

113TH CONGRESS
1ST SESSION

H. R. 596

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 8, 2013

Mr. GOSAR (for himself, Mr. THOMPSON of California, Mr. HECK of Nevada, Mr. POLIS, Mr. TIPTON, Ms. DEGETTE, Mr. COFFMAN, Mr. COSTA, Mr. DENHAM, Mr. BLUMENAUER, Mr. AMODEI, Mr. DEFazio, Mr. SIMPSON, Mr. BEN RAY LUJÁN of New Mexico, Mr. SCHWEIKERT, and Mrs. KIRKPATRICK) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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 2013”.

(b) TABLE OF CONTENTS.—The table of contents 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 Energy Policy Act of 2005.

TITLE II—DEVELOPMENT OF WIND AND SOLAR ENERGY ON CERTAIN FEDERAL LAND

Sec. 201. Definitions.

Sec. 202. Development of solar and wind energy on covered land.

Sec. 203. Royalties.

Sec. 204. Disposition of royalty revenue.

Sec. 205. Study and report on mitigation banking.

3 TITLE I—GEOTHERMAL ENERGY

4 SEC. 101. EXTENSION OF FUNDING FOR IMPLEMENTATION 5 OF ENERGY POLICY ACT OF 2005.

(a) IN GENERAL.—Section 234(a) of the Energy Policy Act of 2005 (42 U.S.C. 15873(a)) is amended by striking “in the first 5 fiscal years beginning after the date of enactment of this Act” and inserting “through fiscal year 2020”.

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

(1) by striking “Amounts” and inserting “Effective for fiscal year 2012 and each fiscal year thereafter, amounts”; and

(2) by striking “without further appropriation” and inserting “in such amounts as are provided in advance in appropriations Acts”.

1 **TITLE II—DEVELOPMENT OF**
2 **WIND AND SOLAR ENERGY ON**
3 **CERTAIN FEDERAL LAND**

4 **SEC. 201. DEFINITIONS.**

5 In this title:

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

8 (A)(i) public land administered by the Sec-
9 retary of the Interior; or

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

12 (B) not excluded from the development of
13 solar or wind energy under—

14 (i) a final land use plan established
15 under the Federal Land Policy and Man-
16 agement Act of 1976 (43 U.S.C. 1701 et
17 seq.);

18 (ii) a final land and resource manage-
19 ment plan established under the National
20 Forest Management Act of 1976 (16
21 U.S.C. 1600 et seq.); or

22 (iii) Federal law.

23 (2) FUND.—The term “Fund” means the Re-
24 newable Energy Resource Conservation Fund estab-
25 lished under section 204(b).

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

5 (4) SECRETARY CONCERNED.—The term “Sec-
 6 retary concerned” means—

7 (A) the Secretary of the Interior, with re-
 8 spect to land described in clause (i) of para-
 9 graph (1)(A); and

10 (B) the Secretary of Agriculture, with re-
 11 spect to land described in clause (ii) of such
 12 paragraph.

13 **SEC. 202. DEVELOPMENT OF SOLAR AND WIND ENERGY ON**
 14 **COVERED LAND.**

15 (a) PILOT PROGRAM ON SELECTED COVERED
 16 LAND.—

17 (1) ESTABLISHMENT.—Not later than 180 days
 18 after the date of the enactment of this Act, the Sec-
 19 retary of the Interior and the Secretary of Agri-
 20 culture shall each establish a wind and solar leasing
 21 pilot program under which the Secretary concerned
 22 conducts lease sales of certain sites located on cov-
 23 ered land administered by the Secretary concerned
 24 for purposes of carrying out wind and solar energy
 25 projects.

1 (2) SELECTION OF SITES ON COVERED LAND.—

2 (A) IN GENERAL.—Not later than 90 days
3 after the date the pilot program is established
4 under paragraph (1), the Secretary concerned
5 shall each select from covered land administered
6 by the Secretary—

7 (i) 1 site for the development of a
8 solar energy project; and

9 (ii) 1 site for the development of a
10 wind energy project.

11 (B) SITE SELECTION.—In selecting sites
12 under subparagraph (A), the Secretary con-
13 cerned shall—

14 (i) give a preference to sites that the
15 Secretary concerned determines—

16 (I) are likely to attract a high
17 level of wind and solar energy indus-
18 try interest;

19 (II) have a comparatively low
20 value for resources other than wind
21 and solar energy; and

22 (III) would serve as models for
23 the expansion of the pilot program to
24 other locations if the program is ex-
25 panded under subsection (c);

(ii) take into consideration the value of the multiple resources of the covered land on which such sites are located; and

(iii) not select any site for which a right-of-way or special use permit for site testing or construction has been issued under title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.) or the National Forest Management Act of 1976 (16 U.S.C. 1600 et seq.).

(3) LEASE SALES OF PROJECT SITES.—

(A) IN GENERAL.—Except as provided in paragraph (4)(B)(i), not later than 180 days after the date on which sites are selected under paragraph (2), the Secretary concerned shall offer each site for competitive leasing under such terms and conditions as the Secretary concerned requires.

(B) BIDDING.—Bidding on a site offered for lease under this subsection shall be—

(i) limited to one round;

(ii) open only to bidders who—

1 (I) submit a plan of development
2 for such site together with the bid;
3 and

4 (II) the Secretary concerned de-
5 termines are qualified under subpara-
6 graph (C)(ii); and

7 (iii) conducted using a bidding system
8 selected by the Secretary concerned, in-
9 cluding—

10 (I) a cash bonus bids system re-
11 quiring payment of the royalty estab-
12 lished under this title;

13 (II) a variable royalty bids sys-
14 tem based on a percentage of the
15 gross proceeds from the sale of elec-
16 tricity produced from the site offered
17 for lease, except that the royalty shall
18 not be less than the royalty required
19 under this title, together with a fixed
20 cash bonus; or

21 (III) such other bidding system
22 as ensures a fair return to the public
23 consistent with the royalty established
24 under this title.

1 (C) BIDDER QUALIFICATIONS.—The Sec-
2 retary concerned shall—

3 (i) before conducting any lease sale
4 under this subsection, establish qualifica-
5 tion requirements for bidders on a site of-
6 fered for lease that ensure that such bid-
7 ders, with respect to wind or solar energy
8 projects—

9 (I) are able to expeditiously de-
10 velop such a project on the site;

11 (II) possess the financial re-
12 sources necessary to complete such a
13 project;

14 (III) possess knowledge of the
15 technology needed to complete such a
16 project;

17 (IV) meet eligibility requirements
18 that are substantially similar to the
19 eligibility requirements for leasing that
20 apply under the first section of the
21 Mineral Leasing Act (30 U.S.C. 181);
22 and

23 (V) possess such other qualifica-
24 tions as the Secretary concerned de-
25 termines are necessary; and

1 (ii) using the requirements established
2 under clause (i), determine whether a per-
3 son is qualified to be a bidder on a site of-
4 fered for lease under this subsection.

5 (D) CREDIT FOR BID PREPARATION EX-
6 PENDITURES.—In the case of a site offered for
7 lease under this subsection with respect to
8 which more than one bid is submitted on the
9 date of the lease sale of such site, the Secretary
10 concerned shall give credit to each person who
11 submitted a bid with respect to such site for ex-
12 penditures such person incurred in the prepara-
13 tion of such bid.

14 (4) LEASE TERMS.—

15 (A) IN GENERAL.—The Secretary con-
16 cerned may establish such lease terms and con-
17 ditions, including the duration of the lease with
18 respect to any site offered for lease under this
19 subsection.

20 (B) SHORT-TERM LEASES FOR DATA COL-
21 LECTION.—In carrying out this subsection, the
22 Secretary concerned shall—

23 (i) offer on a noncompetitive basis a
24 short-term lease on not less than one site

1 selected under paragraph (2) for purposes
2 of data collection; and

3 (ii) upon the expiration of the short-
4 term lease, offer on a competitive basis a
5 long-term lease, giving credit toward the
6 bonus bid submitted with respect to the
7 long-term lease to the holder of the short-
8 term lease for any qualified expenditures
9 made by such holder to collect data or to
10 develop the site during such short-term
11 lease.

12 (5) REVENUES.—Subject to section 203, the
13 Secretary concerned may collect bonus bids, roy-
14 alties, fees, or other payments (except rental pay-
15 ments) with respect to sites offered for lease under
16 this subsection.

17 (6) REPORT.—Not later than 90 days after the
18 date on which the Secretary concerned conducts the
19 final lease sale under this subsection, the Secretary
20 shall submit to the Committee on Energy and Nat-
21 ural Resources and the Committee on Agriculture of
22 the Senate and the Committee on Natural Resources
23 and the Committee on Agriculture of the House of
24 Representatives a report on the results of each lease
25 sale conducted under this subsection, including—

1 (A) the level of competitive interest;

2 (B) a summary of bids and revenues re-
3 ceived; and

4 (C) any other factors that may have im-
5 pacted the lease sale.

6 (7) OTHER LAWS.—

7 (A) COMPLIANCE WITH LAND MANAGE-
8 MENT AND ENVIRONMENTAL LAWS.—In offer-
9 ing sites for lease under this subsection, the
10 Secretary concerned shall comply with—

11 (i) all Federal laws applicable to pub-
12 lic land or National Forest System land;
13 and

14 (ii) Federal or State environmental
15 laws or any other relevant laws.

16 (B) APPLICABILITY TO WIND AND SOLAR
17 ENERGY PROJECTS UNDER OTHER FEDERAL
18 LAWS.—Nothing in this subsection shall be con-
19 strued so as to prohibit the Secretary concerned
20 from issuing rights-of-way or special use per-
21 mits with respect to wind and solar energy
22 projects in compliance with other Federal laws
23 and regulations in effect on the date of the en-
24 actment of this Act.

1 (8) ENFORCEMENT OF FEDERAL LAND POLICY
2 MANAGEMENT.—

3 (A) IN GENERAL.—Sections 302(c) and
4 303 of the Federal Land Policy and Manage-
5 ment Act of 1976 (43 U.S.C. 1732(c), 1733)
6 shall apply to activities conducted on sites on
7 covered land offered for lease under this sub-
8 section.

9 (B) EFFECT ON ENFORCEMENT AUTHOR-
10 ITY UNDER OTHER FEDERAL LAW.—Nothing in
11 this subsection shall be construed so as to re-
12 duce or limit the enforcement authority vested
13 in the Secretary of the Interior, the Secretary
14 of Agriculture, or the Attorney General on cov-
15 ered land under any other Federal law.

16 (b) TEMPORARY EXTENSION OF PILOT PROGRAM.—
17 Until final regulations are issued under subsection (c)(4),
18 the Secretary of the Interior shall continue to carry out
19 the pilot program under subsection (a) on the sites offered
20 for lease under such subsection. The Secretary may extend
21 any lease issued for such sites under subsection (a) under
22 the same terms and conditions applicable to such lease on
23 the date of the lease sale as necessary until final regula-
24 tions are issued under subsection (c)(4) with respect to
25 such sites.

1 (c) EXPANSION OF PILOT PROGRAM TO ALL COV-
2 ERED LAND.—

3 (1) JOINT DETERMINATION REQUIRED.—Not
4 later than 5 years after the date of the enactment
5 of this Act, the Secretary of the Interior and the
6 Secretary of Agriculture shall jointly determine
7 whether to expand the pilot program established
8 under subsection (a) to apply to all covered land, in-
9 cluding sites with respect to which leases were issued
10 under subsection (a). In making such determination,
11 the Secretary of the Interior and the Secretary of
12 Agriculture shall—

13 (A) take into consideration the results of
14 the pilot program;

15 (B) consult with—

16 (i) the heads of Federal agencies and
17 relevant State agencies (including State
18 fish and wildlife agencies);

19 (ii) interested States, Indian tribes,
20 and local governments;

21 (iii) representatives of the solar and
22 wind energy industries;

23 (iv) representatives of the environ-
24 ment, conservation, and outdoor sporting
25 communities; and

- 1 (v) the public; and
- 2 (C) consider whether such expansion—
- 3 (i) provides an effective means of de-
- 4 veloping wind or solar energy; and
- 5 (ii) is in the public interest.

6 (2) EXPANSION AUTHORIZED.—The pilot pro-

7 gram shall be expanded only if the Secretary of the

8 Interior and the Secretary of Agriculture determined

9 to expand the pilot program under paragraph (1).

10 (3) REPORT ON JOINT DETERMINATION.—Not

11 later than 60 days after making the determination

12 under paragraph (1) to expand the pilot program,

13 the Secretary of the Interior and the Secretary of

14 Agriculture shall jointly submit to the Committee on

15 Energy and Natural Resources and Committee on

16 Agriculture of the Senate and the Committee on

17 Natural Resources and Committee on Agriculture of

18 the House of Representatives a report describing the

19 basis and findings for the determination.

20 (4) REGULATIONS TO IMPLEMENT EXPAN-

21 SION.—Not later than one year after making a de-

22 termination to expand the pilot program under para-

23 graph (1), the Secretary of the Interior and the Sec-

24 retary of Agriculture shall jointly issue final regula-

25 tions to implement this Act.

1 (5) APPLICABILITY OF PROVISIONS OF PILOT
2 PROGRAM TO EXPANDED PROGRAM.—

3 (A) IN GENERAL.—Except as provided in
4 subparagraph (B), paragraphs (3), (7), and (8)
5 of subsection (a) shall apply to covered land of-
6 fered for lease under this subsection in the
7 same manner as such paragraphs apply to sites
8 offered for lease under subsection (a).

9 (B) COMPETITIVE LEASING NOT REQUIRED
10 UNDER CERTAIN CIRCUMSTANCES.—The re-
11 quirement under subsection (a)(3) that a lease
12 be sold on a competitive basis shall not apply
13 to a lease issued under this subsection if the
14 Secretary concerned determines that—

15 (i) no competitive interest exists for
16 the covered land offered for lease;

17 (ii) the public interest would not be
18 served by the competitive issuance of a
19 lease with respect to such covered land; or

20 (iii) the lease is for a purpose de-
21 scribed in paragraph (7)(A)(ii).

22 (6) PAYMENTS.—

23 (A) IN GENERAL.—Subject to section 203,
24 the Secretary of the Interior and the Secretary
25 of Agriculture shall jointly establish fees, bo-

nuses, or other payments (except rental payments) to ensure a fair return to the United States for any lease issued under this subsection.

(B) BONUS BIDS.—The Secretary concerned may grant credit toward any bonus bid for a qualified expenditure by the holder of a lease described in paragraph (7)(A)(ii) in any competitive lease sale held for a long-term lease of the covered land that is the subject of the lease described in such paragraph.

(C) READJUSTMENT.—

(i) IN GENERAL.—Royalties and other terms and conditions of a lease issued under this subsection shall be subject to readjustment—

(I) on the date that is 15 years after the date on which the lease is issued; and

(II) every 10 years thereafter.

(ii) INDEXING.—Effective on the first day of the first month beginning after the date of enactment of this Act and each year thereafter, the amount of royalties or other terms and conditions subject to read-

1 justment under clause (i) shall be adjusted
2 to reflect changes for the 12-month period
3 ending on the most recent date for which
4 data are available in the Consumer Price
5 Index for All Urban Consumers published
6 by the Bureau of Labor Statistics of the
7 Department of Labor.

8 (7) LEASE DURATION, ADMINISTRATION, AND
9 READJUSTMENT.—

10 (A) DURATION.—

11 (i) IN GENERAL.—Except as provided
12 in clause (ii), a lease issued under this sub-
13 section shall be for—

14 (I) an initial term of 25 years;

15 and

16 (II) any additional period after
17 the initial 25-year term during which
18 electricity is being produced annually
19 in commercial quantities from the
20 lease.

21 (ii) DATA COLLECTION LEASES.—In
22 the case of a lease issued under this sub-
23 section for the placement and operation of
24 a meteorological or data collection facility
25 or for the development or demonstration of

1 a new wind or solar technology, such lease
2 shall have a term of not more than 5
3 years.

4 (B) ADMINISTRATION.—The Secretary of
5 the Interior and the Secretary of Agriculture
6 shall jointly establish terms and conditions for
7 the issuance, transfer, renewal, suspension, and
8 cancellation of a lease issued under this sub-
9 section.

10 (C) READJUSTMENT PROVISION RE-
11 QUIRED.—Each lease issued under this sub-
12 section shall provide for readjustment in ac-
13 cordance with subparagraph (A).

14 (8) SURFACE-DISTURBING ACTIVITIES.—The
15 Secretary of the Interior and the Secretary of Agri-
16 culture shall jointly issue regulations regarding sur-
17 face-disturbing activities conducted under any lease
18 issued under this subsection, including any reclama-
19 tion and other actions necessary to conserve and to
20 offset impacts to surface resources.

21 (9) SECURITY.—

22 (A) IN GENERAL.—The Secretary con-
23 cerned shall require that the holder of a lease
24 issued under this subsection—

1 (i) furnish a surety bond or other
2 form of security, as prescribed by the Sec-
3 retary;

4 (ii) provide for the reclamation and
5 restoration of the covered land that is the
6 subject of the lease; and

7 (iii) comply with such other require-
8 ments as the Secretary considers necessary
9 to protect the interests of the public and
10 the United States.

11 (B) PERIODIC REVIEW.—Not less fre-
12 quently than once every 5 years, the Secretary
13 concerned shall conduct a review of the ade-
14 quacy of the surety bond or other form of secu-
15 rity provided by the holder of a lease issued
16 under this subsection.

17 **SEC. 203. ROYALTIES.**

18 (a) IN GENERAL.—The Secretary concerned shall re-
19 quire as a term and condition of any lease issued under
20 section 202, the payment of a royalty. The Secretary of
21 the Interior and the Secretary of Agriculture shall estab-
22 lish such royalty pursuant to a joint rulemaking that shall
23 be a percentage of the gross proceeds from the sale of elec-
24 tricity produced on covered land that is the subject of such
25 lease at a rate that—

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

3 (2) ensures a fair return to the public com-
4 parable to the return that would be obtained on
5 State or private land; and

6 (3) encourages the maximum energy generation
7 while disturbing the least quantity of covered land
8 and other natural resources, including water.

9 (b) CONSIDERATION.—In establishing the royalty
10 under subsection (a), the Secretary of the Interior and the
11 Secretary of Agriculture shall consider the relative capac-
12 ity factors of wind and solar energy projects.

13 (c) EXCLUSIVE PAYMENT ON SALE OF ELEC-
14 TRICITY.—The royalty under subsection (a) shall be the
15 only rent, royalty, or similar payment to the Federal Gov-
16 ernment required with respect to the sale of electricity pro-
17 duced under a lease issued under section 202.

18 (d) ROYALTY RELIEF.—The Secretary concerned
19 may reduce the royalty rate established under subsection
20 (a) if the holder of a lease issued under this title shows
21 by clear and convincing evidence that—

22 (1) collection of the full royalty would unreason-
23 ably burden energy generation on covered land that
24 is the subject of the lease; and

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

3 (e) ENFORCEMENT.—

4 (1) AUDITING SYSTEM.—The Secretary of the
5 Interior and the Secretary of Agriculture shall joint-
6 ly establish a comprehensive inspection, collection,
7 fiscal, and production accounting and auditing sys-
8 tem—

9 (A) to accurately determine royalties, in-
10 terest, fines, penalties, fees, deposits, and other
11 payments owed under this title; and

12 (B) to collect and account for the pay-
13 ments in a timely manner.

14 (2) APPLICABILITY OF FEDERAL OIL AND ROY-
15 ALTY MANAGEMENT ACT.—The provisions of the
16 Federal Oil and Gas Royalty Management Act of
17 1982 (30 U.S.C. 1701 et seq.) (including the civil
18 and criminal enforcement provisions of such Act)
19 shall apply to leases issued under this title with re-
20 spect to wind and solar energy projects in the same
21 manner as such provisions apply to oil and gas
22 leases.

23 (f) REPORT ON ROYALTIES.—Not later than 5 years
24 after the date of enactment of this Act and every 5 years
25 thereafter, the Secretary of the Interior, in consultation

1 with the Secretary of Agriculture, shall submit to the
2 Committee on Energy and Natural Resources and the
3 Committee on Agriculture of the Senate and the Com-
4 mittee on Natural Resources and the Committee on Agri-
5 culture of the House of Representatives a report con-
6 sisting of a review of the collections and impacts of the
7 royalties and fees collected under this title, including—

8 (1) the total revenues received (by category) on
9 an annual basis as royalties from wind, solar, and
10 geothermal development and production (specified by
11 energy source) on covered land;

12 (2) whether the revenues received for the devel-
13 opment of wind, solar, and geothermal development
14 are comparable to the revenues received for similar
15 development on State or private land;

16 (3) any impact on the development of wind,
17 solar, and geothermal development and production
18 on covered land as a result of the royalties; and

19 (4) any recommendations with respect to
20 changes in Federal law (including regulations) relat-
21 ing to the amount or method of collection (including
22 auditing, compliance, and enforcement) of the royal-
23 ties.

24 (g) REGULATIONS.—Not later than one year after the
25 date of the enactment of this Act, the Secretary of the

1 Interior and the Secretary of Agriculture shall jointly issue
2 final regulations to carry out this section.

3 **SEC. 204. DISPOSITION OF ROYALTY REVENUE.**

4 (a) ALLOCATION OF REVENUE.—Effective beginning
5 on the date of the enactment of this Act, all amounts col-
6 lected by the Secretary concerned as royalties or bonuses
7 under subsection (a)(5) or (c)(6) of section 202, shall be
8 distributed as follows:

9 (1) Twenty-five percent shall be paid by the
10 Secretary of the Treasury to States within the
11 boundaries of which the royalties or bonuses are de-
12 rived, to be allocated among such States based on
13 the percentage of covered land from which such roy-
14 alties or bonuses are derived in each State.

15 (2) Twenty-five percent shall be paid by the
16 Secretary of the Treasury to the counties within the
17 boundaries of which the royalties or bonuses are de-
18 rived, to be allocated among such counties based on
19 the percentage of covered land from which such roy-
20 alties or bonuses are derived in each county.

21 (3) Twenty-five percent shall be deposited in
22 the Fund (established by subsection (b)).

23 (4) For the period that begins on the date of
24 the enactment of this Act and ending on the date
25 that is 15 years after the date of the enactment of

1 this Act, 15 percent shall be paid by the Secretary
2 of the Treasury directly to the State offices of the
3 Bureau of Land Management and the regional office
4 of the Forest Service with jurisdiction over the areas
5 of which the royalties or bonuses are derived for
6 purposes of reducing the number of renewable en-
7 ergy permits that have not been processed before the
8 date of the enactment of this Act, to be allocated
9 among such offices based on the percentage of cov-
10 ered land from which the royalties or bonuses are
11 derived in each State.

12 (5) The remainder shall be deposited into the
13 general fund of the Treasury for purposes of reduc-
14 ing the annual Federal budget deficit.

15 (b) RENEWABLE ENERGY RESOURCE CONSERVATION
16 FUND.—

17 (1) ESTABLISHMENT.—There is established in
18 the Treasury of the United States a Renewable En-
19 ergy Resource Conservation Fund to be adminis-
20 tered by the Secretary of the Interior, in consulta-
21 tion with the Secretary of Agriculture, for use in re-
22 gions impacted by the development of wind or solar
23 energy on public land.

24 (2) USE OF FUNDS.—The Secretary shall use
25 amounts in the Fund to take actions and to make

1 payments to State agencies, Federal agencies, or
2 other interested persons in such regions for—

3 (A) protecting and restoring important fish
4 and wildlife habitat in such regions, including
5 corridors, water resources, and other sensitive
6 land; and

7 (B) assuring and improving access to Fed-
8 eral lands and waters in such regions for hunt-
9 ing, fishing, and other forms of outdoor recre-
10 ation in a manner consistent with the conserva-
11 tion of fish and wildlife habitat.

12 (3) AVAILABILITY OF AMOUNTS.—Amounts in
13 the Fund shall be available for expenditure, in ac-
14 cordance with this subsection, without further appro-
15 priation and without fiscal year limitation.

16 (4) INVESTMENT OF FUND.—

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

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

1 (5) MITIGATION REQUIREMENTS.—The expend-
2 iture of funds under this subsection shall be sepa-
3 rate and distinct from any mitigation requirements
4 imposed pursuant to any law, regulation, or term or
5 condition of any lease, right-of-way, or other author-
6 ization.

7 (c) ALLOCATION FOR PERMITTING AFTER EXPIRA-
8 TION OF 15-YEAR PERIOD.—

9 (1) CERTIFICATION BY SECRETARY.—At the
10 end of the 15-year period described in subsection
11 (a)(4), the Secretary shall certify whether the State
12 offices referred to in such subsection have ade-
13 quately reduced the renewable energy permitting
14 backlog referred to in such subsection.

15 (2) ALLOCATION AFTER CERTIFICATION.—If
16 the Secretary certifies under paragraph (1) that—

17 (A) the State offices referred to in such
18 paragraph have not adequately reduced the
19 backlog referred to in such paragraph—

20 (i) the 15-year period described in
21 subsection (a)(4) shall be extended by an
22 additional 15-year period; and

23 (ii) payments shall continue to be
24 made during that period as described in
25 such subsection; or

1 (B) the State offices referred to in such
 2 paragraph have adequately reduced such back-
 3 log—

4 (i) two-thirds of the amount otherwise
 5 required to be paid under subsection (a)(4)
 6 shall be added to the amount deposited in
 7 the Fund established under subsection (b);
 8 and

9 (ii) one-third of such amount shall be
 10 deposited into the general fund of the
 11 Treasury for purposes of reducing the an-
 12 nual Federal budget deficit.

13 (d) PAYMENTS TO STATES AND COUNTIES.—

14 (1) IN GENERAL.—Amounts paid to States and
 15 counties under subsection (a) shall be used in a
 16 manner that is consistent with section 35 of the
 17 Mineral Leasing Act (30 U.S.C. 191).

18 (2) IMPACTS.—Not less than 35 percent of the
 19 amount paid to a State each fiscal year shall be used
 20 for the purposes described in subsection (b)(2).

21 **SEC. 205. STUDY AND REPORT ON MITIGATION BANKING.**

22 (a) STUDY.—

23 (1) IN GENERAL.—Not later than 180 days
 24 after the date of enactment of this Act, the Sec-
 25 retary of the Interior and the Secretary of Agri-

1 culture shall carry out a study to determine the fea-
2 sibility of carrying out a mitigation banking program
3 on Federal land administered by the Secretary of the
4 Interior or the Secretary of Agriculture for purposes
5 of fully offsetting the impacts of wind or solar en-
6 ergy on such Federal land.

7 (2) CONTENTS.—The study under paragraph
8 (1) shall—

9 (A) identify areas in which—

10 (i) privately owned land is not avail-
11 able to fully offset the impacts of wind or
12 solar energy development on Federal land
13 administered by the Secretary of the Inte-
14 rior or the Secretary of Agriculture; or

15 (ii) mitigation investments on such
16 Federal land are likely to provide greater
17 conservation value for the impacts of wind
18 or solar energy development on such Fed-
19 eral land; and

20 (B) examine—

21 (i) the effectiveness of laws (including
22 regulations) and policies in effect on the
23 date of the enactment of this Act in facili-
24 tating the development and effective oper-
25 ation of mitigation banks;

1 (ii) the advantages and disadvantages
2 of using mitigation banks on such Federal
3 land to mitigate impacts to natural re-
4 sources on private, State, and tribal land;
5 and

6 (iii) any changes in Federal law (in-
7 cluding regulations) or policy necessary to
8 further develop a Federal mitigation bank-
9 ing program.

10 (b) REPORT TO CONGRESS.—Not later than 18
11 months after the date of the enactment of this Act, the
12 Secretary of the Interior and the Secretary of Agriculture
13 shall jointly submit to Congress a report that includes—

14 (1) the recommendations of the Secretaries re-
15 lating to—

16 (A) the most effective system for Federal
17 land administered by the Secretary of the Inte-
18 rior or the Secretary of Agriculture to meet the
19 goals of facilitating the development of a miti-
20 gation banking program on such Federal land;
21 and

22 (B) any change to Federal law (including
23 regulations) or policy necessary to address more
24 effectively the siting, development, and manage-
25 ment of mitigation banking programs on such

1 Federal land to mitigate impacts to natural re-
2 sources on private, State, and tribal land; and

3 (2) any administrative action to be taken by the
4 Secretary of the Interior and the Secretary of Agri-
5 culture in response to the recommendations.

6 (c) AVAILABILITY TO THE PUBLIC.—Not later than
7 30 days after the date on which the report described in
8 subsection (b) is submitted to Congress, the Secretary of
9 the Interior and the Secretary of Agriculture shall make
10 the results of the study available to the public.

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