

109TH CONGRESS  
2D SESSION

# S. 2616

To amend the Surface Mining Control and Reclamation Act of 1977 and the Mineral Leasing Act to improve surface mining control and reclamation, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

APRIL 7, 2006

Mr. SANTORUM (for himself and Mr. SPECTER) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 and the Mineral Leasing Act to improve surface mining control and reclamation, 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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “Surface Mining Control and Reclamation Act Amend-  
6 ments of 2006”.

7 (b) TABLE OF CONTENTS.—The table of contents of  
8 this Act is as follows:

Sec. 1. Short title; table of contents.

## TITLE I—MINING CONTROL AND RECLAMATION

- Sec. 101. Abandoned Mine Reclamation Fund and purposes.
- Sec. 102. Reclamation fee.
- Sec. 103. Objectives of Fund.
- Sec. 104. Reclamation of rural land.
- Sec. 105. Liens.
- Sec. 106. Certification.
- Sec. 107. Remining incentives.
- Sec. 108. Extension of limitation on application of prohibition on issuance of permit.

## TITLE II—MINERAL LEASING

- Sec. 201. Mineral Leasing.

## TITLE III—COAL INDUSTRY RETIREE HEALTH BENEFIT ACT

- Sec. 301. Certain related persons and successors in interest relieved of liability if premiums prepaid.
- Sec. 302. Transfers to funds; premium relief.
- Sec. 303. Other provisions.

# 1   **TITLE I—MINING CONTROL AND** 2                                   **RECLAMATION**

## 3   **SEC. 101. ABANDONED MINE RECLAMATION FUND AND** 4                                   **PURPOSES.**

5           (a) IN GENERAL.—Section 401 of the Surface Min-  
6 ing Control and Reclamation Act of 1977 (30 U.S.C.  
7 1231) is amended—

8                   (1) in subsection (c)—

9                           (A) by striking paragraphs (2) and (6);

10                   and

11                           (B) by redesignating paragraphs (3), (4),  
12 and (5) and paragraphs (7) through (13) as  
13 paragraphs (2) through (11), respectively;

14                   (2) in subsection (d), by striking “Moneys” and  
15 inserting “Except as provided in subsection (f),  
16 moneys”;

1 (3) in subsection (e)—

2 (A) in the second sentence, by striking  
3 “the needs of such fund” and inserting “achiev-  
4 ing the purposes of the transfers under section  
5 402(h)”; and

6 (B) in the third sentence, by inserting be-  
7 fore the period the following: “for the purpose  
8 of the transfers under section 402(h)”; and

9 (4) by adding at the end the following:

10 “(f) GENERAL LIMITATION ON OBLIGATION AU-  
11 THORITY.—

12 “(1) IN GENERAL.—From amounts deposited  
13 into the fund under subsection (b), the Secretary  
14 shall distribute during each fiscal year beginning  
15 after September 30, 2007, an amount determined  
16 under paragraph (2).

17 “(2) AMOUNTS.—

18 “(A) FOR FISCAL YEARS 2008 THROUGH  
19 2022.—For each of fiscal years 2008 through  
20 2022, the amount distributed by the Secretary  
21 under this subsection shall be equal to—

22 “(i) the amount deposited into the  
23 fund under subsection (b) for the pre-  
24 ceding fiscal year; minus

1 “(ii) the amount expended by the Sec-  
 2 retary under section 402(g)(3)(D) for the  
 3 preceding fiscal year.

4 “(B) FISCAL YEARS 2023 AND THERE-  
 5 AFTER.—For fiscal year 2023 and each fiscal  
 6 year thereafter, to the extent that funds are  
 7 available, the Secretary shall distribute an  
 8 amount equal to the amount distributed under  
 9 subparagraph (A) during fiscal year 2022.

10 “(3) DISTRIBUTION.—For each fiscal year, of  
 11 the amount to be distributed pursuant to paragraph  
 12 (2), the Secretary shall distribute—

13 “(A) the amount allocated under section  
 14 402(g)(5), plus any amount reallocated under  
 15 section 411(h)(4), for grants to States and In-  
 16 dian tribes under section 402(g)(5);

17 “(B) from any amounts not distributed  
 18 under subparagraph (A), the amount allocated  
 19 under section 402(g)(8); and

20 “(C) from any amounts not distributed  
 21 under subparagraphs (A) and (B), in any area  
 22 under section 402(g)(3) or 402(g)(4).

23 “(4) AVAILABILITY.—Amounts in the fund  
 24 available to the Secretary for obligation under this  
 25 subsection shall be available until expended.

1 “(5) ADDITION.—

2 “(A) IN GENERAL.—Subject to subpara-  
3 graph (B), the amount distributed under this  
4 subsection for each fiscal year shall be in addi-  
5 tion to the amount appropriated from the fund  
6 during the fiscal year.

7 “(B) EXCEPTIONS.—Notwithstanding  
8 paragraph (3), the amount distributed under  
9 this subsection for the first 4 fiscal years begin-  
10 ning on and after October 1, 2007, shall be  
11 equal to the following percentage of the amount  
12 otherwise required to be distributed:

13 “(i) 50 percent in fiscal year 2008.

14 “(ii) 50 percent in fiscal year 2009.

15 “(iii) 75 percent in fiscal year 2010.

16 “(iv) 75 percent in fiscal year 2011.”.

17 (b) CONFORMING AMENDMENT.—Section 712(b) of  
18 the Surface Mining Control and Reclamation Act of 1977  
19 (30 U.S.C. 1302(b)) is amended by striking “section  
20 401(c)(11)” and inserting “section 401(c)(9)”.

21 **SEC. 102. RECLAMATION FEE.**

22 (a) AMOUNTS.—

23 (1) FISCAL YEARS 2008–2012.—Effective Octo-  
24 ber 1, 2007, section 402(a) of the Surface Mining

1 Control and Reclamation Act of 1977 (30 U.S.C.  
2 1232(a)) is amended—

3 (A) by striking “35” and inserting “31.5”;

4 (B) by striking “15” and inserting “13.5”;

5 and

6 (C) by striking “10 cents” and inserting

7 “9 cents”.

8 (2) FISCAL YEARS 2013–2021.—Effective Octo-  
9 ber 1, 2012, section 402(a) of the Surface Mining  
10 Control and Reclamation Act of 1977 (30 U.S.C.  
11 1232(a)) (as amended by paragraph (1)) is amend-  
12 ed—

13 (A) by striking “31.5” and inserting “28”;

14 (B) by striking “13.5” and inserting “12”;

15 and

16 (C) by striking “9 cents” and inserting “8

17 cents”.

18 (b) DURATION.—Effective June 30, 2006, section  
19 402(b) of the Surface Mining Control and Reclamation  
20 Act of 1977 (30 U.S.C. 1232(b)) is amended by striking  
21 “June 30, 2006” and all that follows through the end of  
22 the sentence and inserting “September 30, 2021.”.

23 (c) ALLOCATION OF FUNDS.—Section 402(g) of the  
24 Surface Mining Control and Reclamation Act of 1977 (30  
25 U.S.C. 1232(g)) is amended—

1 (1) in paragraph (1)(D)—

2 (A) by inserting “(except for grants award-  
3 ed during fiscal years 2008, 2009, and 2010 to  
4 the extent not expended within 5 years)” after  
5 “this paragraph”; and

6 (B) by striking “in any area under para-  
7 graph (2), (3), (4), or (5)” and inserting  
8 “under paragraph (5)”;

9 (2) by striking paragraph (2) and inserting:

10 “(2) In making the grants referred to in paragraph  
11 (1)(C) and the grants referred to in paragraph (5), the  
12 Secretary shall ensure strict compliance by the States and  
13 Indian tribes with the priorities described in section  
14 403(a) until a certification is made under section  
15 411(a).”;

16 (3) in paragraph (3)—

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

20 (B) in subparagraph (A), by striking  
21 “401(c)(11)” and inserting “401(c)(9)”; and

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

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

24 (4) in paragraph (5)—

25 (A) by inserting “(A)” after “(5)”;

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

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

12 (5) by striking paragraphs (6) through (8) and  
13 inserting the following:

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 30 percent of the  
18 total of the grants made annually to the State under para-  
19 graphs (1) and (5) if those 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 the amounts) are expended by  
23 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) In this paragraph, the term ‘qualified hydrologic  
 4 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 land and water that are—

10 “(I) eligible pursuant to section 404 and  
 11 include any of the priorities described 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 “(7) In complying with the priorities described in sec-  
 18 tion 403(a), any State or Indian tribe may use amounts  
 19 available in grants made annually to the State or tribe  
 20 under paragraphs (1) and (5) for the reclamation of eligi-  
 21 ble land and water described in section 403(a)(3) before  
 22 the completion of reclamation projects under paragraphs  
 23 (1) and (2) of section 403(a) only if the expenditure of  
 24 funds for the reclamation is done in conjunction with the

1 expenditure of funds for reclamation projects under para-  
 2 graphs (1) and (2) of section 403(a).

3 “(8)(A) In making the grants referred to in para-  
 4 graph (1)(C), the Secretary, using amounts allocated to  
 5 a State or Indian tribe under subparagraph (A) or (B)  
 6 of paragraph (1) or to the extent amounts are available  
 7 to the Secretary under section 401(f), shall ensure that  
 8 the total grant awards of not less than \$3,000,000 annu-  
 9 ally are made to each State and each Indian tribe.

10 “(B) Notwithstanding any other provision of law, this  
 11 paragraph applies to the States of Tennessee and Mis-  
 12 souri.”.

13 (d) TRANSFERS OF INTEREST EARNED BY ABAN-  
 14 DONED MINE RECLAMATION FUND.—Section 402 of the  
 15 Surface Mining Control and Reclamation Act of 1977 (30  
 16 U.S.C. 1232) is amended by striking subsection (h) and  
 17 inserting the following:

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

19 “(1) IN GENERAL.—

20 “(A) TRANSFERS TO COMBINED BENEFIT  
 21 FUND.—As soon as practicable after the begin-  
 22 ning of fiscal year 2007 and each fiscal year  
 23 thereafter, and before making any allocation  
 24 with respect to the fiscal year under subsection  
 25 (g), the Secretary shall use an amount not to

1           exceed the amount of interest that the Sec-  
 2           retary estimates will be earned and paid to the  
 3           fund during the fiscal year to make the transfer  
 4           described in paragraph (2)(A).

5           “(B) TRANSFERS TO 1992 AND 1993  
 6           PLANS.—As soon as practicable after the begin-  
 7           ning of fiscal year 2008 and each fiscal year  
 8           thereafter, and before making any allocation  
 9           with respect to the fiscal year under subsection  
 10          (g), the Secretary shall use an amount not to  
 11          exceed the amount of interest that the Sec-  
 12          retary estimates will be earned and paid to the  
 13          fund during the fiscal year (reduced by the  
 14          amount used under subparagraph (A)) to make  
 15          the transfers described in paragraphs (2)(B)  
 16          and (2)(C).

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

19               “(A) UNITED MINE WORKERS OF AMERICA  
 20               COMBINED BENEFIT FUND.—A transfer to the  
 21               United Mine Workers of America Combined  
 22               Benefit Fund equal to the amount that the  
 23               trustees of the Combined Benefit Fund esti-  
 24               mate will be expended from the fund for the fis-

1 cal year in which the transfer is made, reduced  
2 by—

3 “(i) the amount the trustees of the  
4 Combined Benefit Fund estimate the Com-  
5 bined Benefit Fund will receive during the  
6 fiscal year in—

7 “(I) required premiums; and

8 “(II) payments paid by Federal  
9 agencies in connection with benefits  
10 provided by the Combined Benefit  
11 Fund; and

12 “(ii) the amount the trustees of the  
13 Combined Benefit Fund estimate will be  
14 expended during the fiscal year to provide  
15 health benefits to beneficiaries who are un-  
16 assigned beneficiaries solely as a result of  
17 the application of section 9706(h)(1) of the  
18 Internal Revenue Code of 1986, but only  
19 to the extent that such amount does not  
20 exceed the amounts described in section  
21 35(c)(1) of the Mineral Leasing Act (30  
22 U.S.C. 191(c)) that the Secretary esti-  
23 mates will be available to pay such esti-  
24 mated expenditures.

1           “(B) UNITED MINE WORKERS OF AMERICA  
2           1992 BENEFIT PLAN.—A transfer to the United  
3           Mine Workers of America 1992 Benefit Plan, in  
4           an amount equal to the difference between—

5                   “(i) the amount that the trustees of  
6                   the 1992 UMWA Benefit Plan estimate  
7                   will be expended from the 1992 UMWA  
8                   Benefit Plan during the next calendar year  
9                   to provide the benefits required by the  
10                  1992 UMWA Benefit Plan on the date of  
11                  enactment of this subparagraph; minus

12                   “(ii) the amount that the trustees of  
13                   the 1992 UMWA Benefit Plan estimate  
14                   the 1992 UMWA Benefit Plan will receive  
15                   during the next calendar year in required  
16                   monthly per beneficiary premiums, includ-  
17                   ing the amount of any security provided to  
18                   the 1992 UMWA Benefit Plan that is  
19                   available for use in the provision of bene-  
20                   fits.

21           “(C) MULTIEMPLOYER HEALTH BENEFIT  
22           PLAN.—A transfer to the Multiemployer Health  
23           Benefit Plan established after July 20, 1992,  
24           by the parties that are the settlors of the 1992

1           UMWA Benefit Plan referred to in subpara-  
2           graph (B), in an amount equal to—

3                   “(i) the amount that the trustees of  
4                   the Multiemployer Health Benefit Plan es-  
5                   timate will be expended from the Plan dur-  
6                   ing the next calendar year, to provide ben-  
7                   efits no greater than those provided by the  
8                   Plan as of December 31, 2006; and

9                   “(ii) calculated with respect to those  
10                  beneficiaries actually enrolled in the Plan  
11                  as of December 31, 2006, who are eligible  
12                  to receive benefits under the Plan on the  
13                  first day of the calendar year for which the  
14                  transfer is made.

15               “(D)   INDIVIDUALS   CONSIDERED   EN-  
16               ROLLED.—For purposes of subparagraph (C),  
17               any individual who was eligible to receive bene-  
18               fits from the Plan as of the date of enactment  
19               of this subsection, even though benefits were  
20               being provided to the individual pursuant to a  
21               settlement agreement approved by order of a  
22               bankruptcy court entered on or before Sep-  
23               tember 30, 2004, will be considered to be actu-  
24               ally enrolled in the Plan and shall receive bene-

1 fits from the Plan beginning on December 31,  
2 2006.

3 “(3) ADJUSTMENT.—If, for any fiscal year, the  
4 amount of a transfer under subparagraph (A), (B),  
5 or (C) of paragraph (2) is more or less than the  
6 amount required to be transferred under that sub-  
7 paragraph, the Secretary shall appropriately adjust  
8 the amount transferred under that subparagraph for  
9 the next fiscal year.

10 “(4) ADDITIONAL AMOUNTS.—

11 “(A) PREVIOUSLY CREDITED INTEREST.—  
12 Notwithstanding any other provision of law, any  
13 interest credited to the fund that has not pre-  
14 viously been transferred to the Combined Ben-  
15 efit Fund referred to in paragraph (2)(A) under  
16 this section shall be used—

17 “(i) to transfer to the Combined Ben-  
18 efit Fund such amounts as are estimated  
19 by the trustees of the Combined Benefit  
20 Fund to offset the amount of any deficit in  
21 net assets in the Combined Benefit Fund;  
22 and

23 “(ii) to the extent any such interest  
24 remains after the transfer under clause (i),  
25 to make the transfers described in sub-

1 paragraphs (A), (B), and (C) of paragraph  
2 (2).

3 “(B) PREVIOUSLY ALLOCATED  
4 AMOUNTS.—All amounts allocated under sub-  
5 section (g)(2) before the date of enactment of  
6 this subparagraph for the program described in  
7 section 406, but not appropriated before that  
8 date, shall be available to the Secretary to make  
9 the transfers described in paragraph (2).

10 “(5) LIMITATIONS.—

11 “(A) AVAILABILITY OF FUNDS FOR NEXT  
12 FISCAL YEAR.—The Secretary may make trans-  
13 fers under subparagraphs (B) and (C) of para-  
14 graph (2) for a calendar year only if the Sec-  
15 retary determines, using actuarial projections  
16 provided by the trustees of the Combined Ben-  
17 efit Fund referred to in paragraph (2)(A), that  
18 amounts will be available under paragraph (1),  
19 after the transfer, for the next fiscal year for  
20 making the transfer under paragraph (2)(A).

21 “(B) RATE OF CONTRIBUTIONS OF OBLI-  
22 GORS.—

23 “(i) IN GENERAL.—

24 “(I) RATE.—A transfer under  
25 paragraph (2)(C) shall not be made



1 for a calendar year unless the persons  
 2 that are obligated to contribute to the  
 3 plan referred to in paragraph (2)(C)  
 4 on the date of the transfer are obli-  
 5 gated to make the contributions at  
 6 rates that are no less than those in ef-  
 7 fect on the date of enactment of this  
 8 subsection.

9 “(II) APPLICATION.—The con-  
 10 tributions described in subclause (I)  
 11 shall be applied first to the provision  
 12 of benefits to those plan beneficiaries  
 13 who are not described in paragraph  
 14 (2)(C)(ii).

15 “(ii) INITIAL CONTRIBUTIONS.—From  
 16 the date of enactment of the Surface Min-  
 17 ing Control and Reclamation Act Amend-  
 18 ments of 2006 through December 31,  
 19 2010, the persons that, on the date of en-  
 20 actment of that Act, are obligated to con-  
 21 tribute to the plan referred to in para-  
 22 graph (2)(C) shall be obligated, collec-  
 23 tively, to make contributions equal to the  
 24 amount required to be transferred under  
 25 paragraph (2)(C), less the amount actually

1 transferred due to the operation of sub-  
2 paragraph (C).

3 “(iii) DIVISION.—The collective an-  
4 nual contribution obligation required under  
5 clause (ii) shall be divided among the per-  
6 sons subject to the obligation, and applied  
7 uniformly, based on the hours worked for  
8 which contributions referred to in clause  
9 (i) would be owed.

10 “(C) PHASE-IN OF TRANSFERS.—For each  
11 of calendar years 2008 through 2010, the  
12 transfers required under subparagraphs (B)  
13 and (C) of paragraph (2) shall equal the fol-  
14 lowing amounts:

15 “(i) For calendar year 2008, the Sec-  
16 retary shall make transfers equal to 25  
17 percent of the amounts that would other-  
18 wise be required under subparagraphs (B)  
19 and (C) of paragraph (2).

20 “(ii) For calendar year 2009, the Sec-  
21 retary shall make transfers equal to 50  
22 percent of the amounts that would other-  
23 wise be required under subparagraphs (B)  
24 and (C) of paragraph (2).

1                   “(iii) For calendar year 2010, the  
 2                   Secretary shall make transfers equal to 75  
 3                   percent of the amounts that would other-  
 4                   wise be required under subparagraphs (B)  
 5                   and (C) of paragraph (2).”.

6 **SEC. 103. OBJECTIVES OF FUND.**

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

9                   (1) in subsection (a)—

10                   (A) in paragraph (1), by striking “general  
 11                   welfare,”;

12                   (B) in paragraph (2)—

13                   (i) by striking “health, safety, and  
 14                   general welfare” and inserting “health and  
 15                   safety”; and

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

18                   (C) in paragraph (3), by striking the semi-  
 19                   colon at the end and inserting a period; and

20                   (D) by striking paragraphs (4) and (5);

21                   (2) in subsection (b)—

22                   (A) by striking the subsection heading and  
 23                   inserting “WATER SUPPLY RESTORATION.—”;  
 24                   and

1 (B) in paragraph (1), by striking “up to  
2 30 percent of the”; and  
3 (3) in the second sentence of subsection (c), by  
4 inserting “, subject to the approval of the Sec-  
5 retary,” after “amendments”.

6 **SEC. 104. RECLAMATION OF RURAL LAND.**

7 (a) ADMINISTRATION.—Section 406(h) of the Sur-  
8 face Mining Control and Reclamation Act of 1977 (30  
9 U.S.C. 1236(h)) is amended by striking “Soil Conserva-  
10 tion Service” and inserting “Natural Resources Conserva-  
11 tion Service”.

12 (b) AUTHORIZATION OF APPROPRIATIONS FOR CAR-  
13 RYING OUT RURAL LAND RECLAMATION.—Section 406 of  
14 the Surface Mining Control and Reclamation Act of 1977  
15 (30 U.S.C. 1236) is amended by adding at the end the  
16 following:

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

21 **SEC. 105. LIENS.**

22 Section 408(a) of the Surface Mining Control and  
23 Reclamation Act of 1977 (30 U.S.C. 1238) is amended  
24 in the last sentence by striking “who owned the surface  
25 prior to May 2, 1977, and”.

1 **SEC. 106. CERTIFICATION.**

2 Section 411 of the Surface Mining Control and Rec-  
3 lamation Act of 1977 (30 U.S.C. 1240a) is amended—

4 (1) in subsection (a)—

5 (A) by inserting “(1)” before the first sen-  
6 tence; and

7 (B) by adding at the end the following:

8 “(2)(A) The Secretary may, on the initiative of the  
9 Secretary, make the certification referred to in paragraph  
10 (1) on behalf of any State or Indian tribe referred to in  
11 paragraph (1) if on the basis of the inventory referred to  
12 in section 403(c) all reclamation projects relating to the  
13 priorities described in section 403(a) for eligible land and  
14 water pursuant to section 404 in the State or tribe have  
15 been completed.

16 “(B) The Secretary shall only make the certification  
17 after notice in the Federal Register and opportunity for  
18 public comment.”; and

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

20 “(h) PAYMENTS TO STATES AND INDIAN TRIBES.—

21 “(1) IN GENERAL.—

22 “(A) PAYMENTS.—From funds referred to  
23 in section 35(a) of the Mineral Leasing Act (30  
24 U.S.C. 191(a)) that are paid into the Treasury  
25 after the date of the enactment of this sub-  
26 section and that are available to be paid to

1 States under section 35 of that Act, reserved as  
2 part of the reclamation fund under that section,  
3 or paid under section 35(c) of that Act, the  
4 Secretary shall make payments to States or In-  
5 dian tribes for the amount due for the aggre-  
6 gate unappropriated amount allocated to the  
7 State or Indian tribe under subparagraph (A)  
8 or (B) of section 402(g)(1).

9 “(B) AMOUNT DUE.—In this paragraph,  
10 the term ‘amount due’ means the unappropri-  
11 ated amount allocated to a State or Indian tribe  
12 before October 1, 2007, under subparagraph  
13 (A) or (B) of section 402(g)(1).

14 “(C) SCHEDULE.—Subject to subpara-  
15 graph (E), payments under subparagraph (A)  
16 shall be made in 10 equal annual installments,  
17 beginning with fiscal year 2008.

18 “(D) USE OF FUNDS.—

19 “(i) CERTIFIED STATES AND INDIAN  
20 TRIBES.—A State or Indian tribe that  
21 makes a certification under subsection (a)  
22 in which the Secretary concurs shall use  
23 any amounts provided under this para-  
24 graph for the purposes established by the  
25 State legislature or tribal council of the In-

1           dian tribe, with priority given for address-  
2           ing the impacts of mineral development.

3           “(ii) UNCERTIFIED STATES AND IN-  
4           DIAN TRIBES.—A State or Indian tribe  
5           that has not made a certification under  
6           subsection (a) in which the Secretary has  
7           concurred shall use any amounts provided  
8           under this paragraph for the purposes de-  
9           scribed in section 403.

10          “(E) PHASE-IN OF PAYMENTS.—

11           “(i) IN GENERAL.—Notwithstanding  
12           any other provision of this Act, the first 3  
13           annual installments paid to any State or  
14           Indian tribe beginning with fiscal year  
15           2008 shall be reduced, respectively, to 25  
16           percent, 50 percent, and 75 percent of the  
17           amounts otherwise required under sub-  
18           paragraph (A).

19           “(ii) INSTALLMENTS.—Amounts with-  
20           held from the first 3 annual installments  
21           as provided under subparagraph (C) shall  
22           be paid in 2 equal annual installments be-  
23           ginning with fiscal year 2018.

1           “(2) SUBSEQUENT STATE AND INDIAN TRIBE  
2           SHARE FOR CERTAIN CERTIFIED STATES AND IN-  
3           DIAN TRIBES.—

4                   “(A) IN GENERAL.—From moneys referred  
5           to in section 35(a) of the Mineral Leasing Act  
6           (30 U.S.C. 191(a)) that are paid into the  
7           Treasury after the date of the enactment of this  
8           subsection and that are available to be paid to  
9           States or Indian tribes under section 35(c) of  
10          that Act, the Secretary shall pay to each quali-  
11          fied State or Indian tribe, on a proportional  
12          basis, an amount equal to the sum of the aggre-  
13          gate unappropriated amount allocated on or  
14          after October 1, 2007, to the qualified State or  
15          Indian tribe under subparagraph (A) or (B) of  
16          section 402(g)(1).

17                  “(B) QUALIFIED STATE OR INDIAN TRIBE  
18          DEFINED.—In this paragraph the term ‘quali-  
19          fied State or Indian tribe’ means a State or In-  
20          dian tribe for which a certification is made  
21          under subsection (a) in which the Secretary  
22          concurs and in which there are public domain  
23          lands available for leasing under the Mineral  
24          Leasing Act (30 U.S.C. 181 et seq.).

25                  “(3) MANNER OF PAYMENT.—



1           “(A) IN GENERAL.—Subject to subpara-  
 2 graph (B), payments to States or Indian tribes  
 3 under this subsection shall be made, without re-  
 4 gard to any limitation in section 401(d), in the  
 5 same manner as if paid under section 35 of the  
 6 Mineral Leasing Act (30 U.S.C. 191) and con-  
 7 currently with payments to States under that  
 8 section.

9           “(B) INITIAL PAYMENTS.—The first 3 pay-  
 10 ments made to any State or Indian tribe shall  
 11 be reduced to 25 percent, 50 percent, and 75  
 12 percent, respectively, of the amounts otherwise  
 13 required under paragraph (2)(A).

14           “(4) REALLOCATION.—

15           “(A) IN GENERAL.—The amount allocated  
 16 to any State or Indian tribe under subpara-  
 17 graph (A) or (B) of section 402(g)(1) that is  
 18 paid to the State or Indian tribe as a result of  
 19 a payment under paragraph (1) or (2) shall be  
 20 reallocated and available for grants under sec-  
 21 tion 402(g)(5).

22           “(B) ALLOCATION.—The grants shall be  
 23 allocated based on the amount of coal histori-  
 24 cally produced before August 3, 1977, in the  
 25 same manner as under section 402(g)(5).”

1 **SEC. 107. REMINING INCENTIVES.**

2 Title IV of the Surface Mining Control and Reclama-  
3 tion Act of 1977 (30 U.S.C. 1231 et seq.) is amended by  
4 adding at the following:

5 **“SEC. 415. REMINING INCENTIVES.**

6 “(a) IN GENERAL.—Notwithstanding any other pro-  
7 vision of this Act, the Secretary may, after opportunity  
8 for public comment, promulgate regulations that describe  
9 conditions under which amounts in the fund may be used  
10 to provide incentives to promote remining of eligible land  
11 under section 404 in a manner that leverages the use of  
12 amounts from the fund to achieve more reclamation with  
13 respect to the eligible land than would be achieved without  
14 the incentives.

15 “(b) REQUIREMENTS.—Any regulations promulgated  
16 under subsection (a) shall specify that the incentives shall  
17 apply only if the Secretary determines, with the concur-  
18 rence of the State regulatory authority referred to in title  
19 V, that, without the incentives, the eligible land would not  
20 be likely to be remined and reclaimed.

21 “(c) INCENTIVES.—

22 “(1) IN GENERAL.—Incentives that may be con-  
23 sidered for inclusion in the regulations promulgated  
24 under subsection (a) include, but are not limited  
25 to—

1           “(A) a rebate or waiver of the reclamation  
2 fees required under section 402(a); and

3           “(B) the use of amounts in the fund to  
4 provide financial assurance for remining oper-  
5 ations in lieu of all or a portion of the perform-  
6 ance bonds required under section 509.

7           “(2) LIMITATIONS.—

8           “(A) USE.—A rebate or waiver under  
9 paragraph (1)(A) shall be used only for oper-  
10 ations that—

11                   “(i) remove or reprocess abandoned  
12 coal mine waste; or

13                   “(ii) conduct remining activities that  
14 meet the priorities specified in paragraph  
15 (1) or (2) of section 403(a).

16           “(B) AMOUNT.—The amount of a rebate  
17 or waiver provided as an incentive under para-  
18 graph (1)(A) to remine or reclaim eligible land  
19 shall not exceed the estimated cost of reclaim-  
20 ing the eligible land under this section.”.

21 **SEC. 108. EXTENSION OF LIMITATION ON APPLICATION OF**  
22 **PROHIBITION ON ISSUANCE OF PERMIT.**

23           Section 510(e) of the Surface Mining Control and  
24 Reclamation Act of 1977 (30 U.S.C. 1260(e)) is amended

1 in the last sentence by striking “2004” and inserting  
 2 “2020”.

## 3 **TITLE II—MINERAL LEASING**

### 4 **SEC. 201. MINERAL LEASING.**

5 Section 35 of the Mineral Leasing Act (30 U.S.C.  
 6 191) is amended—

7 (1) in subsection (a)—

8 (A) by striking “subsection (b)” and in-  
 9 serting “subsections (b), (c), and (d)”;

10 (B) by striking “50 per centum thereof  
 11 shall be paid by the Secretary of the Treasury  
 12 to the State other than Alaska” and inserting  
 13 “each State other than Alaska shall be paid by  
 14 the Secretary of the Treasury an amount equal  
 15 to 50 per centum of the amount received”; and

16 (C) by inserting “of the total” after “40  
 17 per centum”;

18 (2) in subsection (b)—

19 (A) by striking “(b) In determining” and  
 20 inserting the following:

21 “(b) DETERMINATION OF PAYMENT AMOUNTS.—

22 “(1) IN GENERAL.—In determining”; and

23 (B) by adding at the end the following:

24 “(3) BASIS FOR PAYMENT CALCULATION.—The  
 25 calculation of the 50 per centum to be paid to States

1 under subsection (a) shall be made based on all  
 2 money received, and shall not be reduced by pay-  
 3 ments made under subsection (c).”; and

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

5 “(c) AMOUNTS RECEIVED FROM COAL LEASES.—  
 6 From amounts referred to in subsection (a) that are from  
 7 sales, bonuses, royalties (including interest charges), and  
 8 rentals collected from coal leases and are paid into the  
 9 Treasury of the United States after the date of the enact-  
 10 ment of this subsection, the Secretary shall for fiscal year  
 11 2008 and each fiscal year thereafter, make the following  
 12 payments:

13 “(1) The amount that the trustees of the Com-  
 14 bined Fund (as defined in section 9701(a)(5) of the  
 15 Internal Revenue Code of 1986) estimate will be ex-  
 16 pended from premium accounts maintained by the  
 17 fund for the fiscal year to provide benefits for bene-  
 18 ficiaries who are unassigned beneficiaries solely as a  
 19 result of the application of section 9706(h)(1) of the  
 20 Internal Revenue Code of 1986, subject to the fol-  
 21 lowing limitations:

22 “(A) For fiscal year 2008, the amount  
 23 paid under this paragraph shall equal 45 per-  
 24 cent of the amount that would otherwise be re-  
 25 quired.

1           “(B) For fiscal year 2009, the amount  
2           paid under this paragraph shall equal 60 per-  
3           cent of the amount that would otherwise be re-  
4           quired.

5           “(C) For fiscal year 2010, the amount  
6           paid under this paragraph shall equal 85 per-  
7           cent of the amount that would otherwise be re-  
8           quired.

9           “(2) On certification by the trustees of any plan  
10          described in section 402(h)(2) of the Surface Mining  
11          Control and Reclamation Act of 1977 (30 U.S.C.  
12          1232(h)(2)) that the amount available for transfer  
13          by the Secretary pursuant to that section (deter-  
14          mined after application of any limitation under sec-  
15          tion 402(h)(5) of such Act) is less than the amount  
16          required to be transferred, the Secretary shall pay to  
17          the plan (after the subtractions for payments made  
18          under subsection (e)) the amount necessary to meet  
19          the requirement of section 402(h)(2) of that Act.

20          “(3) To the Combined Fund (as defined in sec-  
21          tion 9701(a)(5) of the Internal Revenue Code of  
22          1986), \$9,000,000 on October 1, 2007, \$9,000,000  
23          on October 1, 2008, and \$9,000,000 on October 1,  
24          2009 (which amounts shall not be exceeded) to pro-  
25          vide a refund of any premium (as described in sec-

1       tion 9704(a) of the Internal Revenue Code of 1986)  
 2       paid on or before September 7, 2000, to the Com-  
 3       bined Fund, plus interest on the premium calculated  
 4       at the rate of 7.5 percent per year, on a proportional  
 5       basis and to be paid not later than 60 days after the  
 6       date on which each payment is received by the Com-  
 7       bined Fund, to those signatory operators (to the ex-  
 8       tent that the Combined Fund has not previously re-  
 9       turned the premium amounts to the operators), or  
 10      any related persons to the operators (as defined in  
 11      section 9701(c) of the Internal Revenue Code of  
 12      1986), or their heirs, successors, or assigns who  
 13      have been denied the refunds as the result of final  
 14      judgments or settlements if prior to the date of en-  
 15      actment of this subsection the signatory operator (or  
 16      any related person to the operator)—

17               “(A) had all of its beneficiary assignments  
 18              made under section 9706 of the Internal Rev-  
 19              enue Code of 1986 voided by the Commissioner  
 20              of the Social Security Administration;

21               “(B) was subject to a final judgment or  
 22              final settlement of litigation adverse to a claim  
 23              by the operator that the assignment of bene-  
 24              ficiaries under section 9706 of the Internal

1 Revenue Code of 1986 was unconstitutional as  
2 applied to the operator; and

3 “(C) paid to the Combined Fund any pre-  
4 mium amount that had not been refunded.

5 “(4) From any additional available moneys re-  
6 ferred to in this subsection, payments for amounts  
7 referred to in sections 411(h)(1)(A) and  
8 411(h)(2)(A) of the Surface Mining Control and  
9 Reclamation Act of 1977 (30 U.S.C. 1240a(h)(1)(A)  
10 and 1240a(h)(2)(A)).

11 “(d) The calculation of the 40 per centum to be paid  
12 to the reclamation fund under subsection (a) shall be made  
13 based on all money received, and shall not be reduced by  
14 payments made under subsection (c).

15 “(e)(1) Notwithstanding subsection (a), for each of  
16 fiscal years 2007 through 2021, from all excess receipts  
17 received from sales, bonuses, royalties (including interest  
18 charges), and rentals collected from coal leases and re-  
19 ferred to in subsection (a) that are deposited into the  
20 Treasury, all excess receipts up to \$320,000,000 shall be  
21 used by the Secretary to make payments to meet the re-  
22 quirements of section 402(h)(2) of the Surface Mining  
23 Control and Reclamation Act of 1977 (30 U.S.C.  
24 1232(h)(2)).



1       “(2) For purposes of paragraph (1), excess receipts  
2 shall be the amount calculated on the basis of the dif-  
3 ference between the prevailing market prices on which the  
4 sales, bonuses, royalties, and rentals were made and 110  
5 percent of the projected market prices for that fiscal year,  
6 as contained in the economic assumptions underlying the  
7 Concurrent Resolution on the Budget, under section 301  
8 of the Congressional Budget and Impoundment Control  
9 Act of 1974 (2 U.S.C. 632).

10       “(3) Funds for payment under paragraph (1) shall  
11 be available to the Secretary for obligation under this Act  
12 without fiscal year limitation, to remain available until ex-  
13 pended.

14       “(f) In the event that amounts available to the Sec-  
15 retary of the Treasury for the payments described in sub-  
16 section (c) are insufficient for the Secretary to make each  
17 described payment in full for any fiscal year, the Secretary  
18 shall adjust the payments so that—

19               “(1) each payment for the fiscal year is a per-  
20 centage of the amount described; and

21               “(2) the percentage paid is the same for all  
22 payments made under those subsections for the fis-  
23 cal year.”.

1       **TITLE III—COAL INDUSTRY**  
 2       **RETIREE HEALTH BENEFIT ACT**

3       **SEC. 301. CERTAIN RELATED PERSONS AND SUCCESSORS**  
 4               **IN INTEREST RELIEVED OF LIABILITY IF PRE-**  
 5               **MIUMS PREPAID.**

6       (a) COMBINED BENEFIT FUND.—

7               (1) IN GENERAL.—Section 9704 of the Internal  
 8       Revenue Code of 1986 (relating to liability of as-  
 9       signed operators) is amended by adding at the end  
 10      the following new subsection:

11      “(j) PREPAYMENT OF PREMIUM LIABILITY.—

12              “(1) IN GENERAL.—If—

13                  “(A) 1 or more assigned operators to  
 14              which this subsection applies (or any related  
 15              person to any such assigned operator) are mem-  
 16              bers of a controlled group of corporations (with-  
 17              in the meaning of section 52(a)) the common  
 18              parent of which—

19                  “(i) is a corporation the shares of  
 20              which are publicly traded on a United  
 21              States exchange, and

22                  “(ii) is jointly and severally liable for  
 23              any premium under this section which (but  
 24              for this subsection) would be required to be

1           paid by the assigned operators or related  
2           person, and

3           “(B) a payment meeting the requirements  
4           of paragraph (3) is made to the Combined  
5           Fund by or on behalf of the assigned operators  
6           or related person,  
7           then such common parent (and no other person)  
8           shall be liable for any premium under this section  
9           for which the assigned operators or related person  
10          would otherwise be liable.

11          “(2) ASSIGNED OPERATORS TO WHICH SUB-  
12          SECTION APPLIES.—This subsection shall apply to  
13          any assigned operator if—

14               “(A) the assigned operator (or a related  
15               person to the assigned operator)—

16                       “(i) made contributions to the 1950  
17                       UMWA Benefit Plan and the 1974 UMWA  
18                       Benefit Plan for employment during the  
19                       period covered by the 1988 agreement; and

20                       “(ii) is not a 1988 agreement oper-  
21                       ator; and

22               “(B) the assigned operator (and all related  
23               persons to the assigned operator) are not ac-  
24               tively engaged in the production of coal as of  
25               July 1, 2005.

1 A person shall not fail to be treated as an assigned  
 2 operator to which this subsection applies solely be-  
 3 cause the person ceases to be an assigned operator  
 4 by reason of section 9706(h)(1) if the person other-  
 5 wise meets the requirements of this subsection and  
 6 is liable for the payment of premiums under section  
 7 9706(h)(3).

8 “(3) REQUIREMENTS.—A payment meets the  
 9 requirements of this paragraph if—

10 “(A) the amount of the payment is not less  
 11 than the present value of the total premium li-  
 12 ability under this chapter with respect to the  
 13 Combined Fund of the assigned operators or re-  
 14 lated persons described in paragraph (1) or  
 15 their assignees, as determined by the operator’s  
 16 or related person’s enrolled actuary (as defined  
 17 in section 7701(a)(35)) using actuarial methods  
 18 and assumptions each of which is reasonable  
 19 and which are reasonable in the aggregate, as  
 20 determined by such enrolled actuary;

21 “(B) a signed actuarial report is filed with  
 22 the Secretary of Labor by such enrolled actuary  
 23 containing—

24 “(i) the date of the actuarial valuation  
 25 applicable to the report; and

1                   “(ii) a statement by the enrolled actu-  
 2                   ary signing the report that to the best of  
 3                   the actuary’s knowledge the report is com-  
 4                   plete and accurate and that in the actu-  
 5                   ary’s opinion the actuarial assumptions  
 6                   used are in the aggregate reasonably re-  
 7                   lated to the experience of the operator and  
 8                   to reasonable expectations; and

9                   “(C) 90 calendar days have elapsed after  
 10                  the report required by subparagraph (B) is filed  
 11                  with the Secretary of Labor, and the Secretary  
 12                  of Labor has not notified the assigned operator  
 13                  in writing that the requirements of this para-  
 14                  graph have not been satisfied.

15                  “(4) USE OF PREPAYMENT.—The Combined  
 16                  Fund shall—

17                       “(A) establish and maintain an account for  
 18                       each assigned operator or related person by, or  
 19                       on whose behalf, a payment described in para-  
 20                       graph (3) was made,

21                       “(B) credit such account with such pay-  
 22                       ment (and any earnings thereon), and

23                       “(C) use all amounts in such account ex-  
 24                       clusively to pay premiums that would (but for

1           this subsection) be required to be paid by the  
2           assigned operator.

3           Upon termination of the obligations for the premium  
4           liability of any assigned operator or related person  
5           for which such account is maintained, all funds re-  
6           maining in such account (and earnings thereon)  
7           shall be refunded to such person as may be des-  
8           ignated by the common parent described in para-  
9           graph (1)(A).”.

10          (b)   INDIVIDUAL   EMPLOYER   PLANS.—Section  
11   9711(c) of the Internal Revenue Code of 1986 (relating  
12   to joint and several liability) is amended to read as follows:

13          “(c) JOINT AND SEVERAL LIABILITY OF RELATED  
14   PERSONS.—

15               “(1) IN GENERAL.—Except as provided in para-  
16               graph (2), each related person of a last signatory op-  
17               erator to which subsection (a) or (b) applies shall be  
18               jointly and severally liable with the last signatory op-  
19               erator for the provision of health care coverage de-  
20               scribed in subsection (a) or (b).

21               “(2) LIABILITY LIMITED IF SECURITY PRO-  
22               VIDED.—If—

23                       “(A) 1 or more last signatory operators to  
24                       which this paragraph applies (or any related  
25                       person to any such last signatory operator) are

1 members of a controlled group of corporations  
 2 (within the meaning of section 52(a)) the com-  
 3 mon parent of which—

4 “(i) is a corporation the shares of  
 5 which are publicly traded on a United  
 6 States exchange, and

7 “(ii) is jointly and severally liable for  
 8 the provision of health care under this sec-  
 9 tion which, but for this paragraph, would  
 10 be required to be provided by the last sig-  
 11 natory operators or related person, and

12 “(B) security meeting the requirements of  
 13 paragraph (4) is provided by or on behalf of the  
 14 last signatory operators or related person,

15 then, as of the date the security is provided, such  
 16 common parent (and no other person) shall be liable  
 17 for the provision of health care under this section  
 18 which the last signatory operators or related person  
 19 would otherwise be required to provide.

20 “(3) LAST SIGNATORY OPERATORS TO WHICH  
 21 PARAGRAPH (2) APPLIES.—This subsection shall  
 22 apply to any last signatory operator if—

23 “(A) the last signatory operator is an as-  
 24 signed operator meeting the requirements of  
 25 section 9704(j)(2), or

1           “(B) the last signatory operator is not an  
2 assigned operator and—

3           “(i) the last signatory operator (or a  
4 related person to the last signatory oper-  
5 ator)—

6           “(I) made contributions to the  
7 1950 UMWA Benefit Plan and the  
8 1974 UMWA Benefit Plan for em-  
9 ployment during the period covered by  
10 the 1988 agreement; and

11           “(II) is not a 1988 agreement  
12 operator; and

13           “(ii) the last signatory operator (and  
14 all related persons to the last signatory op-  
15 erator) are not actively engaged in the pro-  
16 duction of coal as of July 1, 2005.

17           “(4) SECURITY.—Security meets the require-  
18 ments of this paragraph if—

19           “(A) the security—

20           “(i) is in the form of a bond, letter of  
21 credit, or cash escrow,

22           “(ii) is provided to the trustees of the  
23 1992 UMWA Benefit Plan solely for the  
24 purpose of paying premiums for bene-  
25 ficiaries who would be described in section



1           9712(b)(2)(B) if the requirements of this  
 2           section were not met by the last signatory  
 3           operator, and

4           “(iii) is in an amount equal to 1 year  
 5           of liability of the last signatory operator  
 6           under this section, determined by using the  
 7           average cost of such operator’s liability  
 8           during the prior 3 calendar years;

9           “(B) the security is in addition to any  
 10          other security required under any other provi-  
 11          sion of this title; and

12          “(C) the security remains in place for 5  
 13          years.

14          “(5) REFUNDS OF SECURITY.—The full amount  
 15          of any security provided under this subsection (and  
 16          earnings thereon) shall be refunded to the last sig-  
 17          natory operator as of the earlier of—

18               “(A) the termination of the obligations of  
 19               the last signatory operator under this section,  
 20               or

21               “(B) the end of the 5-year period described  
 22               in paragraph (4)(C).”

23          (c) 1992 UMWA BENEFIT PLAN.—Section  
 24          9712(d)(4) of the Internal Revenue Code of 1986 (relating  
 25          to joint and several liability) is amended by adding at the

1 end the following new sentence: “The provisions of section  
 2 9711(c)(2) shall apply to any last signatory operator de-  
 3 scribed in section 9711(c)(3) and if security meeting the  
 4 requirements of section 9711(c)(4) is provided, the com-  
 5 mon parent described in section 9711(c)(2) shall be exclu-  
 6 sively responsible for any liability for premiums under this  
 7 section which, but for this sentence, would be required to  
 8 be paid by the last signatory operator or any related per-  
 9 son.”.

10 (d) SUCCESSOR IN INTEREST.—Section 9701(c) of  
 11 the Internal Revenue Code of 1986 (relating to terms re-  
 12 lating to operators) is amended by adding at the end the  
 13 following new paragraph:

14 “(8) SUCCESSOR IN INTEREST.—

15 “(A) SAFE HARBOR.—The term ‘successor  
 16 in interest’ shall not include any person who—

17 “(i) is an unrelated person to an eligi-  
 18 ble seller described in subparagraph (C);

19 and

20 “(ii) purchases for fair market value  
 21 assets, or all of the stock, of a related per-  
 22 son to such seller, in a bona fide, arm’s-  
 23 length sale.

24 “(B) UNRELATED PERSON.—The term  
 25 ‘unrelated person’ means a purchaser who does

1 not bear a relationship to the eligible seller de-  
 2 scribed in section 267(b).

3 “(C) ELIGIBLE SELLER.—For purposes of  
 4 this paragraph, the term ‘eligible seller’ means  
 5 an assigned operator described in section  
 6 9704(j)(2), a last signatory operator described  
 7 in section 9711(c)(3), or a related person to  
 8 such assigned operator or last signatory oper-  
 9 ator.”

10 (e) EFFECTIVE DATE.—The amendments made by  
 11 this section shall take effect on the date of the enactment  
 12 of this Act and the amendment made by subsection (d)  
 13 shall apply to transactions after the date of the enactment  
 14 of this Act.

15 **SEC. 302. TRANSFERS TO FUNDS; PREMIUM RELIEF.**

16 (a) COMBINED FUND.—

17 (1) FEDERAL TRANSFERS UNDER CERTAIN  
 18 MINING LAWS.—Section 9705(b) of the Internal  
 19 Revenue Code of 1986 (relating to transfers from  
 20 Abandoned Mine Reclamation Fund) is amended—

21 (A) by inserting “or under the Mineral  
 22 Leasing Act (30 U.S.C. 191)” before the period  
 23 at the end of paragraph (1),

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

1           “(2) USE OF FUNDS.—Any amount transferred  
 2           under paragraph (1) for any fiscal year shall be used  
 3           to pay benefits and administrative costs of bene-  
 4           ficiaries of the Combined Fund or for such other  
 5           purposes as are specifically provided in the Acts de-  
 6           scribed in paragraph (1).”, and

7                       (C) by striking “FROM ABANDONED MINE  
 8           RECLAMATION FUND” and inserting “UNDER  
 9           CERTAIN FEDERAL MINING LAWS”.

10           (2) MODIFICATIONS OF PREMIUMS TO REFLECT  
 11           TRANSFERS UNDER MINING LAWS.—

12                       (A) ELIMINATION OF UNASSIGNED BENE-  
 13           FICIARIES PREMIUM.—Section 9704(d) of such  
 14           Code (establishing unassigned beneficiaries pre-  
 15           mium) is amended to read as follows:

16           “(d) UNASSIGNED BENEFICIARIES PREMIUM.—

17                       “(1) PLAN YEARS ENDING ON OR BEFORE SEP-  
 18           TEMBER 30, 2006.—For plan years ending on or be-  
 19           fore September 30, 2006, the unassigned bene-  
 20           ficiaries premium for any assigned operator shall be  
 21           equal to the applicable percentage of the product of  
 22           the per beneficiary premium for the plan year multi-  
 23           plied by the number of eligible beneficiaries who are  
 24           not assigned under section 9706 to any person for  
 25           such plan year.

1           “(2) PLAN YEARS BEGINNING ON OR AFTER OC-  
2           TOBER 1, 2006.—

3           “(A) IN GENERAL.—For plan years begin-  
4           ning on or after October 1, 2006, subject to  
5           subparagraph (B), there shall be no unassigned  
6           beneficiaries premium, and benefit costs with  
7           respect to eligible beneficiaries who are not as-  
8           signed under section 9706 to any person for  
9           any such plan year shall be paid from amounts  
10          transferred under section 9705(b).

11          “(B) INADEQUATE TRANSFERS.—If, for  
12          any plan year beginning on or after October 1,  
13          2006, the amounts transferred under section  
14          9705(b) are less than the amounts required to  
15          be transferred to the Combined Fund under  
16          section 402(h)(2)(A) of the Surface Mining  
17          Control and Reclamation Act of 1977 (30  
18          U.S.C. 1232(h)(2)(A)) or paragraphs (1) and  
19          (2) of section 35(c) of the Mineral Leasing Act  
20          (30 U.S.C. 191(c) (1) and (2)), then the unas-  
21          signed beneficiaries premium for any assigned  
22          operator shall be equal to the operator’s appli-  
23          cable percentage of the amount required to be  
24          so transferred which was not so transferred.”

25          (B) PREMIUM ACCOUNTS.—

1 (i) CREDITING OF ACCOUNTS.—Sec-  
 2 tion 9704(e)(1) of such Code (relating to  
 3 premium accounts; adjustments) is amend-  
 4 ed by inserting “and amounts transferred  
 5 under section 9705(b)” after “premiums  
 6 received”.

7 (ii) SURPLUSES ATTRIBUTABLE TO  
 8 PUBLIC FUNDING.—Section 9704(e)(3)(A)  
 9 of such Code is amended by adding at the  
 10 end the following new sentence: “Amounts  
 11 credited to an account from amounts  
 12 transferred under section 9705(b) shall not  
 13 be taken into account in determining  
 14 whether there is a surplus in the account  
 15 for purposes of this paragraph.”

16 (C) APPLICABLE PERCENTAGE.—Section  
 17 9704(f)(2) of such Code (relating to annual ad-  
 18 justments) is amended by adding at the end the  
 19 following new subparagraph:

20 “(C) In the case of plan years beginning  
 21 on or after October 1, 2007, the total number  
 22 of assigned eligible beneficiaries shall be re-  
 23 duced by the eligible beneficiaries whose assign-  
 24 ments have been revoked under section  
 25 9706(h).”

1           (3) ASSIGNMENTS AND REASSIGNMENT.—Sec-  
 2           tion 9706 of the Internal Revenue Code of 1986 (re-  
 3           lating to assignment of eligible beneficiaries) is  
 4           amended by adding at the end the following:

5           “(h) ASSIGNMENTS AS OF OCTOBER 1, 2007.—

6           “(1) IN GENERAL.—Subject to the premium ob-  
 7           ligation set forth in paragraph (3), the Commis-  
 8           sioner of Social Security shall—

9           “(A) revoke all assignments to persons  
 10           other than 1988 agreement operators for pur-  
 11           poses of assessing premiums for plan years be-  
 12           ginning on and after October 1, 2007; and

13           “(B) make no further assignments to per-  
 14           sons other than 1988 agreement operators, ex-  
 15           cept that no individual who becomes an unas-  
 16           signed beneficiary by reason of subparagraph  
 17           (A) may be assigned to a 1988 agreement oper-  
 18           ator.

19           “(2) REASSIGNMENT UPON PURCHASE.—This  
 20           subsection shall not be construed to prohibit the re-  
 21           assignment under subsection (b)(2) of an eligible  
 22           beneficiary.

23           “(3) LIABILITY OF PERSONS DURING THREE  
 24           FISCAL YEARS BEGINNING ON AND AFTER OCTOBER  
 25           1, 2007.—In the case of each of the fiscal years be-

ginning on October 1, 2007, 2008, and 2009, each person other than a 1988 agreement operator shall pay to the Combined Fund the following percentage of the amount of annual premiums that such person would otherwise be required to pay under section 9704(a), determined on the basis of assignments in effect without regard to the revocation of assignments under paragraph (1)(A):

“(A) For the fiscal year beginning on October 1, 2007, 55 percent.

“(B) For the fiscal year beginning on October 1, 2008, 40 percent.

“(C) For the fiscal year beginning on October 1, 2009, 15 percent.”

(4) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years of the Combined Fund beginning after September 30, 2006.

(b) 1992 UMWA BENEFIT AND OTHER PLANS.—

(1) TRANSFERS TO PLANS.—Section 9712(a) of the Internal Revenue Code of 1986 (relating to the establishment and coverage of the 1992 UMWA Benefit Plan) is amended by adding at the end the following:



1           “(3) TRANSFERS UNDER OTHER FEDERAL  
2       STATUTES.—

3           “(A) IN GENERAL.—The 1992 UMWA  
4       Benefit Plan shall include any amount trans-  
5       ferred to the plan under section 402(h) of the  
6       Surface Mining Control and Reclamation Act of  
7       1977 (30 U.S.C. 1232(h)) and section 35 of the  
8       Mineral Leasing Act (30 U.S.C. 191).

9           “(B) USE OF FUNDS.—Any amount trans-  
10      ferred under subparagraph (A) for any fiscal  
11      year shall be used to provide the health benefits  
12      described in subsection (c) with respect to any  
13      beneficiary for whom no monthly per bene-  
14      ficiary premium is paid pursuant to paragraph  
15      (1)(A) or (3) of subsection (d).

16      “(4) SPECIAL RULE FOR 1993 PLAN.—

17      “(A) IN GENERAL.—The plan described in  
18      section 402(h)(2)(C) of the Surface Mining  
19      Control and Reclamation Act of 1977 (30  
20      U.S.C. 1232(h)(2)(C)) shall include any  
21      amount transferred to the plan under section  
22      402(h) of the Surface Mining Control and Rec-  
23      lamation Act of 1977 (30 U.S.C. 1232(h)) and  
24      section 35 of the Mineral Leasing Act (30  
25      U.S.C. 191).

“(B) USE OF FUNDS.—Any amount transferred under subparagraph (A) for any fiscal year shall be used to provide the health benefits described in section 402(h)(2)(C)(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)(i)) to individuals described in section 402(h)(2)(C)(ii) of such Act (30 U.S.C. 1232(h)(2)(C)(ii))”.

(2) PREMIUM ADJUSTMENTS.—

(A) IN GENERAL.—Section 9712(d)(1) of such Code (relating to guarantee of benefits) is amended to read as follows:

“(1) IN GENERAL.—All 1988 last signatory operators shall be responsible for financing the benefits described in subsection (c) by meeting the following requirements in accordance with the contribution requirements established in the 1992 UMWA Benefit Plan:

“(A) The payment of a monthly per beneficiary premium by each 1988 last signatory operator for each eligible beneficiary of such operator who is described in subsection (b)(2) and who is receiving benefits under the 1992 UMWA benefit plan.

1           “(B) The provision of a security (in the  
 2           form of a bond, letter of credit, or cash escrow)  
 3           in an amount equal to a portion of the pro-  
 4           jected future cost to the 1992 UMWA Benefit  
 5           Plan of providing health benefits for eligible  
 6           and potentially eligible beneficiaries attributable  
 7           to the 1988 last signatory operator.

8           “(C) If the amounts transferred under  
 9           subsection (a)(3) are less than the amounts re-  
 10          quired to be transferred to the 1992 UMWA  
 11          Benefit Plan under section 402(h)(2)(B) of the  
 12          Surface Mining Control and Reclamation Act of  
 13          1977 (30 U.S.C. 1232(h)(2)(B)) and section  
 14          35(c)(2) of the Mineral Leasing Act (30 U.S.C.  
 15          191(c)(2)), the payment of an additional back-  
 16          stop premium by each 1988 last signatory oper-  
 17          ator which is equal to such operator’s share of  
 18          the amounts required to be so transferred but  
 19          which were not so transferred, determined on  
 20          the basis of the number of eligible and poten-  
 21          tially eligible beneficiaries attributable to the  
 22          operator.”

23               (B) CONFORMING AMENDMENTS.—Section  
 24               9712(d) of such Code is amended—

1 (i) in paragraph (2)(B), by striking  
 2 “prefunding” and inserting “backstop”,  
 3 and

4 (ii) in paragraph (3), by striking  
 5 “paragraph (1)(B)” and inserting “para-  
 6 graph (1) (A)”.

7 (C) EFFECTIVE DATE.—The amendments  
 8 made by this paragraph shall apply to fiscal  
 9 years beginning on or after October 1, 2010.

10 **SEC. 303. OTHER PROVISIONS.**

11 (a) BOARD OF TRUSTEES.—Section 9702(b) of the  
 12 Internal Revenue Code of 1986 (relating to board of trust-  
 13 ees of the Combined Fund) is amended to read as follows:

14 “(b) BOARD OF TRUSTEES.—

15 “(1) IN GENERAL.—For purposes of subsection  
 16 (a), the board of trustees for the Combined Fund  
 17 shall be appointed as follows:

18 “(A) 2 individuals who represent employers  
 19 in the coal mining industry shall be designated  
 20 by the BCOA;

21 “(B) 2 individuals designated by the  
 22 United Mine Workers of America; and

23 “(C) 3 individuals selected by the individ-  
 24 uals appointed under subparagraphs (A) and  
 25 (B).

1           “(2) SUCCESSOR TRUSTEES.—Any successor  
2 trustee shall be appointed in the same manner as  
3 the trustee being succeeded. The plan establishing  
4 the Combined Fund shall provide for the removal of  
5 trustees.

6           “(3) SPECIAL RULE.—If the BCOA ceases to  
7 exist, any trustee or successor under paragraph  
8 (1)(A) shall be designated by the 3 employers who  
9 were members of the BCOA on the enactment date  
10 and who have been assigned the greatest number of  
11 eligible beneficiaries under section 9706.”

12       (b) ENFORCEMENT OF OBLIGATIONS.—

13           (1) FAILURE TO PAY PREMIUMS.—Section  
14 9707(a) of the Internal Revenue Code of 1986 is  
15 amended to read as follows:

16       “(a) FAILURES TO PAY.—

17           “(1) PREMIUMS FOR ELIGIBLE BENE-  
18 FICIARIES.—There is hereby imposed a penalty on  
19 the failure of any assigned operator to pay any pre-  
20 mium required to be paid under section 9704 with  
21 respect to any eligible beneficiary.

22           “(2) CONTRIBUTIONS REQUIRED UNDER THE  
23 MINING LAWS.—There is hereby imposed a penalty  
24 on the failure of any person to make a contribution  
25 required under section 402(h)(5)(B)(ii) of the Sur-

1 face Mining Control and Reclamation Act of 1977 to  
 2 a plan referred to in section 402(h)(2)(C) of such  
 3 Act. For purposes of applying this section, each such  
 4 required monthly contribution for the hours worked  
 5 of any individual shall be treated as if it were a pre-  
 6 mium required to be paid under section 9704 with  
 7 respect to an eligible beneficiary.”

8 (2) CIVIL ENFORCEMENT.—Section 9721 of  
 9 such Code is amended to read as follows:

10 **“SEC. 9721. CIVIL ENFORCEMENT.**

11 “The provisions of section 4301 of the Employee Re-  
 12 tirement Income Security Act of 1974 shall apply, in the  
 13 same manner as any claim arising out of an obligation  
 14 to pay withdrawal liability under subtitle E of title IV of  
 15 such Act, to any claim—

16 “(1) arising out of an obligation to pay any  
 17 amount required to be paid by this chapter; or

18 “(2) arising out of an obligation to pay any  
 19 amount required by section 402(h)(5)(B)(ii) of the  
 20 Surface Mining Control and Reclamation Act of  
 21 1977 (30 U.S.C. 1232(h)(5)(B)(ii)).”

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