H. R. 4239

To distribute revenues from oil and gas leasing on the outer Continental Shelf to certain coastal States, to require sale of approved offshore oil and gas leases, to promote offshore wind lease sales, and to empower States to manage the development and production of oil and gas on available Federal land, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 3, 2017

Mr. Scalise (for himself, Mr. Bishop of Utah, Mr. Gonzalez of Texas, and Mr. Cuellar) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To distribute revenues from oil and gas leasing on the outer Continental Shelf to certain coastal States, to require sale of approved offshore oil and gas leases, to promote offshore wind lease sales, and to empower States to manage the development and production of oil and gas on available Federal land, 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; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the “Strengthening the Economy with Critical Untapped Re-
sources to Expand American Energy Act” or the “SE-CURE American Energy Act”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is the following:

Sec. 1. Short title; table of contents.

TITLE I—OFFSHORE

Sec. 101. Short title.
Sec. 102. Disposition of revenues from oil and gas leasing on the outer Continental Shelf to producing States.
Sec. 103. Limitations on the amount of distributed qualified outer Continental Shelf revenues under the Gulf of Mexico Energy Security Act of 2006.
Sec. 104. Limitation of authority of the President to withdraw areas of the outer Continental Shelf from oil and gas leasing.
Sec. 105. Modification to the outer Continental Shelf leasing program.
Sec. 106. Inspection fee collection.
Sec. 107. Arctic rule shall have no force or effect.
Sec. 108. Application of outer Continental Shelf Lands Act with respect to territories of the United States.
Sec. 109. Wind lease sales on the outer Continental Shelf.
Sec. 110. Reducing permitting delays for taking of marine mammals.

TITLE II—ONSHORE

Sec. 201. Short title.
Sec. 203. Conveyance to certain States of property interest in State share of royalties and other payments.
Sec. 204. Permitting on non-Federal surface estate.
Sec. 205. State and Tribal authority for hydraulic fracturing regulation.

TITLE I—OFFSHORE

SEC. 101. SHORT TITLE.

This title may be cited as the “Accessing Strategic Resources Offshore Act” or the “ASTRO Act”.

•HR 4239 IH
SEC. 102. DISPOSITION OF REVENUES FROM OIL AND GAS LEASING ON THE OUTER CONTINENTAL SHELF TO PRODUCING STATES.

Section 9 of the Outer Continental Shelf Lands Act (43 U.S.C. 1338) is amended—

(1) by striking “All rentals” and inserting the following:

“(a) IN GENERAL.—Except as otherwise provided in this section, all rentals”; and

(2) by adding at the end the following:

“(b) DISTRIBUTION OF REVENUE TO PRODUCING STATES.—

“(1) DEFINITIONS.—In this subsection:

“(A) COVERED PLANNING AREA.—

“(i) IN GENERAL.—Subject to clause (ii), the term ‘covered planning area’ means each of the following planning areas, as such planning areas are generally depicted in the later of the 2017–2022 Outer Continental Shelf Oil and Gas Leasing Proposed Final Program, dated 16 November, 2016, or a subsequent oil and gas leasing program developed under section 18 of the Outer Continental Shelf Lands Act (43 U.S.C. 1344):

“(I) Mid-Atlantic.
“(II) South Atlantic.

“(III) Any planning area located off the coast of Alaska.

“(ii) EXCLUSIONS.—The term ‘covered planning area’ does not include any area in the Atlantic—

“(I) north of the southernmost lateral seaward administrative boundary of the State of Maryland; or

“(II) south of the northernmost lateral seaward administrative boundary of the State of Florida.

“(B) PRODUCING STATE.—The term ‘producing State’ means each of the following States:

“(i) Virginia.

“(ii) North Carolina.

“(iii) South Carolina.

“(iv) Georgia.

“(v) Alaska.

“(C) QUALIFIED REVENUES.—

“(i) IN GENERAL.—The term ‘qualified revenues’ means revenues derived from rentals, royalties, bonus bids, and other sums due and payable to the United States.
under oil and gas leases entered into on or after the date of the enactment of this Act for an area in a covered planning area.

“(ii) Exclusions.—The term ‘qualified revenues’ does not include—

“(I) revenues from the forfeiture of a bond or other surety securing obligations other than royalties, civil penalties, or royalties taken by the Secretary in-kind and not sold;

“(II) revenues generated from leases subject to section 8(g); and

“(III) the portion of rental revenues in excess of those that would have been collected at the rental rates in effect before August 5, 1993.

“(2) Deposit of Qualified Revenues.—

“(A) Phase I.—With respect to qualified revenues under leases awarded under the first leasing program approved under section 18(a) that takes effect after the date of the enactment of this section, the Secretary of the Treasury shall deposit or allocate, as applicable—

“(i) 87.5 percent into the general fund of the Treasury; and
“(ii) 12.5 percent to States in accordance with paragraph (3).

“(B) PHASE II.—With respect to qualified revenues under leases awarded under the second leasing program approved under section 18(a) that takes effect after the date of the enactment of this section, the Secretary of the Treasury shall deposit or allocate, as applicable—

“(i) 75 percent into the general fund of the Treasury; and

“(ii) 25 percent to States in accordance with paragraph (3).

“(C) PHASE III.—With respect to qualified revenues under leases awarded under the third leasing program approved under section 18(a) that takes effect after the date of the enactment of this section and under any such leasing program subsequent to such third leasing program, the Secretary of the Treasury shall deposit or allocate, as applicable—

“(i) 50 percent into the general fund of the Treasury; and
“(ii) 50 percent into a special account
in the Treasury from which the Secretary
of the Treasury shall disburse—

“(I) 75 percent to States in ac-
cordance with paragraph (3);

“(II) 12.5 percent to the Sec-
retary of Transportation for energy
infrastructure development in coastal
ports; and

“(III) 12.5 percent to the Sec-
retary of the Interior for units of the
National Park System.

“(3) ALLOCATION TO PRODUCING STATES.—

“(A) IN GENERAL.—Subject to subpara-
graph (B), the Secretary of the Treasury shall
allocate the qualified revenues distributed to
States under paragraph (2) to each producing
State in an amount based on a formula estab-
lished by the Secretary of the Interior, by regu-
lation, that—

“(i) is inversely proportional to the re-
spective distances between—

“(I) the point on the coastline of
the producing State that is closest to
the geographical center of the applicable leased tract; and

“(II) the geographical center of that leased tract;

“(ii) does not allocate qualified revenues to any producing State that is further than 200 nautical miles from the leased tract; and

“(iii) allocates not less than 10 percent of qualified revenues to each producing State that is 200 or fewer nautical miles from the leased tract.

“(B) PAYMENTS TO COASTAL POLITICAL SUBDIVISIONS.—

“(i) IN GENERAL.—The Secretary of the Treasury shall pay 20 percent of the allocable share of each producing State determined under this paragraph to the coastal political subdivisions of the producing State.

“(ii) ALLOCATION.—The amount paid by the Secretary of the Treasury to coastal political subdivisions shall be allocated to each coastal political subdivision in accord-
ance with subparagraphs (B) and (E) of section 31(b)(4).

“(iii) Definition of coastal political subdivision.—In this subparagraph, the term ‘coastal political subdivision’ means—

“(I) with respect to a contiguous coastal State, a political subdivision of such State, any part of which is—

“(aa) within the coastal zone of the State (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)); and

“(bb) not more than 200 nautical miles from the geographic center of any leased tract; and

“(II) with respect to a noncontiguous coastal State—

“(aa) a county-equivalent subdivision of the State for which—

“(AA) all or part lies within the coastal zone of
the State (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)); and

“(BB) the closest coastal point is not more than 200 nautical miles from the geographical center of any leased tract on the outer Continental Shelf; or

“(bb) a municipal subdivision of the State for which—

“(AA) the closest point is more than 200 nautical miles from the geographical center of a leased tract on the outer Continental Shelf; and

“(BB) the State has determined to be a significant staging area for oil and gas servicing, supply vessels, operations, suppliers, or workers.
“(4) ADMINISTRATION.—Amounts made available under paragraph (2)(B) shall—

“(A) be made available, without further appropriation, in accordance with this subsection;

“(B) remain available until expended;

“(C) be in addition to any amounts appropriated under—

“(i) chapter 2003 of title 54, United States Code;

“(ii) any other provision of this Act; and

“(iii) any other provision of law; and

“(D) be made available during the fiscal year immediately following the fiscal year in which such amounts were received.”.

SEC. 103. LIMITATIONS ON THE AMOUNT OF DISTRIBUTED QUALIFIED OUTER CONTINENTAL SHELF REVENUES UNDER THE GULF OF MEXICO ENERGY SECURITY ACT OF 2006.

Section 105(f)(1) of the Gulf of Mexico Energy Security Act of 2006 (43 U.S.C. 1331 note) is amended to read as follows:

“(1) IN GENERAL.—The total amount of qualified outer Continental Shelf revenues described in
section 102(9)(A)(ii) that are made available under subsection (a)(2) shall remain available until expended and shall not exceed—

“(A) for each of fiscal years 2019 through 2028, $500,000,000; and

“(B) for each of fiscal years 2029 through 2059, $749,800,000.”.

SEC. 104. LIMITATION OF AUTHORITY OF THE PRESIDENT TO WITHDRAW AREAS OF THE OUTER CONTINENTAL SHELF FROM OIL AND GAS LEASING.

(a) LIMITATION ON WITHDRAWAL FROM DISPOSITION OF LANDS ON THE OUTER CONTINENTAL SHELF.—

Section 12 of the Outer Continental Shelf Lands Act (43 U.S.C. 1341) is amended by amending subsection (a) to read as follows:

“(a) LIMITATION ON WITHDRAWAL.—

“(1) IN GENERAL.—Except as otherwise provided in this section, no lands of the outer Continental Shelf may be withdrawn from disposition except by an Act of Congress.

“(2) NATIONAL MARINE SANCTUARIES.—The President may withdraw from disposition any of the unleased lands of the outer Continental Shelf located in a national marine sanctuary designated in accord-
ance with the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.) or otherwise by statute.

“(3) EXISTING WITHDRAWALS.—

“(A) IN GENERAL.—Except for the withdrawals listed in subparagraph (B), any withdrawal from disposition of lands on the outer Continental Shelf before the date of the enactment of this subsection shall have no force or effect.

“(B) EXCEPTIONS.—Subparagraph (A) shall not apply to the following withdrawals:

“(i) Any withdrawal in a national marine sanctuary designated in accordance with the National Marine Sanctuaries Act.

“(ii) Any withdrawal in a national monument declared under section 320301 of title 54, United States Code, or the Act of June 8, 1906 (ch. 3060; 34 Stat. 225).

“(iii) Any withdrawal in the North Aleutian Basin Planning Area, including Bristol Bay.”.

(b) TERMINATION OF AUTHORITY TO ESTABLISH MARINE NATIONAL MONUMENTS.—Section 320301 of title 54, United States Code, is amended by adding at the end the following:
“(e) LIMITATION ON MARINE NATIONAL MONU-
MENTS.—

“(1) IN GENERAL.—Notwithstanding sub-
sections (a) and (b), the President may not declare
or reserve any ocean waters (as such term is defined
in section 3 of the Marine Protection, Research, and
Sanctuaries Act of 1972 (33 U.S.C. 1402)) or lands
beneath ocean waters as a national monument.

“(2) MARINE NATIONAL MONUMENTS DES-
IGNATED BEFORE THE DATE OF THE ENACTMENT
OF THIS SUBSECTION.—This subsection shall not af-
fect any national monument designated by the Presi-
dent before the date of the enactment of this Act.”

SEC. 105. MODIFICATION TO THE OUTER CONTINENTAL
SHELF LEASING PROGRAM.

Section 18(e) of the Outer Continental Shelf Lands
Act (43 U.S.C. 1344(e)) is amended by adding at the end
the following: “The Secretary shall include in any such
revised leasing program each unexecuted lease sale that
was included in the most recent leasing program and the
Secretary shall execute each such lease sale as close as
practicable to the time specified in the most recent leasing
program. Section 102(2)(C) of the National Environ-
mental Policy Act of 1969 (42 U.S.C. 4332) shall be
deemed to have been satisfied with respect to the execution
of such unexecuted lease sales if the Secretary, in the Secretary’s sole discretion, determines that such section was satisfied with respect to such unexecuted lease sales for the most recent leasing program.”.

SEC. 106. INSPECTION FEE COLLECTION.

Section 22 of the Outer Continental Shelf Lands Act (43 U.S.C. 1348) is amended by adding at the end the following:

“(g) Inspection Fees.—

“(1) Establishment.—The Secretary of the Interior shall collect from the operators of facilities subject to inspection under subsection (c) non-refundable fees for such inspections—

“(A) at an aggregate level equal to the amount necessary to offset the annual expenses of inspections of outer Continental Shelf facilities (including mobile offshore drilling units) by the Secretary of the Interior; and

“(B) using a schedule that reflects the differences in complexity among the classes of facilities to be inspected.

“(2) Ocean Energy Safety Fund.—There is established in the Treasury a fund, to be known as the ‘Ocean Energy Enforcement Fund’ (referred to in this subsection as the ‘Fund’), into which shall be
deposited all amounts collected as fees under para-
graph (1) and which shall be available as provided
under paragraph (3).

“(3) Availability of Fees.—

“(A) In General.—Notwithstanding sec-
tion 3302 of title 31, United States Code, all
amounts deposited in the Fund—

“(i) shall be credited as offsetting col-
lections;

“(ii) shall be available for expenditure
for purposes of carrying out inspections of
outer Continental Shelf facilities (including
mobile offshore drilling units) and the ad-
ministration of the inspection program
under this section;

“(iii) shall be available only to the ex-
tent provided for in advance in an appro-
priations Act; and

“(iv) shall remain available until ex-
pended.

“(B) Use for Field Offices.—Not less
than 75 percent of amounts in the Fund may
be appropriated for use only for the respective
Department of the Interior field offices where
the amounts were originally assessed as fees.
“(4) INITIAL FEES.—Fees shall be established under this subsection for the fiscal year in which this subsection takes effect and the subsequent 10 years, and shall not be raised, except as determined by the Secretary to be appropriate as an adjustment equal to the percentage by which the Consumer Price Index for the month of June of the calendar year preceding the adjustment exceeds the Consumer Price Index for the month of June of the calendar year in which the claim was determined or last adjusted.

“(5) ANNUAL FEES.—Annual fees shall be collected under this subsection for facilities that are above the waterline, excluding drilling rigs, and are in place at the start of the fiscal year. Fees for fiscal year 2019 shall be—

“(A) $10,500 for facilities with no wells, but with processing equipment or gathering lines;

“(B) $17,000 for facilities with 1 to 10 wells, with any combination of active or inactive wells; and

“(C) $31,500 for facilities with more than 10 wells, with any combination of active or inactive wells.
“(6) **FEES FOR DRILLING RIGS.**—Fees shall be collected under this subsection for drilling rigs on a per inspection basis. Fees for fiscal year 2019 shall be—

“(A) $30,500 per inspection for rigs operating in water depths of 1,000 feet or more; and

“(B) $16,700 per inspection for rigs operating in water depths of less than 1,000 feet.

“(7) **BILLING.**—The Secretary shall bill designated operators under paragraph (5) annually, with payment required within 30 days of billing. The Secretary shall bill designated operators under paragraph (6) within 30 days of the end of the month in which the inspection occurred, with payment required within 30 days after billing.

“(8) **ANNUAL REPORTS.**—

“(A) **IN GENERAL.**—Not later than 60 days after the end of each fiscal year beginning with fiscal year 2019, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report on the operation of the Fund during the fiscal year.
“(B) CONTENTS.—Each report shall include, for the fiscal year covered by the report, the following:

“(i) A statement of the amounts deposited into the Fund.

“(ii) A description of the expenditures made from the Fund for the fiscal year, including the purpose of the expenditures and the additional hiring of personnel.

“(iii) A statement of the balance remaining in the Fund at the end of the fiscal year.

“(iv) An accounting of pace of permit approvals.

“(v) If fee increases are proposed, a proper accounting of the potential adverse economic impacts such fee increases will have on offshore economic activity and overall production.

“(vi) Recommendations to increase the efficacy and efficiency of offshore inspections.

“(vii) Any corrective actions levied upon offshore inspectors as a result of any form of misconduct.
“(9) SUNSET.—No fee may be collected under this subsection for any fiscal year after fiscal year 2029.”.

SEC. 107. ARCTIC RULE SHALL HAVE NO FORCE OR EFFECT.

The rule entitled “Oil and Gas and Sulfur Operations on the Outer Continental Shelf—Requirements for Exploratory Drilling on the Arctic Outer Continental Shelf” and published in the Federal Register on July 15, 2016 (81 Fed. Reg. 46478), shall have no force or effect.

SEC. 108. APPLICATION OF OUTER CONTINENTAL SHELF LANDS ACT WITH RESPECT TO TERRITORIES OF THE UNITED STATES.

(a) IN GENERAL.—Section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331) is amended—

(1) in paragraph (a), by inserting after “control” the following: “or lying within exclusive economic zone of the United States”;

(2) in paragraph (p), by striking “and” after the semicolon at the end;

(3) in paragraph (q), by striking the period at the end and inserting “; and”;

(4) by adding at the end the following:

“(r) The term ‘State’ includes each territory of the United States.”.
(b) Exclusions.—

(1) Section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333) is amended by adding at the end the following:

“(4) This section shall not apply to the territories and possessions of the United States.”.

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

“(i) This section shall not apply to the scheduling of lease sales in the outer Continental Shelf adjacent to the territories and possessions of the United States.”.

(c) Exploration Licenses and Leases.—Section 8(k) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337) is amended by adding at the end the following:

“(3) Exploration licenses and leases on outer continental shelf adjacent to territories and possessions.—

“(A) In general.—The Secretary is authorized to grant to any qualified applicant an exploration license which will provide the exclusive right to explore for minerals, other than oil, gas, and sulphur, in an area lying within the United States exclusive economic zone and
the outer Continental Shelf adjacent to any territory or possession of the United States.

“(B) APPLICATION.—Subsection (a) shall not apply to any area conveyed by Congress to a territorial government for administration.

“(C) EXPLORATION LICENSE DURATION.—Exploration licenses granted under this paragraph will be issued for a period pursuant to regulations prescribed by the Secretary.

“(D) LEASE.—Upon showing to the satisfaction of the Secretary that valuable mineral deposits have been discovered by the licensee within the area described by the exploration license of the licensee, the licensee will be entitled to a lease for any or all of that area at a royalty rate established by regulation and lease terms.

“(E) LEASE DURATION.—Leases under this section will be issued for a period established by regulation with a preferential right in the lessee to renew.”.
SEC. 109. WIND LEASE SALES ON THE OUTER CONTINENTAL SHELF.

The Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.) is amended by adding at the end the following:

"SEC. 33. WIND LEASE SALES ON THE OUTER CONTINENTAL SHELF.

“(a) Authorization.—The Secretary may conduct wind lease sales on the outer Continental Shelf.

“(b) Wind Lease Sale Procedure.—Any wind lease sale conducted under this section shall be considered a lease under section 8(p).

“(c) Wind Lease Sale Off Coast of California.—The Secretary, in consultation with the Secretary of Defense, shall offer a wind lease sale on the outer Continental shelf off the coast of California as soon as practicable, but not later than one year after the date of enactment of this section.

“(d) Wind Lease Sales Off Coast of Puerto Rico, Virgin Islands of the United States, and Guam.—

“(1) Study on feasibility of conducting wind lease sales off coast of Puerto Rico, Virgin Islands of the United States, and Guam.—
“(A) Study.—The Director of the Bureau of Ocean Energy Management shall conduct a study on the feasibility, including the long term economic feasibility, of conducting wind lease sales on the outer Continental Shelf off the coast of Puerto Rico, the Virgin Islands of the United States, and Guam.

“(B) Submission of results.—Not later than 180 days after the date of the enactment of this section, the Director of the Bureau of Ocean Energy Management shall submit to Congress the results of the study conducted under subparagraph (A).

“(2) Wind lease sales conditional upon results of study.—

“(A) Wind lease sale off coast of Puerto Rico.—If the study required under paragraph (1)(A) concludes that a wind lease sale on the outer Continental Shelf off the coast of Puerto Rico is feasible, then the Secretary shall offer a wind lease sale on the outer Continental shelf off the coast of Puerto Rico as soon as practicable, but not later than one year after the date of the enactment of this section.
“(B) Wind lease sale off coast of Virgin Islands of the United States.—If the study required under paragraph (1)(A) concludes that a wind lease sale on the outer Continental Shelf off the coast of the Virgin Islands of the United States is feasible, then the Secretary shall offer a wind lease sale on the outer Continental shelf off the coast of the Virgin Islands of the United States as soon as practicable, but not later than one year after the date of the enactment of this section.

“(C) Wind lease sale off coast of Guam.—If the study required under paragraph (1)(A) concludes that a wind lease sale on the outer Continental Shelf off the coast of Guam is feasible, then the Secretary shall offer a wind lease sale on the outer Continental shelf off the coast of Guam as soon as practicable, but not later than one year after the date of the enactment of this section.

“(e) Wind lease sale off coast of Hawaii.—

“(1) Study on feasibility of conducting wind lease sales off coast of the state of Hawaii.—
'(A) STUDY.—The Secretary, in consultation with the Secretary of Defense, shall conduct a study on the feasibility of conducting wind lease sales on the outer Continental Shelf off the coast of the State of Hawaii.

'(B) SUBMISSION OF RESULTS.—Not later than 180 days after the date of the enactment of this section, the Secretary shall submit to Congress the results of the study conducted under subparagraph (A).

'(2) WIND LEASE SALES CONDITIONAL UPON RESULTS OF STUDY.—If the study required under paragraph (1)(A) concludes that a wind lease sale on the outer Continental Shelf off the coast of the State of Hawaii is feasible, then the Secretary shall offer a wind lease sale on the outer Continental shelf off the coast of the State of Hawaii as soon as practicable, but not later than one year after the date of the enactment of this section.’’.

SEC. 110. REDUCING PERMITTING DELAYS FOR TAKING OF MARINE MAMMALS.

(a) ADDRESSING PERMITS FOR TAKING OF MARINE MAMMALS.—Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)(D)) is amended as follows:
(1) In clause (i)—

(A) by striking “citizens of the United States” and inserting “persons”;

(B) by striking “within a specific geographic region”; 

(C) by striking “of small numbers”;

(D) by striking “such citizens” and inserting “such persons”; and 

(E) by striking “within that region”.

(2) In clause (ii)—

(A) in subclause (I), by striking “, and other means of effecting the least practicable impact on such species or stock and its habitat”;

(B) in subclause (III), by striking “requirements pertaining to the monitoring and reporting of such taking by harassment, including” and inserting “efficient and practical requirements pertaining to the monitoring of such taking by harassment while the activity is being conducted and the reporting of such taking, including, as the Secretary determines necessary,”; and 

(C) by adding at the end the following:
“Any condition imposed pursuant to subclause (I), (II), or (III) may not result in more than a minor change to the specified activity and may not alter the basic design, location, scope, duration, or timing of the specified activity.”.

(3) In clause (iii), by striking “receiving an application under this subparagraph” and inserting “an application is accepted or required to be considered complete under subclause (I)(aa), (II)(aa), or (IV) of clause (viii), as applicable,”.

(4) In clause (vi), by striking “a determination of ‘least practicable adverse impact on such species or stock’ under clause (i)(I)” and inserting “conditions imposed under subclause (I), (II), or (III) of clause (ii)”.

(5) By adding at the end the following:

“(viii)(I) The Secretary shall—

“(aa) accept as complete a written request for authorization under this subparagraph for incidental taking described in clause (i), by not later than 45 days after the date of submission of the request; or

“(bb) provide to the requester, by not later than 15 days after the date of submission of the request, a written notice describing any additional information required to complete the request.”
“(II) If the Secretary provides notice under subclause (I)(bb), the Secretary shall, by not later than 30 days after the date of submission of the additional information described in the notice—

“(aa) accept the written request for authorization under this subparagraph for incidental taking described in clause (i); or

“(bb) deny the request and provide the requester a written explanation of the reasons for the denial.

“(III) The Secretary may not under this subparagraph make a second request for information, request that the requester withdraw and resubmit the request, or otherwise delay a decision on the request.

“(IV) If the Secretary fails to respond to a request for authorization under this subparagraph in the manner provided in subclause (I) or (II), the request shall be considered to be complete.

“(ix)(I) At least 90 days before the date of the expiration of any authorization issued under this subparagraph, the holder of such authorization may apply for a one-year extension of such authorization. The Secretary shall grant such extension within 14 days after the date of such request on the same terms and without further review if there has been no substantial change in the activity car-
ried out under such authorization nor in the status of the marine mammal species or stock, as applicable, as reported in the final annual stock assessment reports for such species or stock.

“(II) In subclause (I) the term ‘substantial change’ means a change that prevents the Secretary from making the required findings to issue an authorization under clause (i) with respect to such species or stock.

“(III) The Secretary shall notify the applicant of such substantial changes with specificity and in writing within 14 days after the applicant’s submittal of the extension request.

“(x) If the Secretary fails to make the required findings and, as appropriate, issue the authorization within 120 days after the application is accepted or required to be considered complete under subclause (I)(aa), (II)(aa), or (III) of clause (viii), as applicable, the authorization is deemed to have been issued on the terms stated in the application and without further process or restrictions under this Act.”.

(b) REMOVING DUPLICATIONS.—Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(5)(D)), as amended by subsection (a), is further amended by adding at the end the following:
“(xi) Any taking of a marine mammal in compliance with an authorization under this subparagraph is exempt from the prohibition on taking in section 9 of the Endangered Species Act of 1973 (16 U.S.C. 1538). Any Federal agency authorizing, funding, or carrying out an action that results in such taking, and any agency action authorizing such taking, is exempt from the requirement to consult regarding potential impacts to marine mammal species or designated critical habitat under section 7(a)(2) of such Act (16 U.S.C. 1536(a)(2)).”.

TITLE II—ONSHORE

SEC. 201. SHORT TITLE.

This title may be cited as the “Opportunities for the Nation and States to Harness Onshore Resources for Energy Act” or the “ONSHORE Act”.

SEC. 202. COOPERATIVE FEDERALISM IN OIL AND GAS PERMITTING ON AVAILABLE FEDERAL LAND.

(a) In general.—The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended—

(1) by redesignating section 44 as section 47;

and

(2) by adding after section 43 the following new section:
SEC. 44. COOPERATIVE FEDERALISM IN OIL AND GAS PERMITTING ON AVAILABLE FEDERAL LAND.

“(a) Authorizations.—

“(1) In general.—Upon receipt of an application under subsection (b), the Secretary may delegate to a State exclusive authority—

“(A) to issue an APD on available Federal land; or

“(B) to approve drilling plans on available Federal land.

“(2) Sundry notices.—Any authorization under paragraph (1) may, upon the request of the State, include authority to issue sundry notices.

“(3) Inspection and enforcement.—Any authorization under paragraph (1) may, upon the request of the State, include authorization to inspect and enforce an APD or drilling plan, as applicable.

“(b) State application process.—

“(1) Submission of application.—A State may submit an application under subparagraph (A) or (B) of subsection (a)(1) to the Secretary at such time and in such manner as the Secretary may require.

“(2) Content of application.—An application submitted under this subsection shall include—
“(A) a description of the State program that the State proposes to administer under State law; and

“(B) a statement from the Governor or attorney general of such State that the laws of such State provide adequate authority to carry out the State program.

“(3) Deadline for approval or disapproval.—Not later than 180 days after the date of receipt of an application under this subsection, the Secretary shall approve or disapprove such application.

“(4) Criteria for approval.—The Secretary may approve an application received under this subsection only if the Secretary has—

“(A) determined that the State applicant would be at least as effective as the Secretary in issuing APDs or in approving drilling plans, as applicable;

“(B) determined that the State program of the State applicant—

“(i) complies with this Act; and

“(ii) provides for the termination or modification of an issued APD or approved
drilling plan, as applicable, for cause, including for—

“(I) the violation of any condition of the issued APD or approved drilling plan;

“(II) obtaining the issued APD or approved drilling plan by misrepresentation; or

“(III) failure to fully disclose in the application all relevant facts;

“(C) determined that the State applicant has sufficient administrative and technical personnel and sufficient funding to carry out the State program;

“(D) provided notice to the public, solicited public comment, and held a public hearing within the State;

“(E) determined that approval of the application would not result in decreased royalty payments owed to the United States under section 35(a), except as provided in subsection (e) of that section; and

“(F) in the case of a State applicant seeking authority under subsection (a)(3) to inspect and enforce APDs or drilling plans, as applica-
ble, entered into a memorandum of understanding with a State applicant that delineates the Federal and State responsibilities with respect to such inspection and enforcement.

“(5) DISAPPROVAL.—If the Secretary disapproves an application submitted under this subsection, then the Secretary shall—

“(A) notify, in writing, the State applicant of the reason for the disapproval and any revisions or modifications necessary to obtain approval; and

“(B) provide any additional information, data, or analysis upon which the disapproval is based.

“(6) RESUBMITTAL OF APPLICATION.—A State may resubmit an application under this subsection at any time.

“(7) STATE MEMORANDUM OF UNDERSTANDING.—Before a State submits an application under this subsection, the Secretary may, at the request of a State, enter into a memorandum of understanding with the State regarding the proposed State program—

“(A) to delineate the Federal and State responsibilities for oil and gas regulations;
“(B) to provide technical assistance; and

“(C) to share best management practices.

“(c) Administrative Fees for APDs.—

“(1) In general.—A State for which authority has been delegated under subsection (a)(1)(A) may collect a fee for each application for an APD that is submitted to the State.

“(2) No collection of fee by Secretary.—The Secretary may not collect a fee from the applicant or from the State for an application for an APD that is submitted to a State for which authority has been delegated under section 44(a)(1)(A).

“(3) Fee amount.—The fee collected under paragraph (1) shall be less than or equal to the amount of the fee collected by the Secretary under section 35(d)(2) from States for which authority has not been delegated under subsection (a)(1)(A).

“(4) Use.—A State shall use 100 percent of the fees collected under this subsection for the administration of the approved State program of the State.

“(d) Voluntary Termination of Authority.—A State may voluntarily terminate any authority delegated to such State under subsection (a) upon providing written
notice to the Secretary 60 days in advance. Upon expiration of such 60-day period, the Secretary shall resume any activities for which authority was delegated to the State under subsection (a).

“(e) Appeal of Denial of Application for APD or Application for Approval of Drilling Plan.—

“(1) In general.—If a State for which the Secretary has delegated authority under subsection (a)(1) denies an application for an APD or an application for approval of a drilling plan, the applicant may appeal such decision to the Department of the Interior Office of Hearings and Appeals.

“(2) Fee allowed.—The Secretary may charge the applicant a fee for the appeal referred to in paragraph (1).

“(f) Federal Administration of State Program.—

“(1) Notification.—If the Secretary has reason to believe that a State is not administering or enforcing an approved State program, the Secretary shall notify the relevant State regulatory authority of any possible deficiencies.

“(2) State response.—Not later than 30 days after the date on which a State receives notifi-
cation of a possible deficiency under paragraph (1),
the State shall—

“(A) take appropriate action to correct the
possible deficiency; and

“(B) notify the Secretary of the action in
writing.

“(3) Determination.—

“(A) In general.—On expiration of the
30-day period referred to in paragraph (2), if
the Secretary determines that a violation of all
or any part of an approved State program has
resulted from a failure of the State to admin-
ister or enforce the approved State program of
the State or that the State has not dem-
onstrated its capability and intent to administer
or enforce such a program, the Secretary shall
issue public notice of such a determination.

“(B) Appeal.—A State may appeal the
determination of the Secretary under subpara-
graph (A) in the applicable United States Dis-
trict Court. The Secretary may not resume ac-
tivities under paragraph (4) pending the resolu-
tion of the appeal.

“(4) Resumption by Secretary.—If the Sec-
retary has made a determination under paragraph
(3), the Secretary shall resume any activities for which authority was delegated to the State during the period—

“(A) beginning on the date on which the Secretary issues the public notice under paragraph (3); and

“(B) ending on the date on which the Secretary determines that the State will administer or enforce, as applicable, the approved State program of the State.

“(5) STANDING.—States with approved regulatory programs shall have standing to sue the Secretary for any action taken under this subsection.

“(g) DEFINITIONS.—In this section:

“(1) AVAILABLE FEDERAL LAND.—The term ‘available Federal land’ means any Federal land that—

“(A) is located within the boundaries of a State;

“(B) is not held by the United States in trust for the benefit of a federally recognized Indian Tribe or a member of such an Indian Tribe;

“(C) is not a unit of the National Park System;
“(D) is not a unit of the National Wildlife Refuge System, except for the portion of such unit for which oil and gas drilling is allowed under law;

“(E) is not a congressionally approved wilderness area under the Wilderness Act (16 U.S.C. 1131 et seq.); and

“(F) has been identified as land available for lease or has been leased for the exploration, development, and production of oil and gas—

“(i) by the Bureau of Land Management under—

“(I) a resource management plan under the process provided for in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); or

“(II) an integrated activity plan with respect to the National Petroleum Reserve in Alaska; or

“(ii) by the Forest Service under a National Forest management plan under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.).
“(2) DRILLING PLAN.—The term ‘drilling plan’ means a plan described under section 3162.3–1(e) of title 43, Code of Federal Regulations (or successor regulation).

“(3) APD.—The term ‘APD’ means a permit—

“(A) that grants authority to drill for oil and gas; and

“(B) for which an application has been received that contains—

“(i) a drilling plan;

“(ii) a surface use plan of operations described under section 3162.3–1(f) of title 43, Code of Federal Regulations (or successor regulation);

“(iii) evidence of bond coverage; and

“(iv) such other information as may be required by applicable orders and notices.

“(4) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.

“(5) STATE.—The term ‘State’ means each of the several States.

“(6) STATE APPLICANT.—The term ‘State applicant’ means a State that has submitted an application under subsection (b).
“(7) STATE PROGRAM.—The term ‘State program’ means a program that provides for a State to—

“(A) issue APDs or approve drilling plans, as applicable, on available Federal land; and

“(B) impose sanctions for violations of State laws, regulations, or any condition of an issued APD or approved drilling plan, as applicable.

“(8) SUNDRY NOTICE.—The term ‘sundry notice’ means a written request—

“(A) to perform work not covered under an APD or drilling plan; or

“(B) for a change to operations covered under an APD or drilling plan.”.

(b) INSPECTION FEES.—Section 108 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1718) is amended by adding at the end the following:

“(d) INSPECTION FEES FOR CERTAIN STATES.—

“(1) IN GENERAL.—The Secretary shall collect nonrefundable inspection fees in the amount specified in paragraph (2), from each designated operator under each oil and gas lease on Federal or Indian land that is subject to inspection under subsection (b) and that is located in a State for which the Sec-
Secretary has delegated authority under section 44(a)(1)(A) of the Mineral Leasing Act.

“(2) AMOUNT.—The amount of the fees collected under paragraph (1) shall be—

“(A) $700 for each lease or unit or communitization agreement with no active or inactive wells, but with surface use, disturbance or reclamation;

“(B) $1,225 for each lease or unit or communitization agreement with 1 to 10 wells, with any combination of active or inactive wells;

“(C) $4,900 for each lease or unit or communitization agreement with 11 to 50 wells, with any combination of active or inactive wells;

and

“(D) $9,800 for each lease or unit or communitization agreement with more than 50 wells, with any combination of active or inactive wells.

“(3) ONSHORE ENERGY SAFETY FUND.—There is established in the Treasury a fund, to be known as the ‘Onshore Energy Safety Fund’ (referred to in this subsection as the ‘Fund’), into which shall be deposited all amounts collected as fees under para-
graph (1) and which shall be available as provided under paragraph (4).

“(4) AVAILABILITY OF FEES.—Notwithstanding section 3302 of title 31, United States Code, all amounts deposited in the Fund—

“(A) shall be credited as offsetting collections;

“(B) shall be available for expenditure for purposes of carrying out inspections of onshore oil and gas operations in those States for which the Secretary has delegated authority under section 44(a)(1)(A) of the Mineral Leasing Act;

“(C) shall be available only to the extent provided for in advance in an appropriations Act; and

“(D) shall remain available until expended.

“(5) PAYMENT DUE DATE.—The Secretary shall require payment of any fee assessed under this subsection within 30 days after the Secretary provides notice of the assessment of the fee.

“(6) PENALTY.—If a designated operator assessed a fee under this subsection fails to pay the full amount of the fee as prescribed in this subsection, the Secretary may, in addition to utilizing any other applicable enforcement authority, assess
civil penalties against the operator under section 109
in the same manner as if this section were a mineral
leasing law.

“(7) NOTIFICATION TO STATE OF NONCOMPLI-
ANCE.—If, on the basis of any inspection under sub-
section (b), the Secretary determines that an oper-
ator is in noncompliance with the requirements of
mineral leasing laws and this chapter, the Secretary
shall notify the State of such noncompliance imme-
diately.”.

(c) EXISTING AUTHORITIES.—Section 390(a) of the
Energy Policy Act of 2005 (42 U.S.C. 15942(a)) is
amended—

(1) by striking “Action by the Secretary” and
inserting “The Secretary”;

(2) by striking “with respect to any of the ac-
tivities described in subsection (b) shall be subject to
a rebuttable presumption that the use of” and in-
serting “shall apply”; and

(3) by striking “would apply if the activity” and
inserting “for each action described in subsection (b)
if the action”.

SEC. 203. CONVEYANCE TO CERTAIN STATES OF PROPERTY INTEREST IN STATE SHARE OF ROYALTIES AND OTHER PAYMENTS.

(a) IN GENERAL.—Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended—

(1) in the first sentence of subsection (a), by striking “shall be paid into the Treasury” and inserting “shall, except as provided in subsection (e), be paid into the Treasury”;

(2) in subsection (c)(1), by inserting “and except as provided in subsection (e)” before “, any rentals”; and

(3) by adding at the end the following:

“(e) CONVEYANCE TO CERTAIN STATES OF PROPERTY INTEREST IN STATE SHARE.—

“(1) IN GENERAL.—Notwithstanding any other provision of law, on request of a State and in lieu of any payments to the State under subsection (a), the Secretary of the Interior shall convey to the State all right, title, and interest in and to the percentage specified in that subsection for that State that would otherwise be required to be paid into the Treasury under that subsection.

“(2) AMOUNT.—Notwithstanding any other provision of law, after a conveyance to a State under paragraph (1), any person shall pay directly to the
State any amount owed by the person for which the right, title, and interest has been conveyed to the State under this subsection.

“(3) NOTICE.—The Secretary of the Interior shall promptly provide to each holder of a lease of public land to which subsection (a) applies that is located in a State to which right, title, and interest is conveyed under this subsection notice that—

“(A) the Secretary of the Interior has conveyed to the State all right, title, and interest in and to the amounts referred to in paragraph (1); and

“(B) the lesseholder is required to pay the amounts directly to the State.

“(4) REPORT.—A State that has received a conveyance under this subsection shall report monthly to the Office of Natural Resources Revenue of the Department of the Interior the amount paid to such State pursuant to this subsection.

“(5) APPLICATION WITH RESPECT TO FOGRMA.—With respect to the interest conveyed to a State under this subsection from sales, bonuses, royalties (including interest charges), and rentals collected under the Federal Oil and Gas Royalty Management Act of 1983 (30 U.S.C. 1701 et seq.),
this subsection shall only apply with respect to States for which the Secretary has delegated any authority under section 44(a)(1).”.

(b) ADMINISTRATIVE COSTS.—Section 35(b) of the Mineral Leasing Act (30 U.S.C. 191(b)) is amended by striking “In determining” and inserting “Except with respect to States for which the Secretary has delegated any authority under section 44(a)(1), in determining”.

e) CONFORMING AMENDMENT.—Section 205(f) of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1735(f)) is amended by striking “All” in the seventh sentence and inserting “Subject to subsection (e) of section 35 of the Mineral Leasing Act (30 U.S.C. 191), all”.

SEC. 204. PERMITTING ON NON-FEDERAL SURFACE ESTATE.

The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after section 44 (as added by section 202(a)(2)) the following:

“SEC. 45. PERMITTING ON NON-FEDERAL SURFACE ESTATE.

“(a) PERMITS NOT REQUIRED FOR CERTAIN ACTIVITIES ON NON-FEDERAL SURFACE ESTATE.—The following activities conducted on non-Federal surface estate shall not require a Bureau of Land Management drilling permit under the Federal Oil and Gas Royalty Manage-
ment Act of 1982 (30 U.S.C. 1701 et seq.) or section 3164.1 of title 43, Code of Federal Regulations (or successor regulation), and shall not be considered a major Federal action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.):

“(1) Oil and gas operations for the exploration for or development or production of oil and gas in a lease or unit or communitization agreement in which the United States holds a mineral ownership interest of 50 percent or less.

“(2) Oil and gas operations that may have potential drainage impacts, as determined by the Bureau of Land Management, on oil and gas in which the United States holds a mineral ownership interest.

“(b) DOI Notification.—The Secretary of the Interior shall provide to each State a map or list indicating Federal mineral ownership within that State.

“(c) State Notification.—Each State that has issued an APD or approved a drilling plan that would impact or extract oil and gas owned by the United States shall notify the Secretary of the Interior within 7 days of issuing an APD.

“(d) Royalties.—Nothing in this section shall affect the amount of royalties due to the United States under
this Act from the production of oil and gas or alter the Secretary’s authority to conduct audits and collect civil penalties pursuant to the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1711 et seq.).

“(e) APPLICATION.—This section shall only apply with respect to States for which the Secretary has delegated any authority under section 44(a)(1).”.

SEC. 205. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC FRACTURING REGULATION.

The Mineral Leasing Act (30 U.S.C. 181 et seq.) is amended by inserting after section 45 (as added by section 204) the following:

“SEC. 46. STATE AND TRIBAL AUTHORITY FOR HYDRAULIC FRACTURING REGULATION.

“(a) IN GENERAL.—The Secretary of the Interior shall not enforce any Federal regulation, guidance, or permit requirement regarding hydraulic fracturing relating to oil, gas, or geothermal production activities on or under any land in any State that has regulations, guidance, or permit requirements for that activity.

“(b) STATE AUTHORITY.—The Secretary of the Interior shall defer to State regulations, guidance, and permit requirements for all activities regarding hydraulic fracturing relating to oil, gas, or geothermal production activities on Federal land.
“(c) Transparency of State Regulations.—

“(1) In General.—Each State shall submit to the Bureau of Land Management a copy of the regulations of such State that apply to hydraulic fracturing operations on Federal land, including those that require disclosure of chemicals used in hydraulic fracturing operations.

“(2) Availability.—The Secretary of the Interior shall make available to the public on the website of the Secretary the regulations submitted under paragraph (1).

“(d) Tribal Authority on Trust Land.—The Secretary of the Interior shall not enforce any Federal regulation, guidance, or permit requirement with respect to hydraulic fracturing on any land held in trust or restricted status for the benefit of a federally recognized Indian Tribe or a member of such an Indian Tribe, except with the express consent of the beneficiary on whose behalf such land is held in trust or restricted status.

“(e) Hydraulic Fracturing Defined.—In this section the term ‘hydraulic fracturing’ means the process of creating small cracks, or fractures, in underground geological formations for well stimulation purposes of bringing hydrocarbons into the wellbore and to the surface for capture.”.
SEC. 206. REVIEW OF INTEGRATED ACTIVITY PLAN FOR THE NATIONAL PETROLEUM RESERVE IN ALASKA.

The Secretary of the Interior shall—

(1) conduct a review of the National Petroleum Reserve-Alaska Final Integrated Activity Plan/Environmental Impact Statement, for which notice of availability was published in the Federal Register on December 28, 2012 (77 Fed. Reg. 76515), to determine which lands within the National Petroleum Reserve in Alaska should be made available for oil and gas leasing; and

(2) make available the lands described in paragraph (1) for oil and gas leasing.