

117TH CONGRESS
1ST SESSION

H. R. 5193

To provide payments to States and Tribal governments to support energy transition communities, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 2021

Ms. LEGER FERNANDEZ introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on 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 provide payments to States and Tribal governments to support energy transition communities, 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 “Just Transition for
5 Energy Communities Act”.

1 **SEC. 2. STATE AND TRIBAL GOVERNMENT ENERGY TRANSI-**
2 **TION PAYMENTS.**

3 (a) ESTABLISHMENT OF PROGRAM.—The Secretary
4 shall establish a program under which the Secretary shall,
5 subject to the availability of appropriations, annually
6 make payments to eligible States and eligible Tribal gov-
7 ernments in accordance with subsection (b).

8 (b) PAYMENTS.—

9 (1) ELIGIBLE STATES.—Under the program,
10 the Secretary shall annually pay to each eligible
11 State an amount that is determined by the Sec-
12 retary, in consultation with other relevant Federal
13 agencies, by taking into account—

14 (A) the past levels of fossil fuel (including
15 such fossil fuels as coal, oil, and natural gas)
16 development, production, and electricity genera-
17 tion within the eligible State during the 10-year
18 period ending on the date of enactment of this
19 Act;

20 (B) the Federal mineral revenue received
21 by the eligible State during the 10-year period
22 ending on the date of enactment of this Act;

23 (C) the economic conditions in the eligible
24 State, using measurements of the poverty rate,
25 household income, land value, the unemploy-
26 ment rate, and other economic indicators dur-

1 ing the 10-year period ending on the date of en-
2 actment of this Act; and

3 (D) the eligible State's plan submitted
4 under subsection (e).

5 (2) ELIGIBLE TRIBAL GOVERNMENTS.—Under
6 the program, the Secretary shall annually pay to
7 each eligible Tribal government an amount that is
8 determined by the Secretary, in consultation with
9 other relevant Federal agencies, by taking into ac-
10 count—

11 (A) the past levels of fossil fuel (including
12 such fossil fuels as coal, oil, and natural gas)
13 development, production, and electricity genera-
14 tion on the Tribal land of the eligible Tribe dur-
15 ing the 10-year period ending on the date of en-
16 actment of this Act;

17 (B) the Federal mineral revenue received
18 by the eligible Tribe during the 10-year period
19 ending on the date of enactment of this Act;

20 (C) the economic conditions in the eligible
21 Tribe, using measurements of the poverty rate,
22 household income, land value, the unemploy-
23 ment rate, and other economic indicators dur-
24 ing the 10-year period ending on the date of en-
25 actment of this Act; and

1 (D) the eligible Tribe's plan submitted
2 under subsection (e).

3 (c) USE OF PAYMENTS.—

4 (1) IN GENERAL.—Eligible States and eligible
5 Tribal governments that receive payments under the
6 program shall use such payments to carry out eco-
7 nomic development or diversification activities, which
8 includes planning such activities.

9 (2) PROHIBITED USE.—Eligible States and eli-
10 gible Tribal governments that receive payments
11 under the program may not use such payments—

12 (A) with respect to any new or existing de-
13 velopment, production, or utilization of fossil
14 fuels (including such fossil fuels as coal, oil,
15 and natural gas) or associated infrastructure
16 (including pipelines); or

17 (B) for any lobbying activity.

18 (d) NOTIFICATION.—The Secretary shall, not later
19 than 30 days before the start of each year in which pay-
20 ments are to be made under the program, notify each eligi-
21 ble State and eligible Tribal government of the amount
22 of the payment they may receive as determined under sub-
23 section (b).

24 (e) PLANNING REQUIREMENT.—

1 (1) IN GENERAL.—Before receiving a payment
2 under the program, an eligible State or eligible Trib-
3 al government, or combination thereof, shall submit
4 to the Secretary a plan that describes how the eligi-
5 ble State or eligible Tribal government will use the
6 payment in accordance with subsection (c).

7 (2) APPROVAL.—

8 (A) IN GENERAL.—The Secretary shall ap-
9 prove a plan submitted under paragraph (1),
10 and any updates submitted under paragraph
11 (3), prior to making the relevant payment
12 under this section.

13 (B) DETERMINATION.—The Secretary
14 shall not approve a plan under subparagraph
15 (A) unless the Secretary determines that the
16 plan will facilitate carrying out economic devel-
17 opment or diversification activities in accord-
18 ance with subsection (c).

19 (3) UPDATES TO PLAN.—Each year, an eligible
20 State or eligible Tribal government, or combination
21 thereof, shall submit to the Secretary any updates to
22 the plan submitted under paragraph (1).

23 (f) REPORTING REQUIREMENT.—

24 (1) IN GENERAL.—Subject to paragraph (2),
25 each eligible State and eligible Tribal government

1 that receives a payment under this section shall sub-
2 mit to the Secretary periodic reports, which the Sec-
3 retary shall make available to the public, providing
4 a detailed accounting of the uses of the payments by
5 such eligible State or eligible Tribal government, and
6 such reports shall include such other information as
7 the Secretary may require for the administration of
8 this section.

9 (2) EXCEPTION.—Any information submitted
10 by an eligible Tribal government under paragraph
11 (1) that is designated by the eligible Tribal govern-
12 ment as sensitive or private according to Native
13 American custom, law, culture, or religion—

14 (A) may not be made available to the pub-
15 lic; and

16 (B) shall be exempt from disclosure under
17 section 552(b)(3)(B) of title 5, United States
18 Code.

19 (g) LABOR REQUIREMENTS.—Eligible States and eli-
20 gible Tribal governments that receive payments under this
21 section shall provide to the Secretary written assurances
22 that—

23 (1) all laborers and mechanics employed by con-
24 tractors or subcontractors in the performance of
25 construction, alteration or repair work carried out,

1 in whole or in part, with assistance made available
2 under this section shall be paid wages at rates not
3 less than those prevailing on projects of a character
4 similar in the locality as determined by the Sec-
5 retary of Labor in accordance with subchapter IV of
6 chapter 31 of title 40, United States Code, and with
7 respect to the labor standards specified in this para-
8 graph, the Secretary of Labor shall have the author-
9 ity and functions set forth in Reorganization Plan
10 Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C.
11 App.) and section 3145 of title 40, United States
12 Code;

13 (2) all service employees employed by contrac-
14 tors or subcontractors to furnish services carried
15 out, in whole or in part, with assistance made avail-
16 able under this section shall be paid not less than
17 the minimum wage and fringe benefits rates de-
18 scribed in section 6703 of title 41, United States
19 Code, and with respect to the labor standards speci-
20 fied in this paragraph, the Secretary of Labor shall
21 have the authority and functions set forth in chapter
22 67 of title 41, United States Code; and

23 (3) all contractors and subcontractors per-
24 forming work on a project assisted in whole or in
25 part by this section, shall have an explicit neutrality

1 policy on any issue involving the organization of em-
2 ployees for purposes of collective bargaining.

3 (h) RECOUPMENT.—Any eligible State or eligible
4 Tribal government that has failed to submit a report re-
5 quired under subsection (f), or failed to comply with sub-
6 section (c) or subsection (g)—

7 (1) shall be prohibited from receiving payments
8 under this section; and

9 (2) shall be required to repay to the Secretary
10 an amount equal to—

11 (A) in the case of a failure to comply with
12 subsection (c), the amount of funds used in vio-
13 lation of such subsection; and

14 (B) in the case of a failure to submit a re-
15 port required under subsection (f), such amount
16 as the Secretary determines appropriate, but
17 not to exceed 15 percent of the total amount
18 paid to the eligible State or eligible Tribal gov-
19 ernment under this section.

20 (i) DEFINITIONS.—In this Act:

21 (1) ELIGIBLE STATE.—The term “eligible
22 State” means any State that received any Federal
23 mineral revenue in any of fiscal years 2016 through
24 2020.

1 (2) ELIGIBLE TRIBE.—The term “eligible
2 Tribe” means any Indian or Alaska Native Tribe,
3 band, nation, pueblo, village, community, component
4 band, or component reservation that—

5 (A) is individually identified (including
6 parenthetically) in the list published most re-
7 cently as of the date of enactment of this sec-
8 tion pursuant to section 104 of the Federally
9 Recognized Indian Tribe List Act of 1994 (25
10 U.S.C. 5131); and

11 (B) received any Federal mineral revenue
12 in any of fiscal years 2016 through 2020.

13 (3) ELIGIBLE TRIBAL GOVERNMENT.—The
14 term “eligible Tribal government” means the recog-
15 nized governing body of an eligible Tribe.

16 (4) FEDERAL MINERAL REVENUE.—The term
17 “Federal mineral revenue” means amounts received
18 by States and Tribes from sales, royalties, rentals,
19 bonus bids, interest, and other sums paid for pro-
20 duction or development of oil, gas, coal, or other fos-
21 sil fuels from leases entered into pursuant to—

22 (A) the Outer Continental Shelf Lands Act
23 (43 U.S.C. 1331 et seq.);

24 (B) the Gulf of Mexico Energy Security
25 Act of 2006 (43 U.S.C. 1331 note);

1 (C) the Mineral Leasing Act (30 U.S.C.
2 181 et seq.);

3 (D) the Mineral Leasing Act for Acquired
4 Lands (30 U.S.C. 351 et seq.);

5 (E) the Naval Petroleum Reserves Produc-
6 tion Act of 1976 (42 U.S.C. 6501 et seq.); and

7 (F) the Act entitled “An Act to regulate
8 the leasing of certain Indian lands for mining
9 purposes” (Chapter 198; 52 Stat. 347; 25
10 U.S.C. 396a et seq.).

11 (5) PROGRAM.—The term “program” means
12 the program established under subsection (a).

13 (6) TRIBAL LAND.—The term “Tribal land”
14 means any land or minerals, or interests in land or
15 minerals, owned by any eligible Tribe, the title to
16 which is held in trust by the United States, or is
17 subject to a restriction against alienation under the
18 laws of the United States.

19 (7) SECRETARY.—The term “Secretary” means
20 the Secretary of the Treasury.

21 (j) AUTHORIZATION OF APPROPRIATIONS.—There
22 are authorized to be appropriated to the Secretary for fis-
23 cal year 2022—

1 (1) to make payments under subsection (b)(1),
2 \$4,500,000,000, to remain available until fiscal year
3 2031; and
4 (2) to make payments under subsection (b)(2),
5 \$500,000,000, to remain available until fiscal year
6 2031.

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