

PUBLIC LAND RENEWABLE ENERGY DEVELOPMENT ACT
OF 2021

DECEMBER 14, 2022.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed.

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

[To accompany H.R. 3326]

The Committee on Natural Resources, to whom was referred the bill (H.R. 3326) to promote the development of renewable energy on public lands, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 3326 is to promote the development of renewable energy on public lands.

BACKGROUND AND NEED FOR LEGISLATION

The urgent need to address climate change demands a rapid transition away from fossil fuels and towards a clean-energy economy. Renewable energy resources on public lands and waters can and must play a leading role in driving this energy transition. Thanks to decades of innovation, steeply declining costs, and smart policies at both the federal and state levels, the amount of electricity generated by wind and solar in the United States has increased tremendously. The United States currently generates approximately 20 percent of its electricity from renewable energy resources—two times more than a decade ago.¹

Key provisions of the Public Land Renewable Energy Development Act of 2019 were passed by Congress and signed into law in December 2020 as part of the Energy Act of 2020 (which was included in the Fiscal Year 2021 Consolidated Appropriations Act).

¹2021 *Sustainable Energy in American Factbook*. Business Council for Sustainable Energy and Bloomberg New Energy Finance. <https://bcse.org/factbook/>.

That law gives the Department of the Interior more tools to increase the pace of renewable energy development on public lands but is only a first step. The Energy Act of 2020:

- Requires the Secretary of the Interior to set national goals for wind, solar, and geothermal energy production on Federal land no later than September 1, 2022. The Secretary shall seek to permit at least 25 gigawatts (GW) of electricity from wind, solar, and geothermal projects by 2025.
- Establishes the National Renewable Energy Coordination Office and affiliated state offices at the Department of the Interior, established initially by the Obama administration but eliminated by the Trump administration. Calls for staff experienced in permit or planning issues to be assigned to state-level BLM offices to review renewable energy projects on public lands.
- Gives the Secretary of the Interior more authority to adjust rental rates and capacity fees for wind and solar projects if they would otherwise pose an economic hardship or exceed fair market value. This authority is modeled after existing law for fossil fuel development on public lands.
- Establishes a permit coordination program for renewable energy on public lands. The Secretary of the Interior is required to sign a Memorandum of Understanding with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Secretary of Defense, and any interested Governor or Tribal leader to better ensure timely reviews of renewable energy permits. This authority is modeled after existing law for fossil fuel development on public lands.
- Allows for noncompetitive leasing for geothermal energy on Federal lands if it will be coproduced from an existing oil or gas well.

As demonstrated at the subcommittee legislative hearing on H.R. 3326, the Biden Administration is already making use of these new authorities to expand renewable energy development on public lands and improve permitting processes.²

The Energy Act of 2020 was a significant step forward but left a number of important provisions behind. First, H.R. 3326 seeks to address concerns about the renewable energy permitting process by codifying a “smart from the start” approach to renewable energy development. Until 2017, the process for approving wind and solar projects on public lands generally involved the Bureau of Land Management (BLM) reviewing right-of-way applications from developers on a first-come, first-serve basis. This system didn’t do enough to ensure a fair return to taxpayers, proved inefficient for the construction of large-scale infrastructure projects like wind and solar, and caused the delays in the review of more promising projects. To address these problems, the Obama administration implemented an approach dubbed “smart from the start” that encouraged development in pre-screened areas with fewer conflicts with other activities on public lands. The value of that approach was demonstrated in 2014, when the BLM held its first successful auction for a pre-screened region, the Dry Lake Solar Energy Zone in

² Statement of Nada Wolff Culver, Bureau of Land Management, U.S. Department of the Interior. Subcommittee on Energy and Mineral Resources, May 24, 2021. <https://naturalresources.house.gov/download/testimony-deputy-director-nada-culver-blm---emr-leg-hrg-052421pdf>.

Clark County, Nevada. The auction brought \$5.8 million in winning bids to the U.S Treasury, and three projects inside the zone were reviewed and approved in less than ten months, less than half the time of a typical project.³

Under this legislation, the Department of the Interior (DOI) will continue this “smart from the start” approach by designating and periodically updating priority areas for wind, solar, and geothermal energy on public lands. These priority areas minimize environmental impacts and conflicts with other uses of public lands such as recreation, conservation, and preservation of wildlife habitat while maximizing the economic potential for developers by, for example, being close to existing or planned transmission infrastructure. Projects proposed inside these priority areas will pay lower fees and receive expedited permitting thanks to advanced preliminary environmental review under the National Environmental Policy Act (NEPA). Developers will not be prohibited from proposing renewable energy projects outside of priority areas, but the legislation is designed to encourage focused development in the priority areas. Land use plans finalized under the California Desert Renewable Energy Conservation Plan (DRECP) are exempted from review until 2030 in order to provide certainty to all stakeholders who participated in the eight-year planning process. By implementing the “smart from the start” approach, the Committee is confident that the development of much-needed renewable energy projects can successfully move forward while protecting the many other values provided by public lands.

The bill also provides limited grandfathering to renewable energy projects impacted by unexpected rate increases under the Wind and Solar Leasing Rule. It was brought to the Committee’s attention, for example, that that one wind project’s rental payments increased by over 300 percent as a result of the rule, and another expects to see over \$100 million in additional costs. Such significant cost increases were not factored into the original business plans and, therefore, not incorporated into contracts signed with utility companies. Limited grandfathering allows these projects to remain economically viable, ensuring that federal taxpayers and local communities receive their promised benefits.

H.R. 3326 ends the disparity between fossil fuel and wind and solar development on public lands regarding the distribution of revenues. For oil, gas, coal, and other leasable minerals, states receive roughly half of all bonus bids, rents, and royalties, creating local support for, and even dependency on, such development for budgetary reasons alone. Wind and solar revenues, in contrast, flow exclusively to the federal government. H.R. 3326 promises to create additional local support for renewable energy projects by diverting some of these revenues to states and counties. It also provides a source of funds that could allow some states and localities to reduce their dependence on fossil fuel-derived income, potentially further accelerating the transition to a clean energy economy. The bill does not change the existing revenue distribution framework for geothermal energy revenue.

³“Interior Department Approves First Solar Energy Zone Projects.” *U.S. Department of the Interior*, 1 June 2015. <https://www.doi.gov/pressreleases/interior-department-approves-first-solar-energy-zone-projects>.

H.R. 3326 aims for a broader positive impact by directing 25 percent of wind and solar energy revenues to a newly established Renewable Energy Resource Conservation Fund. This fund will make resources available to federal, state, and tribal agencies for projects that restore and protect wildlife habitat and improve recreation access on public lands.

Focusing on the energy of the past and ignoring the impacts of climate change is not a formula for a healthy or sustainable future. Instead, it will simply marginalize us internationally and handicap us economically. H.R. 3326 is designed to strike the appropriate balance between responsible renewable energy development and conservation and benefit local communities and federal taxpayers.

COMMITTEE ACTION

H.R. 3326 was introduced on May 19, 2021, by Representative Mike Levin (D–CA). The bill was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture. Within the Natural Resources Committee, the bill was referred to the Subcommittee on Energy and Mineral Resources. On May 24, 2021, the Subcommittee held a hearing on the bill. On November 17, 2021, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. No amendments were offered, and the bill was adopted and ordered favorably reported to the House of Representatives by unanimous consent.

HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Energy and Mineral Resources held on May 24, 2021.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section provides the short title of the bill, the “Public Land Renewable Energy Development Act of 2021”.

Section 2. Table of contents

This section provides the table of contents of the legislation.

Section 3. Definitions

Defines key terms in the bill, including “priority area” (a preferred area for renewable energy), “exclusion area” (areas not suitable for renewable energy), and “variance areas” (other public lands that are open to renewable energy development).

Section 4. Land use planning; updates to programmatic environmental impact statements

Directs the BLM to establish priority and variance areas for geothermal and wind and adopt the 2012 Western Solar Plan as the priority and variance areas for solar. Land classifications would be reviewed at least once every 10 years, with modifications made if necessary. Renewable energy land use plans established under the California Desert Renewable Energy Conservation Plan (DRECP)

are exempted from review until 2030. Solar priority areas established in 2012 shall be reviewed within 3 years of enactment. This section also directs the Department of the Interior to coordinate with states, tribes, local governments, transmission owners and operators, developers, and other appropriate entities when establishing priority areas.

Section 5. Limited grandfathering

Provides limited grandfathering to certain wind and solar energy projects that had already applied for a right-of-way before implementation of the 2016 Wind and Solar Leasing Rule. This section is intended to address unexpected changes to the fee structure for projects that should have been grandfathered before implementation of the rule.

Section 6. Disposition of revenues

Establishes the framework for distribution of revenues from wind and solar projects: 25 percent to states, 25 percent to counties, 25 percent to a new Renewable Energy Resource Conservation Fund, and 25 percent to BLM and other agencies to assist with permitting. Money in the new fund will be distributed by the Secretary of the Interior to federal, state, and tribal agencies for projects protecting and restoring fish and wildlife habitat, or to ensure and improve access for hunting, fishing, and other outdoor recreational activities.

Section 7. Savings

States that nothing in the bill shall change the Secretary's responsibility to manage public lands under the principles of multiple use and sustained yield in accordance with the Federal Land Policy and Management Act and the Forest and Rangeland Renewable Resources Planning Act.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) and clause 3(d) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House passage of the bill.

The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this

bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to promote the development of renewable energy on public lands.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee, if such estimate is not publicly available on the Congressional Budget Office website.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139. The Renewable Energy Resource Conservation Fund established by this bill is related and complementary to, but not duplicative of, the following programs identified in the most recent Catalog of Federal Domestic Assistance published pursuant to 31 U.S.C. §6104: Bureau of Ocean Energy Management Renewable Energy (CFDA No. 15.408).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

COMMITTEE CORRESPONDENCE

U.S. House of Representatives
Committee on AgricultureRoom 1301, Longworth House Office Building
Washington, DC 20515-6001

(202) 225-2171

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December 7, 2022

The Honorable Raul M. Grijalva
Chairman, Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Chairman:

This letter confirms our mutual understanding regarding bills H.R. 3686, the "Ski Hill Resources for Economic Development Act;" H.R. 3326, the "Public Land Renewable Energy Development Act of 2021;" H.R. 6936, the "Stamp Out Invasive Species Act;" H.R. 6435, "To provide for the application of certain provisions of the Secure Rural Schools and Community Self-Determination Act of 2000 for fiscal year 2021;" H.R. 1503, the "Restoring Community Input and Public Protections in Oil and Gas Leasing Act of 2021;" H.R. 1506, the "Transparency in Energy Production Act of 2021;" H.R. 3670, the "Simplifying Outdoor Access for Recreation Act;" H.R. 2021, the "Environmental Justice For All Act;" and H.R. 4690, the "Sustaining America's Fisheries for the Future Act of 2021." Thank you for collaborating with the Committee on Agriculture.

Our Committee will forgo consideration of the above listed bills for the limited purpose of completing and filing bill reports. However, if floor action becomes a possibility, the Committee on Agriculture will require the opportunity to take up these measures. The Committee on Agriculture reserves the right to seek the appointment of any House-Senate conference and requests consultation on any matters within our jurisdiction.

Sincerely,



David Scott
Chairman

Cc:
The Honorable Glenn "GT" Thompson, Ranking Member
The Honorable Nancy Pelosi, Speaker of The House of Representatives
The Honorable Jason Smith, Parliamentarian

RAÚL M. GRIJALVA OF ARIZONA
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U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

December 7, 2022

The Honorable David Scott
Chair
Committee on Agriculture
U.S. House of Representatives
1301 Longworth House Office Building
Washington, DC 20515

Dear Chair Scott:

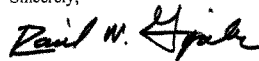
I write to you concerning H.R. 1503, the "Restoring Community Input and Public Protections in Oil and Gas Leasing Act of 2021;" H.R. 1506, the "Transparency in Energy Production Act of 2021;" H.R. 2021, the "Environmental Justice For All Act;" H.R. 3326, the "Public Land Renewable Energy Development Act of 2021;" H.R. 3670, the "Simplifying Outdoor Access for Recreation Act;" H.R. 3686, the "Ski Hill Resources for Economic Development Act;" H.R. 4690, the "Sustaining America's Fisheries for the Future Act of 2021;" H.R. 6435, "To provide for the application of certain provisions of the Secure Rural Schools and Community Self-Determination Act of 2000 for fiscal year 2021;" and H.R. 6936, the "Stamp Out Invasive Species Act."

I recognize that the bills contain provisions that fall within the jurisdiction of the Committee on Agriculture. I acknowledge that your Committee will not formally consider these bills for the limited purpose of completing and filing the bill reports.

Additionally, I confirm our mutual understanding that any floor action on these bills would still require further consultation with, and a separate approval from, the Committee on Agriculture. I would be pleased to support the appointment of members of the Committee on Agriculture to any conference committee to consider such provisions.

I will ensure that our exchange of letters is included in the committee reports for the bills. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you.

Sincerely,



Chair Raúl M. Grijalva
Committee on Natural Resources

Cc: The Honorable Nancy Pelosi, Speaker of the House
The Honorable Bruce Westerman, Ranking Member, Committee on Natural Resources
The Honorable Glen 'GT' Thompson, Ranking Member, Committee on Agriculture
The Honorable Jason Smith, Parliamentarian

SUPPLEMENTAL, MINORITY, ADDITIONAL, OR DISSENTING VIEWS
None.

