To prevent efforts of the Department of Justice to advocate courts that an individual exercising the authority of the head of an agency for more than a year, regardless of their title, is not in violation of the Federal Vacancies Reform Act of 1998.

IN THE SENATE OF THE UNITED STATES

Mr. Tester (for himself, Mr. Van Hollen, Mr. Wyden, Ms. Rosen, and Mr. Merkley) introduced the following bill; which was read twice and referred to the Committee on ____________

A BILL

To prevent efforts of the Department of Justice to advocate courts that an individual exercising the authority of the head of an agency for more than a year, regardless of their title, is not in violation of the Federal Vacancies Reform Act of 1998.

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 Lands Leadership
5 Act of 2020”.

6 SEC. 2. FINDINGS.

7 Congress finds that—
(1) William Perry Pendley is not an appropriate choice to lead, work in, or advise any public land management agency due to his record prior to his employment at the Bureau of Land Management, and his continuing work there;

(2) Mr. Pendley has a lengthy and public record supporting the transfer and privatization of public land, including the 245,000,000 acres and 700,000,000 subsurface acres he oversaw as de facto Acting Director of the Bureau of Land Management;

(3) Mr. Pendley has pursued the development of natural resources on public lands at the expense of Tribal consultation, public comment, and reasonable oversight;

(4) Mr. Pendley has professionally advocated for oil and gas leases issued in the Badger-Two Medicine area, despite the leases being issued without consultation with the Blackfeet Nation, and despite the later decision of the Department of Interior to cancel the leases;

(5) Mr. Pendley has opposed and litigated public access to streams and rivers in Montana through his professional opposition to the Montana Stream Access Law;
(6) Mr. Pendley has expressed public support for armed insurrection against the agency he oversaw as de facto Acting Director of the Bureau of Land Management;

(7) Mr. Pendley has publicly opposed bedrock public lands laws that protect the land he oversaw as de facto Acting Director of the Bureau of Land Management;

(8) Mr. Pendley has made disparaging racial comments, indicating he does not intend to serve the entire citizenry equitably and without prejudice;

(9) Mr. Pendley has openly mocked the cultures and traditions of Tribal nations, demonstrating his inability to serve as a reliable Federal partner for Tribes and to uphold the trust and treaty responsibilities of the Federal government;

(10) Mr. Pendley has reversed course on decades of collaborative efforts by private landowners, ranchers, State and local governments, and other stakeholders to protect rangeland ecosystems and the greater sage grouse;

(11) Mr. Pendley has issued problematic Resource Management Plans in Montana and other States that fly in the face of large-scale public oppo-
sition to prioritizing energy development over collabora-
tive conservation efforts and other activities;

(12) Despite his problematic record, Mr. Pendley served in the top leadership role at the Bu-
reau of Land Management for over a year, and con-
tinues to be retained in a senior position;

(13) Mr. Pendley served as Deputy Director for Policy and Programs exercising the authority of the director of the Bureau of Land Management for 424 days;

(14) Mr. Pendley was the de facto Acting Di-
rector of the Bureau of Land Management during this period, regardless of his specific title;

(15) the extended role of Mr. Pendley at the Bureau of Land Management is a clear violation of sections 3345 through 3349d of title 5, United States Code (commonly known as the “Federal Vac-
cancies Reform Act of 1998”), as determined by the United States District Court for the District of Montana, and undermines the constitutional respon-
sibility of the Senate to review nominations for agen-
cy leadership;

(16) on September 25, 2020, the United States District Court for the District of Montana ruled that
the lengthy tenure of Mr. Pendley as de facto Acting
Director was illegal;

(17) Mr. Pendley continues to operate in a sen-
ior leadership role at the Bureau of Land Manage-
ment;

(18) the Department of Interior continues to
employ Mr. Pendley, and has publicly stated its in-
tention to contest the court ruling; and

(19) the failure of the President to advance a
formal nominee for the position of the Director of
the Bureau of Land Management for congressional
review and confirmation over the past 3 1/2 years
significantly undermines the constitutional responsi-
bility of the Senate to provide advice and consent on
all offices of the United States.

SEC. 3. PROHIBITING DOJ EFFORTS TO ADVOCATE COURTS
TO PROTECT THE ROLE OF WILLIAM
PENDLEY AS DE FACTO ACTING DIRECTOR.

The Department of Justice may not, in Bullock v.
United States Bureau of Land Management, No. 4:20–
 cv–00062–BMM, 2020 WL 5746836 (D. Mont. Sept. 25,
2020), advocate that an individual exercising the authority
of the head of an agency, regardless of their title and serv-
ing without congressional consent for over a year, is not
in violation of sections 3345 through 3349d of title 5,