

115TH CONGRESS
2D SESSION

H. R. 6807

To amend the Mineral Leasing Act to make certain improvements in the laws relating to coal royalties, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 13, 2018

Mr. CARTWRIGHT (for himself, Mr. LOWENTHAL, Mr. HUFFMAN, Mr. RYAN of Ohio, and Ms. TSONGAS) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Financial Services, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Mineral Leasing Act to make certain improvements in the laws relating to coal royalties, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Coal Royalty Fairness and Communities Investment Act
6 of 2018”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—VALUATION OF FEDERAL COAL FOR PURPOSES OF
ROYALTIES

Sec. 101. Valuation of coal royalties.

TITLE II—PROGRAMS TO REINVEST IN COAL-IMPACTED
COMMUNITIES

Sec. 201. Establishment of Fund.

Sec. 202. Federal economic and workforce development assistance programs.

Sec. 203. Carbon capture and sequestration.

Sec. 204. Additional Federal agency participation.

Sec. 205. Definitions.

3 **TITLE I—VALUATION OF FED-**
 4 **ERAL COAL FOR PURPOSES**
 5 **OF ROYALTIES**

6 **SEC. 101. VALUATION OF COAL ROYALTIES.**

7 Section 7 of the Mineral Leasing Act (30 U.S.C. 207)
 8 is amended—

9 (1) in subsection (a), by striking the fourth sen-
 10 tence; and

11 (2) by adding at the end the following:

12 “(d) ROYALTIES.—

13 “(1) DEFINITIONS.—In this subsection:

14 “(A) ASSESSMENT VALUE.—

15 “(i) IN GENERAL.—The term ‘assess-
 16 ment value’, with respect to Federal coal,
 17 means the gross proceeds accruing to the
 18 lessee or the affiliate of the lessee’s first

1 arm's length contract for the sale of Fed-
2 eral coal.

3 “(ii) EXCEPTION.—If the Secretary
4 cannot identify any arm's length contract
5 for the sale of Federal coal, then the as-
6 sessment value means a price imputed by
7 the Secretary based on the coal price
8 index.

9 “(B) ARM'S LENGTH CONTRACT.—The
10 term ‘arm's length contract’ means a contract,
11 agreement, or transaction for the sale of Fed-
12 eral coal that is between parties that are inde-
13 pendent of each other and that are not affili-
14 ates.

15 “(C) AFFILIATE.—The term ‘affiliate’,
16 with respect to a lessee, means a party that
17 controls, is controlled by, or is under common
18 control with the lessee, and includes a parent or
19 subsidiary company.

20 “(D) COAL PRICE INDEX.—The term ‘coal
21 price index’ means the schedule of average mar-
22 ket prices of Federal coal (in United States dol-
23 lars) at final sale, based on the quality and type
24 of the Federal coal, as determined by the Sec-

1 retary, in consultation with the Administrator
2 of the Energy Information Administration.

3 “(E) SECRETARY.—The term ‘Secretary’
4 means the Secretary of the Interior.

5 “(2) PAYMENT RATE.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (B), a lease shall require pay-
8 ment of a royalty in such amount as the Sec-
9 retary shall determine, which shall not be less
10 than 12.5 percent of the assessment value of
11 Federal coal.

12 “(B) EXCEPTION.—In the case of Federal
13 coal recovered by an underground mining oper-
14 ation, the Secretary may establish such lower
15 royalty payment rate as the Secretary deter-
16 mines to be appropriate in lieu of the royalty
17 payment rate described in subparagraph (A).

18 “(3) ADMINISTRATION.—

19 “(A) REPORTING.—The Secretary shall en-
20 sure that any purchaser of Federal coal shall
21 annually submit to the Secretary a report con-
22 taining such information as the Secretary deter-
23 mines to be necessary to carry out this sub-
24 section.

1 “(B) AUDITS.—To carry out this sub-
2 section, the Secretary may examine the records
3 of any person engaged in the purchase, sale,
4 transportation, or marketing of Federal coal.

5 “(4) COAL PRICE INDEX.—

6 “(A) IN GENERAL.—The Secretary shall
7 compile in a coal price index the assessment
8 values of coal by type and quality of coal.

9 “(B) PUBLICATION.—Not less frequently
10 than quarterly, the Secretary shall publish in
11 the Federal Register and on a public website
12 the coal price index, along with a methodo-
13 logical description, including—

14 “(i) the method of calculation;

15 “(ii) the data used to calculate the
16 coal price index in an aggregate manner
17 that does not reveal proprietary informa-
18 tion; and

19 “(iii) any other information the Sec-
20 retary considers appropriate to ensure
21 transparency.

22 “(C) OTHER INFORMATION.—If a person
23 believes that the coal price index does not accu-
24 rately reflect the assessment value of the coal
25 produced by the person, the person may peti-

tion the Secretary to use information supplied by the person in lieu of the coal price index for the purpose of determining the assessment value of the coal produced by such person, including all information the Secretary requires to accurately determine the assessment value and audit the records of the person.

“(5) REVIEWS.—

“(A) IN GENERAL.—To ensure a transparent, fair, and efficient administration of the Federal coal program, and to ensure that citizens of the United States receive a fair return on Federal coal, not later than 3 years after the date of the enactment of this subsection and every 3 years thereafter during the 15-year period beginning on such date, the Comptroller General of the United States shall submit to Congress a report containing the results of a review conducted by the Comptroller General of the Federal coal program, including the administration of this subsection.

“(B) CONSULTATION.—In conducting a review under this paragraph, the Comptroller General shall consult with—

“(i) the Secretary;

1 “(ii) the Director of the Bureau of
2 Land Management;

3 “(iii) the Secretary of Transportation;
4 and

5 “(iv) the Secretary of Energy.

6 “(C) INCLUSIONS.—In conducting a review
7 under this paragraph, the Comptroller General
8 shall review—

9 “(i) the total volume of coal produc-
10 tion from Federal land;

11 “(ii) the total volume of remaining
12 coal reserves on Federal land;

13 “(iii) the total amount of revenues
14 generated from the Federal coal program,
15 itemized by type of revenue, including lease
16 bonus payments and royalties;

17 “(iv) market prices for coal;

18 “(v) market prices for transportation
19 costs and any other deductible costs; and

20 “(vi) the appropriateness of royalty
21 rates.

22 “(D) FORMAT.—The Comptroller General
23 shall report information in a review under this
24 paragraph—

1 “(i) in the aggregate for the United
2 States; and

3 “(ii) categorized by State for at least
4 the top 10 Federal coal-producing States,
5 as determined by the Comptroller General.

6 “(6) STUDY.—The Secretary shall seek to enter
7 into an agreement with the National Academy of
8 Sciences to conduct a study to determine the most
9 equitable method for valuation of coal produced on
10 Federal lands for purposes of Federal coal leases.
11 Not later than 18 months after the date of the en-
12 actment of this subsection, and every five years
13 thereafter, the Secretary shall submit to Congress a
14 report containing the findings, of such study.”.

15 **TITLE II—PROGRAMS TO REIN-**
16 **VEST IN COAL-IMPACTED**
17 **COMMUNITIES**

18 **SEC. 201. ESTABLISHMENT OF FUND.**

19 (a) ESTABLISHMENT.—There is established in the
20 Treasury of the United States a separate account, to be
21 administered by the Secretary (acting through the Eco-
22 nomic Development Administration), to be known as the
23 “Coal Area Economic Revitalization Fund”.

24 (b) DEPOSITS.—Of the amount of royalty revenues
25 collected by the United States for each fiscal year from

1 coal leases under section 7 of the Mineral Leasing Act (30
2 U.S.C. 207) (as amended by section 101(2)), to the extent
3 the revenues are available, there shall be deposited in the
4 Coal Area Economic Revitalization Fund \$75,000,000.

5 (c) AVAILABILITY OF AMOUNTS.—

6 (1) IN GENERAL.—Subject to subsection (d)
7 and notwithstanding any other provision of law, for
8 each fiscal year, of the amounts deposited in the
9 Coal Area Economic Revitalization Fund under sub-
10 section (b), there shall be made available, without
11 further appropriation, the following amounts:

12 (A) \$70,000,000 to the Secretary to pro-
13 vide grant assistance under covered programs
14 for eligible projects, in accordance with section
15 202.

16 (B) \$5,000,000 to the Secretary of Energy
17 to provide funding for large-scale projects to
18 capture and store carbon dioxide emissions
19 from industrial sources, in accordance with sec-
20 tion 203.

21 (2) SPECIAL RULE.—If, with respect to a fiscal
22 year, the amounts in the Coal Area Economic Revi-
23 talization Fund are insufficient to carry out para-
24 graph (1), there shall be made available, without
25 further appropriation, the following:

1 (A) To the Secretary for the purposes de-
2 scribed in paragraph (1)(A), 93.333 percent of
3 the amounts available in the Fund.

4 (B) To the Secretary of Energy for the
5 purposes described in paragraph (1)(B), 6.666
6 percent of the amounts available in the fund.

7 (d) ADMINISTRATIVE EXPENSES.—A participating
8 agency that receives funds under subsection (c) may not
9 use not more than 2 percent of the amount the agency
10 receives for each fiscal year to cover the administrative
11 expenses of the participating agency in carrying out the
12 covered program.

13 (e) PERIOD OF AVAILABILITY.—The amounts depos-
14 ited in the Coal Area Economic Revitalization Fund shall
15 remain available without fiscal year limitation until ex-
16 pended.

17 **SEC. 202. FEDERAL ECONOMIC AND WORKFORCE DEVELOP-**
18 **MENT ASSISTANCE PROGRAMS.**

19 (a) IN GENERAL.—The Secretary, acting through the
20 Economic Development Administration, shall use the
21 amounts made available under section 201(c)(1) to pro-
22 vide grant assistance under covered programs described
23 in subsection (c) for eligible projects described in sub-
24 section (d).

1 (b) ALLOCATION OF FUNDS FOR COVERED PRO-
2 GRAMS.—

3 (1) IN GENERAL.—The Secretary shall—

4 (A) allocate amounts made available to
5 carry out this section among the covered pro-
6 grams in accordance with the criteria described
7 in paragraph (2); and

8 (B) not later than 30 days after allocations
9 are determined under subparagraph (A), pro-
10 vide public notice of the availability of grant as-
11 sistance under this section through a Federal
12 Funding Opportunity announcement.

13 (2) ALLOCATION CRITERIA.—Not later than
14 120 days after the date of enactment of this Act, the
15 Secretary shall establish and publish criteria for the
16 allocation of amounts made available to carry out
17 this section among the covered programs.

18 (c) COVERED PROGRAMS.—

19 (1) IN GENERAL.—On allocation by the Sec-
20 retary of amounts from the Coal Area Economic Re-
21 vitalization Fund for a covered program under this
22 section, the head of the applicable participating
23 agency shall manage grant selection (including eligi-
24 bility requirements in addition to the eligibility re-

quirements listed in subsection (d)), awards, and execution of projects with respect to such amounts.

(2) TERMS AND CONDITIONS.—Except as otherwise provided in this section, projects that receive grant assistance under this section shall be subject to the eligibility rules, permitted activities, and reporting requirements of the covered program under which the grant is made.

(d) ELIGIBLE PROJECTS.—

(1) PROJECT PURPOSES.—A project shall be eligible for assistance under this section if the purpose of the project is to assist impacted communities—

(A) to organize community stakeholders, analyze and inventory community assets, evaluate needs and resources, or develop comprehensive economic development strategic plans;

(B) to undergo in-depth labor market analysis and workforce development and dislocated worker planning associated with the provision of training and employment services;

(C) to implement linked economic and workforce development strategies to promote local and regional economic growth;

(D) to accelerate job creation by leveraging local assets;

1 (E) to train and place workers in family-
2 supporting, high-demand jobs (including reg-
3 istered apprenticeship and other on-the-job
4 training models);

5 (F) to create linkages between community
6 stakeholders, economic development organiza-
7 tion, public and private entities, and the labor
8 force that drive local and regional economic
9 growth; or

10 (G) to carry out other purposes approved
11 by the Secretary.

12 (2) PRIORITY.—In selecting projects to receive
13 assistance under this section, the head of a partici-
14 pating agency shall—

15 (A) give priority to project applications
16 that establish a clear linkage between the pro-
17 posed project and the means by which the
18 project will result in local and regional economic
19 growth and diversification, job creation, or job
20 training and reemployment for dislocated work-
21 ers, without regard to any formula used by a
22 participating agency to disburse other funds;
23 and

24 (B) consult directly with impacted commu-
25 nities to determine the greatest needs of the im-

1 pacted communities and give priority to projects
2 that address those needs.

3 (3) SPECIFIC ACTIVITIES AND COSTS TO BE
4 CONSIDERED.—In providing assistance under this
5 section for projects for economic diversification, the
6 head of a participating agency shall give consider-
7 ation for priority, at a minimum, to the following ac-
8 tivities and costs:

9 (A) Analysis activities that build from stra-
10 tegic economic development plans, including—

11 (i) economic and workforce data col-
12 lection; and

13 (ii) supply chain and industry cluster
14 analysis.

15 (B) Outreach and targeted assistance to
16 economic development organizations, unions,
17 workers, and other stakeholders.

18 (C) Remediation and redevelopment of coal
19 economy sites, as appropriate.

20 (D) Provision of business planning and
21 market exploration services.

22 (E) Development of business incubator
23 programs.

1 (F) Facilitation of access to private capital
2 investment and capacity building to effectively
3 use capital investment.

4 (G) Promotion of exports from entities in
5 the impacted area.

6 (H) Workforce training and dislocated
7 worker services and supports for impacted
8 workers.

9 (I) Costs associated with registered ap-
10 prenticeship and on-the-job training models.

11 (J) Temporary or short-term relocation or
12 commuting costs for available jobs in other
13 parts of the applicable State or region.

14 (K) Staffing, operating, and administrative
15 costs for the recipient organization.

16 (L) Comprehensive strategies that—

17 (i) integrate all of the activities and
18 costs described in subparagraphs (A)
19 through (K); and

20 (ii) leverage other investments from
21 the applicable participating agency and
22 other Federal departments and agencies.

23 (e) COORDINATION OF ACTIVITIES.—The Secretary
24 shall—

1 (1) provide a single staff point of Federal con-
2 tact (with staffing assistance from other partici-
3 pating agencies, as needed) for grants awarded
4 under this section; and

5 (2) coordinate cross-agency activities at the re-
6 gional level that direct additional Federal resources
7 to impacted communities.

8 **SEC. 203. CARBON CAPTURE AND SEQUESTRATION.**

9 The Secretary of Energy shall use the amounts made
10 available under section 201(c)(2) to provide financial as-
11 sistance for the design, construction, and operation of
12 large-scale projects to capture and store carbon dioxide
13 emissions from industrial sources.

14 **SEC. 204. ADDITIONAL FEDERAL AGENCY PARTICIPATION.**

15 (a) IN GENERAL.—The Federal departments and
16 agencies described in subsection (b) shall provide to im-
17 pacted communities technical assistance and educational
18 outreach to fund partnerships, in coordination with avail-
19 able resources.

20 (b) DESCRIPTION OF DEPARTMENTS AND AGEN-
21 CIES.—The Federal departments and agencies referred to
22 in subsection (a) are—

23 (1) the Rural Business-Cooperative Service of
24 the Department of Agriculture;

- 1 (2) the Office of Solid Waste and Emergency
- 2 Response of the Environmental Protection Agency;
- 3 (3) the Department of Energy;
- 4 (4) the Community Development Financial In-
- 5 stitutions Fund of the Department of the Treasury;
- 6 (5) SelectUSA and the National Institute of
- 7 Standards and Technology—Manufacturing Exten-
- 8 sion Partnerships of the Department of Commerce;
- 9 (6) the Corporation for National and Commu-
- 10 nity Service; and
- 11 (7) the Office of Surface Mining Reclamation
- 12 and Enforcement of the Department of the Interior.

13 **SEC. 205. DEFINITIONS.**

14 In this title:

- 15 (1) COAL ECONOMY.—The term “coal econ-
- 16 omy” means the complete supply chain of coal reli-
- 17 ant industries, including coal mining, coal-fired
- 18 power plants, and related transportation, logistics,
- 19 and manufacturing.
- 20 (2) COVERED PROGRAM.—The term “covered
- 21 program” means any of the following:
 - 22 (A) The Assistance to Coal Communities,
 - 23 Economic Adjustment Assistance, and Partner-
 - 24 ship Planning program of the Economic Devel-

1 opment Administration of the Department of
2 Commerce.

3 (B) The Dislocated Worker National
4 Emergency Grants program of the Employment
5 and Training Administration of the Department
6 of Labor.

7 (C) The Regional Innovation Clusters and
8 Growth Accelerators program of the Small
9 Business Administration.

10 (D) The Technical Assistance and Dem-
11 onstration Projects program of the Appalachian
12 Regional Commission.

13 (3) IMPACTED COMMUNITY.—The term “im-
14 pacted community” means a community or Indian
15 tribe (as such term is defined in section 4 of the In-
16 dian Self-Determination and Education Assistance
17 Act (25 U.S.C. 450b)) in the United States that has
18 been negatively impacted as a result of changes in
19 the coal economy, including a negative impact on its
20 economy, environment, employment, retirement ben-
21 efits, infrastructure, public health, or education.

22 (4) PARTICIPATING AGENCY.—The term “par-
23 ticipating agency” means a Federal agency that has
24 primary authority over a covered program.

1 (5) SECRETARY.—The term “Secretary” means
2 the Secretary of Commerce.

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