

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.

○