

109TH CONGRESS  
1ST SESSION

# H. R. 1600

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

APRIL 13, 2005

Mrs. CUBIN (for herself, Mr. RAHALL, Mr. SHIMKUS, Mr. COSTELLO, and Mr. NEY) 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 2005”.

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 “June 30,  
2           2005” and all that follows through the end of the  
3           sentence and inserting “September 30, 2020.”.

4           (3) In subsection (g)(1)(D) by striking “in any  
5           area under paragraph (2), (3), (4), or (5)” and in-  
6           serting “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                serting “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 (c) AMENDMENTS TO SECTION 403.—Section 403 of  
 16 the Surface Mining Control and Reclamation Act of 1977  
 17 (30 U.S.C. 1233(a)) is amended as follows:

18 (1) In subsection (a)—

19 (A) in paragraph (1) by striking “general  
 20 welfare,”;

21 (B) in paragraph (2) by striking “health,  
 22 safety, and general welfare” and inserting  
 23 “health and safety”, and inserting “and” after  
 24 the semicolon at the end;

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

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

4 (2) In subsection (b)—

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

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

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

11 (d) AMENDMENT TO SECTION 406.—Section 406(h)  
12 of the Surface Mining Control and Reclamation Act of  
13 1977 (30 U.S.C. 1236(h)) is amended by striking “Soil  
14 Conservation Service” and inserting “Natural Resources  
15 Conservation Service”.

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

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

24 (f) AMENDMENT TO SECTION 408.—Section 408(a)  
25 of the Surface Mining Control and Reclamation Act of

1 1977 (30 U.S.C. 1238) is amended by striking “who  
2 owned the surface prior to May 2, 1977, and”.

3 (g) AMENDMENTS TO SECTION 411.—Section 411 of  
4 the Surface Mining Control and Reclamation Act of 1977  
5 (30 U.S.C. 1240a) is amended as follows:

6 (1) In subsection (a) by inserting “(1)” before  
7 the first sentence, and by adding at the end the fol-  
8 lowing:

9 “(2) The Secretary may, on the Secretary’s own voli-  
10 tion, make the certification referred to in paragraph (1)  
11 on behalf of any State or Indian tribe referred to in para-  
12 graph (1) if on the basis of the inventory referred to in  
13 section 403(c) all reclamation projects relating to the pri-  
14 orities set forth in section 403(a) for eligible lands and  
15 water pursuant to section 404 in such State or tribe have  
16 been completed. The Secretary shall only make such cer-  
17 tification after notice in the Federal Register and oppor-  
18 tunity for public comment.”.

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

20 “(h) STATE SHARE FOR CERTAIN CERTIFIED  
21 STATES.—(1)(A) From moneys referred to in subsection  
22 (a) of section 35 of the Mineral Leasing Act (30 U.S.C.  
23 191(a)) that are paid into the Treasury after the date of  
24 the enactment of this subsection and that are not paid  
25 to States under section 35 of the Mineral Leasing Act or



1 reserved as part of the reclamation fund under such sec-  
2 tion, the Secretary shall pay to each qualified State, on  
3 a proportional basis, an amount equal to the sum of the  
4 aggregate unappropriated amount allocated to such quali-  
5 fied State under section 402(g)(1)(A).

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

11 “(2) Payments to States under this subsection shall  
12 be made, without regard to any limitation in section  
13 401(d), in the same manner as if paid under section 35  
14 of the Mineral Leasing Act (30 U.S.C. 191) and concur-  
15 rently with payments to States under that section.

16 “(3) The amount allocated to any State under section  
17 402(g)(1)(A) that is paid to such State as a result of a  
18 payment under paragraph (1) of this subsection shall be  
19 reallocated and available for grants under section  
20 402(g)(5).”.

21 (h) EXTENSION OF LIMITATION ON APPLICATION OF  
22 PROHIBITION ON ISSUANCE OF PERMIT.—Section 510(e)  
23 of the Surface Mining Control and Reclamation Act of  
24 1977 (30 U.S.C. 1260(e)) is amended by striking “2004”  
25 and inserting “2020”.

1 **SEC. 3. TRANSFERS OF INTEREST EARNED BY ABANDONED**  
2 **MINE RECLAMATION FUND.**

3 Section 402(h) of the Surface Mining Control and  
4 Reclamation Act of 1977 (30 U.S.C. 1232(h)) is amended  
5 to read as follows:

6 “(h) TRANSFERS OF INTEREST EARNED BY FUND.—

7 “(1) IN GENERAL.—The Secretary shall, as of  
8 the beginning of each fiscal year beginning on or  
9 after October 1, 2005, and before making any allo-  
10 cation with respect to the fiscal year under sub-  
11 section (g), use an amount not to exceed the amount  
12 of interest that the Secretary estimates will be  
13 earned and paid to the fund during the fiscal year  
14 to make the transfers described in paragraph (2).

15 “(2) TRANSFERS DESCRIBED.—The transfers  
16 referred to in paragraph (1) are the following:

17 “(A) UNITED MINE WORKERS OF AMERICA  
18 COMBINED BENEFIT FUND.—A transfer to the  
19 United Mine Workers of America Combined  
20 Benefit Fund, in an amount equal to the dif-  
21 ference between—

22 “(i) the amount that the trustees of  
23 the Combined Benefit Fund estimate will  
24 be expended from the premium accounts  
25 maintained by the Combined Benefit Fund

1 for the fiscal year of the fund in which the  
2 transfer is made; minus

3 “(ii) the amount the trustees of the  
4 Combined Benefit Fund estimate the Com-  
5 bined Benefit Fund will receive during  
6 such fiscal year in required health benefit  
7 premiums.

8 “(B) UNITED MINE WORKERS OF AMERICA  
9 1992 BENEFIT PLAN.—A transfer to the United  
10 Mine Workers of America 1992 Benefit Plan, in  
11 an amount equal to the difference between—

12 “(i) the amount that the trustees of  
13 the 1992 Benefit Plan estimate will be ex-  
14 pended from the 1992 Benefit Plan during  
15 the next calendar year to provide the bene-  
16 fits required by the 1992 Benefit Plan on  
17 the date of enactment of this subpara-  
18 graph; minus

19 “(ii) the amount that the trustees of  
20 the 1992 Benefit Plan estimate the 1992  
21 Benefit Plan will receive during such cal-  
22 endar year in required monthly per bene-  
23 ficiary premiums, including the amount of  
24 any security provided to the 1992 Benefit

1 Plan that is available for use in the provi-  
2 sion of benefits.

3 “(C) MULTIEMPLOYER HEALTH BENEFIT  
4 PLAN.—A transfer to the multiemployer health  
5 benefit plan established after July 20, 1992, by  
6 the parties that are the settlors of the 1992  
7 Benefit Plan referred to in subparagraph (B),  
8 in an amount equal to the difference between—

9 “(i) the amount that the trustees of  
10 the multiemployer health benefit plan esti-  
11 mate will be expended from such plan dur-  
12 ing the next calendar year, to provide ben-  
13 efits no greater than those provided by  
14 such plan on the date of enactment of this  
15 subparagraph; minus

16 “(ii) the amount of income that such  
17 trustees estimate such plan will receive  
18 during such calendar year.

19 “(3) ADJUSTMENT.—If, for any fiscal year, the  
20 amount of a transfer under subparagraph (A), (B),  
21 or (C) of paragraph (2) is more or less than the  
22 amount required to be transferred under that sub-  
23 paragraph, the Secretary shall appropriately adjust  
24 the amount transferred under that subparagraph for  
25 the next fiscal year.

1 “(4) ADDITIONAL AMOUNTS.—

2 “(A) PREVIOUSLY CREDITED INTEREST.—

3 Notwithstanding any other provision of law, any  
4 interest credited to the fund that has not pre-  
5 viously been transferred to the Combined Ben-  
6 efit Fund referred to in paragraph (2)(A) under  
7 this section shall be used—

8 “(i) to transfer to the Combined Ben-  
9 efit Fund such amounts as are estimated  
10 by the trustees of the Combined Benefit  
11 Fund to offset the amount of any deficit in  
12 net assets in the Combined Benefit Fund;  
13 and

14 “(ii) to the extent any such interest  
15 remains after the transfer under clause (i),  
16 to make the transfers described in sub-  
17 paragraphs (A), (B), and (C) of paragraph  
18 (2).

19 “(B) PREVIOUSLY ALLOCATED  
20 AMOUNTS.—All amounts allocated under sub-  
21 section (g)(2), including interest, before the  
22 date of enactment of this subparagraph for the  
23 program set forth under section 406, but not  
24 appropriated prior to such date, shall be avail-

1           able to the Secretary to make the transfers de-  
2           scribed in paragraph (2).

3           “(5) LIMITATIONS.—

4                 “(A) AVAILABILITY OF FUNDS FOR NEXT  
5           FISCAL YEAR.—The Secretary may make trans-  
6           fers under subparagraphs (B) and (C) of para-  
7           graph (2) for a fiscal year only if the Secretary  
8           determines, using actuarial projections provided  
9           by the trustees of the Combined Benefit Fund  
10          referred to in paragraph (2)(A), that amounts  
11          will be available under paragraph (1), after  
12          such transfer, for the next fiscal year for mak-  
13          ing the transfer under paragraph (2)(A).

14                “(B) RATE OF CONTRIBUTIONS OF OBLI-  
15          GORS.—A transfer under paragraph (2)(C)  
16          shall not be made for a fiscal year unless the  
17          persons that are obligated to contribute to the  
18          plan referred to in paragraph (2)(C) on the  
19          date of the transfer are obligated to make such  
20          contributions at rates that are no less than  
21          those in effect on the date of enactment of this  
22          subparagraph.

23                “(C) NUMBER OF ELIGIBLE BENE-  
24          FICIARIES.—Transfers under paragraph (2)(C)  
25          shall not exceed the amount required to provide

1           benefits required by the plan referred to in  
2           paragraph (2)(C) to the number of eligible  
3           beneficiaries under such plan as of December  
4           31, 2005.”.

5   **SEC. 4. PROVISIONS RELATING TO THE IMPLEMENTATION**  
6                   **OF THIS ACT.**

7           (a) **TRANSITION RULES.**—(1) Amounts allocated  
8   under section 402(g)(2) of the Surface Mining Control  
9   and Reclamation Act of 1977 (30 U.S.C. 1232(g)(2)) (ex-  
10   cluding interest) prior to the date of enactment of this  
11   Act for the program set forth under section 406 of that  
12   Act (30 U.S.C. 1236), but not appropriated prior to such  
13   date, shall be available in fiscal year 2005 and thereafter  
14   for the transfers referred to in section 402(h) of such Act  
15   (30 U.S.C. 1232(h)), as amended by this Act, in the same  
16   manner as are other amounts available for such transfers.

17           (2) Notwithstanding any other provision of law, inter-  
18   est credited to the fund established by section 401 of the  
19   Surface Mining Control and Reclamation Act of 1977 (30  
20   U.S.C. 1231) that is not transferred to the Combined  
21   Benefit Fund referred to in section 402(h) of such Act  
22   (30 U.S.C. 1232(h)), as amended by this Act, prior to the  
23   date of enactment of this Act shall be available in fiscal  
24   year 2005 and thereafter for the transfers referred to in  
25   section 402(h) of such Act (30 U.S.C. 1232(h)), as

1 amended by this Act, in the same manner as are other  
2 amounts available for such transfers.

3 (b) INVENTORY.—Within one year after the date of  
4 enactment of this Act, the Secretary of the Interior shall  
5 complete a review of all additions made, pursuant to  
6 amendments offered by States and Indian tribes after De-  
7 cember 31, 1998, to the inventory referred to in section  
8 403(c) of the Surface Mining Control and Reclamation  
9 Act of 1977 (30 U.S.C. 1233(c)) to ensure that such addi-  
10 tions reflect eligible lands and waters pursuant to section  
11 404 of such Act (30 U.S.C. 1234) that meet the priorities  
12 set forth in paragraphs (1) and (2) of section 403(a) of  
13 such Act (30 U.S.C. 1233(a) (1) and (2)), and are cor-  
14 rectly identified pursuant to such priorities. Any lands or  
15 waters that were included in the inventory pursuant to the  
16 general welfare standard set forth in section 403(a) of  
17 such Act (30 U.S.C. 1233(a)) before the date of enact-  
18 ment of this Act that are determined in the review to no  
19 longer meet the criteria set forth in paragraphs (1) and  
20 (2) of section 403(a) of such Act, as amended by this Act,  
21 shall be removed from the inventory.

○