

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 3844**

**OFFERED BY MR. HICE OF GEORGIA** *and*  
*Mr. Lowenthal of California*

Strike all after the enacting clause and insert the

following:

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Bureau of Land Man-  
3 agement Foundation Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) BOARD.—The term “Board” means the  
7 Board of Directors of the Foundation.

8 (2) BLM.—The term “BLM” means the Bu-  
9 reau of Land Management.

10 (3) CHAIRMAN.—The term “Chairman” means  
11 the Chairman of the Board.

12 (4) DIRECTOR.—The term “Director” means  
13 an individual member of the Board.

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

17 (6) SECRETARY.—The term “Secretary” means  
18 the Secretary of the Interior.

1           (7) NATIONAL CONSERVATION LANDS.—The  
2 term “National Conservation Lands” means the sys-  
3 tem of lands established by section 2002 of the Om-  
4 nibus Public Lands Management Act of 2009 (16  
5 U.S.C. 7202).

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

11           (9) ORPHANED OIL AND GAS WELL SITES.—  
12 The term “orphaned oil and gas well sites” means  
13 all onshore oil and gas wells in the United States  
14 that have no responsible or liable parties and that—

15           (A) are located on federally managed  
16 lands;

17           (B) are located on lands or minerals that  
18 were federally managed at the time oil and gas  
19 operations were initiated; or

20           (C) adversely impact the health or produc-  
21 tivity of Federal lands.

22           (10) ABANDONED MINE LANDS.—The term  
23 “abandoned mine lands” means all hard rock mines  
24 in the United States that were abandoned before  
25 January 1, 1981, and all coal mines in the United

1 States that were abandoned before August 3, 1977,  
2 and that—

3 (A) are located on federally managed  
4 lands;

5 (B) are located on lands or minerals that  
6 were federally managed at the time mining op-  
7 erations were initiated; or

8 (C) adversely impact the health or produc-  
9 tivity of Federal lands.

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

12 (a) ESTABLISHMENT.—There is established the Bu-  
13 reau of Land Management Foundation as a charitable and  
14 nonprofit corporation that shall not be considered an agen-  
15 cy or establishment of the United States.

16 (b) PURPOSES.—

17 (1) IN GENERAL.—The purposes of the Foun-  
18 dation are to—

19 (A) encourage, accept, obtain, administer,  
20 and use private gifts of money, devises, and be-  
21 quests of real and personal property for the  
22 benefit of, or in connection with, the activities  
23 and services of the BLM described in subpara-  
24 graph (B);

1 (B) undertake, conduct, and encourage  
2 programs and activities that support—

3 (i) educational, technical, scientific,  
4 and other assistance or activities that sup-  
5 port the management of BLM lands in re-  
6 gard to—

7 (I) wild free-roaming horses and  
8 burros;

9 (II) fish and wildlife and their  
10 habitats;

11 (III) National Conservation  
12 Lands;

13 (IV) recreation resources; and

14 (V) cultural and historic re-  
15 sources; and

16 (ii) activities that support the rec-  
17 lamation and remediation of—

18 (I) abandoned mine lands;

19 (II) orphaned oil and gas well  
20 sites; or

21 (III) public lands impacted by  
22 development connected to mineral ex-  
23 ploration and development activities.

24 (2) INCLUDED RECLAMATION ACTIVITIES.—

25 Reclamation activities under paragraph (1)(B)

1 should include, but not be limited to, the remedi-  
2 ation of soil and water contamination, the restora-  
3 tion of wildlife habitat in order to restore the nat-  
4 ural, scenic, historic, cultural, and ecological values  
5 of such areas, or the promotion of the economic po-  
6 tential of such areas.

7 (c) **ACTIVITIES OF THE FOUNDATION AND THE BU-**  
8 **REAU OF LAND MANAGEMENT.**—The activities of the  
9 Foundation authorized under this Act shall be supple-  
10 mental to and shall not preempt any authority or responsi-  
11 bility of the BLM under any other provision of law.

12 (d) **RANGE OF FOUNDATION ACTIVITIES.**—The ac-  
13 tivities and grants made by the Foundation under sub-  
14 section (b)(1)(B) that are not subject to limitations under  
15 section 5(d)(4) shall be undertaken in equal proportion  
16 under clauses (i) and (ii) of subsection (b)(1)(B).

17 **SEC. 4. BOARD OF DIRECTORS.**

18 (a) **ESTABLISHMENT AND MEMBERSHIP.**—

19 (1) **IN GENERAL.**—The Foundation shall have a  
20 governing Board of Directors, which shall consist of  
21 no more than 9 members, each of whom shall be a  
22 United States citizen.

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

1 (A) at least 3 shall have education or expe-  
2 rience in natural, cultural, conservation, or  
3 other resource management, law, research, or  
4 advocacy;

5 (B) at least 3 shall have education or expe-  
6 rience in energy and minerals development, rec-  
7 lamation, or remediation; and

8 (C) up to 3 shall be appointed as at-large  
9 members.

10 (3) EX OFFICIO MEMBER.—The Director of the  
11 Bureau of Land Management, or a designee of the  
12 Director of the Bureau of Land Management, shall  
13 be an ex officio nonvoting member of the Board.

14 (b) APPOINTMENT AND TERMS.—

15 (1) INITIAL APPOINTMENT.—Not later than 1  
16 year after the date of the enactment of this Act, the  
17 Secretary shall appoint the members of the Board in  
18 accordance with paragraph (6) who, except as other-  
19 wise provided in paragraph (2), shall be appointed  
20 for terms of 6 years.

21 (2) STAGGERED APPOINTMENTS.—In appoint-  
22 ing the initial members of the Board, the Secretary  
23 shall appoint, as determined to be appropriate by the  
24 Secretary—

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

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

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

7 (3) VACANCY.—A vacancy on the Board shall  
8 be—

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

12 (B) for the balance of the term of the indi-  
13 vidual who was replaced.

14 (4) REMOVAL.—A Director may be removed  
15 from the Board by a majority vote of the Board if  
16 the individual misses 3 consecutive regularly sched-  
17 uled meetings.

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

20 (6) NOMINATIONS.—The Secretary shall pub-  
21 lish a solicitation in the Federal Register seeking  
22 nominations from the public of individuals for ap-  
23 pointment to the Board. Such solicitation shall be  
24 open for a period of 30 days. Nominations submitted  
25 shall not be binding, but the Secretary shall give

1 consideration to the names received. Within 30 days  
2 after the end of such period, the Secretary shall ap-  
3 point members who comply with the requirements of  
4 subsection (a)(2), and publish the names and back-  
5 grounds of those appointed in the Federal Register.

6 (7) REPRESENTATION OF DIVERSE AREAS OF  
7 EXPERTISE.—In appointing the members of the  
8 Board the Secretary shall seek to appoint, and may  
9 give preference to, individuals who have experience  
10 with State or local government partnerships and rep-  
11 resent diverse areas of expertise.

12 (c) CHAIRMAN.—The Chairman—

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

15 (2) may be reelected as Chairman while serving  
16 as a Director.

17 (d) QUORUM.—A majority of the current voting  
18 membership of the Board shall constitute a quorum for  
19 the transaction of business.

20 (e) MEETINGS.—The Board shall meet at the call of  
21 the Chairman at least once a year.

22 (f) REIMBURSEMENT OF EXPENSES.—Serving as a  
23 Director shall not constitute employment by the United  
24 States Government for any purpose. Members of the  
25 Board shall serve without pay other than reimbursement

1 for the actual and necessary traveling and subsistence ex-  
2 penses incurred in the performance of their duties for the  
3 Foundation in accordance with section 5703 of title 5,  
4 United States Code.

5 (g) GENERAL POWERS.—The Board may complete  
6 the organization of the Foundation by appointing offices  
7 and employees, adopting a constitution and bylaws con-  
8 sistent with the purposes of the Foundation and this Act,  
9 and undertaking other such acts as may be necessary to  
10 function and to carry out the provisions of this title.

11 (h) OFFICERS AND EMPLOYEES.—Officers and em-  
12 ployees of the Foundation may not be appointed until the  
13 Foundation has sufficient funds to pay them for their  
14 service. Appointment as an officer or employee of the  
15 Foundation shall not constitute employment by the United  
16 States.

17 (i) LIMITATION AND CONFLICTS OF INTEREST.—

18 (1) PROHIBITION ON POLITICAL CAMPAIGN AC-  
19 TIVITY.—The Foundation shall not participate or in-  
20 tervene in a political campaign on behalf of any can-  
21 didate for public office.

22 (2) CONFLICT OF INTEREST.—No Director, of-  
23 ficer, or employee of the Foundation shall partici-  
24 pate, directly or indirectly, in the consideration or

1 determination of any particular matter before the  
2 Foundation affecting—

3 (A) the financial interests of that Director,  
4 officer, employee, or an immediate family mem-  
5 ber of such Director, officer, or employee; or

6 (B) the interests of any corporation, part-  
7 nership, entity, or organization in which such  
8 Director, officer, employee, or an immediate  
9 family member of such Director, officer, or em-  
10 ployee—

11 (i) is an officer, director, or trustee;

12 or

13 (ii) has any direct financial interest.

14 (3) LIMITATION ON ADMINISTRATIVE EXPENDI-  
15 TURE.—Starting in the fifth fiscal year beginning  
16 after the date of the enactment of this Act, of the  
17 amounts available to the Foundation for expenditure  
18 each fiscal year, not more than 15 percent may be  
19 used for administrative expenses.

20 **SEC. 5. POWERS AND OBLIGATIONS.**

21 (a) IN GENERAL.—The Foundation—

22 (1) shall have perpetual succession; and

23 (2) may conduct business throughout the sev-  
24 eral States, territories, and possessions of the  
25 United States.

1 (b) NOTICE AND SERVICE OF PROCESS.—The Foun-  
2 dation shall at all times maintain a designated agent in  
3 the District of Columbia authorized to accept service of  
4 process for the Foundation. The serving of notice to, or  
5 service of process upon, the agent required under this sub-  
6 section, or mailed to the business address of such agent,  
7 shall be treated as service upon or notice to the Founda-  
8 tion.

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

11 (d) POWERS.—In addition to powers otherwise au-  
12 thorized under this Act, to carry out its purposes the  
13 Foundation shall have the usual powers of a not-for-profit  
14 corporation in the District of Columbia, including the  
15 power to—

16 (1) accept, receive, solicit, hold, administer, and  
17 use any gift, devise, or bequest, either absolutely or  
18 in trust, of real or personal property or any income  
19 therefrom or other interest therein;

20 (2) acquire by donation, gift, devise, purchase,  
21 or exchange, and dispose of, any real or personal  
22 property or interest therein;

23 (3) sell, donate, lease, invest, reinvest, retain, or  
24 otherwise dispose of any property or income there-  
25 from unless limited by the instrument of transfer;

1           (4) accept, receive, solicit, hold, administer, and  
2           use any gift, devise, or bequest, at the request of the  
3           donor thereof, strictly and exclusively for any pur-  
4           pose set forth in section 3(b), including expenditure  
5           of funds received as a bequest for such a purpose for  
6           reasonable administrative expenses related to actions  
7           to carry out the bequest;

8           (5) borrow money and issue bonds, debentures,  
9           or other debt instruments;

10          (6) sue and be sued, and complain and defend  
11          itself in any court of competent jurisdiction, except  
12          that the Directors of the Board shall not be person-  
13          ally liable, except for gross negligence;

14          (7) enter into contracts or other arrangements  
15          with public agencies, private organizations, and per-  
16          sons and to make such payments as may be nec-  
17          essary to carry out the purposes thereof; and

18          (8) do any and all acts necessary and proper to  
19          carry out the purposes of the Foundation.

20          (e) PROPERTY.—

21               (1) ACCEPTANCE OF PROPERTY.—A gift, de-  
22               vise, or bequest of real property may be accepted by  
23               the Foundation even though it is encumbered, re-  
24               stricted, or subject to beneficial interests of private

1 persons if any current or future interest therein is  
2 for the benefit of the Foundation.

3 (2) REFUSAL OF PROPERTY.—The Foundation  
4 may, in its discretion, decline any gift, devise, or be-  
5 quest of real or personal property.

6 (3) TITLE AND INTEREST IN REAL PROP-  
7 erty.—For the purposes of this Act, an interest in  
8 real property shall be treated as including mineral  
9 and water rights, rights-of-way, and easements, ap-  
10 purtenant or in gross.

11 (4) CONDEMNATION OF REAL PROPERTY PRO-  
12 hibited.—No lands or waters, or interests therein,  
13 that are owned by the Foundation shall be subject  
14 to condemnation by any State or political subdivi-  
15 sion, or any agent of instrumentality thereof.

16 (5) LIMITATION ON THE ACQUISITION OF REAL  
17 PROPERTY.—The Foundation shall not use any  
18 funds to purchase real property, unless such prop-  
19 erty is to be used for administrative or support pur-  
20 poses.

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

22 (a) ESTABLISHMENT SUPPORT.—For the purposes of  
23 assisting the Foundation in establishing an office and  
24 meeting initial administrative, project, and other expenses,  
25 there is authorized to be appropriated to the Secretary

1 \$3,000,000 for fiscal year 2016, \$2,000,000 for each of  
2 fiscal years 2017, 2018, and 2019, and \$1,000,000 for  
3 fiscal year 2020. Amounts appropriated under this sub-  
4 section that are provided to the Foundation shall remain  
5 available to the Foundation until they are expended for  
6 authorized purposes.

7 (b) ADMINISTRATIVE EXPENSES.—The Secretary  
8 may provide personnel, facilities, equipment, and other ad-  
9 ministrative services to the Foundation with such limita-  
10 tions and on such terms and conditions as the Secretary  
11 shall establish. The Foundation may reimburse the Sec-  
12 retary for any support provided under this subsection, in  
13 whole or in part, and any reimbursement received by the  
14 Secretary under this subsection shall be deposited into the  
15 Treasury to the credit of the appropriations then current  
16 and chargeable for the cost of providing the services.

17 **SEC. 7. VOLUNTEERS.**

18 The Secretary may accept, without regard to the civil  
19 service classification laws, rules, and regulations, the serv-  
20 ices of the Foundation, the Board, and the offices, employ-  
21 ees, or agents of the Foundation, without compensation  
22 from the Department of the Interior, as volunteers for the  
23 performance of the functions under section 307(d) of the  
24 Federal Land Policy and Management Act of 1976 (43  
25 U.S.C. 1737(d)).

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

2 (a) AUDITS.—For purposes of section 10101 of title  
3 36, United States Code, the Foundation shall be treated  
4 as a corporation in part B of subtitle II of such title.

5 (b) ANNUAL REPORT.—The Foundation shall trans-  
6 mit at the end of each fiscal year a report to Congress  
7 of its proceedings and activities during that fiscal year,  
8 including—

9 (1) a full and complete statement of its re-  
10 ceipts, expenditures, and investments;

11 (2) a description of all acquisition and disposal  
12 of real property by the Foundation;

13 (3) a detailed statement of the recipient,  
14 amount, and purpose of each grant made by the  
15 Foundation; and

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

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

19 The United States shall not be liable for any debts,  
20 defaults, acts, or omissions of the Foundation, nor shall  
21 the full faith and credit of the United States extend to  
22 any obligations of the Foundation.

23 **SEC. 10. RELIEF WITH RESPECT TO CERTAIN FOUNDATION**  
24 **ACTS OR FAILURE TO ACT.**

25 The Attorney General may petition in the United  
26 States District Court for the District of Columbia for such

1 equitable relief as may be necessary or appropriate if the  
2 Foundation engages in any act, practice, or policy that  
3 is inconsistent with this Act or the bylaws of the Founda-  
4 tion.

5 **SEC. 11. LIMITATION ON AUTHORITY.**

6 Nothing in this Act authorizes the Foundation to per-  
7 form any function the authority for which is exclusively  
8 provided to the BLM under any other provision of law.

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

10 Amounts available to, or provided by, the Foundation  
11 shall not be used for—

12 (1) any activity the purpose of which is to influ-  
13 ence legislation pending before Congress; or

14 (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.”.

