S. 3404

To establish within the Department of Energy an Office of Federal Energy Production, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 19, 2012

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

A BILL

To establish within the Department of Energy an Office of Federal Energy Production, 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. SHORT TITLE.

This Act may be cited as the “Department of Energy Reorganization Act of 2012”.

SEC. 2. FINDINGS.

Congress finds that—

(1) Americans are paying an ever-increasing amount to meet basic energy needs;
(2) a consolidation of energy-production functions within a single agency would contribute to greater strategic energy policy coherence;

(3) the mission of the Department of Energy is an obligation to ensure the energy security and prosperity of the United States;

(4) the Department of Energy is the primary Federal source for energy data and forecasting at the Energy Information Administration;

(5) the Energy Information Administration can best account for national energy needs both now and in the future;

(6) fossil-fuel production on Federal land decreased by 14 percent in 2011 and is anticipated to continue declining into the foreseeable future under the stewardship of the Secretary of the Interior;

(7) the Secretary of the Interior continues to restrict access to domestic energy;

(8) the Department of the Interior is oriented more toward conservation and managing Federal land than providing for the future energy needs of the United States; and

(9) the Secretary of the Interior continues to pursue land management and resource development
decisions that hamper economic growth and fail to meet the energy needs of the United States.

SEC. 3. DEFINITIONS.

In this Act:

(a) DEPARTMENT.—The term “Department” means the Department of Energy.

(b) SECRETARY.—The term “Secretary” means the Secretary of Energy.

SEC. 4. OFFICE OF FEDERAL ENERGY PRODUCTION.

(a) ESTABLISHMENT.—There shall be within the Department an Office of Federal Energy Production.

(b) DIRECTOR.—The Office of Federal Energy Production shall be headed by a Director, who shall be appointed by the Secretary.

(c) TRANSFER OF FUNCTIONS.—There are transferred to, and vested in, the Director of the Office of Federal Energy Production all of the functions provided by law (as of the date of enactment of this Act) to—

(1) the Director of the Bureau of Ocean Energy Management;

(2) the Director of the Bureau of Safety and Environmental Enforcement; and

(3) the Director of the Bureau of Land Management of the Department of the Interior with re-
Spect to oil and gas development and renewable energy production.

SEC. 5. BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT.

(a) Establishment.—There shall be within the Department a Bureau of Safety and Environmental Enforcement.

(b) Director.—The Bureau of Safety and Environmental Enforcement shall be headed by a Director, who shall be appointed by the Secretary.

(c) Transfer of Functions.—There are transferred to, and vested in, the Director of the Bureau of Safety and Environmental Enforcement all of the functions provided by law (including regulations), as of the date of enactment of this Act, to the Director of the Bureau of Safety and Environmental Enforcement of the Department of the Interior.

SEC. 6. BUREAU OF OCEAN ENERGY MANAGEMENT.

(a) Establishment.—There shall be within the Department a Bureau of Ocean Energy Management.

(b) Director.—The Bureau of Ocean Energy Management shall be headed by a Director, who shall be appointed by the Secretary.

(c) Transfer of Functions.—Except as otherwise provided in this title, there are transferred to, and vested
in, the Director of the Bureau of Ocean Energy Manage-
ment all of the functions provided by law (as of the date
of enactment of this Act) to the Director of the Bureau
of Ocean Energy Management of the Department of the
Interior.

SEC. 7. CERTIFICATION OF 5-YEAR LEASING PLAN.

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

“(i) CERTIFICATION BY SECRETARY OF ENERGY.—

“(1) IN GENERAL.—The Secretary of Energy
shall certify that the program prepared under sub-
section (a) will best meet national energy needs for
the 5-year period following the approval or re-
approval of the program.

“(2) MODIFICATION OR REJECTION.—

“(A) IN GENERAL.—The Secretary of En-
ergy may modify or reject any program pre-
pared under subsection (a).

“(B) OIL FROM FOREIGN SOURCES OTHER
THAN CANADA OR MEXICO.—If the Secretary of
Energy, in consultation with the Energy Infor-
mation Administration, determines that the
United States will require more than 1,000,000
barrels of oil per day for the next fiscal year
from foreign sources other than Canada and Mexico, the Secretary shall amend the program prepared under subsection (a) to include additional lease sales in additional areas.

“(j) PUBLIC COMMENT BY PRIVATE ENTITIES.—

“(1) IN GENERAL.—The procedures described in subsection (f)(2) shall include a 30-day period for public notice and participation, once annually, for private entities to provide the Secretary with a notice of interest to lease and produce oil in any area not prohibited by a moratorium.

“(2) MODIFICATION.—If the Secretary receives a notice of interest under paragraph (1), the Secretary shall modify the plan prepared under subsection (a) for the next year to include a lease sale in each area specified in the notice of interest.”

SEC. 8. SHALE LEASES AND PERMITS; PUBLICLY AVAILABLE DATA.

Section 21 of the Mineral Leasing Act (30 U.S.C. 241) is amended by adding at the end the following:

“(e) FINANCING FOR RESEARCH.—In addition to any funds made available to the Secretary of the Interior to carry out this subsection for each fiscal year, of the funds made available to the Secretary of Energy for each fiscal year, there is authorized to be appropriated such sums as
are necessary to carry out this subsection for each fiscal year.

“(f) PUBLICLY AVAILABLE DATA.—The Secretary of Energy shall post on the main page of the public Internet website of the Department of Energy the revenue and production data resulting from the leases under subsection (a).”.

SEC. 9. EXEMPTION OF THE DEPARTMENT OF ENERGY FROM THE EQUAL ACCESS TO JUSTICE ACT.

Sections 504 of title 5 and 2412 of title 28, United States Code, shall not apply to the Department of Energy.

SEC. 10. TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL.

(a) IN GENERAL.—Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, subject to section 1531 of title 31, United States Code, are transferred to the Secretary for appropriate allocation.

(b) USE OF UNEXPENDED FUNDS.—Unexpended funds transferred under subsection (a) shall only be used
for the purposes for which the funds were originally au-

thorized and appropriated.

(c) Specific Positions.—Positions expressly speci-

fied by statute or reorganization plan to carry out func-

tions transferred by this Act, personnel occupying those

positions and personnel authorized to receive compensa-

tion in those positions at the rate prescribed for offices

and positions at level I, II, III, IV, or V of the Executive

Schedule under subchapter II of chapter 53 of title 5,

United States Code, on the effective date of this Act, shall

be subject to section 3103 of that title.

SEC. 11. EFFECT ON PERSONNEL.

(a) In General.—Except as otherwise provided in

this Act or by the Secretary, the transfer under this Act

of full-time personnel (except special Government employ-

ees) and part-time personnel holding permanent positions

under this Act shall not cause any such employee to be

separated or reduced in grade or compensation for 1 year

after the date of enactment of this Act.

(b) Compensation.—Any person who, on the effec-

tive date of this Act, holds a position compensated in ac-

cordance with the Executive Schedule prescribed in chap-

ter 53 of title 5, United States Code, and who, without

a break in service, is appointed in the Department to a

position having duties comparable to the duties performed
immediately preceding the appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

(c) Reemployment Rights.—

(1) In general.—An employee transferred to the Department who holds reemployment rights acquired under any provision of law (including regulations) may exercise those rights only during the latter of—

(A) the 120-day period beginning on the effective date of this Act; or

(B) the 2-year period beginning on the date on which the employee acquired the reemployment rights.

(2) Requirement.—Reemployment rights may only be exercised at the request of the employee.

SEC. 12. AGENCY TERMINATIONS.

(a) In general.—Except as otherwise provided in this Act, whenever all of the functions vested by law in any agency, commission, or other body, or any component of an agency, commission, or other body, have been terminated or transferred from that agency, commission, or other body, or component by this Act, the agency, commission, or other body, or component, shall terminate.
(b) **Termination of Positions and Offices.**—If an agency, commission, or other body, or any component of an agency, commission, or other body, terminates under subsection (a), each position and office within the agency, commission, or other body, or component, that was expressly authorized by law, or the incumbent of which was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule under subchapter II of chapter 53 of title 5, United States Code, shall terminate.

**SEC. 13. INCIDENTAL TRANSFERS.**

The Director of the Office of Management and Budget, in consultation with the Secretary, shall make such determinations as may be necessary with regard to the transfer of functions that relate to or are used by an agency, commission or other body, or component of an agency, commission, or other body, affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as the Director considers necessary to accomplish the purposes of this Act.
SEC. 14. SAVINGS PROVISIONS.

(a) ORDERS TO REMAIN IN EFFECT.—

(1) IN GENERAL.—All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges described in paragraph (2) shall continue in effect according to their respective terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(2) SPECIFICATION.—Paragraph (1) applies to all orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges that—

(A) have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency, official of a Federal department or agency, or by a court of competent jurisdiction, in the performance of functions that are transferred under this Act to the Department after the date of enactment of this Act; and

(B) are in effect on the date on which this Act takes effect.

(b) PENDING PROCEEDINGS.—
(1) IN GENERAL.—This Act shall not affect any proceeding or any application for any license, permit, certificate, or financial assistance pending before any department, agency, commission, or component of a department, agency, or commission, functions of which are transferred by this Act on the effective date of this Act.

(2) CONTINUATION.—

(A) IN GENERAL.—To the extent that the proceedings and applications described in paragraph (1) relate to functions transferred by this Act—

(i) the proceedings and applications shall be continued; and

(ii) orders shall be issued, appeals shall be taken, and payments shall be made under the orders, as if this Act had not been enacted.

(B) EFFECT.—Orders issued in any proceeding continued under this paragraph shall continue in effect until modified, terminated, superseded, or revoked by—

(i) a duly authorized official;

(ii) a court of competent jurisdiction;

or
(iii) operation of law.

(C) Discontinuance or modification.—Nothing in this subsection prohibits the discontinuance or modification of any proceeding described in paragraph (1) under the same terms and conditions and to the same extent that the proceeding could have been discontinued or modified if this Act had not been enacted.

(3) Regulations.—The Secretary may promulgate regulations providing for the orderly transfer of proceedings described in paragraph (1) to the Department.

(e) Pending Suits.—

(1) In general.—Except as provided in paragraph (3)—

(A) this Act shall not affect suits commenced prior to the effective date of this Act; and

(B) in all suits described in subparagraph (A), proceedings shall be had, appeals taken, and judgments rendered in the same manner and effect as if this Act had not been enacted.
(2) Suits by and against officers in official capacity and departments and agencies.—

(A) Offices.—No suit, action, or other proceeding commenced by or against any officer in the official capacity of the officer as an officer of any department or agency, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act.

(B) Departments and agencies.—No cause of action by or against any department or agency, functions of which are transferred by this Act, or by or against any officer of a department or agency in the official capacity of the officer, shall abate by reason of the enactment of this Act.

(3) Transfer.—If, before the effective date of this Act, any department or agency, or officer of a department or agency in the official capacity of the officer, is a party to a suit, and under this Act any function of the department, agency, or officer is transferred to the Secretary or any other official, then the suit shall be continued with the Secretary or other official, as applicable, substituted.
SEC. 15. REFERENCE.

With respect to any functions transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department, commission, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary or other official or component of the Department in which this Act vests those functions.

SEC. 16. PRESIDENTIAL AUTHORITY.

Nothing in this Act limits, curtails, abolishes, or terminates—

(1) any function of, or authority available to, the President that the President had immediately before the effective date of this Act; or

(2) the authority of the President to delegate, redelegate, or terminate any delegation of functions.

SEC. 17. TRANSITION.

With the consent of the appropriate department or agency head, the Secretary may use the services of the officers, employees, and other personnel of the departments and agencies from which functions have been transferred to the Secretary for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.