIO-43-20

RESOLUTION OF THE
NAABIK'ÍYÁTI' STANDING COMMITTEE
24th NAVAJO NATION COUNCIL -- Second Year, 2020

AN ACTION RELATING TO NAABIK'ÍYÁTI' COMMITTEE; SUPPORTING UNITED STATES SENATE BILL 3330 TITLED "FAIR RETURNS FOR PUBLIC LANDS ACT OF 2020"

WHEREAS:

A. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered the Naabik'íyáti' Committee to monitor all federal and state programs and activities. 2 N.N.C. §§ 700 (A) and 701 (A)(7).

B. The Navajo Nation has a government-to-government relationship with the federal government.

C. Senate Bill 3330, attached as **Exhibit A**, increases the royalty rate on federal mineral leases from the current 12.5% to 18.75%, and increases the minimum bid for leasing public lands from the current $2.00 per acre to $10.00 per acre. The Bill also sets a $15 per acre minimum fee for an expression of interest to lease a specified location—known as "nominating" a parcel of public land. This fee will reimburse administrative costs for processing nomination requests and deter speculators from nominating wide swaths of public lands at one time. Rental rates will increase to $3 per acre for the first five years and $5 per acre for the next five years. These increases account for inflation since the first rates were established in 1987. Additionally, reinstated leases will be subject to rental rates of $20 per acre and royalty rates at 25 percent. The bill also establishes mandatory adjustments to ensure that rental rates account for inflation and adjust at least every four years.

D. According to a press release, attached as **Exhibit B**, from Senator Tom Udall's office, Senate Bill 3330 was introduced on February 25, 2020 by U.S. Senators Tom Udall (D-N.M.), and Chuck Grassley (R-Iowa).

THEREFORE, BE IT RESOLVED:

A. The Navajo Nation hereby supports United States Senate Bill 3330 titled "Fair Returns for Public Lands Act of 2020" attached hereto as **Exhibit A.**

B. The Navajo Nation hereby authorizes the Speaker of the Navajo Nation Council, the President of the Navajo Nation, and their designees, to advocate the Navajo Nation's support of United States Senate Bill 3330.

CERTIFICATION

I, hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 24th Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 20 in Favor, and 00 Opposed, on this 16th day of October 2020.

Honorable Seth Damon, Chairman
Naabik'íyáti' Committee

10/19/2020
Date

Motion: Honorable Pernell Halona
Second: Honorable Jimmy Yellowhair

Chairman Seth Damon not voting

EXHIBIT
A

116TH CONGRESS
2D SESSION

S. 3330

To amend the Mineral Leasing Act to increase certain royalty rates, minimum bid amounts, and rental rates, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 25, 2020

Mr. UDALL (for himself and Mr. GRASSLEY) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

To amend the Mineral Leasing Act to increase certain royalty rates, minimum bid amounts, and rental rates, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Returns for Public Lands Act of 2020".

SEC. 2. INCREASED ONSHORE OIL AND GAS ROYALTY RATES.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended—

(1) by striking "12.5" each place it appears and inserting "18.75"; and

(2) by striking "12½ per centum" each place it appears and inserting "18.75 percent".

SEC. 3. INCREASED MINIMUM BID AMOUNT.

Section 17(b) of the Mineral Leasing Act (30 U.S.C. 226(b)) is amended—

(1) in paragraph (1)(B)—

(A) by striking the subparagraph designation and all that follows through the period at the end of the first sentence and inserting the following:

"(B) NATIONAL MINIMUM ACCEPTABLE BID.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (v), the national minimum acceptable bid shall be $10 per acre.";

(B) in the second sentence—

(i) by striking "Thereafter, the Secretary" and inserting the following:

"(ii) ADJUSTMENT.—The Secretary";

(ii) by striking "is necessary: (i) to enhance" and inserting the following: "is necessary—

"(I) to enhance"; and

(iii) by striking "(ii) to promote" and inserting the following:

"(II) to promote";

(C) in the third sentence, by striking "Ninety days" and inserting the following:

"(iii) NOTIFICATION.—90 days";

(D) in the fourth sentence, by striking "The proposal" and inserting the following:

"(iv) NEPA.—The proposal"; and

(E) by adding at the end the following:

"(v) EXCEPTION.—To ensure a return of fair market value, as determined by the Secretary, the Secretary may establish in a notice of competitive lease sale a minimum acceptable bid applicable to the lease sale or one or more parcels within the lease sale that is higher than the national minimum bid under clause (i)."; and

(2) in subsection (b)(2)(C), by striking "$2 per acre" and inserting "$10 per acre".

SEC. 4. INCREASED ONSHORE OIL AND GAS RENTAL RATES.

Section 17(d) of the Mineral Leasing Act (30 U.S.C. 226(d)) is amended, in the first sentence—

(1) by striking "$1.50 per acre" and inserting "$3 per acre"; and

(2) by striking "$2 per acre" and inserting "$5 per acre".

SEC. 5. FEE FOR EXPRESSION OF INTEREST.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) is amended by adding at the end the following:

"(q) FEE FOR EXPRESSION OF INTEREST.—

"(1) IN GENERAL.—The Secretary shall charge any person who submits, in accordance with procedures established by the Secretary to carry out this subsection, an expression of interest in leasing land available for disposition under this section for exploration for, and development of, oil or gas a fee, in an amount determined by the Secretary under paragraph (2).

"(2) AMOUNT.—The fee authorized under paragraph (1) shall be established by the Secretary in an amount that is determined by the Secretary to be appropriate to cover the aggregate cost of processing an expression of interest under this subsection, but not less than $15 per acre of the area covered by the applicable expression of interest.".

SEC. 6. ADJUSTMENT.

Section 17 of the Mineral Leasing Act (30 U.S.C. 226) (as amended by section 5) is amended by adding at the end the following:

"(r) ADJUSTMENT TO CERTAIN FEES.—The Secretary shall—

"(1) not later than 4 years after the date of enactment of the Fair Returns for Public Lands Act of 2020, and at least once every 4 years thereafter, promulgate regulations adjusting each of the per-acre dollar amounts of fees imposed under subsections (b), (d), and (q) and subsections (e) and (f) of section 31 to reflect the change in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics; and

"(2) as the Secretary determines to be necessary to enhance financial returns to the United States or to promote more efficient management of oil and gas resources on Federal land, promulgate regulations adjusting any of the applicable per-acre dollar amounts of fees imposed under subsection (b), (d), or (q) or subsection (e) or (f) of section 31, as applicable.".

SEC. 7. REINSTATEMENT OF COMPETITIVE LEASES.

Section 31 of the Mineral Leasing Act (30 U.S.C. 188) is amended—

(1) in subsection (e)—

(A) by striking paragraph (2) and inserting the following:

"(2) payment of back rentals and the inclusion in a reinstated lease of a requirement for future rentals at a rate of not less than $20 per acre per year;";

(B) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking the subparagraph designation;

(II) by striking "issued pursuant to the provisions of section 17(b) of this Act";

(III) by striking "16⅔" and inserting "25"; and

(IV) by inserting "and" after the semicolon; and

(ii) by striking subparagraph (B); and

(C) in the second sentence of the undesignated matter following paragraph (4), by striking ", but not to exceed $500"; and

(2) in subsection (f)—

(A) in paragraph (3), by striking "$5" and inserting "$10"; and

(B) in paragraph (4), by striking "12½" and inserting "25".

SEC. 8. FISCAL REFORM STUDY AND REPORT.

(a) IN GENERAL.—The Comptroller General of the United States shall offer to enter into an arrangement with the National Academy of Sciences under which the National Academy of Sciences, in cooperation with the Comptroller General of the United States, shall conduct a study evaluating the efficiency and effectiveness of the implementation of this Act and the amendments made by this Act.

(b) CONSIDERATIONS.—The study conducted under subsection (a) shall include consideration of—

(1) the systems of the Department of the Interior for collecting and auditing payments under this Act and the amendments made by this Act;

(2) the performance of the stewardship of the Department of the Interior and the disposition of receipts by the Department of the Interior in carrying out this Act and the amendments made by this Act; and

(3) the performance of the valuation approach carried out under this Act and the amendments made by this Act, including a review of whether other approaches could more fully capture foregone

revenue of leasing in low-market conditions in light of other possible economic uses at different points in the future.

(c) REPORT.—If the Comptroller General of the United States enters into an arrangement with the National Academy of Sciences under subsection (a), not earlier than 3, but not later than 5, years after the date of enactment of this Act, the Comptroller General shall submit to Congress a report that describes the results of the study conducted under that subsection.

○

EXHIBIT

B

date information on the novel coronavirus (COVID-19) in New Mexico and preventive measures to take, please click here to visit the New Mexico Department of Health's website.

FEBRUARY 25, 2020

Udall, Grassley Introduce Bill to Ensure Taxpayers Get Fair Share for Public Lands Leasing

On the 100-year anniversary of the Mineral Leasing Act, senators introduce the Fair Returns for Public Lands Act of 2020 to modernize the country's antiquated public lands royalty system, increase return to federal and state taxpayers by $200 million each in the next decade

WASHINGTON—Today, **U.S. Senators Tom Udall (D-N.M.)** and **Chuck Grassley (R-Iowa)** introduced the bipartisan *Fair Returns for Public Lands Act of 2020* to update the nation's antiquated public lands royalty system and ensure that taxpayers get fair returns on leases of public lands for oil and gas production. The legislation modernizes the public lands leasing system since royalty rates were set a century ago in 1920. The legislation increases both the share of royalties that taxpayers receive from public lands leasing as well as rental rates. The new rate reflects the current fair market value, while the bill also establishes minimum bidding standards to lease public lands. Similar measures implemented in Texas and Colorado did not affect the states' overall production.

"Public lands and their natural resources belong to the American people, and it's only fair to ask those who profit from them to return a fair share to taxpayers." **Udall said.** "Oil and gas companies are paying significantly higher royalty rates offshore and on many state and private lands, and there is no need to give federal onshore producers a sweetheart deal at a time of record U.S. production along with rising climate change and habitat impacts. After one hundred years of the Mineral Leasing Act, it is high time for real reform that gives state and federal taxpayers their fair share of royalties that fund important education, infrastructure, public health and environmental needs in communities across the country and particularly in the West. I am proud to introduce this commonsense, bipartisan bill with Senator Grassley to ensure that New Mexicans and the American people get a fair deal when they let for-profit companies operate on their public land."

"Low royalty rates on oil produced on federal lands has deprived the federal treasury of billions of dollars. Today marks 100 years since Congress passed the Mineral Leasing Act of 1920. Since then, the royalty rate has not been addressed. This is just one example of Big Oil saying it wants a free market, but lobbying for taxpayer-funded corporate welfare. It's time for my colleagues in Congress to end this oil company loophole, end the corporate welfare and bring oil leasing into the 21st century," **Grassley said.**

According to studies by the Congressional Budget Office (CBO) and Government Accountability Office (GAO), modernizing public lands royalty rates for oil and gas could increase federal revenues by as much as $200 million over the next decade with little to no impact on overall production. The bill would increase the royalty rate from the 12.5 percent rate established by the Mineral Leasing Act of 1920 to 18.75 percent. Many states have already updated royalty rates for public lands leasing to as much as 25 percent, double the current federal rate.

The federal royalty adjustment will also benefit taxpayers on the state level. Taxpayers for Common Sense calculated that New Mexico's state government has lost an estimated $2.5 billion in revenue over the last decade because of outdated federal rental rates, below-market royalty rates, and waste from oil and gas wells, with federal taxpayers losing an equivalent amount as well.

"Thank you to Senators Udall and Grassley for their leadership addressing century old policies that have cost taxpayers billions of dollars," **said Steve Ellis, president of Taxpayers for Common Sense.** "States charge higher rates to drill on state lands and the federal government charges higher rates to drill offshore. It's time our nation's archaic policies caught up to the real world and stop short-changing taxpayers."

"Oil and gas companies should not be allowed to lease New Mexico's breathtaking public lands, which provide habitat for critical wildlife, for pennies on the dollar. Senator Udall's new bipartisan legislation will put an end to this practice by updating the federal onshore oil and gas leasing system to ensure that our state's long heritage of fishing, hunting, and outdoor recreation will remain for generations to come," said Jesse Deubel, Executive Director of the New Mexico Wildlife Federation.

The Fair Returns for Public Lands Act of 2020 would modernize public lands leasing policy by:

- **Adjusting Royalties**—The bill will increase royalty rates on new or reinstated leases to 18.75 percent over the current royalty rate of 12.5 percent established in 1920 under the Mineral Leasing Act. CBO estimates that an increase to 18.75% would generate $200 million in net federal income over the next 10 years, with an equivalent amount being dispersed to the states based on current revenue-sharing laws. An increase to 18.75 percent will put onshore oil and gas royalty rates on par with offshore rates and on par with many state royalty rates—a strategy that the CBO concluded would have negligible impacts on oil and gas development.

- **Minimum Bids**—The legislation will increase minimum bids for leasing public lands to $10 per acre. Current minimum bids are only $2 per acre. Higher minimum bids will encourage oil and gas developers to more selectively purchase leases and clarify the companies' intentions of pursuing actual exploration and development. The legislation will also set a

$15 per acre minimum fee for an expression of interest to lease a specified location—known as "nominating" a parcel of public land. This fee will reimburse administrative costs for processing nomination requests and deter speculators from nominating wide swaths of public lands at one time.

- **Rental Rates**: Rental rates will increase to $3 per acre for the first five years and $5 per acre for the next five years. These increases account for inflation since the first rates were established in 1987. Additionally, reinstated leases will be subject to rental rates of $20 per acre and royalty rates at 25 percent. The bill also establishes mandatory adjustments to ensure that rental rates account for inflation and adjust at least every four years.

The full bill text can be found HERE. A background summary can be found HERE. A section-by-section summary can be found HERE and statements of support including a list of supporting organizations can be found HERE.

NAVAJO NATION

711 | 10/16/2020

Naabikiyati Committee Special Meeting | 03:02:30 PM

Amd# to Amd#	Legislation 0252-20: Supporting United States Senate Bill 3330 Titled "Fair Returns for Public Lands Act of 2020"	PASSED
MOT Halona, P		
SEC Yellowhair		

Yeas : 20 **Nays : 0** **Excused : 0** **Not Voting : 3**

Yea : 20

Begay, E	Daniels	Smith	Tso, O
Begay, K	Henio, J	Stewart, W	Walker, T
Begay, P	James, V	Tso, C	Wauneka, E
Charles-Newton	Nez, R	Tso, D	Yazzie
Crotty	Slater, C	Tso, E	Yellowhair

Nay : 0

Excused : 0

Not Voting : 3

Freeland, M	Halona, P	Brown

Presiding Speaker: Damon