

112TH CONGRESS
1ST SESSION

S. 1775

To promote the development of renewable energy on public lands, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2011

Mr. TESTER (for himself, Mr. RISCH, Mr. REID, Mr. UDALL of Colorado, and Mr. HELLER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To promote the development of renewable energy on public lands, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Public Lands Renewable Energy Development Act of
6 2011”.

7 (1) **TABLE OF CONTENTS.**—The table of con-
8 tents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GEOTHERMAL ENERGY

Sec. 101. Extension of funding for implementation of Geothermal Steam Act of 1970.

TITLE II—DEVELOPMENT OF SOLAR AND WIND ENERGY ON
PUBLIC LAND

Sec. 201. Definitions.

Sec. 202. Programmatic environmental impact statements and land use planning.

Sec. 203. Development of solar and wind energy on public land.

Sec. 204. Disposition of revenues.

Sec. 205. Royalties.

Sec. 206. Enforcement of royalty and payment provisions.

Sec. 207. Enforcement.

Sec. 208. Segregation from appropriation under mining and Federal land laws.

Sec. 209. Report.

Sec. 210. Applicability of law.

1 TITLE I—GEOTHERMAL ENERGY

2 SEC. 101. EXTENSION OF FUNDING FOR IMPLEMENTATION

3 OF GEOTHERMAL STEAM ACT OF 1970.

4 (a) IN GENERAL.—Section 234(a) of the Energy Pol-
5 icy Act of 2005 (42 U.S.C. 15873(a)) is amended by strik-
6 ing “in the first 5 fiscal years beginning after the date
7 of enactment of this Act” and inserting “through fiscal
8 year 2020”.

9 (b) AUTHORIZATION.—Section 234(b) of the Energy
10 Policy Act of 2005 (42 U.S.C. 15873(b)) is amended—

11 (1) by striking “Amounts” and inserting the
12 following:

13 “(1) IN GENERAL.—Amounts”; and

14 (2) by adding at the end the following:

15 “(2) AUTHORIZATION.—Effective for fiscal year
16 2011 and each fiscal year thereafter, amounts de-
17 posited under subsection (a) shall be available to the

1 Secretary of the Interior for expenditure, subject to
2 appropriation and without fiscal year limitation, to
3 implement the Geothermal Steam Act of 1970 (30
4 U.S.C. 1001 et seq.) and this Act.”.

5 **TITLE II—DEVELOPMENT OF**
6 **SOLAR AND WIND ENERGY ON**
7 **PUBLIC LAND**

8 **SEC. 201. DEFINITIONS.**

9 In this title:

10 (1) COVERED LAND.—The term “covered land”
11 means land that is—

12 (A)(i) public land administered by the Sec-
13 retary; or

14 (ii) National Forest System land adminis-
15 tered by the Secretary of Agriculture; and

16 (B) not excluded from the development of
17 solar or wind energy under—

18 (i) a land use plan established under
19 the Federal Land Policy and Management
20 Act of 1976 (43 U.S.C. 1701 et seq.);

21 (ii) a land use plan established under
22 the National Forest Management Act of
23 1976 (16 U.S.C. 1600 et seq.); or

24 (iii) other law.

1 (2) PILOT PROGRAM.—The term “pilot pro-
2 gram” means the wind and solar leasing pilot pro-
3 gram established under section 204(a).

4 (3) PUBLIC LAND.—The term “public land”
5 has the meaning given the term “public lands” in
6 section 103 of the Federal Land Policy and Manage-
7 ment Act of 1976 (43 U.S.C. 1702).

8 (4) SECRETARIES.—The term “Secretaries”
9 means—

10 (A) in the case of public land administered
11 by the Secretary, the Secretary; and

12 (B) in the case of National Forest System
13 land administered by the Secretary of Agri-
14 culture, the Secretary of Agriculture.

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

17 **SEC. 202. PROGRAMMATIC ENVIRONMENTAL IMPACT**
18 **STATEMENTS AND LAND USE PLANNING.**

19 (a) PUBLIC LAND.—Not later than 1 year after the
20 date of enactment of this Act, the Secretary shall—

21 (1) complete and finalize the Programmatic En-
22 vironmental Impact Statement for Solar Energy De-
23 velopment in Six Southwestern States (BLM/DES
24 10–59; DOE/EIS–0403) in accordance with the Na-

1 tional Environmental Policy Act of 1969 (42 U.S.C.
2 4321 et seq.) to analyze the potential impacts of—

3 (A) a program to develop solar energy on
4 land administered by the Secretary, acting
5 through the Bureau of Land Management; and

6 (B) any necessary amendments to land use
7 plans for the land; and

8 (2) amend any land use plans as appropriate to
9 provide for the development of renewable energy in
10 areas considered appropriate by the Secretary.

11 (b) NATIONAL FOREST SYSTEM LAND.—As soon as
12 practicable but not later than 2 years after the date of
13 enactment of this Act, the Secretary of Agriculture shall—

14 (1) prepare and publish in the Federal Register
15 a notice of intent to prepare a programmatic envi-
16 ronmental impact statement in accordance with the
17 National Environmental Policy Act of 1969 (42
18 U.S.C. 4321 et seq.) to analyze the potential im-
19 pacts of—

20 (A) a program to develop solar and wind
21 energy on National Forest System land admin-
22 istered by the Secretary of Agriculture; and

23 (B) any necessary amendments to land use
24 plans for the land; and

1 (2) amend any land use plans as appropriate to
2 provide for the development of renewable energy in
3 areas considered appropriate by the Secretary of Ag-
4 riculture immediately on completion of the pro-
5 grammatic environmental impact statement.

6 (c) EFFECT ON PROCESSING APPLICATIONS.—The
7 requirement for completion of programmatic environ-
8 mental impact statements under this section shall not re-
9 sult in any delay in processing or approving applications
10 for wind or solar development on public land administered
11 by the Secretary or on National Forest System land.

12 (d) MILITARY INSTALLATIONS.—

13 (1) REPORT.—

14 (A) IN GENERAL.—Not later than 2 years
15 after the date of enactment of this Act, the Sec-
16 retary of Defense, in consultation with the Sec-
17 retary of the Interior, shall conduct a study,
18 and prepare a report, that—

19 (i) identifies locations on land with-
20 drawn from the public domain and re-
21 served for military purposes that—

22 (I) exhibit a high potential for
23 solar, wind, geothermal, or other re-
24 newable energy production;

1 (II) are disturbed or otherwise
2 have comparatively low value for other
3 resources; and

4 (III) could be developed for re-
5 newable energy production in a man-
6 ner consistent with all present and
7 reasonably foreseeable military train-
8 ing and operational missions and re-
9 search, development, testing, and eval-
10 uation requirements; and

11 (ii) describes the administration of
12 public land withdrawn for military pur-
13 poses for the development of commercial-
14 scale renewable energy projects, including
15 the legal authorities governing authoriza-
16 tion for that use.

17 (B) RECOMMENDATIONS.—The report
18 shall include recommendations on—

19 (i) necessary changes in any law (in-
20 cluding regulations);

21 (ii) whether the authorization for the
22 use of the land for development of renew-
23 able energy projects should be pursuant to
24 lease, contract, right-of-way, permit, or
25 other form of authorization;

1 (iii) methods of improving coordina-
2 tion among the Federal, State, and local
3 agencies, if any, involved in authorizing the
4 projects; and

5 (iv) disposition of revenues resulting
6 from the development of renewable energy
7 projects on the land.

8 (2) ENVIRONMENTAL IMPACT ANALYSIS.—Not
9 later than 1 year after the completion of the study
10 required by paragraph (1), the Secretary of Defense,
11 in consultation with the Secretary of the Interior,
12 shall prepare and publish in the Federal Register a
13 notice of intent to prepare an environmental impact
14 analysis document to support a program to develop
15 renewable energy on withdrawn military land identi-
16 fied in the study as suitable for the production.

17 (3) REPORTS.—On completion of the report,
18 the Secretary and the Secretary of Defense shall
19 jointly submit the report required by paragraph (1)
20 to—

21 (A) the Committee on Armed Services of
22 the Senate;

23 (B) the Committee on Energy and Natural
24 Resources of the Senate;

1 (C) the Committee on Armed Services of
2 the House of Representatives; and

3 (D) the Committee on Natural Resources
4 of the House of Representatives.

5 **SEC. 203. DEVELOPMENT OF SOLAR AND WIND ENERGY ON**
6 **PUBLIC LAND.**

7 (a) PILOT PROGRAM.—

8 (1) IN GENERAL.—Not later than 180 days
9 after the date of enactment of this Act, the Sec-
10 retary shall establish a wind and solar leasing pilot
11 program on covered land administered by the Sec-
12 retary.

13 (2) SELECTION OF SITES.—

14 (A) IN GENERAL.—Not later than 90 days
15 after the date the pilot program is established
16 under this subsection, the Secretary shall (tak-
17 ing into consideration the multiple resource val-
18 ues of the land) select 2 sites that are appro-
19 priate for the development of a solar energy
20 project, and 2 sites that are appropriate for the
21 development of a wind energy project, on cov-
22 ered land administered by the Secretary as part
23 of the pilot program.

1 (B) SITE SELECTION.—In carrying out
2 subparagraph (A), the Secretary shall seek to
3 select sites—

4 (i) for which there is likely to be a
5 high level of industry interest;

6 (ii) that have a comparatively low
7 value for other resources; and

8 (iii) that are representative of sites on
9 which solar or wind energy is likely to be
10 developed on covered land.

11 (C) INELIGIBLE SITES.—The Secretary
12 shall not select as part of the pilot program any
13 site for which a right-of way for site testing or
14 construction has been issued.

15 (3) QUALIFICATIONS.—Prior to any lease sale,
16 the Secretary shall establish qualifications for bid-
17 ders that ensure bidders—

18 (A) are able to expeditiously develop a
19 wind or solar energy project on the site for
20 lease;

21 (B) possess—

22 (i) financial resources necessary to
23 complete a project;

24 (ii) knowledge of the applicable tech-
25 nology; and

1 (iii) such other qualifications as are
2 determined appropriate by the Secretary;
3 and

4 (C) meet the eligibility requirements for
5 leasing under the first section of the Mineral
6 Leasing Act (30 U.S.C. 181).

7 (4) LEASE SALES.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (D)(ii), not later than 180 days
10 after the date sites are selected under para-
11 graph (2), the Secretary shall offer each site for
12 competitive leasing to qualified bidders under
13 such terms and conditions as are required by
14 the Secretary.

15 (B) BIDDING SYSTEMS.—

16 (i) IN GENERAL.—In offering the sites
17 for lease, the Secretary may vary the bid-
18 ding systems to be used at each lease sale,
19 including—

20 (I) cash bonus bids with a re-
21 quirement for payment of the royalty
22 established under this Act;

23 (II) variable royalty bids based
24 on a percentage of the gross proceeds
25 from the sale of electricity produced

1 from the lease, except that the royalty
2 shall not be less than the royalty re-
3 quired under this Act, together with a
4 fixed cash bonus; and

5 (III) such other bidding system
6 as ensures a fair return to the public
7 consistent with the royalty established
8 under this Act.

9 (ii) ROUND.—The Secretary shall
10 limit bidding to 1 round in any lease sale.

11 (iii) EXPENDITURES.—In any case in
12 which the land that is subject to lease has
13 1 or more pending applications for the de-
14 velopment of wind or solar energy at the
15 time of the lease sale, the Secretary shall
16 give credit toward any bid submitted by
17 the applicant for expenditures of the appli-
18 cant considered by the Secretary to be
19 qualified and necessary for the preparation
20 of the application.

21 (C) REVENUES.—Bonus bids, royalties,
22 rentals, fees, or other payments collected by the
23 Secretary under this section shall be subject to
24 section 5.

25 (D) LEASE TERMS.—

1 (i) IN GENERAL.—As part of the pilot
2 program, the Secretary may vary the
3 length of the lease terms and establish
4 such other lease terms and conditions as
5 the Secretary considers appropriate.

6 (ii) DATA COLLECTION.—As part of
7 the pilot program, the Secretary shall—

8 (I) offer on a noncompetitive
9 basis on at least 1 site a short-term
10 lease for data collection; and

11 (II) on the expiration of the
12 short-term lease, offer on a competi-
13 tive basis a long-term lease, giving
14 credit toward the bonus bid to the
15 holder of the short-term lease for any
16 qualified expenditures to collect data
17 to develop the site during the short-
18 term lease.

19 (5) COMPLIANCE WITH LAWS.—In offering for
20 lease the selected sites under paragraph (4), the Sec-
21 retary shall comply with all applicable environmental
22 and other laws.

23 (6) REPORT.—The Secretary shall—

24 (A) compile a report of the results of each
25 lease sale under the pilot program, including—

- 1 (i) the level of competitive interest;
2 (ii) a summary of bids and revenues
3 received; and
4 (iii) any other factors that may have
5 impacted the lease sale process; and
6 (B) not later than 90 days after the final
7 lease sale, submit to the Committee on Energy
8 and Natural Resources of the Senate and the
9 Committee on Natural Resources of the House
10 of Representatives the report described in sub-
11 paragraph (A).

12 (7) RIGHTS-OF-WAY.—During the pendency of
13 the pilot program, the Secretary shall continue to
14 issue rights-of-way, in compliance with authority in
15 effect on the date of enactment of this Act, for avail-
16 able sites not selected for the pilot program.

17 (b) SECRETARIAL DETERMINATION.—

18 (1) IN GENERAL.—Not later than 2 years after
19 the date of enactment of this Act, the Secretaries
20 shall make a joint determination on whether to es-
21 tablish a leasing program under this section for wind
22 or solar energy, or both, on all covered land.

23 (2) SYSTEM.—If the Secretaries determine that
24 a leasing program should be established, the pro-
25 gram shall apply to all covered land in accordance

1 with this Act and other provisions of law applicable
2 to public land or National Forest System land.

3 (3) ESTABLISHMENT.—The Secretaries shall
4 establish a leasing program unless the Secretaries
5 determine that the program—

6 (A) is not in the public interest; and

7 (B) does not provide an effective means of
8 developing wind or solar energy.

9 (4) CONSULTATION.—In making the determina-
10 tions required under this subsection, the Secretaries
11 shall consult with—

12 (A) the heads of other relevant Federal
13 agencies;

14 (B) interested States, Indian tribes, and
15 local governments;

16 (C) representatives of the solar and wind
17 industries;

18 (D) representatives of the environment,
19 conservation, and outdoor sporting commu-
20 nities;

21 (E) other users of the covered land; and

22 (F) the public.

23 (5) CONSIDERATIONS.—In making the deter-
24 minations required under this subsection, the Secre-
25 taries shall consider the results of the pilot program.

1 (6) REGULATIONS.—Not later than 1 year after
2 the date on which any determination is made to es-
3 tablish a leasing program, the Secretaries shall joint-
4 ly promulgate final regulations to implement the
5 program.

6 (7) REPORT.—If the Secretaries determine that
7 a leasing program should not be established, not
8 later than 60 days after the date of the determina-
9 tion, the Secretaries shall jointly submit to the Com-
10 mittee on Energy and Natural Resources of the Sen-
11 ate and the Committee on Natural Resources of the
12 House of Representatives a report describing the
13 basis and findings for the determination.

14 (c) TRANSITION.—

15 (1) IN GENERAL.—If the Secretaries determine
16 under subsection (b) that a leasing program should
17 be established for covered land, until the program is
18 established and final regulations for the program are
19 issued—

20 (A) the Secretary shall continue to accept
21 applications for rights-of-way on covered land,
22 and provide for the issuance of rights-of-way on
23 covered land within the jurisdiction of the Sec-
24 retary for the development of wind or solar en-
25 ergy pursuant to each requirement described in

1 title V of the Federal Land Policy and Manage-
2 ment Act of 1976 (43 U.S.C. 1761 et seq.) and
3 other applicable law; and

4 (B) the Secretary of Agriculture shall con-
5 tinue to accept applications for authorizations,
6 and provide for the issuance of the authoriza-
7 tions, for the development of wind or solar en-
8 ergy on covered land within the jurisdiction of
9 the Secretary pursuant to applicable law.

10 (2) EXISTING RIGHTS-OF-WAY AND AUTHORIZA-
11 TIONS.—

12 (A) IN GENERAL.—Effective beginning on
13 the date on which the wind or solar leasing pro-
14 grams are established and final regulations are
15 issued, the Secretaries shall not renew an exist-
16 ing right-of-way or other authorization for wind
17 or solar energy development at the end of the
18 term of the right-of-way or authorization.

19 (B) LEASE.—

20 (i) IN GENERAL.—Subject to clause
21 (ii), at the end of the term of the right-of-
22 way or other authorization for the wind or
23 solar energy project, the Secretary or, in
24 the case of National Forest System land,
25 the Secretary of Agriculture, shall grant,

1 without a competitive process, a lease to
2 the holder of the right-of-way or other au-
3 thorization for the same covered land as
4 was authorized under the right-of-way or
5 other authorization if (as determined by
6 the Secretary concerned)—

7 (I) the holder of the right-of-way
8 or other authorization has met the re-
9 quirements of diligent development;
10 and

11 (II) issuance of the lease is in the
12 public interest and consistent with ap-
13 plicable law.

14 (ii) TERMS AND CONDITIONS.—Any
15 lease described in clause (i) shall be sub-
16 ject to—

17 (I) terms and conditions that are
18 consistent with this Act and the regu-
19 lations issued under this Act; and

20 (II) the regulations in effect on
21 the date of renewal and any other
22 terms and conditions that the Sec-
23 retary considers necessary to protect
24 the public interest.

1 (3) PENDING RIGHTS-OF-WAY.—Effective begin-
2 ning on the date on which the wind or solar leasing
3 programs are established and final regulations for
4 the programs are issued, the Secretary or, with re-
5 spect to National Forest System land, the Secretary
6 of Agriculture shall provide any applicant that has
7 filed a plan of development for a right-of-way or, in
8 the case of National Forest System land, for an ap-
9 plicable authorization, for a wind or solar energy
10 project with an option to acquire a lease on a non-
11 competitive basis, under such terms and conditions
12 as are required by this Act, applicable regulations,
13 and the Secretary concerned, for the same covered
14 land included in the plan of development if—

15 (A) the plan of development has been de-
16 termined by the Secretary concerned to be ade-
17 quate for the initiation of environmental review;

18 (B) granting the lease is consistent with all
19 applicable land use planning, environmental,
20 and other laws;

21 (C) the applicant has made a good faith ef-
22 fort to obtain a right-of-way or, in the case of
23 National Forest System land, other authoriza-
24 tion, for the project; and

1 (D) issuance of the lease is in the public
2 interest.

3 (d) LEASING PROGRAM.—If the Secretaries deter-
4 mine under subsection (b) that a leasing program should
5 be established, the program shall be established in accord-
6 ance with subsections (e) through (k).

7 (e) COMPETITIVE LEASES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), leases for wind or solar energy develop-
10 ment under this section shall be issued on a competi-
11 tive basis with a single round of bidding in any lease
12 sale.

13 (2) EXCEPTIONS.—Paragraph (1) shall not
14 apply if the Secretary or, with respect to National
15 Forest System land, the Secretary of Agriculture de-
16 termines that—

17 (A) no competitive interest exists for the
18 covered land;

19 (B) the public interest would not be served
20 by the competitive issuance of a lease;

21 (C) the lease is for the placement and op-
22 eration of a meteorological or data collection fa-
23 cility or for the development or demonstration
24 of a new wind or solar technology and has a
25 term of not more than 5 years; or

1 (D) the covered land is eligible to be grant-
2 ed a noncompetitive lease under subsection (c).

3 (f) PAYMENTS.—

4 (1) IN GENERAL.—The Secretaries shall jointly
5 establish—

6 (A) fees, rentals, bonuses, or other pay-
7 ments to ensure a fair return to the United
8 States for any lease issued under this section;
9 and

10 (B) royalties pursuant to section 6 that
11 apply to all leases issued under this section.

12 (2) BONUS BIDS.—The Secretaries may grant
13 credit toward any bonus bid for a qualified expendi-
14 ture by the holder of a lease described in subsection
15 (e)(2)(C) in any competitive lease sale held for a
16 long-term lease covering the same land covered by
17 the lease described in subsection (e)(2)(C).

18 (g) QUALIFICATIONS.—Prior to any lease sale, the
19 Secretary shall establish qualifications for bidders that en-
20 sure bidders meet the requirements described in section
21 4(a)(3).

22 (h) REQUIREMENTS.—The Secretaries shall ensure
23 that any activity under a leasing program is carried out
24 in a manner that—

1 (1) is consistent with all applicable land use
2 planning, environmental, and other laws; and

3 (2) provides for—

4 (A) safety;

5 (B) protection of the environment and fish
6 and wildlife habitat;

7 (C) mitigation of impacts;

8 (D) prevention of waste;

9 (E) diligent development of the resource,
10 with specific milestones to be met by the lessee
11 as determined by the Secretaries;

12 (F) coordination with applicable Federal
13 agencies;

14 (G) a fair return to the United States for
15 any lease;

16 (H) use of best management practices, in-
17 cluding planning and practices for mitigation of
18 impacts;

19 (I) public notice and comment on any pro-
20 posal submitted for a lease under this section;

21 (J) oversight, inspection, research, moni-
22 toring, and enforcement relating to a lease
23 under this section;

1 (K) the quantity of acreage to be commen-
2 surate with the size of the project covered by a
3 lease; and

4 (L) efficient use of water resources.

5 (i) LEASE DURATION, SUSPENSION, AND CANCELLA-
6 TION.—

7 (1) DURATION.—A lease under this section
8 shall be for—

9 (A) an initial term of 25 years; and

10 (B) any additional period after the initial
11 term during which electricity is being produced
12 annually in commercial quantities from the
13 lease.

14 (2) ADMINISTRATION.—The Secretary shall es-
15 tablish terms and conditions for the issuance, trans-
16 fer, renewal, suspension, and cancellation of a lease
17 under this section.

18 (3) READJUSTMENT.—

19 (A) IN GENERAL.—Royalties, rentals, and
20 other terms and conditions of a lease under this
21 section shall be subject to readjustment—

22 (i) on the date that is 15 years after
23 the date on which the lease is issued; and

24 (ii) every 10 years thereafter.

1 (B) LEASE.—Each lease issued under this
2 Act shall provide for readjustment in accord-
3 ance with subparagraph (A).

4 (j) SURFACE-DISTURBING ACTIVITIES.—The Secre-
5 taries shall—

6 (1) regulate all surface-disturbing activities con-
7 ducted pursuant to any lease issued under this sec-
8 tion; and

9 (2) require any necessary reclamation and other
10 actions under the lease as are required in the inter-
11 est of conservation of surface resources.

12 (k) SECURITY.—The Secretaries shall require the
13 holder of a lease issued under this section—

14 (1) to furnish a surety bond or other form of
15 security, as prescribed by the Secretaries;

16 (2) to provide for the reclamation and restora-
17 tion of the area covered by the lease; and

18 (3) to comply with such other requirements as
19 the Secretaries consider necessary to protect the in-
20 terests of the public and the United States.

21 (l) PERIODIC REVIEW.—Not less frequently than
22 once every 5 years, the Secretary shall conduct a review
23 of the adequacy of the surety bond or other form of secu-
24 rity provided by the holder of a lease issued under this
25 section.

1 **SEC. 204. DISPOSITION OF REVENUES.**

2 (a) DISPOSITION OF REVENUES.—Of the amounts
3 collected as bonus bids, royalties, rentals, fees, or other
4 payments under a right-of-way, permit, lease, or other au-
5 thorization for the development of wind or solar energy
6 on covered land—

7 (1) 25 percent shall be paid by the Secretary of
8 the Treasury to the State within the boundaries of
9 which the income is derived;

10 (2) 25 percent shall be paid by the Secretary of
11 the Treasury to the 1 or more counties within the
12 boundaries of which the income is derived;

13 (3) 15 percent shall—

14 (A) for the period beginning on the date of
15 enactment of this Act and ending on date the
16 date that is 15 years after the date of enact-
17 ment of this Act, be deposited in the Treasury
18 of the United States to help facilitate the proc-
19 essing of renewable energy permits by the Bu-
20 reau of Land Management, including the trans-
21 fer of the funds by the Bureau of Land Man-
22 agement to other Federal agencies and State
23 agencies to facilitate the processing of renew-
24 able energy permits on Federal land; and

1 (B) beginning on the date that is 15 years
2 after the date of enactment of this Act, be de-
3 posited in the Fund; and

4 (4) 35 percent shall be deposited in the Renew-
5 able Energy Resource Conservation Fund estab-
6 lished by subsection (c).

7 (b) PAYMENTS TO STATES AND COUNTIES.—

8 (1) IN GENERAL.—Except as provided in para-
9 graph (2), amounts paid to States and counties
10 under subsection (a) shall be used consistent with
11 section 35 of the Mineral Leasing Act (30 U.S.C.
12 191).

13 (2) IMPACTS ON FEDERAL LAND.—Not less
14 than 33 percent of the amount paid to a State shall
15 be used on an annual basis for the purposes de-
16 scribed in subsection (c)(2)(A).

17 (c) RENEWABLE ENERGY RESOURCE CONSERVATION
18 FUND.—

19 (1) IN GENERAL.—There is established in the
20 Treasury a fund, to be known as the “Renewable
21 Energy Resource Conservation Fund”, to be admin-
22 istered by the Secretary for use in regions impacted
23 by the development of wind or solar energy.

24 (2) USE.—

1 (A) IN GENERAL.—Amounts in the Fund
2 shall be available to the Secretary, who may
3 make amounts available to the Secretary of Ag-
4 riculture and to other Federal or State agen-
5 cies, as appropriate, for the purposes of—

6 (i) addressing and offsetting the im-
7 pacts of wind or solar development on Fed-
8 eral land, including restoring and pro-
9 tecting—

10 (I) fish and wildlife habitat for
11 affected species;

12 (II) fish and wildlife corridors for
13 affected species; and

14 (III) water resources in areas im-
15 pacted by wind or solar energy devel-
16 opment;

17 (ii) securing recreational access to
18 Federal land through an easement, right-
19 of-way, or fee title acquisition from willing
20 sellers for the purpose of providing en-
21 hanced public access to existing Federal
22 land that is inaccessible or significantly re-
23 stricted; and

24 (iii) carrying out activities authorized
25 under the Land and Water Conservation

1 Fund Act of 1965 (16 U.S.C. 460l–4 et
2 seq.) in the State.

3 (B) ADVISORY BOARD.—The Secretary
4 shall establish an independent advisory board
5 composed of key stakeholders and technical ex-
6 perts to provide recommendations and guidance
7 on the disposition of any amounts expended
8 from the Fund.

9 (3) MITIGATION REQUIREMENTS.—The expend-
10 iture of funds under this subsection shall be in addi-
11 tion to any mitigation requirements imposed pursu-
12 ant to any law, regulation, or term or condition of
13 any lease, right-of-way, or other authorization.

14 (4) INVESTMENT OF FUND.—

15 (A) IN GENERAL.—Any amounts deposited
16 in the Fund shall earn interest in an amount
17 determined by the Secretary of the Treasury on
18 the basis of the current average market yield on
19 outstanding marketable obligations of the
20 United States of comparable maturities.

21 (B) USE.—Any interest earned under sub-
22 paragraph (A) may be expended in accordance
23 with this subsection.

1 **SEC. 205. ROYALTIES.**

2 (a) IN GENERAL.—The Secretaries shall require as
3 a term and condition of any lease, right-of-way, permit,
4 or other authorization for the development of wind or solar
5 energy on covered land the payment of a royalty estab-
6 lished by the Secretaries pursuant to a joint rulemaking
7 that shall be a percentage of the gross proceeds from the
8 sale of electricity at a rate that—

9 (1) encourages production of solar or wind en-
10 ergy;

11 (2) ensures a fair return to the public com-
12 parable to the return that would be obtained on
13 State and private land; and

14 (3) encourages the maximum energy generation
15 while disturbing the least quantity of covered land
16 and other natural resources, including water.

17 (b) AMOUNT.—The royalty on electricity produced
18 using wind or solar resources shall be—

19 (1) not less than 1 percent, and not more than
20 2.5 percent, of the gross proceeds from the sale of
21 electricity produced from the resources during the
22 first 10 years of production; and

23 (2) not less than 2 percent, and not more than
24 5 percent, of the gross proceeds from the sale of
25 electricity produced from the resources during each
26 year after that initial 10-year period.

1 (c) DIFFERENT ROYALTY RATES.—The Secretaries
2 may establish—

3 (1) a different royalty rate for wind or solar en-
4 ergy generation; and

5 (2) a reduced royalty rate for projects located
6 within a zone identified for development of solar or
7 wind energy.

8 (d) ROYALTY IN LIEU OF RENT.—During the period
9 of production, a royalty shall be collected in lieu of any
10 rent for the land from which the electricity is produced.

11 (e) ROYALTY RELIEF.—To promote the generation of
12 renewable energy, the Secretaries may reduce any royalty
13 otherwise required on a showing by clear and convincing
14 evidence by the person holding a lease, right-of-way, per-
15 mit, or other authorization for the development of wind
16 or solar energy on covered land under which the genera-
17 tion of energy is or will be produced in commercial quan-
18 tities that—

19 (1) collection of the full royalty would unreason-
20 ably burden energy generation; and

21 (2) the royalty reduction is in the public inter-
22 est.

23 (f) PERIODIC REVIEW AND REPORT.—

24 (1) IN GENERAL.—Not later than 5 years after
25 the date of enactment of this Act and every 5 years

1 thereafter, the Secretary, in consultation with the
2 Secretary of Agriculture, shall—

3 (A) complete a review of collections and
4 impacts of the royalty and fees provided under
5 this Act; and

6 (B) submit to the Committee on Energy
7 and Natural Resources of the Senate and the
8 Committee on Natural Resources of the House
9 of Representatives a report describing the re-
10 sults of the review.

11 (2) TOPICS.—The report shall address—

12 (A) the total revenues received (by cat-
13 egory) on an annual basis as royalties from
14 wind, solar, and geothermal development and
15 production (specified by energy source) on cov-
16 ered land;

17 (B) whether the revenues received for the
18 development of wind, solar, and geothermal de-
19 velopment are comparable to the revenues re-
20 ceived for similar development on State and pri-
21 vate land;

22 (C) any impact on the development of
23 wind, solar, and geothermal development and
24 production on covered land as a result of the
25 royalties; and

1 (D) any recommendations with respect to
2 changes in Federal law (including regulations)
3 relating to the amount or method of collection
4 (including auditing, compliance, and enforce-
5 ment) of the royalties.

6 (g) REGULATIONS.—Not later than 1 year after the
7 date of enactment of this Act, the Secretaries shall jointly
8 issue final regulations to carry out this section.

9 **SEC. 206. ENFORCEMENT OF ROYALTY AND PAYMENT PRO-**
10 **VISIONS.**

11 (a) DUTIES OF THE SECRETARY.—The Secretary
12 shall establish a comprehensive inspection, collection, fis-
13 cal, and production accounting and auditing system—

14 (1) to accurately determine royalties, rentals,
15 interest, fines, penalties, fees, deposits, and other
16 payments owed under this Act; and

17 (2) to collect and account for the payments in
18 a timely manner.

19 (b) APPLICABILITY OF OTHER LAW.—The Federal
20 Oil and Gas Royalty Management Act of 1982 (30 U.S.C.
21 1701 et seq.) (including the civil and criminal enforcement
22 provisions of that Act) shall apply to leases, permits,
23 rights-of-way, or other authorizations issued for the devel-
24 opment of solar or wind energy on covered land and the
25 holders and operators of the leases, permits, rights-of-way,

1 or other authorizations (and designees) under this title,
2 except that in applying that Act—

3 (1) “wind or solar leases, permits, rights-of-
4 way, or other authorizations” shall be substituted
5 for “oil and gas leases”;

6 (2) “electricity generated from wind or solar re-
7 sources” shall be substituted for “oil and gas”
8 (when used as nouns);

9 (3) “lease, permit, right-of-way, or other au-
10 thorization for the development of wind or solar en-
11 ergy” shall be substituted for “lease” and “lease for
12 oil and gas” (when used as nouns); and

13 (4) “lessee, permittee, right-of-way holder, or
14 holder of an authorization for the development of
15 wind or solar energy” shall be substituted for “les-
16 see”.

17 **SEC. 207. ENFORCEMENT.**

18 (a) IN GENERAL.—Sections 302(c) and 303 of the
19 Federal Land Policy and Management Act of 1976 (43
20 U.S.C. 1732(c), 1733) shall apply to activities conducted
21 on covered land under this title.

22 (b) APPLICABILITY OF OTHER ENFORCEMENT PRO-
23 VISIONS.—Nothing in this title reduces or limits the en-
24 forcement authority vested in the Secretary or the Attor-
25 ney General by any other law.

1 **SEC. 208. SEGREGATION FROM APPROPRIATION UNDER**
2 **MINING AND FEDERAL LAND LAWS.**

3 (a) **IN GENERAL.**—On covered land identified by the
4 Secretary or the Secretary of Agriculture for the develop-
5 ment of solar or wind power under this title or other appli-
6 cable law, the Secretary or the Secretary of Agriculture
7 may temporarily segregate the identified land from appro-
8 priation under the mining and public land laws.

9 (b) **ADMINISTRATION.**—Segregation of covered land
10 under this section—

11 (1) may only be made for a period not to exceed
12 10 years; and

13 (2) shall be subject to valid existing rights as
14 of the date of the segregation.

15 **SEC. 209. REPORT.**

16 (a) **STUDY.**—

17 (1) **IN GENERAL.**—Not later than 180 days
18 after the date of enactment of this Act, the Secre-
19 taries shall carry out a study on the siting, develop-
20 ment, and management of projects to determine the
21 feasibility of carrying out a conservation banking
22 program on land administered by the Secretaries.

23 (2) **CONTENTS.**—The study under paragraph

24 (1) shall—

25 (A) identify areas in which—

1 (i) privately owned land is not avail-
2 able to offset the impacts of solar or wind
3 energy development on federally adminis-
4 tered land; or

5 (ii) mitigation investments on feder-
6 ally administered land are likely to provide
7 greater conservation value for impacts of
8 solar or wind energy development on feder-
9 ally administered land; and

10 (B) examine—

11 (i) the effectiveness of laws (including
12 regulations) and policies in effect on the
13 date of enactment of this Act in facili-
14 tating the development of conservation
15 banks;

16 (ii) the advantages and disadvantages
17 of using conservation banks on Federal
18 land to mitigate impacts to natural re-
19 sources on private land; and

20 (iii) any changes in Federal law (in-
21 cluding regulations) or policy necessary to
22 further develop a Federal conservation
23 banking program.

24 (b) REPORT TO CONGRESS.—Not later than 18
25 months after the date of enactment of this Act, the Secre-

1 taries shall jointly submit to Congress a report that in-
2 cludes—

3 (1) the recommendations of the Secretaries re-
4 lating to—

5 (A) the most effective system for Federal
6 land described in subsection (a)(2)(A) to meet
7 the goals of facilitating the development of a
8 conservation banking program on Federal land;
9 and

10 (B) any change to Federal law (including
11 regulations) or policy necessary to address more
12 effectively the siting, development, and manage-
13 ment of conservation banking programs on Fed-
14 eral land to mitigate impacts to natural re-
15 sources on private land; and

16 (2) any administrative action to be taken by the
17 Secretaries in response to the recommendations.

18 (c) AVAILABILITY TO THE PUBLIC.—Not later than
19 30 days after the date on which the report described in
20 subsection (b) is submitted to Congress, the Secretaries
21 shall make the results of the study available to the public.

22 **SEC. 210. APPLICABILITY OF LAW.**

23 (a) RENTAL FEE EXEMPTION.—Wind or solar gen-
24 eration projects with a capacity of 20 megawatts or more
25 that are issued a lease, right-of-way, permit, or other au-

1 thORIZATION under applicable law shall not be subject to
2 the rental fee exemption for rights-of-way under section
3 504(g) of the Federal Land Policy and Management Act
4 of 1976 (43 U.S.C. 1764(g)).

5 (b) FEES, CHARGES, AND COMMISSIONS.—Section
6 304 of the Federal Land Policy and Management Act of
7 1976 (43 U.S.C. 1734) shall apply to an application made
8 under section 4.

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