II

114TH CONGRESS
2D SESSION

S. 3532

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 SENATE OF THE UNITED STATES

DECEMBER 8, 2016

Mr. MANCHIN (for himself, Mr. BROWN, Mr. KAINE, Mr. CASEY, and Mr. WARNER) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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A BILL

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More Act of 2016'' or the ''RECLAIM Act of 2016''.

SEC. 2. ECONOMIC REVITALIZATION FOR COAL COUNTRY.

(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.

''(a) DEFINITION OF COMMITTED.—In this section:

''(1) IN GENERAL.—The term 'committed' means that a State or Indian tribe receiving funds under this section has executed a project agreement with an applicant for the funds.

''(2) INCLUSION.—The term 'committed' includes, with respect to a project agreement, any amount used for project planning under subsection (g).

''(b) AUTHORIZATION.—Of the amounts deposited in the fund under section 401(b) before October 1, 2007, and not otherwise appropriated, $200,000,000 shall be available to the Secretary, without further appropriation, for each of fiscal years 2017 through 2021 for distribution to States and Indian tribes in accordance with this section 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.

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

"(1) RELATED TO THE RECLAMATION OF ABANDONED MINE LAND AND WATERS.—The project is designed—

"(A) to achieve one or more of the priorities stated in section 403(a); or

"(B) to be conducted on land adjacent to eligible land and waters described in section 403(a) that has previously been remediated or will be remediated under this section.

"(2) CONTRIBUTION TO FUTURE ECONOMIC OR COMMUNITY DEVELOPMENT.—

"(A) IN GENERAL.—The project is reasonably likely to create favorable conditions, as demonstrated in accordance with subparagraph (B), for the economic development of the project site or promote the general welfare through economic and community development of the area in which the project is conducted.

"(B) DEMONSTRATION OF CONDITIONS.—The conditions referred to in subparagraph (A) may be demonstrated by any documentation—

"(i) of the role of the project in the economic development strategy or other economic and community development planning process of the applicable area;

"(ii) of the planned economic and community use of the project site after the primary reclamation activities are completed, which may include contracts, agreements in principle, or other evidence that, once reclaimed, the site is reasonably anticipated to be used for one or more industrial, commercial, residential, agricultural, or recreational purposes; or

"(iii) agreed to by the State or Indian tribe that demonstrates the project will meet the criteria set forth in this subsection.

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

"(A) that has been adversely affected economically by a reduction in coal mining-related activity over the preceding 5 years, as demonstrated by employment data, per capita income, or other indicators of reduced economic activity attributable to the reduction; or

"(B)(i) that has traditionally relied on coal mining for a substantial portion of the economy of the community; and

"(ii) in which the economic contribution of coal mining has significantly declined.

"(4) STAKEHOLDER COLLABORATION.—The project has been—

"(A) the subject of project planning under subsection (g); and

"(B) the focus of collaboration, including partnerships, as appropriate, with interested persons or local organizations.

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

"(d) DISTRIBUTION OF FUNDS.—

"(1) UNCERTIFIED STATES.—

"(A) In general.—Of the amount made available under subsection (b), the Secretary shall distribute $195,000,000 for each of fiscal years 2017 through 2021 to States and Indian tribes that have a State program approved under section 405 or are referred to in section 402(g)(8)(B), and have not made a certification under section 411(a) in which the Secretary has concurred, as follows:

"(i) Fiscal years 2017 and 2018.—For each of fiscal years 2017 and 2018, the Secretary shall allocate to each State and Indian tribe the funds through a formula based on the quantity of coal historically produced in each State or from the land of each Indian tribe before August 3, 1977.

"(ii) Fiscal years 2019 through 2021.—For each of fiscal years 2019 through 2021, the Secretary shall allocate to each State and Indian tribe—

"(I) the amount allocated to the State or Indian tribe for fiscal year 2017, plus any amount reallocated to the State or Indian tribe under this paragraph, if the State or Indian tribe has committed the full amount of the allocation of the State or Indian tribe for the preceding fiscal year to eligible projects; or

"(II) if the State or Indian tribe has not committed the full amount of the allocation of the State or Indian tribe for the preceding fiscal year to eligible projects, an amount equal to the lesser of—

"(aa) the amount the State or Indian tribe has committed to eligible projects from the allocation of the State or Indian tribe for the preceding fiscal year; and

"(bb) the amount allocated to the State or Indian tribe for fiscal year 2017.

"(iii) FISCAL YEAR 2022.—For fiscal year 2022, the Secretary shall allocate to each State and Indian tribe the amount reallocated to the State or Indian tribe under subparagraph (B), if the State or Indian tribe has committed the full amount of the allocation of the State or Indian tribe for fiscal year 2021 to eligible projects.

"(B) REALLOCATION OF UNCOMMITTED FUNDS.—

"(i) FISCAL YEAR 2019 THROUGH 2021.—For each of fiscal years 2019 through 2021, the Secretary shall reallocate in accordance with clause (iii) any amount available for distribution under this subsection that has not been committed to eligible projects in the preceding 2 fiscal years, among the States and Indian tribes that have committed to eligible projects the full amount of the annual allocation of the State or Indian tribe for the preceding fiscal year as described in clause (iii).

"(ii) FISCAL YEAR 2022.—For fiscal year 2022, the Secretary shall reallocate in accordance with clause (iii) any amount available for distribution under this subsection that has not been committed to eligible projects or distributed under subparagraph (A)(iii), among the States and Indian tribes that have committed to eligible projects the full amount of the annual allocation of the State or Indian tribe for fiscal year 2021.

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

"(I) the proportion of unreclaimed eligible land and waters the State or Indian tribe has in the inventory maintained under section 403(c); and

"(II) the proportion of coal mining employment loss incurred in the State or Indian land, respectively, as determined by the Mine Safety and Health Administration, over the 5-year period preceding the fiscal year for which the reallocation is made.

"(C) SUPPLEMENTAL FUNDS.—Funds distributed under this subsection—

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

"(ii) shall not reduce any funds distributed to a State or Indian tribe by reason of the application of section 402(g)(8).

"(2) ADDITIONAL FUNDING TO CERTAIN STATES AND INDIAN TRIBES.—

"(A) ELIGIBILITY.—Of the amount made available under subsection (b), the Secretary shall distribute $5,000,000 for each of the 5 fiscal years beginning in fiscal year 2017 to States and Indian tribes that—

"(i) have a State program approved under section 405; and

"(ii)(I) have made a certification under section 411(a) in which the Secretary has concurred; or

"(II) receive an allocation by reason of the application of section 402(g)(8)(A).

"(B) APPLICATION FOR FUNDS.—

"(i) IN GENERAL.—Using the process described in section 405(f), any State or Indian tribe described in subparagraph (A) may submit a grant application to the Secretary for funds under this paragraph.

"(ii) REVIEW.—The Secretary shall review each grant application to confirm that the projects identified in the application for funding are eligible under subsection (c).

"(C) DISTRIBUTION OF FUNDS.—The amount of funds distributed to each State and Indian tribe under this paragraph shall be determined by the Secretary based on the demonstrated need for the funding to accomplish the purposes of this section.

"(e) RESOLUTION OF CONCERNS OF SECRETARY; CONGRESSIONAL NOTIFICATION.—If the Secretary does not agree with a State or Indian tribe that a proposed project meets the criteria set forth in subsection (c)—

"(1) the Secretary and the State or Indian tribe shall meet and confer for a period of not less than 30 days to resolve the concerns of the Secretary;

"(2) during that period, the Secretary may consult with any appropriate Federal agency, such as the Appalachian Regional Commission, the Economic Development Administration, and the Bureau of Indian Affairs, to assist with the resolution of the concerns; and

"(3) at the end of that period, if the concerns of the Secretary are not resolved the Secretary shall provide to Congress an explanation of the concerns.

"(f) ACID MINE DRAINAGE TREATMENT.—

"(1) IN GENERAL.—Subject to paragraph (3), a State or Indian tribe that receives funds under this section may retain such portion of the funds as is necessary to supplement the acid mine drainage abatement and treatment fund of the State or Indian tribe established under section 402(g)(6)(A), for future operation and maintenance costs for the treatment of acid mine drainage associated with the individual projects funded under this section.

"(2) APPLICATION.—A State or Indian tribe shall specify the total funds allotted for costs described in paragraph (1) in the application of the State or Indian tribe submitted under subsection (d)(2)(B).

"(3) CONDITION.—A State or Indian tribe may retain and use funds under this subsection only if the State or Indian tribe demonstrates that the annual grant distributed to the State or Indian tribe pursuant to section 401(f), including any interest from the acid mine drainage abatement and treatment fund of the State or Indian tribe 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 the amounts distributed to the State or Indian tribe under this section for project planning and the costs of administering this section.

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

"(i) identification of eligible projects;

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

"(iii) developing project designs;

"(iv) preparing cost estimates; or

"(v) engaging in other similar activities necessary to facilitate reclamation activities under this section.

"(2) SECRETARY.—In addition to amounts available for distribution under subsection (b), the Secretary may expend, without further appropriation, not more than $3,000,000 for the 5 fiscal years beginning after the date of enactment of the RECLAIM Act of 2016 for staffing and other administrative expenses necessary to carry out this section.

"(h) REPORT TO CONGRESS.—Each State and Indian tribe to which funds are distributed under this section shall provide to Congress and the Secretary at the end of each fiscal year for which the funds are distributed a detailed report on—

"(1) the various projects that have been undertaken with the funds; and

"(2) the community and economic benefits that are resulting, or are expected to result, from the use of the funds.".

(b) CLERICAL AMENDMENT.—The table of contents in the first section of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. prec. 1201) is amended by adding at the end of the items relating to title IV the following:

"Sec. 415. Remaining incentives.
"Sec. 416. Abandoned mine land economic revitalization.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

(a) ABANDONED MINE RECLAMATION FUND AND PURPOSES.—Section 401(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231) is amended—

(1) in subsection (c)—

(A) in paragraph (10), by striking "and" at the end;

(B) by redesignating paragraph (11) as paragraph (12); and

(C) by inserting after paragraph (10) the following:

"(11) to implement section 416; and"; and

(2) in subsection (d)(3), by inserting "and section 416(b)" before the period at the end.

(b) RECLAMATION FEE.—Section 402(g) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)) is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A), by inserting "and section 416" after "subsection (h)"; and

(2) in paragraph (3), by adding at the end the following:

"(F) For the purpose of section 416(b)(2)(A).".

(c) OBJECTIVES OF FUND.—Section 403(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1233(c)) is amended—

(1) in the first sentence—

(A) by striking "For" and inserting the following:

"(1) IN GENERAL.—For";

(B) by inserting "any of" after "which meet"; and

(C) by striking "paragraphs (1) and (2) of";

(2) in the second sentence, by striking "Under" and inserting the following:

"(2) AMENDMENTS.—

"(A) IN GENERAL.—Under"; and

(A) by inserting after subparagraph (A) (as so designated) the following:

"(B) ADVANCED TECHNOLOGIES.—As practicable, States and Indian tribes shall offer amendments described in subparagraph (A) based on the use of remote sensing, global positioning systems, and other advanced technologies.";

(3) by striking "The Secretary shall provide" and inserting the following:

"(3) ASSISTANCE.—The Secretary shall provide";

(4) by striking "The Secretary shall compile" and inserting the following:

"(4) INVENTORY.—

"(A) IN GENERAL.—The Secretary shall compile";

(5) in the last sentence by striking "On" and inserting the following:

"(B) PROJECTS.—On"; and

(6) by adding at the end the following:

"(C) UPDATES.—The Secretary may perform any work necessary to amend any entry in the inventory that has not been updated by a State or Indian tribe within the preceding 3 years to ensure that the entry is up-to-date and accurate.".

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