To amend the Energy Policy Act of 2005 to require the Secretary of the Interior to establish a program to plug, remediate, and reclaim orphaned oil and gas wells and surrounding land, to provide funds to State and Tribal governments to plug, remediate, and reclaim orphaned oil and gas wells and surrounding land, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 12, 2021

Mr. Lujan (for himself and Mr. Cramer) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Energy Policy Act of 2005 to require the Secretary of the Interior to establish a program to plug, remediate, and reclaim orphaned oil and gas wells and surrounding land, to provide funds to State and Tribal governments to plug, remediate, and reclaim orphaned oil and gas wells and surrounding land, and for other purposes.

Be it enacted by the Senate and House of Representa-tives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Revive Economic Growth and Reclaim Orphaned Wells Act of 2021” or the “REGROW Act of 2021”.

SEC. 2. ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.

Section 349 of the Energy Policy Act of 2005 (42 U.S.C. 15907) is amended to read as follows:

“SEC. 349. ORPHANED WELL SITE PLUGGING, REMEDIATION, AND RESTORATION.

“(a) DEFINITIONS.—In this section:

“(1) FEDERAL LAND.—The term ‘Federal land’ means land administered by a land management agency within—

“(A) the Department of Agriculture; or

“(B) the Department of the Interior.

“(2) IDLED WELL.—The term ‘idled well’ means a well—

“(A) that has been nonoperational for not fewer than 4 years; and

“(B) for which there is no anticipated beneficial future use.

“(3) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).
“(4) OPERATOR.—The term ‘operator’, with respect to an oil or gas operation, means any entity, including a lessee or operating rights owner, that has provided to a relevant authority a written statement that the entity is responsible for the oil or gas operation, or any portion of the operation.

“(5) ORPHANED WELL.—The term ‘orphaned well’—

“(A) with respect to Federal land or Tribal land, means a well—

“(i) that is not used for an authorized purpose, such as production, injection, or monitoring; and

“(ii)(I) for which no operator can be located; or

“(II) the operator of which is unable—

“(aa) to plug the well; and

“(bb) to remediate and reclaim the well site; and

“(B) with respect to State or private land—

“(i) has the meaning given the term by the applicable State; or
“(ii) if that State uses different terminology, has the meaning given another term used by the State to describe a well eligible for plugging, remediation, and reclamation by the State.

“(6) TRIBAL LAND.—The term ‘Tribal land’ means any land or interest in land owned by an Indian Tribe, the title to which is—

“(A) held in trust by the United States; or

“(B) subject to a restriction against alienation under Federal law.

“(b) FEDERAL PROGRAM.—

“(1) ESTABLISHMENT.—Not later than 60 days after the date of enactment of the Revive Economic Growth and Reclaim Orphaned Wells Act of 2021, the Secretary shall establish a program to plug, remediate, and reclaim orphaned wells located on Federal land.

“(2) INCLUDED ACTIVITIES.—The program under this subsection shall—

“(A) include a method of—

“(i) identifying, characterizing, and inventorying orphaned wells and associated pipelines, facilities, and infrastructure on Federal land; and
“(ii) ranking those orphaned wells for priority in plugging, remediation, and reclamation, based on—

“(I) public health and safety;

“(II) potential environmental harm; and

“(III) other subsurface impacts or land use priorities;

“(B) distribute funding in accordance with the priorities established under subparagraph (A)(ii) for—

“(i) plugging orphaned wells;

“(ii) remediating and reclaiming well pads and facilities associated with orphaned wells;

“(iii) remediating soil and restoring native species habitat that has been degraded due to the presence of orphaned wells and associated pipelines, facilities, and infrastructure; and

“(iv) remediating land adjacent to orphaned wells and decommissioning or removing associated pipelines, facilities, and infrastructure;
“(C) provide a public accounting of the costs of plugging, remediation, and reclamation for each orphaned well;

“(D) seek to determine the identities of potentially responsible parties associated with the orphaned well (or a surety or guarantor of such a party), to the extent such information can be ascertained, and make efforts to obtain reimbursement for expenditures to the extent practicable;

“(E) measure and track—

“(i) emissions of methane and other gases associated with orphaned wells; and

“(ii) contamination of groundwater or surface water associated with orphaned wells; and

“(F) identify and address any disproportionate burden of adverse human health or environmental effects of orphaned wells on communities of color, low-income communities, and Tribal and indigenous communities.

“(3) IDLED WELLS.—The Secretary, acting through the Director of the Bureau of Land Management, shall—
“(A) periodically review all idled wells on Federal land; and

“(B) reduce the inventory of idled wells on Federal land.

“(4) Cooperation and consultation.—In carrying out the program under this subsection, the Secretary shall—

“(A) work cooperatively with—

“(i) the Secretary of Agriculture;

“(ii) affected Indian Tribes; and

“(iii) each State within which Federal land is located; and

“(B) consult with—

“(i) the Secretary of Energy; and

“(ii) the Interstate Oil and Gas Compact Commission.

“(c) Funding for State Programs.—

“(1) In general.—The Secretary shall provide to States, in accordance with this subsection—

“(A) initial grants under paragraph (3);

“(B) formula grants under paragraph (4);

and

“(C) performance grants under paragraph (5).

“(2) Activities.—
“(A) IN GENERAL.—A State may use
funding provided under this subsection for any
of the following purposes:

“(i) To plug, remediate, and reclaim
orphaned wells located on State-owned or
privately owned land.

“(ii) To identify and characterize un-
documented orphaned wells on State and
private land.

“(iii) To rank orphaned wells based
on factors including—

“(I) public health and safety;

“(II) potential environmental
harm; and

“(III) other land use priorities.

“(iv) To make information regarding
the use of funds received under this sub-
section available on a public website.

“(v) To measure and track—

“(I) emissions of methane and
other gases associated with orphaned
wells; and

“(II) contamination of ground-
water or surface water associated with
orphaned wells.
“(vi) To remediate soil and restore

native species habitat that has been de-

graded due to the presence of orphaned

wells and associated pipelines, facilities,

and infrastructure.

“(vii) To remediate land adjacent to

orphaned wells and decommission or re-

move associated pipelines, facilities, and in-

frastructure.

“(viii) To identify and address any
disproportionate burden of adverse human

health or environmental effects of or-

phaned wells on communities of color, low-

income communities, and Tribal and indig-

enous communities.

“(ix) Subject to subparagraph (B), to

administer a program to carry out any ac-
tivities described in clauses (i) through

(viii).

“(B) Administrative cost limitation.—

“(i) In general.—Except as pro-

vided in clause (ii), a State shall not use

more than 10 percent of the funds received

under this subsection during a fiscal year
for administrative costs under subparagraph (A)(ix).

“(ii) EXCEPTION.—The limitation under clause (i) shall not apply to funds used by a State as described in paragraph (3)(A)(ii).

“(3) INITIAL GRANTS.—

“(A) IN GENERAL.—The Secretary shall distribute—

“(i) not more than $25,000,000 to each State that submits to the Secretary, by not later than 180 days after the date of enactment of the Revive Economic Growth and Reclaim Orphaned Wells Act of 2021, a request for funding under this clause, including—

“(I) an estimate of the number of jobs that will be created or saved through the activities proposed to be funded; and

“(II) a certification that—

“(aa) the State is a Member State or Associate Member State of the Interstate Oil and Gas Compact Commission;
“(bb) there are 1 or more documented orphaned wells located in the State; and

“(cc) the State will use not less than 90 percent of the funding requested under this subsection to issue new contracts, amend existing contracts, or issue grants for plugging, remediation, and reclamation work by not later than 90 days after the date of receipt of the funds; and

“(ii) not more than $5,000,000 to each State that—

“(I) requests funding under this clause;

“(II) does not receive a grant under clause (i); and

“(III) certifies to the Secretary that—

“(aa) the State—

“(AA) has in effect a plugging, remediation, and reclamation program for orphaned wells; or
“(BB) the capacity to initiate such a program; or

“(bb) the funds provided under this paragraph will be used to carry out any administrative actions necessary to develop an application for a formula grant under paragraph (4) or a performance grant under paragraph (5).

“(B) DISTRIBUTION.—The Secretary shall distribute funds to a State under this paragraph by not later than the date that is 30 days after the date on which the State submits to the Secretary the certification required under clause (i)(II) or (ii)(III) of subparagraph (A), as applicable.

“(C) DEADLINE FOR EXPENDITURE.—A State that receives funds under this paragraph shall reimburse the Secretary in an amount equal to the amount of the funds that remain unobligated on the date that is 1 year after the date of receipt of the funds.

“(D) REPORT.—Not later than 15 months after the date on which a State receives funds
under this paragraph, the State shall submit to the Secretary a report that describes the means by which the State used the funds in accordance with the certification submitted by the State under subparagraph (A).

“(4) FORMULA GRANTS.—

“(A) ESTABLISHMENT.—

“(i) IN GENERAL.—The Secretary shall establish a formula for the distribution to each State described in clause (ii) of funds under this paragraph.

“(ii) DESCRIPTION OF STATES.—A State referred to in clause (i) is a State that, by not later than 45 days after the date of enactment of the Revive Economic Growth and Reclaim Orphaned Wells Act of 2021, submits to the Secretary a notice of the intent of the State to submit an application under subparagraph (B), including a description of the factors described in clause (iii) with respect to the State.

“(iii) FACTORS.—The formula established under clause (i) shall account for, with respect to an applicant State, the following factors:
“(I) Job losses in the oil and gas industry in the State during the period—

“(aa) beginning on March 1, 2020; and


“(II) The number of documented orphaned wells located in the State, and the projected cost—

“(aa) to plug or reclaim those orphaned wells;

“(bb) to reclaim adjacent land; and

“(cc) to decommission or remove associated pipelines, facilities, and infrastructure.

“(iv) Publication.—Not later than 75 days after the date of enactment of this Act, the Secretary shall publish on a public website the amount that each State is eligible to receive under the formula under this subparagraph.
“(B) APPLICATION.—To be eligible to receive a formula grant under this paragraph, a State shall submit to the Secretary an application that includes—

“(i) a description of—

“(I) the State program for orphaned well plugging, remediation, and restoration, including legal authorities, processes used to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating the readiness of the State to carry out proposed activities using the grant;

“(II) the activities to be carried out with the grant, including an identification of the estimated health, safety, habitat, and environmental benefits of plugging, remediating, or reclaiming orphaned wells; and

“(III) the means by which the information regarding the activities of the State under this paragraph will be made available on a public website;

“(ii) an estimate of—
“(I) the number of orphaned wells in the State that will be plugged, remediated, or reclaimed;

“(II) the projected cost of—

“(aa) plugging, remediating, or reclaiming orphaned wells;

“(bb) remediating or reclaiming adjacent land; and

“(cc) decommissioning or removing associated pipelines, facilities, and infrastructure;

“(III) the amount of that projected cost that will be offset by the forfeiture of financial assurance instruments, the estimated salvage of well site equipment, or other proceeds from the orphaned wells and adjacent land; 

“(IV) the number of jobs that will be created or saved through the activities to be funded under this paragraph; and

“(V) the amount of funds to be spent on administrative costs;
“(iii) a certification that any financial
assurance instruments available to cover
plugging, remediation, or reclamation costs
will be used by the State; and
“(iv) the definitions and processes
used by the State to formally identify a
well as—
“(I) an orphaned well; or
“(II) if the State uses different
terminology, otherwise eligible for
plugging, remediation, and reclama-
tion by the State.
“(C) DISTRIBUTION.—The Secretary shall
distribute funds to a State under this para-
graph by not later than the date that is 60 days
after the date on which the State submits to
the Secretary a completed application under
subparagraph (B).
“(D) DEADLINE FOR EXPENDITURE.—A
State that receives funds under this paragraph
shall reimburse the Secretary in an amount
equal to the amount of the funds that remain
unobligated on the date that is 5 years after the
date of receipt of the funds.
“(E) CONSULTATION.—In making a determination under this paragraph regarding the eligibility of a State to receive a formula grant, the Secretary shall consult with—

“(i) the Administrator of the Environmental Protection Agency;

“(ii) the Secretary of Energy; and

“(iii) the Interstate Oil and Gas Compact Commission.

“(5) PERFORMANCE GRANTS.—

“(A) ESTABLISHMENT.—The Secretary shall provide to States, in accordance with this paragraph—

“(i) regulatory improvement grants under subparagraph (E); and

“(ii) matching grants under subparagraph (F).

“(B) APPLICATION.—To be eligible to receive a grant under this paragraph, a State shall submit to the Secretary an application including—

“(i) each element described in an application for a grant under paragraph (4)(B);
“(ii) activities carried out by the State to address orphaned wells located in the State, including—

“(I) increasing State spending on well plugging, remediation, and reclamation; or

“(II) improving regulation of oil and gas wells; and

“(iii) the means by which the State will use funds provided under this paragraph—

“(I) to lower unemployment in the State; and

“(II) to improve economic conditions in economically distressed areas of the State.

“(C) DISTRIBUTION.—The Secretary shall distribute funds to a State under this paragraph by not later than the date that is 60 days after the date on which the State submits to the Secretary a completed application under subparagraph (B).

“(D) CONSULTATION.—In making a determination under this paragraph regarding the eligibility of a State to receive a grant under
subparagraph (E) or (F), the Secretary shall consult with—

“(i) the Administrator of the Environmental Protection Agency;
“(ii) the Secretary of Energy; and
“(iii) the Interstate Oil and Gas Compact Commission.

“(E) REGULATORY IMPROVEMENT GRANTS.—

“(i) IN GENERAL.—Beginning on the date that is 180 days after the date on which an initial grant is provided to a State under paragraph (3), the Secretary shall provide to the State a regulatory improvement grant under this subparagraph, if the State meets, during the 10-year period ending on the date on which the State submits to the Secretary an application under subparagraph (B), 1 of the following criteria:

“(I) The State has strengthened plugging standards and procedures designed to ensure that wells located in the State are plugged in an effective manner that protects ground-
water and other natural resources, public health and safety, and the environment.

“(II) The State has made improvements to State programs designed to reduce future orphaned well burdens, such as financial assurance reform, alternative funding mechanisms for orphaned well programs, and reforms to programs relating to well transfer or temporary abandonment.

“(ii) LIMITATIONS.—

“(I) NUMBER.—The Secretary may issue to a State under this subparagraph not more than 1 grant for each criterion described in subclause (I) or (II) of clause (i).

“(II) MAXIMUM AMOUNT.—The amount of a single grant provided to a State under this subparagraph shall be not more than $20,000,000.

“(iii) REIMBURSEMENT FOR FAILURE TO MAINTAIN PROTECTIONS.—A State that receives a grant under this subparagraph
shall reimburse the Secretary in an amount equal to the amount of the grant in any case in which, during the 10-year period beginning on the date of receipt of the grant, the State enacts a law or regulation that, if in effect on the date of submission of the application under subparagraph (B), would have prevented the State from being eligible to receive the grant under clause (i).

“(F) MATCHING GRANTS.—

“(i) IN GENERAL.—Beginning on the date that is 180 days after the date on which an initial grant is provided to a State under paragraph (3), the Secretary shall provide to the State funding, in an amount equal to the difference between—

“(I) the average annual amount expended by the State during the period of fiscal years 2010 through 2019—

“(aa) to plug, remediate, and reclaim orphaned wells; and
“(bb) to decommission or remove associated pipelines, facilities, or infrastructure; and

“(II) the amount that the State certifies to the Secretary the State will expend, during the fiscal year in which the State will receive the grant under this subparagraph—

“(aa) to plug, remediate, and reclaim orphaned wells;

“(bb) to remediate or reclaim adjacent land; and

“(cc) to decommission or remove associated pipelines, facilities, and infrastructure.

“(ii) LIMITATIONS.—

“(I) FISCAL YEAR.—The Secretary may issue to a State under this subparagraph not more than 1 grant for each fiscal year.

“(II) TOTAL FUNDS PROVIDED.—The Secretary may provide to a State under this subparagraph a total amount equal to not more than
$30,000,000 during the period of fiscal years 2021 through 2030.

“(d) **Tribal Orphaned Well Site Plugging, Remediation, and Restoration.**—

“(1) **Establishment.**—The Secretary shall establish in the Bureau of Indian Affairs a program under which the Secretary shall provide to Indian Tribes grants in accordance with this subsection.

“(2) **Eligible Activities.**—

“(A) **In General.**—An Indian Tribe may use a grant received under this subsection—

“(i) to plug, remediate, or reclaim an orphaned well on Tribal land of the Indian Tribe;

“(ii) to remediate soil and restore native species habitat that has been degraded due to the presence of an orphaned well or associated pipelines, facilities, or infrastructure on Tribal land;

“(iii) to remediate Tribal land adjacent to orphaned wells and decommission or remove associated pipelines, facilities, and infrastructure;

“(iv) to provide an online public accounting of the cost of plugging, remediat-
atation, and reclamation for each orphaned
well site on Tribal land;

“(v) to identify and characterize un-
documented orphaned wells on Tribal land;

and

“(vi) to develop or administer a Tribal
program to carry out any activities de-
scribed in clauses (i) through (v).

“(B) ADMINISTRATIVE COST LIMITA-
tion.—

“(i) IN GENERAL.—Except as pro-
vided in clause (ii), an Indian Tribe shall
not use more than 10 percent of the funds
received under this subsection during a fis-
cal year for administrative costs under
subparagraph (A)(vi).

“(ii) EXCEPTION.—The limitation
under clause (i) shall not apply to any
funds used to carry out an administrative
action necessary for the development of a
Tribal program described in subparagraph
(A)(vi).

“(3) FACTORS FOR CONSIDERATION.—In deter-
mining whether to provide to an Indian Tribe a
grant under this subsection, the Secretary shall take into consideration—

“(A) the unemployment rate of the Indian Tribe on the date on which the Indian Tribe submits an application under paragraph (4); and

“(B) the estimated number of orphaned wells on the Tribal land of the Indian Tribe.

“(4) APPLICATION.—To be eligible to receive a grant under this subsection, an Indian Tribe shall submit to the Secretary an application that includes—

“(A) a description of—

“(i) the Tribal program for orphaned well plugging, remediation, and restoration, including legal authorities, processes used to identify and prioritize orphaned wells, procurement mechanisms, and other program elements demonstrating the readiness of the Indian Tribe to carry out the proposed activities, or plans to develop such a program; and

“(ii) the activities to be carried out with the grant, including an identification of the estimated health, safety, habitat,
and environmental benefits of plugging, remediating, or reclaiming orphaned wells and remediating or reclaiming adjacent land; and

“(B) an estimate of—

“(i) the number of orphaned wells that will be plugged, remediated, or reclaimed; and

“(ii) the projected cost of—

“(I) plugging, remediating, or reclaiming orphaned wells;

“(II) remediating or reclaiming adjacent land; and

“(III) decommissioning or removing associated pipelines, facilities, and infrastructure.

“(5) DISTRIBUTION.—The Secretary shall distribute funds to an Indian Tribe under this subsection by not later than the date that is 60 days after the date on which the Indian Tribe submits to the Secretary a completed application under paragraph (4).

“(6) DEADLINE FOR EXPENDITURE.—An Indian Tribe that receives funds under this subsection shall reimburse the Secretary in an amount equal to
the amount of the funds that remain unobligated on
the date that is 5 years after the date of receipt of
the funds.

“(7) DELEGATION TO SECRETARY.—

“(A) IN GENERAL.—An Indian Tribe on
the Tribal land of which is located an orphaned
well may submit to the Secretary a request for
the Secretary to administer and carry out plug-
ning, remediation, and reclamation activities re-
ling to the orphaned well on behalf of the In-
dian Tribe.

“(B) TREATMENT.—For the purposes of
subsection (b), an orphaned well with respect to
which an Indian Tribe of jurisdiction has sub-
mitted to the Secretary a request under sub-
paragraph (A) shall be considered to be located
on Federal land administered by a land man-
agement agency within the Department of the
Interior.

“(e) TECHNICAL ASSISTANCE.—The Secretary of
Energy, in cooperation with the Secretary and the Inter-
state Oil and Gas Compact Commission, shall provide
technical assistance to the Federal land management
agencies and oil and gas producing States and Indian
Tribes to support practical and economical remedies for
environmental problems caused by orphaned wells on Federal land, Tribal land, and State and private land, including the sharing of best practices in the management of oil and gas well inventories to ensure the availability of funds to plug, remediate, and restore oil and gas well sites on cessation of operation.

“(f) REPORT TO CONGRESS.—Not later than 1 year after the date of enactment of the Revive Economic Growth and Reclaim Orphaned Wells Act of 2021, and not less frequently than annually thereafter, the Secretary shall submit to the Committees on Appropriations and Energy and Natural Resources of the Senate and the Committees on Appropriations and Natural Resources of the House of Representatives a report describing the program established and grants awarded under this section, including—

“(1) an updated inventory of wells located on Federal land, Tribal land, and State and private land that are—

“(A) orphaned wells; or

“(B) at risk of becoming orphaned wells;

“(2) an estimate of the quantities of—

“(A) methane and other gasses emitted from orphaned wells; and
“(B) emissions reduced as a result of plugging, remediating, and reclaiming orphaned wells;
“(3) the number of jobs created and saved through the plugging, remediation, and reclamation of orphaned wells; and
“(4) the acreage of habitat restored using grants awarded to plug, remediate, and reclaim orphaned wells and to remediate or reclaim adjacent land, together with a description of the purposes for which that land is likely to be used in the future.
“(g) Effect of Section.—
“(1) No expansion of liability.—Nothing in this section establishes or expands the responsibility or liability of any entity with respect to—
“(A) plugging any well; or
“(B) remediating or reclaiming any well site.
“(2) Tribal land.—Nothing in this section—
“(A) relieves the Secretary of any obligation under section 3 of the Act of May 11, 1938 (25 U.S.C. 396c; 52 Stat. 348, chapter 198), to plug, remediate, or reclaim an orphaned well located on Tribal land; or
“(B) absolves the United States from a responsibility to plug, remediate, or reclaim an orphaned well located on Tribal land or any other responsibility to an Indian Tribe, including any responsibility that derives from—

“(i) the trust relationship between the United States and Indian Tribes;

“(ii) any treaty, law, or Executive order; or

“(iii) any agreement between the United States and an Indian Tribe.

“(3) OWNER OR OPERATOR NOT ABSOLVED.— Nothing in this section absolves the owner or operator of an oil or gas well of any potential liability for—

“(A) reimbursement of any plugging or reclamation costs associated with the well; or

“(B) any adverse effect of the well on the environment.

“(h) FUNDING.—

“(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer the following amounts, to remain available until September 30, 2030:

“(A) To the Secretary—
“(i) $250,000,000 to carry out the program under subsection (b);

“(ii) $775,000,000 to provide grants under subsection (c)(3);

“(iii) $2,000,000,000 to provide grants under subsection (c)(4);

“(iv) $1,500,000,000 to provide grants under subsection (c)(5); and

“(v) $150,000,000 to carry out the program under subsection (d).

“(B) To the Secretary of Energy, $30,000,000 to conduct research and development activities in cooperation with the Interstate Oil and Gas Compact Commission to assist the Federal land management agencies, States, and Indian Tribes in—

“(i) identifying and characterizing undocumented orphaned wells; and

“(ii) mitigating the environmental risks of undocumented orphaned wells.

“(C) To the Interstate Oil and Gas Compact Commission, $2,000,000 to carry out this section.

“(2) RECEIPT AND ACCEPTANCE.—The Secretary, the Secretary of Energy, and the Interstate
Oil and Gas Compact Commission shall be entitled to receive, shall accept, and shall use to carry out this section the funds transferred under subparagraphs (A), (B), and (C), respectively, of paragraph (1), without further appropriation.”