

1 HJR87  
2 182622-2  
3 By Representative Ledbetter  
4 RFD: Rules  
5 First Read: 02-MAR-17

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8 URGING CONGRESS TO OVERTURN THE STREAM PROTECTION  
9 RULE.

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11 WHEREAS, under existing rules, 90 percent of all  
12 coal mines have no offsite impact, and, in many states, 100  
13 percent of coal mine operations are free of any offsite impact  
14 according to United States Department of the Interior  
15 oversight reports; and

16 WHEREAS, following a five-year period of  
17 development, the Office of Surface Mining Reclamation and  
18 Enforcement (OSMRE), within the Department of the Interior,  
19 published a proposed rule on July 19, 2015, (80 Fed. Reg.  
20 44435) that addressed, among other things, the protection of  
21 streams affected by surface coal mining and reclamation  
22 operations; and

23 WHEREAS, the rule exceeds the Office of Surface  
24 Mining's statutory authority and infringes on the authority  
25 and ability of states to implement the Surface Mining Control  
26 and Reclamation Act; and

1           WHEREAS, the rule imposes extensive monitoring and  
2           reclamation requirements without sound scientific  
3           justification; and

4           WHEREAS, the Office of Surface Mining asks the  
5           United States Fish and Wildlife Service to take over primary  
6           responsibility for permitting mine sites by giving the service  
7           veto authority over every mining project; permitting mines is  
8           the purview of the Office of Surface Mining regulators, not  
9           the Fish and Wildlife Service; and

10          WHEREAS, the rule fails to recognize critical  
11          differences between eastern and western mining conditions; and

12          WHEREAS, the Office of Surface Mining's own internal  
13          analysis of an earlier version of the rule showed a loss of  
14          more than 7,000 high paying jobs in 22 states; an independent  
15          analysis showed a far worse impact with job losses approaching  
16          80,000 people; its impact will be felt beyond the coalfields,  
17          driving up energy costs for families and businesses; and

18          WHEREAS, during the five-year development period of  
19          these documents, states with primacy under SMCRA attempted to  
20          engage with OSMRE either as cooperating agency states under  
21          the National Environmental Policy Act (NEPA) or as state  
22          commentators on the rule; and

23          WHEREAS, nine of the 10 states that signed a  
24          memorandum of understanding with the Office of Surface Mining  
25          to assist in the development of accurate information to  
26          determine the need or scope of the rule terminated their

1 participation after being subjected to a four-year blackout  
2 period of any dialogue or consultation; and

3 WHEREAS, report language accompanying the  
4 Consolidated Appropriations Act of 2016, P.I. 114-113, enacted  
5 on December 18, 2015, included language requiring the Office  
6 of Surface Mining to reengage the primacy states in a  
7 meaningful way prior to finalizing any rulemaking; and

8 WHEREAS, coal mining contributes more than \$18.5  
9 billion annually in state and federal tax revenues; the  
10 proposed rule would reduce annual tax revenues by 15 to 35  
11 percent; and

12 WHEREAS, the United States possesses the largest  
13 single energy resource on the globe with over 400 billion tons  
14 of demonstrated coal reserves; the proposal could sterilize  
15 two-thirds of the recoverable reserve base, more than half the  
16 underground reserves could be rendered unrecoverable, a result  
17 at direct odds with SMCRA which finds that the regulatory  
18 policies should encourage underground mining; and

19 WHEREAS, if the states had been given adequate  
20 opportunity to provide their policy and technical expertise  
21 through a meaningful process, and had the Office of Surface  
22 Mining welcomed that input, the rule would have better  
23 accounted for the diversity in regional and ecological  
24 conditions, the impact to state program implementation, and  
25 the appropriate discretion vested by the Surface Mining  
26 Control and Reclamation Act in primary states that have been

1 regulating coal mining operations for more than 30 years; now  
2 therefore,

3 BE IT RESOLVED BY THE LEGISLATURE OF ALABAMA, BOTH  
4 HOUSES THEREOF CONCURRING, That this body supports early,  
5 meaningful, and substantial state involvement in the  
6 development and implementation of environmental and natural  
7 resources statutes, policies, rules, programs, reviews,  
8 budgets, and strategic plans.

9 BE IT FURTHER RESOLVED, That we urge the Department  
10 of the Interior to withdraw its Stream Protection Rule and  
11 fully comply with the congressional directive to work with the  
12 states, regulated industry, and other members of the public to  
13 put forth a more appropriate proposal.

14 BE IT FURTHER RESOLVED, That we urge all state  
15 attorneys general to engage in opposition to the rule if the  
16 Department of the Interior and the Office of Surface Mining  
17 have not engaged the states in a meaningful process.

18 BE IT FURTHER RESOLVED, That we urge Congress to  
19 pursue options to overturn the rule and that copies of this  
20 resolution be forwarded to the Alabama Congressional  
21 Delegation that they may know of our deep concerns regarding  
22 this matter.