

108TH CONGRESS  
2D SESSION

# H. R. 3796

To amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 11, 2004

Mrs. CUBIN (for herself and Mr. RAHALL) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to reauthorize and reform the Abandoned Mine Reclamation Program, 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  
5 Lands Reclamation Reform Act of 2004”.

6 **SEC. 2. AMENDMENTS TO SURFACE MINING ACT.**

7 (a) AMENDMENTS TO SECTION 401.—(1) Section  
8 401 of the Surface Mining Control and Reclamation Act  
9 of 1977 (30 U.S.C. 1231) is amended as follows:

1 (A) In subsection (c) by striking paragraphs (2)  
2 and (6) and redesignating paragraphs (3) through  
3 (13) in order as paragraphs (2) through (11).

4 (B) In subsection (e)—

5 (i) in the second sentence, by striking “the  
6 needs of such fund” and inserting “achieving  
7 the purposes of the transfers under section  
8 402(h)”; and

9 (ii) in the third sentence, by inserting be-  
10 fore the period the following: “for the purpose  
11 of the transfers under section 402(h).”.

12 (2) Section 712(b) of the Surface Mining Control and  
13 Reclamation Act of 1977 (30 U.S.C. 1302(b)) is amended  
14 by striking “section 401(c)(11)” and inserting “section  
15 401(c)(9)”.

16 (b) AMENDMENTS TO SECTION 402.—Section 402 of  
17 the Surface Mining Control and Reclamation Act of 1977  
18 (30 U.S.C. 1232) is amended as follows:

19 (1) In subsection (a)—

20 (A) by striking “35” and inserting “28”;

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

22 and

23 (C) by striking “10 cents” and inserting  
24 “8 cents”.

1           (2) In subsection (b) by striking “2004” and all  
2 that follows through the end of the sentence and in-  
3 sserting “2019.”.

4           (3) In subsection (g)(1)(D) by striking “in any  
5 area under paragraph (2), (3), (4), or (5)” and in-  
6 sserting “under paragraph (5)”.

7           (4) Subsection (g)(2) is amended to read as fol-  
8 lows:

9           “(2) In making the grants referred to in para-  
10 graph (1)(C) and the grants referred to in para-  
11 graph (5), the Secretary shall ensure strict compli-  
12 ance by the States and Indian tribes with the prior-  
13 ities set forth in section 403(a) until a certification  
14 is made under section 411(a).”.

15           (5) In subsection (g)(3)—

16           (A) in the matter preceding subparagraph  
17 (A) by striking “paragraphs (2) and” and in-  
18 sserting “paragraph”;

19           (B) in subparagraph (A) by striking  
20 “401(c)(11)” and inserting “401(c)(9)”; and

21           (C) by adding at the end the following:

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

23           (6) In subsection (g)(5)—

24           (A) by inserting “(A)” before the first sen-  
25 tence;

1 (B) in the first sentence by striking “40”  
2 and inserting “60”;

3 (C) in the last sentence by striking “Funds  
4 allocated or expended by the Secretary under  
5 paragraphs (2), (3), or (4),” and inserting  
6 “Funds made available under paragraph (3) or  
7 (4)”;

8 (D) by adding at the end the following:

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

12 (7) Subsection (g)(6) is amended to read as fol-  
13 lows:

14 “(6)(A) Any State with an approved abandoned mine  
15 reclamation program pursuant to section 405 may receive  
16 and retain, without regard to the 3-year limitation re-  
17 ferred to in paragraph (1)(D), up to 10 percent of the  
18 total of the grants made annually to such State under  
19 paragraphs (1) and (5) if such amounts are deposited into  
20 an acid mine drainage abatement and treatment fund es-  
21 tablished under State law, from which amounts (together  
22 with all interest earned on such amounts) are expended  
23 by the State for the abatement of the causes and the treat-  
24 ment of the effects of acid mine drainage in a comprehen-

1 sive manner within qualified hydrologic units affected by  
2 coal mining practices.

3 “(B) For the purposes of this paragraph, the term  
4 ‘qualified hydrologic unit’ means a hydrologic unit—

5 “(i) in which the water quality has been signifi-  
6 cantly affected by acid mine drainage from coal min-  
7 ing practices in a manner that adversely impacts bi-  
8 ological resources; and

9 “(ii) that contains lands and waters that are—

10 “(I) eligible pursuant to section 404 and  
11 include any of the priorities set forth in section  
12 403(a); and

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

17 (8) Subsection (g)(7) is amended to read as fol-  
18 lows:

19 “(7) In complying with the priorities set forth in sec-  
20 tion 403(a), any State or Indian tribe may use amounts  
21 available in grants made annually to such State or tribe  
22 under paragraphs (1) and (5) for the reclamation of eligi-  
23 ble lands and waters set forth in section 403(a)(3) prior  
24 to the completion of reclamation projects under para-  
25 graphs (1) and (2) of section 403(a) only if the expendi-

1 ture of funds for such reclamation is done in conjunction  
2 with the expenditure of funds for reclamation projects  
3 under paragraphs (1) and (2) of section 403(a).”.

4 (9) Subsection (g)(8) is amended to read as fol-  
5 lows:

6 “(8) In making the grants referred to in paragraph  
7 (1)(C), the Secretary, using amounts allocated to a State  
8 or Indian tribe under subparagraphs (A) or (B) of para-  
9 graph (1) or as necessary amounts available to the Sec-  
10 retary under paragraph (3), shall assure total grant  
11 awards of not less than \$2,000,000 annually to each State  
12 and each Indian tribe. Notwithstanding any other provi-  
13 sion of law, this paragraph applies to the State of Ten-  
14 nessee.”.

15 (10) Subsection (h) is amended—

16 (A) in paragraph (2) by striking “sum  
17 of—” and all that follows through  
18 “\$70,000,000.” and inserting “sum of the  
19 amount of interest that the Secretary estimates  
20 will be earned and paid to the Combined Fund  
21 during the fiscal year. The amount transferred  
22 shall be used, notwithstanding any other provi-  
23 sion of law, to pay the amount of any deficit in  
24 net assets in the Combined Fund.”; and

25 (B) by striking paragraphs (3) and (4).

1 (c) AMENDMENTS TO SECTION 403.—Section 403 of  
2 the Surface Mining Control and Reclamation Act of 1977  
3 (30 U.S.C. 1233(a)) is amended as follows:

4 (1) In subsection (a)—

5 (A) in paragraph (1) by striking “general  
6 welfare,”;

7 (B) in paragraph (2) by striking “health,  
8 safety, and general welfare” and inserting  
9 “health and safety”, and inserting “and” after  
10 the semicolon at the end;

11 (C) in paragraph (3) by striking the semi-  
12 colon at the end and inserting a period; and

13 (D) by striking paragraphs (4) and (5).

14 (2) In subsection (b)—

15 (A) by striking the heading and inserting  
16 “Water Supply Restoration.—”; and

17 (B) in paragraph (1) by striking “up to 30  
18 percent of the”.

19 (3) In subsection (c) by inserting “, subject to  
20 the approval of the Secretary,” after “amendments”.

21 (d) AMENDMENT TO SECTION 406.—Section 406(h)  
22 of the Surface Mining Control and Reclamation Act of  
23 1977 (30 U.S.C. 1236(h)) is amended by striking “Soil  
24 Conservation Service” and inserting “Natural Resources  
25 Conservation Service”.

1 (e) FURTHER AMENDMENT TO SECTION 406.—Sec-  
2 tion 406 of the Surface Mining Control and Reclamation  
3 Act of 1977 (30 U.S.C. 1236) is amended by adding at  
4 the end the following:

5 “(i) There is authorized to be appropriated to the  
6 Secretary of Agriculture, from amounts in the Treasury  
7 other than amounts in the fund, such sums as may be  
8 necessary to carry out this section.”.

9 (f) AMENDMENT TO SECTION 408.—Section 408(a)  
10 of the Surface Mining Control and Reclamation Act of  
11 1977 (30 U.S.C. 1238) is amended by striking “who  
12 owned the surface prior to May 2, 1977, and”.

13 (g) AMENDMENTS TO SECTION 411.—Section 411 of  
14 the Surface Mining Control and Reclamation Act of 1977  
15 (30 U.S.C. 1240a) is amended as follows:

16 (1) In subsection (a) by inserting “(1)” before  
17 the first sentence, and by adding at the end the fol-  
18 lowing:

19 “(2) The Secretary may, on the Secretary’s own voli-  
20 tion, make the certification referred to in paragraph (1)  
21 on behalf of any State or Indian tribe referred to in para-  
22 graph (1) if on the basis of the inventory referred to in  
23 section 403(c) all reclamation projects relating to the pri-  
24 orities set forth in section 403(a) for eligible lands and  
25 water pursuant to section 404 in such State or tribe have

1 been completed. The Secretary shall only make such cer-  
2 tification after notice in the Federal Register and oppor-  
3 tunity for public comment.”.

4 (2) By adding at the end the following:

5 “(h) STATE SHARE FOR CERTAIN CERTIFIED  
6 STATES.—(1)(A) From moneys referred to in subsection  
7 (a) of section 35 of the Mineral Leasing Act (30 U.S.C.  
8 191(a)) that are paid into the Treasury after the date of  
9 the enactment of this subsection and that are not paid  
10 to States under section 35 of the Mineral Leasing Act or  
11 reserved as part of the reclamation fund under such sec-  
12 tion, the Secretary shall pay to each qualified State, on  
13 a proportional basis, an amount equal to the sum of the  
14 aggregate unappropriated amount allocated to such quali-  
15 fied State under section 402(g)(1)(A).

16 “(B) In this paragraph the term ‘qualified State’  
17 means a State for which a certification is made under sub-  
18 section (a) and in which there are public domain lands  
19 available for leasing under the Mineral Leasing Act (30  
20 U.S.C. 181 et seq.)

21 “(2) Payments to States under this subsection shall  
22 be made, without regard to any limitation in section  
23 401(d), in the same manner as if paid under section 35  
24 of the Mineral Leasing Act (30 U.S.C. 191) and concur-  
25 rently with payments to States under that section.

1       “(3) The amount allocated to any State under section  
2 402(g)(1)(A) that is paid to such State as a result of a  
3 payment under paragraph (1) of this subsection shall be  
4 reallocated and available for grants under section  
5 402(g)(5).”.

6       (h) EXTENSION OF LIMITATION ON APPLICATION OF  
7 PROHIBITION ON ISSUANCE OF PERMIT.—Section 510(e)  
8 of the Surface Mining Control and Reclamation Act of  
9 1977 (30 U.S.C. 1260(e)) is amended by striking “2004”  
10 and inserting “2019”.

11 **SEC. 3. PROVISIONS RELATING TO THE IMPLEMENTATION**  
12 **OF THIS TITLE.**

13       (a) TRANSITION RULES.—(1) Amounts allocated  
14 under section 402(g)(2) of the Surface Mining Control  
15 and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) (ex-  
16 cluding interest) prior to the date of enactment of this  
17 Act for the program set forth under section 406 of that  
18 Act (30 U.S.C. 1236), but not appropriated prior to such  
19 date, shall be available in fiscal year 2004 and thereafter  
20 for the transfers referred to in section 402(h) of such Act  
21 (30 U.S.C. 1232(h)), as amended by this Act, in the same  
22 manner as are other amounts available for such transfers.

23       (2) Notwithstanding any other provision of law, inter-  
24 est credited to the fund established by section 401 of the  
25 Surface Mining Control and Reclamation Act of 1977 (30

1 U.S.C. 1231) that is not transferred to the Combined  
2 Benefit Fund referred to in section 402(h) of such Act  
3 (30 U.S.C. 1232(h)), as amended by this Act, prior to the  
4 date of enactment of this Act shall be available in fiscal  
5 year 2004 and thereafter for the transfers referred to in  
6 section 402(h) of such Act (30 U.S.C. 1232(h)), as  
7 amended by this Act, in the same manner as are other  
8 amounts available for such transfers.

9 (b) INVENTORY.—Within one year after the date of  
10 enactment of this Act, the Secretary of the Interior shall  
11 complete a review of all additions made, pursuant to  
12 amendments offered by States and Indian tribes after De-  
13 cember 31, 1998, to the inventory referred to in section  
14 403(c) of the Surface Mining Control and Reclamation  
15 Act of 1977 (30 U.S.C. 1233(c)) to ensure that such addi-  
16 tions reflect eligible lands and waters pursuant to section  
17 404 of such Act (30 U.S.C. 1234) that meet the priorities  
18 set forth in paragraphs (1) and (2) of section 403(a) of  
19 such Act (30 U.S.C. 1233(a)(1) and (2)), and are cor-  
20 rectly identified pursuant to such priorities. Any lands or  
21 waters that were included in the inventory pursuant to the  
22 general welfare standard set forth in section 403(a) of  
23 such Act (30 U.S.C. 1233(a)) before the date of enact-  
24 ment of this Act that are determined in the review to no  
25 longer meet the criteria set forth in paragraphs (1) and

- 1 (2) of section 403(a) of such Act, as amended by this Act,
- 2 shall be removed from the inventory.

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