

SURFACE MINING CONTROL AND RECLAMATION ACT  
AMENDMENTS OF 2021

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

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

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1734]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1734) to amend the Surface Mining Control and Reclamation Act of 1977 to allow the Secretary of the Interior to delegate certain emergency reclamation activities to the States and Tribes, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 1734 is to amend the Surface Mining Control and Reclamation Act of 1977 to allow the Secretary of the Interior to delegate certain emergency reclamation activities to the states and tribes.

BACKGROUND AND NEED FOR LEGISLATION

Two centuries of coal mining occurred in the United States before the industry was federally regulated. Prior to 1977, mining was done with little regard to environmental consequences and with few, if any, reclamation requirements. As a result, millions of Americans live less than one mile from an abandoned coal mine, which pose risks to public health, safety, and the environment.

The Surface Mining Control and Reclamation Act of 1977<sup>1</sup> (SMCRA) established a system for reclaiming Abandoned Mine Lands (AML) using fees paid by current coal mining companies.<sup>2</sup> SMCRA also created a regulatory program to ensure that any new surface coal mines are mined and reclaimed in an environmentally sound manner. The Office of Surface Mining Reclamation and Enforcement (OSMRE) within the Department of the Interior manages the AML Reclamation Program.<sup>3</sup>

To qualify as an AML, a site must have been affected by coal mining activities, abandoned prior to August 3, 1977, and there must be no party responsible for the reclamation of the land under state or federal laws. OSMRE 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>4</sup> Eligible sites are classified into three priorities:

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.

Title IV of SMCRA established a funding mechanism for reclamation activities, known as the AML Fund. Current coal mining companies pay a fee into the AML Fund for every ton of coal mined. Originally the fee was 35 cents per ton of surface mined coal, 15 cents per ton of coal mined underground, and 10 cents for each ton of lignite (a low-grade coal). In 2006, the fees were lowered to 28 cents per ton for surface coal, 12 cents per ton for underground coal, and 8 cents for lignite. Most of the annual collections are distributed by formula to states that still have high priority abandoned coal mines, also known as “uncertified” states. SMCRA designates states and tribes as “certified” if they have reclaimed all identified priority 1 and 2 AML sites. When a state or tribe becomes certified, the source of its funding changes from AML fees to the General Fund of the U.S. Treasury.

Originally, AML grants were subject to appropriations, but the AML reauthorization of 2006 made them mandatory spending. The amount states and tribes receive annually depends on the fees collected during the previous fiscal year. In FY 2021, the states that received the largest grants were Wyoming, Pennsylvania, West Virginia, Kentucky, and Illinois. AML funds may go to permitting, environmental assessments, site surveys, development plans, engineering, construction, emergency projects, and up to 30 percent of funds annually can be used for projects related to acid mine drainage.<sup>5</sup>

<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>Additional information available at *Abandoned Mine Land Reclamation Program*, U.S. DEP’T OF THE INTERIOR NAT. RES. AEVENUE DATA, <https://revenue.data.doi.gov/how-it-works/aml-reclamation-program/#abandoned-mine-land-areas> (last visited Apr. 7, 2022).

<sup>4</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.

<sup>5</sup>30 U.S.C. § 1232.

Distribution of the funds are split up in the following way:<sup>6</sup>

*State and tribal share grants:* non-certified states receive 50 percent of the AML revenue based on coal production in their state from 1977–present. Certified states and tribes (there are no uncertified tribes) also receive funds equal to 50 percent of what is collected, although it is sourced directly from the Treasury’s General Fund rather than AML fees.

*Historic coal grants:* 30 percent of AML fees are allocated to states and tribes based on the amount of coal production that occurred in the state prior to 1977.

*Minimum Program Funds:* 20 percent of AML fees must first be used to fund the Minimum Program Make-Up Grants for non-certified states. These grants ensure non-certified states receive at least \$3 million annually.

As of the introduction of H.R. 1734, the AML fees were authorized through the end of Fiscal Year 2021. With over \$11 billion in remaining abandoned coal mine cleanup costs, it was essential that the Abandoned Mine Land program be extended past that expiration date.

Coal communities are struggling to rebuild after enduring significant job losses due to a long-term decline in the coal industry. Numerous coal-producing counties are experiencing high rates of unemployment and are seeking to invest in job-creating economic development projects. The AML program helps ensure that the long-term health, safety, and economic livelihood of historic coalfield communities are restored and protected. The full economic contribution of AML reclamation is often more than the output and employment from reclamation activity. Many AML projects involve public-private partnerships which can result in sustained economic development and growth. New economic activity can contribute to the economy beyond annual measurements from grant spending.<sup>7</sup>

H.R. 1734 would have reauthorized the existing AML program for 15 years, through the end of Fiscal Year 2036. The bill would make two small changes to the program. First, the bill would increase the minimum amount of grant money each state receives from \$3 million to \$5 million. Second, states would be allowed to spend funds directly for AML-related emergencies and get reimbursed by OSMRE, provided that the state has an established an approved AML Emergency Program.

OSMRE defines an AML emergency as a sudden danger or impairment related to coal mining that presents a high probability of substantial physical harm to the health, safety, or general welfare of people before the danger can be abated under normal AML program operation procedures.<sup>8</sup> The objective of an approved AML Emergency Program is to stabilize the emergency aspect of the problem by eliminating the immediate danger to public health, safety, and welfare. States that are eligible for minimum program funding and that have an approved emergency reclamation program are eligible to receive grants and get reimbursed for emergency-related costs.

<sup>6</sup> Abandoned Mine Land Inventory System. *Office of Surface Mining Reclamation and Enforcement*. <https://amlis.osmre.gov/>; last accessed June 16, 2021.

<sup>7</sup> U.S. DEP’T OF THE INTERIOR, ECON. REP. FY 2014 (2015).

<sup>8</sup> 30 C.F.R. § 700.5.

Typical AML emergencies include mine subsidence, mine drainage, mine gas problems, mining related landslides, mine and mine refuse fires, and mine openings. These emergencies can affect homes, businesses, roads, and other local infrastructure. Emergency projects are often the most critical, as they can be sudden, unknown, and “potentially debilitating” to communities.<sup>9</sup> The Surface Mining Control and Reclamation Act Amendments of 2021 would allow state AML programs to directly pay for AML-emergency cleanup and be reimbursed. As of the bill’s introduction, states can wait for OSMRE emergency grant funding but cannot be reimbursed for independent work.

H.R. 3684, the Infrastructure Investment and Jobs Act<sup>10</sup> (sometimes called the Bipartisan Infrastructure Framework or “BIF” or the Bipartisan Infrastructure Law or “BIL”), signed into law on November 15, 2021, enacted the core of H.R. 1734 by reauthorizing the AML program for 13 years. The statute also lowered the AML fees by twenty percent and appropriated an additional \$11.3 billion for abandoned coal mine land cleanup activities.<sup>11</sup>

#### COMMITTEE ACTION

H.R. 1734 was introduced on March 10, 2021, by Representative Matt Cartwright (D-PA). The bill was referred to the Committee on Natural Resources, and in addition to the Committee on the Budget. Within the Natural Resources Committee, the bill was referred 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. Garret Graves (R-LA) offered an amendment designated Graves #87. The amendment was withdrawn. No additional amendments were offered, and the bill 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*

This section provides the short title of the bill, the “Surface Mining Control and Reclamation Act Amendments of 2021.”

<sup>9</sup>Hearing on H.R. 4248 Before the Subcomm. on Energy & Min. Res. of the H. Comm. on Nat. Res., 116th Cong. (Nov.14, 2019) (not printed), <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=110202> (questions for the record responses of John J. Stefanko, Deputy Sec’y, Penn. Dep’t of Env’t Prot., Off. of Active & Abandoned Mine Operations), <https://docs.house.gov/meetings/II/II06/20191114/110202/HHRG-116-II06-20191114-QFR001.pdf>. John J. Stefanko, Questions for the Record re: Legislative Hearing on H.R. 4248 <https://docs.house.gov/meetings/II/II06/20191114/110202/HHRG-116-II06-20191114-QFR001.pdf>.

<sup>10</sup>Pub. L. No. 117–58, 135 Stat. 429 (2021), <https://uscode.house.gov/statviewer.htm?volume=135&page=429>.

<sup>11</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>.

*Section 2. Abandoned Mine Land Reclamation Fund*

This section amends the Surface Mining Control and Reclamation Act of 1977 by extending the Abandoned Mine Land Reclamation Fund's for 15 years, from an expiration date in Fiscal Year 2022 to Fiscal Year 2037.

*Section 3. Emergency powers*

This section amends the Surface Mining Control and Reclamation Act of 1977 by allowing the Secretary to reimburse state and tribal governments directly from the fund for AML-related emergencies as long as the state or tribe has an approved Abandoned Mine Land Emergency Program. Without the bill, the Secretary is authorized to expend money from the fund for AML emergencies but cannot not reimburse states for their independent work.

*Section 4. Reclamation fee*

This section amends the Surface Mining Control and Reclamation Act of 1977 by increasing the minimum amount of grant money eligible states and tribes receive from \$3 million to \$5 million. This section additionally distributes in Fiscal Year 2022 an amount to states equal to the amount withheld under the Budget Control Act of 2011 during Fiscal Years 2013 through 2021.

*Section 5. Exempt programs and activities*

This section amends the Balanced Budget and Emergency Deficit Control Act to include Payments to states and Indian tribes from the Abandoned Mine Reclamation Fund, mandatory grants to states and Indian tribes in the list of programs exempt from reduction under any order issued under the subchapter.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

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

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 27, 2021.*

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1734, the Surface Mining Control and Reclamation Act Amendments of 2021.

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

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

<b>At a Glance</b>			
<b>H.R. 1734, Surface Mining Control and Reclamation Act Amendments of 2021</b>			
As ordered reported by the House Committee on Natural Resources on May 26, 2021			
By Fiscal Year, Millions of Dollars	2021	2021-2026	2021-2031
Direct Spending (Outlays)	0	252	455
Revenues	0	474	865
Decrease (-) in the Deficit	0	-222	-410
Spending Subject to Appropriation (Outlays)	0	10	not estimated
Statutory pay-as-you-go procedures apply?	Yes	<b>Mandate Effects</b>	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2032?	< \$5 billion	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	Yes, Under Threshold

The bill would:

- Extend the obligation of coal miners to pay reclamation fees through 2036
- Reauthorize annual payments, without further appropriation, to states and Indian tribes under the Abandoned Mine Lands program
- Direct the Office of Surface Mining Reclamation and Enforcement to disburse previously sequestered amounts
- Increase the minimum payment that certain states receive from the Abandoned Mine Reclamation Fund

Estimated budgetary effects would mainly stem from

- Collection of coal reclamation fees
- Reauthorizing annual payments to states and tribes and increasing minimum payments
- Disbursing previously sequestered amounts

Areas of significant uncertainty include

- Predicting the amount of coal reclamation fees that would be collected under the bill

Bill summary: H.R. 1734 would extend the collection of coal reclamation fees through 2036. The bill would reauthorize annual payments to states and Indian tribes under the Abandoned Mine Lands (AML) program, which would be made without further appropriation. Under the bill, the Office of Surface Mining Reclamation and Enforcement (OSMRE) would be required to disburse previously sequestered amounts to states and tribes. The bill also would exempt future payments from sequestration. Finally, H.R. 1734 would increase the minimum annual payment that some states receive from \$3 million to \$5 million.

Estimated Federal cost: The estimated budgetary effect of H.R. 1734 is shown in Table 1. The costs of the legislation generally fall within budget functions 300 (natural resources and environment) and 800 (general government).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 1734

	By fiscal year, millions of dollars—												
	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2021–2026	2021–2031
Increases in Direct Spending													
Estimated Budget Authority .....	0	180	43	39	34	30	32	35	39	44	41	326	517
Estimated Outlays	0	52	47	54	55	43	37	38	39	43	47	252	455
Increases in Revenues													
Estimated Revenues .....	0	111	103	94	84	81	79	79	79	78	77	474	865
Net Decrease (–) in the Deficit From Changes in Direct Spending and Revenues													
Effect on the Deficit .....	0	–59	–57	–40	–29	–38	–42	–41	–40	–36	–29	–222	–410
Increases in Spending Subject to Appropriation													
Estimated Authorization ....	0	2	2	2	2	2	n.e.	n.e.	n.e.	n.e.	n.e.	10	n.e.
Estimated Outlays	0	2	2	2	2	2	n.e.	n.e.	n.e.	n.e.	n.e.	10	n.e.

Components may not sum to totals because of rounding; n.e. = not estimated.

**Basis of estimate:** For this estimate, CBO assumes that the legislation will be enacted late in fiscal year 2021; thus, any additional payments under the bill would take effect in 2022. Estimated outlays are based on historical spending patterns for the affected programs.

**Background:** Under current law, the federal government collects revenues from coal producers and makes payments to states and Indian tribes and to certain multiemployer health and pension plans that provide benefits to retirees in the coal industry.

#### *Coal Reclamation Fees*

Under the AML program, coal producers pay reclamation fees to the Department of the Interior based on annual production. The authority to collect those fees, which are recorded in the budget as revenues and deposited into the Abandoned Mine Reclamation Fund, expires on September 30, 2021. CBO projects that the department will collect \$129 million in fees in 2021.

#### *Payments to health plans from the Abandoned Mine Reclamation Fund*

The Surface Mining Control and Reclamation Act of 1977 (SMCRA) authorizes annual payments to the United Mine Workers of America (UMWA) multiemployer health plans that equal the amount of interest credited each year to the Abandoned Mine Reclamation Fund. If a payment is insufficient to cover expected health costs in a given year, supplemental payments from the Treasury's general fund are made to cover the remaining costs, discussed below. CBO projects that payments to the health plans based on the credited interest will average \$23 million annually over the 2021–2031 period.

*Payments to health plans, retirement plans, and to certified states and tribes*

SMCRA authorizes supplemental payments from the general fund of the Treasury, without further appropriation, to UMWA health plans if interest transfers are insufficient to cover expected costs. Current law also authorizes payments from the general fund to UMWA retirement plans and to certain states and tribes as discussed below. Taken together, those payments are subject to a combined annual cap of \$750 million.

OSMRE awards grants to states and tribes once they certify that their outstanding coal reclamation projects are complete. Under current law, certified states and tribes receive payments that are equal to 50 percent of the coal reclamation fees collected in those jurisdictions in the prior year. Those payments will terminate at the end of fiscal year 2022 because the authority to collect the reclamation fees expires at the end of 2021. That reduction in payments to states and tribes is exactly offset by an increase in payments to the UMWA retirement plans after 2022. Payments to certified states and tribes also are subject to sequestration in 2021 and 2022, reducing budget authority for those payments by \$2 million in each year. (Sequestration is a cancellation of budgetary resources.)

CBO expects that the annual statutory cap of \$750 million will limit payments to the UMWA health and retirement funds and to certified states and tribes. Thus, the combined budget authority for those programs will total \$748 million annually in 2022, after accounting for the \$2 million that will be sequestered, and \$750 million each year from 2023 through 2031.

*Payments to noncertified states*

For noncertified states—the states that have not completed all of their outstanding reclamation projects—OSMRE is authorized to spend, without further appropriation, roughly 80 percent of the coal reclamation fees collected in the prior year for reclamation grants, plus whatever amounts are necessary to ensure that those states receive an annual minimum payment of \$3 million. Those amounts are disbursed directly from the Abandoned Mine Reclamation Fund and are not limited by the \$750 million annual statutory cap. Beginning in 2023, OSMRE will distribute annual payments to those states equal to the amounts disbursed in 2022 until the remaining balances in the fund are spent, which CBO projects will occur after 2031. CBO projects that OSMRE will distribute, on average, \$92 million annually in such grants over the 2021–2031 period, net of sequestration.

Revenues: H.R. 1734 would extend collection of coal reclamation fees through 2036. Based on national coal production forecasts produced by the Energy Information Administration, CBO estimates that revenues from the reclamation fees would increase between \$100 million and \$145 million annually over the 2022–2031 period. However, because collecting those fees would reduce the base for income and payroll taxes, those revenues would be partially offset by lower income and payroll taxes. On net, CBO estimates, enacting H.R. 1734 would increase revenues by \$865 million over the 2022–2031 period (see Table 1).



Direct spending: CBO estimates that enacting H.R. 1734 would increase net direct spending by \$455 million over the 2021–2031 period (see Table 2).

*Base payments to noncertified states*

Beginning in 2023, the bill would change the formula for payments to noncertified states so that payments would be based on the fees collected in prior years. Those payments also would be exempt from sequestration. CBO estimates that such payments under the bill would average \$90 million annually over the 2022–2031 period. Because that change would reduce payments over time to those states relative to current law, CBO estimates that enacting this provision would reduce direct spending by \$8 million over the 2021–2031 period.

*Minimum payments*

In addition to the changes in the formula for base payments, H.R. 1734 would increase the minimum annual payment to noncertified states from \$3 million to \$5 million. Based on recent years' payments, CBO estimates that beginning in 2022, 15 states would receive additional amounts to meet the new minimum amount (at a total annual cost of about \$28 million) and the resulting spending would total \$247 million over the 2021–2031 period. Those payments also would be exempt from sequestration.

TABLE 2.—CHANGES IN DIRECT SPENDING UNDER H.R. 1734

	By fiscal year, millions of dollars—												
	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2021– 2026	2021– 2031
Increases or Decreases (–) in Direct Spending													
Base Payments to Noncertified States:													
Estimated Budget Authority ....	0	6	14	8	1	–6	–7	–8	–8	–8	–15	23	–24
Estimated Outlays .....	0	2	6	9	7	2	–3	–6	–8	–8	–9	27	–8
Minimum Payments:													
Estimated Budget Authority ....	0	28	28	28	28	28	28	28	28	28	28	140	280
Estimated Outlays .....	0	8	18	25	28	28	28	28	28	28	28	107	247
Previously Sequestered Amounts:													
Estimated Budget Authority ....	0	143	0	0	0	0	0	0	0	0	0	143	143
Estimated Outlays .....	0	40	54	31	17	0	0	0	0	0	0	143	143
Cap Effects:													
Estimated Budget Authority ....	0	3	1	3	5	8	11	15	20	24	28	19	118
Estimated Outlays .....	0	2	–32	–11	3	13	12	17	19	23	28	–25	73
Total Changes:													
Estimated Budget Authority ....	0	180	43	39	34	30	32	35	39	44	41	326	517
Estimated Outlays .....	0	52	47	54	55	43	37	38	39	43	47	252	455

Components may not sum to totals because of rounding.

*Previously sequestered amounts*

The bill would direct OSMRE to disburse additional funds that would be equal to the amounts that were sequestered over the 2013–2021 period. Using information from OSMRE, CBO estimates that enacting the provision would increase direct spending by \$143 million over the 2021–2031 period; of that amount, \$98 million would be paid from the Abandoned Mine Reclamation Fund and \$45 million would be paid from the general fund of the Treasury.

*Cap effects*

Combining the effects of the additional revenues from the reauthorized coal reclamation fees, higher minimum payments, disbursement of previously sequestered amounts, and the changes in both base and minimum payments to noncertified states, CBO expects that enacting H.R. 1734 would lead to more interest being credited to the Abandoned Mine Reclamation Fund. CBO estimates that payments to UMWA health plans based on the amount of credited interest would increase by a total of \$116 million over the 2021–2031 period. However, CBO expects that net spending by the health plans would be unchanged. The increase in payments based on credited interest would reduce the amount paid from the general fund of the Treasury for the health plans, but that reduction would be exactly offset by an increase in budget authority for payments for other programs under the \$750 million cap, including payments for certified states and tribes, which would resume in 2023 under the bill.

Under H.R. 1734, payments to certified states and tribes would be exempt from sequestration. Thus, an additional \$2 million would be paid to certified states and tribes from amounts that will be sequestered under current law in 2022.

In total, CBO estimates that enacting H.R. 1734 would increase budget authority by \$118 million over the 2021–2031 period—the sum of \$116 million resulting from increased interest credited to the Abandoned Mine Reclamation Fund and \$2 million that would come from sequestered amounts. Based on historical spending patterns for those programs, CBO estimates that direct spending would decline by \$25 million over the 2021–2026 period but increase by \$73 million over the 2021–2031 period. That initial decline in spending would happen because payments for certified states and tribes take more time to outlay than payments to UMWA health and retirement plans.

Spending subject to appropriation: As shown in Table 1, section 3 would authorize OSMRE to reimburse states and tribes for certain emergency reclamation projects. Based on previous allocations for such projects, CBO estimates that implementing section 3 would cost \$2 million annually over the 2022–2026 period; such spending would be subject to the availability of appropriated funds. We estimate that implementing other provisions of the bill would have no significant effect on spending subject to appropriation.

Uncertainty: The amount of coal reclamation fees the federal government would collect under the bill is uncertain and could be higher or lower than CBO estimates. CBO cannot forecast with certainty future coal prices or the volume of production, which would affect the amount of fees collected. The resulting direct spending also could differ from CBO's estimate.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in Table 3.

TABLE 3.—CBO’S ESTIMATE OF THE STATUTORY PAY-AS-YOU-GO EFFECTS OF H.R. 1734, THE SURFACE MINING CONTROL AND RECLAMATION ACT AMENDMENTS OF 2021, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON MAY 26, 2021

	By fiscal year, millions of dollars—												
	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2020–2025	2020–2030
	Net Decrease in the Deficit												
Pay-As-You-Go Effect .....	0	–59	–57	–40	–29	–38	–42	–41	–40	–36	–29	–222	–410
Memorandum:													
Increases in Outlays .....	0	52	47	54	55	43	37	38	39	43	47	252	455
Increases in Revenues .....	0	111	103	94	84	81	79	79	79	78	77	474	865

Increase in long-term deficits: CBO expects that enacting the bill would delay the drawdown of balances in the Abandoned Mine Reclamation Fund, resulting in additional direct spending after 2040. However, CBO estimates that enacting H.R. 1734 would not increase on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2031.

Mandates: H.R. 1734 would impose a private-sector mandate as defined by the Unfunded Mandates Reform Act (UMRA) by extending the obligation of coal miners to pay a reclamation fee, set to expire in 2022, under current law. CBO estimates that the cost of the mandate would average about \$122 million annually over the 2022–2026 period, falling below the annual threshold established by UMRA for the private sector (\$170 million in 2021, adjusted annually for inflation).

H.R. 1734 contains no intergovernmental mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Julia Christensen (UMWA multiemployer health plans); Noah Meyerson (UMWA multiemployer pension plans); Janani Shankaran (AML program, Abandoned Mine Reclamation Fund); Revenues: Nathaniel Frentz; Mandates: Lilia Ledezma.

Estimate reviewed by: Susan Willie; Chief, Natural and Physical Resources Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; Joshua Shakin, Chief, Revenue Estimating Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Theresa Gullo, Director of Budget Analysis.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to amend the Surface Mining Control and Reclamation Act of 1977 to allow the Secretary of the Interior to delegate certain emergency reclamation activities to the states and tribes.

## 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

According to CBO, would impose a private-sector mandate as defined by the Unfunded Mandates Reform Act (UMRA) of an average of about \$122 million annually over the 2022–2026 period, falling below the annual threshold established by UMRA for the private sector. CBO's full analysis is reproduced above.

## EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program. Such program was not included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139. The Abandoned Mine Lands (AML) Program (CFDA No. 15.252) reauthorized by this bill is 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**

\* \* \* \* \*

## TITLE IV—ABANDONED MINE RECLAMATION

## ABANDONED MINE RECLAMATION FUND AND PURPOSES

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

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

(1) the reclamation fees levied under section 402;

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

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

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

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

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

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

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

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

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

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

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

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

(8) for use under section 411;

- (9) for the purpose of section 507(c), except that not more than \$10,000,000 shall annually be available for such purpose;
- (10) for the purpose described in section 402(h); and
- (11) 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).

(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~~ 2037.—For each of fiscal years 2008 through ~~2022~~ 2037, 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~~ 2038 AND THEREAFTER.—For fiscal year ~~2023~~ 2038 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~~ 2037.

(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]** *September 30, 2036*.

(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, tipplers 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), 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).

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

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

(i) A finding that the surface coal mining operation occurred during the period beginning on August 4, 1977, and ending on or before the date on which the Secretary approved a State program pursuant to section 503 for a State in which the site is located, and that any funds for reclamation or abatement which are available pursuant to a bond or other form of 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)] *paragraphs (1), (5), and (8)* 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.

*(9) From amounts withheld pursuant to the Budget Control Act of 2011 from payments to States and Indian Tribes under this subsection and section 411(h) of the Surface Mining Control and Reclamation Act during fiscal years 2013 through 2021, the Secretary shall distribute for fiscal year 2022 an amount to each State and Indian Tribe equal to the total amount withheld.*

(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 Multiemployer 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 subpara-

graph (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 Combined Benefit Fund referred to in paragraph (2)(A) under this section—

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

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

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

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

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

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

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

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

(5) LIMITATIONS.—

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

(B) RATE OF CONTRIBUTIONS OF OBLIGORS.—

(i) IN GENERAL.—

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

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

(ii) INITIAL CONTRIBUTIONS.—

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

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

(III) AMOUNT OF CONTRIBUTION FOR 2006.—Except as provided in subclause (IV), the amount de-

scribed 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.

\* \* \* \* \*

#### STATE RECLAMATION PROGRAMS

SEC. 405. (a) Not later than the end of the one hundred and eighty-day period immediately following the date of enactment of this Act, the Secretary shall promulgate and publish in the Federal Register regulations covering implementation of an abandoned mine reclamation program incorporating the provisions of title IV and establishing procedures and requirements for preparation, submission, and approval of State programs consisting of the plan and annual submissions of projects.

(b) Each State having within its borders coal mined lands eligible for reclamation under this title, may submit to the Secretary a State Reclamation Plan and annual projects to carry out the purposes of this title.

(c) The Secretary shall not approve, fund, or continue to fund a State abandoned mine reclamation program unless that State has an approved State regulatory program pursuant to section 503 of this Act.

(d) If the Secretary determines that State has developed and submitted a program for reclamation of abandoned mines and has the ability and necessary State legislation to implement the provisions of this title, [sections 402 and 410 excepted] *section 402 excepted*,

the Secretary shall approve such State program and shall grant to the State exclusive responsibility and authority to implement the provisions of the approved program: *Provided*, That the Secretary shall withdraw such approval and authorization if he determines upon the basis of information provided under this section that the State program is not in compliance with the procedures, guidelines, and requirements established under subsection 405(a).

(e) Each State Reclamation Plan shall generally identify the areas to be reclaimed, the purposes for which the reclamation is proposed, the relationship of the lands to be reclaimed and the proposed reclamation to surrounding areas, the specific criteria for ranking and identifying projects to be funded, and the legal authority and programmatic capability to perform such work in conformance with the provisions of this title.

(f) On an annual basis, each State having an approved State Reclamation Plan may submit to the Secretary an application for the support of the State program and implementation of specific reclamation projects. Such annual requests shall include such information as may be requested by the Secretary including:

- (1) a general description of each proposed project;
- (2) a priority evaluation of each proposed project;
- (3) a statement of the estimated benefits in such terms as: number of acres restored, miles of stream improved, acres of surface lands protected from subsidence, population protected from subsidence, air pollution, hazards of mine and coal refuse disposal area fires;
- (4) an estimate of the cost for each proposed project;
- (5) in the case of proposed research and demonstration projects, a description of the specific techniques to be evaluated or objective to be attained;
- (6) an identification of lands or interest therein to be acquired and the estimated cost; and
- (7) in each year after the first in which a plan is filed under this title, an inventory of each project funded under the previous year's grant: which inventory shall include details of financial expenditures on such project together with a brief description of each such project, including project locations, landowner's name, acreage, type of reclamation performed.

(g) The costs for each proposed project under this section shall include; actual construction costs, actual operation and maintenance costs of permanent facilities, planning and engineering costs, construction inspection costs, and other necessary administrative expenses.

(h) Upon approval of State Reclamation Plan by the Secretary and of the surface mine regulatory program pursuant to section 503, the Secretary shall grant, on an annual basis, funds to be expended in such State pursuant to subsection 402(g) and which are necessary to implement the State reclamation program as approved by the Secretary.

(i) The Secretary, through his designated agents, will monitor the progress and quality of the program. The States shall not be required at the start of any project to submit complete copies of plans and specifications.

(j) The Secretary shall require annual and other reports as may be necessary to be submitted by each State administering the ap-

proved State reclamation program with funds provided under this title. Such reports shall include that information which the Secretary deems necessary to fulfill his responsibilities under this title.

(k) Indian tribes having within their jurisdiction eligible lands pursuant to section 404 or from which coal is produced, shall be considered as a "State" for the purposes of this title except for purposes of subsection (c) of this section with respect to the Navajo, Hopi and Crow Indian Tribes

(l) No State shall be liable under any provision of Federal law for any costs or damages as a result of action taken or omitted in the course of carrying out a State abandoned mine reclamation plan approved under this section. This subsection shall not preclude liability for cost or damages as a result of gross negligence or intentional misconduct by the State. For purposes of the preceding sentence, reckless, willful, or wanton misconduct shall constitute gross negligence.

\* \* \* \* \*

EMERGENCY POWERS

SEC. 410. (a) The Secretary is authorized to expend moneys, including through reimbursement to a State or Tribal Government described in subsection (c), from the fund for the emergency restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining practices, on eligible lands, if the Secretary makes a finding of fact that—

(1) an emergency exists constituting a danger to the public health, safety, or general welfare; and

(2) no other person or agency will act expeditiously to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices.

(b) The Secretary, his agents, employees, and contractors shall have the right to enter upon any land where the emergency exists and any other land to have access to the land where the emergency exists to restore, reclaim, abate, control, or prevent the adverse effects of coal mining practices and to do all things necessary or expedient to protect the public health, safety, or general welfare. Such entry shall be construed as an exercise of the police power and shall not be construed as an act of condemnation of property nor of trespass thereof. The moneys expended for such work and the benefits accruing to any such premises so entered upon shall be chargeable against such land and shall mitigate or offset any claim in or any action brought by any owner of any interest in such premises for any alleged damages by virtue of such entry: *Provided however*, That this provision is not intended to create new rights of action or eliminate existing immunities.

(c) *STATE OR TRIBAL GOVERNMENT.*—A State or Tribal Government is eligible to receive reimbursement from the Secretary under subsection (a) if such State or Tribal Government has submitted, and the Secretary has approved, an Abandoned Mine Land Emergency Program as part of an approved State or Tribal Reclamation Plan under section 405.

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**BALANCED BUDGET AND EMERGENCY DEFICIT  
CONTROL ACT**

\* \* \* \* \*

**PART C—EMERGENCY POWERS TO ELIMINATE  
DEFICITS IN EXCESS OF MAXIMUM DEFICIT AMOUNT**

\* \* \* \* \*

**SEC. 255. EXEMPT PROGRAMS AND ACTIVITIES.**

(a) **SOCIAL SECURITY BENEFITS AND TIER I RAILROAD RETIREMENT BENEFITS.**—Benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act (42 U.S.C. 401 et seq.), and benefits payable under sections 3 and 4 of the Railroad Retirement Act of 1937 (45 U.S.C. 231 et seq.), shall be exempt from reduction under any order issued under this part.

(b) **VETERANS PROGRAMS.**—The following programs shall be exempt from reduction under any order issued under this part:

All programs administered by the Department of Veterans Affairs.

Special Benefits for Certain World War II Veterans (28–0401–0–1–701).

(c) **NET INTEREST.**—No reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this part.

(d) **REFUNDABLE INCOME TAX CREDITS.**—Payments to individuals made pursuant to provisions of the Internal Revenue Code of 1986 establishing refundable tax credits shall be exempt from reduction under any order issued under this part.

(e) **NON-DEFENSE UNOBLIGATED BALANCES.**—Unobligated balances of budget authority carried over from prior fiscal years, except balances in the defense category, shall be exempt from reduction under any order issued under this part.

(f) **OPTIONAL EXEMPTION OF MILITARY PERSONNEL.**—

(1) **IN GENERAL.**—The President may, with respect to any military personnel account, exempt that account from sequestration or provide for a lower uniform percentage reduction than would otherwise apply.

(2) **LIMITATION.**—The President may not use the authority provided by paragraph (1) unless the President notifies the Congress of the manner in which such authority will be exercised on or before the date specified in section 254(a) for the budget year.

(g) **OTHER PROGRAMS AND ACTIVITIES.**—

(1)(A) The following budget accounts and activities shall be exempt from reduction under any order issued under this part:

Activities resulting from private donations, bequests, or voluntary contributions to the Government.

Activities financed by voluntary payments to the Government for goods or services to be provided for such payments.

Administration of Territories, Northern Mariana Islands Covenant grants (14–0412–0–1–808).

Advances to the Unemployment Trust Fund and Other Funds (16–0327–0–1–600).



Black Lung Disability Trust Fund Refinancing (16-0329-0-1-601).

Bonneville Power Administration Fund and borrowing authority established pursuant to section 13 of Public Law 93-454 (1974), as amended (89-4045-0-3-271).

Claims, Judgments, and Relief Acts (20-1895-0-1-808).

Compact of Free Association (14-0415-0-1-808).

Compensation of the President (11-0209-01-1-802).

Comptroller of the Currency, Assessment Funds (20-8413-0-8-373).

Continuing Fund, Southeastern Power Administration (89-5653-0-2-271).

Continuing Fund, Southwestern Power Administration (89-5649-0-2-271).

Dual Benefits Payments Account (60-0111-0-1-601).

Emergency Fund, Western Area Power Administration (89-5069-0-2-271).

Exchange Stabilization Fund (20-4444-0-3-155).

Farm Credit Administration Operating Expenses Fund (78-4131-0-3-351).

Farm Credit System Insurance Corporation, Farm Credit Insurance Fund (78-4171-0-3-351).

Federal Deposit Insurance Corporation, Deposit Insurance Fund (51-4596-0-4-373).

Federal Deposit Insurance Corporation, FSLIC Resolution Fund (51-4065-0-3-373).

Federal Deposit Insurance Corporation, Noninterest Bearing Transaction Account Guarantee (51-4458-0-3-373).

Federal Deposit Insurance Corporation, Senior Unsecured Debt Guarantee (51-4457-0-3-373).

Federal Home Loan Mortgage Corporation (Freddie Mac).

Federal Housing Finance Agency, Administrative Expenses (95-5532-0-2-371).

Federal National Mortgage Corporation (Fannie Mae).

Federal Payment to the District of Columbia Judicial Retirement and Survivors Annuity Fund (20-1713-0-1-752).

Federal Payment to the District of Columbia Pension Fund (20-1714-0-1-601).

Federal Payments to the Railroad Retirement Accounts (60-0113-0-1-601).

Federal Reserve Bank Reimbursement Fund (20-1884-0-1-803).

Financial Agent Services (20-1802-0-1-803).

Foreign Military Sales Trust Fund (11-8242-0-7-155).

Hazardous Waste Management, Conservation Reserve Program (12-4336-0-3-999).

Host Nation Support Fund for Relocation (97-8337-0-7-051).

Internal Revenue Collections for Puerto Rico (20-5737-0-2-806).

Intragovernmental funds, including those from which the outlays are derived primarily from resources paid in

from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect.

Medical Facilities Guarantee and Loan Fund (75-9931-0-3-551).

National Credit Union Administration, Central Liquidity Facility (25-4470-0-3-373).

National Credit Union Administration, Corporate Credit Union Share Guarantee Program (25-4476-0-3-376).

National Credit Union Administration, Credit Union Homeowners Affordability Relief Program (25-4473-0-3-371).

National Credit Union Administration, Credit Union Share Insurance Fund (25-4468-0-3-373).

National Credit Union Administration, Credit Union System Investment Program (25-4474-0-3-376).

National Credit Union Administration, Operating fund (25-4056-0-3-373).

National Credit Union Administration, Share Insurance Fund Corporate Debt Guarantee Program (25-4469-0-3-376).

National Credit Union Administration, U.S. Central Federal Credit Union Capital Program (25-4475-0-3-376).

Office of Thrift Supervision (20-4108-0-3-373).

Panama Canal Commission Compensation Fund (16-5155-0-2-602).

Payment of Vietnam and USS Pueblo prisoner-of-war claims within the Salaries and Expenses, Foreign Claims Settlement account (15-0100-0-1-153).

Payment to Civil Service Retirement and Disability Fund (24-0200-0-1-805).

Payment to Department of Defense Medicare-Eligible Retiree Health Care Fund (97-0850-0-1-054).

Payment to Judiciary Trust Funds (10-0941-0-1-752).

Payment to Military Retirement Fund (97-0040-0-1-054).

Payment to the Foreign Service Retirement and Disability Fund (19-0540-0-1-153).

Payments to Copyright Owners (03-5175-0-2-376).

Payments to Health Care Trust Funds (75-0580-0-1-571).

Payment to Radiation Exposure Compensation Trust Fund (15-0333-0-1-054).

Payments to Social Security Trust Funds (28-0404-0-1-651).

Payments to the United States Territories, Fiscal Assistance (14-0418-0-1-806).

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds.

Payments to widows and heirs of deceased Members of Congress (00-0215-0-1-801).

Postal Service Fund (18-4020-0-3-372).

Radiation Exposure Compensation Trust Fund (15-8116-0-1-054).

Reimbursement to Federal Reserve Banks (20-0562-0-1-803).

Salaries of Article III judges.

Soldiers and Airmen's Home, payment of claims (84-8930-0-7-705).

Tennessee Valley Authority Fund, except nonpower programs and activities (64-4110-0-3-999).

Tribal and Indian trust accounts within the Department of the Interior which fund prior legal obligations of the Government or which are established pursuant to Acts of Congress regarding Federal management of tribal real property or other fiduciary responsibilities, including but not limited to Tribal Special Fund (14-5265-0-2-452), Tribal Trust Fund (14-8030-0-7-452), White Earth Settlement (14-2204-0-1-452), and Indian Water Rights and Habitat Acquisition (14-5505-0-2-303).

United Mine Workers of America 1992 Benefit Plan (95-8260-0-7-551).

United Mine Workers of America 1993 Benefit Plan (95-8535-0-7-551).

United Mine Workers of America Combined Benefit Fund (95-8295-0-7-551).

United States Enrichment Corporation Fund (95-4054-0-3-271).

Universal Service Fund (27-5183-0-2-376).

Vaccine Injury Compensation (75-0320-0-1-551).

Vaccine Injury Compensation Program Trust Fund (20-8175-0-7-551).

*Payments to States and Indian Tribes from the Abandoned Mine Reclamation Fund and payments to States and Indian Tribes under section 402(i)(2) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(i)(2)).*

(B) The following Federal retirement and disability accounts and activities shall be exempt from reduction under any order issued under this part:

Black Lung Disability Trust Fund (20-8144-0-7-601).

Central Intelligence Agency Retirement and Disability System Fund (56-3400-0-1-054).

Civil Service Retirement and Disability Fund (24-8135-0-7-602).

Comptrollers general retirement system (05-0107-0-1-801).

Contributions to U.S. Park Police annuity benefits, Other Permanent Appropriations (14-9924-0-2-303).

Court of Appeals for Veterans Claims Retirement Fund (95-8290-0-7-705).

Department of Defense Medicare-Eligible Retiree Health Care Fund (97-5472-0-2-551).

District of Columbia Federal Pension Fund (20-5511-0-2-601).

District of Columbia Judicial Retirement and Survivors Annuity Fund (20-8212-0-7-602).

Energy Employees Occupational Illness Compensation Fund (16-1523-0-1-053).

- Foreign National Employees Separation Pay (97-8165-0-7-051).
  - Foreign Service National Defined Contributions Retirement Fund (19-5497-0-2-602).
  - Foreign Service National Separation Liability Trust Fund (19-8340-0-7-602).
  - Foreign Service Retirement and Disability Fund (19-8186-0-7-602).
  - Government Payment for Annuitants, Employees Health Benefits (24-0206-0-1-551).
  - Government Payment for Annuitants, Employee Life Insurance (24-0500-0-1-602).
  - Judicial Officers' Retirement Fund (10-8122-0-7-602).
  - Judicial Survivors' Annuities Fund (10-8110-0-7-602).
  - Military Retirement Fund (97-8097-0-7-602).
  - National Railroad Retirement Investment Trust (60-8118-0-7-601).
  - National Oceanic and Atmospheric Administration retirement (13-1450-0-1-306).
  - Pensions for former Presidents (47-0105-0-1-802).
  - Postal Service Retiree Health Benefits Fund (24-5391-0-2-551).
  - Public Safety Officer Benefits (15-0403-0-1-754).
  - Rail Industry Pension Fund (60-8011-0-7-601).
  - Retired Pay, Coast Guard (70-0602-0-1-403).
  - Retirement Pay and Medical Benefits for Commissioned Officers, Public Health Service (75-0379-0-1-551).
  - September 11th Victim Compensation Fund (15-0340-0-1-754).
  - Special Benefits for Disabled Coal Miners (16-0169-0-1-601).
  - Special Benefits, Federal Employees' Compensation Act (16-1521-0-1-600).
  - Special Workers Compensation Expenses (16-9971-0-7-601).
  - Tax Court Judges Survivors Annuity Fund (23-8115-0-7-602).
  - United States Court of Federal Claims Judges' Retirement Fund (10-8124-0-7-602).
  - United States Secret Service, DC Annuity (70-0400-0-1-751).
  - Victims Compensation Fund established under section 410 of the Air Transportation Safety and System Stabilization Act (49 U.S.C. 40101 note).
  - United States Victims of State Sponsored Terrorism Fund.
  - Voluntary Separation Incentive Fund (97-8335-0-7-051).
  - World Trade Center Health Program Fund (75-0946-0-1-551).
- (2) Prior legal obligations of the Government in the following budget accounts and activities shall be exempt from any order issued under this part:
- Biomass Energy Development (20-0114-0-1-271).
  - Check Forgery Insurance Fund (20-4109-0-3-803).

Credit liquidating accounts.

Credit reestimates.

Employees Life Insurance Fund (24-8424-0-8-602).

Federal Aviation Insurance Revolving Fund (69-4120-0-3-402).

Federal Crop Insurance Corporation Fund (12-4085-0-3-351).

Federal Emergency Management Agency, National Flood Insurance Fund (58-4236-0-3-453).

Geothermal resources development fund (89-0206-0-1-271).

Low-Rent Public Housing—Loans and Other Expenses (86-4098-0-3-604).

Maritime Administration, War Risk Insurance Revolving Fund (69-4302-0-3-403).

Natural Resource Damage Assessment Fund (14-1618-0-1-302).

Overseas Private Investment Corporation, Noncredit Account (71-4184-0-3-151).

Pension Benefit Guaranty Corporation Fund (16-4204-0-3-601).

San Joaquin Restoration Fund (14-5537-0-2-301).

Servicemembers' Group Life Insurance Fund (36-4009-0-3-701).

Terrorism Insurance Program (20-0123-0-1-376).

(h) **LOW-INCOME PROGRAMS.**—The following programs shall be exempt from reduction under any order issued under this part:

Academic Competitiveness/Smart Grant Program (91-0205-0-1-502).

Child Care Entitlement to States (75-1550-0-1-609).

Child Enrollment Contingency Fund (75-5551-0-2-551).

Child Nutrition Programs (with the exception of special milk programs) (12-3539-0-1-605).

Children's Health Insurance Fund (75-0515-0-1-551).

Commodity Supplemental Food Program (12-3507-0-1-605).

Contingency Fund (75-1522-0-1-609).

Family Support Programs (75-1501-0-1-609).

Federal Pell Grants under section 401 of title IV of the Higher Education Act.

Grants to States for Medicaid (75-0512-0-1-551).

Payments for Foster Care and Permanency (75-1545-0-1-609).

Supplemental Nutrition Assistance Program (12-3505-0-1-605).

Supplemental Security Income Program (28-0406-0-1-609).

Temporary Assistance for Needy Families (75-1552-0-1-609).

(i) **ECONOMIC RECOVERY PROGRAMS.**—The following programs shall be exempt from reduction under any order issued under this part:

GSE Preferred Stock Purchase Agreements (20-0125-0-1-371).

Office of Financial Stability (20-0128-0-1-376).

Special Inspector General for the Troubled Asset Relief Program (20-0133-0-1-376).

(j) SPLIT TREATMENT PROGRAMS.—Each of the following programs shall be exempt from any order under this part to the extent that the budgetary resources of such programs are subject to obligation limitations in appropriations bills:

Federal-Aid Highways (69–8083–0–7–401).

Highway Traffic Safety Grants (69–8020–0–7–401).

Operations and Research NHTSA and National Driver Register (69–8016–0–7–401).

Motor Carrier Safety Operations and Programs (69–8159–0–7–401).

Motor Carrier Safety Grants (69–8158–0–7–401).

Formula and Bus Grants (69–8350–0–7–401).

Grants-In-Aid for Airports (69–8106–0–7–402).

(k) IDENTIFICATION OF PROGRAMS.—For purposes of subsections (b), (g), and (h), each account is identified by the designated budget account identification code number set forth in the Budget of the United States Government 2010–Appendix, and an activity within an account is designated by the name of the activity and the identification code number of the account.

\* \* \* \* \*

COMMITTEE CORRESPONDENCE

JOHN A. YARMUTH, KENTUCKY  
CHAIR

DIANA MEREDITH, STAFF DIRECTOR  
(202) 226-2700



JASON SMITH, MISSOURI  
RANKING MEMBER

MARK ROMAN, MINORITY STAFF DIRECTOR  
(202) 226-7270

**U.S. House of Representatives**

COMMITTEE ON THE BUDGET  
204-E CANNON HOUSE OFFICE BUILDING  
Washington, DC 20515

June 15, 2022

The Honorable Raúl M. Grijalva  
Chair, Committee on Natural Resources  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

Dear Chair Grijalva:

I write to confirm our mutual understanding regarding H.R. 1734, the *Surface Mining Control and Reclamation Act Amendments of 2021*. This legislation contains provisions that fall within the rule X jurisdiction of the Committee on the Budget. However, the committee agrees to waive formal consideration of the bill.

The Committee on the Budget takes this action with the mutual understanding that we do not waive any jurisdiction over the subject matter contained in this or similar legislation, and the committee will be appropriately consulted and involved as the bill or similar legislation moves forward so that we may address any remaining issues within our jurisdiction. The committee also reserves the right to seek appointment to any House-Senate conference convened on this legislation or similar legislation and requests your support if such a request is made.

The Committee on the Budget also thanks you for working with us to find an alternative solution that achieves the important policy goals advanced by H.R. 1734 without including mandatory sequestration exemption in the Balanced Budget and Emergency Deficit Control Act.

Finally, I would appreciate your response to this letter confirming this understanding, and I ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration of the bill. I look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,

A handwritten signature in black ink, appearing to read "John Yarmuth".

John Yarmuth  
Chairman

cc: The Honorable Jason Smith, Ranking Member, Committee on the Budget  
The Honorable Bruce Westerman, Ranking Member, Committee on Natural Resources  
Jason Smith, Parliamentarian



RAÚL M. GRIJALVA OF ARIZONA  
CHAIRMAN

DAVID WATKINS  
STAFF DIRECTOR

BRUCE WESTERMAN OF ARKANSAS  
RANKING REPUBLICAN

VIVIAN MOEGLEIN  
REPUBLICAN STAFF DIRECTOR

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

June 16, 2022

The Honorable John Yarmuth  
Chair  
Committee on the Budget  
U.S. House of Representatives  
204-E Canon House Office Building  
Washington, DC 20515

Dear Chair Yarmuth:

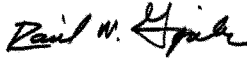
I write to you concerning H.R. 1734, the *Surface Mining Control and Reclamation Act Amendments of 2021*.

I appreciate your willingness to work cooperatively on this legislation. I recognize that the bill contains provisions that fall within the jurisdiction of the Committee on Budget. I acknowledge that your Committee will not formally consider H.R. 1734 and agree that the inaction of your Committee with respect to the bill does not waive any future jurisdictional claim over the matters contained in the bill that fall within your Committee's Rule X jurisdiction.

We were pleased to work with you on solutions to the bill's budgetary language and thank you for your collaboration. Additionally, the Committee on Natural Resources confirms our mutual understanding that the Committee on the Budget will be appropriately consulted and involved as the bill or similar legislation moves forward so that you may address any remaining issues within your jurisdiction. I am pleased to support your request to name members of the Committee on the Budget to any conference committee to consider such provisions.

I will ensure that our exchange of letters is included in the *Congressional Record* during floor consideration of the bill. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you as this measure moves through the legislative process.

Sincerely,



Raúl M. Grijalva  
Chair  
House Natural Resources Committee

Cc: The Honorable Jason Smith, Ranking Member, Committee on the Budget  
The Honorable Bruce Westerman, Ranking Member, Committee on Natural Resources  
The Honorable Jason Smith, Parliamentarian

## DISSENTING VIEWS

H.R. 1734 (Cartwright-Thompson) reauthorizes the fee to fund the abandoned mine lands (AML) program at the level of 28 cents per ton of coal produced in surface mines, 12 cents per ton of coal produced in underground mines and 8 cents per ton of lignite coal produced for fifteen years. At the time this bill was considered in Committee, the fee had been reauthorized seven times since it was established in 1977 and had been lowered several times, as well. The AML Fund is supported by fees paid by coal operators on each ton of coal produced. These funds are then reallocated to states and tribes based on a complex distribution formula, enabling them to operate their respective programs and reclaim abandoned mines.<sup>1</sup> Due to historic coal mining trends, most of these sites exist in the Eastern United States, but many abandoned mines remain in Western states, as well. If the fee had not been reauthorized through the Infrastructure Investment and Jobs Act (IIJA) in November 2021, the remaining unappropriated balance in the AML Fund would have been distributed every fiscal year until depleted after the expiration of the fee on September 30, 2021.<sup>2</sup>

Presently, 24 states, known as Primacy States, regulate surface mining operations within their State, manage their own AML programs, and receive disbursements from the AML Fund.<sup>3</sup> Eleven states and fourteen Indian tribes are classified as non-Primacy.<sup>4</sup> Primacy States are classified as either “certified” states, which have certified that they have reclaimed all abandoned coal mines within their borders, or “uncertified” states, which have remaining sites to reclaim. However, not all existing AML sites are catalogued. Low priority or previously unknown sites may become priorities as new residential and commercial areas are developed nearby, or as mines’ conditions continue to deteriorate. For this reason, certified states often utilize their AML funds to clean up newly identified abandoned coal mines. Additionally, many abandoned mine projects include the unique complication of acid mine drainage (AMD), requiring ongoing mitigation. As a result, many state AML programs must conduct water treatment projects at AML sites, which must be continually maintained to prevent future contamination.

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<sup>1</sup>U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. “Grants and Funding Opportunities.” <https://www.osmre.gov/resources/grants-resources>.

<sup>2</sup>U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. “Reclaiming Abandoned Mine Lands.” <https://www.osmre.gov/programs/reclaiming-abandoned-mine-lands#:~:text=The%20OSMRE%20Abandoned%20Mine%20Land,can%20find%20a%20new%20purpose>.

<sup>3</sup>U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. “Oversight of Active Surface Coal Mining.” <https://www.osmre.gov/programs/regulating-active-coal-mines/oversight>.

<sup>4</sup>U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. “Non-Primacy States and Tribes.” <https://www.osmre.gov/programs/AMLIS/nonPrimacyST.shtm>.

As of September 30, 2020 the AML Fund has collected a total of \$11.674 billion through the reclamation fee, including interest.<sup>5</sup> Approximately \$9.461 billion has been distributed from the AML Fund for the reclamation of abandoned mine lands, the administration of state and Tribal grants, and distributions to United Mine Workers of America retiree healthcare and pension plans.<sup>6</sup> For FY2022, \$144.378 million has been allocated for eligible states and tribes through the AML grant program, with the largest amounts going to Pennsylvania (about \$26.464 million) and Wyoming (around \$30.416 million).<sup>7</sup> Approximately \$2.213 billion in the AML Fund remains unappropriated.<sup>8</sup>

While there is continuing need for AML cleanup, our nation must balance our remediation goals with the ongoing productivity of the domestic coal industry. The modern coal industry was not responsible for these abandoned mine sites, and yet has been funding their cleanup for over 40 years. Further, coal production has decreased 39 percent since the AML fee was last reauthorized in 2006. The energy mix in the United States has changed over time, and if the reclamation work completed under the AML program is to continue, coal operators must be able to conduct their businesses in an economic, sustainable manner.

I was pleased that Congress came to an agreement to lower the AML fee by 20 percent for each ton of coal produced when the fee was ultimately reauthorized in the IIJA, rather than authorizing the higher fee level included in H.R. 1734. I was also pleased that the fee was reauthorized for a period of twelve years, rather than the fifteen-year authorization period included in H.R. 1734. Given ongoing negotiations in Congress at the time regarding lowering the AML fee and reducing the proposed length of authorization at the time H.R. 1734 was marked up, I opposed H.R. 1734.

BRUCE WESTERMAN.



<sup>5</sup> U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. "Reclaiming Abandoned Mine Lands." <https://www.osmre.gov/programs/reclaiming-abandoned-mine-lands#:~:text=The%20OSMRE%20Abandoned%20Mine%20Land,can%20find%20a%20new%20purpose.>

<sup>6</sup> U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. "Reclaiming Abandoned Mine Lands." <https://www.osmre.gov/programs/reclaiming-abandoned-mine-lands#:~:text=The%20OSMRE%20Abandoned%20Mine%20Land,can%20find%20a%20new%20purpose.>

<sup>7</sup> U.S. Department of the Interior. Press release. March 4, 2022. "Biden-Harris Administration Announces \$144 Million to Create Good-Paying Union Jobs, Revitalize Coal Communities." <https://www.doi.gov/pressreleases/biden-harris-administration-announces-144-million-create-good-paying-union-jobs.>

<sup>8</sup> U.S. Department of the Interior. Office of Surface Mining Reclamation and Enforcement. "Reclaiming Abandoned Mine Lands." <https://www.osmre.gov/programs/reclaiming-abandoned-mine-lands#:~:text=The%20OSMRE%20Abandoned%20Mine%20Land,can%20find%20a%20new%20purpose.>