

112TH CONGRESS
2D SESSION

H. R. 6154

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

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2012

Mr. GOSAR (for himself, Mr. THOMPSON of California, Mr. DENHAM, Mr. POLIS, Mr. COFFMAN of Colorado, Mr. COSTA, Mr. TIPTON, Mr. DEFAZIO, Mrs. McMORRIS RODGERS, and Mr. SIMPSON) 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 2012”.

7 (b) TABLE OF CONTENTS.—The table of contents for
8 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 public land.

Sec. 203. Royalties.

Sec. 204. Disposition of royalty revenue.

Sec. 205. Study and report on mitigation banking.

1 **TITLE I—GEOTHERMAL ENERGY**

2 **SEC. 101. EXTENSION OF FUNDING FOR IMPLEMENTATION**

3 **OF ENERGY POLICY ACT OF 2005.**

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 “Ef-
12 fective for fiscal year 2012 and each fiscal year
13 thereafter, amounts”; and

14 (2) by striking “without further appropriation”
15 and inserting “in such amounts as are provided in
16 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 **PUBLIC LAND.**

15 (a) PILOT PROGRAM ON SELECTED PUBLIC LAND.—

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

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

24 (A) IN GENERAL.—Not later than 90 days
25 after the date the pilot program is established

1 under paragraph (1), the Secretary shall select
2 from covered land administered by the Sec-
3 retary—

4 (i) 2 sites for the development of a
5 solar energy project; and

6 (ii) 2 sites for the development of a
7 wind energy project.

8 (B) SITE SELECTION.—In selecting sites
9 under subparagraph (A), the Secretary shall—

10 (i) give a preference to sites that the
11 Secretary determines—

12 (I) are likely to attract a high
13 level of wind and solar energy indus-
14 try interest;

15 (II) have a comparatively low
16 value for resources other than wind
17 and solar energy; and

18 (III) would serve as models for
19 the expansion of the pilot program to
20 other locations if the program is ex-
21 panded under subsection (c);

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

1 (iii) not select any site for which a
2 right-of-way for site testing or construction
3 has been issued under title V of the Fed-
4 eral Land Policy and Management Act of
5 1976 (43 U.S.C. 1761 et seq.).

6 (3) LEASE SALES OF PROJECT SITES.—

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

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

15 (i) limited to one round;

16 (ii) open only to bidders who—

17 (I) submit a plan of development
18 for such site together with the bid;
19 and

20 (II) the Secretary determines are
21 qualified under subparagraph (C)(ii);
22 and

23 (iii) conducted using a bidding system
24 selected by the Secretary, including—

1 (I) a cash bonus bids system re-
2 quiring payment of the royalty estab-
3 lished under this title;

4 (II) a variable royalty bids sys-
5 tem based on a percentage of the
6 gross proceeds from the sale of elec-
7 tricity produced from the site offered
8 for lease, except that the royalty shall
9 not be less than the royalty required
10 under this title, together with a fixed
11 cash bonus; or

12 (III) such other bidding system
13 as ensures a fair return to the public
14 consistent with the royalty established
15 under this title.

16 (C) BIDDER QUALIFICATIONS.—The Sec-
17 retary shall—

18 (i) before conducting any lease sale
19 under this subsection, establish qualifica-
20 tion requirements for bidders on a site of-
21 fered for lease that ensure that such bid-
22 ders, with respect to wind or solar energy
23 projects—

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

1 (II) possess the financial re-
2 sources necessary to complete such a
3 project;

4 (III) possess knowledge of the
5 technology needed to complete such a
6 project;

7 (IV) meet the eligibility require-
8 ments for leasing under the first sec-
9 tion of the Mineral Leasing Act (30
10 U.S.C. 181); and

11 (V) possess such other qualifica-
12 tions as the Secretary determines are
13 necessary; and

14 (ii) using the requirements established
15 under clause (i), determine whether a per-
16 son is qualified to be a bidder on a site of-
17 fered for lease under this subsection.

18 (D) CREDIT FOR BID PREPARATION EX-
19 PENDITURES.—In the case of a site offered for
20 lease under this subsection with respect to
21 which more than one bid is submitted on the
22 date of the lease sale of such site, the Secretary
23 shall give credit to each person who submitted
24 a bid with respect to such site for expenditures

1 such person incurred in the preparation of such
2 bid.

3 (E) FEES, CHARGES, AND COMMISSIONS.—
4 Section 304 of the Federal Land Policy and
5 Management Act of 1976 (43 U.S.C. 1734)
6 shall apply to a bid submitted under this sub-
7 section.

8 (4) LEASE TERMS.—

9 (A) IN GENERAL.—The Secretary may es-
10 tablish such lease terms and conditions, includ-
11 ing the duration of the lease with respect to any
12 site offered for lease under this subsection.

13 (B) SHORT-TERM LEASES FOR DATA COL-
14 LECTION.—In carrying out this subsection, the
15 Secretary shall—

16 (i) offer on a noncompetitive basis a
17 short-term lease on not less than one site
18 selected under paragraph (2) for purposes
19 of data collection; and

20 (ii) upon the expiration of the short-
21 term lease, offer on a competitive basis a
22 long-term lease, giving credit toward the
23 bonus bid submitted with respect to the
24 long-term lease to the holder of the short-
25 term lease for any qualified expenditures

1 made by such holder to collect data or to
2 develop the site during such short-term
3 lease.

4 (5) REVENUES.—Subject to section 203, the
5 Secretary may collect bonus bids, royalties, fees, or
6 other payments (except rental payments) with re-
7 spect to sites offered for lease under this subsection.

8 (6) REPORT.—Not later than 90 days after the
9 date on which the Secretary conducts the final lease
10 sale under this subsection, the Secretary shall sub-
11 mit to the Committee on Energy and Natural Re-
12 sources of the Senate and the Committee on Natural
13 Resources of the House of Representatives a report
14 on the results of each lease sale conducted under
15 this subsection, including—

16 (A) the level of competitive interest;

17 (B) a summary of bids and revenues re-
18 ceived; and

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

21 (7) OTHER LAWS.—

22 (A) COMPLIANCE WITH LAND MANAGE-
23 MENT AND ENVIRONMENTAL LAWS.—In offer-
24 ing sites for lease under this subsection, the
25 Secretary shall comply with—

1 (i) all Federal laws applicable to pub-
2 lic land or National Forest System land;
3 and

4 (ii) Federal or State environmental
5 laws or any other relevant laws.

6 (B) APPLICABILITY TO WIND AND SOLAR
7 ENERGY PROJECTS UNDER OTHER FEDERAL
8 LAWS.—Nothing in this subsection shall be con-
9 strued so as to prohibit the Secretary from
10 issuing rights-of-way with respect to wind and
11 solar energy projects in compliance with other
12 Federal laws and regulations in effect on the
13 date of the enactment of this Act.

14 (8) ENFORCEMENT OF FEDERAL LAND POLICY
15 MANAGEMENT.—

16 (A) IN GENERAL.—Sections 302(c) and
17 303 of the Federal Land Policy and Manage-
18 ment Act of 1976 (43 U.S.C. 1732(c), 1733)
19 shall apply to activities conducted on sites of-
20 fered for lease under this subsection.

21 (B) EFFECT ON ENFORCEMENT AUTHOR-
22 ITY UNDER OTHER FEDERAL LAW.—Nothing in
23 this subsection shall be construed so as to re-
24 duce or limit the enforcement authority vested
25 in the Secretary of the Interior or the Attorney

1 General on covered land under any other Fed-
2 eral law.

3 (b) TEMPORARY EXTENSION OF PILOT PROGRAM.—

4 Until final regulations are issued under subsection (c)(4),
5 the Secretary of the Interior shall continue to carry out
6 the pilot program under subsection (a) on the sites offered
7 for lease under such subsection. The Secretary may extend
8 any lease issued for such sites under subsection (a) under
9 the same terms and conditions applicable to such lease on
10 the date of the lease sale as necessary until final regula-
11 tions are issued under subsection (c)(4) with respect to
12 such sites.

13 (c) EXPANSION OF PILOT PROGRAM TO ALL COV-
14 ERED LAND.—

15 (1) JOINT DETERMINATION REQUIRED.—Not
16 later than 5 years after the date of the enactment
17 of this Act, the Secretary of the Interior and the
18 Secretary of Agriculture shall jointly determine
19 whether to expand the pilot program established
20 under subsection (a) to apply to all covered land, in-
21 cluding sites with respect to which leases were issued
22 under subsection (a). In making such determination,
23 the Secretary of the Interior and the Secretary of
24 Agriculture shall—

1 (A) take into consideration the results of
2 the pilot program;

3 (B) consult with—

4 (i) the heads of Federal agencies and
5 relevant State agencies (including State
6 fish and wildlife agencies);

7 (ii) interested States, Indian tribes,
8 and local governments;

9 (iii) representatives of the solar and
10 wind energy industries;

11 (iv) representatives of the environ-
12 ment, conservation, and outdoor sporting
13 communities; and

14 (v) the public; and

15 (C) consider whether such expansion—

16 (i) provides an effective means of de-
17 veloping wind or solar energy; and

18 (ii) is in the public interest.

19 (2) EXPANSION AUTHORIZED.—The pilot pro-
20 gram shall be expanded only if the Secretary of the
21 Interior and the Secretary of Agriculture determined
22 to expand the pilot program under paragraph (1).

23 (3) REPORT ON JOINT DETERMINATION.—Not
24 later than 60 days after making the determination
25 under paragraph (1) to expand the pilot program,

1 the Secretary of the Interior and the Secretary of
2 Agriculture shall jointly submit to the Committee on
3 Energy and Natural Resources of the Senate and
4 the Committee on Natural Resources of the House
5 of Representatives a report describing the basis and
6 findings for the determination.

7 (4) REGULATIONS TO IMPLEMENT EXPAN-
8 SION.—Not later than one year after making a de-
9 termination to expand the pilot program under para-
10 graph (1), the Secretary of the Interior and the Sec-
11 retary of Agriculture shall jointly issue final regula-
12 tions to implement such expansion on covered land.

13 (5) APPLICABILITY OF PROVISIONS OF PILOT
14 PROGRAM TO EXPANDED PROGRAM.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), paragraphs (3), (7), and (8)
17 of subsection (a) shall apply to covered land of-
18 fered for lease under this subsection in the
19 same manner as such paragraphs apply to sites
20 offered for lease under subsection (a), except
21 that such paragraphs shall apply as if the terms
22 “Secretary of the Interior” and “Secretary”
23 read “Secretary concerned”.

24 (B) COMPETITIVE LEASING NOT REQUIRED
25 UNDER CERTAIN CIRCUMSTANCES.—The re-

1 requirement under subsection (a)(3) that a lease
2 be sold on a competitive basis shall not apply
3 to a lease issued under this subsection if the
4 Secretary concerned determines that—

5 (i) no competitive interest exists for
6 the covered land offered for lease;

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

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

12 (6) PAYMENTS.—

13 (A) IN GENERAL.—Subject to section 203,
14 the Secretary of the Interior and the Secretary
15 of Agriculture shall jointly establish fees, bo-
16 nuses, or other payments (except rental pay-
17 ments) to ensure a fair return to the United
18 States for any lease issued under this sub-
19 section.

20 (B) BONUS BIDS.—The Secretary con-
21 cerned may grant credit toward any bonus bid
22 for a qualified expenditure by the holder of a
23 lease described in paragraph (7)(A)(ii) in any
24 competitive lease sale held for a long-term lease

1 of the covered land that is the subject of the
2 lease described in such paragraph.

3 (C) READJUSTMENT.—

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

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

11 (II) every 10 years thereafter.

12 (ii) INDEXING.—Effective on the first
13 day of the first month beginning after the
14 date of enactment of this Act and each
15 year thereafter, the amount of royalties or
16 other terms and conditions subject to read-
17 justment under clause (i) shall be adjusted
18 to reflect changes for the 12-month period
19 ending on the most recent date for which
20 data are available in the Consumer Price
21 Index for All Urban Consumers published
22 by the Bureau of Labor Statistics of the
23 Department of Labor.

24 (7) LEASE DURATION, ADMINISTRATION, AND
25 READJUSTMENT.—

1 (A) DURATION.—

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

5 (I) an initial term of 25 years;

6 and

7 (II) any additional period after
8 the initial 25-year term during which
9 electricity is being produced annually
10 in commercial quantities from the
11 lease.

12 (ii) DATA COLLECTION LEASES.—In
13 the case of a lease issued under this sub-
14 section for the placement and operation of
15 a meteorological or data collection facility
16 or for the development or demonstration of
17 a new wind or solar technology, such lease
18 shall have a term of not more than 5
19 years.

20 (B) ADMINISTRATION.—The Secretary of
21 the Interior and the Secretary of Agriculture
22 shall jointly establish terms and conditions for
23 the issuance, transfer, renewal, suspension, and
24 cancellation of a lease issued under this sub-
25 section.

1 (C) READJUSTMENT PROVISION RE-
2 QUIRED.—Each lease issued under this sub-
3 section shall provide for readjustment in ac-
4 cordance with subparagraph (A).

5 (8) SURFACE-DISTURBING ACTIVITIES.—The
6 Secretary of the Interior and the Secretary of Agri-
7 culture shall jointly issue regulations regarding sur-
8 face-disturbing activities conducted under any lease
9 issued under this subsection, including any reclama-
10 tion and other actions necessary for the conservation
11 of surface resources.

12 (9) SECURITY.—

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

16 (i) furnish a surety bond or other
17 form of security, as prescribed by the Sec-
18 retary;

19 (ii) provide for the reclamation and
20 restoration of the covered land that is the
21 subject of the lease; and

22 (iii) comply with such other require-
23 ments as the Secretary considers necessary
24 to protect the interests of the public and
25 the United States.

1 (B) PERIODIC REVIEW.—Not less fre-
2 quently than once every 5 years, the Secretary
3 concerned shall conduct a review of the ade-
4 quacy of the surety bond or other form of secu-
5 rity provided by the holder of a lease issued
6 under this subsection.

7 **SEC. 203. ROYALTIES.**

8 (a) IN GENERAL.—The Secretary concerned shall re-
9 quire as a term and condition of any lease issued under
10 section 202, the payment of a royalty. The Secretary of
11 the Interior and the Secretary of Agriculture shall estab-
12 lish such royalty pursuant to a joint rulemaking that shall
13 be a percentage of the gross proceeds from the sale of elec-
14 tricity produced on covered land that is the subject of such
15 lease at a rate that—

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

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

21 (3) encourages the maximum energy generation
22 while disturbing the least quantity of covered land
23 and other natural resources, including water.

24 (b) CONSIDERATION.—In establishing the royalty
25 under subsection (a), the Secretary of the Interior and the

1 Secretary of Agriculture shall consider the relative capac-
2 ity factors of wind and solar energy projects.

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

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

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

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

17 (e) ENFORCEMENT.—

18 (1) AUDITING SYSTEM.—The Secretary of the
19 Interior and the Secretary of Agriculture shall joint-
20 ly establish a comprehensive inspection, collection,
21 fiscal, and production accounting and auditing sys-
22 tem—

23 (A) to accurately determine royalties, in-
24 terest, fines, penalties, fees, deposits, and other
25 payments owed under this title; and

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

3 (2) APPLICABILITY OF FEDERAL OIL AND ROY-
4 ALTY MANAGEMENT ACT.—The provisions of the
5 Federal Oil and Gas Royalty Management Act of
6 1982 (30 U.S.C. 1701 et seq.) (including the civil
7 and criminal enforcement provisions of such Act)
8 shall apply to leases issued under this title with re-
9 spect to wind and solar energy projects in the same
10 manner as such provisions apply to oil and gas
11 leases.

12 (f) REPORT ON ROYALTIES.—Not later than 5 years
13 after the date of enactment of this Act and every 5 years
14 thereafter, the Secretary of the Interior, in consultation
15 with the Secretary of Agriculture, shall submit to the
16 Committee on Energy and Natural Resources of the Sen-
17 ate and the Committee on Natural Resources of the House
18 of Representatives a report consisting of a review of the
19 collections and impacts of the royalties and fees collected
20 under this title, including—

21 (1) the total revenues received (by category) on
22 an annual basis as royalties from wind, solar, and
23 geothermal development and production (specified by
24 energy source) on covered land;

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

5 (3) any impact on the development of wind,
6 solar, and geothermal development and production
7 on covered land as a result of the royalties; and

8 (4) any recommendations with respect to
9 changes in Federal law (including regulations) relat-
10 ing to the amount or method of collection (including
11 auditing, compliance, and enforcement) of the royal-
12 ties.

13 (g) REGULATIONS.—Not later than one year after the
14 date of the enactment of this Act, the Secretary of the
15 Interior and the Secretary of Agriculture shall jointly issue
16 final regulations to carry out this section.

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

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

23 (1) Twenty-five percent shall be paid by the
24 Secretary of the Treasury to States within the
25 boundaries of which the royalties or bonuses are de-

1 rived, to be allocated among such States based on
2 the percentage of covered land from which such roy-
3 alties or bonuses are derived in each State.

4 (2) Twenty-five percent shall be paid by the
5 Secretary of the Treasury to the counties within the
6 boundaries of which the royalties or bonuses are de-
7 rived, to be allocated among such counties based on
8 the percentage of covered land from which such roy-
9 alties or bonuses are derived in each county.

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

12 (4) For the period that begins on the date of
13 the enactment of this Act and ending on the date
14 that is 15 years after the date of the enactment of
15 this Act, 15 percent shall be paid by the Secretary
16 of the Treasury directly to the State offices of the
17 Bureau of Land Management in States within the
18 boundaries of which the royalties or bonuses are de-
19 rived for purposes of reducing the number of renew-
20 able energy permits that have not been processed be-
21 fore the date of the enactment of this Act, to be allo-
22 cated among such State offices based on the per-
23 centage of covered land from which the royalties or
24 bonuses are derived in each State.

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

4 (b) RENEWABLE ENERGY RESOURCE CONSERVATION
5 FUND.—

6 (1) ESTABLISHMENT.—There is established in
7 the Treasury of the United States a Renewable En-
8 ergy Resource Conservation Fund to be adminis-
9 tered by the Secretary of the Interior.

10 (2) USE OF FUNDS.—The Secretary shall use
11 amounts in the Fund to make payments to State
12 agencies, Federal agencies, or other interested per-
13 sons for use for—

14 (A) mitigating the impacts of renewable
15 energy on Federal land, including—

16 (i) protecting fish and wildlife cor-
17 ridors and other sensitive land; and

18 (ii) restoring fish and wildlife habitat;

19 and

20 (B) carrying out any activity authorized
21 under Public Law 88–578 (16 U.S.C. 460l–4 et
22 seq.) in the State, except for the acquisition of
23 land, water, or interests therein within such
24 State.

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

5 (4) INVESTMENT OF FUND.—

6 (A) IN GENERAL.—Any amounts deposited
7 in the Fund shall earn interest in an amount
8 determined by the Secretary of the Treasury on
9 the basis of the current average market yield on
10 outstanding marketable obligations of the
11 United States of comparable maturities.

12 (B) USE.—Any interest earned under sub-
13 paragraph (A) may be expended in accordance
14 with this subsection.

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

17 (1) CERTIFICATION BY SECRETARY.—At the
18 end of the 15-year period described in subsection
19 (a)(4), the Secretary shall certify whether the State
20 offices referred to in such subsection have ade-
21 quately reduced the renewable energy permitting
22 backlog referred to in such subsection.

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

1 (A) the State offices referred to in such
2 paragraph have not adequately reduced the
3 backlog referred to in such paragraph—

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

7 (ii) payments shall continue to be
8 made during that period as described in
9 such subsection; or

10 (B) the State offices referred to in such
11 paragraph have adequately reduced such back-
12 log—

13 (i) two-thirds of the amount otherwise
14 required to be paid under subsection (a)(4)
15 shall be added to the amount deposited in
16 the Fund established under subsection (b);
17 and

18 (ii) one-third of such amount shall be
19 deposited into the general fund of the
20 Treasury for purposes of reducing the an-
21 nual Federal budget deficit.

22 (d) PAYMENTS TO STATES AND COUNTIES.—
23 Amounts paid to States and counties under subsection (a)
24 shall be used in a manner that is consistent with section
25 35 of the Mineral Leasing Act (30 U.S.C. 191).

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

2 (a) STUDY.—

3 (1) IN GENERAL.—Not later than 180 days
4 after the date of enactment of this Act, the Sec-
5 retary of the Interior and the Secretary of Agri-
6 culture shall carry out a study to determine the fea-
7 sibility of carrying out a mitigation banking program
8 on Federal land administered by the Secretary of the
9 Interior or the Secretary of Agriculture for purposes
10 of offsetting the impacts of wind or solar energy on
11 such Federal land.

12 (2) CONTENTS.—The study under paragraph
13 (1) shall—

14 (A) identify areas in which—

15 (i) privately owned land is not avail-
16 able to offset the impacts of wind or solar
17 energy development on Federal land ad-
18 ministered by the Secretary of the Interior
19 or the Secretary of Agriculture; or

20 (ii) mitigation investments on such
21 Federal land are likely to provide greater
22 conservation value for the impacts of wind
23 or solar energy development on such Fed-
24 eral land; and

25 (B) examine—

1 (i) the effectiveness of laws (including
2 regulations) and policies in effect on the
3 date of the enactment of this Act in faci-
4 tating the development of mitigation
5 banks;

6 (ii) the advantages and disadvantages
7 of using mitigation banks on such Federal
8 land to mitigate impacts to natural re-
9 sources on private land; and

10 (iii) any changes in Federal law (in-
11 cluding regulations) or policy necessary to
12 further develop a Federal mitigation bank-
13 ing program.

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

18 (1) the recommendations of the Secretaries re-
19 lating to—

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

1 (B) any change to Federal law (including
2 regulations) or policy necessary to address more
3 effectively the siting, development, and manage-
4 ment of mitigation banking programs on such
5 Federal land to mitigate impacts to natural re-
6 sources on private land; and

7 (2) any administrative action to be taken by the
8 Secretary of the Interior and the Secretary of Agri-
9 culture in response to the recommendations.

10 (c) AVAILABILITY TO THE PUBLIC.—Not later than
11 30 days after the date on which the report described in
12 subsection (b) is submitted to Congress, the Secretary of
13 the Interior and the Secretary of Agriculture shall make
14 the results of the study available to the public.

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