

REVITALIZING THE ECONOMY OF COAL COMMUNITIES
BY LEVERAGING LOCAL ACTIVITIES AND INVESTING
MORE ACT OF 2019

—————
OCTOBER 4, 2019.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

—————

Mr. GRIJALVA, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 2156]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 2156) 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, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More Act of 2019” or the “RECLAIM Act of 2019”.

SEC. 2. ECONOMIC REVITALIZATION FOR COAL COUNTRY.

(a) IN GENERAL.—Title IV of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1231 et seq.) is amended by adding at the end the following:

“SEC. 416. ABANDONED MINE LAND ECONOMIC REVITALIZATION.

“(a) **PURPOSE.**—The purpose of this section is to promote economic revitalization, diversification, and development in economically distressed mining communities through the reclamation and restoration of land and water resources adversely affected by coal mining carried out before August 3, 1977.

“(b) **IN GENERAL.**—From amounts deposited into the fund under section 401(b) before October 1, 2007, and not otherwise appropriated to the extent such funds are available, \$200,000,000 shall be made available to the Secretary, without further appropriation, for each of fiscal years 2020 through 2024 for distribution to States and Indian tribes in accordance with this section for reclamation and restoration projects at sites identified as priorities under section 403(a): *Provided*, That if less than \$200,000,000 is available in any fiscal year to the Secretary, such remaining amount shall be made available to the Secretary, without further appropriation, and such fiscal year shall end distributions made available under this section.

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

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

“(A) **IN GENERAL.**—The project, upon completion of reclamation, is intended to create favorable conditions for the economic development of the project site or create favorable conditions that promote the general welfare through economic and community development of the area in which the project is conducted.

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

“(i) documentation of the role of the project in such area’s economic development strategy or other economic and community development planning process;

“(ii) any other documentation of the planned economic and community use of the project site after the primary reclamation activities are completed, which may include contracts, agreements in principle, or other evidence that, once reclaimed, the site is reasonably anticipated to be used for one or more industrial, commercial, residential, agricultural, or recreational purposes; or

“(iii) any other documentation agreed to by the State or Indian tribe that demonstrates the project will meet the criteria set forth in this subsection.

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

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

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

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

“(II) in which the economic contribution of coal mining has significantly declined.

“(B) **SUBMISSION AND PUBLICATION OF EVIDENCE OR ANALYSIS.**—Any evidence or analysis relied upon in selecting the location of a project under this subparagraph shall be submitted to the Secretary for publication. The Secretary shall publish such evidence or analysis in the Federal Register within 30 days after receiving such submission.

“(3) **STAKEHOLDER COLLABORATION.**—

“(A) **IN GENERAL.**—The project has been the subject of project planning under subsection (g) and has been the focus of collaboration, including partnerships, as appropriate, with interested persons or local organizations.

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

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

“(ii) the State or Indian tribe published notice of such meetings in local newspapers of general circulation, on the Internet, and by any other means considered desirable by the Secretary.

“(C) **ELECTRONIC NOTIFICATION.**—The State or Indian tribe established a way for interested persons to receive electronically all public notices issued under subparagraph (B) and any written declarations submitted to the Secretary under paragraph (5).

“(4) **ELIGIBLE APPLICANTS.**—The project has been proposed by entities of State, local, county, or tribal governments, or local organizations, and will be

approved and executed by State or tribal programs, approved under section 405 or referred to in section 402(g)(8)(B), which may include subcontracting project-related activities, as appropriate.

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

“(A) cannot provide documentation described in paragraph (1)(B) for a project conducted under a priority stated in paragraph (1) or (2) of section 403(a), or

“(B) is unable to meet the requirements under paragraph (2), the State or Indian tribe shall submit a written declaration to the Secretary requesting an exemption from the requirements of those subparagraphs. The declaration must explain why achieving favorable conditions for economic or community development at the project site is not practicable, or why the requirements of paragraph (2) cannot be met, and that sufficient funds distributed annually under section 401 are not available to implement the project. Such request for an exemption is deemed to be approved, except the Secretary shall deny such request if the Secretary determines the declaration to be substantially inadequate. Any denial of such request shall be resolved at the State’s or Indian tribe’s request through the procedures described in subsection (e).

“(d) DISTRIBUTION OF FUNDS.—

“(1) UNCERTIFIED STATES.—

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

“(i) Four-fifths of such amount shall be distributed based on the proportion of the amount of coal historically produced in each State or from the lands of each Indian tribe concerned before August 3, 1977.

“(ii) One-fifth of such amount shall be distributed based on the proportion of reclamation fees paid during the period of fiscal years 2012 through 2016 for lands in each State or lands of each Indian tribe concerned.

“(B) SUPPLEMENTAL FUNDS.—Funds distributed under this section—

“(i) shall be in addition to, and shall not affect, the amount of funds distributed—

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

“(II) to States and Indian tribes that have made a certification under section 411(a) in which the Secretary has concurred, subject to the cap described in section 402(i)(3); and

“(ii) shall not reduce any funds distributed to a State or Indian tribe by reason of the application of section 402(g)(8).

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

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

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

“(C) DISTRIBUTION OF FUNDS.—The amount of funds distributed to each State or Indian tribe under this paragraph shall be determined by the Secretary based on the demonstrated need for the funding to accomplish the purpose of this section.

“(3) REALLOCATION OF UNCOMMITTED FUNDS.—

“(A) COMMITTED DEFINED.—For purposes of this paragraph the term ‘committed’—

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

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

“(II) have been expended or designated by the State or Indian tribe for the completion of a project;

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

“(iii) reflects an acknowledgment by Congress that, based on the documentation required under subsection (c)(2)(B), any unanticipated

delays to commit such funds that are outside the control of the State or Indian tribe concerned shall not affect its allocations under this section.

“(B) FISCAL YEARS 2023 AND 2024.—For each of fiscal years 2023 and 2024, the Secretary shall reallocate in accordance with subparagraph (D) any amount available for distribution under this subsection that has not been committed to eligible projects in the preceding 2 fiscal years, among the States and Indian tribes that have committed to eligible projects the full amount of their annual allocation for the preceding fiscal year.

“(C) FISCAL YEAR 2025.—For fiscal year 2025, the Secretary shall reallocate in accordance with subparagraph (D) any amount available for distribution under this subsection that has not been committed to eligible projects or distributed under paragraph (1)(A), among the States and Indian tribes that have committed to eligible projects the full amount of their annual allocation for the preceding fiscal years.

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

“(i) the proportion of unreclaimed eligible lands and waters the State or Indian tribe has in the inventory maintained under section 403(c);

“(ii) the average of the proportion of reclamation fees paid for lands in each State or lands of each Indian tribe concerned; and

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

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

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

“(2) during that period, at the State’s or Indian tribe’s request, the Secretary may consult with any appropriate Federal agency; and

“(3) at the end of that period, if the Secretary’s concerns are not resolved the Secretary shall provide to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an explanation of the concerns and such project proposal shall not be eligible for funds distributed under this section.

“(f) ACID MINE DRAINAGE TREATMENT.—

“(1) IN GENERAL.—Subject to paragraph (2), a State or Indian tribe that receives funds under this section may use up to 30 percent of such funds as necessary to supplement the State’s or tribe’s acid mine drainage abatement and treatment fund established under section 402(g)(6)(A), for future operation and maintenance costs for the treatment of acid mine drainage associated with the individual projects funded under this section. A State or Indian tribe shall specify the total funds allotted for such costs in its application submitted under subsection (d)(2)(B).

“(2) CONDITION.—A State or Indian tribe may use funds under this subsection only if the State or tribe can demonstrate that the annual grant distributed to the State or tribe pursuant to section 401(f), including any interest from the State’s or tribe’s acid mine drainage abatement and treatment fund that is not used for the operation or maintenance of preexisting acid mine drainage treatment systems, is insufficient to fund the operation and maintenance of any acid mine drainage treatment system associated with an individual project funded under this section.

“(g) PROJECT PLANNING AND ADMINISTRATION.—

“(1) STATES AND INDIAN TRIBES.—

“(A) IN GENERAL.—A State or Indian tribe may use up to 10 percent of its annual distribution under this section for project planning and the costs of administering this section.

“(B) PLANNING REQUIREMENTS.—Planning under this paragraph may include—

“(i) identifying eligible projects;

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

“(iii) developing project designs;

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

“(v) preparing cost estimates; or

“(vi) engaging in other similar activities necessary to facilitate reclamation activities under this section.

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

“(h) REPORT TO CONGRESS.—The Secretary shall provide to the Committee on Natural Resources of the House of Representatives, the Committees on Appropriations of the House of Representatives and the Senate, and the Committee on Energy and Natural Resources of the Senate at the end of each fiscal year for which such funds are distributed a detailed report—

“(1) on the various projects that have been undertaken with such funds;

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

“(3) the community and economic benefits that are resulting from, or are expected to result from, the use of the funds that achieved the priorities described in paragraph (3) of section 403(a); and

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

“(i) PROHIBITION ON CERTAIN USE OF FUNDS.—Any State or Indian tribe that uses the funds distributed under this section for purposes other than reclamation or drainage abatement expenditures, as made eligible by section 404, and for the purposes authorized under subsections (f) and (g), shall be barred from receiving any subsequent funding under this section.”

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

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

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

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

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

“(11) to implement section 416; and”;

(2) in section 401(d)(3) (30 U.S.C. 1231(d)(3)), by striking “subsection (f)” and inserting “subsection (f) and section 416(a)”;

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

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

and

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

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

(4) in section 403(c) (30 U.S.C. 1233(c)), by inserting after the second sentence the following: “As practicable, States and Indian tribes shall offer such amendments based on the use of remote sensing, global positioning systems, and other advanced technologies.”.

SEC. 4. MINIMUM STATE PAYMENTS.

Section 402(g)(8)(A) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(g)(8)) is amended by striking “\$3,000,000” and inserting “\$5,000,000”.

SEC. 5. GAO STUDY OF USE OF FUNDS.

Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States shall study and report to the Congress on uses of funds authorized by this Act, including regarding—

(1) the solvency of the Abandoned Mine Reclamation Fund; and

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

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

(B) States for which such a certification has not been made; and

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

SEC. 6. PAYMENTS TO CERTIFIED STATES NOT AFFECTED.

Nothing in this Act shall be construed to reduce or otherwise affect payments under section 402(g) of the Surface Mining Reclamation and Control Act of 1977 (30 U.S.C. 1232(g)) to States that have made a certification under section 411(a) of such Act (30 U.S.C. 1240a(a)) in which the Secretary of the Interior has concurred.

PURPOSE OF THE BILL

The purpose of H.R. 2156 is to 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.

BACKGROUND AND NEED FOR LEGISLATION

Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA, 30 U.S.C. 1201 *et seq.*) established a system for the reclamation of abandoned mine lands (AML). For a site to qualify for the AML program, it must have been affected by coal mining activities prior to August 3, 1977, and subsequently abandoned, and there must be no responsible party for the reclamation of the land under state or federal laws. With no liable party, the state in which an AML site is located becomes the de facto entity responsible for remediating the site. These sites pose an economic burden to states' economies, as well as health and environmental hazards to local communities.

Classifying AML sites

AML sites are categorized into a priority system based on the observed severity of their condition and the threat they pose. Priority 1 sites have conditions that pose an extreme danger to public health, safety, and property. Priority 2 sites are those that threaten adverse effects to public health and safety. Priority 3 sites have environmental degradation of either water or land resources due to the adverse effects of coal mining.¹

Certified and uncertified States

Title IV of SMCRA distinguishes between certified and uncertified states, a classification meant to indicate whether a state has achieved the remediation of all priority AML sites within its boundaries.²

Initially, all states with an approved reclamation program are deemed uncertified, but a state may seek certification from the Secretary of the Interior after the state has achieved "all of the priorities stated in section 1233(a) [SMCRA 403(a)] . . . for eligible lands and waters."³ Once certified, states may spend federal AML funds on the protection and restoration of land or water resources affected by mineral mining and processing practices.⁴ Unfortunately, AML sites are continuously being discovered or newly developing, so several certified states and tribes still have AML inventories.

Abandoned Mine Reclamation Fund and costs of AML sites

Title IV of SMCRA established a funding mechanism for associated reclamation activities, known as the AML Fund, which is sup-

¹30 U.S.C. § 1233(a).

²*Id.* § 1240a.

³*Id.* § 1240a(a).

⁴*Id.* § 1240a(c).

ported by a fee on every ton of coal produced.⁵ Expenditures from the AML Fund are subject to appropriation. Because the amounts appropriated from the AML Fund have been less than the fees collected, the AML Fund had an unappropriated balance of roughly \$2.3 billion as of the end of Fiscal Year 2018. Although the AML Fund has been in existence for over 40 years and collected over \$10 billion in fees, much work remains to be done. On top of \$4 billion in completed projects, the Department of the Interior currently estimates unfunded liabilities of more than \$10.6 billion.

Need for reclamation in coal communities

Coal communities are struggling to rebuild after enduring significant job losses due to a long-term decline in the coal industry. Numerous coal-producing counties are experiencing high rates of unemployment and are seeking to invest in job-creating economic development projects.

AML liabilities threaten the health and safety of nearby communities and hamper opportunities for further development. States and local communities lack the necessary funds to reclaim these lands with their own resources and, as a result, areas impacted by abandoned mines are often left out of community and economic development planning efforts.

RECLAIM Act of 2019

This bill helps states and tribes address the backlog of over 20,000 high priority sites on the AML inventory while promoting economic development in distressed communities. RECLAIM has the potential to accelerate the reclamation of AML sites through the advance disbursement of \$1 billion of the unappropriated balance in the AML Fund while tying mine reclamation to long-term economic development opportunities.

COMMITTEE ACTION

H.R. 2156 was introduced on April 9, 2019, by Representative Matt Cartwright (D-PA). The bill was referred solely to the Committee on Natural Resources. On May 1, 2019, the Natural Resources Committee met to consider the bill. Chair Grijalva (D-AZ) offered an amendment in the nature of a substitute. Representative Liz Cheney (R-WY) offered an amendment designated Cheney.012 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 13 yeas and 23 nays, as follows:

⁵ *Id.* § 1232.

Date: May 1, 2019

COMMITTEE ON NATURAL RESOURCES
116th Congress - Roll Call

Bill / Motion: H.R. 2156

Roll Call #:

Amendment: Ms. Cheney.012 amendment to the Grijalva amendment in the nature of a substitute

Disposition: Not agreed to by a roll call vote of 13 yeas and 23 nays.

MEMBERS (44)	YEAS	NAYS	PRESENT
Mr. Grijalva, AZ (Chair)	1		X
Mr. Bishop, UT (Ranking)	2	X	
Ms. Napolitano, CA	3		X
Mr. Young, AK	4	X	
Mr. Costa, CA	5		X
Mr. Gohmert, TX	6		
Mr. Sablan, CNMI	7		X
Mr. Lamborn, CO	8	X	
Mr. Huffman, CA	9		X
Mr. Wittman, VA	10		
Mr. Lowenthal, CA	11		X
Mr. McClintock, CA	12	X	
Mr. Gallego, AZ	13		X
Mr. Gosar, AZ	14	X	
Mr. Cox, CA	15		X
Mr. Cook, CA	16	X	
Mr. Neguse, CO	17		X
Mr. Westerman, AR	18	X	
Mr. Levin, CA	19		X
Mr. Graves, LA	20	X	
Ms. Haaland, NM	21		X
Mr. Hice, GA	22		
Mr. Van Drew, NJ	23		X
Mrs. Radewagen, AS	24		
Mr. Cunningham, SC	25		X
Mr. Webster, FL	26	X	
Ms. Velázquez, NY	27		
Ms. Cheney, WY	28	X	
Ms. DeGette, CO	29		X
Mr. Johnson, LA	30		
Mr. Clay, MO	31		X
Ms. González-Colón, PR	32	X	
Mrs. Dingell, MI	33		X
Mr. Curtis, UT	34		
Mr. Brown, MD	35		X
Mr. Herr, OK	36	X	
Mr. McEachin, VA	37		
Mr. Fulcher, ID	38	X	
Mr. Soto, FL	39		X
Mr. Case, HI	40		X
Mr. Horsford, NV	41		X
Mr. San Nicolas, GU	42		X
Mr. Cartwright, PA	43		X
Mr. Tonko, NY	44		X
TOTALS	13	23	
Total: 44 / Quorum: 15 / Report: 23	YEAS	NAYS	PRESENT

The amendment in the nature of a substitute offered by Chair Grijalva was adopted by voice vote. The bill, as amended, was ordered favorably reported to the House of Representatives by a roll call vote of 26 yeas and 10 nays, as follows:

Date: May 1, 2019

COMMITTEE ON NATURAL RESOURCES
116th Congress - Roll Call

Bill / Motion: H.R. 2156

Roll Call #:

Amendment: Final Passage, as amended

Disposition: H.R. 2156, as amended, was adopted and ordered favorably reported to the House of Representatives by a roll call vote of 26 yeas and 10 nays.

MEMBERS (44)		YEAS	NAYS	PRESENT
Mr. Grijalva, AZ (Chair)	1	X		
Mr. Bishop, UT (Ranking)	2	X		
Mrs. Napolitano, CA	3	X		
Mr. Young, AK	4	X		
Mr. Costa, CA	5	X		
Mr. Gohmert, TX	6			
Mr. Sablan, CNMI	7	X		
Mr. Lamborn, CO	8		X	
Mr. Huffman, CA	9	X		
Mr. Wittman, VA	10			
Mr. Lowenthal, CA	11	X		
Mr. McClintock, CA	12		X	
Mr. Gallego, AZ	13	X		
Mr. Gosar, AZ	14		X	
Mr. Cox, CA	15	X		
Mr. Cook, CA	16		X	
Mr. Neguse, CO	17	X		
Mr. Westerman, AR	18		X	
Mr. Levin, CA	19	X		
Mr. Graves, LA	20		X	
Ms. Haaland, NM	21	X		
Mr. Hice, GA	22			
Mr. Van Drew, NJ	23	X		
Mrs. Radewagen, AS	24			
Mr. Cunningham, SC	25	X		
Mr. Webster, FL	26		X	
Ms. Velázquez, NY	27			
Ms. Cheney, WY	28		X	
Ms. DeGette, CO	29	X		
Mr. Johnson, LA	30			
Mr. Clay, MO	31	X		
Ms. González-Colón, PR	32	X		
Mrs. Dingell, MI	33	X		
Mr. Curtis, UT	34			
Mr. Brown, MD	35	X		
Mr. Hern, OK	36		X	
Mr. McEachin, VA	37			
Mr. Fulcher, ID	38		X	
Mr. Soto, FL	39	X		
Mr. Case, HI	40	X		
Mr. Horsford, NV	41	X		
Mr. San Nicolas, GU	42	X		
Mr. Cartwright, PA	43	X		
Mr. Tonko, NY	44	X		
TOTALS		26	10	
Total: 44 / Quorum: 15 / Report: 23		Yeas	Nays	Present

HEARINGS

For the purposes of section 103(i) of H. Res. 6 of the 116th Congress—the following hearing was used to develop or consider H.R. 2156: Subcommittee on Energy and Mineral Resources legislative hearing titled “Abandoned Mine Land Reclamation: Innovative Approaches and Economic Development Opportunities” and held on March 28, 2019.

SECTION-BY-SECTION ANALYSIS

Section 1 provides the short title for the Act, the “Revitalizing the Economy of Coal Communities by Leveraging Local Activities and Investing More Act of 2019” or the “RECLAIM Act of 2019”. Section 2 adds a Section 416, Abandoned Mine Land Economic Revitalization, to Title IV of SMCRA. Section 416 includes the following subsections:

Subsection (a) summarizes the purpose of Section 416, which is to promote economic revitalization, diversification, and development in economically distressed mining communities.

Subsection (b) provides the Secretary of the Interior with \$200 million annually for each of FYs 2020 through 2024 for distribution to states to meet the purposes outlined in section (a).

Subsection (c) specifies that funding distributed to states and Indian tribes used to carry out reclamation projects on Priority 1, 2, and 3 sites must be intended to create favorable conditions for economic development in the surrounding area. Economic development can include industrial, commercial, residential, agricultural, and recreational activities, including activities related to forestry and fisheries.

Eligible project applicants include state, local, county, or tribal entities, and project-related activities may be subcontracted in a manner consistent with state practices for existing AML program activities. These projects must be conducted in areas that have been adversely affected by a recent reduction in coal mining-related activity or in communities that have historically relied on coal mining for a substantial portion of their economy and in which the economic contribution of coal mining has significantly declined. Evidence used to determine the location of projects must be submitted to the Secretary for publication in the *Federal Register*.

Each project applicant must engage in appropriate project planning and can collaborate with outside persons or organizations. The House Natural Resources Committee envisions relevant stakeholders could include non-governmental organizations, other state agencies, or impacted private citizens; however, not all would necessarily need to be consulted for a project proposal to proceed. Many states already engage in consultation when considering current AML projects and activities, and the Committee expects states would adapt their existing practices for RECLAIM Act project selection. No collaborative activities by outside persons or organizations will be eligible for RECLAIM funds.

The public must be notified during the project planning process and be given the opportunity to comment at public meetings near proposed project sites. Notice of such meetings must be published in local newspapers and on the internet. States and Indian tribes must also establish a way for interested persons to receive these

public notices, and any waiver requests submitted under this subsection, electronically.

States and Indian tribes may request to waive the requirements to document any planned economic development activities that will take place after the completion of a reclamation project executed under this section. They may also seek to waive the project location requirements. These requests will be deemed approved by the Secretary, unless the Secretary finds the requests to be inadequate. If a request is denied, the state or Indian tribe can request to enter into the process described under subsection (e) to resolve the matter.

Subsection (c) requires states seeking waivers for certain projects to provide documentation to the Secretary explaining why economic development is not practicable at the site in question and that funds distributed annually under SMCRA section 401 are not available to implement the project. The Committee recognizes concerns articulated by the states with respect to limited AML funding available for both high priority safety and health and economic revitalization-focused projects. The Committee intends this provision to allow for flexibility as states allocate AML funding to balance health, safety, and environmental priorities with economic revitalization priorities. The Committee directs the Office of Surface Mining Reclamation and Enforcement to accommodate these concerns.

Subsection (d) distributes funds to states and Indian tribes. The Secretary shall distribute \$195 million to uncertified states and tribes with approved AML programs each year from FY 2020 to 2024.

An additional \$5 million will be available each year to certified states, to be distributed by the Secretary through a grant application process.

During FYs 2020, 2021, and 2022, funding is allocated via a distribution formula based on historical coal production from uncertified states and the proportion of coal fees paid into the AML fund between 2012 and 2016 by the states or Indian tribes concerned. The Committee intends this to be interpreted as pertaining to uncertified states and Indian tribes. Certified states will not be receiving monies under this distribution formula. A state's recent payments proportion will be calculated by finding the ratio between the sum of an uncertified state's contribution between the years 2012 and 2016 and the total contributions of all uncertified states during the same timeframe. Certified states' contributions shall not be considered when making this calculation.

During FYs 2023 and 2024, if a state or tribe has fully committed the funding it received in FYs 2020, 2021, and 2022 to projects, it will receive the same amount it received in those years for each of FY 2023 through 2024. It will also have an opportunity to apply for additional funding through the reallocation process explained below. This process will award additional funding to states and tribes based on their unmet reclamation needs, the amount they paid into the AML Fund, and coal mining employment losses. If a state or tribe has not fully committed the funding it received in the previous fiscal year, then it will receive either the amount it has committed to projects in that previous year, or the amount it received in FY20 (whichever amount is less).

During FY 2025, each state or Indian tribe that has committed the full amount of its FY 2024 allocation to projects is eligible for a reallocation or “bonus payment.” These payments will be awarded from the pot of funds that remain uncommitted from all previous fiscal years. The reallocation process is described below.

This subsection also provides for the reallocation of unused funds. This provision is intended to incentivize states and tribes to execute project agreements and to use the funding they are granted under this section in a timely manner. It will also ensure that funding allocated under this section is used for its intended purposes. By reallocating unused funds to states and tribes, the program offers them the opportunity of a bonus payment (if funds are available) as a reward for using their funds for eligible projects. This process will allow for the efficient reclamation of as much abandoned mine land as possible during the life of the program.

The reallocation process works as follows: During FYs 2023 through 2024, states and tribes will lose any funding that they have not committed to projects from their FYs 2020, 2021, and 2022 allocation. The Secretary will redistribute unused funding to states and tribes that have fully utilized their funding allocations in FYs 2023 and 2024 through an application process. For eligible states and tribes, this section essentially provides them with an opportunity to apply for “bonus payments” on top of the direct allocation they receive from the Secretary. To remain eligible for bonus payments, a state or tribe must commit its full allocation from the previous year to projects.

During FY 2025, the Secretary will award “bonus payments” to states and tribes that have committed all of the funding allotted to them in FY 2024 for projects, provided that funds are available. Funds will be available for these bonus payments if there are funds that remain uncommitted from previous fiscal years. The amount to be reallocated to states and Indian tribes will be based on the amount of unmet reclamation needs in their inventory, the amount the state or Indian tribe paid into the AML Fund, and the proportion of recent coal mining employment loss incurred in the state or tribe, based on the Mine Safety and Health Administration’s coal employment data.

This subsection defines the term “committed” to mean that funds received by the state or Indian tribe have been reserved for a specific project or have been expended or designated for the completion of a project.

Subsection (e) requires the Secretary to engage with the relevant state or Indian tribe if the Secretary determines that a selected project does not meet the criteria specified in the bill. This process will take place before a project is rejected by the Secretary, and is intended to assist states and tribes in making their preferred projects eligible for the program. This process can take no longer than 45 days from the moment problems are identified with the project in question. If a project must be rejected, the Secretary will provide Congress with an explanation for the rejection.

Subsection (f) authorizes states and Indian tribes to use up to 30 percent of the AML funds received under this section to be used for the treatment of acid mine drainage problems. If a state or tribe can demonstrate that its current acid mine drainage funding allocation is insufficient, it may use funding from this program to rem-

edy existing acid mine drainage problems. As with any other project funded through this program, if a state or tribe executes a project agreement to use funding provided under this section for acid mine drainage work, then it will be considered “committed” for purposes of reallocation.

Subsection (g) allows states and tribes to designate up to 10 percent of their distribution for project planning and administrative purposes. During project planning, the state or Indian tribe should identify eligible projects, update the inventory of abandoned mine sites, develop project designs, prepare cost estimates, and engage in other similar activities necessary to facilitate the reclamation of these lands and waters.

Subsection (h) requires the Secretary to report to the Committees on Natural Resources and Appropriations of the House of Representatives and the Committees on Energy and Natural Resources and Appropriations of the Senate about the projects undertaken under this section and the resulting economic and community benefits.

Subsection (i) requires that any state or Indian tribe that uses RECLAIM funds for purposes other than reclamation, drainage abatement expenditures, or the purposes authorized under subsections (f) and (g), cannot receive any additional funding under the RECLAIM Act. This section ensures that states cannot use funding disbursed under this section directly for economic development purposes. These restrictions apply only to Section 416, as added by this bill. This section is not intended to alter or modify any other sections of SMCRA.

Section 3 makes several conforming and technical amendments to title IV of SMCRA, including adding references to the new authority in several sections and updating the inventory language in section 403(c) (30 U.S.C. 1233(c)) to achieve a more accurate inventory of existing AML problems.

Section 4 includes language raising the cap on minimum state payments under Section 402 of SMCRA from \$3 million to \$5 million per year. Currently, if a state does not receive at least \$3 million from the AML program annually, additional funds are distributed to that state to equal \$3 million.

Section 5 requires the U.S. Government Accountability Office to issue a report to Congress no later than two years after enactment on the solvency of the AML Fund and the impact of the RECLAIM Act on the payments issued to certified and uncertified states under SMCRA and transfers to the United Mine Workers of America Combined Benefit Fund.

Section 6 clarifies that this Act will not, in any way, reduce funding to certified states.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources’ oversight findings and recommendations are reflected in the body of this report.

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, the Committee has received the following estimate for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 19, 2019.

Hon. RAÚL M. GRIJALVA,
*Chairman, Committee on Natural Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2156, the RECLAIM Act of 2019.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Janani Shankaran.

Sincerely,

PHILLIP L. SWAGEL,
Director.

Enclosure.

At a Glance			
H.R. 2156, RECLAIM Act of 2019			
As ordered reported by the House Committee on Natural Resources on May 1, 2019			
By Fiscal Year, Millions of Dollars	2019	2019-2024	2019-2029
Direct Spending (Outlays)	0	856	1,212
Revenues	0	0	0
Deficit Effect	0	856	1,212
Spending Subject to Appropriation (Outlays)	0	15	18
Statutory pay-as-you-go procedures apply?	Yes	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2030?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
The bill would			
<ul style="list-style-type: none"> Direct the Office of Surface Mining Reclamation and Enforcement to disburse, without further appropriation, \$200 million annually over the 2020-2024 period from the Abandoned Mine Reclamation Fund to states and tribes Authorize states and tribes to use those grants for economic development Increase the minimum payment that certain states receive under current law from the fund 			
Estimated budgetary effects would primarily stem from			
<ul style="list-style-type: none"> The authorization of \$200 million annually on grants The increase in minimum payments to certain states 			
Detailed estimate begins on the next page.			

Bill summary: H.R. 2156 would direct the Office of Surface Mining Reclamation and Enforcement (OSMRE) to disburse \$200 million annually, without further appropriation, over the 2020–2024 period from the Abandoned Mine Reclamation Fund to states and Indian tribes to use for economic development. Those grants would be in addition to annual amounts the fund distributes to certain states under current law for mine reclamation; the minimum annual payment for some states would increase from \$3 million to \$5 million.

Estimated Federal cost: The estimated budgetary effect of H.R. 2156 is shown in Table 1. The costs of the legislation fall within budget function 300 (natural resources and environment).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 2156

	By fiscal year, millions of dollars—														2019–2024	2019–2029
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029					
Increases in Direct Spending																
Estimated Budget:																
Authority	0	224	224	224	224	224	24	24	24	24	24	24	1,120	1,240		
Estimated Outlays	0	63	148	197	224	224	168	92	48	24	24	24	856	1,212		
Increases in Spending Subject to Appropriation																
Estimated Authorization	0	3	3	3	3	3	1	1	1	0	0	0	15	18		
Estimated Outlays	0	3	3	3	3	3	1	1	1	0	0	0	15	18		

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted near the end of 2019 and that the necessary amounts will be appropriated each year. Estimated outlays are based on historical spending patterns.

Background: Under the Abandoned Mine Lands (AML) program, coal producers pay fees to the Department of the Interior based on their annual production. Those fees are deposited into the Abandoned Mine Reclamation Fund, which is the source of grants to states and tribes to perform reclamation activities. The department is authorized to spend, without further appropriation, 80 percent of the fees collected each year for those grants, plus whatever amounts are necessary to ensure that all eligible states receive at least \$3 million in annual payments. Any remaining amounts are available, subject to appropriation, for OSMRE to administer the AML program. The authority to collect those fees expires in 2021.

CBO estimates that the unappropriated balance in the fund at the beginning of fiscal year 2020 will total \$2.2 billion. Net spending from the fund, after accounting for the collection of fees that will occur through 2021, will reduce that balance to roughly \$1.3 billion by the end of 2029; the remaining balance will be spent thereafter. In making those calculations, CBO did not include amounts appropriated from the fund to cover OSMRE’s administrative costs because such spending would depend on future Congressional action.

Direct spending: H.R. 2156 would direct OSMRE to disburse an additional \$200 million annually, without further appropriation, over the 2020–2024 period from the Abandoned Mine Reclamation Fund to states and tribes for mine reclamation and restoration projects that contribute to economic development. CBO estimates

that providing those grants would cost \$1.0 billion over the 2020–2029 period.

The bill also would increase the minimum annual payment to certain states from \$3 million to \$5 million. Using information on such payments in recent years, CBO expects that 12 states would receive the new minimum payment and thus we estimate that providing those payments would cost \$24 million annually and would total \$212 million over the 2020–2029 period.

In total, CBO estimates that enacting H.R. 2156 would increase direct spending by \$1.2 billion over the 2019–2029 period. Because amounts in the fund eventually will be spent under current law, CBO estimates that enacting the bill would reduce direct spending by a similar amount after 2029.

Spending subject to appropriation: H.R. 2156 would authorize OSMRE to spend up to \$3 million annually from amounts appropriated from the fund over the 2020–2024 period for additional staffing and administration. CBO expects that OSMRE would retain some staff through 2027 for continued oversight of the grants, at an estimated annual cost of \$1 million. The bill also would direct the Government Accountability Office to study how grants authorized under the bill are used. In total, CBO estimates, implementing H.R. 2156 would cost \$15 million over the 2020–2024 period and \$3 million after 2024.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in Table 2.

TABLE 2.—CBO’S ESTIMATE OF PAY-AS-YOU-GO EFFECTS OF H.R. 2156

	By fiscal year, millions of dollars—														2019– 2024	2019– 2029
	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029					
	Net Increase in the Deficit															
Statutory Pay-As-You-Go Effect	0	63	148	197	224	224	168	92	48	24	24	856	1,212			

Increase in long-term deficits: None.

Mandates: None.

Estimate prepared by: Federal costs: Janani Shankaran; Mandates: Jon Sperl.

Estimate reviewed by: Kim P. Cawley, Chief, Natural and Physical Resources Cost Estimates Unit; H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill is 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.

EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

UNFUNDED MANDATES REFORM ACT STATEMENT

This bill contains no unfunded mandates.

EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139. The bill would make permanent a revised version of the Abandoned Mine Lands (AML) Program (CDFA No. 15.252). This program would continue to be related and complementary to, but not duplicative of, the following programs identified in the most recent Catalog of Federal Domestic Assistance published pursuant to 31 U.S.C. § 6104: Regulation of Surface Coal Mining and Surface Effects of Underground Coal Mining (CDFA No. 15.250), Science and Technology Projects Related to Coal Mining and Reclamation (CDFA No. 15.255), OSM/VISTA AmeriCorps (CDFA No. 15.254), and Not-for-Profit AMD Reclamation (CDFA No. 15.253).

APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**SURFACE MINING CONTROL AND RECLAMATION ACT
OF 1977**

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Surface Mining Control and Reclamation Act of 1977".

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TITLE I—STATEMENT OF FINDINGS AND POLICY

Sec. 101. Findings.

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TITLE IV—ABANDONED MINE RECLAMATION

* * * * *

Sec. 416. *Abandoned mine land economic revitalization.*

* * * * *

TITLE IV—ABANDONED MINE RECLAMATION

ABANDONED MINE RECLAMATION FUND AND PURPOSES

SEC. 401. (a) There is created on the books of the Treasury of the United States a trust fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the “fund”) which shall be administered by the Secretary of the Interior. State abandoned mine reclamation funds (State funds) generated by grants from this title shall be established by each State pursuant to an approved State program.

(b) The fund shall consist of amounts deposited in the fund, from time to time derived from—

(1) the reclamation fees levied under section 402;

(2) any user charge imposed on or for land reclaimed pursuant to this title, after expenditures for maintenance have been deducted;

(3) donations by persons, corporations, associations, and foundations for the purposes of this title;

(4) recovered moneys as provided for in this title; and

(5) interest credited to the fund under subsection (e).

(c) Moneys in the fund may be used for the following purposes:

(1) reclamation and restoration of land and water resources adversely affected by past coal mining, including but not limited to reclamation and restoration of abandoned surface mine areas, abandoned coal processing areas, and abandoned coal refuse disposal areas; sealing and filling abandoned deep mine entries and voids; planting of land adversely affected by past coal mining to prevent erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by coal mine drainage including restoration of stream beds, and construction and operation of water treatment plants; prevention, abatement, and control of burning coal refuse disposal areas and burning coal in situ; prevention, abatement, and control of coal mine subsidence; and establishment of self-sustaining, individual State administered programs to insure private property against damages caused by land subsidence resulting from underground coal mining in those States which have reclamation plans approved in accordance with section 503 of this Act: *Provided*, That funds used for this purpose shall not exceed \$3,000,000 of the funds made available to any State under section 402(g)(1) of this Act;

(2) acquisition and filling of voids and sealing of tunnels, shafts, and entryways under section 409;

(3) acquisition of land as provided for in this title;

(4) enforcement and collection of the reclamation fee provided for in section 402 of this title;

(5) restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining which constitutes an emergency as provided for in this title;

(6) grants to the States to accomplish the purposes of this title;

(7) administrative expenses of the United States and each State to accomplish the purposes of this title;

(8) for use under section 411;

(9) for the purpose of section 507(c), except that not more than \$10,000,000 shall annually be available for such purpose;

(10) for the purpose described in section 402(h); **[and]**

(11) to implement section 416; and

[(11)] *(12) all other necessary expenses to accomplish the purposes of this title.*

(d) AVAILABILITY OF MONEYS; NO FISCAL YEAR LIMITATION.—

(1) IN GENERAL.—Moneys from the fund for expenditures under subparagraphs (A) through (D) of section 402(g)(3) shall be available only when appropriated for those subparagraphs.

(2) NO FISCAL YEAR LIMITATION.—Appropriations described in paragraph (1) shall be made without fiscal year limitation.

(3) OTHER PURPOSES.—Moneys from the fund shall be available for all other purposes of this title without prior appropriation as provided in **[subsection (f)]** *subsection (f) and section 416(a).*

(e) INTEREST.—The Secretary of the Interior shall notify the Secretary of the Treasury as to what portion of the fund is not, in his judgment, required to meet current withdrawals. The Secretary of the Treasury shall invest such portion of the fund in public debt securities with maturities suitable for achieving the purposes of the transfers under section 402(h) and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities. The income on such investments shall be credited to, and form a part of, the fund for the purpose of the transfers under section 402(h).

(f) GENERAL LIMITATION ON OBLIGATION AUTHORITY.—

(1) IN GENERAL.—From amounts deposited into the fund under subsection (b), the Secretary shall distribute during each fiscal year beginning after September 30, 2007, an amount determined under paragraph (2).

(2) AMOUNTS.—

(A) FOR FISCAL YEARS 2008 THROUGH 2022.—For each of fiscal years 2008 through 2022, the amount distributed by the Secretary under this subsection shall be equal to—

(i) the amounts deposited into the fund under paragraphs (1), (2), and (4) of subsection (b) for the preceding fiscal year that were allocated under paragraphs (1) and (5) of section 402(g); plus

(ii) the amount needed for the adjustment under section 402(g)(8) for the current fiscal year.

(B) FISCAL YEARS 2023 AND THEREAFTER.—For fiscal year 2023 and each fiscal year thereafter, to the extent that funds are available, the Secretary shall distribute an

amount equal to the amount distributed under subparagraph (A) during fiscal year 2022.

(3) DISTRIBUTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), for each fiscal year, of the amount to be distributed to States and Indian tribes pursuant to paragraph (2), the Secretary shall distribute—

(i) the amounts allocated under paragraph (1) of section 402(g), the amounts allocated under paragraph (5) of section 402(g), and any amount reallocated under section 411(h)(3) in accordance with section 411(h)(2), for grants to States and Indian tribes under section 402(g)(5); and

(ii) the amounts allocated under section 402(g)(8).

(B) EXCLUSION.—Beginning on October 1, 2007, certified States shall be ineligible to receive amounts under section 402(g)(1).

(4) AVAILABILITY.—Amounts in the fund available to the Secretary for obligation under this subsection shall be available until expended.

(5) ADDITION.—

(A) IN GENERAL.—Subject to subparagraph (B), the amount distributed under this subsection for each fiscal year shall be in addition to the amount appropriated from the fund during the fiscal year.

(B) EXCEPTIONS.—Notwithstanding paragraph (3), the amount distributed under this subsection for the first 4 fiscal years beginning on and after October 1, 2007, shall be equal to the following percentage of the amount otherwise required to be distributed:

(i) 50 percent in fiscal year 2008.

(ii) 50 percent in fiscal year 2009.

(iii) 75 percent in fiscal year 2010.

(iv) 75 percent in fiscal year 2011.

RECLAMATION FEE

SEC. 402. (a) All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior, for deposit in the fund, a reclamation fee of 31.5 cents per ton of coal produced by surface coal mining and 13.5 cents per ton of coal produced by underground mining or 10 per centum of the value of the coal at the mine, as determined by the Secretary, whichever is less, except that the reclamation fee for lignite coal shall be at a rate of 2 per centum of the value of the coal at the mine, or 9 cents per ton, whichever is less.

(b) Such fee shall be paid no later than thirty days after the end of each calendar quarter beginning with the first calendar quarter occurring after the date of enactment of this Act, and ending September 30, 2021.

(c) Together with such reclamation fee, all operators of coal mine operations shall submit a statement of the amount of coal produced during the calendar quarter, the method of coal removal and the type of coal, the accuracy of which shall be sworn to by the operator and notarized. Such statement shall include an identification of the permittee of the surface coal mining operation, any operator

in addition to the permittee, the owner of the coal, the preparation plant, tripple, or loading point for the coal, and the person purchasing the coal from the operator. The report shall also specify the number of the permit required under section 506 and the mine safety and health identification number. Each quarterly report shall contain a notification of any changes in the information required by this subsection since the date of the preceding quarterly report. The information contained in the quarterly reports under this subsection shall be maintained by the Secretary in a computerized database.

(d)(1) Any person, corporate officer, agent or director, on behalf of a coal mine operator, who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification required in this section shall, upon conviction, be punished by a fine of not more than \$10,000, or by imprisonment for not more than one year, or both.

(2) The Secretary shall conduct such audits of coal production and the payment of fees under this title as may be necessary to ensure full compliance with the provisions of this title. For purposes of performing such audits the Secretary (or any duly designated officer, employee, or representative of the Secretary) shall, at the reasonable times, upon request, have access to, and may copy, all books, papers, and other documents of any person subject to the provisions of this title. The Secretary may at any time conduct audits of any surface coal mining and reclamation operation, including without limitation, tipples and preparation plants, as may be necessary in the judgment of the Secretary to ensure full and complete payment of the fees under this title.

(e) Any portion of the reclamation fee not properly or promptly paid pursuant to this section shall be recoverable, with statutory interest, from coal mine operators, in any court of competent jurisdiction in any action at law to compel payment of debts.

(f) All Federal and State agencies shall fully cooperate with the Secretary of the Interior in the enforcement of this section. Whenever the Secretary believes that any person has not paid the full amount of the fee payable under subsection (a) the Secretary shall notify the Federal agency responsible for ensuring compliance with the provisions of section 4121 of the Internal Revenue Code of 1986.

(g) ALLOCATION OF FUNDS.—(1) Except as provided in subsection (h) and section 416, moneys deposited into the fund shall be allocated by the Secretary to accomplish the purposes of this title as follows:

(A) 50 percent of the reclamation fees collected annually in any State (other than fees collected with respect to Indian lands) shall be allocated annually by the Secretary to the State, subject to such State having each of the following:

(i) An approved abandoned mine reclamation program pursuant to section 405.

(ii) Lands and waters which are eligible pursuant to section 404 (in the case of a State not certified under section 411(a)) or pursuant to section 411(b) (in the case of a State certified under section 411(a)).

(B) 50 percent of the reclamation fees collected annually with respect to Indian lands shall be allocated annually by the Sec-

retary to the Indian tribe having jurisdiction over such lands, subject to such tribe having each of the following:

(i) an approved abandoned mine reclamation program pursuant to section 405.

(ii) Lands and waters which are eligible pursuant to section 404 (in the case of an Indian tribe not certified under section 411(a)) or pursuant to section 411(b) (in the case of a tribe certified under section 411(a)).

(C) The funds allocated by the Secretary under this paragraph to States and Indian tribes shall only be used for annual reclamation project construction and program administration grants.

(D) To the extent not expended within 3 years after the date of any grant award under this paragraph (except for grants awarded during fiscal years 2008, 2009, and 2010 to the extent not expended within 5 years), such grant shall be available for expenditure by the Secretary under paragraph (5).

(2) In making the grants referred to in paragraph (1)(C) and the grants referred to in paragraph (5), the Secretary shall ensure strict compliance by the States and Indian tribes with the priorities described in section 403(a) until a certification is made under section 411(a).

(3) Amounts available in the fund which are not allocated to States and Indian tribes under paragraph (1) or allocated under paragraph (5) are authorized to be expended by the Secretary for any of the following:

(A) For the purpose of section 507(c), either directly or through grants to the States, subject to the limitation contained in section 401(c)(9).

(B) For the purpose of section 410 (relating to emergencies).

(C) For the purpose of meeting the objectives of the fund set forth in section 403(a) for eligible lands and waters pursuant to section 404 in States and on Indian lands where the State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405.

(D) For the administration of this title by the Secretary.

(E) For the purpose of paragraph (8).

(F) *For the purpose of section 416(d)(2)(A).*

(4)(A) Amounts available in the fund which are not allocated under paragraphs (1), (2), and (5) or expended under paragraph (3) in any fiscal year are authorized to be expended by the Secretary under this paragraph for the reclamation or drainage abatement of lands and waters within unreclaimed sites which are mined for coal or which were affected by such mining, wastebanks, coal processing or other coal mining processes and left in an inadequate reclamation status.

(B) Funds made available under this paragraph may be used for reclamation or drainage abatement at a site referred to in subparagraph (A) if the Secretary makes either of the following findings:

(i) A finding that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date on which the Secretary approved a State program pursuant to section 503 for a State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of finan-

cial guarantee or from any other source are not sufficient to provide for adequate reclamation or abatement at the site.

(ii) A finding that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date of enactment of this paragraph, and that the surety of such mining operator became insolvent during such period, and as of the date of enactment of this paragraph, funds immediately available from proceedings relating to such insolvency, or from any financial guarantee or other source are not sufficient to provide for adequate reclamation or abatement at the site.

(C) In determining which sites to reclaim pursuant to this paragraph, the Secretary shall follow the priorities stated in paragraphs (1) and (2) of section 403(a). The Secretary shall ensure that priority is given to those sites which are in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community.

(D) Amounts collected from the assessment of civil penalties under section 518 are authorized to be appropriated to carry out this paragraph.

(E) Any State may expend grants made available under paragraphs (1) and (5) for reclamation and abatement of any site referred to in subparagraph (A) if the State, with the concurrence of the Secretary, makes either of the findings referred to in clause (i) or (ii) of subparagraph (B) and if the State determines that the reclamation priority of the site is the same or more urgent than the reclamation priority for eligible lands and waters pursuant to section 404 under the priorities stated in paragraphs (1) and (2) of section 403(a).

(F) For the purposes of the certification referred to in section 411(a), sites referred to in subparagraph (A) of this paragraph shall be considered as having the same priorities as those stated in section 403(a) for eligible lands and waters pursuant to section 404. All sites referred to in subparagraph (A) of this paragraph within any State shall be reclaimed prior to such State making the certification referred to in section 411(a).

(5)(A) The Secretary shall allocate 60 percent of the amount in the fund after making the allocation referred to in paragraph (1) for making additional annual grants to States and Indian tribes which are not certified under section 411(a) to supplement grants received by such States and Indian tribes pursuant to paragraph (1)(C) until the priorities stated in paragraphs (1) and (2) of section 403(a) have been achieved by such State or Indian tribe. The allocation of such funds for the purpose of making such expenditures shall be through a formula based on the amount of coal historically produced in the State or from the Indian lands concerned prior to August 3, 1977. Funds made available under paragraph (3) or (4) of this subsection for any State or Indian tribe shall not be deducted against any allocation of funds to the State or Indian tribe under paragraph (1) or under this paragraph.

(B) Any amount that is reallocated and available under section 411(h)(3) shall be in addition to amounts that are allocated under subparagraph (A).

(6)(A) Any State with an approved abandoned mine reclamation program pursuant to section 405 may receive and retain, without

regard to the 3-year limitation referred to in paragraph (1)(D), up to 30 percent of the total of the grants made annually to the State under paragraphs (1) and (5) if those amounts are deposited into an acid mine drainage abatement and treatment fund established under State law, from which amounts (together with all interest earned on the amounts) are expended by the State for the abatement of the causes and the treatment of the effects of acid mine drainage in a comprehensive manner within qualified hydrologic units affected by coal mining practices.

(B) In this paragraph, the term “qualified hydrologic unit” means a hydrologic unit—

(i) in which the water quality has been significantly affected by acid mine drainage from coal mining practices in a manner that adversely impacts biological resources; and

(ii) that contains land and water that are—

(I) eligible pursuant to section 404 and include any of the priorities described in section 403(a); and

(II) the subject of expenditures by the State from the forfeiture of bonds required under section 509 or from other States sources to abate and treat acid mine drainage.

(7) In complying with the priorities described in section 403(a), any State or Indian tribe may use amounts available in grants made annually to the State or tribe under paragraphs (1) and (5) for the reclamation of eligible land and water described in section 403(a)(3) before the completion of reclamation projects under paragraphs (1) and (2) of section 403(a) only if the expenditure of funds for the reclamation is done in conjunction with the expenditure before, on, or after the date of enactment of the Surface Mining Control and Reclamation Act Amendments of 2006 of funds for reclamation projects under paragraphs (1) and (2) of section 403(a).

(8)(A) In making funds available under this title, the Secretary shall ensure that the grant awards total not less than **[\$3,000,000]** *\$5,000,000* annually to each State and each Indian tribe having an approved abandoned mine reclamation program pursuant to section 405 and eligible land and water pursuant to section 404, so long as an allocation of funds to the State or tribe is necessary to achieve the priorities stated in paragraphs (1) and (2) of section 403(a).

(B) Notwithstanding any other provision of law, this paragraph applies to the States of Tennessee and Missouri.

(h) TRANSFERS OF INTEREST EARNED BY FUND.—

(1) IN GENERAL.—

(A) TRANSFERS TO COMBINED BENEFIT FUND.—As soon as practicable after the beginning of fiscal year 2007 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year to transfer to the Combined Benefit Fund such amounts as are estimated by the trustees of such fund to offset the amount of any deficit in net assets in the Combined Benefit Fund as of October 1, 2006, and to make the transfer described in paragraph (2)(A).

(B) TRANSFERS TO 1992 AND 1993 PLANS.—As soon as practicable after the beginning of fiscal year 2008 and each fiscal year thereafter, and before making any allocation with respect to the fiscal year under subsection (g), the Secretary shall use an amount not to exceed the amount of interest that the Secretary estimates will be earned and paid to the fund during the fiscal year (reduced by the amount used under subparagraph (A)) to make the transfers described in paragraphs (2)(B) and (2)(C).

(2) TRANSFERS DESCRIBED.—The transfers referred to in paragraph (1) are the following:

(A) UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.—A transfer to the United Mine Workers of America Combined Benefit Fund equal to the amount that the trustees of the Combined Benefit Fund estimate will be expended from the fund for the fiscal year in which the transfer is made, reduced by—

(i) the amount the trustees of the Combined Benefit Fund estimate the Combined Benefit Fund will receive during the fiscal year in—

(I) required premiums; and

(II) payments paid by Federal agencies in connection with benefits provided by the Combined Benefit Fund; and

(ii) the amount the trustees of the Combined Benefit Fund estimate will be expended during the fiscal year to provide health benefits to beneficiaries who are unassigned beneficiaries solely as a result of the application of section 9706(h)(1) of the Internal Revenue Code of 1986, but only to the extent that such amount does not exceed the amounts described in subsection (i)(1)(A) that the Secretary estimates will be available to pay such estimated expenditures.

(B) UNITED MINE WORKERS OF AMERICA 1992 BENEFIT PLAN.—A transfer to the United Mine Workers of America 1992 Benefit Plan, in an amount equal to the difference between—

(i) the amount that the trustees of the 1992 UMWA Benefit Plan estimate will be expended from the 1992 UMWA Benefit Plan during the next calendar year to provide the benefits required by the 1992 UMWA Benefit Plan on the date of enactment of this subparagraph; minus

(ii) the amount that the trustees of the 1992 UMWA Benefit Plan estimate the 1992 UMWA Benefit Plan will receive during the next calendar year in—

(I) required monthly per beneficiary premiums, including the amount of any security provided to the 1992 UMWA Benefit Plan that is available for use in the provision of benefits; and

(II) payments paid by Federal agencies in connection with benefits provided by the 1992 UMWA Benefit Plan.

(C) MULTIEMPLOYER HEALTH BENEFIT PLAN.—

(i) TRANSFER TO THE PLAN.—A transfer to the Multi-employer Health Benefit Plan established after July 20, 1992, by the parties that are the settlors of the 1992 UMWA Benefit Plan referred to in subparagraph (B) (referred to in this subparagraph and subparagraph (D) as “the Plan”), in an amount equal to the excess (if any) of—

(I) the amount that the trustees of the Plan estimate will be expended from the Plan during the next calendar year, to provide benefits no greater than those provided by the Plan as of December 31, 2006; over

(I) the amount that the trustees estimated the Plan will receive during the next calendar year in payments paid by Federal agencies in connection with benefits provided by the Plan.

(ii) CALCULATION OF EXCESS.—The excess determined under clause (i) shall be calculated by taking into account only—

(I) those beneficiaries actually enrolled in the Plan as of the date of the enactment of the Health Benefits for Miners Act of 2017 who are eligible to receive health benefits under the Plan on the first day of the calendar year for which the transfer is made, other than those beneficiaries enrolled in the Plan under the terms of a participation agreement with the current or former employer of such beneficiaries; and

(II) those beneficiaries whose health benefits, defined as those benefits payable, following death or retirement or upon a finding of disability, directly by an employer in the bituminous coal industry under a coal wage agreement (as defined in section 9701(b)(1) of the Internal Revenue Code of 1986), would be denied or reduced as a result of a bankruptcy proceeding commenced in 2012 or 2015.

For purposes of subclause (I), a beneficiary enrolled in the Plan as of the date of the enactment of the Health Benefits for Miners Act of 2017 shall be deemed to have been eligible to receive health benefits under the Plan on January 1, 2017.

(iii) ELIGIBILITY OF CERTAIN RETIREES.—Individuals referred to in clause (ii)(II) shall be treated as eligible to receive health benefits under the Plan.

(iv) REQUIREMENTS FOR TRANSFER.—The amount of the transfer otherwise determined under this subparagraph for a fiscal year shall be reduced by any amount transferred for the fiscal year to the Plan, to pay benefits required under the Plan, from a voluntary employees’ beneficiary association established as a result of a bankruptcy proceeding described in clause (ii).

(v) VEBA TRANSFER.—The administrator of such voluntary employees’ beneficiary association shall transfer to the Plan any amounts received as a result of

such bankruptcy proceeding, reduced by an amount for administrative costs of such association.

(D) INDIVIDUALS CONSIDERED ENROLLED.—For purposes of subparagraph (C), any individual who was eligible to receive benefits from the Plan as of the date of enactment of this subsection, even though benefits were being provided to the individual pursuant to a settlement agreement approved by order of a bankruptcy court entered on or before September 30, 2004, will be considered to be actually enrolled in the Plan and shall receive benefits from the Plan beginning on December 31, 2006.

(3) ADJUSTMENT.—If, for any fiscal year, the amount of a transfer under subparagraph (A), (B), or (C) of paragraph (2) is more or less than the amount required to be transferred under that subparagraph, the Secretary shall appropriately adjust the amount transferred under that subparagraph for the next fiscal year.

(4) ADDITIONAL AMOUNTS.—

(A) PREVIOUSLY CREDITED INTEREST.—Notwithstanding any other provision of law, any interest credited to the fund that has not previously been transferred to the Combined Benefit Fund referred to in paragraph (2)(A) under this section—

(i) shall be held in reserve by the Secretary until such time as necessary to make the payments under subparagraphs (A) and (B) of subsection (i)(1), as described in clause (ii); and

(ii) in the event that the amounts described in subsection (i)(1) are insufficient to make the maximum payments described in subparagraphs (A) and (B) of subsection (i)(1), shall be used by the Secretary to supplement the payments so that the maximum amount permitted under those paragraphs is paid.

(B) PREVIOUSLY ALLOCATED AMOUNTS.—All amounts allocated under subsection (g)(2) before the date of enactment of this subparagraph for the program described in section 406, but not appropriated before that date, shall be available to the Secretary to make the transfers described in paragraph (2).

(C) ADEQUACY OF PREVIOUSLY CREDITED INTEREST.—The Secretary shall—

(i) consult with the trustees of the plans described in paragraph (2) at reasonable intervals; and

(ii) notify Congress if a determination is made that the amounts held in reserve under subparagraph (A) are insufficient to meet future requirements under subparagraph (A)(ii).

(D) ADDITIONAL RESERVE AMOUNTS.—In addition to amounts held in reserve under subparagraph (A), there is authorized to be appropriated such sums as may be necessary for transfer to the fund to carry out the purposes of subparagraph (A)(ii).

(E) INAPPLICABILITY OF CAP.—The limitation described in subsection (i)(3)(A) shall not apply to payments made from the reserve fund under this paragraph.

(5) LIMITATIONS.—

(A) AVAILABILITY OF FUNDS FOR NEXT FISCAL YEAR.—The Secretary may make transfers under subparagraphs (B) and (C) of paragraph (2) for a calendar year only if the Secretary determines, using actuarial projections provided by the trustees of the Combined Benefit Fund referred to in paragraph (2)(A), that amounts will be available under paragraph (1), after the transfer, for the next fiscal year for making the transfer under paragraph (2)(A).

(B) RATE OF CONTRIBUTIONS OF OBLIGORS.—

(i) IN GENERAL.—

(I) RATE.—A transfer under paragraph (2)(C) shall not be made for a calendar year unless the persons that are obligated to contribute to the plan referred to in paragraph (2)(C) on the date of the transfer are obligated to make the contributions at rates that are no less than those in effect on the date which is 30 days before the date of enactment of this subsection.

(II) APPLICATION.—The contributions described in subclause (I) shall be applied first to the provision of benefits to those plan beneficiaries who are not described in paragraph (2)(C)(ii).

(ii) INITIAL CONTRIBUTIONS.—

(I) IN GENERAL.—From the date of enactment of the Surface Mining Control and Reclamation Act Amendments of 2006 through December 31, 2010, the persons that, on the date of enactment of that Act, are obligated to contribute to the plan referred to in paragraph (2)(C) shall be obligated, collectively, to make contributions equal to the amount described in paragraph (2)(C), less the amount actually transferred due to the operation of subparagraph (C).

(II) FIRST CALENDAR YEAR.—Calendar year 2006 is the first calendar year for which contributions are required under this clause.

(III) AMOUNT OF CONTRIBUTION FOR 2006.—Except as provided in subclause (IV), the amount described in paragraph (2)(C) for calendar year 2006 shall be calculated as if paragraph (2)(C) had been in effect during 2005.

(IV) LIMITATION.—The contributions required under this clause for calendar year 2006 shall not exceed the amount necessary for solvency of the plan described in paragraph (2)(C), measured as of December 31, 2006, and taking into account all assets held by the plan as of that date.

(iii) DIVISION.—The collective annual contribution obligation required under clause (ii) shall be divided among the persons subject to the obligation, and applied uniformly, based on the hours worked for which contributions referred to in clause (i) would be owed.

(C) PHASE-IN OF TRANSFERS.—For each of calendar years 2008 through 2010, the transfers required under subpara-

graphs (B) and (C) of paragraph (2) shall equal the following amounts:

(i) For calendar year 2008, the Secretary shall make transfers equal to 25 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

(ii) For calendar year 2009, the Secretary shall make transfers equal to 50 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

(iii) For calendar year 2010, the Secretary shall make transfers equal to 75 percent of the amounts that would otherwise be required under subparagraphs (B) and (C) of paragraph (2).

(i) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the plans described in subsection (h)(2) such sums as are necessary to pay the following amounts:

(A) To the Combined Fund (as defined in section 9701(a)(5) of the Internal Revenue Code of 1986 and referred to in this paragraph as the “Combined Fund”), the amount that the trustees of the Combined Fund estimate will be expended from premium accounts maintained by the Combined Fund for the fiscal year to provide benefits for beneficiaries who are unassigned beneficiaries solely as a result of the application of section 9706(h)(1) of the Internal Revenue Code of 1986, subject to the following limitations:

(i) For fiscal year 2008, the amount paid under this subparagraph shall equal—

(I) the amount described in subparagraph (A);
minus

(II) the amounts required under section 9706(h)(3)(A) of the Internal Revenue Code of 1986.

(ii) For fiscal year 2009, the amount paid under this subparagraph shall equal—

(I) the amount described in subparagraph (A);
minus

(II) the amounts required under section 9706(h)(3)(B) of the Internal Revenue Code of 1986.

(iii) For fiscal year 2010, the amount paid under this subparagraph shall equal—

(I) the amount described in subparagraph (A);
minus

(II) the amounts required under section 9706(h)(3)(C) of the Internal Revenue Code of 1986.

(B) On certification by the trustees of any plan described in subsection (h)(2) that the amount available for transfer by the Secretary pursuant to this section (determined after application of any limitation under subsection (h)(5)) is

less than the amount required to be transferred, to the plan the amount necessary to meet the requirement of subsection (h)(2).

(C) To the Combined Fund, \$9,000,000 on October 1, 2007, \$9,000,000 on October 1, 2008, \$9,000,000 on October 1, 2009, and \$9,000,000 on October 1, 2010 (which amounts shall not be exceeded) to provide a refund of any premium (as described in section 9704(a) of the Internal Revenue Code of 1986) paid on or before September 7, 2000, to the Combined Fund, plus interest on the premium calculated at the rate of 7.5 percent per year, on a proportional basis and to be paid not later than 60 days after the date on which each payment is received by the Combined Fund, to those signatory operators (to the extent that the Combined Fund has not previously returned the premium amounts to the operators), or any related persons to the operators (as defined in section 9701(c) of the Internal Revenue Code of 1986), or their heirs, successors, or assigns who have been denied the refunds as the result of final judgments or settlements if—

(i) prior to the date of enactment of this paragraph, the signatory operator (or any related person to the operator)—

(I) had all of its beneficiary assignments made under section 9706 of the Internal Revenue Code of 1986 voided by the Commissioner of the Social Security Administration; and

(II) was subject to a final judgment or final settlement of litigation adverse to a claim by the operator that the assignment of beneficiaries under section 9706 of the Internal Revenue Code of 1986 was unconstitutional as applied to the operator; and

(ii) on or before September 7, 2000, the signatory operator (or any related person to the operator) had paid to the Combined Fund any premium amount that had not been refunded.

(2) PAYMENTS TO STATES AND INDIAN TRIBES.—Subject to paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of the Interior for distribution to States and Indian tribes such sums as are necessary to pay amounts described in paragraphs (1)(A) and (2)(A) of section 411(h).

(3) LIMITATIONS.—

(A) CAP.—The total amount transferred under this subsection for any fiscal year shall not exceed \$490,000,000.

(B) INSUFFICIENT AMOUNTS.—In a case in which the amount required to be transferred without regard to this paragraph exceeds the maximum annual limitation in subparagraph (A), the Secretary shall adjust the transfers of funds under paragraph (1) so that—

(i) each such transfer for the fiscal year is a percentage of the amount described;

(ii) the amount is determined without regard to subsection (h)(5)(A); and

- (iii) the percentage transferred is the same for all transfers made under paragraph (1) for the fiscal year.
- (4) AVAILABILITY OF FUNDS.—Funds shall be transferred under paragraphs (1) and (2) beginning in fiscal year 2008 and each fiscal year thereafter, and shall remain available until expended.

OBJECTIVES OF FUND

SEC. 403. (a) PRIORITIES.—Expenditure of moneys from the fund on lands and water eligible pursuant to section 404 for the purposes of this title, except as provided for under section 411, shall reflect the following priorities in the order stated:

(1)(A) the protection; of public health, safety, and property from extreme danger of adverse effects of coal mining practices;

(B) the restoration of land and water resources and the environment that—

(i) have been degraded by the adverse effects of coal mining practices; and

(ii) are adjacent to a site that has been or will be remediated under subparagraph (A);

(2)(A) the protection of public health and safety from adverse effects of coal mining practices;

(B) the restoration of land and water resources and the environment that—

(i) have been degraded by the adverse effects of coal mining practices; and

(ii) are adjacent to a site that has been or will be remediated under subparagraph (A); and

(3) the restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity.

(b) WATER SUPPLY RESTORATION.—(1) Any State or Indian tribe not certified under section 411(a) may expend the funds allocated to such State or Indian tribe in any year through the grants made available under paragraphs (1) and (5) of section 402(g) for the purpose of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices.

(2) If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, or as the case may be, the dates (and under the criteria) set forth under section 402(g)(4)(B), section 404 shall not be construed to prohibit a State or Indian tribe referred to in paragraph (1) from using funds referred to in such paragraph for the purposes of this subsection if the State or Indian tribe determines that such adverse effects occurred predominantly prior to August 3, 1977, or as the case may be, the dates (and under the criteria) set forth under section 402(g)(4)(B).

(c) INVENTORY.—For the purposes of assisting in the planning and evaluation of reclamation projects pursuant to section 405, and

assisting in making the certification referred to in section 411(a), the Secretary shall maintain an inventory of eligible lands and waters pursuant to section 404 which meet the priorities stated in paragraphs (1) and (2) of subsection (a). Under standardized procedures established by the Secretary, States and Indian tribes with approved abandoned mine reclamation programs pursuant to section 405 may offer amendments, subject to the approval of the Secretary, to update the inventory as it applies to eligible lands and waters under the jurisdiction of such States or tribes. *As practicable, States and Indian tribes shall offer such amendments based on the use of remote sensing, global positioning systems, and other advanced technologies.* The Secretary shall provide such States and tribes with the financial and technical assistance necessary for the purpose of making inventory amendments. The Secretary shall compile and maintain an inventory for States and Indian lands in the case when a State or Indian tribe does not have an approved abandoned mine reclamation program pursuant to section 405. On a regular basis, but not less than annually, the projects completed under this title shall be so noted on the inventory under standardized procedures established by the Secretary.

* * * * *

SEC. 416. ABANDONED MINE LAND ECONOMIC REVITALIZATION.

(a) *PURPOSE.*—*The purpose of this section is to promote economic revitalization, diversification, and development in economically distressed mining communities through the reclamation and restoration of land and water resources adversely affected by coal mining carried out before August 3, 1977.*

(b) *IN GENERAL.*—*From amounts deposited into the fund under section 401(b) before October 1, 2007, and not otherwise appropriated to the extent such funds are available, \$200,000,000 shall be made available to the Secretary, without further appropriation, for each of fiscal years 2020 through 2024 for distribution to States and Indian tribes in accordance with this section for reclamation and restoration projects at sites identified as priorities under section 403(a): Provided, That if less than \$200,000,000 is available in any fiscal year to the Secretary, such remaining amount shall be made available to the Secretary, without further appropriation, and such fiscal year shall end distributions made available under this section.*

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

(1) **CONTRIBUTION TO FUTURE ECONOMIC OR COMMUNITY DEVELOPMENT.**—

(A) *IN GENERAL.*—*The project, upon completion of reclamation, is intended to create favorable conditions for the economic development of the project site or create favorable conditions that promote the general welfare through economic and community development of the area in which the project is conducted.*

(B) *DEMONSTRATION OF CONDITIONS.*—*Such conditions are demonstrated by—*

(i) documentation of the role of the project in such area's economic development strategy or other economic and community development planning process;

(ii) any other documentation of the planned economic and community use of the project site after the primary reclamation activities are completed, which may include contracts, agreements in principle, or other evidence that, once reclaimed, the site is reasonably anticipated to be used for one or more industrial, commercial, residential, agricultural, or recreational purposes; or

(iii) any other documentation agreed to by the State or Indian tribe that demonstrates the project will meet the criteria set forth in this subsection.

(2) LOCATION IN ECONOMICALLY DISTRESSED COMMUNITY AFFECTED BY RECENT DECLINE IN MINING.—

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

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

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

(II) in which the economic contribution of coal mining has significantly declined.

(B) SUBMISSION AND PUBLICATION OF EVIDENCE OR ANALYSIS.—Any evidence or analysis relied upon in selecting the location of a project under this subparagraph shall be submitted to the Secretary for publication. The Secretary shall publish such evidence or analysis in the Federal Register within 30 days after receiving such submission.

(3) STAKEHOLDER COLLABORATION.—

(A) IN GENERAL.—The project has been the subject of project planning under subsection (g) and has been the focus of collaboration, including partnerships, as appropriate, with interested persons or local organizations.

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

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

(ii) the State or Indian tribe published notice of such meetings in local newspapers of general circulation, on the Internet, and by any other means considered desirable by the Secretary.

(C) ELECTRONIC NOTIFICATION.—The State or Indian tribe established a way for interested persons to receive electronically all public notices issued under subparagraph (B) and any written declarations submitted to the Secretary under paragraph (5).

(4) ELIGIBLE APPLICANTS.—The project has been proposed by entities of State, local, county, or tribal governments, or local organizations, and will be approved and executed by State or tribal programs, approved under section 405 or referred to in

section 402(g)(8)(B), which may include subcontracting project-related activities, as appropriate.

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

(A) *cannot provide documentation described in paragraph (1)(B) for a project conducted under a priority stated in paragraph (1) or (2) of section 403(a), or*

(B) *is unable to meet the requirements under paragraph (2),*

the State or Indian tribe shall submit a written declaration to the Secretary requesting an exemption from the requirements of those subparagraphs. The declaration must explain why achieving favorable conditions for economic or community development at the project site is not practicable, or why the requirements of paragraph (2) cannot be met, and that sufficient funds distributed annually under section 401 are not available to implement the project. Such request for an exemption is deemed to be approved, except the Secretary shall deny such request if the Secretary determines the declaration to be substantially inadequate. Any denial of such request shall be resolved at the State's or Indian tribe's request through the procedures described in subsection (e).

(d) **DISTRIBUTION OF FUNDS.**—

(1) **UNCERTIFIED STATES.**—

(A) **IN GENERAL.**—*From the amount made available in subsection (b), the Secretary shall distribute \$195,000,000 annually for each of fiscal years 2020 through 2024 to States and Indian tribes that have a State or tribal program approved under section 405 or are referred to in section 402(g)(8)(B), and have not made a certification under section 411(a) in which the Secretary has concurred, as follows:*

(i) *Four-fifths of such amount shall be distributed based on the proportion of the amount of coal historically produced in each State or from the lands of each Indian tribe concerned before August 3, 1977.*

(ii) *One-fifth of such amount shall be distributed based on the proportion of reclamation fees paid during the period of fiscal years 2012 through 2016 for lands in each State or lands of each Indian tribe concerned.*

(B) **SUPPLEMENTAL FUNDS.**—*Funds distributed under this section—*

(i) *shall be in addition to, and shall not affect, the amount of funds distributed—*

(I) *to States and Indian tribes under section 401(f); and*

(II) *to States and Indian tribes that have made a certification under section 411(a) in which the Secretary has concurred, subject to the cap described in section 402(i)(3); and*

(ii) *shall not reduce any funds distributed to a State or Indian tribe by reason of the application of section 402(g)(8).*

(2) **ADDITIONAL FUNDING TO CERTAIN STATES AND INDIAN TRIBES.**—

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

(B) *APPLICATION FOR FUNDS.*—Using the process in section 405(f), any State or Indian tribe described in subparagraph (A) may submit a grant application to the Secretary for funds under this paragraph. The Secretary shall review each grant application to confirm that the projects identified in the application for funding are eligible under subsection (c).

(C) *DISTRIBUTION OF FUNDS.*—The amount of funds distributed to each State or Indian tribe under this paragraph shall be determined by the Secretary based on the demonstrated need for the funding to accomplish the purpose of this section.

(3) *REALLOCATION OF UNCOMMITTED FUNDS.*—

(A) *COMMITTED DEFINED.*—For purposes of this paragraph the term “committed”—

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

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

(II) have been expended or designated by the State or Indian tribe for the completion of a project;

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

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

(B) *FISCAL YEARS 2023 AND 2024.*—For each of fiscal years 2023 and 2024, the Secretary shall reallocate in accordance with subparagraph (D) any amount available for distribution under this subsection that has not been committed to eligible projects in the preceding 2 fiscal years, among the States and Indian tribes that have committed to eligible projects the full amount of their annual allocation for the preceding fiscal year.

(C) *FISCAL YEAR 2025.*—For fiscal year 2025, the Secretary shall reallocate in accordance with subparagraph (D) any amount available for distribution under this subsection that has not been committed to eligible projects or distributed under paragraph (1)(A), among the States and Indian tribes that have committed to eligible projects the full amount of their annual allocation for the preceding fiscal years.

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

(i) the proportion of unreclaimed eligible lands and waters the State or Indian tribe has in the inventory maintained under section 403(c);

(ii) the average of the proportion of reclamation fees paid for lands in each State or lands of each Indian tribe concerned; and

(iii) the proportion of coal mining employment loss incurred in the State or on lands of the Indian tribe, respectively, as determined by the Mine Safety and Health Administration, over the 5-year period preceding the fiscal year for which the reallocation is made.

(e) RESOLUTION OF SECRETARY'S CONCERNS; CONGRESSIONAL NOTIFICATION.—If the Secretary does not agree with a State or Indian tribe that a proposed project meets the criteria set forth in subsection (c)—

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

(2) during that period, at the State's or Indian tribe's request, the Secretary may consult with any appropriate Federal agency; and

(3) at the end of that period, if the Secretary's concerns are not resolved the Secretary shall provide to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate an explanation of the concerns and such project proposal shall not be eligible for funds distributed under this section.

(f) ACID MINE DRAINAGE TREATMENT.—

(1) IN GENERAL.—Subject to paragraph (2), a State or Indian tribe that receives funds under this section may use up to 30 percent of such funds as necessary to supplement the State's or tribe's acid mine drainage abatement and treatment fund established under section 402(g)(6)(A), for future operation and maintenance costs for the treatment of acid mine drainage associated with the individual projects funded under this section. A State or Indian tribe shall specify the total funds allotted for such costs in its application submitted under subsection (d)(2)(B).

(2) CONDITION.—A State or Indian tribe may use funds under this subsection only if the State or tribe can demonstrate that the annual grant distributed to the State or tribe pursuant to section 401(f), including any interest from the State's or tribe's acid mine drainage abatement and treatment fund that is not used for the operation or maintenance of preexisting acid mine drainage treatment systems, is insufficient to fund the operation and maintenance of any acid mine drainage treatment system associated with an individual project funded under this section.

(g) PROJECT PLANNING AND ADMINISTRATION.—

(1) STATES AND INDIAN TRIBES.—

(A) *IN GENERAL.*—A State or Indian tribe may use up to 10 percent of its annual distribution under this section for project planning and the costs of administering this section.

(B) *PLANNING REQUIREMENTS.*—Planning under this paragraph may include—

- (i) identifying eligible projects;
- (ii) updating the inventory referred to in section 403(c);
- (iii) developing project designs;
- (iv) collaborating with stakeholders, including public meetings;
- (v) preparing cost estimates; or
- (vi) engaging in other similar activities necessary to facilitate reclamation activities under this section.

(2) *SECRETARY.*—The Secretary may expend, from amounts made available to the Secretary under section 402(g)(3)(D), not more than \$3,000,000 during the fiscal years for which distributions occur under subsection (b) for staffing and other administrative expenses necessary to carry out this section.

(h) *REPORT TO CONGRESS.*—The Secretary shall provide to the Committee on Natural Resources of the House of Representatives, the Committees on Appropriations of the House of Representatives and the Senate, and the Committee on Energy and Natural Resources of the Senate at the end of each fiscal year for which such funds are distributed a detailed report—

(1) on the various projects that have been undertaken with such funds;

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

(3) the community and economic benefits that are resulting from, or are expected to result from, the use of the funds that achieved the priorities described in paragraph (3) of section 403(a); and

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

(i) *PROHIBITION ON CERTAIN USE OF FUNDS.*—Any State or Indian tribe that uses the funds distributed under this section for purposes other than reclamation or drainage abatement expenditures, as made eligible by section 404, and for the purposes authorized under subsections (f) and (g), shall be barred from receiving any subsequent funding under this section.

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ADDITIONAL VIEWS

Title IV of the Surface Mine Control and Reclamation Act of 1977 (SMCRA) established a system for the reclamation of abandoned mine lands (AML). For a site to qualify for the AML program, it must have been affected by coal mining activities prior to August 3, 1977, and subsequently abandoned and there must be no responsible party for the reclamation of the land under State or federal laws. With no liable party, the State in which an AML site is located becomes the de facto entity responsible for remediating the site. These sites pose an economic burden to States' economies, as well as health and environmental hazards to the local communities.

Title IV of SMCRA established a funding mechanism for associated reclamation activities, known as the Abandoned Mine Land Fund (AML Fund), which is supported by a fee on every ton of coal produced.¹ Although the AML Fund has been in existence for nearly 40 years and collected over \$10 billion in fees, much work remains to be done. On top of the \$4 billion in completed AML projects, the Secretary of the Interior currently estimates outstanding and unfunded AML liabilities in excess of \$10.5 billion.

Coal communities are struggling to rebuild after enduring significant job losses in the coal fields due to a recent downturn in the industry. Numerous coal-producing counties are experiencing high rates of unemployment and are seeking to invest in job-creating economic development projects.

AML liabilities threaten the health and safety of nearby communities and hamper opportunities for further development. States and local communities lack the necessary funds to reclaim these lands with their own resources and, as a result, areas impacted by abandoned mines are often left out of community and economic development planning efforts.

This bill addresses outstanding AML issues while also encouraging the reinvigoration of the economies of depressed coal communities by accelerating the release of \$1 billion from the remaining, unappropriated balance in the AML Fund. Reclaiming abandoned mines near coal communities impacted by both AML and the recent decrease in coal mining paves the way for the economic revitalization of these communities. To be clear, the monies authorized to be spent by H.R. 2156 are limited to reclamation work alone.

In the 115th Congress, the Committee on Natural Resources adopted several amendments to an earlier version of the RECLAIM Act to further clarify Congressional intent for the implementation of this legislation. These amendments were included in H.R. 2156 to allow flexibility for the States and to further clarify that funds disbursed under the RECLAIM Act are to be used for AML rec-

¹See 30 U.S.C. § 1232.

lamation projects only and not for any economic development projects that may follow.

Notably under this bill, States and Indian tribes may request to opt out of the requirement to document any planned economic development activities that will take place after the completion of a reclamation project executed under this bill. They may also seek to opt out of the project location requirements. These opt out requests will be deemed approved by the Secretary of the Interior, unless the Secretary finds the requests to be inadequate. States seeking these waivers must provide documentation explaining why economic development is not practicable at the site in question and that funds distributed annually under SMCRA section 401 are not available to implement the project. I recognize the concerns articulated by the States with respect to limited AML funding available for both high priority safety and health projects and economic revitalization-focused projects, but I believe the Committee intends this provision to allow for flexibility as States allocate AML funding to balance health, safety and environmental priorities and economic revitalization priorities.

Further, the bill requires that any State or Indian tribe that uses RECLAIM funds for purposes other than reclamation, drainage abatement expenditures, or the purposes authorized under subsections (f) and (g), cannot receive any additional funding under the RECLAIM Act. This section ensures that States cannot use RECLAIM Act funding directly for economic development purposes. These restrictions apply only to section 416, as added to SMCRA by H.R. 2156, and are not intended to alter or modify any other sections of SMCRA.

Finally, the bill includes language ensuring that the RECLAIM Act will not, in any way, reduce funding to certified States.

For these reasons, I support H.R. 2156 as reported by the Committee on Natural Resources.

ROB BISHOP.

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