

114TH CONGRESS  
1ST SESSION

# S. 2238

To prohibit drilling in the outer Continental Shelf, to prohibit coal leases on Federal land, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 4, 2015

Mr. MERKLEY (for himself, Mr. CARDIN, Mr. SANDERS, Mrs. BOXER, Mrs. GILLIBRAND, Mr. LEAHY, and Ms. WARREN) 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 prohibit drilling in the outer Continental Shelf, to prohibit coal leases on 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 “Keep It in the Ground  
5       Act of 2015”.

6       **SEC. 2. FINDINGS; STATEMENT OF POLICY.**

7       (a) FINDINGS.—Congress finds that—

8               (1) from 1880 through 2014, global tempera-  
9       tures have increased by about 0.9 degrees Celsius;

1           (2) the vast majority of global warming that  
2           has occurred over the past 50 years was due to  
3           human activities, primarily the burning of fossil  
4           fuels;

5           (3) emissions of greenhouse gases and atmos-  
6           pheric concentrations of greenhouse gases continue  
7           to rise, which results in a continued warming trend;

8           (4) global warming already has a significant im-  
9           pact on the economy, including the farming, fishing,  
10          forestry, and recreation industries;

11          (5) the significant impacts of global warming  
12          that are already occurring will be amplified by a  
13          global temperature increase of 2 degrees Celsius,  
14          which will lead to increased droughts, rising seas,  
15          mass extinctions, heat waves, desertification,  
16          wildfires, acidifying oceans, significant economic dis-  
17          ruption, and security threats;

18          (6) to avoid exceeding 2 degrees Celsius warm-  
19          ing, at least 80 percent of carbon from proven fossil  
20          fuel reserves must be kept in the ground;

21          (7) the potential emissions resulting from ex-  
22          tracting and burning all fossil fuels on Federal land  
23          and waters amounts to a significant percentage of  
24          the greenhouse gas emissions limit; and

1           (8) ending new leases for fossil fuels will pre-  
2 vent the release of 90 percent of the potential emis-  
3 sions from Federal fossil fuels.

4           (b) STATEMENT OF POLICY.—It is the policy of the  
5 United States that—

6           (1) Federal land and waters should be managed  
7 for the benefit of the people of the United States—

8                 (A) to avoid the most dangerous impacts  
9 of climate change; and

10                (B) to promote a rapid transition to a  
11 clean energy economy by keeping fossil fuels in  
12 the ground; and

13           (2) the Federal Government should pursue  
14 management of Federal land and waters for the ben-  
15 efit of the people of the United States by not issuing  
16 any new lease or renewing any nonproducing lease  
17 for coal, oil, or natural gas in any Federal land or  
18 waters.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21           (1) EXTEND.—The term “extend” means the  
22 act of extending a lease under the Mineral Leasing  
23 Act (30 U.S.C. 181 et seq.) beyond the existing term  
24 of the lease.

1           (2) NONPRODUCING LEASE.—The term “non-  
2           producing lease” means any lease under which no  
3           coal, oil, gas, oil shale, tar sands, or other fossil fuel  
4           approved in the lease contract has been extracted for  
5           commercial use.

6           (3) REINSTATE.—The term “reinstate” means  
7           the act of reinstating a lease under the Mineral  
8           Leasing Act (30 U.S.C. 181 et seq.) after a violation  
9           of any term of the lease that resulted in suspension  
10          or cancellation of the lease.

11          (4) RENEW.—The term “renew” means the act  
12          of renewing a lease under the Mineral Leasing Act  
13          (30 U.S.C. 181 et seq.) for a term that is not longer  
14          than the maximum renewal term for a lease under  
15          that Act.

16          (5) SECRETARY.—The term “Secretary” means  
17          the Secretary of the Interior.

18 **SEC. 4. STOPPING NEW OFFSHORE OIL AND GAS LEASES IN**  
19                                   **THE GULF OF MEXICO AND THE PACIFIC, AT-**  
20                                   **LANTIC, AND ARCTIC OCEANS.**

21          (a) PROHIBITION ON NEW OIL AND GAS LEASING ON  
22          THE OUTER CONTINENTAL SHELF.—Section 8 of the  
23          Outer Continental Shelf Lands Act (43 U.S.C. 1337) is  
24          amended by adding at the end the following:

1       “(q) PROHIBITION ON NEW OIL AND GAS LEASING  
2 ON THE OUTER CONTINENTAL SHELF.—

3               “(1) DEFINITIONS.—In this subsection:

4                       “(A) EXTEND.—

5                               “(i) IN GENERAL.—The term ‘extend’  
6 means the act of extending a lease under  
7 this Act beyond the existing term of the  
8 lease.

9                               “(ii) INCLUSION.—The term ‘extend’  
10 includes the act of extending a lease fol-  
11 lowing a suspension under this Act.

12                       “(B) NONPRODUCING LEASE.—The term  
13 ‘nonproducing lease’ means any lease under  
14 which any coal, oil, gas, oil shale, tar sands, or  
15 other fossil fuel approved in the lease contract  
16 has been extracted.

17                       “(C) REINSTATE.—The term ‘reinstate’  
18 means the act of reinstating a lease under this  
19 Act after a violation of any term of the lease  
20 that resulted in suspension or cancellation of  
21 the lease.

22                       “(D) RENEW.—The term ‘renew’ means  
23 the act of renewing a lease under this Act for  
24 a term that is not longer than the maximum re-  
25 newal term for a lease under this Act.

1           “(2) PROHIBITION.—Notwithstanding any other  
2           provision of this Act or any other law, the Secretary  
3           of the Interior shall not issue a new lease, renew, re-  
4           instate, or extend any nonproducing lease, or issue  
5           any other authorization for the exploration, develop-  
6           ment, or production of oil, natural gas, or any other  
7           fossil fuel in—

8                     “(A) the Arctic Ocean;

9                     “(B) the Atlantic Ocean, including the  
10           Straits of Florida;

11                    “(C) the Pacific Ocean;

12                    “(D) the Gulf of Mexico; or

13                    “(E) any other area of the outer Conti-  
14           nental Shelf.”.

15           (b) CANCELLATION OF EXISTING LEASES.—Notwith-  
16           standing any other provision of law, not later than 60 days  
17           after the date of enactment of this Act, the Secretary shall  
18           cancel any lease issued under section 8 of the Outer Conti-  
19           nental Shelf Lands Act (43 U.S.C. 1337) on or before the  
20           date of enactment of this Act in the Beaufort Sea, Cook  
21           Inlet, or Chukchi Sea.

1 **SEC. 5. STOPPING NEW COAL, OIL, TAR SANDS, FRACKED**  
2 **GAS, AND OIL SHALE LEASES ON FEDERAL**  
3 **LAND.**

4 Notwithstanding any other provision of law, the Sec-  
5 retary shall not conduct any lease sale, enter into any new  
6 lease, reoffer for lease any land covered by an expiring  
7 lease, or renew, reinstate, or extend any nonproducing  
8 lease in existence on or before the date of enactment of  
9 this Act for onshore fossil fuels, including coal, oil, tar  
10 sands, oil shale, and gas on land subject to the Mineral  
11 Leasing Act (30 U.S.C. 181 et seq.).

12 **SEC. 6. EXCEPTIONS.**

13 (a) NATIONAL SECURITY.—

14 (1) IN GENERAL.—Subject to paragraph (2),  
15 the Secretary may exempt any provision of this Act  
16 or an amendment made by this Act for a lease if the  
17 Secretary determines, on the record and based on  
18 available information, that—

19 (A) there is an imminent national security  
20 threat; and

21 (B) issuing an exemption for the lease  
22 would significantly reduce the imminent na-  
23 tional security threat.

24 (2) DURATION.—An exemption under para-  
25 graph (1) shall continue only for as long as the im-  
26 minent national security threat persists.

1 (b) BREACH OF CONTRACT.—

2 (1) IN GENERAL.—Subject to paragraph (2),  
3 the Secretary may allow a nonproducing lease to be  
4 renewed or extended if—

5 (A) the nonproducing lease contract was  
6 signed before the date of enactment of this Act;  
7 and

8 (B) the Secretary determines that giving  
9 effect to any provision of this Act or an amend-  
10 ment made by this Act is likely to lead to a  
11 court with jurisdiction ruling that there was a  
12 material breach of the nonproducing lease con-  
13 tract.

14 (2) DURATION.—A renewal or extension under  
15 paragraph (1) shall be for the shortest time prac-  
16 ticable, consistent with the terms of the nonpro-  
17 ducing lease contract.

18 **SEC. 7. SEVERABILITY.**

19 If any provision of this Act, an amendment made by  
20 this Act, or the application of such a provision or amend-  
21 ment to any person or circumstance is held to be invalid  
22 or unconstitutional, the remainder of this Act, the amend-  
23 ments made by this Act, and the application of those pro-



- 1 visions and amendments to any person or circumstance
- 2 shall not be affected.

