

PLANNING FOR AMERICAN ENERGY ACT OF 2017

NOVEMBER 16, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources, submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 2907]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2907) to amend the Mineral Leasing Act to require the Secretary of the Interior to develop and publish an all-of-the-above quadrennial Federal onshore energy production strategy to meet domestic energy needs, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 2907 is to amend the Mineral Leasing Act to require the Secretary of the Interior to develop and publish an all-of-the-above quadrennial federal onshore energy production strategy to meet domestic energy needs.

BACKGROUND AND NEED FOR LEGISLATION

Under current law, the Administration is required to submit to Congress a plan for the offshore oil and gas leasing program every five years.¹ This requirement ensures that comprehensive planning for the responsible development of our offshore energy resources occurs at regular intervals.

¹ 43 U.S.C. 1331-1356b.

However, such a planning requirement for onshore energy resources does not exist. The United States contains a robust domestic supply of energy resources, each of which has an important role to play in achieving energy independence. Responsible development of the nation's diverse energy resources, along with investment in innovative technologies, are critical to ensuring long term energy security. Without a coherent strategy for developing those resources on public lands, federal policymaking often results in inefficient and erratic energy production.

Impediments to energy development on Federal land

For too long, permitting uncertainty, irregular leasing programs, and overly burdensome regulatory requirements have stifled energy production on public land. Producers encounter costly delays as resource-rich parcels of land undergo duplicative environmental reviews and permits are left to languish at the Bureau of Land Management (BLM) for as many as 257 days at a time.²

As a result, producers are opting to develop State and private lands, rather than contending with the bureaucratic uncertainty associated with operating on federal land. In fact, the federal share of crude oil production fell from 36% in 2009 to 22% in 2015 and the federal share of natural gas production fell from 28% in 2006 to 15% in 2015.³ In the renewable sector, BLM has identified 20.6 million acres of public land with wind potential,⁴ yet only 1.4% of installed wind energy capacity was found on public lands in 2012.⁵

The Planning for American Energy Act

H.R. 2907 seeks to address inefficiencies in the current approach to onshore energy development on federal land by implementing an all-of-the-above Quadrennial Federal Onshore Energy Production Strategy based on projected energy demand over a 30-year period. This legislation would require coordinated interagency planning efforts to analyze long-term energy needs and set forth specific actions to ensure national objectives are met.

H.R. 2907 ensures interagency coordination in the development of the Strategy and specifically requires the Secretary of the Interior to consult with the Administrator of the U.S. Energy Information Administration (EIA), the Secretary of Agriculture and the Secretary of Energy. The EIA, housed within the Department of Energy, is responsible for collecting, analyzing, and disseminating independent energy data.⁶ While the EIA regularly issues short and long-term energy forecasts, H.R. 2907 would require the EIA to take a longer view of U.S. energy needs and estimate projected energy demands over a 30-year period. The EIA would also be required to consult on specific actions that should be taken over a four-year period to meet projected energy needs. Consultations would also take place with the Secretary of Agriculture concerning

²Bureau of Land Management. Oil and Gas Statistics. <https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/oil-and-gas-statistics> (Accessed November 3, 2017).

³Michael Ratner. 21st Century U.S. Energy Sources: A Primer (May 19, 2017). <http://www.crs.gov/reports/pdf/R44854>.

⁴U.S. Department of Energy. WINDEXchange. <https://apps2.eere.energy.gov/wind/windexchange/wind-projects-public-lands.asp>.

⁵American Wind Energy Association. Public Lands and Wind Energy. <http://www.awea.org/Issues/Content.aspx?ItemNumber=858>.

⁶U.S. Energy Information Administration. Mission and Overview. https://www.eia.gov/about/mission_overview.php (Accessed November 3, 2017).

energy development on lands administered under the Department and with the Secretary of Energy regarding the status of energy transmission, storage and distribution infrastructure.

The interagency process established under H.R. 2907 will establish actionable priorities for onshore energy resource development designed to meet projected energy needs. Accordingly, the Strategy will inform the policymaking process and promote the efficient allocation of resources across relevant Departments.

Major provisions of the bill

- Amends the Mineral Leasing Act to require the Secretary of the Interior to develop and publish a Quadrennial Federal Onshore Energy Production Strategy once every 4 years.

- The Secretary is required to develop this strategy in consultation with: (1) the Administrator of the Energy Information Administration (EIA), who will provide projected energy demands for the next 30 years, the methodology used to arrive at their projection, and recommended actions over the next four year period to meet that projection; (2) the Secretary of Agriculture with regards to the land administered by such Secretary; and (3) the Secretary of Energy with regard to transmission, storage, and distribution infrastructure.

- The Secretary is required to solicit input from States, federally-recognized Indian Tribes, and local governments where energy projects are proposed to be located, as well as the general public.

- The Strategy should include: 1) directives regarding federal land energy development and departmental resources needed to promote energy security; 2) projected domestic demand for energy resources over a 30 year period by energy resource type; and 3) domestic strategic production objectives for onshore oil and gas, coal, strategic and critical energy minerals, renewables, unconventional sources and helium, including on Tribal lands, as well as any other energy resources that the Secretary chooses to include.

- In developing the Strategy, the Secretary should consider how federal lands will contribute to ensuring energy security; the ability of existing energy transmission, storage, and distribution infrastructure to efficiently utilize energy production from federal lands; and the proportion of energy production derived from federal land compared to non-federal land.

- Federally-recognized Tribes may include their own production objectives as a part of the Strategy.

- The Secretary is required to report to Congress annually detailing the progress that has been made in meeting the projection objectives laid out in the Strategy, problems that may hinder achieving these objectives, and suggestions to Congress to help address these problems.

- The Secretary must submit the Strategy to Congress and the President 60 days before publication along with comments from States, Tribes and local governments and explanations as to why some recommendations were not accepted.

The Committee on Natural Resources has acted on versions of this legislation before. A similar version of this bill was favorably reported by the Committee during the 113th Congress (H.R. 1394) and 112th Congress (H.R. 4381) and was included in legislation that passed the House in 113th Congress (H.R. 2).

COMMITTEE ACTION

H.R. 2907 was introduced on June 15, 2017, by Congressman Scott R. Tipton (R-CO). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On September 6, 2017, the Subcommittee held a hearing on the bill. On November 7, 2017, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was ordered favorably reported to the House of Representatives by a roll call vote of 17 ayes to 13 noes on November 8, 2017, as follows:

Committee on Natural Resources

U.S. House of Representatives

115th Congress

Date: 11-08-17

Recorded Vote #: 14

Meeting on / Amendment on: **FC Mark Up on Favorably Reporting H.R. 2907** (Rep. Scott Tipton), To amend the Mineral Leasing Act to require the Secretary of the Interior to develop and publish an all-of-the-above quadrennial Federal onshore energy production strategy to meet domestic energy needs, and for other purposes. "*Planning for American Energy Act of 2017*"

MEMBERS	Yes	No	Pres	MEMBERS	Yes	No	Pres
Mr. Bishop, UT, Chairman	X			Mr. Cook, CA	X		
<i>Mr. Grijalva, AZ, Ranking Member</i>		X		<i>Mr. Soto, FL</i>		X	
Mr. Young, AK, Chairman Emeritus	X			Mr. Westerman, AR	X		
<i>Mrs. Napolitano, CA</i>		X		<i>Mr. McEachin, VA</i>		X	
Mr. Gohmert, TX, Vice Chairman				Mr. Graves, LA	X		
<i>Ms. Bordallo, Guam</i>				<i>Mr. Brown, MD</i>		X	
Mr. Lamborn, CO				Mr. Hice, GA	X		
<i>Mr. Costa, CA</i>				<i>Mr. Clay, MO</i>			
Mr. Wittman, VA				Mrs. Radewagen, AS			
<i>Mr. Sablan, CNMI</i>		X		<i>Mr. Gomez, CA</i>		X	
Mr. McClintock, CA	X			Mr. LaHood, IL			
<i>Ms. Tsongas, MA</i>		X		Mr. Webster, FL	X		
Mr. Pearce, NM	X			Mr. Bergman, MI	X		
<i>Mr. Huffman, CA</i>				Ms. Cheney, WY			
Mr. Thompson, PA	X			Mr. Johnson, LA			
<i>Mr. Lowenthal, CA</i>		X		Ms. González-Colón, PR	X		
Mr. Gosar, AZ	X			Mr. Gianforte, MT	X		
<i>Mr. Beyer, VA</i>		X					
Mr. Labrador, ID							
<i>Mrs. Torres, CA</i>		X					
Mr. Tipton, CO	X						
<i>Mr. Gallego, AZ</i>		X					
Mr. LaMalfa, CA	X						
<i>Ms. Hanabusa, HI</i>							
Mr. Denham, CA	X						
<i>Ms. Barragán, CA</i>		X		TOTAL:	17	13	

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. Cost of Legislation and the Congressional Budget Act. With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 13, 2017.

Hon. ROB BISHOP,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2907, the Planning for American Energy Act of 2017.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Jeff LaFave.

Sincerely,

KEITH HALL,
Director.

Enclosure.

H.R. 2907—Planning for American Energy Act of 2017

H.R. 2907 would require the Secretary of the Interior, every four years, to prepare an onshore energy production strategy for developing resources owned by the federal government. As part of that strategy, the Secretary would be directed to establish production objectives for oil, natural gas, coal, oil shale, and certain other minerals, as well as energy from wind, solar, biomass, hydropower, and geothermal resources. Based on an analysis of information provided by the Department of the Interior about the cost of similar reports, CBO estimates that developing the initial four-year strategy and commencing work on the subsequent strategy would cost \$7 million over the 2018–2022 period, assuming appropriation of the necessary amounts.

Enacting H.R. 2907 would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply.

CBO estimates that enacting H.R. 2907 would not increase net direct spending or on-budget deficits in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2907 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to amend the Mineral Leasing Act to require the Secretary of the Interior to develop and publish an all-of-the-above quadrennial federal onshore energy production strategy to meet domestic energy needs.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

COMPLIANCE WITH PUBLIC LAW 104-4

This bill contains no unfunded mandates.

COMPLIANCE WITH H. RES. 5

Directed Rule Making. This bill does not contain any directed rule makings.

Duplication of Existing Programs. This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139 or identified in the most recent Catalog of Federal Domestic Assistance published pursuant to the Federal Program Information Act (Public Law 95-220, as amended by Public Law 98-169) as relating to other programs.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

MINERAL LEASING ACT

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SEC. 44. QUADRENNIAL FEDERAL ONSHORE ENERGY PRODUCTION STRATEGY.

(a) *REQUIREMENT TO PUBLISH QUADRENNIAL FEDERAL ONSHORE ENERGY PRODUCTION STRATEGY.*—The Secretary shall develop and publish once every 4 years a Quadrennial Federal Onshore Energy Production Strategy.

(b) *CONSULTATIONS REQUIRED.*—In developing the Strategy, the Secretary shall consult with—

(1) the Administrator of the Energy Information Administration with regard to—

- (A) *the projected energy demands of the United States for the next 30-year period;*
 - (B) *the methodology used to arrive at such projection;*
 - and
 - (C) *actions to be taken during the next 4-year period with the goal of meeting such demands;*
 - (2) *the Secretary of Agriculture with regard to lands administered by such Secretary; and*
 - (3) *the Secretary of Energy with regard to energy transmission, storage, and distribution infrastructure.*
- (c) *STATE, FEDERALLY RECOGNIZED INDIAN TRIBES, LOCAL GOVERNMENT, AND PUBLIC INPUT.—In developing the Strategy, the Secretary shall solicit the input of—*
- (1) *the State, federally recognized Indian Tribe, or local government where each energy project included in the Strategy is proposed to be located; and*
 - (2) *the public.*
- (d) *CONTENTS OF STRATEGY.—*
- (1) *IN GENERAL.—The Strategy shall direct onshore Federal land energy development and department resource allocation in order to promote the energy security and national security of the United States in accordance with the principles of multiple use and sustained yield.*
 - (2) *PROJECTED DOMESTIC DEMAND FOR ENERGY RESOURCES.—The Secretary, in consultation with the Administrator of the Energy Information Administration, shall include in the Strategy an estimate, based upon commercial and scientific data, of the projected domestic demand for energy resources over the 30-year period beginning on the date of the publication of such Strategy. The estimate shall be disaggregated by the energy resource types listed in subparagraphs (A) through (H) of paragraph (3) and expressed in British thermal units or megawatts, as appropriate.*
 - (3) *DOMESTIC STRATEGIC PRODUCTION OBJECTIVE.—The Secretary shall include in the Strategy a domestic strategic production objective based on the estimate in paragraph (2) for the development of the following energy resource types on Federal onshore lands:*
 - (A) *Oil and natural gas.*
 - (B) *Coal.*
 - (C) *Strategic and critical energy minerals.*
 - (D) *Electricity, in megawatts, from each of wind, solar, biomass, hydropower, and geothermal energy.*
 - (E) *Energy from unconventional energy production, such as oil shale.*
 - (F) *Helium.*
 - (G) *Oil, natural gas, coal, and other renewable sources from the Tribal lands of any federally recognized Indian Tribe that elects to participate in facilitating energy production on its lands.*
 - (H) *Other energy production technology sources or advancements in energy, as determined by the Secretary.*
 - (4) *CONSIDERATIONS.—In the Strategy, the Secretary shall consider—*

(A) how Federal lands will contribute to ensuring national energy security, with a goal for increasing energy independence and production during the next 4-year period;

(B) the ability of existing energy transmission, storage, and distribution infrastructure to efficiently utilize energy production from Federal lands; and

(C) the proportion of total energy production derived from Federal land compared to non-Federal land for each of the energy resources listed in subparagraphs (A) through (H) of paragraph (3).

(e) **TRIBAL OBJECTIVES.**—It is the sense of Congress that federally recognized Indian Tribes may elect to set their own production objectives as part of the Strategy. The Secretary shall work in cooperation with any federally recognized Indian Tribe that elects to participate in achieving its own strategic energy objectives.

(f) **REPORT REQUIRED.**—The Secretary shall submit a report annually to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate that—

(1) examines the progress made toward meeting the domestic strategic production objective set forth in the Strategy;

(2) identifies projections for production and capacity installations and any problems with leasing, permitting, siting, or production that may prevent meeting the domestic strategic production objective set forth in the Strategy; and

(3) provides suggestions to address any shortfalls in meeting the domestic strategic production objective set forth in the Strategy.

(g) **CONGRESSIONAL REVIEW.**—At least 60 days before publishing a proposed Strategy under this section, the Secretary shall submit such Strategy to the President and to Congress, together with any comments received from States, federally recognized Indian Tribes, and local governments. Such submission shall state why any specific recommendation of a State, federally recognized Indian Tribe, or local government was not accepted.

(h) **DEFINITIONS.**—In this section:

(1) **MULTIPLE USE.**—The term “multiple use” has the same meaning given such term in section 103 of the Federal Land and Policy Management Act of 1976 (43 U.S.C. 1702).

(2) **SECRETARY.**—The term “Secretary” means the Secretary of the Interior, unless the context requires otherwise.

(3) **STRATEGY.**—The term “Strategy” means the Quadrennial Federal Onshore Energy Production Strategy required to be developed and published under subsection (a).

(4) **STRATEGIC AND CRITICAL ENERGY MINERALS.**—The term “strategic and critical energy minerals” means minerals that are necessary for the production of energy and the building and maintaining of the energy infrastructure of the United States, including minerals necessary—

(A) for pipelines, refining capacity, electrical power generation and transmission, and renewable energy production;

(B) to support domestic manufacturing, including materials used in energy generation, production, and transportation; and

(C) to ensure the national security of the United States.
(5) SUSTAINED YIELD.—The term “sustained yield” has the same meaning given such term in section 103 of the Federal Land and Policy Management Act of 1976 (43 U.S.C. 1702).

SEC. [44.] 45. SHORT TITLE.

This Act may be cited as the “Mineral Leasing Act”.

DISSENTING VIEWS

H.R. 2907 would overturn the longstanding principle of managing public lands for multiple use and sustained yield, as enshrined by the Federal Land Policy and Management Act, and replace it with a directive to maximize energy production under the guise of strategic planning. While federal lands do play a part in meeting national energy needs, their development over the past several decades has been guided by the market and the need to balance competing land uses. We should not demand that federal lands provide a certain percentage of America's energy any more than we should demand that at least 100 million Americans visit National Parks.

The most troubling part of the bill is the requirement that the Secretary of the Interior direct Departmental resources in order to achieve a goal of increasing energy production during the period of each quadrennial strategy, regardless of market conditions and other factors. "Sustained yield" would become "maximum yield", regardless of market conditions, changes in technology, or changes in policy. Proponents of the bill point to the inclusion of wind, solar, and other renewable energy technologies in the strategy to claim that the legislation is balanced. However, that ignores the fact that the strategy would also lead to efforts to continually increase production of coal, oil, natural gas, and oil shale, exacerbating a climate crisis that we have already been ignoring for far too long. Also, renewable energy for renewable energy's sake should not be the goal—increasing renewable energy in the right places should be the goal, and that requires thoughtful planning and public input, not simply a directive to grow at all costs over every 4-year period.

Furthermore, there are a couple of provisions in the bill that make no sense. "Strategic and critical energy minerals" are defined broadly enough such that the minerals mined need not be strategic, critical, or related to energy. And the inclusion of helium as an "energy resource" is a stretch, to say the least.

The sponsors of this legislation have not clearly expressed why this legislation is needed, nor what positive impacts it would have. The potential negative impacts of the bill, however, are obvious. For these reasons, we oppose H.R. 2907.

RAÚL M. GRIJALVA,
*Ranking Member, Committee
on Natural Resources.*

GRACE F. NAPOLITANO.

NIKI TSONGAS.

COLLEEN HANABUSA.

MADELEINE Z. BORDALLO.

DARREN SOTO.

A. DONALD MCEACHIN.

ALAN S. LOWENTHAL.

NANETTE DIAZ BARRAGÁN.

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