To establish in the Department of the Interior an Under Secretary for Energy, Lands, and Minerals and a Bureau of Ocean Energy, an Ocean Energy Safety Service, and an Office of Natural Resources Revenue, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 14, 2011

Mr. HASTINGS of Washington introduced the following bill; which was referred to the Committee on Natural Resources

JULY 17, 2012

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on November 14, 2011]
A BILL

To establish in the Department of the Interior an Under Secretary for Energy, Lands, and Minerals and a Bureau of Ocean Energy, an Ocean Energy Safety Service, and an Office of Natural Resources Revenue, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF UNDER SECRETARY FOR

ENERGY, LANDS, AND MINERALS AND ASSIST-
ANT SECRETARY OF OCEAN ENERGY AND

SAFETY.

There shall be in the Department of the Interior—

(1) an Under Secretary for Energy, Lands, and

Minerals, who shall—

(A) be appointed by the President, by and

with the advise and consent of the Senate;

(B) report to the Secretary of the Interior,

or to the Deputy Secretary of the Interior if or-
dered by the Secretary;

(C) be paid at the rate payable for level III

of the Executive Schedule; and

(D) be responsible for—

(i) the safe and responsible develop-

ment of our energy and mineral resources

on Federal lands in appropriate accordance

with United States energy demands, includ-
ing administration of the Office of Surface

Mining and the Bureau of Land Manage-
ment as separate, independent agencies of

the Department under the Assistant Sec-
Secretary of Land and Minerals Management; and

(ii) ensuring multiple-use missions of the Department of the Interior that promote the safe and sustained development of energy and minerals resources on public lands (as that term is defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.));

(2) an Assistant Secretary of Ocean Energy and Safety, who shall—

(A) be appointed by the President, by and with the advise and consent of the Senate;

(B) report to the Under Secretary for Energy, Lands, and Minerals;

(C) be paid at the rate payable for level IV of the Executive Schedule; and

(D) be responsible for ensuring safe and efficient development of energy and minerals on the Outer Continental Shelf of the United States; and

(3) an Assistant Secretary of Land and Minerals Management, who shall—

(A) be appointed by the President, by and with the advise and consent of the Senate;
(B) report to the Under Secretary for Energy, Lands, and Minerals;

(C) be paid at the rate payable for level IV of the Executive Schedule; and

(D) be responsible for ensuring safe and efficient development of energy and minerals on public lands and other Federal onshore lands under the jurisdiction of the Department of the Interior, including implementation of the Mineral Leasing Act (30 U.S.C. 181 et seq.) and the Surface Mining Control and Reclamation Act (30 U.S.C. 1201 et seq.) and administration of the Office of Surface Mining.

SEC. 2. BUREAU OF OCEAN ENERGY.

(a) Establishment.—There is established in the Department of the Interior a Bureau of Ocean Energy (referred to in this section as the “Bureau”), which shall—

(1) be headed by a Director of Ocean Energy (referred to in this section as the “Director”); and

(2) be administered under the direction of the Assistant Secretary of Ocean Energy and Safety.

(b) Director.—

(1) Appointment.—The Director shall be appointed by the Secretary of the Interior.
(2) **COMPENSATION.**—The Director shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) **DUTIES.**—

(1) **IN GENERAL.**—The Secretary of the Interior shall carry out through the Bureau all functions, powers, and duties vested in the Secretary relating to the administration of a comprehensive program of offshore mineral and renewable energy resources management.

(2) **SPECIFIC AUTHORITIES.**—The Director shall promulgate and implement regulations—

(A) for the proper issuance of leases for the exploration, development, and production of non-renewable and renewable energy and mineral resources on the Outer Continental Shelf;

(B) relating to resource identification, access, evaluation, and utilization;

(C) for development of leasing plans, lease sales, and issuance of leases for such resources;

(D) regarding issuance of environmental impact statements related to leasing and post leasing activities including exploration, development, and production, and the use of third party
contracting for necessary environmental analysis
for the development of such resources; and

(E) for the processing of exploration plans
and development plans.

(3) LIMITATION.—The Secretary shall not carry
out through the Bureau any function, power, or duty
that is—

(A) required by section 3 to be carried out
through the Ocean Energy Safety Service; or

(B) required by section 4 to be carried out
through the Office of Natural Resources Revenue.

(d) RESPONSIBILITIES OF LAND MANAGEMENT AGEN-
CIES.—Nothing in this section shall affect the authorities
of the Bureau of Land Management under the Federal Land
Policy and Management Act of 1976 (43 U.S.C. 1701 et
seq.) or of the Forest Service under the National Forest

SEC. 3. OCEAN ENERGY SAFETY SERVICE.

(a) ESTABLISHMENT.—There is established in the De-
partment of the Interior an Ocean Energy Safety Service
(referred to in this section as the “Service”), which shall—

(1) be headed by a Director of Energy Safety (re-
ferred to in this section as the “Director”); and

(2) be administered under the direction of the
Assistant Secretary of Ocean Energy and Safety.
(b) **DIRECTOR.**—

(1) **APPOINTMENT.**—The Director shall be appointed by the Secretary of the Interior.

(2) **COMPENSATION.**—The Director shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) **DUTIES.**—

(1) **IN GENERAL.**—The Secretary of the Interior shall carry out through the Service all functions, powers, and duties vested in the Secretary relating to the administration of safety and environmental enforcement activities related to offshore mineral and renewable energy resources on the Outer Continental Shelf pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) including the authority to develop, promulgate, and enforce regulations to ensure the safe and sound exploration, development, and production of mineral and renewable energy resources on the Outer Continental Shelf in a timely fashion.

(2) **SPECIFIC AUTHORITIES.**—The Director shall be responsible for all safety activities related to exploration and development of renewable and mineral resources on the Outer Continental Shelf, including—
(A) exploration, development, production, and ongoing inspections of infrastructure;

(B) the suspending or prohibiting, on a temporary basis, any operation or activity, including production under leases held on the Outer Continental Shelf, in accordance with section 5(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(1));

(C) cancelling any lease, permit, or right-of-way on the Outer Continental Shelf, in accordance with section 5(a)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1334(a)(2));

(D) compelling compliance with applicable Federal laws and regulations relating to worker safety and other matters;

(E) requiring comprehensive safety and environmental management programs for persons engaged in activities connected with the exploration, development, and production of mineral or renewable energy resources;

(F) developing and implementing regulations for Federal employees to carry out any inspection or investigation to ascertain compliance with applicable regulations, including health, safety, or environmental regulations;
(G) implementing the Offshore Technology Research and Risk Assessment Program under section 21 of the Outer Continental Shelf Lands Act (43 U.S.C. 1347);

(H) summoning witnesses and directing the production of evidence;

(I) levying fines and penalties and disqualifying operators;

(J) carrying out any safety, response, and removal preparedness functions; and

(K) the processing of permits.

(d) EMPLOYEES.—

(1) IN GENERAL.—The Secretary shall ensure that the inspection force of the Bureau consists of qualified, trained employees who meet qualification requirements and adhere to the highest professional and ethical standards.

(2) QUALIFICATIONS.—The qualification requirements referred to in paragraph (1)—

(A) shall be determined by the Secretary, subject to subparagraph (B); and

(B) shall include—

(i) three years of practical experience in oil and gas exploration, development, or production; or
(ii) a degree in an appropriate field of engineering from an accredited institution of higher learning.

(3) ASSIGNMENT.—In assigning oil and gas inspectors to the inspection and investigation of individual operations, the Secretary shall give due consideration to the extent possible to their previous experience in the particular type of oil and gas operation in which such inspections are to be made.

(4) BACKGROUND CHECKS.—The Director shall require that an individual to be hired as an inspection officer undergo an employment investigation (including a criminal history record check).

(5) LANGUAGE REQUIREMENTS.—Individuals hired as inspectors must be able to read, speak, and write English well enough to—

(A) carry out written and oral instructions regarding the proper performance of inspection duties; and

(B) write inspection reports and statements and log entries in the English language.

(6) ANNUAL PROFICIENCY REVIEW.—

(A) ANNUAL PROFICIENCY REVIEW.—The Director shall provide that an annual evaluation
of each individual assigned inspection duties is conducted and documented.

(B) **CONTINUATION OF EMPLOYMENT.**—An individual employed as an inspector may not continue to be employed in that capacity unless the evaluation demonstrates that the individual—

(i) continues to meet all qualifications and standards;

(ii) has a satisfactory record of performance and attention to duty based on the standards and requirements in the inspection program; and

(iii) demonstrates the current knowledge and skills necessary to courteously, vigilantly, and effectively perform Inspection functions.

(7) **LIMITATION ON RIGHT TO STRIKE.**—Any individual that conducts permitting or inspections under this section may not participate in a strike, or assert the right to strike.

(8) **PERSONNEL AUTHORITY.**—Notwithstanding any other provision of law, the Director may employ, appoint, discipline and terminate for cause, and fix the compensation, terms, and conditions of employ-
ment of Federal service for individuals as the employees of the Service in order to restore and maintain the trust of the people of the United States in the accountability of the management of our Nation’s energy safety program.

(9) **TRAINING ACADEMY.**—

(A) In General.—The Secretary shall establish and maintain a National Offshore Energy Health and Safety Academy (referred to in this paragraph as the “Academy”) as an agency of the Ocean Energy Safety Service.

(B) Functions of Academy.—The Secretary, through the Academy, shall be responsible for—

(i) the initial and continued training of both newly hired and experienced offshore oil and gas inspectors in all aspects of health, safety, environmental, and operational inspections;

(ii) the training of technical support personnel of the Bureau;

(iii) any other training programs for offshore oil and gas inspectors, Bureau personnel, Department personnel, or other persons as the Secretary shall designate; and
anticipate the successful comple-
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tion of training programs for newly
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hired and experienced offshore oil and gas
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inspectors.
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(C) COOPERATIVE AGREEMENTS.—
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(i) IN GENERAL.—In performing func-
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tions under this paragraph, and subject to
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clause (ii), the Secretary may enter into co-
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operative educational and training agree-
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ments with educational institutions, related
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Federal academies, other Federal agencies,
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State governments, safety training firms,
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and oil and gas operators and related in-
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dustries.
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(ii) TRAINING REQUIREMENT.—Such
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training shall be conducted by the Academy
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in accordance with curriculum needs and
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assignment of instructional personnel estab-
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lished by the Secretary.
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(10) USE OF DEPARTMENT PERSONNEL.—In per-
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forming functions under this subsection, the Secretary
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shall use, to the extent practicable, the facilities and
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personnel of the Department of the Interior. The Sec-
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retary may appoint or assign to the Academy such of-
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ficers and employees as the Secretary considers nec-
necessary for the performance of the duties and functions of the Academy.

(11) ADDITIONAL TRAINING PROGRAMS.—

(A) IN GENERAL.—The Secretary shall work with appropriate educational institutions, operators, and representatives of oil and gas workers to develop and maintain adequate programs with educational institutions and oil and gas operators that are designed—

(i) to enable persons to qualify for positions in the administration of this Act; and

(ii) to provide for the continuing education of inspectors or other appropriate Department of the Interior personnel.

(B) FINANCIAL AND TECHNICAL ASSISTANCE.—The Secretary may provide financial and technical assistance to educational institutions in carrying out this paragraph.

(c) LIMITATION.—The Secretary shall not carry out through the Service any function, power, or duty that is—

(1) required by section 2 to be carried out through Bureau of Ocean Energy; or

(2) required by section 4 to be carried out through the Office of Natural Resources Revenue.
SEC. 4. OFFICE OF NATURAL RESOURCES REVENUE.

(a) Establishment.—There is established in the Department of the Interior an Office of Natural Resources Revenue (referred to in this section as the “Office”) to be headed by a Director of Natural Resources Revenue (referred to in this section as the “Director”).

(b) Appointment and Compensation.—

(1) In general.—The Director shall be appointed by the Secretary of the Interior.

(2) Compensation.—The Director shall be compensated at the rate provided for Level V of the Executive Schedule under section 5316 of title 5, United States Code.

(c) Duties.—

(1) In general.—The Secretary of the Interior shall carry out, through the Office, all functions, powers, and duties vested in the Secretary and relating to the administration of offshore royalty and revenue management functions.

(2) Specific Authorities.—The Secretary shall carry out, through the Office, all functions, powers, and duties previously assigned to the Minerals Management Service (including the authority to develop, promulgate, and enforce regulations) regarding offshore royalty and revenue collection; royalty and revenue distribution; auditing and compliance; inves-
tigation and enforcement of royalty and revenue regulations; and asset management for onshore and offshore activities.

(d) **LIMITATION.**—The Secretary shall not carry out through the Office any function, power, or duty that is—

(1) required by section 2 to be carried out through Bureau of Ocean Energy; or

(2) required by section 3 to be carried out through the Ocean Energy Safety Service.

**SEC. 5. ETHICS AND DRUG TESTING.**

(a) **CERTIFICATION.**—The Secretary of the Interior shall certify annually that all Department of the Interior officers and employees having regular, direct contact with lessees, contractors, concessionaires, and other businesses interested before the Government as a function of their official duties, or conducting investigations, issuing permits, or responsible for oversight of energy programs, are in full compliance with all Federal employee ethics laws and regulations under the Ethics in Government Act of 1978 (5 U.S.C. App.) and part 2635 of title 5, Code of Federal Regulations, and all guidance issued under subsection (c).

(b) **DRUG TESTING.**—The Secretary shall conduct a random drug testing program of all Department of the Interior personnel referred to in subsection (a).
(c) GUIDANCE.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue supplementary ethics and drug testing guidance for the employees for which certification is required under subsection (a). The Secretary shall update the supplementary ethics guidance not less than once every 3 years thereafter.

SEC. 6. ABOLISHMENT OF MINERALS MANAGEMENT SERVICE.

(a) ABOLISHMENT.—The Minerals Management Service is abolished.

(b) COMPLETED ADMINISTRATIVE ACTIONS.—

(1) IN GENERAL.—Completed administrative actions of the Minerals Management Service shall not be affected by the enactment of this Act, but shall continue in effect according to their terms until amended, modified, superseded, terminated, set aside, or revoked in accordance with law by an officer of the United States or a court of competent jurisdiction, or by operation of law.

(2) COMPLETED ADMINISTRATIVE ACTION DEFINED.—For purposes of paragraph (1), the term “completed administrative action” includes orders, determinations, memoranda of understanding, memoranda of agreements, rules, regulations, personnel ac-
itions, permits, agreements, grants, contracts, certificates, licenses, registrations, and privileges.

(c) PENDING PROCEEDINGS.—Subject to the authority of the Secretary of the Interior and the officers of the Department of the Interior under this Act—

(1) pending proceedings in the Minerals Management Service, including notices of proposed rule-making, and applications for licenses, permits, certificates, grants, and financial assistance, shall continue, notwithstanding the enactment of this Act or the vesting of functions of the Service in another agency, unless discontinued or modified under the same terms and conditions and to the same extent that such discontinuance or modification could have occurred if this Act had not been enacted; and

(2) orders issued in such proceedings, and appeals therefrom, and payments made pursuant to such orders, shall issue in the same manner and on the same terms as if this Act had not been enacted, and any such orders shall continue in effect until amended, modified, superseded, terminated, set aside, or revoked by an officer of the United States or a court of competent jurisdiction, or by operation of law.
(d) Pending Civil Actions.—Subject to the authority of the Secretary of the Interior or any officer of the Department of the Interior under this Act, pending civil actions shall continue notwithstanding the enactment of this Act, and in such civil actions, proceedings shall be had, appeals taken, and judgments rendered and enforced in the same manner and with the same effect as if such enactment had not occurred.

(e) References.—References relating to the Minerals Management Service in statutes, Executive orders, rules, regulations, directives, or delegations of authority that precede the effective date of this Act are deemed to refer, as appropriate, to the Department, to its officers, employees, or agents, or to its corresponding organizational units or functions. Statutory reporting requirements that applied in relation to the Minerals Management Service immediately before the effective date of this Act shall continue to apply.

SEC. 7. CONFORMING AMENDMENTS TO EXECUTIVE SCHEDULE PAY RATES.

(a) Under Secretary for Energy, Lands, and Minerals.—Section 5314 of title 5, United States Code, is amended by inserting after the item relating to “Under Secretaries of the Treasury (3)” the following:

“Under Secretary for Energy, Lands, and Minerals, Department of the Interior.”.
(b) ASSISTANT SECRETARIES.—Section 5315 of title 5, United States Code, is amended by striking “Assistant Secretaries of the Interior (6).” and inserting the following:

“Assistant Secretaries, Department of the Interior (7).”.

(c) DIRECTORS.—Section 5316 of title 5, United States Code, is amended by striking “Director, Bureau of Mines, Department of the Interior.” and inserting the following new items:

“Director, Bureau of Ocean Energy, Department of the Interior.

“Director, Ocean Energy Safety Service, Department of the Interior.

“Director, Office of Natural Resources Revenue, Department of the Interior.”.

SEC. 8. OUTER CONTINENTAL SHELF ENERGY SAFETY ADVISORY BOARD.

(a) ESTABLISHMENT.—The Secretary of the Interior shall establish, under the Federal Advisory Committee Act, an Outer Continental Shelf Energy Safety Advisory Board (referred to in this section as the “Board”)—

(1) to provide the Secretary and the Directors established by this Act with independent scientific and technical advice on safe, responsible, and timely min-
eral and renewable energy exploration, development, and production activities; and

(2) to review operations of the National Offshore Energy Health and Safety Academy established under section 3(d), including submitting to the Secretary recommendations of curriculum to ensure training scientific and technical advancements.

(b) Membership.—

(1) Size.—The Board shall consist of not more than 11 members, who—

(A) shall be appointed by the Secretary based on their expertise in oil and gas drilling, well design, operations, well containment and oil spill response; and

(B) must have significant scientific, engineering, management, and other credentials and a history of working in the field related to safe energy exploration, development, and production activities.

(2) Consultation and Nominations.—The Secretary shall consult with the National Academy of Sciences and the National Academy of Engineering to identify potential candidates for the Board and shall take nominations from the public.
(3) **TERM.**—The Secretary shall appoint Board members to staggered terms of not more than 4 years, and shall not appoint a member for more than 2 consecutive terms.

(4) **BALANCE.**—In appointing members to the Board, the Secretary shall ensure a balanced representation of industry and research interests.

(c) **CHAIR.**—The Secretary shall appoint the Chair for the Board from among its members.

(d) **MEETINGS.**—The Board shall meet not less than 3 times per year and shall host, at least once per year, a public forum to review and assess the overall energy safety performance of Outer Continental Shelf mineral and renewable energy resource activities.

(e) **OFFSHORE DRILLING SAFETY ASSESSMENTS AND RECOMMENDATIONS.**—As part of its duties under this section, the Board shall, by not later than 180 days after the date of enactment of this section and every 5 years thereafter, submit to the Secretary a report that—

(1) assesses offshore oil and gas well control technologies, practices, voluntary standards, and regulations in the United States and elsewhere; and

(2) as appropriate, recommends modifications to the regulations issued under this Act to ensure adequate protection of safety and the environment, in-
including recommendations on how to reduce regulations and administrative actions that are duplicative or unnecessary.

(f) REPORTS.—Reports of the Board shall be submitted by the Board to the Committee on Natural Resources of the House or Representatives and the Committee on Energy and Natural Resources of the Senate and made available to the public in electronically accessible form.

(g) TRAVEL EXPENSES.—Members of the Board, other than full-time employees of the Federal Government, while attending meeting of the Board or while otherwise serving at the request of the Secretary or the Director while serving away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government serving without pay.

SEC. 9. VETERANS PREFERENCE.

Consistent with existing law, the Under Secretary for Energy, Lands, and Minerals shall, in administering the programs and authorities referenced under this Act, provide a hiring preference to eligible members listed under section 2108 of title 5, United States Code.
H. R. 3404
[Report No. 112-601]

A BILL

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