

Union Calendar No. 459

117TH CONGRESS
2^D SESSION

H. R. 3326

[Report No. 117-636, Part I]

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

IN THE HOUSE OF REPRESENTATIVES

MAY 19, 2021

Mr. LEVIN of California 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 14, 2022

Additional sponsor: Mr. GRIJALVA

DECEMBER 14, 2022

Reported from the Committee on Natural Resources

DECEMBER 14, 2022

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

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 Renew-
5 able Energy Development Act of 2021”.

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; updates to programmatic environmental impact
statements.

Sec. 5. Limited grandfathering.

Sec. 6. Disposition of revenues.

Sec. 7. Savings.

8 **SEC. 3. DEFINITIONS.**

9 In this Act:

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

12 (A) Federal 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; or

17 (ii) other Federal law.

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

1 (3) FEDERAL LAND.—The term “Federal land”
2 means—

3 (A) public lands; and

4 (B) lands of the National Forest System
5 as described in section 11(a) of the Forest and
6 Rangeland Renewable Resources Planning Act
7 of 1974 (16 U.S.C. 1609(a)).

8 (4) FUND.—The term “Fund” means the Re-
9 newable Energy Resource Conservation Fund estab-
10 lished by section 6(c)(1).

11 (5) LAND USE PLAN.—The term “land use
12 plan” means—

13 (A) in regard to Federal land, a land use
14 plan established under the Federal Land Policy
15 and Management Act of 1976 (43 U.S.C. 1701
16 et seq.); and

17 (B) in regard to National Forest System
18 lands, a land management plan approved,
19 amended, or revised under section 6 of the For-
20 est and Rangeland Renewable Resources Plan-
21 ning Act of 1974 (16 U.S.C. 1604).

22 (6) PRIORITY AREA.—The term “priority area”
23 means covered land identified by the land use plan-
24 ning process of the Bureau of Land Management as
25 being a preferred location for a renewable energy

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

10 (7) PUBLIC LANDS.—The term “public lands”
11 has the meaning given that term in section 103 of
12 the Federal Land Policy and Management Act of
13 1976 (43 U.S.C. 1702).

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

18 (9) SECRETARY.—The term “Secretary” means
19 the Secretary of the Interior.

20 (10) VARIANCE AREA.—The term “variance
21 area” means covered land that is—

22 (A) not an exclusion area;

23 (B) not a priority area; and

24 (C) identified by the Secretary as poten-

25 tially available for renewable energy develop-

1 ment and could be approved without a plan
2 amendment, consistent with the principles of
3 multiple use (as defined in the Federal Land
4 Policy and Management Act of 1976 (43 U.S.C.
5 1701 et seq.)).

6 **SEC. 4. LAND USE PLANNING; UPDATES TO PRO-**
7 **GRAMMATIC ENVIRONMENTAL IMPACT**
8 **STATEMENTS.**

9 (a) PRIORITY AREAS.—

10 (1) IN GENERAL.—The Secretary, in consulta-
11 tion with the Secretary of Energy, shall establish
12 priority areas on covered land for geothermal, solar,
13 and wind energy projects, consistent with the prin-
14 ciples of multiple use (as defined in the Federal
15 Land Policy and Management Act of 1976 (43
16 U.S.C. 1701 et seq.)) and the renewable energy per-
17 mitting goal enacted by the Consolidated Appropria-
18 tions Act of 2021 (Public Law 116–260). Among
19 applications for a given renewable energy source,
20 proposed projects located in priority areas for that
21 renewable energy source shall—

22 (A) be given the highest priority for
23 incentivizing deployment thereon; and

1 (B) be offered the opportunity to partici-
2 pate in any regional mitigation plan developed
3 for the relevant priority areas.

4 (2) ESTABLISHING PRIORITY AREAS.—

5 (A) GEOTHERMAL ENERGY.—For geo-
6 thermal energy, the Secretary shall establish
7 priority areas as soon as practicable, but not
8 later than 5 years, after the date of the enact-
9 ment of this Act.

10 (B) SOLAR ENERGY.—For solar energy—

11 (i) solar designated leasing areas (in-
12 cluding the solar energy zones established
13 by Bureau of Land Management Solar En-
14 ergy Program, established in October
15 2012), and any subsequent land use plan
16 amendments, shall be considered to be pri-
17 ority areas for solar energy projects; and

18 (ii) the Secretary shall complete a
19 process to consider establishing additional
20 solar priority areas as soon as practicable,
21 but not later than 3 years, after the date
22 of the enactment of this Act.

23 (C) WIND ENERGY.—For wind energy, the
24 Secretary shall complete a process to consider
25 establishing additional wind priority areas as

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

3 (b) VARIANCE AREAS.—Variance areas shall be con-
4 sidered for renewable energy project development, con-
5 sistent with the principles of multiple use (as defined in
6 the Federal Land Policy and Management Act of 1976
7 (43 U.S.C. 1701 et seq.)) and the renewable energy per-
8 mitting goal enacted by the Consolidated Appropriations
9 Act of 2021 (Public Law 116–260), and applications for
10 a given renewable energy source located in those variance
11 areas shall be timely processed in order to assist in meet-
12 ing that goal.

13 (c) REVIEW AND MODIFICATION.—

14 (1) IN GENERAL.—Not less than once every 10
15 years, the Secretary shall—

16 (A) review the adequacy of land allocations
17 for geothermal, solar, and wind energy priority,
18 exclusion, and variance areas for the purpose of
19 encouraging and facilitating new renewable en-
20 ergy development opportunities; and

21 (B) based on the review carried out under
22 subparagraph (A), add, modify, or eliminate
23 priority, variance, and exclusion areas.

24 (2) EXCEPTION.—Paragraph (1) shall not
25 apply to the renewable energy land use planning

1 published in the Desert Renewable Energy Con-
2 servation Plan developed by the California Energy
3 Commission, the California Department of Fish and
4 Wildlife, the Bureau of Land Management, and the
5 United States Fish and Wildlife Service until Janu-
6 ary 1, 2030.

7 (d) COMPLIANCE WITH THE NATIONAL ENVIRON-
8 MENTAL POLICY ACT.—For purposes of this section, com-
9 pliance with the National Environmental Policy Act of
10 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

11 (1) for geothermal energy, by updating the doc-
12 ument entitled “Final Programmatic Environmental
13 Impact Statement for Geothermal Leasing in the
14 Western United States”, dated October 2008, and
15 incorporating any additional regional analyses that
16 have been completed by Federal agencies since that
17 programmatic environmental impact statement was
18 finalized;

19 (2) for solar energy, by updating the document
20 entitled “Final Programmatic Environmental Impact
21 Statement (PEIS) for Solar Energy Development in
22 Six Southwestern States”, dated July 2012, and in-
23 corporating any additional regional analyses that
24 have been completed by Federal agencies since that

1 programmatic environmental impact statement was
2 finalized; and

3 (3) for wind energy, by updating the document
4 entitled “Final Programmatic Environmental Impact
5 Statement on Wind Energy Development on BLM–
6 Administered Lands in the Western United States”,
7 dated July 2005, and incorporating any additional
8 regional analyses that have been completed by Fed-
9 eral agencies since the programmatic environmental
10 impact statement was finalized.

11 (e) NO EFFECT ON PROCESSING SITE SPECIFIC AP-
12 PPLICATIONS.—Site specific environmental review and
13 processing of permits for proposed projects shall proceed
14 during preparation of an updated programmatic environ-
15 mental impact statement, resource management plan, or
16 resource management plan amendment.

17 (f) COORDINATION.—In developing updates required
18 by this section, the Secretary shall coordinate, on an ongo-
19 ing basis, with appropriate State, Tribal, and local govern-
20 ments, transmission infrastructure owners and operators,
21 developers, and other appropriate entities to ensure that
22 priority areas identified by the Secretary are—

23 (1) economically viable (including having access
24 to existing and planned transmission lines);

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

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

8 **SEC. 5. LIMITED GRANDFATHERING.**

9 (a) DEFINITION OF PROJECT.—In this section, the
10 term “project” means a system described in section
11 2801.9(a)(4) of title 43, Code of Federal Regulations (as
12 in effect on the date of the enactment of this Act).

13 (b) REQUIREMENT TO PAY RENTS AND FEES.—Un-
14 less otherwise agreed to by the owner of a project, the
15 owner of a project that applied for a right-of-way under
16 section 501 of the Federal Land Policy and Management
17 Act of 1976 (43 U.S.C. 1761) on or before December 19,
18 2016, shall be obligated to pay with respect to the right-
19 of-way all rents and fees in effect before the effective date
20 of the rule of the Bureau of Land Management entitled
21 “Competitive Processes, Terms, and Conditions for Leas-
22 ing Public Lands for Solar and Wind Energy Development
23 and Technical Changes and Corrections” (81 Fed. Reg.
24 92122 (December 19, 2016)).

1 **SEC. 6. DISPOSITION OF REVENUES.**

2 (a) DISPOSITION OF REVENUES.—

3 (1) AVAILABILITY.—Except as provided in
4 paragraph (2), beginning on January 1, 2022, of
5 amounts collected from a wind or solar project as
6 bonus bids, rentals, fees, or other payments under a
7 right-of-way, permit, lease, or other authorization
8 the following shall be made available, without fur-
9 ther appropriation or fiscal year limitation, as fol-
10 lows:

11 (A) Twenty-five percent shall be paid by
12 the Secretary of the Treasury to the State with-
13 in the boundaries of which the revenue is de-
14 rived.

15 (B) Twenty-five percent shall be paid by
16 the Secretary of the Treasury to the one or
17 more counties within the boundaries of which
18 the revenue is derived, to be allocated among
19 the counties based on the percentage of land
20 from which the revenue is derived.

21 (C) Twenty-five percent shall be deposited
22 in the Treasury and be made available to the
23 Secretary to carry out the program established
24 under this Act, including the transfer of the
25 funds by the Bureau of Land Management to
26 other Federal agencies and State agencies to fa-

1 facilitate the processing of renewable energy per-
2 mits on Federal land, with priority given to
3 using the amounts, to the maximum extent
4 practicable without detrimental impacts to
5 emerging markets, to expediting the issuance of
6 permits required for the development of renew-
7 able energy projects in the States from which
8 the revenues are derived.

9 (D) Twenty-five percent shall be deposited
10 in the Renewable Energy Resource Conserva-
11 tion Fund established by subsection (c).

12 (2) EXCEPTIONS.—Paragraph (1) shall not
13 apply to the following:

14 (A) Amounts collected under section
15 504(g) of the Federal Land Policy and Manage-
16 ment Act of 1976 (43 U.S.C. 1764(g)).

17 (B) Amounts deposited into the National
18 Parks and Public Land Legacy Restoration
19 Fund under section 200402(b) of title 54,
20 United States Code.

21 (b) PAYMENTS TO STATES AND COUNTIES.—

22 (1) IN GENERAL.—Amounts paid to States and
23 counties under subsection (a)(1) shall be used con-
24 sistent with section 35 of the Mineral Leasing Act
25 (30 U.S.C. 191).

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

5 (c) RENEWABLE ENERGY RESOURCE CONSERVATION
6 FUND.—

7 (1) IN GENERAL.—There is established in the
8 Treasury a fund to be known as the Renewable En-
9 ergy Resource Conservation Fund, which shall be
10 administered by the Secretary, in consultation with
11 the Secretary of Agriculture.

12 (2) USE OF FUNDS.—The Secretary may make
13 amounts in the Fund available to Federal, State,
14 local, and Tribal agencies to be distributed in re-
15 gions in which renewable energy projects are located
16 on Federal land. Such amounts may be used to—

17 (A) restore and protect—

18 (i) fish and wildlife habitat for af-
19 fected species;

20 (ii) fish and wildlife corridors for af-
21 fected species; and

22 (iii) wetlands, streams, rivers, and
23 other natural water bodies in areas af-
24 fected by wind, geothermal, or solar energy
25 development; and

1 (B) preserve and improve recreational ac-
2 cess to Federal land and water in an affected
3 region through an easement, right-of-way, or
4 other instrument from willing landowners for
5 the purpose of enhancing public access to exist-
6 ing Federal land and water that is inaccessible
7 or restricted.

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

13 (4) INVESTMENT OF FUND.—

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

20 (B) USE.—Interest earned under subpara-
21 graph (A) may be expended in accordance with
22 this subsection.

23 (5) REPORT TO CONGRESS.—At the end of each
24 fiscal year, the Secretary shall submit a report to
25 the Committee on Natural Resources of the House

1 of Representatives and the Committee on Energy
2 and Natural Resources of the Senate that includes
3 a description of—

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

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

11 (C) the amount remaining in the Fund at
12 the end of the fiscal year.

13 (6) INTENT OF CONGRESS.—It is the intent of
14 Congress that the revenues deposited and used in
15 the Fund shall supplement (and not supplant) an-
16 nual appropriations for activities described in para-
17 graph (2).

18 **SEC. 7. SAVINGS.**

19 Notwithstanding any other provision of this Act, the
20 Secretary shall continue to manage public lands under the
21 principles of multiple use and sustained yield in accord-
22 ance with title I of the Federal Land Policy and Manage-
23 ment Act of 1976 (43 U.S.C. 1701 et seq.) or the Forest
24 and Rangeland Renewable Resources Planning Act of
25 1974 (43 U.S.C. 1701 et seq.), as applicable, including

1 due consideration of mineral and nonrenewable energy-re-
2 lated projects and other nonrenewable energy uses, for the
3 purposes of land use planning, permit processing, and con-
4 ducting environmental reviews.

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H. R. 3326

[Report No. 117-636, Part I]

A BILL

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on public lands, and for other purposes.

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