H. R.

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

IN THE HOUSE OF REPRESENTATIVES

Mr. Levin of California introduced the following bill; which was referred to the Committee on __________________________

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 Representatives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Public Land Renewable 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. 3. DEFINITIONS.

In this Act:

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

(A) Federal lands administered by the Secretary; and

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

(i) a land use plan; or

(ii) other Federal law.

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

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

(A) public lands; and

(B) lands of the National Forest System as described in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).
(4) **FUND.**—The term “Fund” means the Renewable Energy Resource Conservation Fund established by section 6(c)(1).

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

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

(B) in regard to National Forest System lands, a land management plan approved, amended, or revised under section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604).

(6) **PRIORITY AREA.**—The term “priority area” means covered land identified by the land use planning process of the Bureau of Land Management as being a preferred location for a renewable energy project, including a designated leasing area (as defined in section 2801.5(b) of title 43, Code of Federal Regulations (or a successor regulation)) that is identified under the rule of the Bureau of Land Management entitled “Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical
Changes and Corrections” (81 Fed. Reg. 92122 (December 19, 2016)) (or a successor regulation).

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

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

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

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

(A) not an exclusion area;

(B) not a priority area; and

(C) identified by the Secretary as potentially available for renewable energy development and could be approved without a plan amendment, consistent with the principles of multiple use (as defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)).
SEC. 4. LAND USE PLANNING; UPDATES TO PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENTS.

(a) PRIORITY AREAS.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Energy, shall establish priority areas on covered land for geothermal, solar, and wind energy projects, consistent with the principles of multiple use (as defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)) and the renewable energy permitting goal enacted by the Consolidated Appropriations Act of 2021 (Public Law 116–260). Among applications for a given renewable energy source, proposed projects located in priority areas for that renewable energy source shall—

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

(B) be offered the opportunity to participate in any regional mitigation plan developed for the relevant priority areas.

(2) ESTABLISHING PRIORITY AREAS.—

(A) GEOTHERMAL ENERGY.—For geothermal energy, the Secretary shall establish priority areas as soon as practicable, but not
later than 5 years, after the date of the enactment of this Act.

(B) SOLAR ENERGY.—For solar energy—

(i) solar designated leasing areas (including the solar energy zones established by Bureau of Land Management Solar Energy Program, established in October 2012), and any subsequent land use plan amendments, shall be considered to be priority areas for solar energy projects; and

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

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

(b) VARIANCE AREAS.—Variance areas shall be considered for renewable energy project development, consistent with the principles of multiple use (as defined in the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.)) and the renewable energy per-
mitting goal enacted by the Consolidated Appropriations Act of 2021 (Public Law 116–260), and applications for a given renewable energy source located in those variance areas shall be timely processed in order to assist in meeting that goal.

(e) Review and Modification.—

(1) In general.—Not less than once every 10 years, the Secretary shall—

(A) review the adequacy of land allocations for geothermal, solar, and wind energy priority, exclusion, and variance areas for the purpose of encouraging and facilitating new renewable energy development opportunities; and

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

(2) Exception.—Paragraph (1) shall not apply to the renewable energy land use planning published in the Desert Renewable Energy Conservation Plan developed by the California Energy Commission, the California Department of Fish and Wildlife, the Bureau of Land Management, and the United States Fish and Wildlife Service until January 1, 2030.
(d) **COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT.**—For purposes of this section, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall be accomplished—

1. for geothermal energy, by updating the document entitled “Final Programmatic Environmental Impact Statement for Geothermal Leasing in the Western United States”, dated October 2008, and incorporating any additional regional analyses that have been completed by Federal agencies since that programmatic environmental impact statement was finalized;

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

regional analyses that have been completed by Federal agencies since the programmatic environmental impact statement was finalized.

(e) **No Effect on Processing Site Specific Applications.**—Site specific environmental review and processing of permits for proposed projects shall proceed during preparation of an updated programmatic environmental impact statement, resource management plan, or resource management plan amendment.

(f) **Coordination.**—In developing updates required by this section, the Secretary shall coordinate, on an ongoing basis, with appropriate State, Tribal, and local governments, transmission infrastructure owners and operators, developers, and other appropriate entities to ensure that priority areas identified by the Secretary are—

1. economically viable (including having access to existing and planned transmission lines);
2. likely to avoid or minimize impacts to habitat for animals and plants, recreation, cultural resources, and other uses of covered land; and
3. consistent with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), including subsection (c)(9) of that section (43 U.S.C. 1712(c)(9)).
SEC. 5. LIMITED GRANDFATHERING.

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

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

SEC. 6. DISPOSITION OF REVENUES.

(a) DISPOSITION OF REVENUES.—

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

ows:

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

rived.

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

(C) Twenty-five percent shall be deposited
in the Treasury and be made available to the
Secretary to carry out the program established
under this Act, including the transfer of the
funds by the Bureau of Land Management to
other Federal agencies and State agencies to fa-
cilitate the processing of renewable energy per-

mits on Federal land, with priority given to
using the amounts, to the maximum extent
practicable without detrimental impacts to
emerging markets, to expediting the issuance of
permits required for the development of renew-
able energy projects in the States from which
the revenues are derived.

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

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

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

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

(b) PAYMENTS TO STATES AND COUNTIES.—

(1) IN GENERAL.—Amounts paid to States and
counties under subsection (a)(1) shall be used con-
sistent with section 35 of the Mineral Leasing Act

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

(c) RENEWABLE ENERGY RESOURCE CONSERVATION
FUND.—
(1) IN GENERAL.—There is established in the Treasury a fund to be known as the Renewable Energy Resource Conservation Fund, which shall be administered by the Secretary, in consultation with the Secretary of Agriculture.

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

(A) restore and protect—

(i) fish and wildlife habitat for affected species;

(ii) fish and wildlife corridors for affected species; and

(iii) wetlands, streams, rivers, and other natural water bodies in areas affected by wind, geothermal, or solar energy development; and

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

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

(4) INVESTMENT OF FUND.—

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

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

(5) REPORT TO CONGRESS.—At the end of each
fiscal year, the Secretary shall submit a report to
the Committee on Natural Resources of the House
of Representatives and the Committee on Energy
and Natural Resources of the Senate that includes
a description of—
(A) the amount collected as described in subsection (a), by source, during that fiscal year;

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

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

(6) INTENT OF CONGRESS.—It is the intent of Congress that the revenues deposited and used in the Fund shall supplement (and not supplant) annual appropriations for activities described in paragraph (2).

SEC. 7. SAVINGS.

Notwithstanding any other provision of this Act, the Secretary shall continue to manage public lands under the principles of multiple use and sustained yield in accordance with title I of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) or the Forest and Rangeland Renewable Resources Planning Act of 1974 (43 U.S.C. 1701 et seq.), as applicable, including due consideration of mineral and nonrenewable energy-related projects and other nonrenewable energy uses, for the
purposes of land use planning, permit processing, and conducting environmental reviews.