

REVITALIZING THE ECONOMY OF COAL COMMUNITIES  
BY LEVERAGING LOCAL ACTIVITIES AND INVESTING  
MORE ACT OF 2021

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NOVEMBER 16, 2022.—Committed to the Committee of the Whole House on the  
State of the Union and ordered to be printed

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

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1733]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1733) 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, reports favorably thereon with an amendment and recommends 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 2021” or the “RECLAIM Act of 2021”.

**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 2022 through 2026 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 the public has been notified of the project, including not less than 45 days before submission of the project to the Office of Surface Mining Reclamation and Enforcement, the State or Indian Tribe has published notice of the proposed project in local newspapers of general circulation, on the Internet, and by any other means considered desirable by the Secretary, and has provided an opportunity to request a public meeting convened in a community near the proposed project site.

“(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) 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 2022 through 2026 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 to States and Indian tribes under section 401(f) and section 411(h)(2); 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 CERTIFIED 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 2022 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 YEAR 2026.—For fiscal year 2026, the Secretary shall reallocate in accordance with subparagraph (C) 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.

“(C) AMOUNT OF REALLOCATION.—The amount reallocated to each State or Indian tribe under each of subparagraph (B) 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.—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.

“(g) PROJECT PLANNING AND ADMINISTRATION.—

“(1) STATES AND INDIAN TRIBES.—A State or Indian tribe may use up to 10 percent of its annual distribution under this section for costs of administering this section consistent with existing practice under sections 401(c)(7) and 402(g)(1)(C) and the Office of Surface Mining Reclamation and Enforcement Assistance Manual.

“(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) DEADLINES.—

“(1) RULES AND GUIDELINES.—To the extent necessary to implement this Act, the Secretary shall propose rules or develop guidelines (or both) not later than 90 days after the date of enactment of this section and shall publish them as final rules or guidelines, respectively, not later than 90 days thereafter. Within 60 days after the issuance of any such final rules or guidelines, the Secretary shall distribute the funds under subsection (d).

“(2) PROJECT PROPOSALS.—The appropriate field office of the Office of Surface Mining Reclamation and Enforcement shall—

“(A) initially review, vet, and approve or disapprove of each project proposal under this section within 45 days after receipt by the field office of the proposal; and

“(B) issue an authorization to proceed on an approved project within 45 days after receipt by the field office of a request for such authorization from a State or Indian tribe.

“(i) 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).

“(j) 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 and Indian Tribes for which a certification has been made under section 411 of such Act (30 U.S.C. 1241);
  - (B) States and Indian Tribes 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. 1733 is to amend the Surface Mining Control and Reclamation Act of 1977 to provide funds to states and 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.

#### BACKGROUND AND NEED FOR LEGISLATION

There are an estimated 20,000 abandoned coal mine sites across the country, commonly known as Abandoned Mine Lands or AMLs. These AMLs are the toxic legacy of an era in which the federal government had no authority over coal mining and no requirement that mining companies fix the environmental damage left behind by their operations. AMLs threaten the health and safety of nearby communities by posing immediate hazards like landslides and perpetually polluting critical streams and groundwater. AMLs are a significant barrier to economic development in many parts of the country—areas in desperate need of new development opportunities to replace the declining coal industry.

When there is no liable party, the state in which an AML site is located becomes the de facto entity responsible for remediating the site. 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.

In 1977, President Jimmy Carter signed the Surface Mining Control and Reclamation Act<sup>1</sup> (SMCRA) into law to address the many federal regulatory deficiencies associated with the coal mining industry at that time. Title IV of SMCRA established a system for the reclamation of abandoned mine lands.<sup>2</sup> To qualify as an AML, a site must have been affected by coal mining activities, have been abandoned before August 3, 1977, and have no party responsible for the reclamation of the land under state or federal laws. The Office of Surface Mining, Reclamation, and Enforcement (OSMRE) at the Department of the Interior maintains an inventory of sites and features remaining to be addressed under the AML program at <https://amlis.osmre.gov>, based on information collected by states and tribes.<sup>3</sup> Eligible sites are classified into three priority levels:

Priority 1: Poses an extreme danger to public health, safety, and property.

Priority 2: Creates adverse effects to public health and safety.

Priority 3: Environmental degradation, but no impact on public health or safety.

#### *Certified and uncertified states and tribes*

States and tribes must have coal reclamation programs approved by OSMRE in order to receive grants for AML cleanup under SMCRA. As of recent data, there were twenty-six states and three tribes that are eligible for grants. Title IV of SMCRA distinguishes between certified and uncertified states and tribes, a classification

<sup>1</sup>Pub. L. No. 95–87, 91 Stat. 445 (1977), <https://uscode.house.gov/statviewer.htm?volume=91&page=445> (codified as amended at various, see [http://uscode.house.gov/table3/95\\_87.htm](http://uscode.house.gov/table3/95_87.htm)) (statutory compilation as amended through P.L. 117–58 at <https://www.govinfo.gov/content/pkg/COMPS-1574/pdf/COMPS-1574.pdf>).

<sup>2</sup>Pub. L. No. 95–87, tit. IV, 91 Stat. at 456–67 (codified as amended at 30 U.S.C. §§ 1231–45).

<sup>3</sup>A single site can have multiple features—for example, one abandoned mine site with a waste coal pile and an open mine shaft would count as two features.

meant to indicate whether a state or tribe has achieved the remediation of all priority 1 and 2 AML sites within its boundaries.<sup>4</sup>

Initially, all states and tribes with approved reclamation programs are deemed uncertified. A state or tribe may seek certification from the Secretary of the Interior after they have reclaimed all identified priority 1 and 2 AML sites. Once certified, states and tribes have wider flexibility on how they may spend AML funds.<sup>5</sup> AML sites are continuously being discovered or newly developing, so several certified states and tribes still have AML inventories, but they are allowed to maintain their certified status. There are currently five certified states, three certified tribes, and twenty-one uncertified states.

#### *Abandoned Mine Reclamation Fund and costs of AML sites*

Title IV of SMCRA also established a funding mechanism for coal reclamation activities, known as the AML Fund, which is supported by a fee on every ton of coal produced.<sup>6</sup> The amount states and tribes receive annually depends on the fees collected the previous fiscal year. The statute requires AML Reclamation Program funds to be distributed based on the state or tribe's share of current and historic coal mining. Each state or tribe that still has Priority 1 and Priority 2 abandoned coal mine sites receives at least \$3 million annually.

AML funds may go to permitting, environmental assessments, site surveys, development plans, engineering, construction, or emergency projects. Up to 30 percent of funds annually can be reserved for projects related to acid mine drainage.<sup>7</sup>

Originally, AML grants were subject to appropriations, but the AML reauthorization of 2006 made them mandatory spending. Prior to 2006, coal companies often paid more money into the AML Fund each year than Congress appropriated. A large, unappropriated balance grew over time. As of November 2020, the unappropriated balance of the AML Fund reached \$2.2 billion.

While the AML Fund has collected over \$11.6 billion in fees and interest and has distributed \$9.6 billion in accordance with SMCRA since it was established in 1977, the Department of the Interior currently estimates that there is still around \$11.3 billion worth of coal AML cleanup work remaining.

#### *RECLAIM Act of 2021*

H.R. 1733 would accelerate the reclamation of AML sites through the advance disbursement of \$1 billion of the unappropriated balance of the AML Fund over five years while tying mine reclamation to economic development. The RECLAIM Act helps states and tribes address the backlog of over 20,000 high-priority sites on their AML inventories while promoting economic development in distressed communities.

The RECLAIM Act would distribute \$975 million to states that still have Priority 1 and Priority 2 abandoned coal mine sites to address (i.e., uncertified states) and \$5 million to states and tribes that have certified the reclamation of all their Priority 1 and 2

<sup>4</sup>30 U.S.C. § 1240a.

<sup>5</sup>*Id.* § 1240a(c).

<sup>6</sup>*Id.* § 1232.

<sup>7</sup>*Id.*

sites (i.e., certified states and tribes). These funds would be in addition to annual mandatory AML grant distributions.

#### *Legislative action*

H.R. 3684, the Infrastructure Investment and Jobs Act<sup>8</sup> (sometimes called the Bipartisan Infrastructure Framework or “BIF” or the Bipartisan Infrastructure Law or “BIL”), signed into law on November 15, 2021, largely enacted the substance of H.R. 1733 by appropriating an additional \$11.3 billion for abandoned coal mine land cleanup activities.<sup>9</sup> The statute also reauthorized the AML program for 13 years and lowered the AML fees by twenty percent.

#### COMMITTEE ACTION

H.R. 1733 was introduced on March 10, 2021, by Representative Matt Cartwright (D-PA). The bill was referred solely to the Committee on Natural Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On March 18, 2021, the Subcommittee held a hearing on the bill. On May 26, 2021, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Rep. Alan Lowenthal (D-CA) offered an amendment designated Lowenthal #1. The amendment was agreed to by voice vote. No additional amendments were offered, and the bill, as amended, was adopted and ordered favorably reported to the House of Representatives by voice vote.

#### HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Energy and Mineral Resources held on March 18, 2021.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short title*

Section 1 provides the bill’s short title, the “Revitalizing the Economy of Coal communities by Leveraging local Activities and Investing More Act of 2021” or the “RECLAIM Act of 2021.”

##### *Section 2. Economic Revitalization for Coal Country*

Section 2 adds a Section 416, Abandoned Mine Land Economic Revitalization, to Title IV of SMRCA. 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 through the reclamation and restoration of land and water resources adversely affected by coal mining.

<sup>8</sup>Pub. L. No. 117-58, 135 Stat. 429 (2021), <https://uscode.house.gov/statviewer.htm?volume=135&page=429>.

<sup>9</sup>Pub. L. No. 117-58, div. D, tit. VII, 135 Stat. at 1091-94, <https://uscode.house.gov/statviewer.htm?volume=135&page=1091>.

Subsection (b) provides the Secretary of the Interior with \$200 million annually for each of FY22 through FY26 for distribution to states and tribes for priority coal mine reclamation projects.

Subsection (c) specifies the conditions a reclamation project must meet to be eligible to receive funds under this Act. Funding distributed to states and tribes used to carry out reclamation projects on AML sites must be intended to create favorable conditions for economic or community development and must be for industrial, commercial, residential, agricultural, or recreational purposes. The project must be in a community that has been adversely affected economically by a recent decline in coal mining, demonstrated by employment data, per capita income, or other indicators of economic distress. The project must be located in a community that has historically relied on coal mining and in which the economic contribution of coal mining has significantly declined. The Secretary of the Interior would publish the evidence or analysis relied upon for selecting the location of a project in the *Federal Register* within 30 days of receiving the submission.

The project must have been part of a collaborative planning effort with stakeholders, and be noticed publicly in local newspapers, on the internet, and by other means considered desirable by the Secretary, 45 days before submission to the Office of Surface Mining Reclamation and Enforcement. A project must have provided an opportunity for the public to request a meeting convened in a community near the proposed site.

The project must have been proposed by entities of state, local, county, or tribal governments or local organizations and approved and executed by State and tribal reclamation programs.

If a state or Indian tribe cannot provide documentation demonstrating the project's role in a community's economic development strategy or is unable to meet the other requirements, they may request an exemption to be approved by the Secretary. Requests for exemptions will be deemed approved unless the Secretary finds the request to be substantially inadequate. If a request is denied, the state or tribe can request to enter into the process described under subsection (e).

Subsection (d) distributes funds to states and tribes. The Secretary shall distribute \$195 million to uncertified states and tribes with approved AML programs each year from FY22 through FY26. Four-fifths of the amount of funding, or \$156 million, will be distributed based on historical coal production. One-fifth of the funding, or \$39 million, will be distributed based on reclamation fees paid between 2012–2016. Funds distributed under this section will not affect the amount of funds distributed to states and tribes via annual AML Program grants.

\$5 million will be available for each year from each year from FY22 through FY26 for certified states and tribes. Certified states and tribes may submit grant applications to the Secretary for funds under this paragraph. The amount of funds distributed to each certified state or tribe will be determined by the Secretary based on demonstrated need.

For FY26, uncommitted funds, or those that have not been reserved, expended, or previously designated, shall be reallocated by the Secretary to states and tribes that have already committed all of their annual allocations for the previous fiscal year. The amount

reallocated will be determined by the Secretary to reflect the proportion of unreclaimed eligible lands, the proportion of reclamation fees paid, and the proportion of coal mining employment lost in the state or on the land of the Indian tribe.

Subsection (e) provides procedures for the resolutions of the Secretary's concerns as well as guidance for congressional notification. If the Secretary does not agree with a state or Indian tribe that a proposed project meets the criteria for funding, the Secretary and the state or Indian tribe will meet for no more than 45 days to resolve the Secretary's concerns. During those 45 days, the Secretary can consult with any appropriate federal agency at the state or Indian tribe's request. If at the end of the 45 days the Secretary's concerns are not resolved, the Secretary will provide 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 the proposed project will not be eligible for funds distributed under this section.

Subsection (f) authorizes states and 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 and to supplement the state or tribe's acid mine drainage abatement and treatment fund for future associated operation and maintenance costs.

Subsection (g) allows states and Indian tribes to designate up to 10 percent of their distribution for project planning and administrative purposes. The Secretary may expend, from amounts made available under SMCRA section 402(g)(3)(D) up to \$3 million during the fiscal years for which distributions occur under subsection (b) for staffing and other necessary administrative expenses.

Subsection (h) establishes deadlines for guidelines and approval of project proposals. The Secretary shall propose or develop guidelines necessary to implement this Act not later than 90 days after the enactment of this section and shall publish them as final rules or guidelines no more than 90 later. Within 60 days of the issuance of final rules or guidelines, the Secretary will begin distribution of funds under subsection (d).

The appropriate field office of the Office of Surface Mining Reclamation and Enforcement shall initially review, vet, and approve or disapprove each project proposal within 45 days of receipt by the field office. The field office will issue an authorization to proceed on a project within 45 days of receiving a request for authorization from state or tribe.

Subsection (i) 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, the resulting economic and community benefits, the extent and degree of reclamation achieved, and the reduction since the previous report to the AML inventory each fiscal year.

Subsection (j) 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.

*Section 3. Technical and conforming amendments*

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. Minimum state payments*

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

*Section 5. GAO study of use of funds*

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. Payments to certified states not affected*

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) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) and clause 3(d) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee adopts as its own cost estimate the forthcoming cost estimate of the Director of the Congressional Budget Office, should such cost estimate be made available before House passage of the bill. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

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 are to amend the Surface Mining Control and Reclamation Act of 1977 to provide funds to states and 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

An estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chair of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

#### 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. As described above, the funding in this bill would be closely related and complementary to, but not duplicative of, the Abandoned Mine Lands (AML) Program (CFDA No. 15.252). The funding would also 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 (CFDA No. 15.250), Not-for-Profit AMD Reclamation (CFDA No. 15.253), OSM/VISTA AmeriCorps (CFDA No. 15.254), and Science and Technology Projects Related to Coal Mining and Reclamation (CFDA No. 15.255).

#### 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 italics,

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 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 re-

sulting 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 28 cents per ton of coal produced by surface coal mining and 12 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 8 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 Secretary 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 proc-

essing 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 financial 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

(II) 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 American Miner Benefits Improvement Act of 2020 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;

(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) or a related coal wage agreement, would be denied or reduced as a result of a bankruptcy proceeding commenced in 2012, 2015, 2018, 2019, or any year thereafter, (or, in the case of any such health benefits confirmed in any bankruptcy proceeding, would be subsequently denied or reduced); and

(III) the cost of administering the resolution of disputes process administered (as of the date of

the enactment of the Bipartisan American Miners Act of 2019) by the Trustees of the Plan.

For purposes of subclause (I), a beneficiary enrolled in the Plan as of the date of the enactment of the American Miner Benefits Improvement Act of 2020 shall be deemed to have been eligible to receive health benefits under the Plan on January 1, 2020.

(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.

(vi) RELATED COAL WAGE AGREEMENT.—For purposes of clause (ii), the term "related coal wage agreement" means an agreement between the United Mine Workers of America and an employer in the bituminous coal industry that—

(I) is a signatory operator; or

(II) is or was a debtor in a bankruptcy proceeding that was consolidated, administratively or otherwise, with the bankruptcy proceeding of a signatory operator or a related person to a signatory operator (as those terms are defined in section 9701(c) of the Internal Revenue Code of 1986).

(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 Com-

bined 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 provi-

sion 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 subparagraphs (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 \$750,000,000.

(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.

(C) INCREASE IN LIMITATION TO ACCOUNT FOR CALCULATION OF HEALTH BENEFIT PLAN EXCESS.—The dollar limitation under subparagraph (A) shall be increased by the amount of the cost to provide benefits which are taken into account under subsection (h)(2)(C)(ii) solely by reason of the amendments made by section 2(a) of the American Miner Benefits Improvement Act of 2020.

(4) ADDITIONAL AMOUNTS.—

(A) CALCULATION.—If the dollar limitation specified in paragraph (3)(A) exceeds the aggregate amount required to be transferred under paragraphs (1) and (2) for a fiscal year, the Secretary of the Treasury shall transfer an additional amount equal to the difference between such dollar limitation and such aggregate amount to the trustees of the 1974 UMWA Pension Plan to pay benefits required under that plan.

(B) CESSATION OF TRANSFERS.—The transfers described in subparagraph (A) shall cease as of the first fiscal year

beginning after the first plan year for which the funded percentage (as defined in section 432(j)(2) of the Internal Revenue Code of 1986) of the 1974 UMWA Pension Plan is at least 100 percent.

(C) PROHIBITION ON BENEFIT INCREASES, ETC.—During a fiscal year in which the 1974 UMWA Pension Plan is receiving transfers under subparagraph (A), no amendment of such plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

(D) CRITICAL STATUS TO BE MAINTAINED.—Until such time as the 1974 UMWA Pension Plan ceases to be eligible for the transfers described in subparagraph (A)—

(i) the Plan shall be treated as if it were in critical status for purposes of sections 412(b)(3), 432(e)(3), and 4971(g)(1)(A) of the Internal Revenue Code of 1986 and sections 302(b)(3) and 305(e)(3) of the Employee Retirement Income Security Act;

(ii) the Plan shall maintain and comply with its rehabilitation plan under section 432(e) of such Code and section 305(e) of such Act, including any updates thereto; and

(iii) the provisions of subsections (c) and (d) of section 432 of such Code and subsections (c) and (d) of section 305 of such Act shall not apply.

(E) TREATMENT OF TRANSFERS FOR PURPOSES OF WITHDRAWAL LIABILITY UNDER ERISA.—The amount of any transfer made under subparagraph (A) (and any earnings attributable thereto) shall be disregarded in determining the unfunded vested benefits of the 1974 UMWA Pension Plan and the allocation of such unfunded vested benefits to an employer for purposes of determining the employer's withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

(F) REQUIREMENT TO MAINTAIN CONTRIBUTION RATE.—A transfer under subparagraph (A) shall not be made for a fiscal year unless the persons that are obligated to contribute to the 1974 UMWA Pension Plan 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 the Bipartisan American Miners Act of 2019.

(G) ENHANCED ANNUAL REPORTING.—

(i) IN GENERAL.—Not later than the 90th day of each plan year beginning after the date of enactment of the Bipartisan American Miners Act of 2019, the trustees of the 1974 UMWA Pension Plan shall file with the Secretary of the Treasury or the Secretary's delegate and the Pension Benefit Guaranty Corporation a report (including appropriate documentation and actuarial certifications from the plan actuary, as required

by the Secretary of the Treasury or the Secretary's delegate) that contains—

(I) whether the plan is in endangered or critical status under section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 as of the first day of such plan year;

(II) the funded percentage (as defined in section 432(j)(2) of such Code) as of the first day of such plan year, and the underlying actuarial value of assets and liabilities taken into account in determining such percentage;

(III) the market value of the assets of the plan as of the last day of the plan year preceding such plan year;

(IV) the total value of all contributions made during the plan year preceding such plan year;

(V) the total value of all benefits paid during the plan year preceding such plan year;

(VI) cash flow projections for such plan year and either the 6 or 10 succeeding plan years, at the election of the trustees, and the assumptions relied upon in making such projections;

(VII) funding standard account projections for such plan year and the 9 succeeding plan years, and the assumptions relied upon in making such projections;

(VIII) the total value of all investment gains or losses during the plan year preceding such plan year;

(IX) any significant reduction in the number of active participants during the plan year preceding such plan year, and the reason for such reduction;

(X) a list of employers that withdrew from the plan in the plan year preceding such plan year, and the resulting reduction in contributions;

(XI) a list of employers that paid withdrawal liability to the plan during the plan year preceding such plan year and, for each employer, a total assessment of the withdrawal liability paid, the annual payment amount, and the number of years remaining in the payment schedule with respect to such withdrawal liability;

(XII) any material changes to benefits, accrual rates, or contribution rates during the plan year preceding such plan year;

(XIII) any scheduled benefit increase or decrease in the plan year preceding such plan year having a material effect on liabilities of the plan;

(XIV) details regarding any funding improvement plan or rehabilitation plan and updates to such plan;

(XV) the number of participants and beneficiaries during the plan year preceding such plan year who are active participants, the number of

participants and beneficiaries in pay status, and the number of terminated vested participants and beneficiaries;

(XVI) the information contained on the most recent annual funding notice submitted by the plan under section 101(f) of the Employee Retirement Income Security Act of 1974;

(XVII) the information contained on the most recent Department of Labor Form 5500 of the plan; and

(XVIII) copies of the plan document and amendments, other retirement benefit or ancillary benefit plans relating to the plan and contribution obligations under such plans, a breakdown of administrative expenses of the plan, participant census data and distribution of benefits, the most recent actuarial valuation report as of the plan year, copies of collective bargaining agreements, and financial reports, and such other information as the Secretary of the Treasury or the Secretary's delegate, in consultation with the Secretary of Labor and the Director of the Pension Benefit Guaranty Corporation, may require.

(ii) ELECTRONIC SUBMISSION.—The report required under clause (i) shall be submitted electronically.

(iii) INFORMATION SHARING.—The Secretary of the Treasury or the Secretary's delegate shall share the information in the report under clause (i) with the Secretary of Labor.

(iv) PENALTY.—Any failure to file the report required under clause (i) on or before the date described in such clause shall be treated as a failure to file a report required to be filed under section 6058(a) of the Internal Revenue Code of 1986, except that section 6652(e) of such Code shall be applied with respect to any such failure by substituting "\$100" for "\$25". The preceding sentence shall not apply if the Secretary of the Treasury or the Secretary's delegate determines that reasonable diligence has been exercised by the trustees of such plan in attempting to timely file such report.

(H) 1974 UMWA PENSION PLAN DEFINED.—For purposes of this paragraph, the term "1974 UMWA Pension Plan" has the meaning given the term in section 9701(a)(3) of the Internal Revenue Code of 1986, but without regard to the limitation on participation to individuals who retired in 1976 and thereafter.

(5) 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 pur-

poses 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.

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**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 2022 through 2026 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 the public has been notified of the project, including not less than 45 days before submission of the project to the Office of Surface Mining Reclamation and Enforcement, the State or Indian Tribe has published notice of the proposed project in local newspapers of general circulation, on the Internet, and by any other means considered desirable by the Secretary, and has provided an opportunity to request a public meeting convened in a community near the proposed project site.

(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) 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 2022 through 2026 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 to States and Indian tribes under section 401(f) and section 411(h)(2); 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 CERTIFIED 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 2022 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 YEAR 2026.*—*For fiscal year 2026, the Secretary shall reallocate in accordance with subparagraph (C) 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.*

(C) *AMOUNT OF REALLOCATION.*—*The amount reallocated to each State or Indian tribe under each of subparagraph (B) 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.*—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.

(g) *PROJECT PLANNING AND ADMINISTRATION.*—

(1) *STATES AND INDIAN TRIBES.*—A State or Indian tribe may use up to 10 percent of its annual distribution under this section for costs of administering this section consistent with existing practice under sections 401(c)(7) and 402(g)(1)(C) and the Office of Surface Mining Reclamation and Enforcement Assistance Manual.

(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) *DEADLINES.*—

(1) *RULES AND GUIDELINES.*—To the extent necessary to implement this Act, the Secretary shall propose rules or develop guidelines (or both) not later than 90 days after the date of enactment of this section and shall publish them as final rules or guidelines, respectively, not later than 90 days thereafter. Within 60 days after the issuance of any such final rules or guidelines, the Secretary shall distribute the funds under subsection (d).

(2) *PROJECT PROPOSALS.*—The appropriate field office of the Office of Surface Mining Reclamation and Enforcement shall—

(A) initially review, vet, and approve or disapprove of each project proposal under this section within 45 days after receipt by the field office of the proposal; and

(B) issue an authorization to proceed on an approved project within 45 days after receipt by the field office of a request for such authorization from a State or Indian tribe.

(i) *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).*

(j) *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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## DISSENTING VIEWS

H.R. 1733 (Cartwright-Rogers) seeks to address outstanding abandoned mine land (AML) sites while also encouraging the revitalization of depressed coal communities. This bill would accelerate the release of \$200 million annually for five years from the remaining unappropriated balance in the AML Fund for AML reclamation.

Thousands of abandoned coal mines remain from production occurring before modern regulations. Many of them present risks to the human health and safety, as well as creating water quality and environmental problems. Leaving abandoned mines unaddressed presents economic challenges to coal communities, as well.

This legislation requires states to identify AML projects that will provide the opportunity for community development on the impacted lands, but states are allowed to opt out of this requirement in certain cases to prioritize projects for which community development projects are not feasible. Funds authorized by this bill are limited to reclamation work alone; community partnerships and other sources of funding must be leveraged for the economic after-projects.

H.R. 1733 is an attempt to accelerate the remediation of abandoned mine lands while stimulating economic development at the same time. However, it is important to consider the state of the coal industry as national and international markets see shifts in their energy mix when evaluating changes to the AML program. The AML fund cannot remain solvent, and states cannot continue to conduct AML cleanup work without a productive domestic coal industry. In fact, at the time this bill was considered in Committee, coal production had decreased 39 percent since the AML fee was previously reauthorized in 2006. This decrease in domestic coal production was a key factor in ongoing negotiations in Congress regarding the future of the AML fee, which was expected to expire on September 30, 2021. At the time of the mark-up, it was unwise to accelerate spending from the unappropriated balance of the AML fund.

I was pleased to see Congress lower the AML fee by 20% for each ton of coal produced when the fee was reauthorized through the Infrastructure Investment and Jobs Act in November 2021. At the time H.R. 1733 was considered by the Committee, Congress had not come to an agreement on the future of the AML fee level and authorizing such a large drawdown of the AML fund was not prudent.

For that reason, I opposed H.R. 1733 at that time.

BRUCE WESTERMAN.

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