

108TH CONGRESS
2D SESSION

S. 2086

To amend the Surface Mining Control and Reclamation Act of 1977 to
improve the reclamation of abandoned mines.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 12, 2004

Mr. THOMAS (for himself and Mr. ENZI) introduced the following bill; which
was read twice and referred to the Committee on Energy and Natural
Resources

A BILL

To amend the Surface Mining Control and Reclamation Act
of 1977 to improve the reclamation of abandoned mines.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Abandoned Mine Land
5 Reclamation Reform Act of 2004”.

6 **SEC. 2. ABANDONED MINE RECLAMATION FUND.**

7 (a) IN GENERAL.—Section 401(c) of the Surface
8 Mining Control and Reclamation Act of 1977 (30 U.S.C.
9 1231(c)) is amended—

10 (1) by striking paragraphs (2) and (6); and

1 (2) by redesignating paragraphs (3) through
 2 (5) and (7) through (13) as paragraphs (2) through
 3 (11), respectively.

4 (b) CONFORMING AMENDMENT.—Section 712(b) of
 5 the Surface Mining Control and Reclamation Act of 1977
 6 (30 U.S.C. 1302(b)) is amended by striking “section
 7 401(c)(11)” and inserting “section 401(c)(9)”.

8 **SEC. 3. RECLAMATION FEE.**

9 Section 402 of the Surface Mining Control and Rec-
 10 lamation Act of 1977 (30 U.S.C. 1232) is amended—

11 (1) in subsection (a)—

12 (A) by striking “35” and inserting “25”;

13 (B) by striking “15” and inserting “12”;

14 and

15 (C) by striking “10 cents” and inserting
 16 “8 cents”;

17 (2) in subsection (b), by striking “2004,” and
 18 all that follows through the end and inserting
 19 “2014.”; and

20 (3) in subsection (g)—

21 (A) in paragraph (1)(D), by striking “in
 22 any area under paragraph (2), (3), (4), or (5)”
 23 and inserting “under paragraph (5)”;

24 (B) by striking paragraph (2) and insert-
 25 ing the following:

1 “(2) In making grants under paragraph (1)(C)
 2 and (5), the Secretary shall ensure that States and
 3 Indian tribes comply strictly with the priorities spec-
 4 ified in section 403(a) until a certification is made
 5 under section 411(a).”;

6 (C) in paragraph (3)—

7 (i) in the matter preceding subpara-
 8 graph (A), by striking “paragraphs (2)
 9 and” and inserting “paragraph”;

10 (ii) in subparagraph (A), by striking
 11 “401(c)(11)” and inserting “401(c)(9)”;
 12 and

13 (iii) by adding at the end the fol-
 14 lowing:

15 “(E) For the purpose of paragraph (8).”;

16 (D) in paragraph (5)—

17 (i) in the first sentence, by striking
 18 “The Secretary shall allocate 40” and in-
 19 serting “(A) The Secretary shall allocate
 20 60”;

21 (ii) in the last sentence, by striking
 22 “Funds allocated or expended by the Sec-
 23 retary under paragraphs (2), (3), or (4) of
 24 this subsection” and inserting “Funds

1 made available under paragraph (3) or
2 (4)”; and

3 (iii) by adding at the end the fol-
4 lowing:

5 “(B) Any amount that is reallocated and
6 available under section 411(h)(3) shall be in ad-
7 dition to amounts that are allocated under sub-
8 paragraph (A).”; and

9 (E) by striking paragraphs (6), (7), and
10 (8) and inserting the following:

11 “(6)(A) In this paragraph, the term ‘qualified
12 hydrologic unit’ means a hydrologic unit—

13 “(i) in which the water quality has been
14 significantly affected by acid mine drainage
15 from coal mining practices in a manner that ad-
16 versely affects biological resources; and

17 “(ii) that contains land and water that
18 is—

19 “(I) eligible under section 404 and ap-
20 propriate for the expenditure of moneys
21 from the fund for the purposes specified in
22 section 403(a); and

23 “(II) the subject of expenditures by
24 the State from the forfeiture of a bond
25 filed under section 509 or from any other

1 State source to abate and treat acid mine
2 drainage.

3 “(B) Any State with an approved abandoned
4 mine reclamation program under section 405 may
5 receive and retain, without regard to the 3-year limi-
6 tation referred to in paragraph (1)(D), up to 10 per-
7 cent of the total amount of the grants made annu-
8 ally to the State under paragraphs (1) and (5) if—

9 “(i) the amount retained is deposited in an
10 acid mine drainage abatement and treatment
11 fund established under State law; and

12 “(ii) the amount deposited under clause (i)
13 (together with all interest earned on the
14 amount) is expended by the State for the abate-
15 ment of the causes and the treatment of the ef-
16 fects of acid mine drainage in a comprehensive
17 manner within qualified hydrologic units af-
18 fected by coal mining practices.

19 “(7) In complying with the priorities specified
20 in section 403(a), any State or Indian tribe may ex-
21 pend amounts available in grants made annually to
22 the State or tribe under paragraphs (1) and (5) for
23 projects for the purpose specified in section
24 403(a)(3) prior to the completion of reclamation
25 projects under paragraphs (1) and (2) of section

1 403(a) only if the expenditure is made in conjunc-
 2 tion with the expenditure of funds for reclamation
 3 projects under paragraphs (1) and (2) of section
 4 403(a).

5 “(8) In making grants referred to in paragraph
 6 (1)(C), the Secretary, using amounts allocated to a
 7 State or Indian tribe under subparagraph (A) or (B)
 8 of paragraph (1), or as necessary amounts available
 9 to the Secretary under paragraph (3), shall ensure
 10 that total grant awards of not less than \$2,000,000
 11 are made annually to each State, including Ten-
 12 nessee, and each Indian tribe.”.

13 **SEC. 4. OBJECTIVES OF FUND.**

14 Section 403 of the Surface Mining Control and Rec-
 15 lamation Act of 1977 (30 U.S.C. 1233(a)) is amended—

16 (1) in subsection (a)—

17 (A) in paragraph (1), by striking “general
 18 welfare,”;

19 (B) in paragraph (2)—

20 (i) by striking “health, safety, and
 21 general welfare” and inserting “health and
 22 safety”; and

23 (ii) by inserting “and” after the semi-
 24 colon at the end; and

25 (C) by striking paragraphs (4) and (5);

1 (2) in subsection (b)—

2 (A) by striking the subsection heading and
 3 inserting “WATER SUPPLY RESTORATION.—”;
 4 and

5 (B) in paragraph (1), by striking “up to
 6 30 percent of the”; and

7 (3) in the second sentence of subsection (c), by
 8 inserting “, subject to the approval of the Sec-
 9 retary,” after “amendments”.

10 **SEC. 5. RECLAMATION OF RURAL LAND.**

11 Section 406 of the Surface Mining Control and Rec-
 12 lamation Act of 1977 (30 U.S.C. 1236) is amended—

13 (1) in subsection (h), by striking “Soil Con-
 14 servation Service” and inserting “Natural Resources
 15 Conservation Service”; and

16 (2) by adding at the end the following:

17 “(i) There are authorized to be appro-
 18 priated to the Secretary of Agriculture,
 19 from amounts in the Treasury other than
 20 amounts in the fund, such sums as are
 21 necessary to carry out this section.”.

22 **SEC. 6. LIENS.**

23 Section 408(a) of the Surface Mining Control and
 24 Reclamation Act of 1977 (30 U.S.C. 1238) is amended

1 in the last sentence by striking “who owned the surface
2 prior to May 2, 1977, and”.

3 **SEC. 7. CERTIFICATION.**

4 Section 411 of the Surface Mining Control and Rec-
5 lamation Act of 1977 (30 U.S.C. 1240a) is amended by
6 adding at the end the following:

7 “(h) STATE SHARE FOR CERTIFIED STATES AND IN-
8 DIAN TRIBES.—

9 “(1) DEFINITIONS.—In this subsection:

10 “(A) QUALIFIED STATE OR INDIAN
11 TRIBE.—The term ‘qualified State or Indian
12 tribe’ means a State or Indian tribe—

13 “(i) for which a certification is made
14 under subsection (a); and

15 “(ii) in which there is public domain
16 land available for leasing under the Min-
17 eral Leasing Act (30 U.S.C. 181 et seq.).

18 “(B) NON-QUALIFIED STATE OR INDIAN
19 TRIBE.—The term ‘non-qualified State or In-
20 dian tribe’ means a State or Indian tribe—

21 “(i) for which certification is made
22 under subsection (a); and

23 “(ii) in which there is no public do-
24 main land available for leasing under the

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

3 “(2) PAYMENTS TO QUALIFIED STATES AND IN-
4 DIAN TRIBES.—From amounts referred to in section
5 35(a) of the Mineral Leasing Act (30 U.S.C. 191(a))
6 that are paid into the Treasury after the date of the
7 enactment of this subsection and that are not paid
8 to States under section 35 of that Act or reserved
9 as part of the reclamation fund under that section,
10 the Secretary of the Interior shall pay to each quali-
11 fied State and Indian tribe, on a proportional basis,
12 an amount equal to the sum of the aggregate unap-
13 propriated amount allocated to the qualified State
14 and Indian tribe under section 402(g)(1)(A).

15 “(3) PAYMENTS TO NON-QUALIFIED STATES
16 AND INDIAN TRIBES.—

17 “(A) IN GENERAL.—Not later than De-
18 cember 31, 2004, in addition to any other funds
19 provided under this Act, the Secretary of the
20 Interior shall use amounts described in section
21 8(a) of the Abandoned Mine Land Reclamation
22 Reform Act of 2004 to pay an amount to any
23 non-qualified State or Indian tribe.

1 “(B) PROPORTIONAL AMOUNT.—The pay-
2 ment to a non-qualified State or Indian tribe
3 under subparagraph (A) shall be—

4 “(i) proportional to the sum of the ag-
5 gregate unappropriated amount allocated
6 to the State or Indian tribe under section
7 402(g)(1)(B); and

8 “(ii) in lieu of payment of the aggre-
9 gate allocated amount.

10 “(C) TOTAL AMOUNT.—The total amount
11 of payments made under this paragraph shall
12 not exceed \$65,000,000.

13 “(4) ADMINISTRATION.—Payments to States
14 and Indian tribes under this subsection shall be
15 made, without regard to any limitation in section
16 401(d), in the same manner as if the payments were
17 made under, and concurrently with payments under,
18 section 35 of the Mineral Leasing Act (30 U.S.C.
19 191).

20 “(5) REALLOCATION.—The amount allocated to
21 any State or Indian tribe under section 402(g)(1)(A)
22 that is paid to the qualified State or Indian tribe as
23 a result of a payment under paragraph (2) shall be
24 reallocated and available for grants under section
25 402(g)(5).”.

1 **SEC. 8. IMPLEMENTATION.**

2 (a) **TRANSITION RULES.—**

3 (1) **AVAILABILITY OF ALLOCATED AMOUNTS.—**

4 Amounts allocated under section 402(g)(2) of the
5 Surface Mining Control and Reclamation Act of
6 1977 (30 U.S.C. 1232(g)(2)) (excluding interest) be-
7 fore the date of enactment of this Act for the pro-
8 gram under section 406 of that Act (30 U.S.C.
9 1236), but not appropriated before that date, shall
10 be available for fiscal year 2005 and thereafter for
11 the transfers referred to in paragraphs (2) and (3)
12 of section 411(h) of that Act (30 U.S.C. 1240a(h))
13 (as amended by section 7), in the same manner as
14 are other amounts available for the transfers.

15 (2) **INTEREST.—**Notwithstanding any other
16 provision of law, interest credited to the fund estab-
17 lished by section 401 of the Surface Mining Control
18 and Reclamation Act of 1977 (30 U.S.C. 1231) that
19 are not transferred to the Combined Benefit Fund
20 referred to in section 402(h) of that Act (30 U.S.C.
21 1232(h)), before the date of enactment of this Act
22 shall be available for fiscal year 2006 and thereafter
23 for the transfers referred to in paragraphs (2) and
24 (3) of section 402(h) of that Act (30 U.S.C.
25 1232(h)), in the same manner as are other amounts
26 available for the transfers.

1 (b) INVENTORY.—

2 (1) IN GENERAL.—Not later than 1 year after
3 the date of enactment of this Act, the Secretary of
4 the Interior shall complete a review of all additions
5 made, pursuant to amendments offered by States
6 and Indians tribes after December 31, 1998, to the
7 inventory referred to in section 403(c) of the Surface
8 Mining Control and Reclamation Act of 1977 (30
9 U.S.C. 1233(c)) to ensure that the additions—

10 (A) reflect eligible land and water under
11 section 404 of that Act (30 U.S.C. 1234) that
12 meet the priorities specified in paragraphs (1)
13 and (2) of section 403(a) of that Act (30
14 U.S.C. 1233(a)); and

15 (B) are correctly identified pursuant to the
16 priorities.

17 (2) REMOVAL FROM INVENTORY.—Any land or
18 water that was included in the inventory pursuant to
19 the general welfare standard specified in section
20 403(a) of that Act (30 U.S.C. 1233(a)) before the
21 date of enactment of this Act that is determined in
22 the review to no longer meet the criteria specified in
23 paragraphs (1) and (2) of section 403(a) of that Act
24 (as amended by section 4(1)), shall be removed from
25 the inventory.

1 (c) CLARIFICATION.—Section 528(2) of the Surface
2 Mining Control and Reclamation Act of 1977 (30 U.S.C.
3 1278(2)) is amended by inserting after “government-fi-
4 nanced” the following: “(not including financing with
5 funds made available under title IV)”.

6 (d) REMINING.—

7 (1) EXTENSION OF AUTHORITY.—Section
8 510(e) of the Surface Mining Control and Reclama-
9 tion Act of 1977 (30 U.S.C. 1260(e)) is amended in
10 the last sentence by striking “2004” and inserting
11 “2014”.

12 (2) SAVINGS CLAUSE.—Except as provided in
13 paragraph (1), nothing in this section modifies any
14 provision of law relating to the remining of coal.

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