

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2156
OFFERED BY MR. GRIJALVA OF ARIZONA**

Strike all after the enacting clause and insert the following:

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 2019” or the “RECLAIM Act
5 of 2019”.

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.

1 “(b) IN GENERAL.—From amounts deposited into
2 the fund under section 401(b) before October 1, 2007, and
3 not otherwise appropriated to the extent such funds are
4 available, \$200,000,000 shall be made available to the
5 Secretary, without further appropriation, for each of fiscal
6 years 2020 through 2024 for distribution to States and
7 Indian tribes in accordance with this section for reclama-
8 tion and restoration projects at sites identified as prior-
9 ities under section 403(a): *Provided*, That if less than
10 \$200,000,000 is available in any fiscal year to the Sec-
11 retary, such remaining amount shall be made available to
12 the Secretary, without further appropriation, and such fis-
13 cal year shall end distributions made available under this
14 section.

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

19 “(1) CONTRIBUTION TO FUTURE ECONOMIC OR
20 COMMUNITY DEVELOPMENT.—

21 “(A) IN GENERAL.—The project, upon
22 completion of reclamation, is intended to create
23 favorable conditions for the economic develop-
24 ment of the project site or create favorable con-
25 ditions that promote the general welfare

1 through economic and community development
2 of the area in which the project is conducted.

3 “(B) DEMONSTRATION OF CONDITIONS.—

4 Such conditions are demonstrated by—

5 “(i) documentation of the role of the
6 project in such area’s economic develop-
7 ment strategy or other economic and com-
8 munity development planning process;

9 “(ii) any other documentation of the
10 planned economic and community use of
11 the project site after the primary reclama-
12 tion activities are completed, which may in-
13 clude contracts, agreements in principle, or
14 other evidence that, once reclaimed, the
15 site is reasonably anticipated to be used
16 for one or more industrial, commercial,
17 residential, agricultural, or recreational
18 purposes; or

19 “(iii) any other documentation agreed
20 to by the State or Indian tribe that dem-
21 onstrates the project will meet the criteria
22 set forth in this subsection.

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

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

3 “(i) that has been adversely affected
4 economically by a recent reduction in coal
5 mining related activity, as demonstrated by
6 employment data, per capita income, or
7 other indicators of economic distress; or

8 “(ii)(I) that has historically relied on
9 coal mining for a substantial portion of its
10 economy; and

11 “(II) in which the economic contribu-
12 tion of coal mining has significantly de-
13 clined.

14 “(B) SUBMISSION AND PUBLICATION OF
15 EVIDENCE OR ANALYSIS.—Any evidence or
16 analysis relied upon in selecting the location of
17 a project under this subparagraph shall be sub-
18 mitted to the Secretary for publication. The
19 Secretary shall publish such evidence or anal-
20 ysis in the Federal Register within 30 days
21 after receiving such submission.

22 “(3) STAKEHOLDER COLLABORATION.—

23 “(A) IN GENERAL.—The project has been
24 the subject of project planning under subsection
25 (g) and has been the focus of collaboration, in-

1 including partnerships, as appropriate, with inter-
2 ested persons or local organizations.

3 “(B) PUBLIC NOTICE.—As part of project
4 planning—

5 “(i) the public has been notified of the
6 project and has been given an opportunity
7 to comment at a public meeting convened
8 in a community near the proposed project
9 site; and

10 “(ii) the State or Indian tribe pub-
11 lished notice of such meetings in local
12 newspapers of general circulation, on the
13 Internet, and by any other means consid-
14 ered desirable by the Secretary.

15 “(C) ELECTRONIC NOTIFICATION.—The
16 State or Indian tribe established a way for in-
17 terested persons to receive electronically all
18 public notices issued under subparagraph (B)
19 and any written declarations submitted to the
20 Secretary under paragraph (5).

21 “(4) ELIGIBLE APPLICANTS.—The project has
22 been proposed by entities of State, local, county, or
23 tribal governments, or local organizations, and will
24 be approved and executed by State or tribal pro-
25 grams, approved under section 405 or referred to in

1 section 402(g)(8)(B), which may include subcon-
2 tracting project-related activities, as appropriate.

3 “(5) WAIVER.—If the State or Indian tribe—

4 “(A) cannot provide documentation de-
5 scribed in paragraph (1)(B) for a project con-
6 ducted under a priority stated in paragraph (1)
7 or (2) of section 403(a), or

8 “(B) is unable to meet the requirements
9 under paragraph (2),

10 the State or Indian tribe shall submit a written dec-
11 laration to the Secretary requesting an exemption
12 from the requirements of those subparagraphs. The
13 declaration must explain why achieving favorable
14 conditions for economic or community development
15 at the project site is not practicable, or why the re-
16 quirements of paragraph (2) cannot be met, and
17 that sufficient funds distributed annually under sec-
18 tion 401 are not available to implement the project.
19 Such request for an exemption is deemed to be ap-
20 proved, except the Secretary shall deny such request
21 if the Secretary determines the declaration to be
22 substantially inadequate. Any denial of such request
23 shall be resolved at the State’s or Indian tribe’s re-
24 quest through the procedures described in subsection
25 (e).

1 “(d) DISTRIBUTION OF FUNDS.—

2 “(1) UNCERTIFIED STATES.—

3 “(A) IN GENERAL.—From the amount
4 made available in subsection (b), the Secretary
5 shall distribute \$195,000,000 annually for each
6 of fiscal years 2020 through 2024 to States and
7 Indian tribes that have a State or tribal pro-
8 gram approved under section 405 or are re-
9 ferred to in section 402(g)(8)(B), and have not
10 made a certification under section 411(a) in
11 which the Secretary has concurred, as follows:

12 “(i) Four-fifths of such amount shall
13 be distributed based on the proportion of
14 the amount of coal historically produced in
15 each State or from the lands of each In-
16 dian tribe concerned before August 3,
17 1977.

18 “(ii) One-fifth of such amount shall be
19 distributed based on the proportion of rec-
20 lamation fees paid during the period of fis-
21 cal years 2012 through 2016 for lands in
22 each State or lands of each Indian tribe
23 concerned.

24 “(B) SUPPLEMENTAL FUNDS.—Funds dis-
25 tributed under this section—

1 “(i) shall be in addition to, and shall
2 not affect, the amount of funds distrib-
3 uted—

4 “(I) to States and Indian tribes
5 under section 401(f); and

6 “(II) to States and Indian tribes
7 that have made a certification under
8 section 411(a) in which the Secretary
9 has concurred, subject to the cap de-
10 scribed in section 402(i)(3); and

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

14 “(2) ADDITIONAL FUNDING TO CERTAIN
15 STATES AND INDIAN TRIBES.—

16 “(A) ELIGIBILITY.—From the amount
17 made available in subsection (b), the Secretary
18 shall distribute \$5,000,000 annually for each of
19 the five fiscal years beginning with fiscal year
20 2020 to States and Indian tribes that have a
21 State program approved under section 405 and
22 have made a certification under section 411(a)
23 in which the Secretary has concurred.

24 “(B) APPLICATION FOR FUNDS.—Using
25 the process in section 405(f), any State or In-

1 dian tribe described in subparagraph (A) may
2 submit a grant application to the Secretary for
3 funds under this paragraph. The Secretary
4 shall review each grant application to confirm
5 that the projects identified in the application
6 for funding are eligible under subsection (c).

7 “(C) DISTRIBUTION OF FUNDS.—The
8 amount of funds distributed to each State or
9 Indian tribe under this paragraph shall be de-
10 termined by the Secretary based on the dem-
11 onstrated need for the funding to accomplish
12 the purpose of this section.

13 “(3) REALLOCATION OF UNCOMMITTED
14 FUNDS.—

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

17 “(i) means that funds received by the
18 State or Indian tribe—

19 “(I) have been exclusively applied
20 to or reserved for a specific project
21 and therefore are not available for any
22 other purpose; or

23 “(II) have been expended or des-
24 ignated by the State or Indian tribe
25 for the completion of a project;

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

3 “(iii) reflects an acknowledgment by
4 Congress that, based on the documentation
5 required under subsection (c)(2)(B), any
6 unanticipated delays to commit such funds
7 that are outside the control of the State or
8 Indian tribe concerned shall not affect its
9 allocations under this section.

10 “(B) FISCAL YEARS 2023 AND 2024.—For
11 each of fiscal years 2023 and 2024, the Sec-
12 retary shall reallocate in accordance with sub-
13 paragraph (D) any amount available for dis-
14 tribution under this subsection that has not
15 been committed to eligible projects in the pre-
16 ceding 2 fiscal years, among the States and In-
17 dian tribes that have committed to eligible
18 projects the full amount of their annual alloca-
19 tion for the preceding fiscal year.

20 “(C) FISCAL YEAR 2025.—For fiscal year
21 2025, the Secretary shall reallocate in accord-
22 ance with subparagraph (D) any amount avail-
23 able for distribution under this subsection that
24 has not been committed to eligible projects or
25 distributed under paragraph (1)(A), among the

1 States and Indian tribes that have committed to
2 eligible projects the full amount of their annual
3 allocation for the preceding fiscal years.

4 “(D) AMOUNT OF REALLOCATION.—The
5 amount reallocated to each State or Indian
6 tribe under each of subparagraphs (B) and (C)
7 shall be determined by the Secretary to reflect,
8 to the extent practicable—

9 “(i) the proportion of unreclaimed eli-
10 gible lands and waters the State or Indian
11 tribe has in the inventory maintained
12 under section 403(c);

13 “(ii) the average of the proportion of
14 reclamation fees paid for lands in each
15 State or lands of each Indian tribe con-
16 cerned; and

17 “(iii) the proportion of coal mining
18 employment loss incurred in the State or
19 on lands of the Indian tribe, respectively,
20 as determined by the Mine Safety and
21 Health Administration, over the 5-year pe-
22 riod preceding the fiscal year for which the
23 reallocation is made.

24 “(e) RESOLUTION OF SECRETARY’S CONCERNS; CON-
25 GRESSIONAL NOTIFICATION.—If the Secretary does not

1 agree with a State or Indian tribe that a proposed project
2 meets the criteria set forth in subsection (c)—

3 “(1) the Secretary and the State or tribe shall
4 meet and confer for a period of not more than 45
5 days to resolve the Secretary’s concerns, except that
6 such period may be shortened by the Secretary if the
7 Secretary’s concerns are resolved;

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

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

19 “(f) ACID MINE DRAINAGE TREATMENT.—

20 “(1) IN GENERAL.—Subject to paragraph (2), a
21 State or Indian tribe that receives funds under this
22 section may use up to 30 percent of such funds as
23 necessary to supplement the State’s or tribe’s acid
24 mine drainage abatement and treatment fund estab-
25 lished under section 402(g)(6)(A), for future oper-

1 ation and maintenance costs for the treatment of
2 acid mine drainage associated with the individual
3 projects funded under this section. A State or Indian
4 tribe shall specify the total funds allotted for such
5 costs in its application submitted under subsection
6 (d)(2)(B).

7 “(2) CONDITION.—A State or Indian tribe may
8 use funds under this subsection only if the State or
9 tribe can demonstrate that the annual grant distrib-
10 uted to the State or tribe pursuant to section 401(f),
11 including any interest from the State’s or tribe’s
12 acid mine drainage abatement and treatment fund
13 that is not used for the operation or maintenance of
14 preexisting acid mine drainage treatment systems, is
15 insufficient to fund the operation and maintenance
16 of any acid mine drainage treatment system associ-
17 ated with an individual project funded under this
18 section.

19 “(g) PROJECT PLANNING AND ADMINISTRATION.—

20 “(1) STATES AND INDIAN TRIBES.—

21 “(A) IN GENERAL.—A State or Indian
22 tribe may use up to 10 percent of its annual
23 distribution under this section for project plan-
24 ning and the costs of administering this section.

1 “(B) PLANNING REQUIREMENTS.—Plan-
2 ning under this paragraph may include—

3 “(i) identifying eligible projects;

4 “(ii) updating the inventory referred
5 to in section 403(c);

6 “(iii) developing project designs;

7 “(iv) collaborating with stakeholders,
8 including public meetings;

9 “(v) preparing cost estimates; or

10 “(vi) engaging in other similar activi-
11 ties necessary to facilitate reclamation ac-
12 tivities under this section.

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

19 “(h) 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 “(i) 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 for which a certification has
14 been made under section 411 of such Act (30
15 U.S.C. 1241);

16 (B) States for which such a certification
17 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.

