

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2415
OFFERED BY MS. LEGER FERNÁNDEZ OF
NEW MEXICO**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Orphaned Well Clean-
3 up and Jobs Act of 2021”.

**4 SEC. 2. ORPHANED WELL SITE PLUGGING, REMEDIATION,
5 AND RESTORATION.**

6 Section 349 of the Energy Policy Act of 2005 (Public
7 Law 109–58; 42 U.S.C. 15907) is amended to read as
8 follows:

**9 “SEC. 349. ORPHANED WELL SITE PLUGGING, REMEDI-
10 ATION, AND RESTORATION.**

11 “(a) FEDERAL PROGRAM.—

12 “(1) ESTABLISHMENT.—The Secretary, in co-
13 operation with the Secretary of Agriculture and af-
14 fected Indian Tribes, shall establish a program not
15 later than 180 days after the date of enactment of
16 this section to permanently plug orphaned wells and
17 remediate and reclaim orphaned wells located on

1 land administered by the land management agencies
2 within the Department of the Interior and the De-
3 partment of Agriculture.

4 “(2) ACTIVITIES.—The program under para-
5 graph (1) shall—

6 “(A) include a means of identifying, char-
7 acterizing, and inventorying orphaned wells on
8 Federal lands and ranking orphaned wells for
9 priority in permanent plugging, remediation,
10 and reclamation, based on public health and
11 safety, potential environmental harm, and other
12 land use priorities;

13 “(B) distribute funding according to the
14 priorities identified under subparagraph (A)
15 for—

16 “(i) permanently plugging orphaned
17 wells;

18 “(ii) remediating and reclaiming well
19 pads and access roads associated with or-
20 phaned wells;

21 “(iii) remediating soil and restoring
22 native species habitat that has been de-
23 graded due to the presence of orphaned
24 wells; and

1 “(iv) remediating lands, including ac-
2 cess roads, adjacent to orphaned wells and
3 decommissioning or removing pipelines, fa-
4 cilities, and infrastructure associated with
5 the orphaned well;

6 “(C) provide a public accounting of the
7 costs of permanently plugging, remediating, and
8 reclaiming each orphaned well;

9 “(D) seek to determine the identities of po-
10 tentially responsible parties associated with the
11 orphaned well, or their sureties or guarantors,
12 to the extent such information can be
13 ascertained, and make efforts to obtain reim-
14 bursement for expenditures to the extent prac-
15 ticable;

16 “(E) to the maximum extent possible, sup-
17 port research and development efforts aimed at
18 investigating, measuring, and tracking emis-
19 sions of methane and other gases associated
20 with orphaned wells;

21 “(F) measure and track contamination of
22 groundwater or surface water associated with
23 orphaned wells; and

1 “(G) reduce the negative effects of or-
2 phaned wells on environmental justice commu-
3 nities.

4 “(3) DEFINE ORPHANED WELL.—Not later
5 than 180 days after the date of enactment of this
6 section, the Secretary shall issue a final rule defin-
7 ing the term ‘orphaned well’ as such term applies to
8 Federal and Tribal land for the purposes of this sec-
9 tion.

10 “(4) IDLED WELLS.—

11 “(A) IN GENERAL.—The Secretary, acting
12 through the Director of the Bureau of Land
13 Management, shall annually review all idled
14 wells on Federal lands and take such measures
15 as such Director determines appropriate to re-
16 duce such Director’s idled well inventory.

17 “(B) DEFINITION OF IDLED WELL.—Not
18 later than 6 months after the date of enactment
19 of this section, the Secretary, acting through
20 the Director of the Bureau of Land Manage-
21 ment, shall establish a definition for the term
22 ‘idled well’ for the purposes of this section.

23 “(5) COOPERATION AND CONSULTATIONS.—In
24 carrying out the program under paragraph (1), the
25 Secretary shall—

1 “(A) work cooperatively with the Secretary
2 of Agriculture and the States within which Fed-
3 eral land is located; and

4 “(B) consult with affected Indian Tribes,
5 the Secretary of Energy, and the Interstate Oil
6 and Gas Compact Commission.

7 “(b) STATE ORPHANED WELL SITE PLUGGING, RE-
8 MEDIATION, AND RESTORATION.—

9 “(1) IN GENERAL.—

10 “(A) ACTIVITIES.—The Secretary shall
11 provide funding to States as described in this
12 section for any of the following purposes:

13 “(i) To permanently plug, remediate,
14 and reclaim orphaned wells located on
15 State- and privately-owned land.

16 “(ii) To identify and characterize un-
17 documented orphaned wells on State and
18 private lands.

19 “(iii) To rank orphaned wells on State
20 and private lands based on factors includ-
21 ing public health and safety, potential envi-
22 ronmental harm, and other land use prior-
23 ities.

1 “(iv) To make information regarding
2 the use of funds received under this sub-
3 section available on a public website.

4 “(v) To measure and track emissions
5 of methane and other gases associated with
6 orphaned wells.

7 “(vi) To measure and track contami-
8 nation of groundwater or surface water as-
9 sociated with orphaned wells.

10 “(vii) To remediate soil and restore
11 native species habitat that have been de-
12 graded due to the presence of orphaned
13 wells.

14 “(viii) To remediate lands, including
15 access roads, adjacent to orphaned wells
16 and decommission or remove pipelines, fa-
17 cilities, and infrastructure associated with
18 the orphaned well.

19 “(ix) To take such measures as such
20 State determines necessary to reduce the
21 negative effects of orphaned wells on envi-
22 ronmental justice communities.

23 “(x) To administer a program to
24 carry out activities described in clauses (i)
25 through (ix).

1 “(B) LIMITATION.—Except for funds re-
2 ceived by a State under paragraph (2)(A)(ii), a
3 State may not use more than 10 percent of the
4 funds received under this section in any fiscal
5 year for the purpose described in paragraph
6 (1)(A)(x).

7 “(2) INITIAL GRANTS.—

8 “(A) IN GENERAL.—The Secretary shall
9 distribute—

10 “(i) not more than \$25,000,000 to
11 each State that—

12 “(I) is a Member State or Asso-
13 ciate Member State of the Interstate
14 Oil and Gas Compact Commission;

15 “(II) requests funding under this
16 clause not later than 6 months after
17 the date of enactment of this section;

18 “(III) has at least one docu-
19 mented orphaned well;

20 “(IV) certifies to the Secretary
21 that such State can use at least 90
22 percent of the requested funding to
23 issue new contracts, amend existing
24 contracts, or issue grants for perma-
25 nent plugging, remediation, and rec-

1 lamation work within 180 days of re-
2 ceipt of funds; and

3 “(V) describes to the Secretary
4 how funds received under this clause
5 will employ individuals who have lost
6 employment during the period begin-
7 ning on March 1, 2020, and ending
8 on the date on which such State re-
9 quests funding under subclause (II);
10 and

11 “(ii) not more than \$5,000,000 to
12 each State that—

13 “(I) requests funding under this
14 clause;

15 “(II) does not receive a grant
16 under clause (i); and

17 “(III) certifies to the Secretary
18 that—

19 “(aa) such State has a per-
20 manent plugging, remediation,
21 and reclamation program for or-
22 phaned wells or the capacity to
23 start such a program; or

24 “(bb) such funds will be
25 used to conduct the administra-

1 tive work necessary to put to-
2 gether an application to receive
3 funds under paragraph (3).

4 “(B) DISTRIBUTION.—The Secretary shall
5 disburse funds to a State under this subpara-
6 graph not later than 30 days after such State
7 makes a certification to the Secretary that such
8 State is eligible to receive such funds.

9 “(C) 2 YEARS TO EXPEND FUNDS.—

10 “(i) IN GENERAL.—A State that re-
11 ceives funds under this paragraph shall re-
12 imburse the Secretary in an amount equal
13 to the amount of any unobligated funds
14 that remain 2 years after the date on
15 which such State receives funds under this
16 paragraph.

17 “(ii) USE OF REIMBURSED FUNDS.—
18 The Secretary may use funds reimbursed
19 under this subparagraph to carry out any
20 activity under subsection (a)(2).

21 “(D) REPORT.—

22 “(i) IN GENERAL.—Not later than 15
23 months after the date on which a State re-
24 ceives funds under this paragraph, such
25 State shall submit a report to the Sec-

1 retary detailing how the State adhered to
2 the certifications required by subparagraph
3 (A).

4 “(ii) PUBLIC ACCESS.—The Secretary
5 shall make available on a publicly acces-
6 sible website each report submitted under
7 clause (i).

8 “(3) FORMULA GRANTS.—

9 “(A) FORMULA.—

10 “(i) IN GENERAL.—The Secretary
11 shall establish a formula for the distribu-
12 tion of funds under this paragraph to the
13 States described in clause (ii). Such for-
14 mula, with respect to an applicant State,
15 shall account for the following factors:

16 “(I) The job losses in the oil and
17 gas industry between March 1, 2020,
18 and the date of enactment of this sec-
19 tion.

20 “(II) The number of documented
21 orphaned wells and associated facili-
22 ties and the projected cost to perma-
23 nently plug and reclaim such wells.

24 “(ii) NOTIFICATION.—A State is de-
25 scribed in this clause if, not later than 45

1 days after the date of enactment of this
2 section, such State submits a notice to the
3 Secretary that such State intends to sub-
4 mit an application under subparagraph (B)
5 and includes in such notification the infor-
6 mation described in subclauses (I) through
7 (II) of clause (i) with respect to such
8 State.

9 “(iii) PUBLICATION.—The Secretary
10 shall, not later than 30 days after the date
11 described in clause (ii), publish on a public
12 website the amount that each State de-
13 scribed in clause (ii) is eligible to receive
14 under the formula established under clause
15 (i).

16 “(B) APPLICATION.—A State may apply to
17 receive funds under this paragraph by submit-
18 ting an application including—

19 “(i) a description of—

20 “(I) the State program for or-
21 phaned well permanent plugging, re-
22 mediation, and restoration, including
23 legal authorities, processes used to
24 identify and prioritize orphaned wells,
25 procurement mechanisms, and other

1 program elements demonstrating the
2 readiness of the State program to
3 carry out the proposed activities;

4 “(II) the activities to be carried
5 out with the grant, including an iden-
6 tification of the estimated health,
7 safety, habitat, and environmental
8 benefits of permanent plugging, reme-
9 diating, or reclaiming the orphaned
10 wells; and

11 “(III) how the information re-
12 garding the State’s activities under
13 this subsection will be made available
14 on a public website;

15 “(ii) an estimate of—

16 “(I) the number of orphaned
17 wells that will be permanently
18 plugged, remediated, or reclaimed;

19 “(II) the projected cost of perma-
20 nently plugging, remediating, or re-
21 claiming orphaned wells, adjacent
22 lands, and access roads;

23 “(III) the amount of that cost
24 that will be offset by the forfeiture of
25 financial assurance instruments, the

1 estimated salvage of well-site equip-
2 ment, or other proceeds from the or-
3 phaned wells and adjacent lands;

4 “(IV) the number of jobs that
5 will be created or saved through the
6 activities to be funded under this sub-
7 section; and

8 “(V) the amount of funds to be
9 spent on administrative costs;

10 “(iii) a certification that any financial
11 assurance instruments, including bonds,
12 available to cover permanent plugging, re-
13 mediation, or reclamation costs will be
14 used by the State; and

15 “(iv) the definitions and processes
16 used by the State to formally declare a well
17 orphaned or, if the State uses different ter-
18 minology, otherwise eligible for permanent
19 plugging, remediation, and reclamation by
20 the State, including the steps the State has
21 taken to identify the well’s most recent op-
22 erator.

23 “(C) REVIEW OF STATE DEFINITIONS AND
24 PROCESSES.—The Secretary may only dis-

1 tribute funds to a State under this paragraph
2 if the Secretary determines that—

3 “(i) such State has taken appropriate
4 steps to protect taxpayers from unneces-
5 sarily paying for permanent plugging, re-
6 mediation, and reclamation costs;

7 “(ii) the processes of such State for
8 declaring a well eligible for permanent
9 plugging by the State are reasonable; and

10 “(iii) the definition provided by the
11 State for the term ‘orphaned well’ (or an
12 alternate term, if applicable), if such term
13 differs from the definition given such term
14 in subsection (h)(5)(A)(ii), is reasonable.

15 “(D) 5 YEARS TO EXPEND FUNDS.—A
16 State that receives funds under this paragraph
17 shall reimburse the Secretary in an amount
18 equal to the amount of any unobligated funds
19 that remain 5 years after the date on which
20 such State receives funds under this paragraph.

21 “(E) CONSULTATION.—In making a deter-
22 mination under this paragraph regarding the
23 eligibility of a State to receive funds, the Sec-
24 retary shall consult with the Administrator of
25 the Environmental Protection Agency, the Sec-

1 retary of Energy, and the Interstate Oil and
2 Gas Compact Commission.

3 “(F) CONSIDERATION TIMELINE.—Not
4 later than 60 days after receiving a completed
5 application that meets the requirements of this
6 section from a State under this paragraph, the
7 Secretary shall issue a grant to such State.

8 “(4) DISCRETIONARY GRANTS.—

9 “(A) IN GENERAL.—

10 “(i) REGULATORY IMPROVEMENT
11 GRANT.—

12 “(I) IN GENERAL.—Beginning on
13 the date that is 6 months after the
14 date on which the first grant is issued
15 under paragraph (2), the Secretary
16 may provide funding in an amount
17 not to exceed \$20,000,000 per grant
18 to a State if the State meets one of
19 the following criteria:

20 “(aa) The State—

21 “(AA) requires, or will
22 require by the date that is
23 not later than five years
24 after the date of enactment
25 of the Orphaned Well Clean-

1 up and Jobs Act of 2021,
2 the operator of each well
3 subject to regulation by the
4 State to capture (which such
5 term means the physical
6 containment of gas for
7 transportation to market or
8 productive use, including re-
9 injection and other on-site
10 uses) at least 98 percent of
11 all gas produced each year
12 from each such well; and

13 “(BB) prohibits, or will
14 prohibit by the date that is
15 not later than five years
16 after the date of enactment
17 of the Orphaned Well Clean-
18 up and Jobs Act of 2021,
19 venting and flaring of gas
20 produced from each such
21 well, except in the case of
22 emergencies or equipment
23 failures as defined under the
24 applicable law of such State.

1 “(bb) During the period of
2 10 years that precedes the date
3 on which the State applies for a
4 grant under this paragraph, the
5 State strengthened its plugging
6 standards and procedures to en-
7 sure that wells located in the
8 State are plugged in an effective
9 manner that protects ground-
10 water and other natural re-
11 sources, public health and safety,
12 and the environment.

13 “(cc) The State has made
14 improvements to State programs
15 designed to prevent future or-
16 phaned well burdens, such as
17 bonding reform or other financial
18 assurance reform, alternative
19 funding mechanisms for or-
20 phaned well programs, and re-
21 forms to well transfer and tem-
22 porary abandonment programs in
23 the 10 years preceding the date
24 that the States applies for a
25 grant under this paragraph.

1 “(II) LIMITATION.—The Sec-
2 retary may only issue one grant per
3 criterion per State under this clause.

4 “(ii) MATCHING GRANT.—

5 “(I) IN GENERAL.—Beginning on
6 the date that is 6 months after the
7 date on which the first grant is issued
8 under paragraph (2), the Secretary
9 may provide funding to a State in an
10 amount equal to the difference be-
11 tween—

12 “(aa) the amount of funds
13 such State expended on average
14 in fiscal years 2010 through
15 2019 to permanently plug, reme-
16 diate, and reclaim orphaned wells
17 and associated facilities; and

18 “(bb) the amount of funds
19 such State certifies to the Sec-
20 retary such State will expend for
21 such purposes in the fiscal year
22 in which such State will receive
23 such grant.

1 “(II) ANNUAL GRANT.—The Sec-
2 retary may issue one grant per State
3 per fiscal year under this clause.

4 “(III) LIMITATION ON TOTAL
5 FUNDS PROVIDED TO A STATE.—The
6 Secretary may not provide a total of
7 more than \$30,000,000 to a State
8 under this clause during the period of
9 fiscal years 2021 through 2031.

10 “(B) APPLICATION.—

11 “(i) IN GENERAL.—A State may apply
12 to receive funds under this paragraph by
13 submitting an application including—

14 “(I) each of the elements re-
15 quired in an application under para-
16 graph (3)(B);

17 “(II) a description of measures
18 such State has taken to address or-
19 phaned wells, including by increasing
20 State spending on well permanent
21 plugging, remediation, and reclama-
22 tion and by improving regulation of
23 oil and gas wells; and

24 “(III) a description of how such
25 State will use such funds to—

1 “(aa) lower unemployment
2 in such State; and

3 “(bb) improve economic con-
4 ditions in economically distressed
5 areas of such State.

6 “(ii) CONSULTATION.—In making a
7 determination to issue a grant under this
8 paragraph, the Secretary shall consult with
9 the Administrator of the Environmental
10 Protection Agency and the Secretary of
11 Energy.

12 “(iii) REIMBURSEMENT FOR FAILURE
13 TO MAINTAIN PROTECTIONS.—A State that
14 receives funds under this paragraph shall
15 reimburse the Secretary any funds received
16 if, during the 10 year period beginning on
17 the date of receipt of funds under this
18 paragraph, such State enacts a statute or
19 regulation that, if such statute or regula-
20 tion were in effect when the State sub-
21 mitted an application under this para-
22 graph, would have prevented such State
23 from being eligible to receive funds under
24 subparagraph (A)(i)(I).

1 “(iv) CONSIDERATION TIMELINE.—
2 Not later than 60 days after receiving an
3 application from an eligible State under
4 this paragraph, the Secretary shall make a
5 grant or reject such application.

6 “(5) STATE REPORT.—

7 “(A) IN GENERAL.—Each State that re-
8 ceives funding under this subsection shall sub-
9 mit a report to the Secretary each year that
10 provides—

11 “(i) the number of orphaned wells
12 that have been permanently plugged, reme-
13 diated, or reclaimed;

14 “(ii) the cost of permanently plugging,
15 remediating, or reclaiming orphaned wells,
16 adjacent lands, and access roads;

17 “(iii) the amount of that cost offset
18 by the forfeiture of financial assurance in-
19 struments, the salvage of well-site equip-
20 ment, or other proceeds from the orphaned
21 wells;

22 “(iv) an estimate of the number of
23 jobs created or saved through the activities
24 funded under this subsection;

1 “(v) the funds spent on administrative
2 costs;

3 “(vi) a description of how the State is
4 working to decrease the effects of orphaned
5 wells on environmental justice commu-
6 nities; and

7 “(vii) survey results from State efforts
8 to identify undocumented orphaned wells.

9 “(B) PUBLIC ACCESS.—The Secretary
10 shall make available on a publicly accessible
11 website each report submitted under subpara-
12 graph (A).

13 “(c) TRIBAL ORPHANED WELL SITE PLUGGING, RE-
14 MEDIATION, AND RESTORATION.—

15 “(1) ESTABLISHMENT.—The Secretary shall es-
16 tablish a program in the Bureau of Indian Affairs
17 to provide grants to Indian Tribes for the purposes
18 described in paragraph (2).

19 “(2) ACTIVITIES.—The purposes described in
20 this paragraph are to—

21 “(A) permanently plug, remediate, and re-
22 claim orphaned wells on Tribal land;

23 “(B) remediate soil and restore native spe-
24 cies habitat that has been degraded due to the
25 presence of orphaned wells on Tribal land;

1 “(C) remediate lands, including access
2 roads, adjacent to orphaned wells and decom-
3 mission or remove pipelines, facilities, and in-
4 frastructure associated with the orphaned well
5 on Tribal lands;

6 “(D) provide an online public accounting
7 of the cost of permanent plugging, remediation,
8 and reclamation for each orphaned well site on
9 Tribal land, excluding confidential or sensitive
10 Tribal trust or business information (as deter-
11 mined by the Secretary);

12 “(E) identify and characterize undocu-
13 mented orphaned wells on Tribal land; and

14 “(F) administer a Tribal program to carry
15 out activities described in subparagraphs (A)
16 through (E).

17 “(3) CONSIDERATIONS.—In making a deter-
18 mination to issue a grant under this subsection, the
19 Secretary shall take into account the number of doc-
20 umented orphaned wells on the land of the Indian
21 Tribe and the projected cost to permanently plug
22 and reclaim such wells.

23 “(4) APPLICATION.—An Indian Tribe may
24 apply to receive funds under this paragraph by sub-
25 mitting an application that includes—

1 “(A) a description of—

2 “(i) the Tribal program for orphaned
3 well permanent plugging, remediation, and
4 restoration, including legal authorities,
5 processes used to identify and prioritize or-
6 phaned wells, procurement mechanisms,
7 and other program elements demonstrating
8 the readiness of the Tribal program to
9 carry out the proposed activities; and

10 “(ii) the activities to be carried out
11 with the grant, including an identification
12 of the estimated health, safety, and habi-
13 tat, and environmental benefits of perma-
14 nently plugging, remediating, or reclaiming
15 the orphaned wells, adjacent lands, and ac-
16 cess roads; and

17 “(B) an estimate of—

18 “(i) the number of orphaned wells
19 that will be permanently plugged, remedi-
20 ated, or reclaimed; and

21 “(ii) the projected costs of perma-
22 nently plugging, remediating, or reclaiming
23 the orphaned wells and any adjacent lands
24 or access roads.

1 “(5) LIMITATION.—An Indian Tribe may not
2 use more than 15 percent of the funds received
3 under this subsection in a fiscal year for the pur-
4 poses described in paragraph (2)(F).

5 “(6) CONSIDERATION TIMELINE.—The Sec-
6 retary shall issue or deny a grant under this sub-
7 section not later than 60 days after the date of re-
8 ceipt of the complete application under paragraph
9 (4).

10 “(7) 8 YEARS TO EXPEND FUNDS.—An Indian
11 Tribe that receives funds under this subsection shall
12 reimburse the Secretary in an amount equal to the
13 amount of any unobligated funds that remain 8
14 years after the date on which such Indian Tribe re-
15 ceives funds under this subsection.

16 “(8) DEFERRAL OF PLUGGING AND REMEDI-
17 ATION.—An Indian Tribe with an orphaned well
18 within such Indian Tribe’s jurisdiction may request
19 that the Secretary administer and carry out perma-
20 nent plugging, remediation, and reclamation work
21 with respect to such orphaned well. For the purposes
22 of subsection (a), any orphaned well with respect to
23 which the Indian Tribe with jurisdiction has made
24 such a request shall be treated as if such orphaned

1 well is on land administered by a land management
2 agency within the Department of the Interior.

3 “(d) TECHNICAL ASSISTANCE.—The Secretary of
4 Energy, in cooperation with the Secretary and the Inter-
5 state Oil and Gas Compact Commission, shall provide
6 technical assistance to Federal land management agencies
7 and oil and gas producing States and Indian Tribes to
8 ensure practical and economical remedies are used to ad-
9 dress environmental problems caused by orphaned wells
10 on Federal, State, Tribal, or private land, including the
11 sharing of best practices in the management of oil and
12 gas well inventories to ensure the availability of funds to
13 permanently plug, remediate, and restore oil and gas well
14 sites when operations cease.

15 “(e) REPORT TO CONGRESS.—Not later than 1 year
16 after the date of enactment of this section, and every year
17 thereafter, the Secretary shall submit to the Committees
18 on Appropriations and Energy and Natural Resources of
19 the Senate and to the Committees on Appropriations and
20 Natural Resources of the House of Representatives a re-
21 port on the program established and grants awarded
22 under this section, including—

23 “(1) an updated inventory of—

24 “(A) orphaned wells on Federal, Tribal,
25 State, and private land; and

1 “(B) wells at-risk of becoming orphaned on
2 Federal, Tribal, State, and private land;

3 “(2) to the maximum extent practical, an esti-
4 mate of—

5 “(A) the amount of methane and other
6 gasses emitted from orphaned wells; and

7 “(B) the amount of emissions reduced as
8 a result of permanently plugging and reclaiming
9 orphaned wells;

10 “(3) the number of jobs created and saved
11 through the permanent plugging, remediation, and
12 reclamation of orphaned wells; and

13 “(4) the acreage of habitat restored using
14 grants awarded to permanently plug, remediate, and
15 reclaim orphaned wells and adjacent lands, including
16 access roads, and a description of how such land is
17 likely to be used in the future.

18 “(f) IDLED WELL FEES.—

19 “(1) IN GENERAL.—The Secretary shall, not
20 later than 180 days after the date of enactment of
21 this section, issue regulations to require each oper-
22 ator of an idled well on Federal land to pay an an-
23 nual, nonrefundable fee for each such idled well in
24 accordance with this subsection.

1 “(2) AMOUNTS.—Except as provided in para-
2 graph (5), the amount of the fee shall be as follows:

3 “(A) \$500 for each well that has been con-
4 sidered an idled well for at least 1 year, but not
5 more than 5 years.

6 “(B) \$1,500 for each well that has been
7 considered an idled well for at least 5 years, but
8 not more than 10 years.

9 “(C) \$3,500 for each well that has been
10 considered an idled well for at least 10 years,
11 but not more than 15 years.

12 “(D) \$7,500 for each well that has been
13 considered an idled well for at least 15 years.

14 “(3) DUE DATE.—An owner of an idled well
15 that is required to pay a fee under this subsection
16 shall submit to the Secretary such fee by not later
17 than May 1 of each year.

18 “(4) CIVIL PENALTY.—If the operator of a
19 idled well fails to pay the full amount of a fee under
20 this subsection, the Secretary may assess a civil pen-
21 alty against the operator under section 109 of the
22 Federal Oil and Gas Royalty Management Act of
23 1982 (30 U.S.C. 1719) as if such failure to pay
24 were a violation under such section.

1 “(5) ADJUSTMENT FOR INFLATION.—The Sec-
2 retary shall, by regulation not less than once every
3 4 years, adjust each fee under this subsection to ac-
4 count for inflation based on the Consumer Price
5 Index for All Urban Consumers (as published by the
6 Bureau of Labor Statistics of the Department of
7 Labor).

8 “(6) USE OF FEES.—The Secretary, acting
9 through the Director of the Bureau of Land Man-
10 agement, shall use any fees collected under this sub-
11 section for the following purposes:

12 “(A) 50 percent of such amounts shall be
13 used for—

14 “(i) inventorying and tracking or-
15 phaned wells on Federal lands;

16 “(ii) permanently plugging orphaned
17 wells on Federal lands;

18 “(iii) remediating and reclaiming well
19 pads and access roads associated with or-
20 phaned wells on Federal lands;

21 “(iv) remediating soil and restoring
22 native species habitat that have been de-
23 graded due to the presence of orphaned
24 wells on Federal land; and

1 “(v) remediating lands, including ac-
2 cess roads, adjacent to orphaned wells and
3 decommissioning or removing pipelines, fa-
4 cilities, and infrastructure associated with
5 orphaned wells.

6 “(B) 50 percent of such amounts shall be
7 used to carry out part 3163 of title 43, Code
8 of Federal Regulations (or any successor regu-
9 lation).

10 “(g) SAVINGS CLAUSES AND PREVAILING WAGE RE-
11 QUIREMENTS.—

12 “(1) NO EXPANSION OF LIABILITY.—Nothing in
13 this section establishes or expands the responsibility
14 or liability of any entity with respect to permanently
15 plugging a well or remediating or reclaiming a well
16 site.

17 “(2) PREVAILING WAGE.—Any entity carrying
18 out a project authorized by this section shall be re-
19 quired to pay prevailing wages in accordance with
20 subchapter IV of chapter 31 of title 40, United
21 States Code (commonly known as the Davis-Bacon
22 Act).

23 “(3) TRIBAL LAND.—Nothing in this section
24 may be construed to relieve the Secretary of any ob-
25 ligation imposed by section 3 of the Act of May 11,

1 1938 (25 U.S.C. 396c), or to absolve the United
2 States from any responsibility to an Indian Tribe,
3 including those which derive from the trust relation-
4 ship or from any treaties, statutes, Executive orders,
5 or agreements between the United States and an In-
6 dian Tribe, to permanently plug, remediate, or re-
7 claim orphaned wells located on Tribal lands.

8 “(4) OWNER OR OPERATOR NOT ABSOLVED.—
9 Nothing in this section may be construed to absolve
10 the owner or operator of an oil or gas well of poten-
11 tial liability for reimbursement of permanent plug-
12 ging and reclamation costs or adverse effects on the
13 environment.

14 “(h) DEFINITIONS.—In this section:

15 “(1) ENVIRONMENTAL JUSTICE COMMUNITY.—
16 The term ‘environmental justice community’ means
17 any community with significant representation of
18 communities of color, low-income communities, or
19 Tribal and indigenous communities, that experi-
20 ences, or is at risk of experiencing higher or more
21 adverse human health or environmental effects.

22 “(2) IDLED WELL.—The term ‘idled well’—

23 “(A) if the Secretary has not established a
24 definition under subsection (a)(4)(B), means a
25 well that has been non-operational for at least

1 two consecutive years for which there is no an-
2 ticipated beneficial future use; or

3 “(B) has the meaning given to such term
4 by the Secretary under subsection (a)(4)(B).

5 “(3) INDIAN TRIBE.—The term ‘Indian Tribe’
6 means the governing body of any Indian or Alaska
7 Native Tribe, band, nation, pueblo, village, commu-
8 nity, component band, or component reservation in-
9 dividually identified (including parenthetically) in
10 the most recent list published pursuant to section
11 104 of the Federally Recognized Indian Tribe List
12 Act of 1994 (25 U.S.C. 5131).

13 “(4) OPERATOR.—The term ‘operator’ means,
14 with respect to an oil or gas operation, any entity,
15 including the lessee or operating rights owner, who
16 has stated in writing to a relevant authority that
17 such entity is responsible for such operation or a
18 portion thereof.

19 “(5) ORPHANED WELL.—The term ‘orphaned
20 well’—

21 “(A) with respect to Federal and Tribal
22 land—

23 “(i) has the meaning given to such
24 term by the Secretary under subsection
25 (a)(3); or

1 “(ii) if the Secretary has not defined
2 the term under such subsection, means a
3 well that is not being used for authorized
4 purposes such as production, injection, or
5 monitoring and for which either no oper-
6 ator can be found or the operator is unable
7 to permanently plug the well and reme-
8 diate and reclaim the well site; and

9 “(B) with respect to State or private
10 land—

11 “(i) has the meaning given to such
12 term by such State if the Secretary deter-
13 mines under subsection (b)(3)(C)(iii) that
14 such definition is reasonable; or

15 “(ii) has the meaning given in sub-
16 paragraph (A).

17 “(6) TRIBAL LAND.—The term ‘Tribal land’
18 means any land or minerals, or interests in land or
19 minerals, owned by any Indian Tribe, the title to
20 which is held in trust by the United States, or is
21 subject to a restriction against alienation under the
22 laws of the United States.

23 “(i) AUTHORIZATION OF APPROPRIATIONS.—There
24 are authorized to be appropriated for fiscal year 2021, to
25 remain available until September 30, 2031—

1 “(1) to the Secretary—

2 “(A) \$400,000,000 to carry out the pro-
3 gram under subsection (a);

4 “(B) \$1,500,000,000—

5 “(i) to provide grants under para-
6 graph (2) of subsection (b); and

7 “(ii) to provide, beginning on the date
8 that is 18 months after amounts are made
9 available to carry out this section, grants
10 under paragraph (4) of such subsection;

11 “(C) \$3,500,000,000 to provide grants
12 under paragraph (3) of such subsection;

13 “(D) \$2,250,000,000 to provide grants
14 under paragraph (4) of such subsection; and

15 “(E) \$300,000,000 to carry out subsection
16 (c);

17 “(2) to the Secretary of Energy, \$48,000,000
18 to conduct research and development activities in co-
19 operation with the Interstate Oil and Gas Compact
20 Commission to assist the Federal land management
21 agencies, States, and Indian Tribes in identifying
22 and characterizing undocumented orphaned wells
23 and mitigating the environmental risks of undocu-
24 mented orphaned wells; and

1 “(3) to the Interstate Oil and Gas Compact
2 Commission, \$2,000,000 to carry out this section.”.

3 **SEC. 3. AMENDMENT TO MINERAL LEASING ACT.**

4 Section 17(g) of the Mineral Leasing Act (30 U.S.C.
5 226(g)) is amended by inserting “The Secretary concerned
6 shall review the adequacy of each such bond, surety, or
7 other financial arrangement anytime a lease issued under
8 this section is transferred. Each such bond, surety, or
9 other financial arrangement shall be considered inad-
10 equate if such bond, surety, or other financial arrange-
11 ment is for less than \$150,000 in the case of an arrange-
12 ment for an individual surface-disturbing activity of each
13 entity on an individual oil or gas lease in a State, or
14 \$500,000 in the case of an arrangement for all surface-
15 disturbing activities of each entity on all oil and gas leases
16 in a State.” after “on the lease.”.

