

Union Calendar No. 561

116TH CONGRESS
2D SESSION

H. R. 3794

[Report No. 116–677, Part I]

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

IN THE HOUSE OF REPRESENTATIVES

JULY 17, 2019

Mr. GOSAR (for himself, Mr. LEVIN of California, Mr. LAMALFA, Mr. LOWENTHAL, Mr. HUFFMAN, Mr. TIPTON, Mr. AMODEI, Mr. BEYER, Mr. BIGGS, Mr. BISHOP of Utah, Mr. CARTWRIGHT, Ms. DELBENE, Mrs. DINGELL, Mr. GAETZ, Ms. HAALAND, Mr. LUJÁN, Mr. NEWHOUSE, Mr. SCHWEIKERT, Mr. SIMPSON, Mr. STAUBER, Mr. STEWART, Mr. YOUNG, Mr. COOK, Mr. MARSHALL, and Mr. GIANFORTE) 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

DECEMBER 18, 2020

Additional sponsors: Mr. CASE, Ms. MATSUI, Mr. THOMPSON of California, Mr. VAN DREW, Ms. TORRES SMALL of New Mexico, Mr. KILDEE, Ms. TITUS, Mr. WESTERMAN, Mr. RUIZ, Mrs. LESKO, Mr. WATKINS, Ms. DEGETTE, Mr. NEAL, Mr. PERLMUTTER, Mr. BACON, Ms. SLOTKIN, Mrs. TORRES of California, Mr. BLUMENAUER, Mr. FOSTER, Mr. KILMER, Mr. ROUDA, Mr. QUIGLEY, Mr. KRISHNAMOORTHY, Ms. PINGREE, Mr. PETERS, Mr. LAMBORN, Ms. BROWNLEY of California, Mr. KENNEDY, Mr. KIND, Mr. KHANNA, Mr. KIM, Mr. COX of California, Mr. KEATING, Mr. CROW, Mr. RUTHERFORD, Mr. COOPER, Mr. McADAMS, Mr. CUNNINGHAM, Mr. SABLON, Mr. McEACHIN, Mr. COSTA, Mr. SIRES, Mr. POSEY, Mr. KATKO, Mrs. NAPOLITANO, and Mrs. BEATTY

DECEMBER 18, 2020

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

DECEMBER 18, 2020

Committee on Agriculture discharged; committed to the Committee of the
Whole House on the State of the Union and ordered to be printed

[For text of introduced bill, see copy of bill as introduced on July 17, 2019]

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.**

4 *This Act may be cited as the “Public Land Renewable*
 5 *Energy Development Act of 2019”.*

6 **SEC. 2. TABLE OF CONTENTS.**

7 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

Sec. 3. Definitions.

Sec. 4. Land use planning; supplements to programmatic environmental impact
statements.

Sec. 5. Environmental review on covered land.

Sec. 6. Program to improve renewable energy project permit coordination.

Sec. 7. Increasing economic certainty.

Sec. 8. Limited grandfathering.

Sec. 9. Renewable energy goal.

Sec. 10. Disposition of revenues.

Sec. 11. Promoting and enhancing development of geothermal energy.

Sec. 12. Facilitation of coproduction of geothermal energy on oil and gas leases.

Sec. 13. Noncompetitive leasing of adjoining areas for development of geothermal
resources.

Sec. 14. Savings clause.

8 **SEC. 3. DEFINITIONS.**

9 *In this Act:*

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

12 (A) *public lands administered by the Sec-*
 13 *retary; and*

14 (B) *not excluded from the development of*
 15 *geothermal, solar, or wind energy under—*

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

1 (ii) *other Federal law.*

2 (2) *EXCLUSION AREA.*—*The term “exclusion*
 3 *area” means covered land that is identified by the*
 4 *Bureau of Land Management as not suitable for de-*
 5 *velopment of renewable energy projects.*

6 (3) *FEDERAL LAND.*—*The term “Federal land”*
 7 *means—*

8 (A) *land of the National Forest System (as*
 9 *defined in section 11(a) of the Forest and Range-*
 10 *land Renewable Resources Planning Act of 1974*
 11 *(16 U.S.C. 1609(a)); or*

12 (B) *public lands.*

13 (4) *FUND.*—*The term “Fund” means the Renew-*
 14 *able Energy Resource Conservation Fund established*
 15 *by section 10(c)(1).*

16 (5) *PRIORITY AREA.*—*The term “priority area”*
 17 *means covered land identified by the land use plan-*
 18 *ning process of the Bureau of Land Management as*
 19 *being a preferred location for a renewable energy*
 20 *project, including a designated leasing area (as de-*
 21 *defined in section 2801.5(b) of title 43, Code of Federal*
 22 *Regulations (or a successor regulation)) that is identi-*
 23 *fied under the rule of the Bureau of Land Manage-*
 24 *ment entitled “Competitive Processes, Terms, and*
 25 *Conditions for Leasing Public Lands for Solar and*

1 *Wind Energy Development and Technical Changes*
2 *and Corrections” (81 Fed. Reg. 92122 (December 19,*
3 *2016)) (or a successor regulation).*

4 (6) *PUBLIC LANDS.*—*The term “public lands”*
5 *has the meaning given that term in section 103 of the*
6 *Federal Land Policy and Management Act of 1976*
7 *(43 U.S.C. 1702).*

8 (7) *RENEWABLE ENERGY PROJECT.*—*The term*
9 *“renewable energy project” means a project carried*
10 *out on covered land that uses wind, solar, or geo-*
11 *thermal energy to generate energy.*

12 (8) *SECRETARY.*—*The term “Secretary” means*
13 *the Secretary of the Interior.*

14 (9) *VARIANCE AREA.*—*The term “variance area”*
15 *means covered land that is—*

16 (A) *not an exclusion area;*

17 (B) *not a priority area; and*

18 (C) *identified by the Secretary as poten-*
19 *tially available for renewable energy development*
20 *and could be approved without a plan amend-*
21 *ment, consistent with the principles of multiple*
22 *use (as that term is defined in the Federal Land*
23 *Policy and Management Act of 1976 (43 U.S.C.*
24 *1701 et seq.)).*

1 **SEC. 4. LAND USE PLANNING; SUPPLEMENTS TO PRO-**
2 **GRAMMATIC ENVIRONMENTAL IMPACT**
3 **STATEMENTS.**

4 *(a) PRIORITY AREAS.—*

5 *(1) IN GENERAL.—The Secretary, in consultation*
6 *with the Secretary of Energy, shall establish priority*
7 *areas on covered land for geothermal, solar, and wind*
8 *energy projects. Projects located in those priority*
9 *areas shall be given the highest priority for review,*
10 *and shall be offered the opportunity to participate in*
11 *any regional mitigation plan developed for the rel-*
12 *evant priority areas.*

13 *(2) DEADLINE.—*

14 *(A) GEOTHERMAL ENERGY.—For geo-*
15 *thermal energy, the Secretary shall establish pri-*
16 *ority areas as soon as practicable, but not later*
17 *than 5 years, after the date of the enactment of*
18 *this Act.*

19 *(B) SOLAR ENERGY.—For solar energy,*
20 *solar Designated Leasing Areas, including the*
21 *solar energy zones established by the 2012 west-*
22 *ern solar plan of the Bureau of Land Manage-*
23 *ment and any subsequent land use plan amend-*
24 *ments, shall be considered to be priority areas for*
25 *solar energy projects. The Secretary shall estab-*
26 *lish additional solar priority areas as soon as*

1 *practicable, but not later than 3 years, after the*
2 *date of the enactment of this Act.*

3 (C) *WIND ENERGY.*—*For wind energy, the*
4 *Secretary shall establish additional wind pri-*
5 *ority areas as soon as practicable, but not later*
6 *than 3 years, after the date of the enactment of*
7 *this Act.*

8 (b) *VARIANCE AREAS.*—*To the maximum extent prac-*
9 *ticable, variance areas shall be considered for renewable en-*
10 *ergy project development, consistent with the principles of*
11 *multiple use (as defined in the Federal Land Policy and*
12 *Management Act of 1976 (43 U.S.C. 1701 et seq.)).*

13 (c) *REVIEW AND MODIFICATION.*—*Not less than once*
14 *every 5 years, the Secretary shall—*

15 (1) *review the adequacy of land allocations for*
16 *geothermal, solar, and wind energy priority and vari-*
17 *ance areas for the purpose of encouraging new renew-*
18 *able energy development opportunities; and*

19 (2) *based on the review carried out under para-*
20 *graph (1), add, modify, or eliminate priority, vari-*
21 *ance, and exclusion areas.*

22 (d) *COMPLIANCE WITH THE NATIONAL ENVIRON-*
23 *MENTAL POLICY ACT.*—*For purposes of this section, compli-*
24 *ance with the National Environmental Policy Act of 1969*
25 *(42 U.S.C. 4321 et seq.) shall be accomplished—*

1 (1) *for geothermal energy, by supplementing the*
2 *October 2008 final programmatic environmental im-*
3 *pact statement for geothermal leasing in the Western*
4 *United States and incorporating any additional re-*
5 *gional analyses that have been completed by Federal*
6 *agencies since the programmatic environmental im-*
7 *pact statement was finalized;*

8 (2) *for solar energy, by supplementing the July*
9 *2012 final programmatic environmental impact state-*
10 *ment for solar energy development and incorporating*
11 *any additional regional analyses that have been com-*
12 *pleted by Federal agencies since the programmatic en-*
13 *vironmental impact statement was finalized; and*

14 (3) *for wind energy, by supplementing the July*
15 *2005 final programmatic environmental impact state-*
16 *ment for wind energy development and incorporating*
17 *any additional regional analyses that have been com-*
18 *pleted by Federal agencies since the programmatic en-*
19 *vironmental impact statement was finalized.*

20 (e) *NO EFFECT ON PROCESSING APPLICATIONS.—Any*
21 *requirements to prepare a supplement to a programmatic*
22 *environmental impact statement under this section shall*
23 *not result in any delay in processing a pending application*
24 *for a renewable energy project.*

1 (f) *COORDINATION.*—*In developing a supplement re-*
2 *quired by this section, the Secretary shall coordinate, on*
3 *an ongoing basis, with appropriate State, Tribal, and local*
4 *governments, transmission infrastructure owners and oper-*
5 *ators, developers, and other appropriate entities to ensure*
6 *that priority areas identified by the Secretary are—*

7 (1) *economically viable (including having access*
8 *to existing and/or planned transmission lines);*

9 (2) *likely to avoid or minimize impacts to habi-*
10 *tat for animals and plants, recreation, cultural re-*
11 *sources, and other uses of covered land; and*

12 (3) *consistent with section 202 of the Federal*
13 *Land Policy and Management Act of 1976 (43 U.S.C.*
14 *1712), including subsection (c)(9) of that section (43*
15 *U.S.C. 1712(c)(9)).*

16 **SEC. 5. ENVIRONMENTAL REVIEW ON COVERED LAND.**

17 (a) *IN GENERAL.*—*If the Secretary determines that a*
18 *proposed renewable energy project has been sufficiently ana-*
19 *lyzed by a programmatic environmental impact statement*
20 *conducted under section 4(d), the Secretary shall not re-*
21 *quire any additional review under the National Environ-*
22 *mental Policy Act of 1969 (42 U.S.C. 4321 et seq.). The*
23 *Secretary shall publish any such project determinations on*
24 *a publicly available website.*

1 (b) *ADDITIONAL ENVIRONMENTAL REVIEW.*—If the
 2 Secretary determines that additional environmental review
 3 under the National Environmental Policy Act of 1969 (42
 4 U.S.C. 4321 et seq.) is necessary for a proposed renewable
 5 energy project, the Secretary shall rely on the analysis in
 6 the programmatic environmental impact statement con-
 7 ducted under section 4(d), to the maximum extent prac-
 8 ticable when analyzing the potential impacts of the project.

9 (c) *RELATIONSHIP TO OTHER LAW.*—Nothing in this
 10 section modifies or supersedes any requirement under appli-
 11 cable law.

12 **SEC. 6. PROGRAM TO IMPROVE RENEWABLE ENERGY**
 13 **PROJECT PERMIT COORDINATION.**

14 (a) *ESTABLISHMENT.*—The Secretary shall establish a
 15 national Renewable Energy Coordination Office and State,
 16 district, or field offices with responsibility to establish and
 17 implement a program to improve Federal permit coordina-
 18 tion with respect to renewable energy projects on covered
 19 land and other activities deemed necessary by the Secretary.
 20 In carrying out the program, the Secretary may tempo-
 21 rarily assign qualified staff to Renewable Energy Coordina-
 22 tion Offices to expedite the permitting of renewable energy
 23 projects.

24 (b) *MEMORANDUM OF UNDERSTANDING.*—

1 (1) *IN GENERAL.*—Not later than 180 days after
2 the date of the enactment of this Act, the Secretary
3 shall enter into a memorandum of understanding for
4 purposes of this section, including to specifically expedite the environmental analysis of applications for
5 projects proposed in a variance area or a priority
6 area, with the Secretary of Defense and the Secretary
7 of Agriculture.

9 (2) *STATE AND TRIBAL PARTICIPATION.*—The
10 Secretary may request the Governor of any interested
11 State or any Tribal leader of any interested Indian
12 Tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C.
13 5304)) to be a signatory to the memorandum of understanding under paragraph (1).

16 (c) *DESIGNATION OF QUALIFIED STAFF.*—

17 (1) *IN GENERAL.*—Not later than 30 days after
18 the date on which the memorandum of understanding
19 under subsection (b) is executed, all Federal signatories, as appropriate, shall identify for each of the Bureau of Land Management Renewable Energy Coordination Offices one or more employees who have expertise in the regulatory issues relating to the office in
20 which the employee is employed, including, as applicable, particular expertise in—
21
22
23
24
25

1 (A) consultation regarding, and prepara-
2 tion of, biological opinions under section 7 of the
3 *Endangered Species Act of 1973* (16 U.S.C.
4 1536);

5 (B) permits under section 404 of the *Fed-*
6 *eral Water Pollution Control Act* (33 U.S.C.
7 1344);

8 (C) regulatory matters under the *Clean Air*
9 *Act* (42 U.S.C. 7401 et seq.);

10 (D) the *Federal Land Policy and Manage-*
11 *ment Act of 1976* (43 U.S.C. 1701 et seq.);

12 (E) the *Migratory Bird Treaty Act* (16
13 U.S.C. 703 et seq.);

14 (F) the preparation of analyses under the
15 *National Environmental Policy Act of 1969* (42
16 U.S.C. 4321 et seq.);

17 (G) implementation of the requirements of
18 section 306108 of title 54, *United States Code*
19 (formerly known as section 106 of the *National*
20 *Historic Preservation Act*);

21 (H) planning under section 14 of the *Na-*
22 *tional Forest Management Act of 1976* (16
23 U.S.C. 472a);

24 (I) the *Bald and Golden Eagle Protection*
25 *Act* (16 U.S.C. 668–668d); and

1 *(J) section 100101(a), chapter 1003, and*
2 *sections 100751(a), 100752, 100753 and 102101*
3 *of title 54 , United States Code (previously*
4 *known as the “National Park Service Organic*
5 *Act”).*

6 *(2) DUTIES.—Each employee assigned under*
7 *paragraph (1) shall—*

8 *(A) be responsible for addressing all issues*
9 *relating to the jurisdiction of the home office or*
10 *agency of the employee; and*

11 *(B) participate as part of the team of per-*
12 *sonnel working on proposed energy projects,*
13 *planning, monitoring, inspection, enforcement,*
14 *and environmental analyses.*

15 *(d) ADDITIONAL PERSONNEL.—The Secretary may as-*
16 *sign such additional personnel for the Bureau of Land*
17 *Management Renewable Energy Coordination Offices as are*
18 *necessary to ensure the effective implementation of any pro-*
19 *grams administered by the offices in accordance with the*
20 *multiple use mandate of the Federal Land Policy and Man-*
21 *agement Act of 1976 (43 U.S.C. 1701 et seq.).*

22 *(e) CLARIFICATION OF EXISTING AUTHORITY.—Under*
23 *section 307 of the Federal Land Policy and Management*
24 *Act of 1976 (43 U.S.C. 1737), the Bureau of Land Manage-*
25 *ment may—*

1 (1) *accept donations for the purposes of public*
2 *lands management; and*

3 (2) *accept donations from renewable energy com-*
4 *panies working on public lands to help cover the costs*
5 *of environmental reviews.*

6 (f) *REPORT TO CONGRESS.—*

7 (1) *IN GENERAL.—Not later than February 1 of*
8 *the first fiscal year beginning after the date of the en-*
9 *actment of this Act, and each February 1 thereafter,*
10 *the Secretary shall submit to the Committee on En-*
11 *ergy and Natural Resources of the Senate and the*
12 *Committee on Natural Resources of the House of Rep-*
13 *resentatives a report describing the progress made*
14 *under the program established under subsection (a)*
15 *during the preceding year.*

16 (2) *INCLUSIONS.—Each report under this sub-*
17 *section shall include—*

18 (A) *projections for renewable energy produc-*
19 *tion and capacity installations; and*

20 (B) *a description of any problems relating*
21 *to leasing, permitting, siting, or production.*

22 **SEC. 7. INCREASING ECONOMIC CERTAINTY.**

23 (a) *CONSIDERATIONS.—The Secretary is authorized to*
24 *and shall consider acreage rental rates, capacity fees, and*
25 *other recurring annual fees in total when evaluating exist-*

1 *ing rates paid for the use of Federal land by renewable en-*
 2 *ergy projects.*

3 *(b) INCREASES IN BASE RENTAL RATES.—Once a base*
 4 *rental rate is established upon the issuance of a right-of-*
 5 *way authorization, increases in the base rent shall be lim-*
 6 *ited to the Implicit Price Deflator–Gross Domestic Product*
 7 *(IPD–GDP) index for the entire term of the right-of-way*
 8 *authorization.*

9 *(c) REDUCTIONS IN BASE RENTAL RATES.—The Sec-*
 10 *retary is authorized to reduce acreage rental rates and ca-*
 11 *capacity fees, or both, for existing and new wind and solar*
 12 *authorizations if the Secretary determines—*

13 *(1) that the existing rates—*

14 *(A) exceed fair market value;*

15 *(B) impose economic hardships;*

16 *(C) limit commercial interest in a competi-*
 17 *tive lease sale or right-of-way grant; or*

18 *(D) are not competitively priced compared*
 19 *to other available land; or*

20 *(2) that a reduced rental rate or capacity fee is*
 21 *necessary to promote the greatest use of wind and*
 22 *solar energy resources, especially those resources in-*
 23 *side priority areas. Rental rates and capacity fees for*
 24 *projects that are within the boundaries of a Des-*
 25 *ignated Leasing Area but not formally recognized as*

1 *being in such an area shall be equivalent to rents and*
 2 *fees for new leases inside of a Designated Leasing*
 3 *Area.*

4 **SEC. 8. LIMITED GRANDFATHERING.**

5 (a) *DEFINITION OF PROJECT.*—*In this section, the*
 6 *term “project” means a system described in section*
 7 *2801.9(a)(4) of title 43, Code of Federal Regulations (as*
 8 *in effect on the date of enactment of this Act).*

9 (b) *REQUIREMENT TO PAY RENTS AND FEES.*—*Unless*
 10 *otherwise agreed to by the owner of a project, the owner*
 11 *of a project that applied for a right-of-way under section*
 12 *501 of the Federal Land Policy and Management Act of*
 13 *1976 (43 U.S.C. 1761) on or before December 19, 2016, shall*
 14 *be obligated to pay with respect to the right-of-way all rents*
 15 *and fees in effect before the effective date of the rule of the*
 16 *Bureau of Land Management entitled “Competitive Proc-*
 17 *esses, Terms, and Conditions for Leasing Public Lands for*
 18 *Solar and Wind Energy Development and Technical*
 19 *Changes and Corrections” (81 Fed. Reg. 92122 (December*
 20 *19, 2016)).*

21 **SEC. 9. RENEWABLE ENERGY GOAL.**

22 *The Secretary and the Secretary of Agriculture shall*
 23 *seek to issue permits that, in total, authorize production*
 24 *of not less than 25 gigawatts of electricity from wind, solar,*
 25 *and geothermal energy projects by not later than 2025,*

1 *through management of public lands and administration*
 2 *of Federal laws.*

3 **SEC. 10. DISPOSITION OF REVENUES.**

4 (a) *DISPOSITION OF REVENUES.—Beginning on Janu-*
 5 *ary 1, 2020, of the amounts collected as bonus bids, rentals,*
 6 *fees, or other payments under a right-of-way, permit, lease,*
 7 *or other authorization (other than under section 504(g) of*
 8 *the Federal Land Policy and Management Act of 1976 (43*
 9 *U.S.C. 1764(g))) for the development of wind or solar en-*
 10 *ergy on covered land or National Forest System land, the*
 11 *following shall be made available without further appro-*
 12 *priation or fiscal year limitation as follows:*

13 (1) *Twenty-five percent shall be paid by the Sec-*
 14 *retary of the Treasury to the State within the bound-*
 15 *aries of which the revenue is derived.*

16 (2) *Twenty-five percent shall be paid by the Sec-*
 17 *retary of the Treasury to the one or more counties*
 18 *within the boundaries of which the revenue is derived,*
 19 *to be allocated among the counties based on the per-*
 20 *centage of land from which the revenue is derived.*

21 (3) *Fifteen percent shall be deposited in the*
 22 *Treasury and be made available to the Secretary to*
 23 *carry out the program established under this Act, in-*
 24 *cluding the transfer of the funds by the Bureau of*
 25 *Land Management to other Federal agencies and*

1 *State agencies to facilitate the processing of renewable*
 2 *energy permits on Federal land, with priority given*
 3 *to using the amounts, to the maximum extent prac-*
 4 *ticable without detrimental impacts to emerging mar-*
 5 *kets, to expediting the issuance of permits required for*
 6 *the development of renewable energy projects in the*
 7 *States from which the revenues are derived.*

8 *(4) Twenty-five percent shall be deposited in the*
 9 *Renewable Energy Resource Conservation Fund estab-*
 10 *lished by subsection (c).*

11 *(5) The remainder shall be deposited into the*
 12 *general fund of the Treasury for purposes of reducing*
 13 *the annual Federal budget deficit.*

14 ***(b) PAYMENTS TO STATES AND COUNTIES.—***

15 *(1) IN GENERAL.—Amounts paid to States and*
 16 *counties under subsection (a) shall be used consistent*
 17 *with section 35 of the Mineral Leasing Act (30 U.S.C.*
 18 *191).*

19 ***(2) PAYMENTS IN LIEU OF TAXES.—****A payment*
 20 *to a county under paragraph (1) shall be in addition*
 21 *to a payment in lieu of taxes received by the county*
 22 *under chapter 69 of title 31, United States Code.*

23 ***(c) RENEWABLE ENERGY RESOURCE CONSERVATION***
 24 ***FUND.—***

1 (1) *IN GENERAL.*—*There is established in the*
2 *Treasury a fund to be known as the Renewable En-*
3 *ergy Resource Conservation Fund, which shall be ad-*
4 *ministered by the Secretary, in consultation with the*
5 *Secretary of Agriculture.*

6 (2) *USE OF FUNDS.*—*The Secretary may make*
7 *amounts in the Fund available to Federal, State,*
8 *local, and Tribal agencies to be distributed in regions*
9 *in which renewable energy projects are located on*
10 *Federal land, for the purposes of—*

11 (A) *restoring and protecting—*

12 (i) *fish and wildlife habitat for affected*
13 *species;*

14 (ii) *fish and wildlife corridors for af-*
15 *ected species; and*

16 (iii) *wetlands, streams, rivers, and*
17 *other natural water bodies in areas affected*
18 *by wind, geothermal, or solar energy devel-*
19 *opment; and*

20 (B) *preserving and improving recreational*
21 *access to Federal land and water in an affected*
22 *region through an easement, right-of-way, or*
23 *other instrument from willing landowners for the*
24 *purpose of enhancing public access to existing*

1 *Federal land and water that is inaccessible or re-*
2 *stricted.*

3 (3) *RESTRICTION ON USE OF FUNDS.*—*No funds*
4 *made available under this subsection may be used for*
5 *the purchase of real property unless in fulfillment of*
6 *paragraph (2)(B).*

7 (4) *PARTNERSHIPS.*—*The Secretary may enter*
8 *into cooperative agreements with State and Tribal*
9 *agencies, nonprofit organizations, and other appro-*
10 *priate entities to carry out the activities described in*
11 *subparagraphs (A) and (B) of paragraph (2).*

12 (5) *INVESTMENT OF FUND.*—

13 (A) *IN GENERAL.*—*Any amounts deposited*
14 *in the Fund shall earn interest in an amount de-*
15 *termined by the Secretary of the Treasury on the*
16 *basis of the current average market yield on out-*
17 *standing marketable obligations of the United*
18 *States of comparable maturities.*

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

22 (6) *REPORT TO CONGRESS.*—*At the end of each*
23 *fiscal year, the Secretary shall report to the Com-*
24 *mittee on Natural Resources of the House of Rep-*

1 *representatives and the Committee on Energy and Nat-*
 2 *ural Resources of the Senate—*

3 *(A) the amount collected as described in*
 4 *subsection (a), by source, during that fiscal year;*

5 *(B) the amount and purpose of payments*
 6 *during that fiscal year to each Federal, State,*
 7 *local, and Tribal agency under paragraph (2);*
 8 *and*

9 *(C) the amount remaining in the Fund at*
 10 *the end of the fiscal year.*

11 *(7) INTENT OF CONGRESS.—It is the intent of*
 12 *Congress that the revenues deposited and used in the*
 13 *Fund shall supplement (and not supplant) annual*
 14 *appropriations for activities described in subpara-*
 15 *graphs (A) and (B) of paragraph (2).*

16 **SEC. 11. PROMOTING AND ENHANCING DEVELOPMENT OF**
 17 **GEOTHERMAL ENERGY.**

18 *(a) IN GENERAL.—Section 234(a) of the Energy Pol-*
 19 *icy Act of 2005 (42 U.S.C. 15873(a)) is amended by strik-*
 20 *ing “in the first 5 fiscal years beginning after the date of*
 21 *enactment of this Act” and inserting “through fiscal year*
 22 *2022”.*

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

1 (1) by striking “Amounts” and inserting the fol-
 2 lowing:

3 “(1) *IN GENERAL.*—Amounts”; and

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

5 “(2) *AUTHORIZATION.*—Effective for fiscal year
 6 2019 and each fiscal year thereafter, amounts depos-
 7 ited under subsection (a) shall be available to the Sec-
 8 retary of the Interior for expenditure, without further
 9 appropriation or fiscal year limitation, to implement
 10 the Geothermal Steam Act of 1970 (30 U.S.C. 1001
 11 et seq.) and this Act.”.

12 **SEC. 12. FACILITATION OF COPRODUCTION OF GEO-**
 13 **THERMAL ENERGY ON OIL AND GAS LEASES.**

14 Section 4(b) of the Geothermal Steam Act of 1970 (30
 15 U.S.C. 1003(b)) is amended by adding at the end the fol-
 16 lowing:

17 “(4) *LAND SUBJECT TO OIL AND GAS LEASE.*—
 18 Land under an oil and gas lease issued pursuant to
 19 the Mineral Leasing Act (30 U.S.C. 181 et seq.) or the
 20 Mineral Leasing Act for Acquired Lands (30 U.S.C.
 21 351 et seq.) that is subject to an approved application
 22 for permit to drill and from which oil and gas pro-
 23 duction is occurring may be available for noncompeti-
 24 tive leasing under subsection (c) by the holder of the
 25 oil and gas lease—

1 “(A) on a determination that geothermal
2 energy will be produced from a well producing
3 or capable of producing oil and gas; and

4 “(B) in order to provide for the coproduc-
5 tion of geothermal energy with oil and gas.”.

6 **SEC. 13. NONCOMPETITIVE LEASING OF ADJOINING AREAS**
7 **FOR DEVELOPMENT OF GEOTHERMAL RE-**
8 **SOURCES.**

9 Section 4(b) of the Geothermal Steam Act of 1970 (30
10 U.S.C. 1003(b)) is further amended by adding at the end
11 the following:

12 “(5) ADJOINING LAND.—

13 “(A) DEFINITIONS.—In this paragraph:

14 “(i) FAIR MARKET VALUE PER ACRE.—

15 The term ‘fair market value per acre’ means
16 a dollar amount per acre that—

17 “(I) except as provided in this
18 clause, shall be equal to the market
19 value per acre (taking into account the
20 determination under subparagraph
21 (B)(iii) regarding a valid discovery on
22 the adjoining land) as determined by
23 the Secretary under regulations issued
24 under this paragraph;

1 “(II) shall be determined by the
 2 Secretary with respect to a lease under
 3 this paragraph, by not later than the
 4 end of the 180-day period beginning on
 5 the date the Secretary receives an ap-
 6 plication for the lease; and

7 “(III) shall be not less than the
 8 greater of—

9 “(aa) 4 times the median
 10 amount paid per acre for all land
 11 leased under this Act during the
 12 preceding year; or

13 “(bb) \$50.

14 “(ii) *INDUSTRY STANDARDS.*—The
 15 term ‘industry standards’ means the stand-
 16 ards by which a qualified geothermal profes-
 17 sional assesses whether downhole or flowing
 18 temperature measurements with indications
 19 of permeability are sufficient to produce en-
 20 ergy from geothermal resources, as deter-
 21 mined through flow or injection testing or
 22 measurement of lost circulation while drill-
 23 ing.

24 “(iii) *QUALIFIED FEDERAL LAND.*—
 25 The term ‘qualified Federal land’ means

1 *land that is otherwise available for leasing*
2 *under this Act.*

3 “(iv) *QUALIFIED GEOTHERMAL PRO-*
4 *FESSIONAL.—The term ‘qualified geo-*
5 *thermal professional’ means an individual*
6 *who is an engineer or geoscientist in good*
7 *professional standing with at least 5 years*
8 *of experience in geothermal exploration, de-*
9 *velopment, or project assessment.*

10 “(v) *QUALIFIED LESSEE.—The term*
11 *‘qualified lessee’ means a person who may*
12 *hold a geothermal lease under this Act (in-*
13 *cluding applicable regulations).*

14 “(vi) *VALID DISCOVERY.—The term*
15 *‘valid discovery’ means a discovery of a geo-*
16 *thermal resource by a new or existing slim*
17 *hole or production well, that exhibits*
18 *downhole or flowing temperature measure-*
19 *ments with indications of permeability that*
20 *are sufficient to meet industry standards.*

21 “(B) *AUTHORITY.—An area of qualified*
22 *Federal land that adjoins other land for which a*
23 *qualified lessee holds a legal right to develop geo-*
24 *thermal resources may be available for a non-*

1 *competitive lease under this section to the quali-*
2 *fied lessee at the fair market value per acre, if—*

3 “(i) *the area of qualified Federal*
4 *land—*

5 “(I) *consists of not less than 1*
6 *acre and not more than 640 acres; and*

7 “(II) *is not already leased under*
8 *this Act or nominated to be leased*
9 *under subsection (a);*

10 “(ii) *the qualified lessee has not pre-*
11 *viously received a noncompetitive lease*
12 *under this paragraph in connection with*
13 *the valid discovery for which data has been*
14 *submitted under clause (iii)(I); and*

15 “(iii) *sufficient geological and other*
16 *technical data prepared by a qualified geo-*
17 *thermal professional has been submitted by*
18 *the qualified lessee to the applicable Federal*
19 *land management agency that would lead*
20 *individuals who are experienced in the sub-*
21 *ject matter to believe that—*

22 “(I) *there is a valid discovery of*
23 *geothermal resources on the land for*
24 *which the qualified lessee holds the*

1 *legal right to develop geothermal re-*
2 *sources; and*

3 “(II) *that geothermal feature ex-*
4 *tends into the adjoining areas.*

5 “(C) *DETERMINATION OF FAIR MARKET*
6 *VALUE.—*

7 “(i) *IN GENERAL.—The Secretary*
8 *shall—*

9 “(I) *publish a notice of any re-*
10 *quest to lease land under this para-*
11 *graph;*

12 “(II) *determine fair market value*
13 *for purposes of this paragraph in ac-*
14 *cordance with procedures for making*
15 *those determinations that are estab-*
16 *lished by regulations issued by the Sec-*
17 *retary;*

18 “(III) *provide to a qualified lessee*
19 *and publish, with an opportunity for*
20 *public comment for a period of 30*
21 *days, any proposed determination*
22 *under this subparagraph of the fair*
23 *market value of an area that the quali-*
24 *fied lessee seeks to lease under this*
25 *paragraph; and*

1 “(IV) provide to the qualified les-
2 see and any adversely affected party
3 the opportunity to appeal the final de-
4 termination of fair market value in an
5 administrative proceeding before the
6 applicable Federal land management
7 agency, in accordance with applicable
8 law (including regulations).

9 “(ii) *LIMITATION ON NOMINATION.*—
10 After publication of a notice of request to
11 lease land under this paragraph, the Sec-
12 retary may not accept under subsection (a)
13 any nomination of the land for leasing un-
14 less the request has been denied or with-
15 drawn.

16 “(iii) *ANNUAL RENTAL.*—For purposes
17 of section 5(a)(3), a lease awarded under
18 this paragraph shall be considered a lease
19 awarded in a competitive lease sale.

20 “(D) *REGULATIONS.*—Not later than 270
21 days after the date of the enactment of this para-
22 graph, the Secretary shall issue regulations to
23 carry out this paragraph.”.

1 **SEC. 14. SAVINGS CLAUSE.**

2 *Notwithstanding any other provision of this Act, the*
3 *Secretary shall continue to manage public lands under the*
4 *principles of multiple use and sustained yield in accordance*
5 *with title I of the Federal Land Policy and Management*
6 *Act of 1976 (43 U.S.C. 1701 et seq.), including due consid-*
7 *eration of mineral and nonrenewable energy-related projects*
8 *and other nonrenewable energy uses, for the purposes of*
9 *land use planning, permit processing, and conducting envi-*
10 *ronmental reviews.*

Union Calendar No. 561

116TH CONGRESS
2^D Session

H. R. 3794

[Report No. 116-677, Part I]

A BILL

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

DECEMBER 18, 2020

Reported from the Committee on Natural Resources with
an amendment

DECEMBER 18, 2020

Committee on Agriculture discharged; committed to the
Committee of the Whole House on the State of the
Union and ordered to be printed