

118TH CONGRESS
1ST SESSION

H. R. 178

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

IN THE HOUSE OF REPRESENTATIVES

JANUARY 9, 2023

Mr. LEVIN 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

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 2023”.

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.

1 **SEC. 3. DEFINITIONS.**

2 In this Act:

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

5 (A) Federal lands administered by the Sec-
6 retary; and

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

9 (i) a land use plan; or

10 (ii) other Federal law.

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

15 (3) FEDERAL LAND.—The term “Federal land”
16 means—

17 (A) public lands; and

18 (B) lands of the National Forest System
19 as described in section 11(a) of the Forest and
20 Rangeland Renewable Resources Planning Act
21 of 1974 (16 U.S.C. 1609(a)).

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

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

6 (A) in regard to Federal land, a land use
7 plan established under the Federal Land Policy
8 and Management Act of 1976 (43 U.S.C. 1701
9 et seq.); and

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

15 (6) PRIORITY AREA.—The term “priority area”
16 means covered land identified by the land use plan-
17 ning process of the Bureau of Land Management as
18 being a preferred location for a renewable energy
19 project, including a designated leasing area (as de-
20 fined in section 2801.5(b) of title 43, Code of Fed-
21 eral Regulations (or a successor regulation)) that is
22 identified under the rule of the Bureau of Land
23 Management entitled “Competitive Processes,
24 Terms, and Conditions for Leasing Public Lands for
25 Solar and Wind Energy Development and Technical

1 Changes and Corrections” (81 Fed. Reg. 92122
2 (December 19, 2016)) (or a successor regulation).

3 (7) PUBLIC LANDS.—The term “public lands”
4 has the meaning given that term in section 103 of
5 the Federal Land Policy and Management Act of
6 1976 (43 U.S.C. 1702).

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

11 (9) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

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

15 (A) not an exclusion area;

16 (B) not a priority area; and

17 (C) identified by the Secretary as poten-
18 tially available for renewable energy develop-
19 ment and could be approved without a plan
20 amendment, consistent with the principles of
21 multiple use (as defined in the Federal Land
22 Policy and Management Act of 1976 (43 U.S.C.
23 1701 et seq.)).

1 **SEC. 4. LAND USE PLANNING; UPDATES 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, consistent with the prin-
9 ciples of multiple use (as defined in the Federal
10 Land Policy and Management Act of 1976 (43
11 U.S.C. 1701 et seq.)) and the renewable energy per-
12 mitting goal enacted by the Consolidated Appropria-
13 tions Act of 2021 (Public Law 116–260). Among
14 applications for a given renewable energy source,
15 proposed projects located in priority areas for that
16 renewable energy source shall—

17 (A) be given the highest priority for
18 incentivizing deployment thereon; and

19 (B) be offered the opportunity to partici-
20 pate in any regional mitigation plan developed
21 for the relevant priority areas.

22 (2) ESTABLISHING PRIORITY AREAS.—

23 (A) GEOTHERMAL ENERGY.—For geo-
24 thermal energy, the Secretary shall establish
25 priority areas as soon as practicable, but not

1 later than 5 years, after the date of the enact-
2 ment of this Act.

3 (B) SOLAR ENERGY.—For solar energy—

4 (i) solar designated leasing areas (in-
5 cluding the solar energy zones established
6 by Bureau of Land Management Solar En-
7 ergy Program, established in October
8 2012), and any subsequent land use plan
9 amendments, shall be considered to be pri-
10 ority areas for solar energy projects; and

11 (ii) the Secretary shall complete a
12 process to consider establishing additional
13 solar priority areas as soon as practicable,
14 but not later than 3 years, after the date
15 of the enactment of this Act.

16 (C) WIND ENERGY.—For wind energy, the
17 Secretary shall complete a process to consider
18 establishing additional wind priority areas as
19 soon as practicable, but not later than 3 years,
20 after the date of the enactment of this Act.

21 (b) VARIANCE AREAS.—Variance areas shall be con-
22 sidered for renewable energy project development, con-
23 sistent with the principles of multiple use (as defined in
24 the Federal Land Policy and Management Act of 1976
25 (43 U.S.C. 1701 et seq.)) and the renewable energy per-

1 mitting goal enacted by the Consolidated Appropriations
2 Act of 2021 (Public Law 116–260), and applications for
3 a given renewable energy source located in those variance
4 areas shall be timely processed in order to assist in meet-
5 ing that goal.

6 (c) REVIEW AND MODIFICATION.—

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

9 (A) review the adequacy of land allocations
10 for geothermal, solar, and wind energy priority,
11 exclusion, and variance areas for the purpose of
12 encouraging and facilitating new renewable en-
13 ergy development opportunities; and

14 (B) based on the review carried out under
15 subparagraph (A), add, modify, or eliminate
16 priority, variance, and exclusion areas.

17 (2) EXCEPTION.—Paragraph (1) shall not
18 apply to the renewable energy land use planning
19 published in the Desert Renewable Energy Con-
20 servation Plan developed by the California Energy
21 Commission, the California Department of Fish and
22 Wildlife, the Bureau of Land Management, and the
23 United States Fish and Wildlife Service until Janu-
24 ary 1, 2030.

1 (d) COMPLIANCE WITH THE NATIONAL ENVIRON-
2 MENTAL POLICY ACT.—For purposes of this section, com-
3 pliance with the National Environmental Policy Act of
4 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

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

13 (2) for solar energy, by updating the document
14 entitled “Final Programmatic Environmental Impact
15 Statement (PEIS) for Solar Energy Development in
16 Six Southwestern States”, dated July 2012, and in-
17 corporating any additional regional analyses that
18 have been completed by Federal agencies since that
19 programmatic environmental impact statement was
20 finalized; and

21 (3) for wind energy, by updating the document
22 entitled “Final Programmatic Environmental Impact
23 Statement on Wind Energy Development on BLM-
24 Administered Lands in the Western United States”,
25 dated July 2005, and incorporating any additional

1 regional analyses that have been completed by Fed-
2 eral agencies since the programmatic environmental
3 impact statement was finalized.

4 (e) NO EFFECT ON PROCESSING SITE SPECIFIC AP-
5 PPLICATIONS.—Site specific environmental review and
6 processing of permits for proposed projects shall proceed
7 during preparation of an updated programmatic environ-
8 mental impact statement, resource management plan, or
9 resource management plan amendment.

10 (f) COORDINATION.—In developing updates required
11 by this section, the Secretary shall coordinate, on an ongo-
12 ing basis, with appropriate State, Tribal, and local govern-
13 ments, transmission infrastructure owners and operators,
14 developers, and other appropriate entities to ensure that
15 priority areas identified by the Secretary are—

16 (1) economically viable (including having access
17 to existing and planned transmission lines);

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

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

1 **SEC. 5. LIMITED GRANDFATHERING.**

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

6 (b) REQUIREMENT TO PAY RENTS AND FEES.—Un-
7 less otherwise agreed to by the owner of a project, the
8 owner of a project that applied for a right-of-way under
9 section 501 of the Federal Land Policy and Management
10 Act of 1976 (43 U.S.C. 1761) on or before December 19,
11 2016, shall be obligated to pay with respect to the right-
12 of-way all rents and fees in effect before the effective date
13 of the rule of the Bureau of Land Management entitled
14 “Competitive Processes, Terms, and Conditions for Leas-
15 ing Public Lands for Solar and Wind Energy Development
16 and Technical Changes and Corrections” (81 Fed. Reg.
17 92122 (December 19, 2016)).

18 **SEC. 6. DISPOSITION OF REVENUES.**

19 (a) DISPOSITION OF REVENUES.—

20 (1) AVAILABILITY.—Except as provided in
21 paragraph (2), beginning on January 1, 2024, of
22 amounts collected from a wind or solar project as
23 bonus bids, rentals, fees, or other payments under a
24 right-of-way, permit, lease, or other authorization
25 the following shall be made available, without fur-

1 ther appropriation or fiscal year limitation, as fol-
2 lows:

3 (A) Twenty-five percent shall be paid by
4 the Secretary of the Treasury to the State with-
5 in the boundaries of which the revenue is de-
6 rived.

7 (B) Twenty-five percent shall be paid by
8 the Secretary of the Treasury to the one or
9 more counties within the boundaries of which
10 the revenue is derived, to be allocated among
11 the counties based on the percentage of land
12 from which the revenue is derived.

13 (C) Twenty-five percent shall be deposited
14 in the Treasury and be made available to the
15 Secretary to carry out the program established
16 under this Act, including the transfer of the
17 funds by the Bureau of Land Management to
18 other Federal agencies and State agencies to fa-
19 cilitate the processing of renewable energy per-
20 mits on Federal land, with priority given to
21 using the amounts, to the maximum extent
22 practicable without detrimental impacts to
23 emerging markets, to expediting the issuance of
24 permits required for the development of renew-

1 able energy projects in the States from which
2 the revenues are derived.

3 (D) Twenty-five percent shall be deposited
4 in the Renewable Energy Resource Conserva-
5 tion Fund established by subsection (c).

6 (2) EXCEPTIONS.—Paragraph (1) shall not
7 apply to the following:

8 (A) Amounts collected under section
9 504(g) of the Federal Land Policy and Manage-
10 ment Act of 1976 (43 U.S.C. 1764(g)).

11 (B) Amounts deposited into the National
12 Parks and Public Land Legacy Restoration
13 Fund under section 200402(b) of title 54,
14 United States Code.

15 (b) PAYMENTS TO STATES AND COUNTIES.—

16 (1) IN GENERAL.—Amounts paid to States and
17 counties under subsection (a)(1) shall be used con-
18 sistent with section 35 of the Mineral Leasing Act
19 (30 U.S.C. 191).

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

24 (c) RENEWABLE ENERGY RESOURCE CONSERVATION
25 FUND.—

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

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

11 (A) restore and protect—

12 (i) fish and wildlife habitat for af-
13 fected species;

14 (ii) fish and wildlife corridors for af-
15 fected species; and

16 (iii) wetlands, streams, rivers, and
17 other natural water bodies in areas af-
18 fected by wind, geothermal, or solar energy
19 development; and

20 (B) preserve and improve recreational ac-
21 cess to Federal land and water in an affected
22 region through an easement, right-of-way, or
23 other instrument from willing landowners for
24 the purpose of enhancing public access to exist-

1 ing Federal land and water that is inaccessible
2 or restricted.

3 (3) PARTNERSHIPS.—The Secretary may enter
4 into cooperative agreements with State and Tribal
5 agencies, nonprofit organizations, and other appro-
6 priate entities to carry out the activities described in
7 paragraph (2).

8 (4) INVESTMENT OF FUND.—

9 (A) IN GENERAL.—Amounts deposited in
10 the Fund shall earn interest in an amount de-
11 termined by the Secretary of the Treasury on
12 the basis of the current average market yield on
13 outstanding marketable obligations of the
14 United States of comparable maturities.

15 (B) USE.—Interest earned under subpara-
16 graph (A) may be expended in accordance with
17 this subsection.

18 (5) REPORT TO CONGRESS.—At the end of each
19 fiscal year, the Secretary shall submit a report to
20 the Committee on Natural Resources of the House
21 of Representatives and the Committee on Energy
22 and Natural Resources of the Senate that includes
23 a description of—

1 (A) the amount collected as described in
2 subsection (a), by source, during that fiscal
3 year;

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

8 (C) the amount remaining in the Fund at
9 the end of the fiscal year.

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

15 **SEC. 7. SAVINGS.**

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

- 1 purposes of land use planning, permit processing, and con-
- 2 ducting environmental reviews.

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