

114TH CONGRESS
1ST SESSION

H. R. 3303

To amend the Mineral Leasing Act to improve coal royalties, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 29, 2015

Mr. CARTWRIGHT (for himself, Mr. RYAN of Ohio, Mr. LOWENTHAL, and Mr. GRIJALVA) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committees on Energy and Commerce, Transportation and Infrastructure, and Financial Services, 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 improve 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 2015”.

7 (b) TABLE OF CONTENTS.—The table of contents of
8 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. Definitions.

Sec. 202. Establishment of Fund.

Sec. 203. Federal economic and workforce development assistance programs.

Sec. 204. Carbon capture and sequestration.

Sec. 205. Additional Federal agency participation.

1 **TITLE I—VALUATION OF FED-**
2 **ERAL COAL FOR PURPOSES**
3 **OF ROYALTIES**

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

5 Section 7 of the Mineral Leasing Act (30 U.S.C. 207)

6 is amended—

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

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

10 “(d) ROYALTIES.—

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

12 “(A) ASSESSMENT VALUE.—

13 “(i) IN GENERAL.—The term ‘assess-
14 ment value’, with respect to Federal coal,
15 means—

16 “(I) the price of Federal coal
17 paid by the purchaser at final sale; or

18 “(II) a price imputed by the Sec-
19 retary based on the coal price index.

1 “(ii) EXCLUSIONS.—The term ‘assess-
2 ment value’ does not include, as deter-
3 mined and to the extent determined to be
4 appropriate by the Secretary—

5 “(I) transportation costs, as de-
6 termined in accordance with the
7 transportation cost index; or

8 “(II) the cost of coal washing.

9 “(B) BROKER.—The term ‘broker’ means
10 a person that resells Federal coal.

11 “(C) COAL PRICE INDEX.—The term ‘coal
12 price index’ means the schedule of average mar-
13 ket prices of Federal coal (in United States dol-
14 lars) at final sale, based on the quality and type
15 of the Federal coal, as determined by the Sec-
16 retary, in consultation with the Administrator
17 of the Energy Information Administration.

18 “(D) PURCHASER.—

19 “(i) IN GENERAL.—The term ‘pur-
20 chaser’ means a person that—

21 “(I) purchases or contracts to
22 purchase Federal coal—

23 “(aa) directly from a coal
24 mine operator; or

1 “(bb) indirectly from a
2 broker; and

3 “(II) uses that Federal coal in
4 any industrial or energy conversion
5 process.

6 “(ii) EXCLUSION.—The term ‘pur-
7 chaser’ does not include—

8 “(I) a coal broker; or

9 “(II) any other third-party inter-
10 mediary.

11 “(E) QUALITY.—The term ‘quality’, with
12 respect to Federal coal, means the quality of
13 Federal coal measured in British thermal units,
14 sulfur, moisture, and other criteria determined
15 to be appropriate by the Secretary.

16 “(F) SECRETARY.—The term ‘Secretary’
17 means the Secretary of the Interior.

18 “(G) TRANSPORTATION COST INDEX.—The
19 term ‘transportation cost index’ means the
20 transportation cost index established under
21 paragraph (7).

22 “(H) TYPE.—The term ‘type’, with respect
23 to Federal coal, means a general category of
24 coal, such as metallurgical coal or steam coal,
25 as determined by the Secretary.

1 “(2) PAYMENT RATE.—

2 “(A) IN GENERAL.—Except as provided in
3 subparagraph (B), a lease shall require pay-
4 ment of a royalty in such amount as the Sec-
5 retary shall determine of not less than 12.5 per-
6 cent of the assessment value of Federal coal, as
7 determined under paragraph (3).

8 “(B) EXCEPTION.—In lieu of the royalty
9 payment rate described in subparagraph (A),
10 the Secretary may establish such lower royalty
11 payment rate as the Secretary determines to be
12 appropriate in the case of Federal coal recov-
13 ered by an underground mining operation.

14 “(3) VALUATION FOR ROYALTIES.—Not later
15 than 1 year after the date of enactment of this sub-
16 section, the Secretary shall establish, as the valu-
17 ation for Federal coal royalties, the assessment value
18 of Federal coal.

19 “(4) ADMINISTRATION.—

20 “(A) REPORTING.—The purchaser of Fed-
21 eral coal shall annually submit to the Secretary
22 a report containing such information as the
23 Secretary determines to be necessary to carry
24 out this subsection.

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 “(5) COAL PRICE INDEX.—

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

9 “(B) PUBLICATION.—Not less frequently
10 than quarterly, the Secretary shall publish the
11 coal price index, along with a methodological
12 description, including—

13 “(i) the method of calculation;

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

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

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

1 by the person in lieu of the coal price index, in-
2 cluding all information the Secretary requires
3 to accurately determine the assessment value
4 and audit the records of the person.

5 “(6) EXPORTS.—

6 “(A) IN GENERAL.—In assessing royalties
7 for the export of Federal coal under this sub-
8 section, the Secretary may obtain from the ex-
9 porter of the Federal coal such information as
10 the Secretary determines to be necessary to
11 carry out this subsection.

12 “(B) ASSESSMENT VALUE OF EXPORTED
13 COAL.—Subject to subparagraph (C), in deter-
14 mining the assessment value of Federal coal
15 that is exported, the Secretary shall—

16 “(i) use the price of coal free on board
17 the marine vessel used to transport the
18 coal overseas at the port of origin; and

19 “(ii) limit any deductions that apply
20 to the assessment value of the Federal coal
21 to costs incurred prior to being free on-
22 board the vessel.

23 “(C) UNCERTAIN EXPORT PRICE.—If the
24 Secretary cannot determine the value of ex-

1 ported coal in accordance with subparagraph
2 (B), the Secretary shall—

3 “(i) assess royalties under this sub-
4 section based on the coal price index for
5 coal of a similar quantity and type; and

6 “(ii) limit any deductions that apply
7 to the assessment value of the Federal coal
8 to costs incurred within the contiguous
9 United States.

10 “(7) TRANSPORTATION COST INDEX.—

11 “(A) IN GENERAL.—Subject to the other
12 provisions of this paragraph, the Secretary, in
13 consultation with the Secretary of Energy and
14 the Secretary of Transportation (in consultation
15 with the Surface Transportation Board and
16 others), shall—

17 “(i) compile in a transportation cost
18 index the average costs of transporting
19 coal; and

20 “(ii) determine the amount of any
21 transportation cost deduction under this
22 subsection, on the basis of the transpor-
23 tation cost index.

24 “(B) UNIT OF MEASUREMENT.—The
25 transportation cost index shall be based on the

1 average transportation costs per ton of coal or
2 another unit of measurement determined by the
3 Secretary.

4 “(C) DIFFERENCES IN TRANSPORTATION
5 COSTS.—The transportation cost index shall
6 take into consideration differences in the costs
7 of transportation, as determined by the Sec-
8 retary, based on—

9 “(i) the mode of transportation;

10 “(ii) the geographic region, and

11 “(iii) other characteristics of the
12 transportation industry that the Secretary
13 considers to be necessary to calculate a
14 fair, transparent, and accurate transpor-
15 tation cost index.

16 “(D) EXCLUSIONS.—The transportation
17 cost index shall not include costs associated
18 with, as determined by the Secretary—

19 “(i) take-or-pay contract penalties;

20 “(ii) liquidated damages;

21 “(iii) the speculative aspects of trans-
22 portation transactions; or

23 “(iv) any other costs that are not di-
24 rectly associated with moving Federal coal
25 from 1 location to another location.

1 “(E) PUBLICATION.—Not less than twice
2 annually, the Secretary shall publish the trans-
3 portation cost index, along with a methodo-
4 logical description, including—

5 “(i) the method of calculation;

6 “(ii) the data used to calculate the
7 transportation cost index, in an aggregate
8 manner that does not reveal proprietary in-
9 formation; and

10 “(iii) any other information the Sec-
11 retary considers to be appropriate to en-
12 sure transparency.

13 “(F) OTHER INFORMATION.—If a person
14 believes that the transportation cost index does
15 not accurately reflect the transportation costs
16 of the person, the person may petition the Sec-
17 retary to use information supplied by the per-
18 son (other than costs described in subparagraph
19 (D)) in lieu of the transportation cost index, in-
20 cluding all information the Secretary requires
21 to accurately determine cost and audit the
22 records of the person.

23 “(8) REVIEWS.—

24 “(A) IN GENERAL.—To ensure a trans-
25 parent, fair, and efficient administration of the

1 Federal coal program, and to ensure that citi-
2 zens of the United States receive a fair return
3 on Federal coal, not later than 3 years after the
4 date of enactment of this subsection and every
5 3 years thereafter during the 15-year period be-
6 ginning on that date of enactment, the Comp-
7 troller General of the United States shall sub-
8 mit to Congress a report that describes a review
9 of the Federal coal program, including the ad-
10 ministration of this subsection.

11 “(B) CONSULTATION.—In conducting a re-
12 view under this paragraph, the Comptroller
13 General shall consult with—

14 “(i) the Secretary;

15 “(ii) the Director of the Bureau of
16 Land Management;

17 “(iii) the Secretary of Transportation;

18 and

19 “(iv) the Secretary of Energy.

20 “(C) INCLUSIONS.—A review under this
21 paragraph shall include a review of—

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

24 “(ii) the total volume of remaining
25 coal reserves on Federal land;

1 “(iii) the total revenues generated
2 from the Federal coal program, itemized
3 by type of revenue, including lease bonus
4 payments and royalties;

5 “(iv) market prices for coal;

6 “(v) market prices for transportation
7 costs and any other deductible costs; and

8 “(vi) the appropriateness of royalty
9 rates.

10 “(D) FORMAT.—The Comptroller General
11 shall report information in a review under this
12 paragraph—

13 “(i) in the aggregate for the United
14 States; and

15 “(ii) categorized by State for at least
16 the top 10 Federal coal-producing States,
17 as determined by the Comptroller Gen-
18 eral.”.

19 **TITLE II—PROGRAMS TO REIN-**
20 **VEST IN COAL-IMPACTED**
21 **COMMUNITIES**

22 **SEC. 201. DEFINITIONS.**

23 In this title:

24 (1) **COAL ECONOMY.**—The term “coal econ-
25 omy” means the complete supply chain of coal reli-

1 ant industries, including coal mining, coal-fired
2 power plants, and related transportation, logistics,
3 and manufacturing.

4 (2) COVERED PROGRAM.—The term “covered
5 program” means any of the following:

6 (A) The Assistance to Coal Communities,
7 Economic Adjustment Assistance, and Partner-
8 ship Planning program of the Economic Devel-
9 opment Administration of the Department of
10 Commerce.

11 (B) The Dislocated Worker National
12 Emergency Grants program of the Employment
13 and Training Administration of the Department
14 of Labor.

15 (C) The Regional Innovation Clusters and
16 Growth Accelerators program of the Small
17 Business Administration.

18 (D) The Technical Assistance and Dem-
19 onstration Projects program of the Appalachian
20 Regional Commission.

21 (3) FUND.—The term “Fund” means the Coal
22 Area Economic Revitalization Fund established by
23 section 202(a).

24 (4) IMPACTED COMMUNITY.—The term “im-
25 pacted community” means a community or Indian

1 tribe (as defined in section 4 of the Indian Self-De-
2 termination and Education Assistance Act (25
3 U.S.C. 450b)) in the United States that has been
4 negatively impacted by changes in the coal economy.

5 (5) PARTICIPATING AGENCY.—The term “par-
6 ticipating agency” means a Federal agency that has
7 primary authority over a covered program.

8 **SEC. 202. ESTABLISHMENT OF FUND.**

9 (a) ESTABLISHMENT.—There is established in the
10 Treasury of the United States a separate account, to be
11 administered by the Secretary of Commerce (acting
12 through the Economic Development Administration), to be
13 known as the “Coal Area Economic Revitalization Fund”.

14 (b) DEPOSITS.—Of the amount of royalty revenues
15 collected by the United States for each fiscal year from
16 coal leases under section 7 of the Mineral Leasing Act (30
17 U.S.C. 207) (as amended by section 101(2)), to the extent
18 the revenues are available, there shall be deposited in the
19 Fund \$105,000,000.

20 (c) AVAILABILITY OF AMOUNTS.—Subject to sub-
21 section (d) and notwithstanding any other provision of
22 law, for each fiscal year, of the amounts deposited in the
23 Fund under subsection (b), there shall be made available,
24 without further appropriation, the following or a pro rata
25 amount:

1 (1) \$100,000,000 to the Secretary of Commerce
2 to provide grant assistance under covered programs,
3 in accordance with section 203.

4 (2) \$5,000,000 to the Secretary of Energy to
5 provide funding for large-scale projects to capture
6 and store carbon dioxide emissions from industrial
7 sources, in accordance with section 204.

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

13 (e) PERIOD OF AVAILABILITY.—The amounts depos-
14 ited in the Fund shall be available without fiscal year limi-
15 tation.

16 **SEC. 203. FEDERAL ECONOMIC AND WORKFORCE DEVELOP-**
17 **MENT ASSISTANCE PROGRAMS.**

18 (a) IN GENERAL.—The Secretary of Commerce, act-
19 ing through the Economic Development Administration
20 (referred to in this section as the “Secretary”), shall use
21 the amounts made available to carry out this section under
22 section 202(c)(1) to provide grant assistance under cov-
23 ered programs for eligible projects described in subsection
24 (e).

1 (b) PURPOSE.—The purpose of this section is to pro-
2 vide funding to impacted communities by targeting Fed-
3 eral economic and workforce development assistance pro-
4 grams that seek—

5 (1) to diversify regional, State, tribal, and local
6 economies;

7 (2) to create jobs in new and existing indus-
8 tries;

9 (3) to attract new sources of job-creating in-
10 vestment; and

11 (4) to provide a range of workforce services and
12 skills training, including work-based learning oppor-
13 tunities, resulting in industry-recognized credentials
14 for high-quality, in-demand jobs.

15 (c) ALLOCATION OF FUNDS FOR COVERED PRO-
16 GRAMS.—

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

18 (A) allocate amounts made available to
19 carry out this section among the covered pro-
20 grams in accordance with the criteria described
21 in paragraph (2); and

22 (B) provide public notice of the availability
23 of grant assistance under this section through
24 a Federal Funding Opportunity announcement.

1 (2) ALLOCATION CRITERIA.—The Secretary
2 shall establish and publish criteria for the allocation
3 of funds to carry out this section among the covered
4 programs in a manner that carries out the purpose
5 described in subsection (b), as determined by the
6 Secretary.

7 (d) COVERED PROGRAMS.—

8 (1) IN GENERAL.—On allocation by the Sec-
9 retary of amounts from the Fund for a covered pro-
10 gram under this section, the head of the applicable
11 participating agency shall manage grant selection
12 (including eligibility requirements), awards, and exe-
13 cution of projects with respect to those amounts.

14 (2) TERMS AND CONDITIONS.—Except as other-
15 wise provided in this section, projects receiving grant
16 assistance under this section shall be subject to the
17 eligibility rules, permitted activities, and reporting
18 requirements of the covered program under which
19 the grant is made.

20 (e) ELIGIBLE PROJECTS.—

21 (1) PROJECT PURPOSES.—A project shall be el-
22 igible for assistance under this section if the purpose
23 of the project is to assist impacted communities—

24 (A) to organize community stakeholders,
25 analyze and inventory community assets, evalu-

1 ate needs and resources, and develop com-
2 prehensive economic development strategic
3 plans;

4 (B) to undergo in-depth labor market anal-
5 ysis and workforce development and dislocated
6 worker planning associated with the provision
7 of training and employment services;

8 (C) to implement linked economic and
9 workforce development strategies to develop
10 high-potential industry clusters;

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

13 (E) to train and place workers in family-
14 supporting, high-demand jobs (including reg-
15 istered apprenticeship and other on-the-job
16 training models);

17 (F) to create linkages that drive regional
18 economic growth; or

19 (G) to carry out other purposes approved
20 by the Secretary.

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

24 (A) give priority to project applications
25 that establish a clear linkage between the pro-

1 posed project and the means by which the
2 project will result in local economic growth and
3 diversification, job creation, and job training
4 and reemployment for dislocated workers, as
5 described in a broader economic and workforce
6 development strategy, without regard to any
7 formula used by a participating agency to dis-
8 burse other funds; and

9 (B) consult directly with impacted commu-
10 nities to determine the greatest needs of the im-
11 pacted communities and give priority to projects
12 that address those needs.

13 (3) SPECIFIC ACTIVITIES AND COSTS TO BE
14 CONSIDERED.—In providing assistance under this
15 section for projects for economic diversification, the
16 head of a participating agency shall give consider-
17 ation, at a minimum, to the following activities and
18 costs:

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

21 (i) economic and workforce data col-
22 lection; and

23 (ii) supply chain and industry cluster
24 analysis.

1 (B) Outreach and targeted assistance to
2 economic development organizations, unions,
3 workers, and other stakeholders.

4 (C) Remediation and redevelopment of coal
5 economy sites, as appropriate.

6 (D) Provision of business planning and
7 market exploration services.

8 (E) Development of business incubator
9 programs.

10 (F) Facilitation of access to private capital
11 investment and capacity building to effectively
12 use capital investment.

13 (G) Promotion of exports from entities in
14 the impacted area.

15 (H) Workforce training and dislocated
16 worker services and supports for impacted
17 workers.

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

20 (J) Temporary or short-term relocation or
21 commuting costs for available jobs in other
22 parts of the applicable State or region.

23 (K) Staffing, operating, and administrative
24 costs for the recipient organization.

25 (L) Comprehensive strategies that—

1 (i) integrate all of the activities and
2 costs described in subparagraphs (A)
3 through (K); and

4 (ii) leverage other investments from
5 the applicable participating agency and
6 other Federal agencies.

7 (f) COORDINATION OF ACTIVITIES.—The Secretary
8 shall—

9 (1) with respect to grant assistance under this
10 section, manage—

11 (A) the Federal Funding Opportunity an-
12 nouncement under subsection (c)(1)(B); and

13 (B) the overall process of competitive solie-
14 itation;

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

19 (3) coordinate cross-agency activities at the re-
20 gional level that direct additional Federal resources
21 to impacted communities.

22 **SEC. 204. CARBON CAPTURE AND SEQUESTRATION.**

23 The Secretary of Energy shall use the amounts made
24 available to carry out this section under section 202(c)(2)
25 to provide financial assistance for the design, construction,

1 and operation of large-scale projects to capture and store
2 carbon dioxide emissions from industrial sources.

3 **SEC. 205. ADDITIONAL FEDERAL AGENCY PARTICIPATION.**

4 (a) IN GENERAL.—The Federal departments and
5 agencies described in subsection (b) shall provide to im-
6 pacted communities technical assistance and educational
7 outreach to fund partnerships, in coordination with avail-
8 able resources.

9 (b) DESCRIPTION OF DEPARTMENTS AND AGEN-
10 CIES.—The Federal departments and agencies referred to
11 in subsection (a) are—

12 (1) the Rural Business-Cooperative Service of
13 the Department of Agriculture;

14 (2) the Office of Solid Waste and Emergency
15 Response of the Environmental Protection Agency;

16 (3) the Department of Energy;

17 (4) the Community Development Financial In-
18 stitutions Fund of the Department of the Treasury;

19 (5) SelectUSA and the National Institute of
20 Standards and Technology—Manufacturing Exten-
21 sion Partnerships of the Department of Commerce;

22 (6) the Corporation for National and Commu-
23 nity Service; and

- 1 (7) the Office of Surface Mining Reclamation
- 2 and Enforcement of the Department of the Interior.

○