

114TH CONGRESS
2D SESSION

H. R. 5259

To direct the Secretary of the Interior to reestablish the Royalty Policy Committee in order to further a more consultative process with key Federal, State, tribal, environmental, and energy stakeholders, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 17, 2016

Mr. ZINKE (for himself, Mrs. LUMMIS, Mr. MCKINLEY, Mr. TIPTON, Mr. GOSAR, Mr. CRAMER, Mr. WESTERMAN, and Mr. JOHNSON of Ohio) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To direct the Secretary of the Interior to reestablish the Royalty Policy Committee in order to further a more consultative process with key Federal, State, tribal, environmental, and energy stakeholders, 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 “Certainty for States
5 and Tribes Act”.

1 **SEC. 2. RECONSTITUTION OF THE ROYALTY POLICY COM-**
2 **MITTEE.**

3 (a) IN GENERAL.—The Secretary of the Interior
4 shall, by not later than 90 days after the date of the enact-
5 ment of this Act, reconstitute the Royalty Policy Com-
6 mittee as last chartered on March 26, 2010, except as oth-
7 erwise provided in this Act.

8 (b) CORRECTIONS AND UPDATES.—In reconstituting
9 the Committee, the Secretary shall make appropriate tech-
10 nical corrections and updates to the charter of the Com-
11 mittee, including the following:

12 (1) Revision of all references to the Minerals
13 Management Service or Minerals Revenue Manage-
14 ment so as to refer to the Office of Natural Re-
15 sources Revenue.

16 (2) Revision of the estimated number and fre-
17 quency of meetings of the Committee to not less
18 than once each year.

19 (3) Revision of the non-Federal members of the
20 Committee to include—

21 (A) not fewer than 5 members rep-
22 resenting Governors of States that each receive
23 more than \$10,000,000 annually in royalty rev-
24 enues from Federal leases; and

(B) not more than 5 members representing Indian tribes that are mineral-producing Indian tribes under—

(i) the Act of May 11, 1938 (commonly known as the “Indian Mineral Leasing Act of 1938”) (25 U.S.C. 396a et seq.);

(ii) title XXVI of the Energy Policy Act of 1992 (25 U.S.C. 3501 et seq.);

(iii) the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 et seq.); or

(iv) any other law relating to mineral development that is specific to one or more Indian tribes.

(4) Creation of a subcommittee of the Committee to be known as the State and Tribal Resources Board, comprised of designees of States’ Governors and tribes participating as non-Federal members of the reconstituted Committee.

**SEC. 3. REVIEW OF REGULATIONS AND POLICIES THE ROY-
ALTY POLICY COMMITTEE ADVISORY ACTIV-
ITIES SHOULD INCLUDE.**

(a) CONSULTATION AND REPORT.—Not later than 180 days after the date of the issuance by the Department of the Interior of any proposed regulation or policy related

1 to mineral leasing policy for Federal land for exploration,
2 development, or production of oil, gas, or coal (including
3 valuation methodologies and royalty and lease rates for oil,
4 gas, or coal), and not later than 180 days after the date
5 of the enactment of this Act with respect to any proposed
6 regulation of such Department relating to such policy that
7 is pending as of the date of the enactment of this Act,
8 the Committee shall—

9 (1) assess the proposed regulation or policy;

10 and

11 (2) issue a report that describes the potential
12 impact of the proposed regulation or policy, includ-
13 ing any State and tribal economic impacts described
14 in subsection (b).

15 (b) STATE AND TRIBAL IMPACT DETERMINATION.—

16 (1) IN GENERAL.—Before the date on which
17 any proposed regulation related to mineral leasing
18 policy on Federal land (including valuation meth-
19 odologies and royalty and lease rates for oil, gas, or
20 coal) may be issued as a final rule, the State and
21 Tribal Resources Board shall publish a determina-
22 tion of the impact of the regulation on school fund-
23 ing, public safety, and other essential State or In-
24 dian tribal government services.

1 (2) DELAY REQUEST.—If the State and Tribal
2 Resources Board determines that a regulation de-
3 scribed in paragraph (1) will have a negative State
4 or tribal budgetary impact, the State and Tribal Re-
5 sources Board may request a delay in the finaliza-
6 tion of the regulation for the purposes of further—

7 (A) stakeholder consultation;

8 (B) budgetary review; and

9 (C) development of a proposal to mitigate
10 the negative economic impact.

11 (3) LIMITATION.—A delay under paragraph (2)
12 shall not exceed 180 days from the date on which
13 the State and Tribal Resources Board requested the
14 delay in finalization.

15 (c) REVISION OF PROPOSED REGULATION.—

16 (1) IN GENERAL.—Before the date on which
17 any proposed regulation related to mineral leasing
18 policy on Federal land (including valuation meth-
19 odologies and royalty and lease rates for oil, gas, or
20 coal) is issued as a final rule, the Secretary shall re-
21 vise the proposed regulation to avoid any negative
22 State or tribal economic impact determined by the
23 Committee under subsection (a)(2).

24 (2) FINAL RULE.—Any final regulation subject
25 to paragraph (1) must include—

1 (A) a summary of the report required
2 under subsection (a)(2); and

3 (B) a clear explanation of why the rec-
4 ommendations of that report (including the
5 State and tribal determination) were or were
6 not taken into account in the finalization of the
7 regulation.

8 **SEC. 4. SPECIAL REVIEW OF PROGRAMMATIC ENVIRON-**
9 **MENTAL IMPACT STATEMENT.**

10 (a) PARTICIPANTS IN PROGRAMMATIC REVIEW.—

11 (1) IN GENERAL.—In carrying out the pro-
12 grammatic review of coal leasing on Federal land as
13 described in section 4 of the order of the Secretary
14 of the Interior entitled “Discretionary Programmatic
15 Environmental Impact Statement to Modernize the
16 Federal Coal Program”, numbered 3338 and dated
17 January 15, 2016, the Secretary shall confer with,
18 and take into consideration the views of, representa-
19 tives appointed to the review board described in
20 paragraph (2).

21 (2) REVIEW BOARD.—The Governor of each
22 State in which more than \$10,000,000 in revenue is
23 collected annually by the United States as bonus
24 bids, royalties, and rentals, and fees for production
25 of coal under leases of Federal land or Indian land

1 may each appoint not more than 3 representatives to
2 a review board for purposes of paragraph (1), at
3 least one of whom shall be a member of the State
4 and Tribal Resources Board.

5 (3) DEADLINE.—

6 (A) IN GENERAL.—The Secretary shall
7 complete the programmatic review referred to
8 in paragraph (1) not later than January 15,
9 2019.

10 (B) FAILURE TO MEET DEADLINE.—If the
11 programmatic review is not completed by the
12 deadline described in subparagraph (A), the
13 programmatic review shall be considered to be
14 complete as of that deadline.

15 (b) TERMINATION OF OTHER PROGRAMMATIC RE-
16 VIEW.—No Federal funds may be used to carry out the
17 programmatic review of coal leasing on Federal land de-
18 scribed in subsection (a)(1) after January 15, 2019.

19 (c) NO IMPLEMENTATION REQUIREMENT.—Nothing
20 in this section requires the Secretary to conduct or com-
21 plete the programmatic review of coal leasing on Federal
22 land described in subsection (a)(1) after January 20,
23 2017.

24 (d) TERMINATION OF MORATORIUM.—Effective Jan-
25 uary 16, 2019—

1 (1) the pause or moratorium on the issuance of
2 new Federal coal leases under the Secretarial order
3 referred to in subsection (a)(1) is terminated; and
4 (2) that Secretarial order shall have no force or
5 effect.

6 **SEC. 5. GRANDFATHERING OF COAL LEASES ON APPLICA-**
7 **TION AND COAL LEASE MODIFICATIONS.**

8 Nothing in the order of the Secretary of the Interior
9 entitled “Discretionary Programmatic Environmental Im-
10 pact Statement to Modernize the Federal Coal Program”,
11 numbered 3338 and dated January 15, 2016, shall be con-
12 sidered to prohibit or restrict any issuance of a coal lease
13 on application or coal lease modification, pursuant to sec-
14 tion 3432 of title 43, Code of Federal Regulations, for
15 which the Bureau of Land Management has begun its re-
16 view under section 102 of the National Environmental
17 Policy Act of 1969 (42 U.S.C. 4332) as of January 15,
18 2016.

19 **SEC. 6. DEADLINE FOR COAL LEASE SALES AND MODIFICA-**
20 **TIONS.**

21 Not later than 1 year after the date on which the
22 Secretary completes the analysis required under section
23 102 of the National Environmental Policy Act of 1969 (42
24 U.S.C. 4332) for an application for a coal lease, or an
25 application for a modification to a coal lease pursuant to

1 subpart 3432 of part 3430 of title 43, Code of Federal
2 Regulations (or successor regulations), accepted by the
3 Secretary, the Secretary shall conduct the lease sale and
4 issue the lease, or approve the modification, unless the ap-
5 plicant indicates in writing that the applicant no longer
6 seeks the lease or modification to the lease.

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