

# Union Calendar No. 176

116TH CONGRESS  
1ST SESSION

# H. R. 2156

[Report No. 116–223]

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.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 9, 2019

Mr. CARTWRIGHT (for himself, Mr. ROGERS of Kentucky, Mr. BEYER, and Mr. THOMPSON of Pennsylvania) introduced the following bill; which was referred to the Committee on Natural Resources

OCTOBER 4, 2019

Additional sponsors: Mr. RYAN, Mr. YARMUTH, Mr. LOWENTHAL, Mr. PETERS, Mr. HUFFMAN, Mr. FLEISCHMANN, Mrs. BUSTOS, Mr. TONKO, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. SIRES, Mr. BLUMENAUER, Mr. GRIJALVA, Ms. CASTOR of Florida, Mr. BEN RAY LUJÁN of New Mexico, Mr. FITZPATRICK, Mr. MEUSER, Mr. KRISHNAMOORTHY, Mr. MICHAEL F. DOYLE of Pennsylvania, Ms. SEWELL of Alabama, Ms. HAALAND, Mr. GALLEG0, Mr. VAN DREW, Mr. LAMB, Ms. WILD, Mr. SOTO, Mr. GUTHRIE, Mr. STIVERS, Mr. MCKINLEY, Ms. DEAN, Mr. DAVID P. ROE of Tennessee, Mr. KELLY of Pennsylvania, Mr. GRIFFITH, Mr. JOHNSON of Ohio, Mr. ROUDA, Ms. SCANLON, Mr. HIMES, Mr. COHEN, Mr. CONNOLLY, Ms. HOULAHAN, Mr. MCEACHIN, Mr. FOSTER, Ms. KELLY of Illinois, Mr. WELCH, Mr. QUIGLEY, Mr. KILMER, Mrs. AXNE, Mr. EVANS, Mr. ESPAILLAT, Mr. HASTINGS, Mr. DESJARLAIS, Ms. DEGETTE, Mr. HECK, Mr. PERLMUTTER, Ms. PINGREE, Mr. CASE, Ms. BROWNLEY of California, Ms. SCHAKOWSKY, Mr. BURCHETT, Ms. DELBENE, Ms. SLOTKIN, Mr. RICHMOND, and Mr. CROW

OCTOBER 4, 2019

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 April 9, 2019]

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## **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*  
 6 *and Investing More Act of 2019” or the “RECLAIM Act*  
 7 *of 2019”.*

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 2020*  
 25 *through 2024 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 *nomics 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*

strategy or other economic and community development planning process;

“(ii) any other documentation 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) any other documentation agreed to by the State or Indian tribe that demonstrates the project will meet the criteria set forth in this subsection.

“(2) *LOCATION IN ECONOMICALLY DISTRESSED COMMUNITY AFFECTED BY RECENT DECLINE IN MINING.*—

“(A) *IN GENERAL.*—The project will be conducted in a community—

“(i) that has been adversely affected economically by a recent reduction in coal mining related activity, as demonstrated by employment data, per capita income, or 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—

23                  “(i) the public has been notified of the  
24                  project and has been given an opportunity  
25                  to comment at a public meeting convened in

1                   *a community near the proposed project site;*  
2                   *and*

3                   “(ii) *the State or Indian tribe pub-*  
4                   *lished notice of such meetings in local news-*  
5                   *papers of general circulation, on the Inter-*  
6                   *net, and by any other means considered de-*  
7                   *sirable by the Secretary.*

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*

1           “(B) is unable to meet the requirements  
2           under paragraph (2),  
3           the State or Indian tribe shall submit a written dec-  
4           laration to the Secretary requesting an exemption  
5           from the requirements of those subparagraphs. The  
6           declaration must explain why achieving favorable  
7           conditions for economic or community development at  
8           the project site is not practicable, or why the require-  
9           ments of paragraph (2) cannot be met, and that suffi-  
10          cient funds distributed annually under section 401  
11          are not available to implement the project. Such re-  
12          quest for an exemption is deemed to be approved, ex-  
13          cept the Secretary shall deny such request if the Sec-  
14          retary determines the declaration to be substantially  
15          inadequate. Any denial of such request shall be re-  
16          solved at the State’s or Indian tribe’s request through  
17          the procedures described in subsection (e).

18          “(d) DISTRIBUTION OF FUNDS.—

19                 “(1) UNCERTIFIED STATES.—

20                         “(A) IN GENERAL.—From the amount made  
21                         available in subsection (b), the Secretary shall  
22                         distribute \$195,000,000 annually for each of fis-  
23                         cal years 2020 through 2024 to States and In-  
24                         dian tribes that have a State or tribal program  
25                         approved under section 405 or are referred to in

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

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

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

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

17               *“(i) shall be in addition to, and shall*  
18               *not affect, the amount of funds distrib-*  
19               *uted—*

20               *“(I) to States and Indian tribes*  
21               *under section 401(f); and*

22               *“(II) to States and Indian tribes*  
23               *that have made a certification under*  
24               *section 411(a) in which the Secretary*

1                   *has concurred, subject to the cap de-*  
 2                   *scribed in section 402(i)(3); and*

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

6                   *“(2) ADDITIONAL FUNDING TO CERTAIN STATES*  
 7                   *AND INDIAN TRIBES.—*

8                   *“(A) ELIGIBILITY.—From the amount made*  
 9                   *available in subsection (b), the Secretary shall*  
 10                  *distribute \$5,000,000 annually for each of the*  
 11                  *five fiscal years beginning with fiscal year 2020*  
 12                  *to States and Indian tribes that have a State*  
 13                  *program approved under section 405 and have*  
 14                  *made a certification under section 411(a) in*  
 15                  *which the Secretary has concurred.*

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

24                  *“(C) DISTRIBUTION OF FUNDS.—The*  
 25                  *amount of funds distributed to each State or In-*

1        *dian tribe under this paragraph shall be deter-*  
2        *mined by the Secretary based on the dem-*  
3        *onstrated need for the funding to accomplish the*  
4        *purpose of this section.*

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

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

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

10                *“(I) have been exclusively applied*  
11        *to or reserved for a specific project and*  
12        *therefore are not available for any*  
13        *other purpose; or*

14                *“(II) have been expended or des-*  
15        *ignated by the State or Indian tribe*  
16        *for the completion of a project;*

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

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

1           “(B) *FISCAL YEARS 2023 AND 2024.*—For  
2           each of fiscal years 2023 and 2024, the Secretary  
3           shall reallocate in accordance with subparagraph  
4           (D) any amount available for distribution under  
5           this subsection that has not been committed to el-  
6           igible projects in the preceding 2 fiscal years,  
7           among the States and Indian tribes that have  
8           committed to eligible projects the full amount of  
9           their annual allocation for the preceding fiscal  
10          year.

11          “(C) *FISCAL YEAR 2025.*—For fiscal year  
12          2025, the Secretary shall reallocate in accordance  
13          with subparagraph (D) any amount available  
14          for distribution under this subsection that has  
15          not been committed to eligible projects or distrib-  
16          uted under paragraph (1)(A), among the States  
17          and Indian tribes that have committed to eligible  
18          projects the full amount of their annual alloca-  
19          tion for the preceding fiscal years.

20          “(D) *AMOUNT OF REALLOCATION.*—The  
21          amount reallocated to each State or Indian tribe  
22          under each of subparagraphs (B) and (C) shall  
23          be determined by the Secretary to reflect, to the  
24          extent practicable—

1                   “(i) the proportion of unreclaimed eli-  
2                   gible lands and waters the State or Indian  
3                   tribe has in the inventory maintained  
4                   under section 403(c);

5                   “(ii) the average of the proportion of  
6                   reclamation fees paid for lands in each  
7                   State or lands of each Indian tribe con-  
8                   cerned; and

9                   “(iii) the proportion of coal mining  
10                  employment loss incurred in the State or on  
11                  lands of the Indian tribe, respectively, as  
12                  determined by the Mine Safety and Health  
13                  Administration, over the 5-year period pre-  
14                  ceding the fiscal year for which the realloca-  
15                  tion is made.

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

20               “(1) the Secretary and the State or tribe shall  
21               meet and confer for a period of not more than 45  
22               days to resolve the Secretary’s concerns, except that  
23               such period may be shortened by the Secretary if the  
24               Secretary’s concerns are resolved;

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

4           “(3) at the end of that period, if the Secretary’s  
5       concerns are not resolved the Secretary shall provide  
6       to the Committee on Natural Resources of the House  
7       of Representatives and the Committee on Energy and  
8       Natural Resources of the Senate an explanation of the  
9       concerns and such project proposal shall not be eligi-  
10      ble for funds distributed under this section.

11       “(f) ACID MINE DRAINAGE TREATMENT.—

12           “(1) IN GENERAL.—Subject to paragraph (2), a  
13       State or Indian tribe that receives funds under this  
14       section may use up to 30 percent of such funds as  
15       necessary to supplement the State’s or tribe’s acid  
16       mine drainage abatement and treatment fund estab-  
17       lished under section 402(g)(6)(A), for future operation  
18       and maintenance costs for the treatment of acid mine  
19       drainage associated with the individual projects fund-  
20       ed under this section. A State or Indian tribe shall  
21       specify the total funds allotted for such costs in its  
22       application submitted under subsection (d)(2)(B).

23           “(2) CONDITION.—A State or Indian tribe may  
24       use funds under this subsection only if the State or  
25       tribe can demonstrate that the annual grant distrib-

1        *uted to the State or tribe pursuant to section 401(f),*  
 2        *including any interest from the State’s or tribe’s acid*  
 3        *mine drainage abatement and treatment fund that is*  
 4        *not used for the operation or maintenance of pre-*  
 5        *existing acid mine drainage treatment systems, is in-*  
 6        *sufficient to fund the operation and maintenance of*  
 7        *any acid mine drainage treatment system associated*  
 8        *with an individual project funded under this section.*

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

10        *“(1) STATES AND INDIAN TRIBES.—*

11                *“(A) IN GENERAL.—A State or Indian tribe*  
 12                *may use up to 10 percent of its annual distribu-*  
 13                *tion under this section for project planning and*  
 14                *the costs of administering this section.*

15                *“(B) PLANNING REQUIREMENTS.—Planning*  
 16                *under this paragraph may include—*

17                        *“(i) identifying eligible projects;*

18                        *“(ii) updating the inventory referred to*  
 19                        *in section 403(c);*

20                        *“(iii) developing project designs;*

21                        *“(iv) collaborating with stakeholders,*  
 22                        *including public meetings;*

23                        *“(v) preparing cost estimates; or*

1                   “(vi) engaging in other similar activi-  
2                   ties necessary to facilitate reclamation ac-  
3                   tivities under this section.

4                   “(2) SECRETARY.—The Secretary may expend,  
5                   from amounts made available to the Secretary under  
6                   section 402(g)(3)(D), not more than \$3,000,000 dur-  
7                   ing the fiscal years for which distributions occur  
8                   under subsection (b) for staffing and other adminis-  
9                   trative expenses necessary to carry out this section.

10                  “(h) REPORT TO CONGRESS.—The Secretary shall pro-  
11                  vide to the Committee on Natural Resources of the House  
12                  of Representatives, the Committees on Appropriations of the  
13                  House of Representatives and the Senate, and the Com-  
14                  mittee on Energy and Natural Resources of the Senate at  
15                  the end of each fiscal year for which such funds are distrib-  
16                  uted a detailed report—

17                         “(1) on the various projects that have been un-  
18                         dertaken with such funds;

19                         “(2) the extent and degree of reclamation using  
20                         such funds that achieved the priorities described in  
21                         paragraph (1) or (2) of section 403(a);

22                         “(3) the community and economic benefits that  
23                         are resulting from, or are expected to result from, the  
24                         use of the funds that achieved the priorities described  
25                         in paragraph (3) of section 403(a); and

1           “(4) the reduction since the previous report in  
2           the inventory referred to in section 403(c).

3           “(i) *PROHIBITION ON CERTAIN USE OF FUNDS.—Any*  
4           *State or Indian tribe that uses the funds distributed under*  
5           *this section for purposes other than reclamation or drainage*  
6           *abatement expenditures, as made eligible by section 404,*  
7           *and for the purposes authorized under subsections (f) and*  
8           *(g), shall be barred from receiving any subsequent funding*  
9           *under this section.”.*

10          (b) *CLERICAL AMENDMENT.—The table of contents in*  
11          *the first section of the Surface Mining Control and Rec-*  
12          *lamation Act of 1977 is amended by adding at the end of*  
13          *the items relating to title IV the following:*

            “Sec. 416. Abandoned mine land economic revitalization.”.

14          **SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.**

15          *The Surface Mining Control and Reclamation Act of*  
16          *1977 is amended—*

17                 (1) *in section 401(c) (30 U.S.C. 1231(c)), by*  
18                 *striking “and” after the semicolon at the end of para-*  
19                 *graph (10), by redesignating paragraph (11) as para-*  
20                 *graph (12), and by inserting after paragraph (10) the*  
21                 *following:*

22                         “(11) to implement section 416; and”;

23                 (2) *in section 401(d)(3) (30 U.S.C. 1231(d)(3)),*  
24                 *by striking “subsection (f)” and inserting “subsection*  
25                 *(f) and section 416(a)”;*

1           (3) in section 402(g) (30 U.S.C. 1232(g))—

2                   (A) in paragraph (1), by inserting “and  
3           section 416” after “subsection (h)”; and

4                   (B) by adding at the end of paragraph (3)  
5           the following:

6                   “(F) For the purpose of section  
7           416(d)(2)(A).”; and

8           (4) in section 403(c) (30 U.S.C. 1233(c)), by in-  
9           serting after the second sentence the following: “As  
10          practicable, States and Indian tribes shall offer such  
11          amendments based on the use of remote sensing, global  
12          positioning systems, and other advanced tech-  
13          nologies.”.

14   **SEC. 4. MINIMUM STATE PAYMENTS.**

15          Section 402(g)(8)(A) of the Surface Mining Control  
16   and Reclamation Act of 1977 (30 U.S.C. 1232(g)(8)) is  
17   amended by striking “\$3,000,000” and inserting  
18   “\$5,000,000”.

19   **SEC. 5. GAO STUDY OF USE OF FUNDS.**

20          Not later than two years after the date of the enact-  
21   ment of this Act, the Comptroller General of the United  
22   States shall study and report to the Congress on uses of  
23   funds authorized by this Act, including regarding—

24               (1) the solvency of the Abandoned Mine Rec-  
25   lamation Fund; and

1           (2) *the impact of such use on payments and*  
2           *transfers under the Surface Mining Control and Rec-*  
3           *lamation Act of 1977 (30 U.S.C. 1201) to—*

4                   (A) *States for which a certification has been*  
5                   *made under section 411 of such Act (30 U.S.C.*  
6                   *1241);*

7                   (B) *States for which such a certification has*  
8                   *not been made; and*

9                   (C) *transfers to United Mine Workers of*  
10                  *America Combined Benefit Fund.*

11   **SEC. 6. PAYMENTS TO CERTIFIED STATES NOT AFFECTED.**

12           *Nothing in this Act shall be construed to reduce or oth-*  
13           *erwise affect payments under section 402(g) of the Surface*  
14           *Mining Reclamation and Control Act of 1977 (30 U.S.C.*  
15           *1232(g)) to States that have made a certification under sec-*  
16           *tion 411(a) of such Act (30 U.S.C. 1240a(a)) in which the*  
17           *Secretary of the Interior has concurred.*

Union Calendar No. 176

116TH CONGRESS  
1ST Session

H. R. 2156

[Report No. 116-223]

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.

OCTOBER 4, 2019

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