

Union Calendar No. 231

115TH CONGRESS
1ST SESSION

H. R. 825

[Report No. 115–321, Part I]

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

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 2017

Mr. GOSAR (for himself, Mr. POLIS, Mr. FRANKS of Arizona, Mr. THOMPSON of California, Mr. AMODEI, Mr. BIGGS, Mr. CARTWRIGHT, Mrs. COMSTOCK, Mr. COOK, Mr. COSTA, Mr. DEFAZIO, Ms. DELBENE, Mr. GRIJALVA, Mr. HUFFMAN, Mr. LABRADOR, Mr. LAMALFA, Mr. LOWENTHAL, Mr. PERLMUTTER, Mr. SCHRADER, Mr. SCHWEIKERT, Ms. SINEMA, Mr. TIPTON, and Mr. PEARCE) 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

SEPTEMBER 21, 2017

Additional sponsors: Mr. CÁRDENAS, Mr. BEN RAY LUJÁN of New Mexico, Mr. JODY B. HICE of Georgia, Ms. ROSEN, Mrs. LOVE, Mr. BROWN of Maryland, Ms. DEGETTE, Ms. TSONGAS, Mr. KIHUEN, Mr. MCGOVERN, Mr. TED LIEU of California, Mrs. NAPOLITANO, Ms. TITUS, Mr. VALADAO, Mr. CURBELO of Florida, Mr. DENHAM, and Mr. ZELDIN

SEPTEMBER 21, 2017

Reported from the Committee on Natural Resources with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 21, 2017

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

[For text of introduced bill, see copy of bill as introduced on February 2, 2017]

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 Renewable*
5 *Energy Development Act of 2017”.*

6 **SEC. 2. DEFINITIONS.**

7 *In this Act:*

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

10 (A) *public land administered by the Sec-*
11 *retary; and*

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

14 (i) *a land use plan established under*
15 *the Federal Land Policy and Management*
16 *Act of 1976 (43 U.S.C. 1701 et seq.); 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.*

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

24 (A) *land of the National Forest System (as*
25 *defined in section 11(a) of the Forest and Range-*

1 *land Renewable Resources Planning Act of 1974*
2 *(16 U.S.C. 1609(a))*; or

3 *(B) public land.*

4 (4) *FUND.*—*The term “Fund” means the Renew-*
5 *able Energy Resource Conservation Fund established*
6 *by section 7(c)(1).*

7 (5) *PRIORITY AREA.*—*The term “priority area”*
8 *means covered land identified by the land use plan-*
9 *ning process of the Bureau of Land Management as*
10 *being a preferred location for a renewable energy*
11 *project.*

12 (6) *PUBLIC LAND.*—*The term “public land” has*
13 *the meaning given the term “public lands” in section*
14 *103 of the Federal Land Policy and Management Act*
15 *of 1976 (43 U.S.C. 1702).*

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

20 (8) *SECRETARY.*—*The term “Secretary” means*
21 *the Secretary of the Interior.*

22 (9) *VARIANCE AREA.*—*The term “variance area”*
23 *means covered land that is—*

24 *(A) not an exclusion area;*

25 *(B) not a priority area; and*

1 (C) identified by the Secretary as poten-
2 tially available for renewable energy development
3 and could be approved without a plan amend-
4 ment, consistent with the principles of multiple
5 use (as that term is defined in the Federal Land
6 Policy and Management Act of 1976 (43 U.S.C.
7 1701 et seq.)).

8 **SEC. 3. EXTENSION OF FUNDING FOR IMPLEMENTATION OF**
9 **GEOHERMAL STEAM ACT OF 1970.**

10 (a) *IN GENERAL.*—Section 234(a) of the Energy Pol-
11 icy Act of 2005 (42 U.S.C. 15873(a)) is amended by strik-
12 ing “in the first 5 fiscal years beginning after the date of
13 enactment of this Act” and inserting “through fiscal year
14 2022”.

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

17 (1) by striking “Amounts” and inserting the fol-
18 lowing:

19 “(1) *IN GENERAL.*—Amounts”; and

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

21 “(2) *AUTHORIZATION.*—Effective for fiscal year
22 2018 and each fiscal year thereafter, amounts depos-
23 ited under subsection (a) shall be available to the Sec-
24 retary of the Interior for expenditure, without further
25 appropriation or fiscal year limitation, to implement

1 *the Geothermal Steam Act of 1970 (30 U.S.C. 1001*
2 *et seq.) and this Act.”.*

3 **SEC. 4. LAND USE PLANNING; SUPPLEMENTS TO PRO-**
4 **GRAMMATIC ENVIRONMENTAL IMPACT**
5 **STATEMENTS.**

6 *(a) PRIORITY AREAS.—*

7 *(1) IN GENERAL.—The Secretary, in consultation*
8 *with the Secretary of Energy, shall establish priority*
9 *areas on covered land for geothermal, solar, and wind*
10 *energy projects.*

11 *(2) DEADLINE.—*

12 *(A) GEOTHERMAL ENERGY.—For geo-*
13 *thermal energy, the Secretary shall establish pri-*
14 *ority areas as soon as practicable, but not later*
15 *than 5 years, after the date of enactment of this*
16 *Act.*

17 *(B) SOLAR ENERGY.—For solar energy, the*
18 *solar energy zones established by the 2012 west-*
19 *ern solar plan of the Bureau of Land Manage-*
20 *ment and any subsequent land use plan amend-*
21 *ments shall be considered to be priority areas for*
22 *solar energy projects.*

23 *(C) WIND ENERGY.—For wind energy, the*
24 *Secretary shall establish priority areas as soon*

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

3 **(b) VARIANCE AREAS.**—*To the maximum extent prac-*
4 *ticable, variance areas shall be considered for renewable en-*
5 *ergy project development, consistent with the principles of*
6 *multiple use (as defined in the Federal Land Policy and*
7 *Management Act of 1976 (43 U.S.C. 1701 et seq.)).*

8 **(c) REVIEW AND MODIFICATION.**—*Not less frequently*
9 *than once every 10 years, the Secretary shall—*

10 (1) *review the adequacy of land allocations for*
11 *geothermal, solar, and wind energy priority and vari-*
12 *ance areas for the purpose of encouraging new renew-*
13 *able energy development opportunities; and*

14 (2) *based on the review carried out under para-*
15 *graph (1), add, modify, or eliminate priority, vari-*
16 *ance, and exclusion areas.*

17 **(d) COMPLIANCE WITH THE NATIONAL ENVIRON-**
18 **MENTAL POLICY ACT.**—*For purposes of this section, compli-*
19 *ance with the National Environmental Policy Act of 1969*
20 *(42 U.S.C. 4321 et seq.) shall be accomplished—*

21 (1) *for geothermal energy, by supplementing the*
22 *October 2008 final programmatic environmental im-*
23 *pact statement for geothermal leasing in the western*
24 *United States and incorporating any additional re-*
25 *gional analyses that have been completed by Federal*

1 *agencies since the programmatic environmental im-*
2 *act statement was finalized;*

3 *(2) for solar energy, by supplementing the July*
4 *2012 final programmatic environmental impact state-*
5 *ment for solar energy projects and incorporating any*
6 *additional regional analyses that have been completed*
7 *by Federal agencies since the programmatic environ-*
8 *mental impact statement was finalized; and*

9 *(3) for wind energy, by supplementing the July*
10 *2005 final programmatic environmental impact state-*
11 *ment for wind energy projects and incorporating any*
12 *additional regional analyses that have been completed*
13 *by Federal agencies since the programmatic environ-*
14 *mental impact statement was finalized.*

15 *(e) NO EFFECT ON PROCESSING APPLICATIONS.—A re-*
16 *quirement to prepare a supplement to a programmatic en-*
17 *vironmental impact statement under this section shall not*
18 *result in any delay in processing an application for a re-*
19 *newable 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 oper-*
24 *ators, developers, and other appropriate entities to ensure*
25 *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 U.S.C.*
8 *1712), including subsection (c)(9) of that section (43*
9 *U.S.C. 1712(c)(9)).*

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

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

18 (a) *IN GENERAL.—If the Secretary determines that a*
19 *proposed renewable energy project has been sufficiently ana-*
20 *lyzed by a programmatic environmental impact statement*
21 *conducted under section 4(d), the Secretary shall not re-*
22 *quire 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 project.*

7 (c) *RELATIONSHIP TO OTHER LAW.—Nothing in this*
8 *section modifies or supersedes any requirement under appli-*
9 *cable law.*

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

12 (a) *ESTABLISHMENT.—The Secretary shall establish a*
13 *program to improve Federal permit coordination with re-*
14 *spect to renewable energy projects on covered land.*

15 (b) *MEMORANDUM OF UNDERSTANDING.—*

16 (1) *IN GENERAL.—Not later than 180 days after*
17 *the date of enactment of this Act, the Secretary shall*
18 *enter into a memorandum of understanding for pur-*
19 *poses of this section, including to specifically expedite*
20 *the environmental analysis of applications for*
21 *projects proposed in a variance area, with—*

22 (A) *the Secretary of Agriculture; and*

23 (B) *the Assistant Secretary of the Army for*
24 *Civil Works.*

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

5 (c) *DESIGNATION OF QUALIFIED STAFF.*—

6 (1) *IN GENERAL.*—*Not later than 30 days after*
7 *the date on which the memorandum of understanding*
8 *under subsection (b) is executed, all Federal signato-*
9 *ries, as appropriate, shall identify for each of the Bu-*
10 *reau of Land Management Renewable Energy Coordi-*
11 *nation Offices an employee who has expertise in the*
12 *regulatory issues relating to the office in which the*
13 *employee is employed, including, as applicable, par-*
14 *ticular expertise in—*

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

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

21 (C) *regulatory matters under the Clean Air*
22 *Act (42 U.S.C. 7401 et seq.);*

23 (D) *planning under section 14 of the Na-*
24 *tional Forest Management Act of 1976 (16*
25 *U.S.C. 472a);*

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

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

5 (G) the preparation of analyses under the
6 National Environmental Policy Act of 1969 (42
7 U.S.C. 4321 et seq.).

8 (2) DUTIES.—Each employee assigned under
9 paragraph (1) shall—

10 (A) be responsible for addressing all issues
11 relating to the jurisdiction of the home office or
12 agency of the employee; and

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

17 (d) ADDITIONAL PERSONNEL.—The Secretary may as-
18 sign such additional personnel for the Bureau of Land
19 Management Renewable Energy Coordination Offices as are
20 necessary to ensure the effective implementation of any pro-
21 grams administered by the offices, including inspection and
22 enforcement relating to renewable energy project develop-
23 ment on covered land, in accordance with the multiple use
24 mandate of the Federal Land Policy and Management Act
25 of 1976 (43 U.S.C. 1701 et seq.).

1 (e) *RENEWABLE ENERGY COORDINATION OFFICES.*—

2 *In carrying out the program established under subsection*

3 *(a), the Secretary may—*

4 (1) *establish additional Bureau of Land Manage-*
5 *ment Renewable Energy Coordination Offices; or*

6 (2) *temporarily assign the qualified staff des-*
7 *ignated under subsection (c) to a State, district, or*
8 *field office of the Bureau of Land Management to ex-*
9 *pedite the permitting of renewable energy projects.*

10 (f) *REPORT TO CONGRESS.*—

11 (1) *IN GENERAL.*—*Not later than February 1 of*
12 *the first fiscal year beginning after the date of enact-*
13 *ment of this Act, and each February 1 thereafter, the*
14 *Secretary shall submit to the Committee on Energy*
15 *and Natural Resources of the Senate and the Com-*
16 *mittee on Natural Resources of the House of Rep-*
17 *resentatives a report describing the progress made*
18 *under the program established under subsection (a)*
19 *during the preceding year.*

20 (2) *INCLUSIONS.*—*Each report under this sub-*
21 *section shall include—*

22 (A) *projections for renewable energy produc-*
23 *tion and capacity installations; and*

24 (B) *a description of any problems relating*
25 *to leasing, permitting, siting, or production.*

1 **SEC. 7. DISPOSITION OF REVENUES.**

2 (a) *DISPOSITION OF REVENUES.*—Beginning on Janu-
3 ary 1, 2018, without further appropriation or fiscal year
4 limitation, of the amounts collected as bonus bids, rentals,
5 fees, or other payments under a right-of-way, permit, lease,
6 or other authorization (other than under section 504(g) of
7 the Federal Land Policy and Management Act of 1976 (43
8 U.S.C. 1764(g))) for the development of wind or solar en-
9 ergy on covered land—

10 (1) 25 percent shall be paid by the Secretary of
11 the Treasury to the State within the boundaries of
12 which the revenue is derived;

13 (2) 25 percent shall be paid by the Secretary of
14 the Treasury to the one or more counties within the
15 boundaries of which the revenue is derived, to be allo-
16 cated among the counties based on the percentage of
17 land from which the revenue is derived;

18 (3) to be deposited in the Treasury and be made
19 available to the Secretary to carry out the program
20 established by section 6, including the transfer of the
21 funds by the Bureau of Land Management to other
22 Federal agencies and State agencies to facilitate the
23 processing of renewable energy permits on Federal
24 land, with priority given to using the amounts, to the
25 maximum extent practicable, to expediting the
26 issuance of permits required for the development of re-

1 *renewable energy projects in the States from which the*
2 *revenues are derived—*

3 *(A) 25 percent for each of fiscal years 2018*
4 *through 2027;*

5 *(B) 20 percent for each of fiscal years 2028*
6 *through 2032;*

7 *(C) 15 percent for each of fiscal years 2033*
8 *through 2037; and*

9 *(D) 10 percent for fiscal year 2038 and*
10 *each fiscal year thereafter; and*

11 *(4) to be deposited in the Renewable Energy Re-*
12 *source Conservation Fund established by subsection*
13 *(c)—*

14 *(A) 25 percent for each of fiscal years 2018*
15 *through 2027;*

16 *(B) 30 percent for each of fiscal years 2028*
17 *through 2032;*

18 *(C) 35 percent for each of fiscal years 2033*
19 *through 2037; and*

20 *(D) 40 percent for fiscal year 2038 and*
21 *each fiscal year thereafter.*

22 *(b) PAYMENTS TO STATES AND COUNTIES.—*

23 *(1) IN GENERAL.—Amounts paid to States and*
24 *counties under subsection (a) shall be used consistent*

1 *with section 35 of the Mineral Leasing Act (30 U.S.C.*
2 *191).*

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

7 (c) *RENEWABLE ENERGY RESOURCE CONSERVATION*
8 *FUND.*—

9 (1) *IN GENERAL.*—*There is established in the*
10 *Treasury a fund, to be known as the “Renewable En-*
11 *ergy Resource Conservation Fund”, to be adminis-*
12 *tered by the Secretary, in consultation with the Sec-*
13 *retary of Agriculture.*

14 (2) *USE OF FUNDS.*—*The Secretary may make*
15 *funds in the Fund available to Federal, State, and*
16 *tribal agencies to be distributed in regions in which*
17 *renewable energy projects are located on Federal land,*
18 *for the purposes of—*

19 (A) *restoring and protecting—*

20 (i) *fish and wildlife habitat for affected*
21 *species;*

22 (ii) *fish and wildlife corridors for af-*
23 *ected species; and*

1 (iii) *water resources in areas affected*
2 *by wind, geothermal, or solar energy devel-*
3 *opment; and*

4 (B) *preserving and improving recreational*
5 *access to Federal land and water in an affected*
6 *region through an easement, right-of-way, or*
7 *other instrument from willing landowners for the*
8 *purpose of enhancing public access to existing*
9 *Federal land and water that is inaccessible or re-*
10 *stricted.*

11 (3) *RESTRICTION ON USE OF FUNDS.—No funds*
12 *made available under this subsection may be used for*
13 *the purchase of real property unless in fulfillment of*
14 *subparagraph (B) of paragraph (2).*

15 (4) *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 (5) *INVESTMENT OF FUND.—*

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

1 *standing marketable obligations of the United*
2 *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 *(6) REPORT TO CONGRESS.—At the end of each*
7 *fiscal year, the Secretary shall report to the Com-*
8 *mittee on Natural Resources of the House of Rep-*
9 *resentatives and the Committee on Energy and Nat-*
10 *ural Resources of the Senate—*

11 *(A) the amount collected as described in*
12 *subsection (a), by source, during that fiscal year;*

13 *(B) the amount and purpose of payments*
14 *during that fiscal year to each Federal, State,*
15 *and tribal agency under paragraph (2); and*

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

18 *(7) INTENT OF CONGRESS.—It is the intent of*
19 *Congress that the revenues deposited and used in the*
20 *Fund shall supplement (and not supplant) annual*
21 *appropriations for activities described in subpara-*
22 *graphs (A) and (B) of paragraph (2).*

23 **SEC. 8. SAVINGS CLAUSE.**

24 *Notwithstanding any other provision of this Act, the*
25 *Secretary shall continue to manage public land under the*

1 *principles of multiple use and sustained yield in accordance*
2 *with title I of the Federal Land Policy and Management*
3 *Act of 1976 (43 U.S.C. 1701 et seq.), including due consid-*
4 *eration of mineral and nonrenewable energy-related projects*
5 *and other nonrenewable energy uses, for the purposes of*
6 *land use planning, permit processing, and conducting envi-*
7 *ronmental reviews.*

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