

117TH CONGRESS
1ST SESSION

H. R. 2462

To amend the Surface Mining Control and Reclamation Act of 1977 to make modifications to the Abandoned Mine Reclamation Fund, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 2021

Ms. CHENEY (for herself, Mr. JOHNSON of Ohio, and Mrs. MILLER of West Virginia) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to make modifications to the Abandoned Mine Reclamation Fund, and for other purposes.

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 Fee Reauthorization Act of 2021”.

1 **SEC. 2. AMOUNTS DISTRIBUTED FROM ABANDONED MINE**
2 **RECLAMATION FUND.**

3 Section 401(f)(2) of the Surface Mining Control and
4 Reclamation Act of 1977 (30 U.S.C. 1231(f)(2)) is
5 amended—

6 (1) in subparagraph (A)—

7 (A) in the subparagraph heading, by strik-
8 ing “2022” and inserting “2037”; and

9 (B) in the matter preceding clause (i), by
10 striking “2022” and inserting “2037”; and

11 (2) in subparagraph (B)—

12 (A) in the subparagraph heading, by strik-
13 ing “2023” and inserting “2038”;

14 (B) by striking “2023” and inserting
15 “2038”; and

16 (C) by striking “2022” and inserting
17 “2037”.

18 **SEC. 3. RECLAMATION FEE.**

19 (a) AMOUNT.—Section 402(a) of the Surface Mining
20 Control and Reclamation Act of 1977 (30 U.S.C. 1232(a))
21 is amended—

22 (1) by striking “28 cents” and inserting “16.8
23 cents”;

24 (2) by striking “12 cents” and inserting “7.2
25 cents”; and

1 (3) by striking “8 cents” and inserting “4.8
2 cents”.

3 (b) DURATION.—Section 402(b) of the Surface Min-
4 ing Control and Reclamation Act of 1977 (30 U.S.C.
5 1232(b)) is amended by striking “September 30, 2021”
6 and inserting “September 30, 2028”.

7 **SEC. 4. APPLICABILITY OF CERTAIN TRANSFER REQUIRE-**
8 **MENT TO PAYMENTS TO STATES AND INDIAN**
9 **TRIBES.**

10 Section 402(i)(3) of the Surface Mining Control and
11 Reclamation Act of 1977 (30 U.S.C. 1232(i)(3)) is
12 amended by adding at the end the following:

13 “(C) APPLICATION.—Subparagraph (B)
14 shall not apply to transfers to the Secretary of
15 the Interior for distribution to States and In-
16 dian tribes under paragraph (2).”.

17 **SEC. 5. STATE MEMORANDA OF UNDERSTANDING FOR RE-**
18 **MEDIATION OF MINE DRAINAGE; COMMUNITY**
19 **RECLAIMER PARTNERSHIPS.**

20 (a) STATE MEMORANDA OF UNDERSTANDING FOR
21 CERTAIN REMEDIATION OF MINE DRAINAGE.—Section
22 405 of the Surface Mining Control and Reclamation Act
23 of 1977 (30 U.S.C. 1235) is amended by adding at the
24 end the following:

1 “(m) STATE MEMORANDA OF UNDERSTANDING FOR
2 REMEDIATION OF MINE DRAINAGE.—

3 “(1) AUTHORIZATION.—

4 “(A) IN GENERAL.—Subject to the ap-
5 proval of the Secretary and the Administrator
6 of the Environmental Protection Agency (re-
7 ferred to in this subsection as the ‘Adminis-
8 trator’) under paragraph (4), a State with an
9 approved State Reclamation Plan may enter
10 into a memorandum of understanding with a
11 relevant State or Federal agency to remediate
12 lands and water eligible for reclamation or
13 drainage abatement expenditures under this
14 title.

15 “(B) UPDATES.—A memorandum of un-
16 derstanding entered into pursuant to subpara-
17 graph (A) may be updated as necessary and re-
18 submitted for approval under paragraph (4).

19 “(2) MEMORANDA OF UNDERSTANDING RE-
20 QUIREMENTS.—A memorandum of understanding
21 entered into pursuant to paragraph (1)(A) shall es-
22 tablish a strategy to address water pollution result-
23 ing from mine drainage lands and waters eligible for
24 reclamation or drainage abatement expenditures

1 under this title. Such strategy shall include specific
2 procedures for—

3 “(A) ensuring that activities carried out to
4 address mine drainage will result in improved
5 water quality;

6 “(B) monitoring, sampling, and reporting
7 of collected information as necessary to achieve
8 the condition required under clause (i);

9 “(C) operating and maintaining treatment
10 systems as necessary to achieve the condition
11 required under clause (i); and

12 “(D) such other matters as the parties to
13 such memorandum of understanding determine
14 appropriate.

15 “(3) PUBLIC REVIEW AND COMMENT.—

16 “(A) IN GENERAL.—Before submitting a
17 memorandum of understanding to the Secretary
18 and the Administrator for approval in accord-
19 ance with paragraph (4), a State shall—

20 “(i) invite interested members of the
21 public to comment on the proposed memo-
22 randum of understanding; and

23 “(ii) hold not less than 1 public meet-
24 ing concerning the memorandum of under-
25 standing in a location reasonably accessible

1 to persons who may be affected by imple-
2 mentation of the memorandum of under-
3 standing.

4 “(B) NOTICE OF MEETING.—Not later
5 than 15 days before the date of a meeting
6 under subparagraph (A)(ii) the State shall pub-
7 lish notice of the meeting in a local newspaper
8 of general circulation, on the internet, and by
9 any other means the Secretary and Adminis-
10 trator determine appropriate.

11 “(4) SUBMISSION AND APPROVAL.—

12 “(A) IN GENERAL.—Before entering into a
13 memorandum of understanding pursuant to
14 paragraph (1)(A), a State shall submit the
15 memorandum of understanding to the Secretary
16 and the Administrator for approval.

17 “(B) DEADLINE.—Not later than 120 days
18 after the date on which a State submits the
19 memorandum of understanding for approval
20 under subparagraph (A), the Secretary and the
21 Administrator shall approve or disapprove the
22 memorandum of understanding.

23 “(C) REQUIREMENT.—The Secretary and
24 the Administrator shall approve a memorandum
25 of understanding under this paragraph if the

1 Secretary and Administrator find that the
2 memorandum of understanding will facilitate
3 carrying out additional activities to improve
4 water quality under the approved State Rec-
5 lamation Plan of the State.

6 “(5) TREATMENT AS PART OF STATE PLAN.—
7 A memorandum of understanding that is approved
8 by the Secretary and the Administrator under this
9 subsection shall be considered to be part of the ap-
10 proved State Reclamation Plan of the State.”.

11 (b) COMMUNITY RECLAIMER PARTNERSHIPS.—Sec-
12 tion 405 of the Surface Mining Control and Reclamation
13 Act of 1977 (30 U.S.C. 1235) is further amended by add-
14 ing at the end the following:

15 “(n) COMMUNITY RECLAIMER PARTNERSHIPS.—

16 “(1) DEFINITION OF COMMUNITY RE-
17 CLAIMER.—In this subsection, the term ‘community
18 reclaimer’ means any person that—

19 “(A) seeks to voluntarily assist a State
20 with a reclamation project under this section;

21 “(B) did not participate in any way in—

22 “(i) the creation of site conditions at
23 the project site; or

24 “(ii) activities that caused any land or
25 waters at the project site to become eligible

1 for reclamation or drainage abatement ex-
2 penditures under section 404;

3 “(C) is not a past or current owner or op-
4 erator of any site with ongoing reclamation obli-
5 gations; and

6 “(D) is not subject to any outstanding vio-
7 lations listed pursuant to section 510(c).

8 “(2) AUTHORIZATION OF COMMUNITY RE-
9 CLAIMER PROJECTS.—The Secretary may authorize
10 a community reclaimer to carry out a reclamation
11 project under this section for which a request for ap-
12 proval submitted by the State under paragraph (3)
13 has been approved by the Secretary in accordance
14 with paragraph (4).

15 “(3) RECLAMATION PROJECT SUBMISSION.—

16 “(A) IN GENERAL.—A State may submit
17 to the Secretary a request to authorize a com-
18 munity reclaimer to carry out a reclamation
19 project under this section in the State.

20 “(B) REQUIREMENTS.—A request sub-
21 mitted under subparagraph (A) shall include—

22 “(i) a description of the reclamation
23 project, including any engineering plans
24 approved by a registered qualified profes-
25 sional engineer;

1 “(ii) a description of each reclamation
2 project site, including, if relevant, the na-
3 ture and extent of pollution resulting from
4 mine drainage from such site;

5 “(iii) identification of the past and
6 current owners and operators of each rec-
7 lamation project site;

8 “(iv) an agreement between the State
9 and the community reclaimer to carry out
10 the reclamation project;

11 “(v) a determination by the State that
12 the reclamation project will facilitate the
13 activities of the State Reclamation Plan;

14 “(vi) sufficient information to deter-
15 mine whether the community reclaimer has
16 the technical capability and expertise to
17 successfully carry out the reclamation
18 project;

19 “(vii) a cost estimate for the reclama-
20 tion project;

21 “(viii) evidence that the community
22 reclaimer has sufficient financial resources
23 to ensure the completion of the reclamation
24 project (including any operation or mainte-
25 nance costs);

1 “(ix) a schedule for completion of the
2 reclamation project;

3 “(x) an agreement between the com-
4 munity reclaimer and the owner of the af-
5 fected site governing access to such site;

6 “(xi) sufficient information to dem-
7 onstrate that the community reclaimer
8 meets the requirements of paragraph (1);

9 “(xii) a contingency plan designed to
10 be used in response to unplanned adverse
11 events including emergency actions, re-
12 sponse, and notifications; and

13 “(xiii) an agreement by the State
14 that, before the initiation of the reclama-
15 tion project, the State shall—

16 “(I) provide notice to adjacent
17 and downstream landowners and the
18 public; and

19 “(II) hold a public meeting near
20 the affected site.

21 “(4) PROJECT APPROVAL.—Not later than 120
22 days after the date on which the Secretary receives
23 a request submitted under paragraph (3)(A), the
24 Secretary shall approve such request if the Secretary
25 determines that—

1 “(A) the request complies with the submis-
2 sion requirements of paragraph (3)(B);

3 “(B) the reclamation project—

4 “(i) will be carried out by a commu-
5 nity reclaimer or an approved for such pur-
6 pose by an appropriate State agency sub-
7 contractor of the community reclaimer;

8 “(ii) will be carried out on lands or
9 waters inventoried under section 403(c);

10 “(iii) in the case of a reclamation
11 project that remediates mine drainage, is
12 consistent with an approved State memo-
13 randum of understanding under subsection
14 (m); and

15 “(iv) does not require a permit under
16 title V; and

17 “(C) the State that submitted the re-
18 quest—

19 “(i) has entered into an agreement
20 with the community reclaimer that, except
21 with respect to costs or damages resulting
22 from gross negligence or intentional mis-
23 conduct, such State shall assume responsi-
24 bility for any costs or damages resulting
25 from the conduct of the community re-

1 claimer in carrying out the reclamation
2 project;

3 “(ii) has the necessary legal authority
4 to carry out the reclamation project;

5 “(iii) will obtain all authorizations,
6 permits, licenses, and other approvals re-
7 quired by law to ensure completion of the
8 reclamation project; and

9 “(iv) has sufficient financial resources
10 to ensure completion of the reclamation
11 project, including any necessary operation
12 and maintenance costs (including costs as-
13 sociated with emergency actions covered by
14 a contingency plan under paragraph
15 (3)(B)(xii)).”.

16 (c) CLARIFYING STATE LIABILITY FOR MINE DRAIN-
17 AGE PROJECTS.—Section 413(d) of the Surface Mining
18 Control and Reclamation Act of 1977 (30 U.S.C. 1242(d))
19 is amended, in the second sentence, by striking “Act.” and
20 inserting “Act, unless that control or treatment will be
21 carried out in accordance with a State memorandum of
22 understanding approved under section 405(m).”.

23 (d) CONFORMING AMENDMENTS.—Section 405(f) of
24 the Surface Mining Control and Reclamation Act of 1977
25 (30 U.S.C. 1235(f)) is amended—

1 (1) in paragraph (6), by striking “and” after
2 the semicolon;

3 (2) in paragraph (7), by striking the period at
4 the end and inserting “; and”; and

5 (3) by adding at the end the following:

6 “(8) a list of reclamation projects with respect
7 to which such State has submitted a request under
8 subsection (n)(3).”.

9 **SEC. 6. ADDITIONAL GRANTS FROM ABANDONED MINE**
10 **RECLAMATION FUND.**

11 (a) **ADDITIONAL GRANTS FOR PRIORITY 1 AND PRI-**
12 **ORITY 2 SITES.—**

13 (1) **IN GENERAL.—**Title IV of the Surface Min-
14 ing Control and Reclamation Act of 1977 is amend-
15 ed by inserting after section 415 (30 U.S.C. 1244)
16 the following:

17 **“SEC. 416. ADDITIONAL GRANTS FOR PRIORITY 1 AND PRI-**
18 **ORITY 2 SITES.**

19 “(a) **DEFINITION OF ELIGIBLE STATE OR INDIAN**
20 **TRIBE.—**In this section, the term ‘eligible State or Indian
21 tribe’ means a State or Indian tribe—

22 “(1) with an approved State Reclamation Plan
23 under section 405; and

24 “(2) that is not certified under section 411(a).

1 “(b) ADDITIONAL GRANTS.—Of amounts in the fund
2 that are not otherwise appropriated, \$140,000,000 shall
3 be made available to the Secretary, for each of fiscal years
4 2022 through 2037, to make grants to eligible States and
5 Indian tribes to carry out reclamation projects to achieve
6 the priorities described in paragraphs (1) and (2) of sec-
7 tion 403(a).

8 “(c) REQUIREMENT.—In making grants under sub-
9 section (b) to eligible States and Indian tribes, the Sec-
10 retary shall allocate the grants to those eligible States and
11 Indian tribes based on the amount of coal historically pro-
12 duced in the State or from the Indian lands concerned
13 before August 3, 1977, according to the formula described
14 in section 402(g)(5).”.

15 (2) CONFORMING AMENDMENT.—The table of
16 contents of the Surface Mining Control and Rec-
17 lamation Act of 1977 (30 U.S.C. 1201) is amended
18 by adding after the item relating to section 414 the
19 following:

“Sec. 415. Remining incentives.

“Sec. 416. Additional grants for priority 1 and priority 2 sites.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 401 of the Surface Mining Control
22 and Reclamation Act of 1977 (30 U.S.C. 1231) is
23 further amended—

24 (A) in subsection (c)—

1 (i) in paragraph (10), by striking
2 “and” at the end;

3 (ii) by redesignating paragraph (11)
4 as paragraph (12); and

5 (iii) by inserting after paragraph (10)
6 the following:

7 “(11) to make additional grants under section
8 416; and”; and

9 (B) in subsection (d)(3), by inserting “and
10 section 416” before the period at the end; and

11 (2) Section 402(g) of the Surface Mining Con-
12 trol and Reclamation Act of 1977 (30 U.S.C.
13 1232(g)) is amended—

14 (A) in paragraph (1), in the matter pre-
15 ceding subparagraph (A), by inserting “and sec-
16 tion 416” after “subsection (h)”; and

17 (B) in paragraph (3), by adding at the end
18 the following:

19 “(F) For the purpose of section 416.”.

20 **SEC. 7. INCREASED REVENUE SHARING WITH COAL-PRO-**
21 **DUCING STATES.**

22 Section 35(a) of the Mineral Leasing Act (30 U.S.C.
23 191(a)) is amended, in the first sentence, by striking “50
24 per centum thereof” and inserting “50 percent of the

1 amount received, or in the case of any amount received
2 from coal leases, 60 percent of the amount received.”.

3 **SEC. 8. SEQUESTRATION PROVISIONS.**

4 (a) EXEMPTION OF PAYMENTS TO STATES AND IN-
5 DIAN TRIBES FROM THE ABANDONED MINE RECLAMA-
6 TION FUND FROM SEQUESTRATION.—

7 (1) IN GENERAL.—Section 255(g)(1)(A) of the
8 Balanced Budget and Emergency Deficit Control
9 Act of 1985 (2 U.S.C. 905(g)(1)(A)) is amended by
10 inserting after “Payments to Social Security Trust
11 Funds (28–0404–0–1–651).” the following:

12 “Payments to States and Indian Tribes
13 from the Abandoned Mine Reclamation
14 Fund and payments to States and Indian
15 Tribes under section 402(i)(2) of the Sur-
16 face Mining Control and Reclamation Act
17 of 1977 (30 U.S.C. 1232(i)(2)) (12–50q5–
18 0–2–999).”.

19 (2) APPLICABILITY.—The amendment made by
20 paragraph (1) shall apply to any sequestration order
21 issued under the Balanced Budget and Emergency
22 Deficit Control Act of 1985 (2 U.S.C. 900 et seq.)
23 on or after the date of enactment of this Act.

24 (b) PAYMENT FROM WITHHELD AMOUNTS.—

1 (1) IN GENERAL.—From amounts withheld pur-
2 suant to section 251A of the Balanced Budget and
3 Emergency Deficit Control Act of 1985 (2 U.S.C.
4 901a) from payments to States and Indian tribes
5 under section 402(g) of the Surface Mining Control
6 and Reclamation Act of 1977 (30 U.S.C. 1232(g))
7 during fiscal years 2013 through 2020, the Sec-
8 retary of the Interior shall distribute for fiscal year
9 2021 to each State and each Indian tribe from
10 which the amounts were withheld an amount equal
11 to the total amount so withheld from the State or
12 Indian tribe.

13 (2) USE.—Amounts distributed under para-
14 graph (1) may be used by a State or Indian tribe
15 only for the purposes authorized by section 402(g)
16 of the Surface Mining Control and Reclamation Act
17 of 1977 (30 U.S.C. 1232(g)).

18 **SEC. 9. DEPARTMENT OF THE INTERIOR STUDY AND RE-**
19 **PORT ON TECHNOLOGICAL INNOVATIONS**
20 **FOR USE IN THE ABANDONED MINE LAND**
21 **RECLAMATION PROGRAM.**

22 (a) IN GENERAL.—Not later than 180 days after the
23 date of enactment of this Act, the Secretary of the Interior
24 shall complete a study of technologies for use in carrying
25 out abandoned mine reclamation activities under title IV

1 of the Surface Mining Control and Reclamation Act of
2 1977 (30 U.S.C. 1231 et seq.) that would improve rec-
3 lamation and reduce costs of such reclamation, including
4 the application of technical innovations in the technology
5 development and transfer program of the Office of Surface
6 Mining Reclamation and Enforcement, including—

- 7 (1) geomorphic reclamation;
8 (2) drone technology; and
9 (3) other technologies that would—
10 (A) improve overall reclamation;
11 (B) reduce costs of reclamation; and
12 (C) improve safety.

13 (b) REPORT.—As soon as practicable after com-
14 pleting the study under subsection (a), the Secretary of
15 the Interior shall submit to the Committee on Energy and
16 Natural Resources of the Senate and the Committee on
17 Natural Resources of the House of Representatives a re-
18 port describing the results of the study that includes rec-
19 ommendations for areas of improvement identified under
20 the study.

21 **SEC. 10. DEPARTMENT OF THE INTERIOR STUDY AND RE-**
22 **PORT TO STRENGTHEN OVERSIGHT OF THE**
23 **ABANDONED MINE LAND RECLAMATION PRO-**
24 **GRAM.**

25 (a) STUDY AND REPORT.—

1 (1) IN GENERAL.—Not later than 180 days
2 after the date of enactment of this Act, the Sec-
3 retary of the Interior shall complete a study—

4 (A) to identify potential cost reductions in
5 abandoned mine reclamation activities carried
6 out under title IV of the Surface Mining Con-
7 trol and Reclamation Act of 1977 (30 U.S.C.
8 1231 et seq.); and

9 (B) to determine the ratio of overhead
10 spending in the administration of such activities
11 to spending on reclamation activities under
12 such title.

13 (2) REPORT.—As soon as practicable after com-
14 pleting the study under paragraph (1), the Secretary
15 shall submit to the Committee on Energy and Nat-
16 ural Resources of the Senate and the Committee on
17 Natural Resources of the House of Representatives
18 a report describing the results of the study that in-
19 cludes recommendations for areas of improvement
20 identified under the study.

21 (b) ANNUAL OFFICE OF SURFACE MINING RECLAMA-
22 TION AND ENFORCEMENT REPORT.—The Secretary shall
23 require the Director of the Office of Surface Mining Rec-
24 lamation and Enforcement to publish annual reports on
25 the efficacy of the Abandoned Mine Land Reclamation

1 Economic Development Pilot Program (also known as the
2 “AML Pilot”), including a detailed accounting of all
3 projects funded and completed using funding made avail-
4 able for such program under the heading “DEPART-
5 MENT OF THE INTERIOR — OFFICE OF SUR-
6 FACE MINING RECLAMATION — Abandoned mine
7 reclamation fund” in the division relating to appropria-
8 tions for the Departments of the Interior, Environment,
9 and related agencies in each of the following Acts:

10 (1) The Consolidated Appropriations Act, 2016
11 (Public Law 114–113; 129 Stat. 2536).

12 (2) The Consolidated Appropriations Act, 2017
13 (Public Law 115–31; 131 Stat. 446).

14 (3) The Consolidated Appropriations Act, 2018
15 (Public Law 115–141; 132 Stat 646).

16 (4) The Consolidated Appropriations Act, 2019
17 (Public Law 116–6; 133 Stat. 217).

18 (5) The Further Consolidated Appropriations
19 Act, 2020 (Public Law 116–94; 133 Stat. 2698).

20 (6) The Consolidated Appropriations Act, 2021
21 (Public Law 116–260).

22 (7) any future Act providing appropriations for
23 the Department of the Interior, Environment, and
24 related agencies.

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