

116TH CONGRESS
1ST SESSION

H. R. 2156

To amend the Surface Mining Control and Reclamation Act of 1977 to provide funds to States and Indian tribes for the purpose of promoting economic revitalization, diversification, and development in economically distressed communities through the reclamation and restoration of land and water resources adversely affected by coal mining carried out before August 3, 1977, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2019

Mr. CARTWRIGHT (for himself, Mr. ROGERS of Kentucky, Mr. BEYER, and Mr. THOMPSON of Pennsylvania) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to provide funds to States and Indian tribes for the purpose of promoting economic revitalization, diversification, and development in economically distressed communities through the reclamation and restoration of land and water resources adversely affected by coal mining carried out before August 3, 1977, 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,*

2 This Act may be cited as the “Revitalizing the Econ-
3 omy of Coal Communities by Leveraging Local Activities
4 and Investing More Act of 2019” or the “RECLAIM Act
5 of 2019”.

(a) IN GENERAL.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended by adding at the end the following:

“SEC. 416. ABANDONED MINE LAND ECONOMIC REVITALIZATION.

18 “(b) IN GENERAL.—From amounts deposited into
19 the fund under section 401(b) before October 1, 2007, and
20 not otherwise appropriated to the extent such funds are
21 available, \$200,000,000 shall be made available to the
22 Secretary, without further appropriation, for each of fiscal
23 years 2020 through 2024 for distribution to States and
24 Indian tribes in accordance with this section for reclama-
25 tion and restoration projects at sites identified as prior-
26 ities under section 403(a): *Provided*, That if less than

1 \$200,000,000 is available in any fiscal year to the Sec-
2 retary, such remaining amount shall be made available to
3 the Secretary, without further appropriation, and such fis-
4 cal year shall end distributions made available under this
5 section.

6 “(c) USE OF FUNDS.—Funds distributed to a State
7 or Indian tribe under subsection (d) shall be used only
8 for projects classified under the priorities of section 403(a)
9 that meet the following criteria:

10 “(1) CONTRIBUTION TO FUTURE ECONOMIC OR
11 COMMUNITY DEVELOPMENT.—

12 “(A) IN GENERAL.—The project, upon
13 completion of reclamation, is intended to create
14 favorable conditions for the economic develop-
15 ment of the project site or create favorable con-
16 ditions that promote the general welfare
17 through economic and community development
18 of the area in which the project is conducted.

19 “(B) DEMONSTRATION OF CONDITIONS.—
20 Such conditions are demonstrated by—

21 “(i) documentation of the role of the
22 project in such area’s economic develop-
23 ment strategy or other economic and com-
24 munity development planning process;

1 “(ii) any other documentation of the
2 planned economic and community use of
3 the project site after the primary reclama-
4 tion activities are completed, which may in-
5 clude contracts, agreements in principle, or
6 other evidence that, once reclaimed, the
7 site is reasonably anticipated to be used
8 for one or more industrial, commercial,
9 residential, agricultural, or recreational
10 purposes; or

11 “(iii) any other documentation agreed
12 to by the State or Indian tribe that dem-
13 onstrates the project will meet the criteria
14 set forth in this subsection.

15 “(2) LOCATION IN ECONOMICALLY DISTRESSED
16 COMMUNITY AFFECTED BY RECENT DECLINE IN
17 MINING.—

18 “(A) IN GENERAL.—The project will be
19 conducted in a community—

20 “(i) that has been adversely affected
21 economically by a recent reduction in coal
22 mining related activity, as demonstrated by
23 employment data, per capita income, or
24 other indicators of economic distress; or

1 “(ii)(I) that has historically relied on
2 coal mining for a substantial portion of its
3 economy; and

4 “(II) in which the economic contribu-
5 tion of coal mining has significantly de-
6 clined.

7 “(B) SUBMISSION AND PUBLICATION OF
8 EVIDENCE OR ANALYSIS.—Any evidence or
9 analysis relied upon in selecting the location of
10 a project under this subparagraph shall be sub-
11 mitted to the Secretary for publication. The
12 Secretary shall publish such evidence or anal-
13 ysis in the Federal Register within 30 days
14 after receiving such submission.

15 “(3) STAKEHOLDER COLLABORATION.—

16 “(A) IN GENERAL.—The project has been
17 the subject of project planning under subsection
18 (g) and has been the focus of collaboration, in-
19 cluding partnerships, as appropriate, with inter-
20 ested persons or local organizations.

21 “(B) PUBLIC NOTICE.—As part of project
22 planning—

23 “(i) the public has been notified of the
24 project and has been given an opportunity
25 to comment at a public meeting convened

1 in a community near the proposed project
2 site; and

3 “(ii) the State or Indian tribe pub-
4 lished notice of such meetings in local
5 newspapers of general circulation, on the
6 Internet, and by any other means consid-
7 ered desirable by the Secretary.

8 “(C) ELECTRONIC NOTIFICATION.—The
9 State or Indian tribe established a way for in-
10 terested persons to receive electronically all
11 public notices issued under subparagraph (B)
12 and any written declarations submitted to the
13 Secretary under paragraph (5).

14 “(4) ELIGIBLE APPLICANTS.—The project has
15 been proposed by entities of State, local, county, or
16 tribal governments, or local organizations, and will
17 be approved and executed by State or tribal pro-
18 grams, approved under section 405 or referred to in
19 section 402(g)(8)(B), which may include subcon-
20 tracting project-related activities, as appropriate.

21 “(5) WAIVER.—If the State or Indian tribe—

22 “(A) cannot provide documentation de-
23 scribed in paragraph (1)(B) for a project con-
24 ducted under a priority stated in paragraph (1)
25 or (2) of section 403(a), or

1 “(B) is unable to meet the requirements
2 under paragraph (2),
3 the State or Indian tribe shall submit a written dec-
4 laration to the Secretary requesting an exemption
5 from the requirements of those subparagraphs. The
6 declaration must explain why achieving favorable
7 conditions for economic or community development
8 at the project site is not practicable, or why the re-
9 quirements of paragraph (2) cannot be met, and
10 that sufficient funds distributed annually under sec-
11 tion 401 are not available to implement the project.
12 Such request for an exemption is deemed to be ap-
13 proved, except the Secretary shall deny such request
14 if the Secretary determines the declaration to be
15 substantially inadequate. Any denial of such request
16 shall be resolved at the State’s or Indian tribe’s re-
17 quest through the procedures described in subsection
18 (e).

19 “(d) DISTRIBUTION OF FUNDS.—

20 “(1) UNCERTIFIED STATES.—

21 “(A) IN GENERAL.—From the amount
22 made available in subsection (b), the Secretary
23 shall distribute \$195,000,000 annually for each
24 of fiscal years 2020 through 2024 to States and
25 Indian tribes that have a State or tribal pro-

1 gram approved under section 405 or are re-
2 ferred to in section 402(g)(8)(B), and have not
3 made a certification under section 411(a) in
4 which the Secretary has concurred, as follows:

5 “(i) Four-fifths of such amount shall
6 be distributed based on the proportion of
7 the amount of coal historically produced in
8 each State or from the lands of each In-
9 dian tribe concerned before August 3,
10 1977.

11 “(ii) One-fifth of such amount shall be
12 distributed based on the proportion of rec-
13 lamation fees paid during the period of fis-
14 cal years 2012 through 2016 for lands in
15 each State or lands of each Indian tribe
16 concerned.

17 “(B) SUPPLEMENTAL FUNDS.—Funds dis-
18 tributed under this section—

19 “(i) shall be in addition to, and shall
20 not affect, the amount of funds distrib-
21 uted—

22 “(I) to States and Indian tribes
23 under section 401(f); and

24 “(II) to States and Indian tribes
25 that have made a certification under

1 section 411(a) in which the Secretary
2 has concurred, subject to the cap de-
3 scribed in section 402(i)(3); and

4 “(ii) shall not reduce any funds dis-
5 tributed to a State or Indian tribe by rea-
6 son of the application of section 402(g)(8).

7 “(2) ADDITIONAL FUNDING TO CERTAIN
8 STATES AND INDIAN TRIBES.—

9 “(A) ELIGIBILITY.—From the amount
10 made available in subsection (b), the Secretary
11 shall distribute \$5,000,000 annually for each of
12 the five fiscal years beginning with fiscal year
13 2020 to States and Indian tribes that have a
14 State program approved under section 405 and
15 have made a certification under section 411(a)
16 in which the Secretary has concurred.

17 “(B) APPLICATION FOR FUNDS.—Using
18 the process in section 405(f), any State or In-
19 dian tribe described in subparagraph (A) may
20 submit a grant application to the Secretary for
21 funds under this paragraph. The Secretary
22 shall review each grant application to confirm
23 that the projects identified in the application
24 for funding are eligible under subsection (c).

1 “(C) DISTRIBUTION OF FUNDS.—The
2 amount of funds distributed to each State or
3 Indian tribe under this paragraph shall be de-
4 termined by the Secretary based on the dem-
5 onstrated need for the funding to accomplish
6 the purpose of this section.

7 “(3) REALLOCATION OF UNCOMMITTED
8 FUNDS.—

9 “(A) COMMITTED DEFINED.—For pur-
10 poses of this paragraph the term ‘committed’—

11 “(i) means that funds received by the
12 State or Indian tribe—

13 “(I) have been exclusively applied
14 to or reserved for a specific project
15 and therefore are not available for any
16 other purpose; or

17 “(II) have been expended or des-
18 ignated by the State or Indian tribe
19 for the completion of a project;

20 “(ii) includes use of any amount for
21 project planning under subsection (g); and

22 “(iii) reflects an acknowledgment by
23 Congress that, based on the documentation
24 required under subsection (c)(2)(B), any
25 unanticipated delays to commit such funds

1 that are outside the control of the State or
2 Indian tribe concerned shall not affect its
3 allocations under this section.

4 “(B) FISCAL YEARS 2023 AND 2024.—For
5 each of fiscal years 2023 and 2024, the Sec-
6 retary shall reallocate in accordance with sub-
7 paragraph (D) any amount available for dis-
8 tribution under this subsection that has not
9 been committed to eligible projects in the pre-
10 ceding 2 fiscal years, among the States and In-
11 dian tribes that have committed to eligible
12 projects the full amount of their annual alloca-
13 tion for the preceding fiscal year.

14 “(C) FISCAL YEAR 2025.—For fiscal year
15 2025, the Secretary shall reallocate in accord-
16 ance with subparagraph (D) any amount avail-
17 able for distribution under this subsection that
18 has not been committed to eligible projects or
19 distributed under paragraph (1)(A), among the
20 States and Indian tribes that have committed to
21 eligible projects the full amount of their annual
22 allocation for the preceding fiscal years.

23 “(D) AMOUNT OF REALLOCATION.—The
24 amount reallocated to each State or Indian
25 tribe under each of subparagraphs (B) and (C)

1 shall be determined by the Secretary to reflect,
2 to the extent practicable—

3 “(i) the proportion of unreclaimed eli-
4 gible lands and waters the State or Indian
5 tribe has in the inventory maintained
6 under section 403(c);

7 “(ii) the average of the proportion of
8 reclamation fees paid for lands in each
9 State or lands of each Indian tribe con-
10 cerned; and

11 “(iii) the proportion of coal mining
12 employment loss incurred in the State or
13 on lands of the Indian tribe, respectively,
14 as determined by the Mine Safety and
15 Health Administration, over the 5-year pe-
16 riod preceding the fiscal year for which the
17 reallocation is made.

18 “(e) RESOLUTION OF SECRETARY’S CONCERNS; CON-
19 GRESSIONAL NOTIFICATION.—If the Secretary does not
20 agree with a State or Indian tribe that a proposed project
21 meets the criteria set forth in subsection (c)—

22 “(1) the Secretary and the State or tribe shall
23 meet and confer for a period of not more than 45
24 days to resolve the Secretary’s concerns, except that

1 such period may be shortened by the Secretary if the
2 Secretary's concerns are resolved;

3 “(2) during that period, at the State's or In-
4 dian tribe's request, the Secretary may consult with
5 any appropriate Federal agency; and

6 “(3) at the end of that period, if the Secretary's
7 concerns are not resolved the Secretary shall provide
8 to the Committee on Natural Resources of the
9 House of Representatives and the Committee on En-
10 ergy and Natural Resources of the Senate an expla-
11 nation of the concerns and such project proposal
12 shall not be eligible for funds distributed under this
13 section.

14 “(f) ACID MINE DRAINAGE TREATMENT.—

15 “(1) IN GENERAL.—Subject to paragraph (2), a
16 State or Indian tribe that receives funds under this
17 section may use up to 30 percent of such funds as
18 necessary to supplement the State's or tribe's acid
19 mine drainage abatement and treatment fund estab-
20 lished under section 402(g)(6)(A), for future oper-
21 ation and maintenance costs for the treatment of
22 acid mine drainage associated with the individual
23 projects funded under this section. A State or Indian
24 tribe shall specify the total funds allotted for such

costs in its application submitted under subsection (d)(2)(B).

“(2) CONDITION.—A State or Indian tribe may use funds under this subsection only if the State or tribe can demonstrate that the annual grant distributed to the State or tribe pursuant to section 401(f), including any interest from the State’s or tribe’s acid mine drainage abatement and treatment fund that is not used for the operation or maintenance of preexisting acid mine drainage treatment systems, is insufficient to fund the operation and maintenance of any acid mine drainage treatment system associated with an individual project funded under this section.

“(g) PROJECT PLANNING AND ADMINISTRATION.—

“(1) STATES AND INDIAN TRIBES.—

“(A) IN GENERAL.—A State or Indian tribe may use up to 10 percent of its annual distribution under this section for project planning and the costs of administering this section.

“(B) PLANNING REQUIREMENTS.—Planning under this paragraph may include—

“(i) identifying eligible projects;

“(ii) updating the inventory referred to in section 403(c);

1 “(iii) developing project designs;
2 “(iv) collaborating with stakeholders,
3 including public meetings;
4 “(v) preparing cost estimates; or
5 “(vi) engaging in other similar activi-
6 ties necessary to facilitate reclamation ac-
7 tivities under this section.

8 “(2) SECRETARY.—The Secretary may expend,
9 from amounts made available to the Secretary under
10 section 402(g)(3)(D), not more than \$3,000,000
11 during the fiscal years for which distributions occur
12 under subsection (b) for staffing and other adminis-
13 trative expenses necessary to carry out this section.

14 “(h) REPORT TO CONGRESS.—The Secretary shall
15 provide to the Committee on Natural Resources of the
16 House of Representatives, the Committees on Appropria-
17 tions of the House of Representatives and the Senate, and
18 the Committee on Energy and Natural Resources of the
19 Senate at the end of each fiscal year for which such funds
20 are distributed a detailed report—

21 “(1) on the various projects that have been un-
22 dertaken with such funds;

23 “(2) the extent and degree of reclamation using
24 such funds that achieved the priorities described in
25 paragraph (1) or (2) of section 403(a);

1 “(3) the community and economic benefits that
 2 are resulting from, or are expected to result from,
 3 the use of the funds that achieved the priorities de-
 4 scribed in paragraph (3) of section 403(a); and

5 “(4) the reduction since the previous report in
 6 the inventory referred to in section 403(c).

7 “(i) PROHIBITION ON CERTAIN USE OF FUNDS.—
 8 Any State or Indian tribe that uses the funds distributed
 9 under this section for purposes other than reclamation or
 10 drainage abatement expenditures, as made eligible by sec-
 11 tion 404, and for the purposes authorized under sub-
 12 sections (f) and (g), shall be barred from receiving any
 13 subsequent funding under this section.”.

14 (b) CLERICAL AMENDMENT.—The table of contents
 15 in the first section of the Surface Mining Control and Rec-
 16 lamation Act of 1977 is amended by adding at the end
 17 of the items relating to title IV the following:

“Sec. 416. Abandoned mine land economic revitalization.”.

18 **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

19 The Surface Mining Control and Reclamation Act of
 20 1977 is amended—

21 (1) in section 401(c) (30 U.S.C. 1231(c)), by
 22 striking “and” after the semicolon at the end of
 23 paragraph (10), by redesignating paragraph (11) as
 24 paragraph (12), and by inserting after paragraph
 25 (10) the following:

1 “(11) to implement section 416; and”;

2 (2) in section 401(d)(3) (30 U.S.C.

3 1231(d)(3)), by striking “subsection (f)” and insert-

4 ing “subsection (f) and section 416(a)”;

5 (3) in section 402(g) (30 U.S.C. 1232(g))—

6 (A) in paragraph (1), by inserting “and

7 section 416” after “subsection (h)”;

8 (B) by adding at the end of paragraph (3)

9 the following:

10 “(F) For the purpose of section

11 416(d)(2)(A).”; and

12 (4) in section 403(c) (30 U.S.C. 1233(c)), by

13 inserting after the second sentence the following:

14 “As practicable, States and Indian tribes shall offer

15 such amendments based on the use of remote sens-

16 ing, global positioning systems, and other advanced

17 technologies.”.

18 **SEC. 4. MINIMUM STATE PAYMENTS.**

19 Section 402(g)(8)(A) of the Surface Mining Control

20 and Reclamation Act of 1977 (30 U.S.C. 1232(g)(8)) is

21 amended by striking “\$3,000,000” and inserting

22 “\$5,000,000”.

23 **SEC. 5. GAO STUDY OF USE OF FUNDS.**

24 Not later than two years after the date of the enact-

25 ment of this Act, the Comptroller General of the United

1 States shall study and report to the Congress on uses of
 2 funds authorized by this Act, including regarding—

3 (1) the solvency of the Abandoned Mine Rec-
 4 lamation Fund; and

5 (2) the impact of such use on payments and
 6 transfers under the Surface Mining Control and
 7 Reclamation Act of 1977 (30 U.S.C. 1201) to—

8 (A) States for which a certification has
 9 been made under section 411 of such Act (30
 10 U.S.C. 1241);

11 (B) States for which such a certification
 12 has not been made; and

13 (C) transfers to United Mine Workers of
 14 America Combined Benefit Fund.

15 **SEC. 6. PAYMENTS TO CERTIFIED STATES NOT AFFECTED.**

16 Nothing in this Act shall be construed to reduce or
 17 otherwise affect payments under section 402(g) of the
 18 Surface Mining Reclamation and Control Act of 1977 (30
 19 U.S.C. 1232(g)) to States that have made a certification
 20 under section 411(a) of such Act (30 U.S.C. 1240a(a))
 21 in which the Secretary of the Interior has concurred.

○