

116TH CONGRESS
1ST SESSION

S. 2666

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

IN THE SENATE OF THE UNITED STATES

OCTOBER 22, 2019

Ms. MCSALLY (for herself, Mr. HEINRICH, Mr. GARDNER, Mr. UDALL, Mr. DAINES, Mr. TESTER, Mr. RISCH, and Mr. BENNET) 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 land, 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 Renew-
5 able Energy Development Act of 2019”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

1 (A) public land; and

2 (B) not excluded from the development of
3 geothermal, solar, or wind energy under—

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

7 (ii) other Federal law.

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

12 (3) FEDERAL LAND.—The term “Federal land”
13 means—

14 (A) National Forest System land; and

15 (B) public land.

16 (4) FUND.—The term “Fund” means the Re-
17 newable Energy Resource Conservation Fund estab-
18 lished by section 9(c)(1).

19 (5) NATIONAL FOREST SYSTEM.—The term
20 “National Forest System” has the meaning given
21 the term in section 11(a) of the Forest and Range-
22 land Renewable Resources Planning Act of 1974 (16
23 U.S.C. 1609(a)).

24 (6) PRIORITY AREA.—The term “priority area”
25 means covered land identified by the land use plan-

1 ning process of the Bureau of Land Management as
2 being a preferred location for a renewable energy
3 project, including a designated leasing area (as de-
4 fined in section 2801.5(b) of title 43, Code of Fed-
5 eral Regulations (or a successor regulation)) that is
6 identified under the rule of the Bureau of Land
7 Management entitled “Competitive Processes,
8 Terms, and Conditions for Leasing Public Lands for
9 Solar and Wind Energy Development and Technical
10 Changes and Corrections” (81 Fed. Reg. 92122
11 (December 19, 2016)) (or a successor regulation).

12 (7) PUBLIC LAND.—The term “public land”
13 has the meaning given the term “public lands” in
14 section 103 of the Federal Land Policy and Manage-
15 ment Act of 1976 (43 U.S.C. 1702).

16 (8) RENEWABLE ENERGY PROJECT.—The term
17 “renewable energy project” means a project carried
18 out on covered land that uses wind, solar, or geo-
19 thermal energy to generate energy.

20 (9) SECRETARY.—The term “Secretary” means
21 the Secretary of the Interior.

22 (10) VARIANCE AREA.—The term “variance
23 area” means covered land that—

24 (A) is not an exclusion area; and

25 (B) is not a priority area.

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

4 (a) PRIORITY AREAS.—

5 (1) IN GENERAL.—The Secretary, in consulta-
6 tion with the Secretary of Energy, shall establish
7 priority areas on covered land for geothermal, solar,
8 and wind energy projects.

9 (2) DEADLINE.—

10 (A) GEOTHERMAL ENERGY.—For geo-
11 thermal energy, the Secretary shall establish
12 priority areas as soon as practicable, but not
13 later than 5 years, after the date of enactment
14 of this Act.

15 (B) SOLAR ENERGY.—For solar energy,
16 the Secretary shall establish additional priority
17 areas as soon as practicable, but not later than
18 3 years, after the date of enactment of this Act.

19 (C) WIND ENERGY.—For wind energy, the
20 Secretary shall establish priority areas as soon
21 as practicable, but not later than 3 years, after
22 the date of enactment of this Act.

23 (b) VARIANCE AREAS.—To the maximum extent
24 practicable, variance areas shall be considered for renew-
25 able energy project development, consistent with the prin-
26 ciples of multiple use (as defined in section 103 of the

1 Federal Land Policy and Management Act of 1976 (43
2 U.S.C. 1702)).

3 (c) REVIEW AND MODIFICATION.—Not less fre-
4 quently than once every 5 years, the Secretary shall—

5 (1) review the adequacy of land allocations for
6 geothermal, solar, and wind energy priority and vari-
7 ance areas for the purpose of encouraging new re-
8 newable energy development opportunities; and

9 (2) based on the review carried out under para-
10 graph (1), add, modify, or eliminate priority, vari-
11 ance, and exclusion areas.

12 (d) COMPLIANCE WITH THE NATIONAL ENVIRON-
13 MENTAL POLICY ACT.—For purposes of this section, com-
14 pliance with the National Environmental Policy Act of
15 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

16 (1) for geothermal energy, by supplementing
17 the October 2008 final programmatic environmental
18 impact statement for geothermal leasing in the
19 Western United States, including by incorporating
20 any additional regional analyses that were completed
21 by Federal agencies after the date on which the pro-
22 grammatic environmental impact statement was fi-
23 nalized;

24 (2) for solar energy, by supplementing the July
25 2012 final programmatic environmental impact

1 statement for the Solar Energy Program of the Bu-
2 reau of Land Management, including by incor-
3 porating any additional regional analyses that were
4 completed by Federal agencies after the date on
5 which the programmatic environmental impact state-
6 ment was finalized; and

7 (3) for wind energy, by supplementing the July
8 2005 final programmatic environmental impact
9 statement for wind energy development, including by
10 incorporating any additional regional analyses that
11 were completed by Federal agencies after the date
12 on which the programmatic environmental impact
13 statement was finalized.

14 (e) NO EFFECT ON PROCESSING APPLICATIONS.—A
15 requirement to prepare a supplement to a programmatic
16 environmental impact statement under this section shall
17 not result in any delay in processing an application for
18 a renewable energy project.

19 (f) COORDINATION.—In developing a supplement re-
20 quired by this section, the Secretary shall coordinate, on
21 an ongoing basis, with appropriate State, Tribal, and local
22 governments, transmission infrastructure owners and op-
23 erators, developers, and other appropriate entities to en-
24 sure that priority areas identified by the Secretary are—

1 (1) economically viable (including having access
2 to existing or planned transmission capacity);

3 (2) likely to avoid or minimize conflict with
4 habitat for animals and plants, recreation, cultural
5 resources, and other uses of covered land; and

6 (3) consistent with section 202 of the Federal
7 Land Policy and Management Act of 1976 (43
8 U.S.C. 1712), including subsection (c)(9) of that
9 section (43 U.S.C. 1712(c)(9)).

10 **SEC. 4. ENVIRONMENTAL REVIEW ON COVERED LAND.**

11 (a) IN GENERAL.—If the Secretary determines that
12 a proposed renewable energy project has been sufficiently
13 analyzed by a programmatic environmental impact state-
14 ment conducted under section 3(d), the Secretary shall not
15 require any additional review under the National Environ-
16 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

17 (b) ADDITIONAL ENVIRONMENTAL REVIEW.—If the
18 Secretary determines that additional environmental review
19 under the National Environmental Policy Act of 1969 (42
20 U.S.C. 4321 et seq.) is necessary for a proposed renewable
21 energy project, the Secretary shall rely on the analysis in
22 the programmatic environmental impact statement con-
23 ducted under section 3(d) to the maximum extent prac-
24 ticable when analyzing the potential impacts of the
25 project.

1 (c) RELATIONSHIP TO OTHER LAW.—Nothing in this
2 section modifies or supersedes any requirement under ap-
3 plicable law.

4 **SEC. 5. PROGRAM TO IMPROVE RENEWABLE ENERGY**
5 **PROJECT PERMIT COORDINATION.**

6 (a) ESTABLISHMENT.—

7 (1) IN GENERAL.—The Secretary shall establish
8 and implement, through the offices established under
9 paragraph (2), a program to improve Federal permit
10 coordination with respect to renewable energy
11 projects on covered land.

12 (2) ESTABLISHMENT OF OFFICES.—To estab-
13 lish and implement the program described in para-
14 graph (1), and to carry out other necessary activi-
15 ties, as determined by the Secretary, the Secretary
16 shall establish—

17 (A) an office to serve as the National Re-
18 newable Energy Coordination Office; and

19 (B) State, district, or field Renewable En-
20 ergy Coordination Offices, for such time as the
21 Secretary determines to be appropriate.

22 (b) MEMORANDUM OF UNDERSTANDING.—

23 (1) IN GENERAL.—Not later than 180 days
24 after the date of enactment of this Act, the Sec-
25 retary shall enter into a memorandum of under-

1 standing for purposes of this section, including to
2 specifically expedite the environmental analysis of
3 applications for projects proposed in a variance area
4 or a priority area, with—

5 (A) the Secretary of Defense; and

6 (B) the Secretary of Agriculture.

7 (2) STATE PARTICIPATION.—The Secretary
8 may request the Governor of any interested State to
9 be a signatory to the memorandum of understanding
10 under paragraph (1).

11 (c) DESIGNATION OF QUALIFIED STAFF.—

12 (1) IN GENERAL.—Not later than 30 days after
13 the date on which the memorandum of under-
14 standing under subsection (b) is executed, all Fed-
15 eral signatories, as appropriate, shall identify for the
16 National Renewable Energy Coordination Office es-
17 tablished under subsection (a)(2)(A) and each Re-
18 newable Energy Coordination Office established
19 under subsection (a)(2)(B) 1 or more employees who
20 have expertise in the regulatory issues relating to
21 the office in which the employee is employed, includ-
22 ing, as applicable, particular expertise in—

23 (A) consultation regarding, and prepara-

24 tion of, biological opinions under section 7 of

1 the Endangered Species Act of 1973 (16 U.S.C.
2 1536);

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

6 (C) regulatory matters under the Clean Air
7 Act (42 U.S.C. 7401 et seq.);

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

10 (E) the Migratory Bird Treaty Act (16
11 U.S.C. 703 et seq.);

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

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

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

22 (I) the Act of June 8, 1940 (54 Stat. 250,
23 chapter 278; 16 U.S.C. 668 et seq.) (commonly
24 known as the “Bald Eagle Protection Act”).

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

3 (A) be responsible for addressing all issues
4 relating to the jurisdiction of the home office or
5 agency of the employee; and

6 (B) participate as part of the team of per-
7 sonnel working on proposed energy projects,
8 planning, monitoring, inspection, enforcement,
9 and environmental analyses.

10 (d) CLARIFICATION OF EXISTING AUTHORITY.—Sec-
11 tion 307 of the Federal Land Policy and Management Act
12 of 1976 (43 U.S.C. 1737) is amended by adding at the
13 end the following:

14 “(h) DONATIONS.—The Secretary, in accordance
15 with subsection (c), may accept donations from renewable
16 energy companies working on public lands, including dona-
17 tions to help cover the costs of environmental reviews.”.

18 (e) REPORT TO CONGRESS.—

19 (1) IN GENERAL.—Not later than February 1
20 of the first fiscal year beginning after the date of en-
21 actment of this Act, and each February 1 thereafter,
22 the Secretary shall submit to the Committee on En-
23 ergy and Natural Resources of the Senate and the
24 Committee on Natural Resources of the House of
25 Representatives a report describing the progress

1 made under the program established under sub-
2 section (a)(1) during the preceding year.

3 (2) INCLUSIONS.—Each report under para-
4 graph (1) shall include—

5 (A) projections for renewable energy pro-
6 duction and capacity installations; and

7 (B) a description of any problems relating
8 to leasing, permitting, siting, or production.

9 **SEC. 6. INCREASING ECONOMIC CERTAINTY.**

10 (a) IN GENERAL.—The Secretary shall consider the
11 total amount paid in acreage rental rates, capacity fees,
12 and other recurring annual fees in evaluating existing
13 rates paid by renewable energy projects for the use of Fed-
14 eral land.

15 (b) INCREASES IN BASE RENTAL RATES.—After a
16 base rental rate is established on an issuance of a right-
17 of-way authorization, for the entire term of the right-of-
18 way authorization, any increase in the base rental rate
19 shall be limited to the Implicit Price Deflator–Gross Do-
20 mestic Product Index published by the Bureau of Eco-
21 nomic Analysis of the Department of Commerce on the
22 date of issuance of the right-of-way authorization.

23 (c) REDUCTIONS IN BASE RENTAL RATES.—The
24 Secretary may reduce acreage rental rates and capacity

1 fees for existing and new wind and solar authorizations
2 if the Secretary determines—

3 (1) that the existing rates—

4 (A) exceed fair market value;

5 (B) impose economic hardships;

6 (C) limit commercial interest in a competi-
7 tive lease sale or right-of-way grant; or

8 (D) are not competitively priced compared
9 to other available land; or

10 (2) that a reduced rental rate or capacity fee is
11 necessary to promote the greatest use of wind and
12 solar energy resources, especially inside priority
13 areas.

14 **SEC. 7. LIMITED GRANDFATHERING.**

15 (a) DEFINITION OF PROJECT.—In this section, the
16 term “project” means a system described in section
17 2801.9(a)(4) of title 43, Code of Federal Regulations (as
18 in effect on the date of enactment of this Act).

19 (b) REQUIREMENT TO PAY RENTS AND FEES.—The
20 owner of a project that applied for a right-of-way under
21 section 501 of the Federal Land Policy and Management
22 Act of 1976 (43 U.S.C. 1761) on or before December 19,
23 2016, shall be obligated to pay with respect to the right-
24 of-way all rents and fees in effect before the effective date
25 of the rule of the Bureau of Land Management entitled

1 “Competitive Processes, Terms, and Conditions for Leas-
2 ing Public Lands for Solar and Wind Energy Development
3 and Technical Changes and Corrections” (81 Fed. Reg.
4 92122 (December 19, 2016)).

5 **SEC. 8. RENEWABLE ENERGY GOAL.**

6 The Secretary and the Secretary of Agriculture,
7 through management of public land and administration of
8 Federal laws, shall seek to issue permits that, in total,
9 authorize production of not less than 25 gigawatts of elec-
10 tricity from wind, solar, and geothermal energy projects
11 by not later than December 31, 2025.

12 **SEC. 9. DISPOSITION OF REVENUES.**

13 (a) DISPOSITION OF REVENUES.—Without further
14 appropriation or fiscal year limitation, of the amounts col-
15 lected as bonus bids, rentals, fees, or other payments
16 under a right-of-way, permit, lease, or other authorization
17 (other than under section 504(g) of the Federal Land Pol-
18 icy and Management Act of 1976 (43 U.S.C. 1764(g)))
19 for the development of wind or solar energy on covered
20 land or National Forest System land—

21 (1) for the period beginning on January 1,
22 2020, and ending on December 31, 2039—

23 (A) 25 percent shall be paid by the Sec-
24 retary of the Treasury to the State within the
25 boundaries of which the revenue is derived;

1 (B) 25 percent shall be paid by the Sec-
2 retary of the Treasury to the 1 or more coun-
3 ties within the boundaries of which the revenue
4 is derived, to be allocated among the counties
5 based on the percentage of land from which the
6 revenue is derived;

7 (C) 15 percent shall be deposited in the
8 Treasury and be made available to the Sec-
9 retary to carry out the program established
10 under section 5(a), including the transfer of the
11 funds by the Bureau of Land Management to
12 other Federal agencies and State agencies to fa-
13 cilitate the processing of renewable energy per-
14 mits on Federal land, with priority given to
15 using the amounts, to the maximum extent
16 practicable without detrimental impacts to
17 emerging markets, to expediting the issuance of
18 permits required for the development of renew-
19 able energy projects in the States from which
20 the revenues are derived; and

21 (D) 35 percent shall be deposited in the
22 Fund; and

23 (2) beginning on January 1, 2040—

1 (A) 25 percent shall be paid by the Sec-
2 retary of the Treasury to the State within the
3 boundaries of which the revenue is derived;

4 (B) 25 percent shall be paid by the Sec-
5 retary of the Treasury to the 1 or more coun-
6 ties within the boundaries of which the revenue
7 is derived, to be allocated among the counties
8 based on the percentage of land from which the
9 revenue is derived;

10 (C) 10 percent shall be deposited in the
11 Treasury and be made available to the Sec-
12 retary to carry out the program established
13 under section 5(a), including the transfer of the
14 funds by the Bureau of Land Management to
15 other Federal agencies and State agencies to fa-
16 cilitate the processing of renewable energy per-
17 mits on Federal land, with priority given to
18 using the amounts, to the maximum extent
19 practicable without detrimental impacts to
20 emerging markets, to expediting the issuance of
21 permits required for the development of renew-
22 able energy projects in the States from which
23 the revenues are derived; and

24 (D) 40 percent shall be deposited in the
25 Fund.

1 (b) PAYMENTS TO STATES AND COUNTIES.—

2 (1) IN GENERAL.—Amounts paid to States and
3 counties under subsection (a) shall be used con-
4 sistent with section 35 of the Mineral Leasing Act
5 (30 U.S.C. 191).

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

10 (c) RENEWABLE ENERGY RESOURCE CONSERVATION
11 FUND.—

12 (1) IN GENERAL.—There is established in the
13 Treasury a fund, to be known as the “Renewable
14 Energy Resource Conservation Fund”, which shall
15 be administered by the Secretary, in consultation
16 with the Secretary of Agriculture.

17 (2) USE OF FUNDS.—The Secretary may make
18 amounts in the Fund available to Federal, State,
19 local, and Tribal agencies to be distributed in re-
20 gions in which renewable energy projects are located
21 on Federal land, for the purposes of—

22 (A) restoring and protecting—

23 (i) fish and wildlife habitat for af-
24 fected species;

1 (ii) fish and wildlife corridors for af-
2 fected species; and

3 (iii) water resources in areas affected
4 by wind, geothermal, or solar energy devel-
5 opment; and

6 (B) preserving and improving recreational
7 access to Federal land and water in an affected
8 region through an easement, right-of-way, or
9 other instrument from willing landowners for
10 the purpose of enhancing public access to exist-
11 ing Federal land and water that is inaccessible
12 or restricted.

13 (3) PARTNERSHIPS.—The Secretary may enter
14 into cooperative agreements with State, local, and
15 Tribal agencies, nonprofit organizations, and other
16 appropriate entities to carry out the activities de-
17 scribed in subparagraphs (A) and (B) of paragraph
18 (2).

19 (4) INVESTMENT OF FUND.—

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

1 (B) USE.—Any interest earned under sub-
2 paragraph (A) may be expended in accordance
3 with this subsection.

4 (5) REPORT TO CONGRESS.—At the end of each
5 fiscal year, the Secretary shall submit to the Com-
6 mittee on Energy and Natural Resources of the Sen-
7 ate and the Committee on Natural Resources of the
8 House of Representatives a report identifying—

9 (A) the amounts described in subsection
10 (a) that were collected during that fiscal year,
11 organized by source;

12 (B) the amount and purpose of payments
13 made to each Federal, State, local, and Tribal
14 agency under paragraph (2) during that fiscal
15 year; and

16 (C) the amount remaining in the Fund at
17 the end of the fiscal year.

18 (6) INTENT OF CONGRESS.—It is the intent of
19 Congress that the revenues deposited and used in
20 the Fund shall supplement (and not supplant) an-
21 nual appropriations for activities described in sub-
22 paragraphs (A) and (B) of paragraph (2).

1 **SEC. 10. PROMOTING AND ENHANCING DEVELOPMENT OF**
 2 **GEOHERMAL ENERGY.**

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

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

10 (1) by striking “Amounts” and inserting the
 11 following:

12 “(1) IN GENERAL.—Amounts”; and

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

14 “(2) AUTHORIZATION.—Effective for fiscal year
 15 2020 and each fiscal year thereafter, amounts de-
 16 posited under subsection (a) shall be available to the
 17 Secretary of the Interior for expenditure, without
 18 further appropriation or fiscal year limitation, to im-
 19 plement the Geothermal Steam Act of 1970 (30
 20 U.S.C. 1001 et seq.) and this Act.”.

21 **SEC. 11. FACILITATION OF COPRODUCTION OF GEO-**
 22 **THERMAL ENERGY ON OIL AND GAS LEASES.**

23 Section 4 of the Geothermal Steam Act of 1970 (30
 24 U.S.C. 1003) is amended—

25 (1) in subsection (c), by striking “The Sec-
 26 retary” and inserting the following:

1 “(1) IN GENERAL.—The Secretary”;

2 (2) in subsection (b), by redesignating para-
3 graph (3) as paragraph (2) and moving the para-
4 graph so as to appear after paragraph (1) of sub-
5 section (c) (as designated by paragraph (1)); and

6 (3) in subsection (c) (as amended by para-
7 graphs (1) and (2)), by adding at the end the fol-
8 lowing:

9 “(3) LAND SUBJECT TO OIL AND GAS LEASE.—

10 “(A) DEFINITION OF LAND.—In this para-
11 graph, the term ‘land’ means land that—

12 “(i) is under an oil and gas lease
13 issued pursuant to the Mineral Leasing
14 Act (30 U.S.C. 181 et seq.) or the Mineral
15 Leasing Act for Acquired Lands (30
16 U.S.C. 351 et seq.);

17 “(ii) is subject to an approved applica-
18 tion for permit to drill; and

19 “(iii) from which oil and gas produc-
20 tion is occurring.

21 “(B) GEOTHERMAL ENERGY.—Land may
22 be available for noncompetitive leasing under
23 this section to the holder of an oil and gas lease
24 described in subparagraph (A)(i)—

1 “(i) if the Secretary determines that
2 geothermal energy will be produced from a
3 well that is producing or is capable of pro-
4 ducing oil and gas; and

5 “(ii) to provide for the coproduction of
6 geothermal energy with oil and gas.”.

7 **SEC. 12. NONCOMPETITIVE LEASING OF ADJOINING AREAS**
8 **FOR DEVELOPMENT OF GEOTHERMAL RE-**
9 **SOURCES.**

10 Section 4(c) of the Geothermal Steam Act of 1970
11 (30 U.S.C. 1003(c)) (as amended by section 11) is amend-
12 ed by adding at the end the following:

13 “(4) ADJOINING LAND.—

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

15 “(i) FAIR MARKET VALUE PER
16 ACRE.—The term ‘fair market value per
17 acre’ means a dollar amount per acre
18 that—

19 “(I) subject to subclause (II), is
20 equal to the market value per acre, as
21 determined by the Secretary—

22 “(aa) under regulations pro-
23 mulgated under this paragraph;

24 “(bb) taking into account
25 the data described in subpara-

1 graph (B)(iii) regarding a valid
2 discovery under subclause (I) of
3 that subparagraph; and

4 “(cc) not later than 180
5 days after the date on which the
6 Secretary receives an application
7 for a lease under this paragraph;
8 and

9 “(II) shall be not less than the
10 greater of—

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

15 “(bb) \$50.

16 “(ii) INDUSTRY STANDARDS.—The
17 term ‘industry standards’ means the stand-
18 ards by which a qualified geothermal pro-
19 fessional assesses whether downhole or
20 flowing temperature measurements with
21 indications of permeability are sufficient to
22 produce energy from geothermal resources,
23 as determined through flow or injection
24 testing or measurement of lost circulation
25 while drilling.

1 “(iii) QUALIFIED FEDERAL LAND.—

2 The term ‘qualified Federal land’ means
3 land that is available for leasing under this
4 Act.

5 “(iv) QUALIFIED GEOTHERMAL PRO-

6 FESSIONAL.—The term ‘qualified geo-
7 thermal professional’ means an individual
8 who is an engineer or geoscientist in good
9 professional standing with at least 5 years
10 of experience in geothermal exploration,
11 development, or project assessment.

12 “(v) QUALIFIED LESSEE.—The term

13 ‘qualified lessee’ means a person that is el-
14 igible to hold a geothermal lease under this
15 Act (including applicable regulations).

16 “(vi) VALID DISCOVERY.—The term

17 ‘valid discovery’ means a discovery, by a
18 new or existing slim hole or production
19 well, of a geothermal resource that exhibits
20 downhole or flowing temperature measure-
21 ments with indications of permeability that
22 are sufficient to meet industry standards.

23 “(B) AUTHORITY.—An area of qualified

24 Federal land that adjoins other land for which
25 a qualified lessee holds a legal right to develop

1 geothermal resources may be available for a
2 noncompetitive lease under this section to the
3 qualified lessee at the fair market value per
4 acre, if—

5 “(i) the area of qualified Federal
6 land—

7 “(I) consists of not less than 1
8 acre and not more than 640 acres;
9 and

10 “(II) is not already leased under
11 this Act or nominated to be leased
12 under subsection (a);

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

18 “(iii) sufficient geological and other
19 technical data prepared by a qualified geo-
20 thermal professional has been submitted by
21 the qualified lessee to the applicable Fed-
22 eral land management agency that would
23 lead individuals who are experienced in the
24 subject matter to believe that—

1 “(I) there is a valid discovery of
2 geothermal resources on the land for
3 which the qualified lessee holds the
4 legal right to develop geothermal re-
5 sources; and

6 “(II) those geothermal resources
7 extend into the adjoining areas.

8 “(C) REGULATIONS FOR DETERMINING
9 FAIR MARKET VALUE.—The Secretary shall
10 promulgate regulations establishing a procedure
11 to determine fair market value per acre under
12 subparagraph (A)(i)(I) for purposes of this
13 paragraph.

14 “(D) ADMINISTRATION.—

15 “(i) IN GENERAL.—The Secretary
16 shall—

17 “(I) publish a notice of any re-
18 quest to lease land under this para-
19 graph;

20 “(II) provide to a qualified lessee
21 and publish, with an opportunity for
22 public comment for a period of 30
23 days, any proposed determination
24 under this paragraph of the fair mar-
25 ket value per acre of an area that the

1 qualified lessee seeks to lease under
2 this paragraph; and

3 “(III) provide to the qualified les-
4 see and any adversely affected party
5 the opportunity to appeal the final de-
6 termination of the fair market value
7 per acre of the area in an administra-
8 tive proceeding before the applicable
9 Federal land management agency, in
10 accordance with applicable law (in-
11 cluding regulations).

12 “(ii) LIMITATION ON NOMINATION.—
13 After publication of a notice of request to
14 lease land under this paragraph, the Sec-
15 retary may not accept any nomination to
16 lease that land under subsection (a) unless
17 the request has been denied or withdrawn.

18 “(iii) ANNUAL RENTAL.—For pur-
19 poses of section 5(a)(3), a lease awarded
20 under this paragraph shall be considered a
21 lease awarded in a competitive lease sale.

22 “(E) REGULATIONS.—Not later than 270
23 days after the date of enactment of the Public
24 Land Renewable Energy Development Act of

1 2019, the Secretary shall issue regulations to
2 carry out this paragraph.”.

3 **SEC. 13. SAVINGS CLAUSE.**

4 Notwithstanding any other provision of this Act, the
5 Secretary shall continue to manage public land under the
6 principles of multiple use and sustained yield in accord-
7 ance with title I of the Federal Land Policy and Manage-
8 ment Act of 1976 (43 U.S.C. 1701 et seq.), including due
9 consideration of mineral and nonrenewable energy-related
10 projects and other nonrenewable energy uses, for the pur-
11 poses of land use planning, permit processing, and con-
12 ducting environmental reviews.

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