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## **Abandoned Mine Land Fund Reauthorization: Selected Issues**

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# Abandoned Mine Land Fund Reauthorization: Selected Issues

## Summary

The Surface Mining Control and Reclamation Act (SMCRA, P.L. 95-87), enacted in 1977, established reclamation standards for all coal surface mining operations and for the surface effects of underground mining. It also established the Abandoned Mine Land (AML) program to promote the reclamation of sites mined and abandoned prior to the enactment of SMCRA. To finance reclamation of abandoned mine sites, the legislation established fees on coal production. These collections are divided into federal and state shares; subject to annual appropriation, AML funds are distributed annually to states with approved reclamation programs. Since the program's inception and through FY2003, collections have totaled \$6.8 billion; appropriations from the fund have totaled \$5.3 billion. The unappropriated balance in the fund exceeded \$1.4 billion at the end of 2003. As of the end of March 2004, nearly \$1 billion of this sum is credited to the state share accounts, of which nearly \$400 million alone is in Wyoming's account, because — even though most of the sites awaiting cleanup are in the eastern part of the nation — coal production has shifted westward. Consequently, the western states have been making significantly larger contributions to the fund in recent years.

Authorization for collection of AML fees expires at the end of FY2004. A Bush Administration proposal (S. 2049/H.R. 3778) proposes to refund, through additional appropriations, unobligated state balances over a 10-year period. These balances would be returned to states and Indian tribes with certified reclamation programs that have completed reclamation of their Priority 1 sites. These states would no longer receive grants from the AML fund itself, freeing up funds from the regular AML appropriation to be targeted to states with sites awaiting cleanup. The Administration argues that this will finish cleanup years sooner.

House and Senate legislation — H.R. 3796 and S. 2086 — differ greatly in some respects from the Administration proposal. These bills would maintain the distinction between state and federal shares and require that 50% of annual contributions be returned to states even if cleanup of priority abandoned mine sites had been completed. States and tribes could use the money for other purposes if cleanup of AML sites had been completed.

The House, Senate, and Administration proposals would all end the allocation of a portion of AML collections to the Rural Abandoned Mine Land Program administered by the Department of Agriculture. This program has received no appropriation since FY1995, but carries an unappropriated balance of slightly more than \$300 million. H.R. 3796 would make the money available for any purpose, while S. 2086 would provide \$65 million of this pool of money for grants to certified states and tribes without lands available for leasing under the Mineral Leasing Act.

This report summarizes major features and some of the differences between the Administration proposal and congressional alternatives. The report will be updated as developments warrant.

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# Abandoned Mine Land Fund Reauthorization: Selected Issues

The Surface Mining Control and Reclamation Act (SMCRA, P.L. 95-87), enacted in 1977, established reclamation standards for all coal surface mining operations, and for the surface effects of underground mining. It also established the Abandoned Mine Land (AML) program to promote the reclamation of sites mined and abandoned prior to the enactment of SMCRA. To finance reclamation of abandoned mine sites, the legislation established fees on coal production, which are deposited in an AML fund administered by the Department of the Interior (DOI) Office of Surface Mining (OSM). Authorization to collect these fees expires on September 30, 2004.

On February 2, 2004, in company with the Bush Administration budget request for the Department of the Interior (DOI), the Department released a reauthorization proposal that would make changes in the collection of fees for, and disbursement of grant monies from, the AML Fund. Prominent among the provisions is a phased reduction in the AML fees assessed on coal production. Under the Administration plan, unobligated balances that have accumulated in individual state share accounts would be returned over a 10-year period. This proposal, and other changes sought by the Administration, would address a number of long-standing complaints about the formulas that are applied to the fees and the calculation of grants disbursements, and will require congressional action to implement. Full initial implementation of the Administration proposal would require a substantial increase in the FY2005 AML appropriation — from \$190.6 million in FY2004 to \$243.9 million, an increase of \$53.3 million, or nearly 28%.<sup>1</sup> The Administration proposal has been introduced as H.R. 3778/S. 2049.

There are a number of issues for Congress in the disposition of the reauthorization. A prominent issue will be whether the changes in the program proposed by the Administration would leave the fund with adequate resources over time to meet all the fund's obligations. The United Mine Workers Combined Benefits Fund (CBF), which provides health care benefits to retired miners, is also dependent upon transfers from the AML fund.

A second issue concerns the geographic balance between collections and disbursements. As coal production has moved westward, western states have been paying larger sums into the AML fund while grants distribution has favored eastern states that have a larger number of priority sites to be reclaimed. At issue, too, will be how the return of unobligated state share balances should be funded. The

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<sup>1</sup> A summary of the FY2004 appropriation and AML distribution appears in **Tables 1 and 2** at the end of this report.

Administration proposes to finance the return through a higher appropriation from the AML fund at a time of growing concern over federal spending. One competing proposal, H.R. 3796, would partly finance the return of these balances with proceeds from federal coal leasing. This bill and one in the Senate, S. 2086, would also — among other provisions — provide for the return to states of a greater portion of current fee collections.

## Grants Distribution: The Current Structure

Collections for the AML fund are divided into federal and state shares; subject to annual appropriation, AML funds are distributed annually to states with approved reclamation programs.<sup>2</sup> Since the program's inception and through March 31, 2004, collections have totaled \$6.94 billion; appropriations from the fund have totaled \$5.5 billion. The unappropriated balance in the fund slightly exceeds \$1.5 billion (also as of the end of March 2004). Of this figure, the federal share represents a little more than \$500 million, and the unobligated balances in state share accounts approaches \$1 billion.<sup>3</sup> OSM, which runs the program, has estimated that it will require roughly \$3 billion to address the remaining high-priority sites.<sup>4</sup>

The design and purpose of the AML fund has raised some significant issues, some of which are common to trust funds in general. The AML program touches upon long-held state concerns about levying fees on residents or businesses operating in one state to remedy nationwide problems — albeit for the “common good” — but which dot the landscape disproportionately among the several states. The allocation and distribution of AML collections are designed to preserve a rough equity, given the anomaly that the states with the greatest inventory of priority AML sites are no longer among the largest coal producers. But not all states have been comfortable with the distribution.

Nor are they sanguine about the level of annual congressional appropriations from the fund. From the inception of the program, the fund has had unappropriated balances. This places the AML fund in company with other trust funds held by the federal government (such as the Highway Trust, and Land and Water Conservation Funds) in which some states — eyeing the unappropriated balances — believe their citizens, and businesses operating within their borders, pay more into the fund than the state receives in benefits.

To finance reclamation of abandoned mine sites, SMCRA established a fee on coal production that is paid by coal producers into an Abandoned Mine Land Recla-

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<sup>2</sup> Twenty-three states and three Indian tribes received reclamation grants during FY2003.

<sup>3</sup> Current figures are available from the OSM website. See [<http://www.osmre.gov/fundstat.htm>].

<sup>4</sup> See, for example, Statement of Jeffrey D. Jarrett, Director, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, before the [House Committee on Resources] Subcommittee on Energy and Mineral Resources, U.S. House of Representatives, on H.R. 3778 and H.R. 3796, March 30, 2004. Available at [<http://www.osmre.gov/reports/033004statement.txt>].

mation trust fund.<sup>5</sup> SMCRA authorized collection of AML fees through the end of 1992; the Energy Policy Act of 1992 (EPACT, P.L. 102-486) extended the AML authorization through the end of FY2004. In between the passage of those two bills, the Omnibus Budget Reconciliation Act of 1990 (OBRA, P.L. 101-508) had extended authority for AML collections through FY1995. Additionally, OBRA authorized the OSM to invest the unappropriated balance of AML funds in U.S. Treasury securities. The investment interest is deposited in the AML fund; however, EPACT authorized transfer of up to \$70 million annually of this interest income, beginning in FY1996, to the United Mine Workers of America (UMW) to help pay the health benefits of retired miners. In recent years, low interest rates have generated less money to be transferred to the UMWA Combined Benefits Fund (CBF).<sup>6</sup>

SMCRA also provided that 50% of AML collections would be allocated to the states; this is generally referred to as the “state share” of AML fees. The balance of the collections is under the control of the Secretary of the Interior and is generally referred to as the “federal share.” As amended by P.L. 101-508, 40% of this federal share (or 20% of the whole of AML collections) is designated for (1) emergency projects in states and on tribal lands; (2) projects in states and on tribal lands without approved reclamation plans; (3) the Small Operator Assistance Program (SOAP); and (4) federal administrative costs. Twenty percent (or 10% percent of total AML collections) is set aside to be transferred to the Department of Agriculture for its Rural Abandoned Mine Program (RAMP).<sup>7</sup> An additional earmark is made for the Appalachian Clean Streams Initiative (ACSI). The ACSI program was initiated in FY1994 to clean up and restore streams damaged by acid mine drainage, largely the result of past coal mining. The remaining 40% of the federal half of total AML collections constitutes a pool from which supplemental grants may be awarded to the states for remedy of Priority 1 and 2 sites,<sup>8</sup> based upon historic coal production.

Congress annually appropriates money from the AML fund. OSM then calculates the distribution to each eligible state and Indian tribe from its shares of state and federal apportionments of AML collections. Annual distributions are paid from both shares. The formula is complex and applies differently to the state and federal share

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<sup>5</sup> The current schedule is \$.35/ton of coal produced by surface mining; \$.15/ton of coal produced by underground mining; and \$.10/ton of mined lignite.

<sup>6</sup> No appropriation is required for this transfer.

<sup>7</sup> RAMP was designed to restore agricultural land that had been disturbed by strip mining. While entitled by SMCRA to one-fifth of AML collection, the program had been receiving significantly less — \$10 million in the years before appropriations to the program ceased after FY1995. There have been repeated attempts to abolish RAMP. Critics claimed it was duplicative and that sites subject to regular AML grants were higher priority. See archived CRS Report 95-706 ENR, *The Rural Abandoned Mine Program — A Fact Sheet*, by Duane Thompson, June 12, 1995, available from the author.

<sup>8</sup> SMCRA defines Priority 1 sites as those warranting “the protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices.” Priority 2 sites are similarly defined, with the exception that the “adverse effects” do not pose “extreme danger,” as with Priority 1 sites. Sec. 403(a) of SMCRA, 30 U.S.C. 1233.

of AML collections.<sup>9</sup> While the draw from the pool of AML revenues allocated to individual state shares is fairly straightforward and proportional, more complex adjustments affect the proportionality of the final distribution paid from the federal share. This makes it difficult to measure a direct transfer of wealth among individual states.

Calculation of the distribution of grants to a state from its share of AML collections is based on the state's share of previously collected but yet undistributed AML fees. The distribution to a state from the federal share is based on (1) a state's coal production prior to 1978, before enactment of SMCRA that established the AML fund; and (2) adjustments to the distribution made on behalf of minimum program states to bring their grants up to a designated minimum level of funding for reclamation.

Minimum program states are states with relatively low annual coal production. For these states, SMCRA was amended in 1990 to authorize appropriations for the reclamation of the most dangerous sites (so-called Priority 1 and 2 sites) listed in the AML inventory at the lesser of (1) the estimated cost to reclaim those sites, or (2) a minimum program level of \$2.0 million per state. Prior to that, annual appropriations had provided \$1.5 million annually to minimum program states.

These minimum program levels, however, are subject to annual appropriations by the Congress. Congress may appropriate all, or less than, the \$2.0 million currently authorized. For FY1995, Congress reduced the minimum program appropriation to \$1.5 million and it has remained there into FY2004.

As noted above, the Energy Policy Act of 1992 provided that payments of up to \$70 million (referred to as the "cap") from interest earned annually on AML funds would be transferred to the retired miners health benefits fund, the United Mine Workers of America Combined Benefits Fund (CBF). This fund pays the premiums of retirees who worked for companies that went bankrupt, or which no longer exist. In earlier years, expenses of the CBF were less than the annual interest generated by the AML fund, leaving interest balances that have been transferred as needed in subsequent years when CBF expenses exceeded the annual interest generated. Transfers of roughly \$680 million have been made to the CBF as of the end of March 2004.<sup>10</sup>

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<sup>9</sup> **Table 2** shows the breakdown in the distributions from the federal and state share accounts.

<sup>10</sup> Office of Surface Mining. The Energy Policy Act of 1992 provided that the unobligated balances would begin to earn interest in FY1993; however, transfers did not begin until FY1996, so as not to violate deficit-control measures included in the Budget Enforcement Act of 1990 provisions of P.L. 101-508. For a complete discussion of the genesis and implications of this transfer payment, see Nonna Noto, "Interest Transfers from the Abandoned Mine Reclamation Fund," in U.S. Congress, House Committee on Ways and Means, *Development and Implementation of the Coal Industry Retiree Health Benefit Act of 1992*, June 22, 1995, WMCP: 104-3, pp. 50-54.

## Major Features of the Administration and Competing Proposals

The Administration proposal is intended to address the major concerns outlined above. The Administration plan would:

- extend the program through FY2018;
- reduce the AML fee assessed on each ton of coal produced by 15% during the period FY2005-FY2009, and by 25% from FY2010 until the expiration of the reauthorization in FY2018;
- return unobligated state share balances over a 10-year period to states that have been certified to have completed reclamation of their Priority 1 sites — these states would no longer receive AML grants from the remaining unappropriated balances in the fund or from new collections; non-certified states would have their state share balances returned to them as part of their annual grants for reclamation activities;<sup>11</sup>
- end the division and assignment of fee collections into state and federal shares; all future AML collections would be deposited in a single account;
- remove the \$70 million cap on the amount of interest to be transferred annually to the United Mine Workers' Combined Benefits Fund, and make other changes to provide the CBF with \$310 million over the next few years;
- provide minimum program states with \$2 million each annually; and
- end the reservation of AML funds for the Rural Abandoned Mine Land Program, which is under the jurisdiction of the Department of Agriculture, and which has received no appropriation since 1995.

The cessation of assigning AML collections to a “state share” is one of the most interesting features of the Administration proposal. This assignment has been responsible for one of the greatest pressures on OSM. The creation of the separate state and federal funds was more an accounting convenience than intended to be literal. However, states have been displeased with the accumulating unobligated

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<sup>11</sup> Section 1240a provides for states to apply for certification that they have completed reclamation of high priority sites. However, under the Administration proposal, certified states would only receive return of unobligated balances in the state share account. Non-certified states would receive both a return of state share balances and reclamation grants from the general portion of the AML fund, creating a disincentive to apply for certification. The Administration proposal would allow the Department of the Interior to initiate certification without waiting for states to make application. At present, Louisiana, Wyoming, Montana, Texas, and the Hopi and Navajo tribes are certified.

balances in their state share accounts and regard these balances as “state” money to which they are entitled.

Certain states have a special interest in how this particular issue is resolved. As shown in **Table 3**, more than half of the nearly \$1 billion in unobligated state share balances is held in the accounts of Wyoming, West Virginia, and Kentucky.<sup>12</sup> The Administration proposes to return the state share balances over a 10-year period, and has requested in the FY2005 budget an additional \$53 million to begin disbursement of the unobligated state share balances in FY2005. Under the Administration plan, states that have been certified would receive only the disbursement from their unobligated state share balances; they would receive no further grants from the AML fund. By seeking an additional appropriation for returning state share balances — assuming that the appropriation for grants from the AML fund remains around current levels — the Administration argues that it will free up more grant resources to be awarded to those states with the most sites awaiting reclamation. A further benefit, the Administration argues, is that cleanup of these sites will be completed “decades sooner.”<sup>13</sup> Grants to states and tribes still with high-priority sites would be drawn first on the state share account until the state share accounts for these states were also exhausted.

Under the Administration proposal, unobligated state balances would be largely divorced from OSM and current AML mechanics. All future collections would go into a single account, eliminating the state share designation altogether and ending any further accumulation of unobligated balances in the state share. By predicating return of these balances to a straightforward appropriation determined by Congress, it would also eliminate the argument that OSM and the current, complex formula for grant distribution is the bottleneck for return of these funds.

The unobligated balances in the state AML fund account have especially nettled some states as coal production has shifted west of the Mississippi. Contributions to the AML fund have been increasingly borne by western states. In 1950, nearly 525 million tons of coal were mined in the eastern portion of the country, while western production was roughly 36 million tons. By 2002, western coal production exceeded 600 million tons, while production in the East had declined moderately to more than 490 million tons.<sup>14</sup>

However, the prospects for approval of the sort of significant increase in appropriated funds for this purpose that is part of the FY2005 request are unclear in a climate of renewed concern over federal spending and borrowing. It is possible

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<sup>12</sup> Montana has completed reclamation of all 18 of its Priority 1 and 2 sites. In contrast, Kentucky has reclaimed 253 of 640 Priority 1 and 2 sites, and West Virginia has reclaimed 323 of 1,069 such sites. Source: Office of Surface Mining. Abandoned Mine Land Inventory System (AMLIS): [<http://www.osmre.gov/aml/inven/zintroin.htm>].

<sup>13</sup> Summary sheet from DOI, *Abandoned Mine Land (AML) Reclamation Program Extension and Reform Act of 2004*, Feb. 2, 2004.

<sup>14</sup> Energy Information Administration, as cited by Congressional Quarterly: [<http://www.cq.com/display.do?dockey=/cqonline/prod/data/docs/html/billwatch/108/billwatch108-000001076433.html@allbills&metapub=CQ-BILLWATCH>].

that, if the essential features of the reauthorization plan proposed by the Administration were enacted, the calendar for return of state share monies could be lengthened or even deferred. While disbursement of AML grants has always been dependent upon Congressional appropriation, the Congressional role in the AML program could have even more visibility if reimbursement of unobligated state balances is tied to Congressional appropriation as well.

Isolating the refund of the state share balances from the AML fund itself may also contribute to making possible the Administration's proposed reduction in the fees to be collected on coal production. The fees, assessed on each ton of coal produced, would be reduced 15% for FY2005-FY2009, and 25% from FY2010 until the expiration of the Administration's reauthorization at the end of FY2018.

A competing proposal, S. 2086, introduced by Senator Thomas, differs from the Administration proposal in some important respects. That bill would:

- extend the program through FY2014;
- reduce reclamation fees in a single stage to \$.25/ton of surface mined coal; \$.12/ton for underground mined coal; and \$.08/ton for lignite mined coal;
- preserve the distinction between state and federal shares, requiring that 50% of state contributions be returned to states even if cleanup of abandoned mine sites had been completed;
- base grants on current, rather than historic, coal production, reflecting the shift of production westward;
- allow transfer to the CBF of all interest generated by the AML fund prior to FY2005 if needed to cover health care costs of unassigned beneficiaries;
- to the extent that grants to certified states and tribes from the AML appropriation fall short of the state-share allocation of collections, fund the difference from land lease revenues paid to the Treasury under the Mineral Leasing Act; the transfer would not be subject to appropriations, and states and tribes could use the money for other purposes if cleanup of AML sites had been completed; and
- end the reservation of AML funds for the Rural Abandoned Mine Land Program (RAMP), and release \$65 million of the current RAMP balance to pay for the return of unobligated state share balances to certified states and tribes that have no lands available for leasing. Grants would be proportional to a state's or tribe's unappropriated state share balance.

The Thomas proposal would reduce the fee assessed on surface-mined coal by nearly 30%, a significantly larger reduction than in the other proposals, thus changing the historic relationship between the fees assessed on the different categories of coal

production. To more or less equalize collections from the eastern and western coal-producing states, the original fee structure may have been structured to reflect that western coal was generally surface-mined while eastern coal was largely produced from underground mines. Now that production has shifted westward, proponents of S. 2086 argue that the fee relationship between the various types of coal-mining should be adjusted. Whatever fee structure is settled upon will no doubt be a reflection of regional considerations as well as the size of the fee collections that a majority of policymakers favor, whether for the purpose of making reclamation grants or meeting the needs of the CBF.

In the House, H.R. 3796, introduced by Representatives Cubin and Rahall, is very similar to S. 2086, with some differences. Among these, H.R. 3796 would:

- extend the program through FY2019;
- reduce reclamation fees in a single stage to \$.28/ton of surface mined coal; \$.12/ton for underground mined coal; and \$.08/ton for lignite mined coal; and
- end the allocation of any AML collections to RAMP, and make the money available for transfer to the CBF.<sup>15</sup>

## The Combined Benefits Fund

The Coal Industry Retiree Health Benefit Act of 1992 (the Coal Act), enacted as part of the Energy Policy Act of 1992 (P.L. 102-486, EPACT), established the United Mine Workers of America Combined Benefits Fund. The function of the CBF is to cover the unreimbursed health cost requirements of retired miners. Some such costs are assigned to former employers, and some comprise a category of “unassigned” beneficiaries. Premiums for assigned retirees are paid by former employers or entities to which these individuals have been assigned. EPACT provided that the expenses of the unassigned beneficiaries would be supported by interest generated by the unobligated balances in the AML fund, capping annual transfers at \$70 million. While the fund began to earn interest in FY1993, transfers to the CBF did not begin until FY1996 so as not to violate deficit-control measures included in the Budget Enforcement Act of 1990 provisions of P.L. 101-508.<sup>16</sup> There are currently 17,000 unassigned beneficiaries.

Assuring that there are sufficient funds to meet the expenses of the CBF is a major consideration in the AML reauthorization debate. While the CBF ran

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<sup>15</sup> In this respect, H.R. 3796 incorporates the language of H.R. 313, the Coal Accountability and Retired Employee Act for the 21<sup>st</sup> Century, generally referred to as CARE-21. Introduced by Representative Rahall on January 8, 2003, it was reported from the House Committee on Resources, October 28, 2003. H.Rept. 108-328.

<sup>16</sup> For a complete discussion of the genesis and implications of this transfer payment, see Nonna Noto, “Interest Transfers from the Abandoned Mine Reclamation Fund,” in U.S. Congress, House Committee on Ways and Means, *Development and Implementation of the Coal Industry Retiree Health Benefit Act of 1992*, June 22, 1995, WMCP: 104-3, pp. 50-54.

surpluses in its early years, it began to run deficits in FY1997. Interest generated prior to 1996 was transferred to the CBF by the Interior Appropriations Acts for FY2000 and FY2001. Low interest rates in recent years also reduced transfers to the CBF.

The Clinton Administration established a trial Medicare drug prescription program to provide reimbursement to the CBF for drug expenses. In January 2004, the Bush Administration announced that the program, set to expire in June 2004, would be extended through the end of FY2005. The United Mine Workers of America estimates that the extension will increase the CBF's Medicare reimbursement by \$190 million.<sup>17</sup> As noted earlier, the Administration also proposes to remove the \$70 million cap on the amount of AML interest that can be transferred annually, and estimates that — between the removal of this cap and extension of the Medicare drug program — the CBF could be provided with \$310 million over the next few years. S. 2086 would provide for the transfer of any interest earned prior to FY2005 if needed to cover the costs of benefits for unassigned beneficiaries.

While the UMWA is favorably disposed toward some features of the AML reauthorization advanced by the Administration, the union supports provisions in H.R. 3796 that would — in addition to the transfer of interest earned by the AML fund — allow transfers to be used to cover any deficit in the expenses of the CBF for coverage of assigned beneficiaries as well.<sup>18</sup> EPACT also provides that — in the event that authorization for collection of AML fees expires — “the fee shall be established at a rate to continue to provide for the deposit” of funds to the CBF. It is not apparent by what mechanism that fee would be determined or how it is to be designed to meet the needs of the CBF.<sup>19</sup> Whatever resolution is reached on AML reauthorization, treatment of the CBF is likely to be a major piece in the negotiations and debate.

## Conclusion

Dissatisfaction with the AML program has coalesced around perceptions that the current structure has not been even-handed in the distribution of AML collections. As noted earlier, the distribution formulas make it difficult to measure a direct transfer of wealth among individual states. While it is impossible to predict

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<sup>17</sup> United Mine Workers of America, *Crisis Averted: United Mine Workers of America Praises Administration's Plan to Increase Medicare Prescription Drug Demonstration Program Funding*, Press Release, January 29, 2003. The Administration projects that the drug program and other provisions of its AML reauthorization will provide \$310 million to the CBF during the next two years.

<sup>18</sup> See News from the United Mine Workers of America, “United Mine Workers of America International President Cecil Roberts Hails Introduction of Legislation by Reps. Rahall and Cubin to Extend America's Vital Abandoned Mine Reclamation Program and Ensure the Federal Government Keeps Its Promise to America's Coal Miners of Lifetime Health Care Benefits,” February 12, 2004.

<sup>19</sup> Section 1232. The language does not vest the authority with the Secretary of the Interior or specify any particular mechanism. This and other dimensions and complexities of the issues concerning the Combined Benefits Fund are beyond the scope of this report.

the outcome of this debate, opponents of the Administration proposal seem intent on making annual distributions more predictable, particularly with respect to treatment of the balances in the state share accounts.

Some of the competing proposals, by establishing a component of distribution outside of regular appropriations, would isolate some grant elements from what states consider to be the vagaries of the current AML structure. In part, this may be owing to some skepticism about the likelihood that Congress will raise AML appropriations sufficiently to institute the Administration's proposed 10-year return of the unobligated state balances. However, it may be equally possible that Congress will not be inclined to free up the RAMP balance to the AML program, or the mineral leasing revenues.

Resolution of a number of issues affecting provisions for the CBF could prove to have a major influence on any final resolution of the broader AML reauthorization. As noted earlier, should Congress and the Administration fail to reach some compromise before the authority for AML collections expires, statute provides for the establishment of a fee expressly to provide for maintaining a transfer of funds to the CBF. In the event of this scenario, Congress could continue, or suspend, disbursements from the AML fund. The broader AML mission could be significantly affected, given that the current AML balances are well short of the \$3 billion estimated cost of addressing remaining Priority 1 and 2 sites.

**Table 1. FY2004 AML Fund Appropriation**

RAMP	\$0
Federal Expenses	\$31,983,734
Total AML Grant Appropriation	\$158,600,169
Total FY2004 AML Fund Appropriation	\$190,583,903

**Source:** Office of Surface Mining (OSM).

**Table 2. FY2004 State Reclamation Grant Distribution**

State Share Distribution 55% x \$142,160,169	\$78,188,093
Federal Share Distribution 45% x \$142,160,169	\$63,972,076
State Emergency Program	\$9,640,000
Appalachian Clean Streams Initiative (ACSI)	\$6,800,000
Total State Reclamation Grant Distribution	\$158,600,169

**Source:** Office of Surface Mining (OSM).

**Table 3. State Share Balances and Distributions, FY2004**

State/Tribe	State Share Collections Through FY2003	State Share Distributions Through FY2003	State Share Balances as of 3/31/04	State Share Distribution, FY2004
Alabama	\$70,665,017	\$54,071,299	\$16,256,165	\$1,324,615
Alaska	\$5,770,291	\$3,875,994	\$1,856,726	\$155,421
Arkansas	\$402,959	\$396,306	\$8,202	\$453
Colorado	\$66,890,260	\$44,092,455	\$22,867,067	\$1,741,088
Illinois	\$138,834,244	\$110,494,931	\$27,535,018	\$2,284,815
Indiana	\$133,688,710	\$94,298,550	\$30,994,149	\$3,076,525
Iowa	\$1,208,092	\$1,172,990	\$32,374	\$3,163
Kansas	\$3,292,367	\$2,881,020	\$390,909	\$33,932
Kentucky	\$437,669,635	\$317,087,406	\$117,773,032	\$9,663,661
Louisiana	\$2,830,710	\$1,531,582	\$1,301,796	\$98,715
Maryland	\$10,856,477	\$7,623,940	\$3,233,055	\$244,042
Missouri	\$13,016,398	\$12,103,814	\$891,310	\$75,855
Montana	\$142,881,355	\$98,686,568	\$43,672,701	\$3,512,316
New Mexico	\$53,096,356	\$32,695,400	\$19,745,791	\$1,612,445
North Dakota	\$33,647,137	\$22,080,625	\$11,472,022	\$901,550
Ohio	\$107,818,760	\$84,490,723	\$22,760,202	\$1,882,157
Oklahoma	\$12,046,087	\$10,014,560	\$2,003,364	\$164,598
Pennsylvania	\$219,044,461	\$162,833,587	\$54,759,115	\$4,522,117
Texas	\$59,386,659	\$40,234,829	\$18,917,118	\$1,518,154
Utah	\$37,388,266	\$23,479,746	\$13,693,379	\$1,093,044
Virginia	\$93,267,896	\$67,551,029	\$25,347,078	\$2,033,593
West Virginia	\$363,668,998	\$241,221,880	\$120,534,686	\$9,572,163
Wyoming	\$883,932,837	\$493,756,180	\$393,390,219	\$29,305,188
Crow Tribe	\$16,971,153	\$9,961,270	\$7,013,415	\$545,954
Hopi Tribe	\$13,303,707	\$8,104,934	\$5,119,902	\$414,114
Navajo Tribe	\$88,999,943	\$59,705,609	\$29,022,693	\$2,315,769
National Total	\$3,010,578,780	\$2,004,427,227	\$998,591,490	\$78,188,093

**Source:** Office of Surface Mining.

**Figure 1. Fiscal Year 2004 Grant Distribution**

<b>FISCAL YEAR 2004 GRANT DISTRIBUTION</b>			
<b>Determination of FY 2004 State/Federal Share of AML Grant Appropriation</b>			
			02/10/04
<b>AML UNAPPROPRIATED BALANCE AS OF 9/30/03:</b>			
Total Collections (FY 1977 thru FY 2003+investment interest) (1)		\$6,849,007,460.12	
Total Appropriations (FY 1977 thru FY 2003) (2)		<u>(5,288,251,104.76)</u>	
Unappropriated Balance			<u>\$1,560,756,355.36</u>
<b>ALLOCATION OF AML UNAPPROPRIATED BALANCE AS OF 9/30/03:</b>			
RAMP Allocation	\$302,357,751.42		
Federal Expenses Allocation	57,786,288.68		
Historical Coal Distribution Allocation	128,566,185.68		
Reserve for UMWACBF	<u>65,894,576.90</u>		
Total Federal Share Allocation		\$554,604,802.68	
Total State Share Allocation		<u>1,006,151,552.68</u>	
Total Allocation of Unappropriated Balance			<u>\$1,560,756,355.36</u>
<b>AML UNAPPROPRIATED BALANCE AVAILABLE FOR GRANTS:</b>			
State Share Allocation		\$1,006,151,552.68	
Federal Expense Allocation		57,786,288.68	
Historical Coal Distribution Allocation		128,566,185.68	
Less: Appropriated Federal Expenses		<u>(31,983,734.00)</u>	
Total Unappropriated Balance Available for Grants			<u>\$1,160,520,293.04</u>
<b>FY 2004 AML FUND APPROPRIATION:</b>			
RAMP		\$0.00	
Federal Expenses		31,983,734.00	
Total AML Grant Appropriation		<u>158,600,169.00</u>	
Total AML Fund Appropriation			<u>\$190,583,903.00</u>
<b>FY 2004 STATE RECLAMATION GRANT DISTRIBUTION:</b>			
Appalachian Clean Streams Program Funding		\$6,800,000.00	
State Emergency Programs Funding		9,640,000.00	
State Share Distribution 55% x 142,160,169	\$78,188,093.00		
Federal Share Distribution 45% x 142,160,169	<u>63,972,076.00</u>		
State Non-Emergency Program Funding		<u>\$142,160,169.00</u>	
Total State Reclamation Grant Distribution			<u>\$158,600,169.00</u>
1) Investment interest (cash receipts) for FY 1992 through FY 2003 totals \$729,795,959.66. OSM transferred \$663,901,382.76 to the United Mine Workers of America Combined Benefit Fund in the years 1995 - 2003, inclusive. Net investment interest after the transfers is \$65,894,576.90. Congress also authorized OSM to transfer \$7,000,000 in investment earnings to fund Appalachian Clean Streams Initiatives in FY 1999. This came from interest earned in FY 1992.			
2) Does not include \$1,178,271.71 in reimbursable activity in FY 1992 and FY 1993.			

**Source:** Office of Surface Mining.