

116TH CONGRESS
1ST SESSION

S. 1232

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

APRIL 30, 2019

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

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,*

6 SEC. 2. ECONOMIC REVITALIZATION FOR COAL COUNTRY.

“(a) 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 2020 through 2024 for allocation 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.

•S 1232 IS

1 “(1) RELATED TO THE RECLAMATION OF ABAN-
2 DONED MINE LAND AND WATER.—The project is de-
3 signed—

4 “(A) to achieve 1 or more of the priorities
5 stated in section 403(a); or

6 “(B) to be conducted on land immediately
7 adjacent to eligible land and water described in
8 section 403(a) that has previously been remedi-
9 ated or will be remediated under this section.

10 “(2) CONTRIBUTION TO FUTURE ECONOMIC OR
11 COMMUNITY DEVELOPMENT.—

12 “(A) IN GENERAL.—The project, on com-
13 pletion of reclamation, is reasonably likely to
14 create favorable conditions, as demonstrated in
15 accordance with subparagraph (B), for the eco-
16 nomic development of the project site or pro-
17 mote the general welfare through economic and
18 community development of the area in which
19 the project is conducted.

20 “(B) DEMONSTRATION OF CONDITIONS.—
21 The conditions referred to in subparagraph (A)
22 may be demonstrated by documentation—

23 “(i) of the role of the project in the
24 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 com-
pleted, which may include contracts, agree-
ments in principle, or other evidence that,
once reclaimed, the site is reasonably an-
ticipated to be used for 1 or more indus-
trial, commercial, residential, agricultural,
or recreational purposes; or

“(iii) agreed to by the State or Indian
Tribe that demonstrates the project will
meet the criteria described in this sub-
section.

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

“(A) in which the economic contribution of
coal mining has significantly declined due to a
reduction in coal mining-related activity over
the preceding 8 years, as demonstrated by em-
ployment data, per capita income, or other indi-
cators of reduced economic activity attributable
to the reduction; or

1 “(B) that has traditionally relied on coal
 2 mining for a substantial portion of the economy
 3 of the community.

4 “(4) STAKEHOLDER COLLABORATION.—The
 5 project has been—

6 “(A) the subject of project planning under
 7 subsection (f); and

8 “(B) the focus of collaboration, including
 9 partnerships, as appropriate, with interested
 10 persons or local organizations.

11 “(5) ELIGIBLE APPLICANTS.—The project has
 12 been proposed and will be executed by entities of
 13 State, local, county, or Tribal government, which
 14 may include subcontracting project-related activities,
 15 as appropriate.

16 “(c) ALLOCATION OF FUNDS.—

17 “(1) UNCERTIFIED STATES.—

18 “(A) DEFINITION OF UNCERTIFIED
 19 STATE.—In this paragraph, the term
 20 ‘Uncertified State’ means a State that—

21 “(i)(I) has a State program approved
 22 under section 405; and

23 “(II) has not made a certification
 24 under section 411(a) in which the Sec-
 25 retary has concurred; or

1 “(ii) is a State described in section
2 402(g)(8)(B).

3 “(B) ALLOCATION FOR FISCAL YEARS 2020
4 THROUGH 2024.—Of the amount made available
5 under subsection (a), the Secretary shall allo-
6 cate \$195,000,000 for each of fiscal years 2020
7 through 2024 to Uncertified States through a
8 formula based on the quantity of coal histori-
9 cally produced in each Uncertified State before
10 August 3, 1977.

11 “(C) REALLOCATION OF UNCOMMITTED
12 FUNDS.—

13 “(i) DEFINITION OF COMMITTED.—

14 “(I) IN GENERAL.—In this sub-
15 paragraph, the term ‘committed’, with
16 respect to funds received by an
17 Uncertified State, means that the
18 funds—

19 “(aa) have been exclusively
20 applied to or reserved for a spe-
21 cific project and therefore are not
22 available for any other purpose;
23 or

24 “(bb) have been expended or
25 designated by the Uncertified

1 State for the completion of a
2 project.

3 “(II) INCLUSION.—In this sub-
4 paragraph, the term ‘committed’, with
5 respect to funds received by an
6 Uncertified State, includes the use of
7 any funds for project planning under
8 subsection (f).

9 “(ii) FISCAL YEAR 2022 THROUGH
10 2024.—For each of fiscal years 2022
11 through 2024, the Secretary shall reallo-
12 cate in accordance with clause (iv) any
13 amount available for allocation under this
14 subsection that has not been committed to
15 eligible projects in the preceding 2 fiscal
16 years, among the Uncertified States that
17 have committed to eligible projects the full
18 amount of the annual allocation of the
19 Uncertified State for the preceding fiscal
20 year as described in clause (iv).

21 “(iii) FISCAL YEAR 2025.—For fiscal
22 year 2025, the Secretary shall reallocate in
23 accordance with clause (iv) any amount
24 available for allocation under this sub-
25 section that has not been committed to eli-

1 gible projects or allocated under subpara-
 2 graph (B), among the Uncertified States
 3 that have committed to eligible projects the
 4 full amount of the annual allocation of the
 5 Uncertified State for fiscal year 2024.

6 “(iv) AMOUNT OF REALLOCATION.—
 7 The amount reallocated to each Uncertified
 8 State under each of clauses (ii) and (iii)
 9 shall be determined by the Secretary to re-
 10 flect, to the maximum extent practicable—

11 “(I) the proportion of unre-
 12 claimed eligible land and water the
 13 Uncertified State has in the inventory
 14 maintained under section 403(c); and

15 “(II) the proportion of coal min-
 16 ing employment loss incurred in the
 17 Uncertified State, as determined by
 18 the Mine Safety and Health Adminis-
 19 tration, over the 8-year period pre-
 20 ceding the fiscal year for which the re-
 21 allocation is made.

22 “(D) SUPPLEMENTAL FUNDS.—Funds al-
 23 located under this subsection—

24 “(i) shall be in addition to, and shall
 25 not affect, the amount of funds distributed

1 to Uncertified States under section 401(f);
 2 and

3 “(ii) shall not reduce any funds dis-
 4 tributed to an Uncertified State by reason
 5 of the application of section 402(g)(8).

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

8 “(A) DEFINITIONS.—In this paragraph,
 9 the terms ‘State’ and ‘Indian Tribe’ mean a
 10 State or Indian Tribe, as applicable, that—

11 “(i) has a State program approved
 12 under section 405; and

13 “(ii) has made a certification under
 14 section 411(a) in which the Secretary has
 15 concurred.

16 “(B) ALLOCATION FOR FISCAL YEARS 2020
 17 THROUGH 2024.—Of the amount made available
 18 under subsection (a), the Secretary shall allo-
 19 cate \$5,000,000 for each of fiscal years 2020
 20 through 2024 to States and Indian Tribes.

21 “(C) APPLICATION FOR FUNDS.—

22 “(i) IN GENERAL.—Using the process
 23 described in section 405(f), any State or
 24 Indian Tribe may submit a grant applica-

1 tion to the Secretary for funds under this
2 paragraph.

3 “(ii) REVIEW.—The Secretary shall
4 review each grant application to confirm
5 that the projects identified in the applica-
6 tion for funding are eligible under sub-
7 section (b).

8 “(D) ALLOCATION OF FUNDS.—The
9 amount of funds allocated to each State and In-
10 dian Tribe under this paragraph shall be deter-
11 mined by the Secretary based on the dem-
12 onstrated need for the funding to accomplish
13 the purposes of this section.

14 “(d) RESOLUTION OF CONCERNS OF SECRETARY;
15 CONGRESSIONAL NOTIFICATION.—

16 “(1) IN GENERAL.—If the Secretary does not
17 agree with a State or Indian Tribe that a proposed
18 project meets the criteria described in subsection
19 (b), the Secretary and the State or Indian Tribe
20 shall meet and confer for a period of not more than
21 45 days to resolve the concerns of the Secretary.

22 “(2) CONSULTATION.—During the period de-
23 scribed in paragraph (1), the Secretary may consult
24 with any appropriate Federal agency, including the
25 Appalachian Regional Commission, the Economic

1 Development Administration, and the Bureau of In-
2 dian Affairs, to assist with the resolution of the con-
3 cerns.

4 “(3) EXPLANATION TO CONGRESS.—At the end
5 of the period described in paragraph (1), if the con-
6 cerns of the Secretary are not resolved, the Sec-
7 retary shall submit to Congress an explanation of
8 the concerns.

9 “(e) ACID MINE DRAINAGE TREATMENT.—

10 “(1) IN GENERAL.—Subject to paragraph (3), a
11 State or Indian Tribe that receives funds under this
12 section may retain such portion of the funds as is
13 necessary to supplement the acid mine drainage
14 abatement and treatment fund of the State or In-
15 dian Tribe established under section 402(g)(6)(A),
16 for future operation and maintenance costs for the
17 treatment of acid mine drainage associated with the
18 individual projects funded under this section.

19 “(2) APPLICATION.—A State or Indian Tribe
20 shall specify the total funds allotted for costs de-
21 scribed in paragraph (1) in the application of the
22 State or Indian Tribe submitted under subsection
23 (c)(2)(C).

24 “(3) CONDITION.—A State or Indian Tribe may
25 retain and use funds under this subsection only if

1 the State or Indian Tribe demonstrates that the an-
 2 nual grant distributed to the State or Indian Tribe
 3 pursuant to section 401(f), including any interest
 4 from the acid mine drainage abatement and treat-
 5 ment fund of the State or Indian Tribe that is not
 6 used for the operation or maintenance of preexisting
 7 acid mine drainage treatment systems, is insufficient
 8 to fund the operation and maintenance of any acid
 9 mine drainage treatment system associated with an
 10 individual project funded under this section.

11 “(f) PROJECT PLANNING AND ADMINISTRATION.—

12 “(1) STATES.—

13 “(A) IN GENERAL.—A State or Indian
 14 Tribe may use not greater than 10 percent of
 15 the amounts allocated to the State or Indian
 16 Tribe under this section for project planning
 17 and the costs of administering this section.

18 “(B) REQUIREMENTS FOR PUBLIC EN-
 19 GAGEMENT, CONSULTATION WITH SEC-
 20 RETARY.—In carrying out project planning for
 21 a proposed project, the State or Indian Tribe,
 22 in consultation with the Secretary, shall ensure
 23 public engagement at the local level, including
 24 by—

1 “(i) providing to local residents in the
2 vicinity of the proposed project location—

3 “(I) adequate notice; and

4 “(II) an opportunity to submit
5 written comments; and

6 “(ii) holding not fewer than 1 public
7 meeting in a community in the vicinity of
8 the proposed project location—

9 “(I) to provide a description of
10 the proposed project; and

11 “(II) to solicit public comment.

12 “(C) PROJECT PLANNING REQUIRE-
13 MENTS.—For purposes of this paragraph,
14 project planning may include—

15 “(i) identification of eligible projects;

16 “(ii) updating the inventory described
17 in section 403(c);

18 “(iii) developing project designs;

19 “(iv) preparing cost estimates;

20 “(v) collaborating with stakeholders,
21 including public meetings; or

22 “(vi) engaging in other similar activi-
23 ties necessary to facilitate reclamation ac-
24 tivities under this section.

1 “(2) SECRETARY.—In addition to amounts
2 available for allocation under subsection (a), the Sec-
3 retary may expend, without further appropriation,
4 not more than \$3,000,000 for the 5-fiscal-year pe-
5 riod beginning after the date of enactment of the
6 RECLAIM Act of 2019 for staffing and other ad-
7 ministrative expenses necessary to carry out this sec-
8 tion.

9 “(g) PROHIBITION ON CERTAIN USE OF FUNDS.—
10 Any State or Indian Tribe that uses the funds allocated
11 to the State or Indian Tribe under this section for pur-
12 poses other than for the purpose described in subsection
13 (a) or for the purpose described in subsection (f) shall be
14 barred from receiving any subsequent funding under this
15 section.

16 “(h) REPORT TO CONGRESS.—At the end of each fis-
17 cal year for which funds are allocated under this section,
18 the Secretary shall submit to the Committee on Energy
19 and Natural Resources of the Senate and the Committee
20 on Natural Resources of the House of Representatives a
21 detailed report describing—

22 “(1) the projects that have been carried out
23 using the funds;

1 “(2) the community and economic benefits that
 2 are resulting, or are expected to result, from the use
 3 of the funds; and

4 “(3) the reduction since the previous report in
 5 the inventory described in section 403(c).”.

6 (b) CLERICAL AMENDMENT.—The table of contents
 7 in the first section of the Surface Mining Control and Rec-
 8 lamation Act of 1977 (Public Law 95–87; 91 Stat. 445;
 9 104 Stat. 1388–297) is amended by adding at the end
 10 of the items relating to title IV the following:

“Sec. 415. Remining incentives.

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

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

12 (a) ABANDONED MINE RECLAMATION FUND AND
 13 PURPOSES.—Section 401 of the Surface Mining Control
 14 and Reclamation Act of 1977 (30 U.S.C. 1231) is amend-
 15 ed—

16 (1) in subsection (c)—

17 (A) in paragraph (10), by striking “and”
 18 at the end;

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

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

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

1 (2) in subsection (d)(3), by inserting “and sec-
2 tion 416” before the period at the end.

3 (b) RECLAMATION FEE.—Section 402(g) of the Sur-
4 face Mining Control and Reclamation Act of 1977 (30
5 U.S.C. 1232(g)) is amended—

6 (1) in paragraph (1), in the matter preceding
7 subparagraph (A), by inserting “and section 416”
8 after “subsection (h)”; and

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

11 “(F) For the purpose of section 416.”.

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

15 (1) in the fifth sentence, by striking “On” and
16 inserting the following:

17 “(B) PROJECTS.—On”;

18 (2) in the fourth sentence, by striking “The
19 Secretary shall compile” and inserting the following:

20 “(4) INVENTORY.—

21 “(A) IN GENERAL.—The Secretary shall
22 compile”;

23 (3) in the third sentence, by striking “The Sec-
24 retary shall provide” and inserting the following:

1 “(3) ASSISTANCE.—The Secretary shall pro-
2 vide”;

3 (4) in the second sentence, by striking “Under”
4 and inserting the following:

5 “(2) AMENDMENTS.—

6 “(A) IN GENERAL.—Under”;

7 (5) in the first sentence, by striking “For” and
8 inserting the following:

9 “(1) IN GENERAL.—For”;

10 (6) in paragraph (1) (as so designated)—

11 (A) by striking “which meet” and inserting
12 “that meet any of”; and

13 (B) by striking “paragraphs (1) and (2)
14 of”;

15 (7) in paragraph (2) (as so designated), by add-
16 ing at the end the following:

17 “(B) ADVANCED TECHNOLOGIES.—A State
18 or Indian Tribe offering amendments under
19 subparagraph (A), shall, if practicable, offer the
20 amendments based on the use of remote sens-
21 ing, global positioning systems, and other ad-
22 vanced technologies.”; and

23 (8) in paragraph (4) (as so designated), by add-
24 ing at the end the following:

1 “(C) UPDATES.—The Secretary may per-
2 form any work necessary to amend any entry in
3 the inventory that has not been updated by a
4 State or Indian Tribe within the preceding 3
5 years to ensure that the entry is up-to-date and
6 accurate.”.

7 **SEC. 4. MINIMUM STATE PAYMENTS.**

8 Section 402(g)(8)(A) of the Surface Mining Control
9 and Reclamation Act of 1977 (30 U.S.C. 1232(g)(8)(A))
10 is amended by striking “\$3,000,000” and inserting
11 “\$5,000,000”.

○