

117TH CONGRESS
1ST SESSION

S. _____

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

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

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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Revitalizing the Econ-
3 omy of Coal Communities by Leveraging Local Activities
4 and Investing More Act of 2021” or the “RECLAIM Act
5 of 2021”.

6 **SEC. 2. ECONOMIC REVITALIZATION FOR COAL COUNTRY.**

7 (a) IN GENERAL.—Title IV of the Surface Mining
8 Control and Reclamation Act of 1977 (30 U.S.C. 1231
9 et seq.) is amended by adding at the end the following:
10 **“SEC. 416. ABANDONED MINE LAND ECONOMIC REVITAL-
11 IZATION.**

12 “(a) PURPOSE.—The purpose of this section is to
13 promote economic revitalization, diversification, and devel-
14 opment in economically distressed mining communities
15 through the reclamation and restoration of land and water
16 resources adversely affected by coal mining carried out be-
17 fore August 3, 1977.

18 “(b) IN GENERAL.—From amounts deposited into
19 the fund under section 401(b) before October 1, 2007, and
20 not otherwise appropriated to the extent such funds are
21 available, \$200,000,000 shall be made available to the
22 Secretary, without further appropriation, for each of fiscal
23 years 2022 through 2026 for distribution to States and
24 Indian tribes in accordance with this section for reclama-
25 tion and restoration projects at sites identified as prior-
26 ities under section 403(a): *Provided, That* if less than

1 \$200,000,000 is available in any fiscal year to the Sec-
2 retary, such remaining amount shall be made available to
3 the Secretary, without further appropriation, and such fis-
4 cal year shall end distributions made available under this
5 section.

6 “(c) USE OF FUNDS.—Funds distributed to a State
7 or Indian tribe under subsection (d) shall be used only
8 for projects classified under the priorities of section 403(a)
9 that meet the following criteria:

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

12 “(A) IN GENERAL.—The project, upon
13 completion of reclamation, is intended to create
14 favorable conditions for the economic develop-
15 ment of the project site or create favorable con-
16 ditions that promote the general welfare
17 through economic and community development
18 of the area in which the project is conducted.

19 “(B) DEMONSTRATION OF CONDITIONS.—
20 Such conditions are demonstrated by—

21 “(i) documentation of the role of the
22 project in such area’s economic develop-
23 ment strategy or other economic and com-
24 munity development planning process;

1 “(ii) any other documentation of the
2 planned economic and community use of
3 the project site after the primary reclama-
4 tion activities are completed, which may in-
5 clude contracts, agreements in principle, or
6 other evidence that, once reclaimed, the
7 site is reasonably anticipated to be used
8 for one or more industrial, commercial,
9 residential, agricultural, or recreational
10 purposes; or

11 “(iii) any other documentation agreed
12 to by the State or Indian tribe that dem-
13 onstrates the project will meet the criteria
14 set forth in this subsection.

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

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

20 “(i) that has been adversely affected
21 economically by a recent reduction in coal
22 mining related activity, as demonstrated by
23 employment data, per capita income, or
24 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
9 analysis relied upon in selecting the location of
10 a project under this subparagraph shall be sub-
11 mitted to the Secretary for publication. The
12 Secretary shall publish such evidence or anal-
13 ysis in the Federal Register within 30 days
14 after receiving 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 the public has been notified of the
23 project, including not less than 45 days before
24 submission of the project to the Office of Sur-
25 face Mining Reclamation and Enforcement, the

1 State or Indian Tribe has published notice of
2 the proposed project in local newspapers of gen-
3 eral circulation, on the Internet, and by any
4 other means considered desirable by the Sec-
5 retary, and has provided an opportunity to re-
6 quest a public meeting convened in a commu-
7 nity near the proposed project site.

8 “(C) ELECTRONIC NOTIFICATION.—The
9 State or Indian tribe established a way for in-
10 terested persons to receive electronically all
11 public notices issued under subparagraph (B)
12 and any written declarations submitted to the
13 Secretary 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
17 be approved and executed by State or tribal pro-
18 grams, approved under section 405 or referred to in
19 section 402(g)(8)(B) which may include subcon-
20 tracting 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), the State or Indian tribe
3 shall submit a written declaration to the Sec-
4 retary requesting an exemption from the re-
5 quirements of those subparagraphs. The dec-
6 laration must explain why achieving favorable
7 conditions for economic or community develop-
8 ment at the project site is not practicable, or
9 why the requirements of paragraph (2) cannot
10 be met, and that sufficient funds distributed
11 annually under section 401 are not available to
12 implement the project. Such request for an ex-
13 emption is deemed to be approved, except the
14 Secretary shall deny such request if the Sec-
15 retary determines the declaration to be substan-
16 tially inadequate. Any denial of such request
17 shall be resolved at the State’s or Indian tribe’s
18 request through the procedures described in
19 subsection (e).

20 “(d) DISTRIBUTION OF FUNDS.—

21 “(1) STATES.—

22 “(A) IN GENERAL.—From the amount
23 made available in subsection (b), the Secretary
24 shall distribute \$195,000,000 annually for each
25 of fiscal years 2022 through 2026 to States and

1 Indian tribes that have a State or tribal pro-
2 gram approved under section 405 or are re-
3 ferred to in section 402(g)(8)(B), and have not
4 made a certification under section 411(a) in
5 which the Secretary has concurred, as follows:

6 “(i) Four-fifths of such amount shall
7 be distributed based on the proportion of
8 the amount of coal historically produced in
9 each State or from the lands of each In-
10 dian tribe concerned before August 3,
11 1977.

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

18 “(B) SUPPLEMENTAL FUNDS.—Funds dis-
19 tributed under this section—

20 “(i) shall be in addition to, and shall
21 not affect, the amount of funds distributed
22 to States and Indian tribes under section
23 401(f) and section 411(h)(2); and

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

4 “(2) ADDITIONAL FUNDING TO CERTIFIED
5 STATES AND INDIAN TRIBES.—

6 “(A) ELIGIBILITY.—From the amount
7 made available in subsection (b), the Secretary
8 shall distribute \$5,000,000 annually for each of
9 the five fiscal years beginning with fiscal year
10 2022 to States and Indian tribes that have a
11 State program approved under section 405 and
12 have made a certification under section 411(a)
13 in which the Secretary has concurred.

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

22 “(C) DISTRIBUTION OF FUNDS.—The
23 amount of funds distributed to each State or
24 Indian tribe under this paragraph shall be de-
25 termined by the Secretary based on the dem-

1 onstrated need for the funding to accomplish
2 the purpose of this section.

3 “(3) REALLOCATION OF UNCOMMITTED
4 FUNDS.—

5 “(A) COMMITTED DEFINED.—For pur-
6 poses of this paragraph the term ‘committed’—

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

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

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

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

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

1 “(B) FISCAL YEAR 2026.—For fiscal year
2 2026, the Secretary shall reallocate in accord-
3 ance with subparagraph (C) any amount avail-
4 able for distribution under this subsection that
5 has not been committed to eligible projects or
6 distributed under paragraph (1)(A), among the
7 States and Indian tribes that have committed to
8 eligible projects the full amount of their annual
9 allocation for the preceding fiscal years.

10 “(C) AMOUNT OF REALLOCATION.—The
11 amount reallocated to each State or Indian
12 tribe under each of subparagraph (B) shall be
13 determined by the Secretary to reflect, to the
14 extent practicable—

15 “(i) the proportion of unreclaimed eli-
16 gible lands and waters the State or Indian
17 tribe has in the inventory maintained
18 under section 403(c);

19 “(ii) the average of the proportion of
20 reclamation fees paid for lands in each
21 State or lands of each Indian tribe con-
22 cerned; and

23 “(iii) the proportion of coal mining
24 employment loss incurred in the State or
25 on lands of the Indian tribe, respectively,

1 as determined by the Mine Safety and
2 Health Administration, over the 5-year pe-
3 riod preceding the fiscal year for which the
4 reallocation is made.

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

9 “(1) the Secretary and the State or tribe shall
10 meet and confer for a period of not more than 45
11 days to resolve the Secretary’s concerns, except that
12 such period may be shortened by the Secretary if the
13 Secretary’s concerns are resolved;

14 “(2) during that period, at the State’s or In-
15 dian tribe’s request, the Secretary may consult with
16 any appropriate Federal agency; and

17 “(3) at the end of that period, if the Secretary’s
18 concerns are not resolved the Secretary shall provide
19 to the Committee on Natural Resources of the
20 House of Representatives and the Committee on En-
21 ergy and Natural Resources of the Senate an expla-
22 nation of the concerns and such project proposal
23 shall not be eligible for funds distributed under this
24 section.

1 “(f) ACID MINE DRAINAGE TREATMENT.—A State
2 or Indian tribe that receives funds under this section may
3 use up to 30 percent of such funds as necessary to supple-
4 ment the State’s or tribe’s acid mine drainage abatement
5 and treatment fund established under section
6 402(g)(6)(A), for future operation and maintenance costs
7 for the treatment of acid mine drainage associated with
8 the individual projects funded under this section.

9 “(g) PROJECT PLANNING AND ADMINISTRATION.—

10 “(1) STATES AND INDIAN TRIBES.—A State or
11 Indian tribe may use up to 10 percent of its annual
12 distribution under this section for costs of admin-
13 istering this section consistent with existing practice
14 under sections 401(e)(7) and 402(g)(1)(C) and the
15 Office of Surface Mining Reclamation and Enforce-
16 ment Assistance Manual.

17 “(2) SECRETARY.—The Secretary may expend,
18 from amounts made available to the Secretary under
19 section 402(g)(3)(D), not more than \$3,000,000
20 during the fiscal years for which distributions occur
21 under subsection (b) for staffing and other adminis-
22 trative expenses necessary to carry out this section.

23 “(h) DEADLINES.—

24 “(1) RULES AND GUIDELINES.—To the extent
25 necessary to implement this Act, the Secretary shall

1 propose rules or develop guidelines (or both) not
2 later than 90 days after the date of enactment of
3 this section and shall publish them as final rules or
4 guidelines, respectively, not later than 90 days there-
5 after. Within 60 days after the issuance of any such
6 final rules or guidelines, the Secretary shall dis-
7 tribute the funds under subsection (d).

8 “(2) PROJECT PROPOSALS.—The appropriate
9 field office of the Office of Surface Mining Reclama-
10 tion and Enforcement shall—

11 “(A) initially review, vet, and approve or
12 disapprove of each project proposal under this
13 section within 45 days after receipt by the field
14 office of the proposal; and

15 “(B) issue an authorization to proceed on
16 an approved project within 45 days after receipt
17 by the field office of a request for such author-
18 ization from a State or Indian tribe.

19 “(i) REPORT TO CONGRESS.—The Secretary shall
20 provide to the Committee on Natural Resources of the
21 House of Representatives, the Committees on Appropria-
22 tions of the House of Representatives and the Senate, and
23 the Committee on Energy and Natural Resources of the
24 Senate at the end of each fiscal year for which such funds
25 are distributed a detailed report—

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

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

6 “(3) the community and economic benefits that
7 are resulting from, or are expected to result from,
8 the use of the funds that achieved the priorities de-
9 scribed in paragraph (3) of section 403(a); and

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

12 “(j) PROHIBITION ON CERTAIN USE OF FUNDS.—
13 Any State or Indian tribe that uses the funds distributed
14 under this section for purposes other than reclamation or
15 drainage abatement expenditures, as made eligible by sec-
16 tion 404, and for the purposes authorized under sub-
17 sections (f) and (g), shall be barred from receiving any
18 subsequent funding under this section.”.

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

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

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

24 The Surface Mining Control and Reclamation Act of
25 1977 is amended—

1 (1) in section 401(c) (30 U.S.C. 1231(c)), by
2 striking “and” after the semicolon at the end of
3 paragraph (10), by redesignating paragraph (11) as
4 paragraph (12), and by inserting after paragraph
5 (10) the following:

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

7 (2) in section 401(d)(3) (30 U.S.C.
8 1231(d)(3)), by striking “subsection (f)” and insert-
9 ing “subsection (f) and section 416(a)”;

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

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

13 (B) by adding at the end of paragraph (3)
14 the following:

15 “(F) For the purpose of section
16 416(d)(2)(A).”;

17 (4) in section 403(c) (30 U.S.C. 1233(c)), by
18 inserting after the second sentence the following:

19 “As practicable, States and Indian tribes shall offer
20 such amendments based on the use of remote sens-
21 ing, global positioning systems, and other advanced
22 technologies.”.

23 **SEC. 4. MINIMUM STATE PAYMENTS.**

24 Section 402(g)(8)(A) of the Surface Mining Control
25 and Reclamation Act of 1977 (30 U.S.C. 1232(g)(8)) is

1 amended by striking “\$3,000,000” and inserting
2 “\$5,000,000”.

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

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

8 (1) the solvency of the Abandoned Mine Rec-
9 lamation Fund; and

10 (2) the impact of such use on payments and
11 transfers under the Surface Mining Control and
12 Reclamation Act of 1977 (30 U.S.C. 1201) to—

13 (A) States and Indian Tribes for which a
14 certification has been made under section 411
15 of such Act (30 U.S.C.1241);

16 (B) States and Indian Tribes for which
17 such a certification has not been made; and

18 (C) transfers to United Mine Workers of
19 America Combined Benefit Fund.

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

21 Nothing in this Act shall be construed to reduce or
22 otherwise affect payments under section 402(g) of the
23 Surface Mining Reclamation and Control Act of 1977 (30
24 U.S.C.1232(g)) to States that have made a certification

- 1 under section 411(a) of such Act (30 U.S.C. 1240a(a))
- 2 in which the Secretary of the Interior has concurred.