

114TH CONGRESS  
2D SESSION

# H. R. 4456

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.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 2016

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

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## 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,*

1 **SECTION 1. SHORT TITLE.**

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 2016” or the “RECLAIM Act  
5 of 2016”.

6 **SEC. 2. ECONOMIC REVITALIZATION FOR COAL COUNTRY.**

7 (a) IN GENERAL.—Title IV of the Surface Mining  
8 Control and Reclamation Act of 1977 (30 U.S.C. 1231  
9 et seq.) is amended by adding at the end the following:  
10 **“SEC. 416. ABANDONED MINE LAND ECONOMIC REVITAL-  
11 IZATION.**

12 “(a) IN GENERAL.—From amounts deposited into  
13 the fund under section 401(b) before October 1, 2007, and  
14 not otherwise appropriated, \$200,000,000 shall be avail-  
15 able to the Secretary, without further appropriation, for  
16 each of fiscal years 2017 through 2021 for distribution  
17 to States and Indian tribes in accordance with this section  
18 for the purpose of promoting economic revitalization, di-  
19 versification, and development in economically distressed  
20 communities through the reclamation and restoration of  
21 land and water resources adversely affected by coal mining  
22 carried out before August 3, 1977.

23 “(b) USE OF FUNDS.—Funds distributed to a State  
24 or Indian tribe under subsection (c) shall be used only for  
25 those projects that meet the following criteria:

1           “(1) RELATED TO THE RECLAMATION OF ABAN-  
2           DONED MINE LANDS AND WATERS.—The project is  
3           designed to—

4                   “(A) achieve one or more of the priorities  
5                   stated in section 403(a); or

6                   “(B) be conducted on land adjacent to eli-  
7                   gible lands and waters described in section  
8                   403(a) that has previously been remediated or  
9                   will be remediated under this section.

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

12                   “(A) IN GENERAL.—The project is reason-  
13                   ably likely to create favorable conditions for the  
14                   economic development of the project site or pro-  
15                   mote the general welfare through economic and  
16                   community development of the area in which  
17                   the project is conducted.

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

20                           “(i) documentation of the role of the  
21                           project in the area’s economic development  
22                           strategy or other economic and community  
23                           development planning process;

24                           “(ii) any other documentation of the  
25                           planned economic and community use of

1 the project site after the primary reclama-  
2 tion activities are completed, which may in-  
3 clude contracts, agreements in principle, or  
4 other evidence that, once reclaimed, the  
5 site is reasonably anticipated to be used  
6 for one or more industrial, commercial,  
7 residential, agricultural, or recreational  
8 purposes; or

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

13 “(3) LOCATION IN COMMUNITY AFFECTED BY  
14 RECENT DECLINE IN MINING.—The project will be  
15 conducted in a community—

16 “(A) that has been adversely affected eco-  
17 nomically by a reduction in coal mining-related  
18 activity over the preceding 5 years, as dem-  
19 onstrated by employment data, per capita in-  
20 come, or other indicators of reduced economic  
21 activity attributable to such reduction; or

22 “(B)(i) that has traditionally relied on coal  
23 mining for a substantial portion of its economy;  
24 and

1           “(ii) in which the economic contribution of  
2           coal mining has significantly declined.

3           “(4) STAKEHOLDER COLLABORATION.—The  
4           project has been the subject of project planning  
5           under subsection (f) and has been the focus of col-  
6           laboration, including partnerships, as appropriate,  
7           with interested persons or local organizations.

8           “(5) ELIGIBLE APPLICANTS.—The project has  
9           been proposed and will be executed by entities of  
10          State, local, county, or tribal government, which may  
11          include subcontracting project-related activities, as  
12          appropriate.

13          “(c) DISTRIBUTION OF FUNDS.—

14           “(1) UNCERTIFIED STATES.—

15           “(A) IN GENERAL.—From the amount  
16           made available in subsection (a), the Secretary  
17           shall distribute \$195,000,000 annually for each  
18           of fiscal years 2017 through 2021 to States and  
19           Indian tribes that have a State program ap-  
20           proved under section 405 or are referred to in  
21           section 402(g)(8)(B), and have not made a cer-  
22           tification under section 411(a) in which the  
23           Secretary has concurred, as follows:

24           “(i) FISCAL YEARS 2017 AND 2018.—

25           For each of fiscal years 2017 and 2018,

1 the Secretary shall allocate such funds  
2 through a formula based on the amount of  
3 coal historically produced in each State or  
4 from the lands of each Indian tribe con-  
5 cerned before August 3, 1977.

6 “(ii) FISCAL YEARS 2019 THROUGH  
7 2021.—For each of fiscal years 2019  
8 through 2021, the Secretary shall allocate  
9 to each State and Indian tribe either—

10 “(I) the amount allocated to the  
11 State or Indian tribe for fiscal year  
12 2017, plus any amount reallocated to  
13 it under this paragraph, if it has com-  
14 mitted the full amount of its alloca-  
15 tion for the preceding fiscal year to el-  
16 igible projects; or

17 “(II) the lesser of the amount the  
18 State or Indian tribe has committed  
19 to eligible projects from its allocation  
20 for the preceding fiscal year or the  
21 amount allocated to the State or In-  
22 dian tribe for fiscal year 2017, if it  
23 has not committed the full amount of  
24 its allocation for the preceding fiscal  
25 year to eligible projects.

1           “(iii) FISCAL YEAR 2022.—For fiscal  
2           year 2022, the Secretary shall allocate to  
3           each State or Indian tribe the amount re-  
4           allocated to the State or Indian tribe under  
5           subparagraph (B), if it has committed the  
6           full amount of its allocation for fiscal year  
7           2021 to eligible projects.

8           “(B) REALLOCATION OF UNCOMMITTED  
9           FUNDS.—

10           “(i) FISCAL YEAR 2019 THROUGH  
11           2021.—For each of fiscal years 2019  
12           through 2021, the Secretary shall reallo-  
13           cate in accordance with clause (iii) any  
14           amount available for distribution under  
15           this subsection that has not been com-  
16           mitted to eligible projects in the preceding  
17           2 fiscal years, among the States and In-  
18           dian tribes that have committed to eligible  
19           projects the full amount of their annual al-  
20           location for the preceding fiscal year as de-  
21           scribed in clause (iii).

22           “(ii) FISCAL YEAR 2022.—For fiscal  
23           year 2022, the Secretary shall reallocate in  
24           accordance with clause (iii) any amount  
25           available for distribution under this sub-

1 section that has not been committed to eli-  
2 gible projects or distributed under sub-  
3 paragraph (A)(iii), among the States and  
4 Indian tribes that have committed to eligi-  
5 ble projects the full amount of their annual  
6 allocation for fiscal year 2021.

7 “(iii) AMOUNT OF REALLOCATION.—  
8 The amount reallocated to each State or  
9 Indian tribe under each of clauses (i) and  
10 (ii) shall be determined by the Secretary to  
11 reflect, to the extent practicable—

12 “(I) the proportion of unre-  
13 claimed eligible lands and waters the  
14 State or Indian tribe has in the inven-  
15 tory maintained under section 403(e);  
16 and

17 “(II) the proportion of coal min-  
18 ing employment loss incurred in the  
19 State or Indian lands, respectively, as  
20 determined by the Mine Safety and  
21 Health Administration, over the 5-  
22 year period preceding the fiscal year  
23 for which the reallocation is made.

24 “(C) SUPPLEMENTAL FUNDS.—Funds dis-  
25 tributed under this section—

1           “(i) shall be in addition to, and shall  
2           not affect, the amount of funds distributed  
3           to States and Indian tribes under section  
4           401(f); and

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

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

10           “(A) ELIGIBILITY.—From the amount  
11           made available in subsection (a), the Secretary  
12           shall distribute \$5,000,000 annually for each of  
13           the five fiscal years beginning in fiscal year  
14           2017 to States and Indian tribes that have a  
15           State program approved under section 405  
16           and—

17           “(i) have made a certification under  
18           section 411(a) in which the Secretary has  
19           concurred; or

20           “(ii) receive an allocation by reason of  
21           the application of section 402(g)(8)(A).

22           “(B) APPLICATION FOR FUNDS.—Using  
23           the process in section 405(f), any State or In-  
24           dian tribe described in subparagraph (A) may  
25           submit a grant application to the Secretary for

1 funds under this paragraph. The Secretary  
2 shall review each grant application to confirm  
3 that the projects identified in the application  
4 for funding are eligible under subsection (b).

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

11 “(d) RESOLUTION OF SECRETARY’S CONCERNS;  
12 CONGRESSIONAL NOTIFICATION.—If the Secretary does  
13 not agree with a State or Indian tribe that a proposed  
14 project meets the criteria set forth in subsection (b)—

15 “(1) the Secretary and the State or tribe shall  
16 meet and confer for a period of not less than 30  
17 days to resolve the Secretary’s concerns;

18 “(2) during that period, the Secretary may con-  
19 sult with any appropriate Federal agency, such as  
20 the Appalachian Regional Commission, the Eco-  
21 nomic Development Administration, and the Bureau  
22 of Indian Affairs, to assist with the resolution of the  
23 concerns; and

1           “(3) at the end of that period, if the Secretary’s  
2 concerns are not resolved the Secretary shall provide  
3 to the Congress an explanation of the concerns.

4           “(e) ACID MINE DRAINAGE TREATMENT.—

5           “(1) IN GENERAL.—Subject to paragraph (2), a  
6 State or Indian tribe that receives funds under this  
7 section may retain a portion of such funds as is nec-  
8 essary to supplement the State’s or tribe’s acid mine  
9 drainage abatement and treatment fund established  
10 under section 402(g)(6)(A), for future operation and  
11 maintenance costs for the treatment of acid mine  
12 drainage associated with the individual projects  
13 funded under this section. A State or Indian tribe  
14 shall specify the total funds allotted for such costs  
15 in its application submitted under subsection  
16 (c)(2)(B).

17           “(2) CONDITION.—A State or Indian tribe may  
18 retain and use funds under this subsection only if  
19 the State or tribe can demonstrate that the annual  
20 grant distributed to the State or tribe pursuant to  
21 section 401(f), including any interest from the  
22 State’s or tribe’s acid mine drainage abatement and  
23 treatment fund that is not used for the operation or  
24 maintenance of preexisting acid mine drainage treat-  
25 ment systems, is insufficient to fund the operation

1 and maintenance of any acid mine drainage treat-  
2 ment system associated with an individual project  
3 funded under this section.

4 “(f) PROJECT PLANNING AND ADMINISTRATION.—

5 “(1) STATES AND INDIAN TRIBES.—

6 “(A) IN GENERAL.—A State or Indian  
7 tribe may use up to 10 percent of its distribu-  
8 tion for project planning and the costs of ad-  
9 ministering this section.

10 “(B) PLANNING REQUIREMENTS.—Plan-  
11 ning under this paragraph may include—

12 “(i) identification of eligible projects;

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

15 “(iii) developing project designs;

16 “(iv) preparing cost estimates; or

17 “(v) engaging in other similar activi-  
18 ties necessary to facilitate reclamation ac-  
19 tivities under this section.

20 “(2) SECRETARY.—In addition to amounts  
21 available for distribution under subsection (a), the  
22 Secretary may expend, without further appropria-  
23 tion, not more than \$3,000,000 for the five full fis-  
24 cal years following the date of the enactment of the  
25 RECLAIM Act of 2016 for staffing and other ad-

1       ministrative expenses necessary to carry out this sec-  
2       tion.

3       “(g) REPORT TO CONGRESS.—Each State and Indian  
4       tribe to which funds are distributed under this section  
5       shall provide to the Congress and the Secretary at the end  
6       of each fiscal year for which such funds are distributed  
7       a detailed report on the various projects that have been  
8       undertaken with such funds and the community and eco-  
9       nomic benefits that are resulting, or are expected to result  
10      from, the use of the funds.

11      “(h) COMMITTED DEFINED.—For purposes of this  
12      section the term ‘committed’—

13              “(1) means that the State or Indian tribe re-  
14      ceiving funds has executed a project agreement with  
15      an applicant for such funds; and

16              “(2) includes any amount used for project plan-  
17      ning under subsection (f).”.

18      (b) CLERICAL AMENDMENT.—The table of contents  
19      in the first section of such Act is amended by adding at  
20      the end of the items relating to title IV the following:

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

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

22      The Surface Mining Control and Reclamation Act of  
23      1977 is amended—

24              (1) in section 401(c) (30 U.S.C. 1231(c)), by  
25      striking “and” after the semicolon at the end of

1 paragraph (10), by redesignating paragraph (11) as  
2 paragraph (12), and by inserting after paragraph  
3 (10) the following:

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

5 (2) in section 401(d)(3) (30 U.S.C.  
6 1231(d)(3)), by striking “subsection (f)” and insert-  
7 ing “subsection (f) and section 416(a)”;

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

9 (A) in paragraph (1), by inserting “and  
10 section 416” after “subsection (h)”;

11 (B) by adding at the end of paragraph (3)  
12 the following:

13 “(F) For the purpose of section  
14 416(c)(2)(A).”;

15 (4) in section 403(c) (30 U.S.C. 1233(c))—

16 (A) in the first sentence, by—

17 (i) inserting “any of” after “which  
18 meet”;

19 (ii) striking “paragraphs (1) and (2)  
20 of”;

21 (B) by inserting after the second sentence  
22 the following: “As practicable, States and In-  
23 dian tribes shall offer such amendments based  
24 on the use of remote sensing, global positioning  
25 systems, and other advanced technologies.”;

1           (C) by adding at the end the following:  
2           “The Secretary may perform any work nec-  
3           essary to amend any entry in the inventory that  
4           has not been updated by a State or Indian tribe  
5           within the preceding 3 years to ensure that the  
6           entry is up-to-date and accurate.”.

○