

Union Calendar No. 406

117TH CONGRESS
2D SESSION

H. R. 1733

[Report No. 117–565]

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

MARCH 10, 2021

Mr. CARTWRIGHT (for himself, Mr. ROGERS of Kentucky, Mr. BEYER, Mr. THOMPSON of Pennsylvania, Mr. FOSTER, Mr. BLUMENAUER, Mr. YARMUTH, Mr. GRIJALVA, Mr. FITZPATRICK, Ms. DEGETTE, Ms. BROWNLEY, Mr. LAMB, Ms. NORTON, Mr. GALLEG0, Mr. CONNOLLY, Mr. CASE, Ms. JACKSON LEE, Mr. MCKINLEY, Mrs. AXNE, Mrs. BUSTOS, Mr. LOWENTHAL, Mr. BRENDAN F. BOYLE of Pennsylvania, Ms. SCHAKOWSKY, Mr. JOHNSON of Ohio, Mr. QUIGLEY, Ms. WILD, Ms. HOULAHAN, Ms. SEWELL, Mr. HUFFMAN, Mr. SIREs, Mr. MEUSER, Mr. COHEN, Mr. BOWMAN, and Mr. KELLY of Pennsylvania) introduced the following bill; which was referred to the Committee on Natural Resources

NOVEMBER 16, 2022

Additional sponsors: Ms. PINGREE, Mr. WELCH, Mr. CICILLINE, Mr. EVANS, Ms. PORTER, Mrs. NAPOLITANO, Mr. KILMER, Ms. LEGER FERNANDEZ, Mr. GUTHRIE, Mr. GRIFFITH, Mr. BURCHETT, Mr. HIMES, Ms. MATSUI, Ms. NEWMAN, Mr. TONKO, Mr. COOPER, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. SPANBERGER, Ms. DEAN, Mr. KRISHNAMOORTHl, Ms. SCANLON, Mr. MCEACHIN, Ms. STANSBURY, Mr. BOST, Mr. FLEISCHMANN, Ms. BONAMICI, Mr. AGUILAR, and Mr. TRONE

NOVEMBER 16, 2022

Reported with an amendment, committed to the Committee of the Whole
House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italic*]

[For text of introduced bill, see copy of bill as introduced on March 10, 2021]

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Revitalizing the Econ-*
 5 *omy of Coal communities by Leveraging local Activities and*
 6 *Investing More Act of 2021” or the “RECLAIM Act of*
 7 *2021”.*

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

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

12 **“SEC. 416. ABANDONED MINE LAND ECONOMIC REVITALIZA-**
 13 **TION.**

14 *“(a) PURPOSE.—The purpose of this section is to pro-*
 15 *mote economic revitalization, diversification, and develop-*
 16 *ment in economically distressed mining communities*
 17 *through the reclamation and restoration of land and water*
 18 *resources adversely affected by coal mining carried out be-*
 19 *fore August 3, 1977.*

20 *“(b) IN GENERAL.—From amounts deposited into the*
 21 *fund under section 401(b) before October 1, 2007, and not*
 22 *otherwise appropriated to the extent such funds are avail-*
 23 *able, \$200,000,000 shall be made available to the Secretary,*
 24 *without further appropriation, for each of fiscal years 2022*
 25 *through 2026 for distribution to States and Indian tribes*

1 *in accordance with this section for reclamation and restora-*
 2 *tion projects at sites identified as priorities under section*
 3 *403(a): Provided, That if less than \$200,000,000 is avail-*
 4 *able in any fiscal year to the Secretary, such remaining*
 5 *amount shall be made available to the Secretary, without*
 6 *further appropriation, and such fiscal year shall end dis-*
 7 *tributions made available under this section.*

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

12 “(1) *CONTRIBUTION TO FUTURE ECONOMIC OR*
 13 *COMMUNITY DEVELOPMENT.—*

14 “(A) *IN GENERAL.—The project, upon com-*
 15 *pletion of reclamation, is intended to create fa-*
 16 *vorable conditions for the economic development*
 17 *of the project site or create favorable conditions*
 18 *that promote the general welfare through eco-*
 19 *nomie and community development of the area*
 20 *in which the project is conducted.*

21 “(B) *DEMONSTRATION OF CONDITIONS.—*
 22 *Such conditions are demonstrated by—*

23 “(i) *documentation of the role of the*
 24 *project in such area’s economic development*

1 *strategy or other economic and community*
2 *development planning process;*

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

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

16 “(2) *LOCATION IN ECONOMICALLY DISTRESSED*
17 *COMMUNITY AFFECTED BY RECENT DECLINE IN MIN-*
18 *ING.—*

19 “(A) *IN GENERAL.—The project will be con-*
20 *ducted in a community—*

21 “(i) *that has been adversely affected*
22 *economically by a recent reduction in coal*
23 *mining related activity, as demonstrated by*
24 *employment data, per capita income, or*
25 *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 anal-*
9 *ysis relied upon in selecting the location of a*
10 *project under this subparagraph shall be sub-*
11 *mitted to the Secretary for publication. The Sec-*
12 *retary shall publish such evidence or analysis in*
13 *the Federal Register within 30 days after receiv-*
14 *ing 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 the public has been notified of the*
23 *project, including not less than 45 days before*
24 *submission of the project to the Office of Surface*
25 *Mining Reclamation and Enforcement, the State*

1 *or Indian Tribe has published notice of the pro-*
 2 *posed project in local newspapers of general cir-*
 3 *culation, on the Internet, and by any other*
 4 *means considered desirable by the Secretary, and*
 5 *has provided an opportunity to request a public*
 6 *meeting convened in a community near the pro-*
 7 *posed project site.*

8 *“(C) ELECTRONIC NOTIFICATION.—The*
 9 *State or Indian tribe established a way for inter-*
 10 *ested persons to receive electronically all public*
 11 *notices issued under subparagraph (B) and any*
 12 *written declarations submitted to the Secretary*
 13 *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 be*
 17 *approved and executed by State or tribal programs,*
 18 *approved under section 405 or referred to in section*
 19 *402(g)(8)(B) which may include subcontracting*
 20 *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*

“(B) is unable to meet the requirements under paragraph (2), the State or Indian tribe shall submit a written declaration to the Secretary requesting an exemption from the requirements of those subparagraphs. The declaration must explain why achieving favorable conditions for economic or community development at the project site is not practicable, or why the requirements of paragraph (2) cannot be met, and that sufficient funds distributed annually under section 401 are not available to implement the project. Such request for an exemption is deemed to be approved, except the Secretary shall deny such request if the Secretary determines the declaration to be substantially inadequate. Any denial of such request shall be resolved at the State’s or Indian tribe’s request through the procedures described in subsection (e).

“(d) DISTRIBUTION OF FUNDS.—

“(1) STATES.—

“(A) IN GENERAL.—From the amount made available in subsection (b), the Secretary shall distribute \$195,000,000 annually for each of fiscal years 2022 through 2026 to States and Indian tribes that have a State or tribal program

1 *approved under section 405 or are referred to in*
2 *section 402(g)(8)(B), and have not made a cer-*
3 *tification under section 411(a) in which the Sec-*
4 *retary has concurred, as follows:*

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

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

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

18 *“(i) shall be in addition to, and shall*
19 *not affect, the amount of funds distributed*
20 *to States and Indian tribes under section*
21 *401(f) and section 411(h)(2); and*

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

1 “(2) *ADDITIONAL FUNDING TO CERTIFIED*
2 *STATES AND INDIAN TRIBES.*—

3 “(A) *ELIGIBILITY.*—*From the amount made*
4 *available in subsection (b), the Secretary shall*
5 *distribute \$5,000,000 annually for each of the*
6 *five fiscal years beginning with fiscal year 2022*
7 *to States and Indian tribes that have a State*
8 *program approved under section 405 and have*
9 *made a certification under section 411(a) in*
10 *which the Secretary has concurred.*

11 “(B) *APPLICATION FOR FUNDS.*—*Using the*
12 *process in section 405(f), any State or Indian*
13 *tribe described in subparagraph (A) may submit*
14 *a grant application to the Secretary for funds*
15 *under this paragraph. The Secretary shall review*
16 *each grant application to confirm that the*
17 *projects identified in the application for funding*
18 *are eligible under subsection (c).*

19 “(C) *DISTRIBUTION OF FUNDS.*—*The*
20 *amount of funds distributed to each State or In-*
21 *Indian tribe under this paragraph shall be deter-*
22 *mined by the Secretary based on the dem-*
23 *onstrated need for the funding to accomplish the*
24 *purpose of this section.*

25 “(3) *REALLOCATION OF UNCOMMITTED FUNDS.*—

1 “(A) *COMMITTED DEFINED.*—*For purposes*
2 *of this paragraph the term ‘committed’—*

3 “(i) *means that funds received by the*
4 *State or Indian tribe—*

5 “(I) *have been exclusively applied*
6 *to or reserved for a specific project and*
7 *therefore are not available for any*
8 *other purpose; or*

9 “(II) *have been expended or des-*
10 *ignated by the State or Indian tribe*
11 *for the completion of a project;*

12 “(ii) *includes use of any amount for*
13 *project planning under subsection (g); and*

14 “(iii) *reflects an acknowledgment by*
15 *Congress that, based on the documentation*
16 *required under subsection (c)(2)(B), any*
17 *unanticipated delays to commit such funds*
18 *that are outside the control of the State or*
19 *Indian tribe concerned shall not affect its*
20 *allocations under this section.*

21 “(B) *FISCAL YEAR 2026.*—*For fiscal year*
22 *2026, the Secretary shall reallocate in accordance*
23 *with subparagraph (C) any amount available for*
24 *distribution under this subsection that has not*
25 *been committed to eligible projects or distributed*

1 *under paragraph (1)(A), among the States and*
2 *Indian tribes that have committed to eligible*
3 *projects the full amount of their annual alloca-*
4 *tion for the preceding fiscal years.*

5 “(C) *AMOUNT OF REALLOCATION.—The*
6 *amount reallocated to each State or Indian tribe*
7 *under each of subparagraph (B) shall be deter-*
8 *mined by the Secretary to reflect, to the extent*
9 *practicable—*

10 “(i) *the proportion of unreclaimed eli-*
11 *gible lands and waters the State or Indian*
12 *tribe has in the inventory maintained*
13 *under section 403(c);*

14 “(ii) *the average of the proportion of*
15 *reclamation fees paid for lands in each*
16 *State or lands of each Indian tribe con-*
17 *cerned; and*

18 “(iii) *the proportion of coal mining*
19 *employment loss incurred in the State or on*
20 *lands of the Indian tribe, respectively, as*
21 *determined by the Mine Safety and Health*
22 *Administration, over the 5-year period pre-*
23 *ceding the fiscal year for which the realloca-*
24 *tion is made.*

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

5 “(1) *the Secretary and the State or tribe shall*
 6 *meet and confer for a period of not more than 45*
 7 *days to resolve the Secretary’s concerns, except that*
 8 *such period may be shortened by the Secretary if the*
 9 *Secretary’s concerns are resolved;*

10 “(2) *during that period, at the State’s or Indian*
 11 *tribe’s request, the Secretary may consult with any*
 12 *appropriate Federal agency; and*

13 “(3) *at the end of that period, if the Secretary’s*
 14 *concerns are not resolved the Secretary shall provide*
 15 *to the Committee on Natural Resources of the House*
 16 *of Representatives and the Committee on Energy and*
 17 *Natural Resources of the Senate an explanation of the*
 18 *concerns and such project proposal shall not be eligi-*
 19 *ble for funds distributed under this section.*

20 “(f) *ACID MINE DRAINAGE TREATMENT.*—*A State or*
 21 *Indian tribe that receives funds under this section may use*
 22 *up to 30 percent of such funds as necessary to supplement*
 23 *the State’s or tribe’s acid mine drainage abatement and*
 24 *treatment fund established under section 402(g)(6)(A), for*
 25 *future operation and maintenance costs for the treatment*

1 of acid mine drainage associated with the individual
2 projects funded under this section.

3 “(g) *PROJECT PLANNING AND ADMINISTRATION.*—

4 “(1) *STATES AND INDIAN TRIBES.*—A State or
5 Indian tribe may use up to 10 percent of its annual
6 distribution under this section for costs of admin-
7 istering this section consistent with existing practice
8 under sections 401(c)(7) and 402(g)(1)(C) and the Of-
9 fice of Surface Mining Reclamation and Enforcement
10 Assistance Manual.

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

17 “(h) *DEADLINES.*—

18 “(1) *RULES AND GUIDELINES.*—To the extent
19 necessary to implement this Act, the Secretary shall
20 propose rules or develop guidelines (or both) not later
21 than 90 days after the date of enactment of this sec-
22 tion and shall publish them as final rules or guide-
23 lines, respectively, not later than 90 days thereafter.
24 Within 60 days after the issuance of any such final

1 *rules or guidelines, the Secretary shall distribute the*
2 *funds under subsection (d).*

3 “(2) *PROJECT PROPOSALS.*—*The appropriate*
4 *field office of the Office of Surface Mining Reclama-*
5 *tion and Enforcement shall—*

6 “(A) *initially review, vet, and approve or*
7 *disapprove of each project proposal under this*
8 *section within 45 days after receipt by the field*
9 *office of the proposal; and*

10 “(B) *issue an authorization to proceed on*
11 *an approved project within 45 days after receipt*
12 *by the field office of a request for such authoriza-*
13 *tion from a State or Indian tribe.*

14 “(i) *REPORT TO CONGRESS.*—*The Secretary shall pro-*
15 *vide to the Committee on Natural Resources of the House*
16 *of Representatives, the Committees on Appropriations of the*
17 *House of Representatives and the Senate, and the Com-*
18 *mittee on Energy and Natural Resources of the Senate at*
19 *the end of each fiscal year for which such funds are distrib-*
20 *uted 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, the*
 3 *use of the funds that achieved the priorities described*
 4 *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 “(j) *PROHIBITION ON CERTAIN USE OF FUNDS.—Any*
 8 *State or Indian tribe that uses the funds distributed under*
 9 *this section for purposes other than reclamation or drainage*
 10 *abatement expenditures, as made eligible by section 404,*
 11 *and for the purposes authorized under subsections (f) and*
 12 *(g), shall be barred from receiving any subsequent funding*
 13 *under this section.”.*

14 (b) *CLERICAL AMENDMENT.—The table of contents in*
 15 *the first section of the Surface Mining Control and Rec-*
 16 *lamation Act of 1977 is amended by adding at the end of*
 17 *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 para-*
 23 *graph (10), by redesignating paragraph (11) as para-*
 24 *graph (12), and by inserting after paragraph (10) the*
 25 *following:*

1 “(11) to implement section 416; and”;
2 (2) in section 401(d)(3) (30 U.S.C. 1231(d)(3)),
3 by striking “subsection (f)” and inserting “subsection
4 (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 in-
13 serting after the second sentence the following: “As
14 practicable, States and Indian tribes shall offer such
15 amendments based on the use of remote sensing, global
16 positioning systems, and other advanced tech-
17 nologies.”.

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 Rec-*
 7 *lamation Act of 1977 (30 U.S.C. 1201) to—*

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

11 *(B) States and Indian Tribes for which*
 12 *such a certification 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 oth-*
 17 *erwise affect payments under section 402(g) of the Surface*
 18 *Mining Reclamation and Control Act of 1977 (30 U.S.C.*
 19 *1232(g)) to States that have made a certification under sec-*
 20 *tion 411(a) of such Act (30 U.S.C. 1240a(a)) in which the*
 21 *Secretary of the Interior has concurred.*

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H. R. 1733

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