

111TH CONGRESS  
2D SESSION

# S. 3252

To amend the Surface Mining Control and Reclamation Act of 1977 to limit the liability of a State performing reclamation work under an approved State abandoned mine reclamation plan.

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## IN THE SENATE OF THE UNITED STATES

APRIL 22, 2010

Mr. TESTER introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

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## A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to limit the liability of a State performing reclamation work under an approved State abandoned mine reclamation plan.

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. STATE LIABILITY UNDER A RECLAMATION PRO-**  
4       **GRAM.**

5       Section 405(l) of the Surface Mining Control and  
6       Reclamation Act of 1977 (30 U.S.C. 1235(l)) is amended  
7       by striking subsection (l) and inserting the following:

8       “(l) STATE LIABILITY.—

1           “(1) DEFINITION OF GROSS NEGLIGENCE.—In  
2           this subsection, the term ‘gross negligence’ means  
3           reckless, willful, or wanton misconduct by a State.

4           “(2) LIABILITY.—No State shall be liable under  
5           any provision of Federal law for any costs or dam-  
6           ages incurred as a result of action taken or omitted  
7           in the course of carrying out a State abandoned  
8           mine reclamation plan under this section, including  
9           reclamation activities conducted by a State pursuant  
10          to a State abandoned mine reclamation plan ap-  
11          proved under this section.

12          “(3) EXCEPTIONS.—This subsection shall not  
13          preclude liability for any costs or damages incurred  
14          as a result of gross negligence or intentional mis-  
15          conduct by the State.”.

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