

Union Calendar No. 654

114TH CONGRESS
2^D SESSION

H. R. 5259

[Report No. 114–833]

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

NOVEMBER 22, 2016

Additional sponsors: Mr. MCCLINTOCK, Mr. SMITH of Missouri, Mr. LAMALFA, Mr. NEWHOUSE, Mr. OLSON, and Mr. PEARCE

NOVEMBER 22, 2016

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 *italie*]

[For text of introduced bill, see copy of bill as introduced on May 17, 2016]

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 and*
5 *Tribes Act”.*

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

8 *(a) IN GENERAL.—The Secretary of the Interior shall,*
9 *by not later than 90 days after the date of the enactment*
10 *of this Act, reconstitute the Royalty Policy Committee as*
11 *last chartered on March 26, 2010, except as otherwise pro-*
12 *vided in this Act.*

13 *(b) CORRECTIONS AND UPDATES.—In reconstituting*
14 *the Committee, the Secretary shall make appropriate tech-*
15 *nical corrections and updates to the charter of the Com-*
16 *mittee, including the following:*

17 *(1) Revision of all references to the Minerals*
18 *Management Service or Minerals Revenue Manage-*
19 *ment so as to refer to the Office of Natural Resources*
20 *Revenue.*

21 *(2) Revision of the estimated number and fre-*
22 *quency of meetings of the Committee to not less than*
23 *once each year.*

24 *(3) Revision of the non-Federal members of the*
25 *Committee to include—*

1 (A) not fewer than 5 members representing
2 Governors of States that each receive more than
3 \$10,000,000 annually in royalty revenues from
4 Federal leases; and

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

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

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

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

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

18 (4) Creation of a subcommittee of the Committee
19 to be known as the State and Tribal Resources Board,
20 comprised of designees of States’ Governors and tribes
21 participating as non-Federal members of the reconsti-
22 tuted Committee.

1 **SEC. 3. REVIEW OF REGULATIONS AND POLICIES THE ROY-**
 2 **ALTY POLICY COMMITTEE ADVISORY ACTIVI-**
 3 **TIES SHOULD INCLUDE.**

4 (a) *CONSULTATION AND REPORT.*—Not later than 180
 5 days after the date of the issuance by the Department of
 6 the Interior of any proposed regulation or policy related
 7 to mineral leasing policy for Federal or Indian land for
 8 exploration, development, or production of oil, gas, or coal
 9 (including valuation methodologies and royalty and lease
 10 rates for oil, gas, or coal), and not later than 180 days after
 11 the date of the enactment of this Act with respect to any
 12 proposed regulation of such Department relating to such
 13 policy that is pending as of the date of the enactment of
 14 this Act, the Committee shall—

15 (1) *assess the proposed regulation or policy; and*
 16 (2) *issue a report that describes the potential im-*
 17 *act of the proposed regulation or policy, including*
 18 *any State and tribal economic impacts described in*
 19 *subsection (b).*

20 (b) *STATE AND TRIBAL IMPACT DETERMINATION.*—

21 (1) *IN GENERAL.*—Before the date on which any
 22 proposed regulation related to mineral leasing policy
 23 on Federal or Indian land (including valuation meth-
 24 odologies and royalty and lease rates for oil, gas, or
 25 coal) may be issued as a final rule, the State and
 26 Tribal Resources Board shall publish a determination

1 *of the impact of the regulation on school funding,*
2 *public safety, and other essential State or Indian*
3 *tribal government services.*

4 (2) *DELAY REQUEST.—If the State and Tribal*
5 *Resources Board determines that a regulation de-*
6 *scribed in paragraph (1) will have a negative State*
7 *or tribal budgetary impact, the Secretary shall, upon*
8 *request by the Board, grant a delay of 180 days in*
9 *the finalization of the regulation for the purposes of*
10 *further—*

11 (A) *stakeholder consultation;*

12 (B) *budgetary review; and*

13 (C) *development of a proposal to mitigate*
14 *the negative economic impact.*

15 (c) *REVISION OF PROPOSED REGULATION.—*

16 (1) *IN GENERAL.—Before the date on which any*
17 *proposed regulation related to mineral leasing policy*
18 *on Federal or Indian 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 pub-*
21 *lish in the Federal Register, in the same docket as*
22 *such proposed regulation, a description of the impacts*
23 *determined by the Board in the report issued under*
24 *subsection (a)(2), the recommendations made by the*
25 *Board (if any) for mitigation of negative impacts de-*

1 *terminated by the Board under subsection (b)(2), and*
 2 *a clear explanation of why such recommendations of*
 3 *the Board were or were not incorporated in the final*
 4 *regulation.*

5 (2) *FINAL RULE.*—*Any final regulation subject*
 6 *to paragraph (1) must include—*

7 (A) *a summary of the report required under*
 8 *subsection (a)(2); and*

9 (B) *a clear explanation of why the rec-*
 10 *ommendations of that report (including the State*
 11 *and tribal determination) were or were not taken*
 12 *into account in the finalization of the regulation.*

13 **SEC. 4. SPECIAL REVIEW OF PROGRAMMATIC ENVIRON-**
 14 **MENTAL IMPACT STATEMENT.**

15 (a) *PARTICIPANTS IN PROGRAMMATIC REVIEW.*—

16 (1) *IN GENERAL.*—*In carrying out the pro-*
 17 *grammatic review of coal leasing as described in sec-*
 18 *tion 4 of the order of the Secretary of the Interior en-*
 19 *titled “Discretionary Programmatic Environmental*
 20 *Impact Statement to Modernize the Federal Coal Pro-*
 21 *gram”, numbered 3338 and dated January 15, 2016,*
 22 *the Secretary shall confer with, and take into consid-*
 23 *eration the views of, representatives appointed to the*
 24 *review board described in paragraph (2).*

1 (2) *REVIEW BOARD.*—*The Governor of each State*
 2 *in which more than \$10,000,000 in revenue is col-*
 3 *lected annually by the United States as bonus bids,*
 4 *royalties, and rentals, and fees for production of coal*
 5 *under leases of Federal land or Indian land may each*
 6 *appoint not more than 3 representatives to a review*
 7 *board for purposes of paragraph (1), at least one of*
 8 *whom shall be a member of the State and Tribal Re-*
 9 *sources Board.*

10 (3) *DEADLINE.*—

11 (A) *IN GENERAL.*—*The Secretary shall com-*
 12 *plete the programmatic review referred to in*
 13 *paragraph (1) not later than January 15, 2019.*

14 (B) *FAILURE TO MEET DEADLINE.*—*If the*
 15 *programmatic review is not completed by the*
 16 *deadline described in subparagraph (A), the pro-*
 17 *grammatic review shall be considered to be com-*
 18 *plete as of that deadline.*

19 (b) *TERMINATION OF OTHER PROGRAMMATIC RE-*
 20 *VIEW.*—*No Federal funds may be used to carry out the pro-*
 21 *grammatic review of coal leasing as described in subsection*
 22 *(a)(1) after January 15, 2019.*

23 (c) *NO IMPLEMENTATION REQUIREMENT.*—*Nothing in*
 24 *this section requires the Secretary to conduct or complete*

1 *the programmatic review of coal leasing as described in sub-*
 2 *section (a)(1) after January 20, 2017.*

3 *(d) TERMINATION OF MORATORIUM.—Effective Janu-*
 4 *ary 16, 2019—*

5 *(1) the pause or moratorium on the issuance of*
 6 *new Federal coal leases under the Secretarial order*
 7 *referred to in subsection (a)(1) is terminated; and*

8 *(2) that Secretarial order shall have no force or*
 9 *effect.*

10 **SEC. 5. GRANDFATHERING OF COAL LEASES ON APPLICA-**
 11 **TION AND COAL LEASE MODIFICATIONS.**

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

22 **SEC. 6. DEADLINE FOR COAL LEASE SALES AND MODIFICA-**
 23 **TIONS.**

24 *Not later than 1 year after the date on which the Sec-*
 25 *retary completes the analysis required under section 102 of*

1 *the National Environmental Policy Act of 1969 (42 U.S.C.*
2 *4332) for an application for a coal lease, or an application*
3 *for a modification to a coal lease pursuant to subpart 3432*
4 *of part 3430 of title 43, Code of Federal Regulations (or*
5 *successor regulations), accepted by the Secretary, the Sec-*
6 *retary shall conduct the lease sale and issue the lease, or*
7 *approve the modification, unless the applicant indicates in*
8 *writing that the applicant no longer seeks the lease or modi-*
9 *fication to the lease.*

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