I

118TH CONGRESS
2D SESSION

# H. R. 9012

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

IN THE HOUSE OF REPRESENTATIVES

JULY 11, 2024

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 land, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Public Land Renewable Energy Development Act of 2024''.

**SEC. 2. DEFINITIONS.**

In this Act:

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

(A) Federal land;

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

(i) a land use plan; or

(ii) other Federal law; and

(C) not included in an area—

(i) that is subject to 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; or

(ii) for which the Secretary determines existing wind and solar energy land use planning meets or exceeds the standards established under section 4.

(2) ENERGY STORAGE PROJECT.—The term ''energy storage project'' means equipment that—

(A) receives, stores, and delivers energy using batteries, compressed air, pumped hydropower, hydrogen storage (including hydrolysis), thermal energy storage, regenerative fuel cells, flywheels, capacitors, superconducting magnets, or other technologies identified by the Secretary of Energy; and

(B) has a storage capacity of not less than 5 kilowatt hours.

(3) 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.

(4) FEDERAL LAND.—The term ''Federal land'' means—

(A) public land; and

(B) National Forest System lands administered by the Department of Agriculture through the Forest Service where the Secretary has authority to issue leases for the development and utilization of geothermal resources under section 3 and section 15 of the Geothermal Steam Act of 1970 (30 U.S.C. 1002, 1014).

(5) FUND.—The term ''Fund'' means the Renewable Energy Resource Conservation Fund established by section 7(c)(1).

(6) LAND USE PLAN.—The term ''land use plan'' means—

(A) with respect to public 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) with respect to National Forest System land, 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).

(7) NATIONAL FOREST SYSTEM.—The term ''National Forest System'' has the meaning given the term in section 11(a) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

(8) 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 an area that is identified as a designated leasing area 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).

(9) PUBLIC LAND.—The term ''public land'' has the meaning given the term ''public lands'' in

section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702).

(10) RENEWABLE ENERGY PROJECT.—The term ‘‘renewable energy project’’—

(A) means a project carried out on covered land that—

(i) uses wind, solar, or geothermal energy to generate energy; or

(ii) transmits electricity to support wind, solar, or geothermal energy generation; and

(B) may include an associated energy storage project.

(11) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of the Interior.

**SEC. 3. UPDATING NATIONAL GOALS FOR RENEWABLE ENERGY PRODUCTION ON FEDERAL LAND.**

Section 3104 of the Energy Act of 2020 (43 U.S.C. 3004) is amended—

(1) in subsection (b)—

(A) by striking ‘‘25’’ and inserting ‘‘60’’; and

(B) by striking ‘‘2025’’ and inserting ‘‘December 31, 2030’’; and

(2) by adding at the end the following:

"(c) UPDATE.—Not later than 18 months after the date of enactment of this subsection, the Secretary, in consultation with the Secretary of Agriculture and the heads of other relevant Federal agencies, shall update the national goals for renewable energy production on Federal land established under subsection (a).".

**SEC. 4. LAND USE PLANNING AND UPDATES TO PROGRAMMATIC ENVIRONMENTAL IMPACT STATEMENTS.**

(a) PRIORITY AREAS.—

(1) ESTABLISHMENT OF PRIORITY AREAS; DESIGNATION OF AREAS ELIGIBLE FOR THE SUBMISSION OF RENEWABLE ENERGY PROJECT APPLICATIONS.—

(A) IN GENERAL.—For purposes of renewable energy planning, the Secretary, consistent with the requirements described in subparagraph (B), shall—

(i) designate areas on covered land eligible for the submission of renewable energy project applications; and

(ii) consider establishing priority areas on covered land for renewable energy projects.

(B) REQUIREMENTS.—In carrying out activities under clauses (i) and (ii) of subparagraph (A), the Secretary shall comply with—

(i) the principles of multiple use (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)); and

(ii) the national goals for renewable energy production established under section 3104 of the Energy Act of 2020 (43 U.S.C. 3004), including the minimum production goal described in subsection (b) of that section.

(2) PRIORITY FOR CERTAIN APPLICATIONS.—In considering applications for renewable energy projects on covered land, with respect to an application for a proposed renewable energy projects on covered land that is to be carried out in a priority area, the Secretary shall—

(A) prioritize the application to be carried out in any identified priority area; and

(B) on approval of the application, provide to the applicant who submitted the application the opportunity to participate in any regional mitigation plan developed for the applicable priority area.

(3) PROGRAMMATIC PLANNING.—

(A) SOLAR ENERGY.—The Secretary shall—

(i) as soon as practicable, but not later than 18 months after the date of enactment of this Act, finalize the draft of the programmatic Environmental Impact Statement referenced in the notice of availability entitled "Notice of Availability of the Draft Programmatic Environmental Impact Statement for Utility-Scale Solar Energy Development and Notice of Public Meetings" (89 Fed. Reg. 3687 (January 19, 2024)); and

(ii) as soon as practicable, but not later than 18 months after a Record of Decision is issued on the draft of the programmatic Environmental Impact Statement referenced in the notice of availability entitled "Notice of Availability of the Draft Programmatic Environmental Impact Statement for Utility-Scale Solar Energy Development and Notice of Public Meetings'' (89 Fed. Reg. 3687 (January 19, 2024)), consider establishing priority areas on covered land for Solar energy projects in the planning area.

(B) WIND ENERGY.—As soon as practicable, but not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a review of the final programmatic Environment Impact Statement referenced in the notice of availability entitled ''Notice of Availability of the Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM–Administered Lands in the Western United States, Including Proposed Amendments to Selected Land Use Plans'' (70 Fed. Reg. 36651 (June 24, 2005)), that considers establishment of wind application and priority areas on covered lands, and complete that review within 3 years of issuing a notice of intent.

(b) REVIEW AND MODIFICATION.—

(1) IN GENERAL.—Subject to paragraph (2), not less frequently than once every 10 years, the Secretary shall—

(A) after an opportunity for public comment, review the adequacy of all land allocations for renewable energy projects for the purposes of—

(i) encouraging and facilitating new renewable energy projects; and

(ii) consistent with a mitigation sequence of avoiding, minimizing, and compensating for adverse impacts to other public uses and values of covered land, including—

(I) wildlife habitat;

(II) species listed as threatened or endangered under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(III) water resources;

(IV) cultural resources;

(V) recreational uses;

(VI) land with wilderness characteristics;

(VII) land with special management designations;

(VIII) cultural resources; and

(IX) areas of Tribal importance; and

(B) based on the review carried out under subparagraph (A), add, modify, or eliminate priority areas, exclusion areas, and areas on covered land open or closed to solar or wind energy right-of-way applications or to geothermal leasing.

(2) LIMITATION.—Paragraph (1) shall not apply to any covered land that the Secretary determines, after seeking public input, is subject to an existing land use plan that meets the purposes described in paragraph (1)(A).

(3) REPORT.—If the Secretary determines, in an annual report required under subsection (g) of section 3102 of the Energy Act of 2020 (43 U.S.C. 3002) (as redesignated by section 5(a)(1)), that the national goal for renewable energy production established under subsection (a) of section 3104 of that Act (43 U.S.C. 3004), including the minimum production goal established under subsection (b) of that section, may not be met, the Secretary shall act more frequently than otherwise required by this section to designate areas eligible for the submission of renewable energy project applications and establish

additional priority areas for renewable energy projects.

(c) COMPLIANCE WITH THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—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—

(A) by updating the document entitled "Final Programmatic Environmental Impact Statement for Geothermal Leasing in the Western United States" and dated October 2008; and

(B) by incorporating into the updated document under subparagraph (A) any additional regional analyses completed by Federal agencies after the date on which the document described in that subparagraph was finalized;

(2) for solar energy—

(A) by updating the document entitled "Final Programmatic Environmental Impact Statement (PEIS) for Solar Energy Development in Six Southwestern States" and dated July 2012; and

(B) by incorporating into the updated document under subparagraph (A) any additional regional analyses completed by Federal agencies after the date on which the document described in that subparagraph was finalized; and

(3) for wind energy—

(A) by updating the document entitled "Final Programmatic Environmental Impact Statement on Wind Energy Development on BLM–Administered Lands in the Western United States" and dated June 2005; and

(B) by incorporating into the updated document under subparagraph (A) any additional regional analyses completed by Federal agencies after the date on which the document described in that subparagraph was finalized.

(d) NO EFFECT ON PROCESSING SITE-SPECIFIC APPLICATIONS.—Nothing in this section modifies any requirement to conduct site-specific environmental reviews or process permits for proposed renewable energy projects during preparation of an updated programmatic environmental impact statement, land use plan, or amendment to a land use plan.

(e) COORDINATION.—In developing any update required under this section, the Secretary shall coordinate, on an ongoing basis, with appropriate State, Tribal, and local governments, transmission infrastructure owners, operators, and developers, renewable energy developers, and other appropriate entities to ensure that priority areas established by the Secretary under this section take into account—

(1) economic viability (including having access to existing or planned transmission lines);

(2) consistency with a mitigation sequence to avoid, minimize, and compensate for impacts to—

(A) fish, wildlife, or plants;

(B) fish, wildlife, or plant habitat;

(C) recreational uses;

(D) land with wilderness characteristics;

(E) land with special management designations;

(F) cultural resources;

(G) areas of Tribal importance; and

(H) other uses of covered land;

(3) feasibility of siting on previously disturbed land, including commercial and industrial land, mine land, and previously contaminated sites; and

(4) consistency 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)).

(f) TRANSMISSION.—In carrying out this section, the Secretary shall—

(1) determine whether adequate transmission exists for renewable energy projects on covered land; and

(2) if a determination is made in the negative under paragraph (1), in coordination with the heads of other relevant Federal agencies, review existing land use plans to determine if amendments to those land use plans would be appropriate to support adequate transmission capability.

(g) INCENTIVES FOR RENEWABLE ENERGY DEVELOPMENT IN PRIORITY AREAS.—The Secretary may establish, by regulation, incentives to be provided to individuals carrying out renewable energy projects in priority areas established under this section.

**SEC. 5. IMPROVING WIND AND SOLAR ENERGY PROJECT PERMITTING.**

(a) ROLE OF RENEWABLE ENERGY COORDINATION OFFICES.—Section 3102 of the Energy Act of 2020 (43 U.S.C. 3002) is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

(2) by inserting after subsection (d) the following:

"(e) PROCESSING OF WIND AND SOLAR ENERGY APPLICATIONS.—

"(1) DELEGATION TO STATE RENEWABLE ENERGY COORDINATION OFFICES.—

"(A) IN GENERAL.—Notwithstanding any other provision of law, the Secretary may delegate to a State Renewable Energy Coordination Office the authority to process applications for eligible projects proposed to be carried out on land managed by the Bureau of Land Management in the applicable State.

"(B) ROLES AND RESPONSIBILITIES OF MANAGERS.—For purposes of processing applications described in subparagraph (A), the manager of the applicable State Renewable Energy Coordination Office—

"(i) shall have the authority to issue grants or leases for eligible projects;

"(ii) with the approval of the State Director of the applicable Bureau of Land Management State Office, may use other employees in field and district offices of the applicable Bureau of Land Management State Office, or hire additional experts, to assist with timely processing of applications, with the costs of hiring additional experts to be charged to applicants; and

"(iii) shall report to the State Director of the applicable Bureau of Land Management State Office.

"(2) PROHIBITION OF DELEGATION TO EMPLOYEES OF FIELD OR DISTRICT OFFICES.—Except as provided in paragraph (1)(B)(ii), the Secretary may not delegate to employees of field or district offices of the Bureau of Land Management the authority to process applications for eligible projects proposed to be carried out on land managed by the Bureau of Land Management.".

(b) COST RECOVERY AGREEMENTS.—

(1) IN GENERAL.—Not later than 30 days after the date on which an applicant submits a complete application for a right-of-way for a wind or solar energy project, including submission of the filing fee required under section 2804.12 of title 43, Code of Federal Regulations (or a successor regulation), the Secretary shall provide a cost recovery agreement with respect to the application.

(2) EFFECT.—Issuance of a cost recovery agreement under paragraph (1) and payment of cost recovery fees shall preclude any new claims to the use of the applicable covered land during any period in which the application is active.

(3) CONFLICTS; STUDIES.—

(A) CONFLICTS.—To be considered complete under paragraph (1), an application described in that paragraph shall address any known conflicts with respect to the use of the applicable covered land, as identified in scientific literature or other studies.

(B) ADDITIONAL STUDIES.—Additional studies shall not be required for purposes of considering an application to be complete under paragraph (1).

(c) ENVIRONMENTAL REQUIREMENTS.—

(1) NOTICE OF INTENT.—

(A) IN GENERAL.—Not later than 180 days after the date on which the agency notifies the applicant that the application to establish a right-of-way is complete, or a later date to be established by the Secretary under subparagraph (B), if an environmental impact statement is determined to be necessary, the Secretary shall issue a notice of intent to prepare an environmental impact statement with respect to the application.

(B) EXTENSION.—The Secretary shall establish a later date by which the notice under subparagraph (A) shall be issued, if the Secretary determines that the 180-day period under that paragraph should be extended due to—

(i) the application being considered a low priority under section 2804.35 of title 43, Code of Federal Regulations (or a successor regulation);

(ii) project-specific circumstances, including the need for further studies, making the 180-day deadline insufficient; or

(iii) the application not meeting the requirements for approval.

(2) CATEGORICAL EXCLUSION.—As the Secretary determines to be appropriate, the Secretary may promulgate regulations providing that preliminary geotechnical work and meteorological monitoring relating to renewable energy projects shall be categorically excluded from the requirements for an environmental assessment or environmental impact

statement under section 1501.4 of title 40, Code of Federal Regulations (or a successor regulation).

(d) PROCESSING PRIORITY.—In processing applications described in subsection (b)(1), the Secretary shall—

(1) give priority to applications for renewable energy projects in priority areas; and

(2) process applications for renewable energy projects in areas that are not priority areas in the order in which the applications are received.

(e) USE OF COMPETITIVE PROCESS.—

(1) IN GENERAL.—Subject to paragraph (2), the Secretary shall not use a competitive process for the review of an application described in subsection (b)(1), except—

(A) in a case in which 2 or more applicants file an application for the same site (or portions of the same site) not more than 15 days apart; or

(B) as otherwise established by the Secretary through a subsequent rulemaking process delineating the instances in which the Secretary will use the competitive process.

(2) LIMITATION.—Paragraph (1) shall not apply to applications for competitive right-of-way leases in priority areas.

**SEC. 6. INCREASING ECONOMIC CERTAINTY.**

(a) RENTS AND FEES.—

(1) IN GENERAL.—In determining rental rates and other fees for renewable energy project leases or right-of-way grants, the Secretary shall ensure that the total rental rates and other fees charged do not exceed the average amount charged for similar activities on private land in the State or county in which the rental rates and other fees are charged.

(2) INDIVIDUAL APPRAISALS NOT REQUIRED.—For purposes of determining rental rates for renewable energy projects, the Secretary—

(A) shall not be required to conduct individual appraisals; and

(B) may use average cash rents included in the Pastureland Rents Survey prepared by the National Agricultural Statistics Service, as determined for the 5-year period ending on the date on which the rental rate is determined.

(3) INCREASES IN BASE RENTAL RATES.—After a base rental rate is established for a lease or right-of-way grant authorization for a renewable energy project, any increase in the base rental rate shall be limited to the Implicit Price Deflator-Gross Product Index published by the Bureau of Economic Analysis of the Department of Commerce on the date of

issuance of the lease or right-of way grant authorization.

(4) CAPACITY FEES.—The Secretary may consider charging a capacity fee for a renewable energy project only if the Secretary determines that capacity fees are charged within the region or State in which the renewable energy project is carried out, as part of leaseholds on State or private land.

(b) BONDS.—The Secretary shall adopt a process for establishing bond requirements for decommissioning renewable energy projects that—

(1) do not establish a minimum per acre amount; and

(2) are based on the difference between—

(A) the estimated, site-specific net costs of reclamation of the covered land; and

(B) the salvage value of materials available after decommissioning the renewable energy project.

**SEC. 7. DISPOSITION OF REVENUES; RENEWABLE ENERGY RESOURCE CONSERVATION FUND.**

(a) DISPOSITION OF REVENUES.—

(1) AVAILABILITY.—Except as provided in paragraph (3), without further appropriation or fiscal year limitation, of amounts collected from wind

and solar energy projects as bonus bids, rentals, fees, or other payments under a right-of-way, permit, lease, or other authorization—

(A) for the period beginning on January 1, 2025, and ending on December 31, 2044—

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

(ii) 25 percent shall be paid by the Secretary of the Treasury to the 1 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;

(iii) 15 percent shall be deposited in the Treasury and credited to the Bureau of Land Management's Renewable Energy Management account to be made available to the Secretary to carry out sections 4 and 5 (including amendments made by those sections), including the transfer of the funds by the Bureau of Land Management to other Federal agencies and State agencies to facilitate the processing of permits for renewable energy projects, with priority given to using the amounts, to the maximum extent practicable, without detrimental impacts to emerging markets, expediting the issuance of permits required for the development of wind and solar energy projects in the States from which the revenues are derived; and

(iv) 35 percent shall be deposited in the Fund; and

(B) beginning on January 1, 2045—

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

(ii) 25 percent shall be paid by the Secretary of the Treasury to the 1 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;

(iii) 10 percent shall be deposited in the Treasury and be made available to the

Secretary to carry out sections 4 and 5 (including amendments made by those sections), including the transfer of the funds by the Bureau of Land Management to other Federal agencies and State agencies to facilitate the processing of permits for wind and solar energy projects, with priority given to using the amounts, to the maximum extent practicable, without detrimental impacts to emerging markets, expediting the issuance of permits required for the development of renewable energy projects in the States from which the revenues are derived; and

(iv) 40 percent shall be deposited in the Fund.

(2) RULE FOR PROJECTS LOCATED IN MULTIPLE STATES.—Not later than 180 days after the date of enactment of this Act, the Secretary shall issue a proposed rule establishing a formula for the disposition of revenues under subparagraphs (A)(i) and (B)(i) of paragraph (1) in a case in which a wind and solar energy project is located in more than 1 State.

(3) FILING FEES.—With respect to wind and solar energy projects—

(A) paragraph (1) does not apply to amounts collected from application filing fees authorized under section 304 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1734); and

(B) such application filing fees may be retained by the applicable agency to recover costs associated with issuing the right-of-way, permit, or other authorization associated with the application.

(b) PAYMENTS TO STATES AND COUNTIES.—

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

(2) PAYMENTS IN LIEU OF TAXES.—A payment to a county under subparagraph (A)(ii) or (B)(ii) of subsection (a)(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.

(2) USE OF FUNDS.—

(A) IN GENERAL.—The Secretary may make amounts in the Fund available to Federal, State, local, and Tribal agencies for distribution in regions in which renewable energy projects are located on Federal land, for the purposes described in subparagraph (B).

(B) PURPOSES.—The purposes referred to in subparagraph (A) are—

(i) restoring and protecting—

(I) fish and wildlife habitat for species affected by renewable energy projects;

(II) fish and wildlife corridors for species affected by renewable energy projects; and

(III) wetlands, streams, rivers, and other natural water bodies in areas affected by renewable energy projects; and

(ii) preserving and improving recreational access to Federal land and water in the applicable region through an easement, right-of-way, or other instrument from willing landowners for the purpose of enhancing public access to existing Federal land and water that is inaccessible or restricted due to renewable energy projects.

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

(4) INVESTMENT OF FUND.—

(A) IN GENERAL.—Any amounts deposited in the Fund shall earn interest in an amount determined 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.—Any interest earned under subparagraph (A) may be deposited into the Fund and used without further appropriation.

(5) REPORT TO CONGRESS.—At the end of each fiscal year, the Secretary shall submit to the Com-

mittee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report identifying—

(A) the amounts described in subsection (a) that were collected during that fiscal year, organized by source;

(B) the amount and purpose of payments made to each Federal, State, local, and Tribal agency under paragraph (2) during that fiscal year; 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 expended from the Fund shall supplement (and not supplant) annual appropriations for activities described in paragraph (2).

**SEC. 8. SAVINGS CLAUSE.**

Notwithstanding any other provision of this Act, the Secretary and the Secretary of Agriculture shall continue to manage public land 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 (16 U.S.C. 1600 et seq.), as applicable, for the purposes of land use planning, permit processing, and conducting environmental reviews.

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