

115TH CONGRESS
1ST SESSION

S. 282

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

IN THE SENATE OF THE UNITED STATES

FEBRUARY 2, 2017

Mr. HELLER (for himself, Mr. HEINRICH, Mr. GARDNER, Mr. TESTER, Mr. RISCH, Mr. DAINES, Mr. BENNET, and Mr. UDALL) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To promote the development of renewable energy on public land, 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”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

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

1 (A) public land administered by the Sec-
2 retary; and

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

5 (i) a land use plan established under
6 the Federal Land Policy and Management
7 Act of 1976 (43 U.S.C. 1701 et seq.); or

8 (ii) other Federal law.

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

13 (3) FEDERAL LAND.—The term “Federal land”
14 means—

15 (A) land of the National Forest System (as
16 defined in section 11(a) of the Forest and
17 Rangeland Renewable Resources Planning Act
18 of 1974 (16 U.S.C. 1609(a)); or

19 (B) public land.

20 (4) FUND.—The term “Fund” means the Re-
21 newable Energy Resource Conservation Fund estab-
22 lished by section 7(c)(1).

23 (5) PRIORITY AREA.—The term “priority area”
24 means covered land identified by the land use plan-
25 ning process of the Bureau of Land Management as

1 being a preferred location for a renewable energy
2 project.

3 (6) PUBLIC LAND.—The term “public land”
4 has the meaning given the term “public lands” in
5 section 103 of the Federal Land Policy and Manage-
6 ment Act of 1976 (43 U.S.C. 1702).

7 (7) 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 (8) SECRETARY.—The term “Secretary” means
12 the Secretary of the Interior.

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

15 (A) not an exclusion area; and

16 (B) not a priority area.

17 **SEC. 3. EXTENSION OF FUNDING FOR IMPLEMENTATION OF**
18 **GEOHERMAL STEAM ACT OF 1970.**

19 (a) IN GENERAL.—Section 234(a) of the Energy Pol-
20 icy Act of 2005 (42 U.S.C. 15873(a)) is amended by strik-
21 ing “in the first 5 fiscal years beginning after the date
22 of enactment of this Act” and inserting “through fiscal
23 year 2022”.

24 (b) AUTHORIZATION.—Section 234(b) of the Energy
25 Policy Act of 2005 (42 U.S.C. 15873(b)) is amended—

1 (1) by striking “Amounts” and inserting the
2 following:

3 “(1) IN GENERAL.—Amounts”; and

4 (2) by adding at the end the following:

5 “(2) AUTHORIZATION.—Effective for fiscal year
6 2017 and each fiscal year thereafter, amounts de-
7 posited under subsection (a) shall be available to the
8 Secretary of the Interior for expenditure, without
9 further appropriation or fiscal year limitation, to im-
10 plement the Geothermal Steam Act of 1970 (30
11 U.S.C. 1001 et seq.) and this Act.”.

12 **SEC. 4. LAND USE PLANNING; SUPPLEMENTS TO PRO-**
13 **GRAMMATIC ENVIRONMENTAL IMPACT**
14 **STATEMENTS.**

15 (a) PRIORITY AREAS.—

16 (1) IN GENERAL.—The Secretary, in consulta-
17 tion with the Secretary of Energy, shall establish
18 priority areas on covered land for geothermal, solar,
19 and wind energy projects.

20 (2) DEADLINE.—

21 (A) GEOTHERMAL ENERGY.—For geo-
22 thermal energy, the Secretary shall establish
23 priority areas as soon as practicable, but not
24 later than 5 years, after the date of enactment
25 of this Act.

1 (B) SOLAR ENERGY.—For solar energy,
2 the solar energy zones established by the 2012
3 western solar plan of the Bureau of Land Man-
4 agement and any subsequent land use plan
5 amendments shall be considered to be priority
6 areas for solar energy projects.

7 (C) WIND ENERGY.—For wind energy, the
8 Secretary shall establish priority areas as soon
9 as practicable, but not later than 3 years, after
10 the date of enactment of this Act.

11 (b) VARIANCE AREAS.—To the maximum extent
12 practicable, variance areas shall be considered for renew-
13 able energy project development, consistent with the prin-
14 ciples of multiple use (as defined in the Federal Land Pol-
15 icy and Management Act of 1976 (43 U.S.C. 1701 et
16 seq.)).

17 (c) REVIEW AND MODIFICATION.—Not less fre-
18 quently than once every 10 years, the Secretary shall—

19 (1) review the adequacy of land allocations for
20 geothermal, solar, and wind energy priority and vari-
21 ance areas for the purpose of encouraging new re-
22 newable energy development opportunities; and

23 (2) based on the review carried out under para-
24 graph (1), add, modify, or eliminate priority, vari-
25 ance, and exclusion areas.

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 supplementing
6 the October 2008 final programmatic environmental
7 impact statement for geothermal leasing in the west-
8 ern United States;

9 (2) for solar energy, by supplementing the July
10 2012 final programmatic environmental impact
11 statement for solar energy projects; and

12 (3) for wind energy, by supplementing the July
13 2005 final programmatic environmental impact
14 statement for wind energy projects.

15 (e) NO EFFECT ON PROCESSING APPLICATIONS.—A
16 requirement to prepare a supplement to a programmatic
17 environmental impact statement under this section shall
18 not result in any delay in processing an application for
19 a renewable energy project.

20 (f) COORDINATION.—In developing a supplement re-
21 quired by this section, the Secretary shall coordinate, on
22 an ongoing basis, with appropriate State, tribal, and local
23 governments, transmission infrastructure owners and op-
24 erators, developers, and other appropriate entities to en-
25 sure that priority areas identified by the Secretary are—

1 (1) economically viable (including having access
2 to transmission);

3 (2) likely to avoid or minimize conflict with
4 habitat for animals and plants, recreation, and other
5 uses of covered land; and

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

10 (g) REMOVAL FROM CLASSIFICATION.—In carrying
11 out subsections (a) through (e), if the Secretary deter-
12 mines an area previously suited for development should
13 be removed from priority or variance classification, not
14 later than 90 days after the date of the determination,
15 the Secretary shall submit to Congress a report on the
16 determination.

17 **SEC. 5. ENVIRONMENTAL REVIEW ON COVERED LAND.**

18 (a) IN GENERAL.—If the Secretary determines that
19 a proposed renewable energy project has been sufficiently
20 analyzed by a programmatic environmental impact state-
21 ment conducted under section 4(d), the Secretary shall not
22 require any additional review under the National Environ-
23 mental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

24 (b) ADDITIONAL ENVIRONMENTAL REVIEW.—If the
25 Secretary determines that additional environmental review

1 under the National Environmental Policy Act of 1969 (42
2 U.S.C. 4321 et seq.) is necessary for a proposed renewable
3 energy project, the Secretary shall rely on the analysis in
4 the programmatic environmental impact statement con-
5 ducted under section 4(d), to the maximum extent prac-
6 ticable when analyzing the potential impacts of the
7 project.

8 (c) RELATIONSHIP TO OTHER LAW.—Nothing in this
9 section modifies or supersedes any requirement under ap-
10 plicable law.

11 **SEC. 6. PROGRAM TO IMPROVE RENEWABLE ENERGY**
12 **PROJECT PERMIT COORDINATION.**

13 (a) ESTABLISHMENT.—The Secretary shall establish
14 a program to improve Federal permit coordination with
15 respect to renewable energy projects on covered land.

16 (b) MEMORANDUM OF UNDERSTANDING.—

17 (1) IN GENERAL.—Not later than 180 days
18 after the date of enactment of this Act, the Sec-
19 retary shall enter into a memorandum of under-
20 standing for purposes of this section, including to
21 specifically expedite the environmental analysis of
22 applications for projects proposed in a variance area,
23 with—

24 (A) the Secretary of Agriculture; and

1 (B) the Assistant Secretary of the Army
2 for Civil Works.

3 (2) STATE PARTICIPATION.—The Secretary
4 may request the Governor of any interested State to
5 be a signatory to the memorandum of understanding
6 under paragraph (1).

7 (c) DESIGNATION OF QUALIFIED STAFF.—

8 (1) IN GENERAL.—Not later than 30 days after
9 the date on which the memorandum of under-
10 standing under subsection (b) is executed, all Fed-
11 eral signatories, as appropriate, shall identify for
12 each of the Bureau of Land Management Renewable
13 Energy Coordination Offices an employee who has
14 expertise in the regulatory issues relating to the of-
15 fice in which the employee is employed, including, as
16 applicable, particular expertise in—

17 (A) consultation regarding, and prepara-
18 tion of, biological opinions under section 7 of
19 the Endangered Species Act of 1973 (16 U.S.C.
20 1536);

21 (B) permits under section 404 of Federal
22 Water Pollution Control Act (33 U.S.C. 1344);

23 (C) regulatory matters under the Clean Air
24 Act (42 U.S.C. 7401 et seq.);

1 (D) planning under section 14 of the Na-
2 tional Forest Management Act of 1976 (16
3 U.S.C. 472a);

4 (E) the Federal Land Policy and Manage-
5 ment Act of 1976 (43 U.S.C. 1701 et seq.);

6 (F) the Migratory Bird Treaty Act (16
7 U.S.C. 703 et seq.); and

8 (G) the preparation of analyses under the
9 National Environmental Policy Act of 1969 (42
10 U.S.C. 4321 et seq.).

11 (2) DUTIES.—Each employee assigned under
12 paragraph (1) shall—

13 (A) be responsible for addressing all issues
14 relating to the jurisdiction of the home office or
15 agency of the employee; and

16 (B) participate as part of the team of per-
17 sonnel working on proposed energy projects,
18 planning, monitoring, inspection, enforcement,
19 and environmental analyses.

20 (d) ADDITIONAL PERSONNEL.—The Secretary may
21 assign such additional personnel for the Bureau of Land
22 Management Renewable Energy Coordination Offices as
23 are necessary to ensure the effective implementation of
24 any programs administered by the offices, including in-
25 spection and enforcement relating to renewable energy

1 project development on covered land, in accordance with
2 the multiple use mandate of the Federal Land Policy and
3 Management Act of 1976 (43 U.S.C. 1701 et seq.).

4 (e) RENEWABLE ENERGY COORDINATION OF-
5 FICES.—In carrying out the program established under
6 subsection (a), the Secretary may—

7 (1) establish additional Bureau of Land Man-
8 agement Renewable Energy Coordination Offices; or

9 (2) temporarily assign the qualified staff des-
10 igned under subsection (c) to a State, district, or
11 field office of the Bureau of Land Management to
12 expedite the permitting of renewable energy projects.

13 (f) REPORT TO CONGRESS.—

14 (1) IN GENERAL.—Not later than February 1
15 of the first fiscal year beginning after the date of en-
16 actment of this Act, and each February 1 thereafter,
17 the Secretary shall submit to the Committee on En-
18 ergy and Natural Resources of the Senate and the
19 Committee on Natural Resources of the House of
20 Representatives a report describing the progress
21 made under the program established under sub-
22 section (a) during the preceding year.

23 (2) INCLUSIONS.—Each report under this sub-
24 section shall include—

1 (A) projections for renewable energy pro-
2 duction and capacity installations; and

3 (B) a description of any problems relating
4 to leasing, permitting, siting, or production.

5 **SEC. 7. DISPOSITION OF REVENUES.**

6 (a) DISPOSITION OF REVENUES.—Beginning on Jan-
7 uary 1, 2017, without further appropriation or fiscal year
8 limitation, of the amounts collected as bonus bids, rentals,
9 fees, or other payments under a right-of-way, permit,
10 lease, or other authorization (other than under section
11 504(g) of the Federal Land Policy and Management Act
12 of 1976 (43 U.S.C. 1764(g))) for the development of wind
13 or solar energy on covered land—

14 (1) 25 percent shall be paid by the Secretary of
15 the Treasury to the State within the boundaries of
16 which the revenue is derived;

17 (2) 25 percent shall be paid by the Secretary of
18 the Treasury to the one or more counties within the
19 boundaries of which the revenue is derived, to be al-
20 located among the counties based on the percentage
21 of land from which the revenue is derived;

22 (3) to be deposited in the Treasury and be
23 made available to the Secretary to carry out the pro-
24 gram established by section 6, including the transfer
25 of the funds by the Bureau of Land Management to

1 other Federal agencies and State agencies to facili-
2 tate the processing of renewable energy permits on
3 Federal land, with priority given to using the
4 amounts, to the maximum extent practicable, to ex-
5 pediting the issuance of permits required for the de-
6 velopment of renewable energy projects in the States
7 from which the revenues are derived—

8 (A) 25 percent for each of fiscal years
9 2016 through 2025;

10 (B) 20 percent for each of fiscal years
11 2026 through 2030;

12 (C) 15 percent for each of fiscal years
13 2031 through 2035; and

14 (D) 10 percent for fiscal year 2036 and
15 each fiscal year thereafter; and

16 (4) to be deposited in the Renewable Energy
17 Resource Conservation Fund established by sub-
18 section (c)—

19 (A) 25 percent for each of fiscal years
20 2016 through 2025;

21 (B) 30 percent for each of fiscal years
22 2026 through 2030;

23 (C) 35 percent for each of fiscal years
24 2031 through 2035; and

1 (D) 40 percent for fiscal year 2036 and
2 each fiscal year thereafter.

3 (b) PAYMENTS TO STATES AND COUNTIES.—

4 (1) IN GENERAL.—Amounts paid to States and
5 counties under subsection (a) shall be used con-
6 sistent with section 35 of the Mineral Leasing Act
7 (30 U.S.C. 191).

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

12 (c) RENEWABLE ENERGY RESOURCE CONSERVATION
13 FUND.—

14 (1) IN GENERAL.—There is established in the
15 Treasury a fund, to be known as the “Renewable
16 Energy Resource Conservation Fund”, to be admin-
17 istered by the Secretary, in consultation with the
18 Secretary of Agriculture.

19 (2) USE OF FUNDS.—The Secretary may make
20 funds in the Fund available to Federal, State, and
21 tribal agencies to be distributed in regions in which
22 renewable energy projects are located on Federal
23 land, for the purposes of—

24 (A) restoring and protecting—

1 (i) fish and wildlife habitat for af-
2 fected species;

3 (ii) fish and wildlife corridors for af-
4 fected species; and

5 (iii) water resources in areas affected
6 by wind, geothermal, or solar energy devel-
7 opment; and

8 (B) preserving and improving recreational
9 access to Federal land and water in an affected
10 region through an easement, right-of-way, or
11 other instrument from willing landowners for
12 the purpose of enhancing public access to exist-
13 ing Federal land and water that is inaccessible
14 or significantly restricted.

15 (3) PARTNERSHIPS.—The Secretary may enter
16 into cooperative agreements with State and tribal
17 agencies, nonprofit organizations, and other appro-
18 priate entities to carry out the activities described in
19 subparagraphs (A) and (B) of paragraph (2).

20 (4) INVESTMENT OF FUND.—

21 (A) IN GENERAL.—Any amounts deposited
22 in the Fund shall earn interest in an amount
23 determined by the Secretary of the Treasury on
24 the basis of the current average market yield on

1 outstanding marketable obligations of the
2 United States of comparable maturities.

3 (B) USE.—Any interest earned under sub-
4 paragraph (A) may be expended in accordance
5 with this subsection.

6 (5) INTENT OF CONGRESS.—It is the intent of
7 Congress that the revenues deposited and used in
8 the Fund shall supplement (and not supplant) an-
9 nual appropriations for activities described in sub-
10 paragraphs (A) and (B) of paragraph (2).

11 **SEC. 8. SAVINGS CLAUSE.**

12 Notwithstanding any other provision of this Act, the
13 Secretary shall continue to manage public land under the
14 principles of multiple use and sustained yield in accord-
15 ance with title I of the Federal Land Policy and Manage-
16 ment Act of 1976 (43 U.S.C. 1701 et seq.), including due
17 consideration of mineral and nonrenewable energy-related
18 projects and other nonrenewable energy uses, for the pur-
19 poses of land use planning, permit processing, and con-
20 ducting environmental reviews.

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