

Union Calendar No. 503

114TH CONGRESS
2^D SESSION

H. R. 3844

[Report No. 114-651]

To establish the Energy and Minerals Reclamation Foundation to encourage, obtain, and use gifts, devises, and bequests for projects to reclaim abandoned mine lands and orphan oil and gas well sites, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 28, 2015

Mr. JODY B. HICE of Georgia introduced the following bill; which was referred to the Committee on Natural Resources

JULY 1, 2016

Additional sponsor: Mr. LOWENTHAL

JULY 1, 2016

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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

[For text of introduced bill, see copy of bill as introduced on October 28, 2015]

A BILL

To establish the Energy and Minerals Reclamation Foundation to encourage, obtain, and use gifts, devises, and bequests for projects to reclaim abandoned mine lands and orphan oil and gas well sites, 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 “Bureau of Land Man-*
5 *agement Foundation Act”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

8 (1) *BOARD.*—*The term “Board” means the*
9 *Board of Directors of the Foundation.*

10 (2) *BLM.*—*The term “BLM” means the Bureau*
11 *of Land Management.*

12 (3) *CHAIRMAN.*—*The term “Chairman” means*
13 *the Chairman of the Board.*

14 (4) *DIRECTOR.*—*The term “Director” means an*
15 *individual member of the Board.*

16 (5) *FOUNDATION.*—*The term “Foundation”*
17 *means the Bureau of Land Management Foundation*
18 *established by this Act.*

19 (6) *SECRETARY.*—*The term “Secretary” means*
20 *the Secretary of the Interior.*

21 (7) *NATIONAL CONSERVATION LANDS.*—*The term*
22 *“National Conservation Lands” means the system of*
23 *lands established by section 2002 of the Omnibus Pub-*
24 *lic Lands Management Act of 2009 (16 U.S.C. 7202).*

1 (8) *WILD FREE-ROAMING HORSES AND BUR-*
2 *ROS.—The term “wild free-roaming horses and bur-*
3 *ros” has the same meaning that term has under sec-*
4 *tion 2(b) of the Wild Free-Roaming Horses And Bur-*
5 *ros Act Of 1971 (16 U.S.C. 1332(b)).*

6 (9) *ORPHANED OIL AND GAS WELL SITES.—The*
7 *term “orphaned oil and gas well sites” means all on-*
8 *shore oil and gas wells in the United States that have*
9 *no responsible or liable parties and that—*

10 (A) *are located on federally managed lands;*

11 (B) *are located on lands or minerals that*
12 *were federally managed at the time oil and gas*
13 *operations were initiated; or*

14 (C) *adversely impact the health or produc-*
15 *tivity of Federal lands.*

16 (10) *ABANDONED MINE LANDS.—The term*
17 *“abandoned mine lands” means all hard rock mines*
18 *in the United States that were abandoned before Jan-*
19 *uary 1, 1981, and all coal mines in the United States*
20 *that were abandoned before August 3, 1977, and*
21 *that—*

22 (A) *are located on federally managed lands;*

23 (B) *are located on lands or minerals that*
24 *were federally managed at the time mining oper-*
25 *ations were initiated; or*

1 (C) adversely impact the health or produc-
2 tivity of Federal lands.

3 **SEC. 3. ESTABLISHMENT AND PURPOSES OF THE BUREAU**
4 **OF LAND MANAGEMENT FOUNDATION.**

5 (a) *ESTABLISHMENT.*—There is established the Bureau
6 of Land Management Foundation as a charitable and non-
7 profit corporation that shall not be considered an agency
8 or establishment of the United States.

9 (b) *PURPOSES.*—

10 (1) *IN GENERAL.*—The purposes of the Founda-
11 tion are to—

12 (A) encourage, accept, obtain, administer,
13 and use private gifts of money, devises, and be-
14 quests of real and personal property for the ben-
15 efit of, or in connection with, the activities and
16 services of the BLM described in subparagraph
17 (B);

18 (B) undertake, conduct, and encourage pro-
19 grams and activities that support—

20 (i) educational, technical, scientific,
21 and other assistance or activities that sup-
22 port the management of BLM lands in re-
23 gard to—

24 (I) wild free-roaming horses and
25 burros;

1 (ii) fish and wildlife and their
2 habitats;

3 (iii) National Conservation
4 Lands;

5 (iv) recreation resources; and

6 (v) cultural and historic re-
7 sources; and

8 (ii) activities that support the reclama-
9 tion and remediation of—

10 (I) abandoned mine lands;

11 (II) orphaned oil and gas well
12 sites; or

13 (III) public lands impacted by de-
14 velopment connected to mineral explo-
15 ration and development activities.

16 (2) INCLUDED RECLAMATION ACTIVITIES.—Rec-
17 lamation activities under paragraph (1)(B) should
18 include, but not be limited to, the remediation of soil
19 and water contamination, the restoration of wildlife
20 habitat in order to restore the natural, scenic, his-
21 toric, cultural, and ecological values of such areas, or
22 the promotion of the economic potential of such areas.

23 (c) ACTIVITIES OF THE FOUNDATION AND THE BU-
24 REAU OF LAND MANAGEMENT.—The activities of the Foun-
25 dation authorized under this Act shall be supplemental to

1 *and shall not preempt any authority or responsibility of*
2 *the BLM under any other provision of law.*

3 *(d) RANGE OF FOUNDATION ACTIVITIES.—The activi-*
4 *ties and grants made by the Foundation under subsection*
5 *(b)(1)(B) that are not subject to limitations under section*
6 *5(d)(4) shall be undertaken in equal proportion under*
7 *clauses (i) and (ii) of subsection (b)(1)(B).*

8 **SEC. 4. BOARD OF DIRECTORS.**

9 *(a) ESTABLISHMENT AND MEMBERSHIP.—*

10 *(1) IN GENERAL.—The Foundation shall have a*
11 *governing Board of Directors, which shall consist of*
12 *no more than 9 members, each of whom shall be a*
13 *United States citizen.*

14 *(2) REQUIREMENTS OF MEMBERS.—Of the ap-*
15 *pointed members of the Board—*

16 *(A) at least 3 shall have education or expe-*
17 *rience in natural, cultural, conservation, or other*
18 *resource management, law, research, or advo-*
19 *cacy;*

20 *(B) at least 3 shall have education or expe-*
21 *rience in energy and minerals development, rec-*
22 *lamation, or remediation; and*

23 *(C) up to 3 shall be appointed as at-large*
24 *members.*

1 (3) *EX OFFICIO MEMBER.*—*The Director of the*
2 *Bureau of Land Management, or a designee of the Di-*
3 *rector of the Bureau of Land Management, shall be*
4 *an ex officio nonvoting member of the Board.*

5 (b) *APPOINTMENT AND TERMS.*—

6 (1) *INITIAL APPOINTMENT.*—*Not later than 1*
7 *year after the date of the enactment of this Act, the*
8 *Secretary shall appoint the members of the Board in*
9 *accordance with paragraph (6) who, except as other-*
10 *wise provided in paragraph (2), shall be appointed*
11 *for terms of 6 years.*

12 (2) *STAGGERED APPOINTMENTS.*—*In appointing*
13 *the initial members of the Board, the Secretary shall*
14 *appoint, as determined to be appropriate by the Sec-*
15 *retary—*

16 (A) *one-third of the members to serve an*
17 *initial term of 2 years;*

18 (B) *one-third of the members to serve an*
19 *initial term of 4 years; and*

20 (C) *one-third of the members to serve an*
21 *initial term of 6 years.*

22 (3) *VACANCY.*—*A vacancy on the Board shall*
23 *be—*

1 (A) filled not later than 60 days after the
2 vacancy occurs, in the manner of which the
3 original appointment was made; and

4 (B) for the balance of the term of the indi-
5 vidual who was replaced.

6 (4) *REMOVAL.*—A Director may be removed from
7 the Board by a majority vote of the Board if the indi-
8 vidual misses 3 consecutive regularly scheduled meet-
9 ings.

10 (5) *TERM LIMIT.*—In no case may an individual
11 serve more than 12 consecutive years on the Board.

12 (6) *NOMINATIONS.*—The Secretary shall publish
13 a solicitation in the Federal Register seeking nomina-
14 tions from the public of individuals for appointment
15 to the Board. Such solicitation shall be open for a pe-
16 riod of 30 days. Nominations submitted shall not be
17 binding, but the Secretary shall give consideration to
18 the names received. Within 30 days after the end of
19 such period, the Secretary shall appoint members who
20 comply with the requirements of subsection (a)(2),
21 and publish the names and backgrounds of those ap-
22 pointed in the Federal Register.

23 (7) *REPRESENTATION OF DIVERSE AREAS OF EX-*
24 *PERTISE.*—In appointing the members of the Board
25 the Secretary shall seek to appoint, and may give

1 *preference to, individuals who have experience with*
2 *State or local government partnerships and represent*
3 *diverse areas of expertise.*

4 *(c) CHAIRMAN.—The Chairman—*

5 *(1) shall be elected by the Board from its mem-*
6 *bers for a 2-year term; and*

7 *(2) may be reelected as Chairman while serving*
8 *as a Director.*

9 *(d) QUORUM.—A majority of the current voting mem-*
10 *bership of the Board shall constitute a quorum for the trans-*
11 *action of business.*

12 *(e) MEETINGS.—The Board shall meet at the call of*
13 *the Chairman at least once a year.*

14 *(f) REIMBURSEMENT OF EXPENSES.—Serving as a Di-*
15 *rector shall not constitute employment by the United States*
16 *Government for any purpose. Members of the Board shall*
17 *serve without pay other than reimbursement for the actual*
18 *and necessary traveling and subsistence expenses incurred*
19 *in the performance of their duties for the Foundation in*
20 *accordance with section 5703 of title 5, United States Code.*

21 *(g) GENERAL POWERS.—The Board may complete the*
22 *organization of the Foundation by appointing officers and*
23 *employees, adopting a constitution and bylaws consistent*
24 *with the purposes of the Foundation and this Act, and un-*

1 *dertaking other such acts as may be necessary to function*
2 *and to carry out the provisions of this title.*

3 (h) *OFFICERS AND EMPLOYEES.*—*Officers and em-*
4 *ployees of the Foundation may not be appointed until the*
5 *Foundation has sufficient funds to pay them for their serv-*
6 *ice. Appointment as an officer or employee of the Founda-*
7 *tion shall not constitute employment by the United States.*

8 (i) *LIMITATION AND CONFLICTS OF INTEREST.*—

9 (1) *PROHIBITION ON POLITICAL CAMPAIGN AC-*
10 *TIVITY.*—*The Foundation shall not participate or in-*
11 *tervene in a political campaign on behalf of any can-*
12 *didate for public office.*

13 (2) *CONFLICT OF INTEREST.*—*No Director, offi-*
14 *cer, or employee of the Foundation shall participate,*
15 *directly or indirectly, in the consideration or deter-*
16 *mination of any particular matter before the Founda-*
17 *tion affecting—*

18 (A) *the financial interests of that Director,*
19 *officer, employee, or an immediate family mem-*
20 *ber of such Director, officer, or employee; or*

21 (B) *the interests of any corporation, part-*
22 *nership, entity, or organization in which such*
23 *Director, officer, employee, or an immediate fam-*
24 *ily member of such Director, officer, or em-*
25 *ployee—*

- 1 (i) is an officer, director, or trustee; or
2 (ii) has any direct financial interest.

3 (3) *LIMITATION ON ADMINISTRATIVE EXPENDI-*
4 *TURE.—Starting in the fifth fiscal year beginning*
5 *after the date of the enactment of this Act, of the*
6 *amounts available to the Foundation for expenditure*
7 *each fiscal year, not more than 15 percent may be*
8 *used for administrative expenses.*

9 **SEC. 5. POWERS AND OBLIGATIONS.**

10 (a) *IN GENERAL.—The Foundation—*

11 (1) *shall have perpetual succession; and*

12 (2) *may conduct business throughout the several*
13 *States, territories, and possessions of the United*
14 *States.*

15 (b) *NOTICE AND SERVICE OF PROCESS.—The Founda-*
16 *tion shall at all times maintain a designated agent in the*
17 *District of Columbia authorized to accept service of process*
18 *for the Foundation. The serving of notice to, or service of*
19 *process upon, the agent required under this subsection, or*
20 *mailed to the business address of such agent, shall be treated*
21 *as service upon or notice to the Foundation.*

22 (c) *SEAL.—The Foundation shall have an official seal*
23 *selected by the Board, which shall be judicially noticed.*

24 (d) *POWERS.—In addition to powers otherwise author-*
25 *ized under this Act, to carry out its purposes the Founda-*

1 *tion shall have the usual powers of a not-for-profit corpora-*
2 *tion in the District of Columbia, including the power to—*

3 *(1) accept, receive, solicit, hold, administer, and*
4 *use any gift, devise, or bequest, either absolutely or in*
5 *trust, of real or personal property or any income*
6 *therefrom or other interest therein;*

7 *(2) acquire by donation, gift, devise, purchase, or*
8 *exchange, and dispose of, any real or personal prop-*
9 *erty or interest therein;*

10 *(3) sell, donate, lease, invest, reinvest, retain, or*
11 *otherwise dispose of any property or income therefrom*
12 *unless limited by the instrument of transfer;*

13 *(4) accept, receive, solicit, hold, administer, and*
14 *use any gift, devise, or bequest, at the request of the*
15 *donor thereof, strictly and exclusively for any purpose*
16 *set forth in section 3(b), including expenditure of*
17 *funds received as a bequest for such a purpose for rea-*
18 *sonable administrative expenses related to actions to*
19 *carry out the bequest;*

20 *(5) borrow money and issue bonds, debentures, or*
21 *other debt instruments;*

22 *(6) sue and be sued, and complain and defend*
23 *itself in any court of competent jurisdiction, except*
24 *that the Directors of the Board shall not be personally*
25 *liable, except for gross negligence;*

1 (7) *enter into contracts or other arrangements*
2 *with public agencies, private organizations, and per-*
3 *sons and to make such payments as may be necessary*
4 *to carry out the purposes thereof; and*

5 (8) *do any and all acts necessary and proper to*
6 *carry out the purposes of the Foundation.*

7 *(e) PROPERTY.—*

8 (1) *ACCEPTANCE OF PROPERTY.—A gift, devise,*
9 *or bequest of real property may be accepted by the*
10 *Foundation even though it is encumbered, restricted,*
11 *or subject to beneficial interests of private persons if*
12 *any current or future interest therein is for the benefit*
13 *of the Foundation.*

14 (2) *REFUSAL OF PROPERTY.—The Foundation*
15 *may, in its discretion, decline any gift, devise, or be-*
16 *quest of real or personal property.*

17 (3) *TITLE AND INTEREST IN REAL PROPERTY.—*
18 *For the purposes of this Act, an interest in real prop-*
19 *erty shall be treated as including mineral and water*
20 *rights, rights-of-way, and easements, appurtenant or*
21 *in gross.*

22 (4) *CONDEMNATION OF REAL PROPERTY PROHIB-*
23 *ITED.—No lands or waters, or interests therein, that*
24 *are owned by the Foundation shall be subject to con-*

1 *demnation by any State or political subdivision, or*
2 *any agent of instrumentality thereof.*

3 (5) *LIMITATION ON THE ACQUISITION OF REAL*
4 *PROPERTY.—The Foundation shall not use any funds*
5 *to purchase real property, unless such property is to*
6 *be used for administrative or support purposes.*

7 **SEC. 6. ADMINISTRATIVE SERVICES AND SUPPORT.**

8 (a) *ESTABLISHMENT SUPPORT.—For the purposes of*
9 *assisting the Foundation in establishing an office and meet-*
10 *ing initial administrative, project, and other expenses, there*
11 *is authorized to be appropriated to the Secretary \$3,000,000*
12 *for fiscal year 2016, \$2,000,000 for each of fiscal years*
13 *2017, 2018, and 2019, and \$1,000,000 for fiscal year 2020.*
14 *Amounts appropriated under this subsection that are pro-*
15 *vided to the Foundation shall remain available to the Foun-*
16 *ation until they are expended for authorized purposes.*

17 (b) *ADMINISTRATIVE EXPENSES.—The Secretary may*
18 *provide personnel, facilities, equipment, and other adminis-*
19 *trative services to the Foundation with such limitations and*
20 *on such terms and conditions as the Secretary shall estab-*
21 *lish. The Foundation may reimburse the Secretary for any*
22 *support provided under this subsection, in whole or in part,*
23 *and any reimbursement received by the Secretary under*
24 *this subsection shall be deposited into the Treasury to the*

1 *credit of the appropriations then current and chargeable for*
2 *the cost of providing the services.*

3 **SEC. 7. VOLUNTEERS.**

4 *The Secretary may accept, without regard to the civil*
5 *service classification laws, rules, and regulations, the serv-*
6 *ices of the Foundation, the Board, and the offices, employ-*
7 *ees, or agents of the Foundation, without compensation*
8 *from the Department of the Interior, as volunteers for the*
9 *performance of the functions under section 307(d) of the*
10 *Federal Land Policy and Management Act of 1976 (43*
11 *U.S.C. 1737(d)).*

12 **SEC. 8. AUDITS AND REPORTS REQUIREMENTS.**

13 *(a) AUDITS.—For purposes of section 10101 of title 36,*
14 *United States Code, the Foundation shall be treated as a*
15 *corporation in part B of subtitle II of such title.*

16 *(b) ANNUAL REPORT.—The Foundation shall transmit*
17 *at the end of each fiscal year a report to Congress of its*
18 *proceedings and activities during that fiscal year, includ-*
19 *ing—*

20 *(1) a full and complete statement of its receipts,*
21 *expenditures, and investments;*

22 *(2) a description of all acquisition and disposal*
23 *of real property by the Foundation;*

1 (3) a detailed statement of the recipient, amount,
2 and purpose of each grant made by the Foundation;
3 and

4 (4) a copy of any audit prepared for the Foun-
5 dation in the previous fiscal year.

6 **SEC. 9. UNITED STATES RELEASE FROM LIABILITY.**

7 *The United States shall not be liable for any debts,*
8 *defaults, acts, or omissions of the Foundation, nor shall the*
9 *full faith and credit of the United States extend to any obli-*
10 *gations of the Foundation.*

11 **SEC. 10. RELIEF WITH RESPECT TO CERTAIN FOUNDATION**

12 **ACTS OR FAILURE TO ACT.**

13 *The Attorney General may petition in the United*
14 *States District Court for the District of Columbia for such*
15 *equitable relief as may be necessary or appropriate if the*
16 *Foundation engages in any act, practice, or policy that is*
17 *inconsistent with this Act or the bylaws of the Foundation.*

18 **SEC. 11. LIMITATION ON AUTHORITY.**

19 *Nothing in this Act authorizes the Foundation to per-*
20 *form any function the authority for which is exclusively*
21 *provided to the BLM under any other provision of law.*

22 **SEC. 12. LIMITATIONS ON USE OF FUNDS.**

23 *Amounts available to, or provided by, the Foundation*
24 *shall not be used for—*

- 1 (1) *any activity the purpose of which is to influ-*
2 *ence legislation pending before Congress; or*
3 (2) *any activity inconsistent with this Act.*

Amend the title so as to read: “A bill to establish the Bureau of Land Management Foundation to encourage, obtain, and use gifts, devises, and bequests for projects for the benefit of, or in connection with, activities and services of the Bureau of Land Management, and for other purposes.”.

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A BILL

To establish the Energy and Minerals Reclamation Foundation to encourage, obtain, and use gifts, devises, and bequests for projects to reclaim abandoned mine lands and orphan oil and gas well sites, and for other purposes.

JULY 1, 2016

Reported with amendments, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed