

By: Senator(s) Nunnelee

To: Environment Prot, Cons
and Water Res

SENATE BILL NO. 2969

1 AN ACT TO AMEND SECTION 53-9-3, MISSISSIPPI CODE OF 1972, TO
 2 INCLUDE A STATE PROGRAM FOR ABANDONED MINE RECLAMATION IN THE
 3 LEGISLATIVE FINDINGS; TO AMEND SECTION 53-9-7, MISSISSIPPI CODE OF
 4 1972, TO ADD DEFINITIONS FOR THE TERMS ABANDONED MINE LANDS,
 5 SECRETARY AND STATE RECLAMATION PROGRAM; TO AMEND SECTION 53-9-89,
 6 MISSISSIPPI CODE OF 1972, TO INCLUDE THE ABANDONED MINE LANDS
 7 RECLAMATION ACCOUNT AS PART OF THE SURFACE COAL MINING AND
 8 RECLAMATION FUND THAT IS IN THE STATE TREASURY; TO CREATE NEW CODE
 9 SECTIONS THAT WOULD ALLOW THE STATE TO OPERATE A FEDERALLY
 10 APPROVED ABANDONED MINE LANDS RECLAMATION PROGRAM AND TO ALLOW THE
 11 RECEIPT OF FEDERAL ABANDONED MINE LANDS FUNDS; AND FOR RELATED
 12 PURPOSES.

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

14 SECTION 1. Section 53-9-3, Mississippi Code of 1972, is
 15 amended as follows:

16 53-9-3. The Legislature finds and declares that:

17 (a) The State of Mississippi, instead of the federal
 18 government, should regulate surface coal mining in this state
 19 because the terrain, climate, biologic, chemical and other
 20 physical conditions of the state differ from those of other states
 21 subject to regulation of mining operations;

22 (b) Extraction of coal from the earth can be
 23 accomplished by various methods of mining, including surface
 24 mining;

25 (c) Coal mining operations presently contribute
 26 significantly to the energy requirements of the state and nation,
 27 and surface coal mining constitutes one (1) method of extraction
 28 of the resource;

29 (d) Many surface mining operations result in
 30 disturbances of surface areas that burden and adversely affect
 31 commerce and the public welfare by destroying or diminishing the

32 utility of land for commercial, industrial, residential,
33 recreational, agricultural and forestry purposes, by causing
34 erosion and landslides, by contributing to floods, by polluting
35 water, by destroying fish and wildlife habitats, by impairing
36 natural beauty, by damaging the property of citizens, by creating
37 hazards dangerous to life and property, by degrading the quality
38 of life in local communities, and by counteracting governmental
39 programs and efforts to conserve soil, water and other natural
40 resources;

41 (e) The expansion of coal mining to meet the energy
42 needs of the state and nation makes even more urgent the
43 establishment of appropriate standards to minimize damage to the
44 environment and to productivity of the soil and to protect the
45 health and safety of the public;

46 (f) Surface mining and reclamation technology are now
47 developed so that effective and reasonable regulation of surface
48 coal mining operations by the state in accordance with the
49 requirements of this chapter is an appropriate and necessary means
50 to minimize, so far as practicable, the adverse social, economic
51 and environmental effects of those mining operations;

52 (g) Surface mining and reclamation standards are
53 essential to insure the ability of the state to improve and
54 maintain adequate standards on coal mining operations within its
55 borders;

56 (h) The impacts from unreclaimed land disturbed by
57 surface coal mining operations impose social and economic costs on
58 residents in nearby and adjoining areas, as well as impair
59 environmental quality;

60 (i) Surface coal mining operations contribute to the
61 economic well-being, security and general welfare of the state and
62 nation and should be conducted in an environmentally sound
63 manner; * * *

64 (j) This chapter is necessary to prevent or mitigate
65 adverse environmental effects of surface coal mining operations;
66 and

67 (k) The provisions of the 2001 amendments to this
68 chapter are to provide for and implement a state program for
69 abandoned mine reclamation which complies with the provisions of
70 Subchapter IV of the federal Surface Mining Control and
71 Reclamation Act of 1977, 30 USCS 1231 through 1243.

72 SECTION 2. Section 53-9-7, Mississippi Code of 1972, is
73 amended as follows:

74 53-9-7. For the purposes of this chapter, the following
75 terms shall have the meaning ascribed in this section unless the
76 context requires otherwise:

77 (a) "Abandoned mine lands" mean lands and waters
78 affected by the mining or processing of coal before August 3,
79 1977, or affected by the mining or processing of noncoal minerals,
80 including, but not limited to, sand, gravel, clay and soil, before
81 August 3, 1977, and abandoned or left in either an unreclaimed or
82 inadequately reclaimed condition, and for which there is no
83 continuing reclamation responsibility required under state or
84 federal law, and which continue in the present condition
85 substantially to degrade the quality of the environment, to
86 prevent or damage the beneficial use of land or water resources,
87 or to endanger the health or safety of the public. Abandoned mine
88 lands also means those lands and waters described by 30 USC
89 Section 1232(g)(4), 30 USC Section 1233(b)(1), and 30 USC Section
90 1239.

91 (b) "Appeal" means an appeal to an appropriate court of
92 the state taken from a final decision of the permit board or
93 commission made after a formal hearing before that body.

94 (c) "Approximate original contour" means that surface
95 configuration achieved by backfilling and grading of the mined
96 area so that the reclaimed area, including any terracing or access

97 roads, closely resembles the general surface configuration of the
98 land before mining and blends into and complements the drainage
99 pattern of the surrounding terrain, with all highwalls and spoil
100 piles eliminated. Water impoundments may be allowed if the permit
101 board determines that the impoundments are in compliance with
102 Section 53-9-45(2)(g).

103 (d) "As recorded in the minutes of the permit board"
104 means the date of the permit board meeting at which the action
105 concerned is taken by the permit board.

106 (e) "Coal" means combustible carbonaceous rock,
107 classified as anthracite, bituminous, subbituminous, or lignite by
108 the American Society of Testing and Materials.

109 (f) "Commission" means the Mississippi Commission on
110 Environmental Quality.

111 (g) "Department" means the Mississippi Department of
112 Environmental Quality.

113 (h) "Executive director" means the executive director
114 of the department.

115 (i) "Exploration operations" means the disturbance of
116 the surface or subsurface before surface coal mining and
117 reclamation operations begin for the purpose of determining the
118 location, quantity or quality of a coal deposit, and the gathering
119 of environmental data to establish the conditions of the area
120 before the beginning of surface coal mining and reclamation
121 operations.

122 (j) "Federal act" means the Surface Mining Control and
123 Reclamation Act of 1977, as amended, which is codified as Section
124 1201 et seq. of Title 30 of the United States Code.

125 (k) "Formal hearing" means a hearing on the record, as
126 recorded and transcribed by a court reporter, before the
127 commission or permit board where all parties to the hearing are
128 allowed to present witnesses, cross-examine witnesses and present

129 evidence for inclusion into the record, as appropriate under rules
130 promulgated by the commission or permit board.

131 (l) "Imminent danger to health and safety of the
132 public" means the existence of any condition or practice, or any
133 violation of a permit or other requirement of this chapter, in a
134 surface coal mining and reclamation operation, which could
135 reasonably be expected to cause substantial physical harm to
136 persons outside the permit area before that condition, practice or
137 violation can be abated. A reasonable expectation of death or
138 serious injury before abatement exists if a rational person
139 subjected to the same conditions or practices giving rise to the
140 peril would not expose himself or herself to the danger during the
141 time necessary for abatement.

142 (m) "Interested party" means any person claiming an
143 interest relating to the surface coal mining operation and who is
144 so situated that the person may be affected by that operation, or
145 in the matter of regulations promulgated by the commission, any
146 person who is so situated that the person may be affected by the
147 action.

148 (n) "Lignite" means consolidated lignite coal having
149 less than eight thousand three hundred (8,300) British thermal
150 units per pound, moist and mineral matter free.

151 (o) "Operator" means any person engaged in coal mining
152 who removes or intends to remove more than two hundred fifty (250)
153 tons of coal from the earth by coal mining within twelve (12)
154 consecutive calendar months in any one (1) location.

155 (p) "Permit" means a permit to conduct surface coal
156 mining and reclamation operations issued under this chapter.

157 (q) "Permit area" means the area of land indicated on
158 the approved map submitted by the operator with the permit
159 application, which area of land shall be covered by the operator's
160 performance bond.

161 (r) "Permit board" means the permit board created under
162 Section 49-17-28.

163 (s) "Person" means an individual, partnership,
164 association, society, joint venture, joint stock company, firm,
165 company, corporation, cooperative or other business organization
166 and any agency, unit or instrumentality of federal, state or local
167 government, including any publicly owned utility or publicly owned
168 corporation.

169 (t) "Prime farmland" means that farmland as defined by
170 the United States Secretary of Agriculture on the basis of factors
171 such as moisture availability, temperature regime, chemical
172 balance, permeability, surface layer composition, susceptibility
173 to flooding and erosion characteristics, and which historically
174 have been used for intensive agricultural purposes, and as
175 published in the federal register.

176 (u) "Public hearing", "informal hearing" or "public
177 meeting" means a public forum organized by the commission,
178 department or permit board for the purpose of providing
179 information to the public regarding a surface coal mining and
180 reclamation operation or regulations proposed by the commission
181 and at which members of the public are allowed to make comments or
182 ask questions or both of the commission, department or the permit
183 board.

184 (v) "Reclamation plan" means a plan submitted by an
185 applicant for a permit which sets forth a plan for reclamation of
186 the proposed surface coal mining operations under this chapter.

187 (w) "Revision" means any change to the permit or
188 reclamation plan that does not significantly change the effect of
189 the mining operation on either those persons impacted by the
190 permitted operations or on the environment, including, but not
191 limited to, incidental boundary changes to the permit area or a
192 departure from or change within the permit area, incidental

193 changes in the mining method or incidental changes in the
194 reclamation plan.

195 (x) "Secretary" means the Secretary of the United
196 States Department of Interior.

197 (y) "State" means the State of Mississippi.

198 (z) "State geologist" means the head of the office of
199 geology and energy resources of the department or a successor
200 office.

201 (aa) "State reclamation program" means the Mississippi
202 program for abandoned mine reclamation provided for in this
203 chapter.

204 (bb) "Surface coal mining and reclamation operations"
205 means surface coal mining operations and all activities necessary
206 and incident to the reclamation of those operations.

207 (cc) "Surface coal mining operations" means:

208 (i) Activities conducted on the surface and
209 immediate subsurface of lands in connection with a surface coal
210 mine, surface operations and surface impacts incident to an
211 underground coal mine, the products of which enter commerce or the
212 operations of which directly or indirectly affect commerce. These
213 activities include, but are not limited to:

214 (A) Excavation for the purpose of obtaining
215 coal including common methods such as contour, strip, auger,
216 mountaintop removal, boxcut, open pit and area mining;

217 (B) The use of explosives and blasting, in
218 situ distillation or retorting, leaching or other chemical or
219 physical processing; and

220 (C) The cleaning, concentrating or other
221 processing or preparation, and the loading of coal for commerce at
222 or near the mine site.

223 These activities do not include exploration operations
224 subject to Section 53-9-41.

225 (ii) Areas upon which the activities occur or
226 where the activities disturb the natural land surface. These
227 areas shall also include, but are not limited to:

228 (A) Any adjacent land the use of which is
229 incidental to any activities;

230 (B) All lands affected by the construction of
231 new roads or the improvement or use of existing roads to gain
232 access to the site of any activities and for haulage;

233 (C) All lands affected by excavations,
234 workings, impoundments, dams, ventilation shafts, entryways,
235 refuse banks, dumps, stockpiles, overburden piles, spoil banks,
236 culm banks, tailings, holes or depressions, repair areas, storage
237 areas, processing areas, shipping areas and other areas upon which
238 are sited structures, facilities or other property or materials on
239 the surface resulting from or incident to the activities.

240 (dd) "Unwarranted failure to comply" means the failure
241 of a permittee to prevent or abate the occurrence of any violation
242 of a permit, this chapter or any regulation promulgated under this
243 chapter due to indifference, lack of diligence or lack of
244 reasonable care.

245 SECTION 3. Section 53-9-89, Mississippi Code of 1972, is
246 amended as follows:

247 53-9-89. (1) (a) There is created in the State Treasury a
248 fund to be designated as the "Surface Coal Mining and Reclamation
249 Fund." The fund shall contain three (3) accounts, designated as
250 the "Surface Coal Mining Program Operations Account," the "Surface
251 Coal Mining Reclamation Account" and the "Abandoned Mine Lands
252 Reclamation Account."

253 (b) Monies in the Surface Coal Mining Program
254 Operations Account shall be used to pay the reasonable direct and
255 indirect costs of administering and enforcing this chapter.
256 Monies in the Surface Coal Mining Reclamation Account shall be

257 used to pay for the reclamation of lands for which bonds or other
258 collateral were forfeited.

259 (c) The Abandoned Mine Lands Reclamation Account shall
260 receive all state and federal appropriations, grants and donations
261 for the purposes of the reclamation of abandoned mine lands under
262 this chapter, and such funds shall be made available to the
263 commission to be used as provided in this section for the purposes
264 of abandoned mine reclamation under this chapter and the
265 regulations of the commission. Funds in the Abandoned Mine Land
266 Account may be used for the following purposes:

267 (i) Reclamation and restoration of land and water
268 resources adversely affected by past coal mining, or by past
269 noncoal mining if approved by the secretary, including, but not
270 limited to, reclamation and restoration of abandoned surface mine
271 areas, abandoned mine processing areas, and abandoned mine refuse
272 disposal areas; sealing and filling abandoned deep mine entries
273 and voids; planting of land adversely affected by past mining to
274 prevent erosion and sedimentation; prevention, abatement,
275 treatment and control of water pollution created by mine drainage,
276 including restoration of stream beds, and construction and
277 operation of water treatment plants; prevention, abatement and
278 control of burning coal in situ; prevention, abatement and
279 control of mine subsidence; prevention, abatement and control of
280 storm water runoff from and erosion at mine sites; and the sloping
281 and revegetation of mine pits and highwalls.

282 (ii) Acquisition of land as provided for in this
283 chapter.

284 (iii) Grants to accomplish the purposes of this
285 chapter.

286 (iv) Administrative expenses of the department to
287 accomplish the purposes of this chapter.

288 (v) All other necessary expenses to accomplish the
289 purpose of reclaiming abandoned mine lands or of protecting public

290 health, safety and general welfare from adverse effects of mining
291 practices at abandoned mine lands.

292 (d) Expenditures may be made from the fund upon
293 requisition by the executive director.

294 (e) The fund shall be treated as a special trust fund.
295 Interest earned on the principal shall be credited by the
296 Treasurer to the appropriate account in the fund.

297 (f) The Surface Coal Mining Program Operations Account
298 may receive monies from any available public or private source,
299 including, but not limited to, fees, interest, grants, taxes,
300 public and private donations, petroleum violation escrow funds or
301 refunds, and appropriated funds, but excluding fines, penalties
302 and the proceeds from the forfeiture of bonds or other collateral.
303 The Surface Coal Mining Reclamation Account may receive monies
304 from fines, penalties, the proceeds from the forfeiture of bonds
305 or other collateral and interest.

306 (2) All funds received through the payment of fees, loans,
307 grants, penalties, bond forfeitures and forfeitures of other
308 collateral, less attorneys' fees, shall be deposited in the
309 appropriate account in the Surface Coal Mining and Reclamation
310 Fund.

311 SECTION 4. (1) Expenditures of funds from the Abandoned
312 Mine Lands Reclamation Account on eligible lands and waters shall
313 reflect the following priorities:

314 (a) The protection of public health, safety, general
315 welfare and property from extreme danger of adverse effects of
316 coal mining practices;

317 (b) The protection of public health, safety and general
318 welfare from adverse effects of coal mining practices;

319 (c) The restoration of land and water resources and the
320 environment previously degraded by adverse effects of coal mining
321 practices including measures for the conservation and development

322 of soil, water (excluding channelization), woodland, fish and
323 wildlife, recreation resources, and agricultural productivity;

324 (d) The protection, repair, replacement, construction
325 or enhancement of public facilities such as utilities, roads,
326 recreation and conservation facilities adversely affected by coal
327 mining practices; and

328 (e) The development of publicly owned land adversely
329 affected by coal mining practices including land acquired as
330 provided in this chapter for recreation and historical purposes,
331 conservation, and reclamation purposes and open space benefits.

332 (2) After certification under 30 USCS 1240a(a) by the
333 Governor to the United States Secretary of the Interior that all
334 of the priorities stated in subsection (1) of this section for
335 eligible lands and waters have been achieved, and upon concurrence
336 by the secretary with that certification, funds in the Abandoned
337 Mine Lands Reclamation Account may be used for reclamation at
338 abandoned mine lands that were mined or processed for or effected
339 by the mining or processing of noncoal minerals. Expenditure of
340 funds for land, water and facilities referred to in this
341 subsection shall reflect the following priorities in the order
342 stated, in lieu of the priorities stated in subsection (1) of this
343 section:

344 (a) The protection of public health, safety, general
345 welfare and property from extreme danger of adverse effects of
346 mineral mining and processing practices;

347 (b) The protection of public health, safety and general
348 welfare from adverse effects of mineral mining and processing
349 practices;

350 (c) The restoration of land and water resources and the
351 environment previously degraded by the adverse effects of mineral
352 mining and processing practices.

353 (3) Sites and areas designated for remedial action under the
354 Uranium Mill Tailings Radiation Control Act of 1978, 42 USCS 7901

355 et seq., or which have been listed for remedial action under the
356 Comprehensive Environmental Response, Compensation, and Liability
357 Act, 42 USCS 9601 et seq., shall not be eligible for expenditure
358 from the Abandoned Mine Lands Reclamation Account.

359 (4) Reclamation projects involving the protection, repair,
360 replacement, construction or enhancement of utilities, such as
361 those relating to water supply, roads and such other facilities
362 serving the public adversely affected by mineral mining and
363 processing practices, and the construction of public facilities in
364 communities impacted by coal or other mineral mining and
365 processing practices, shall be deemed part of the objectives set
366 forth, and undertaken as they relate to the priorities stated in
367 subsection (2) of this section.

368 SECTION 5. Only abandoned mine lands are eligible for
369 reclamation or drainage abatement expenditures from the Abandoned
370 Mine Lands Reclamation Account.

371 SECTION 6. (1) The department, through the Office of
372 Geology, shall establish and maintain a state reclamation program
373 for abandoned mines which complies with Subchapter IV of the
374 federal Surface Mining Control and Reclamation Act of 1977, 30
375 USCS 1231 through 1243.

376 (2) For any year in which the department intends to conduct
377 abandoned mine lands reclamation with amounts held in the
378 Abandoned Mine Lands Reclamation Account, the executive director
379 shall submit to the secretary an application for the support of
380 the state program and implementation of specific reclamation
381 projects. Such requests shall include information acquired by the
382 secretary. This may include, but is not limited to:

383 (a) A general description of each proposed project;

384 (b) A priority evaluation of each proposed project;

385 (c) A statement of the estimated benefits in such terms
386 as: number of acres restored, miles of stream improved, acres of
387 surface lands protected from subsidence, population protected from

388 subsidence, air pollution, hazards of mine and coal refuse
389 disposal area fires;

390 (d) An estimate of the cost for each proposed project;

391 (e) In the case of proposed research and demonstration
392 projects, a description of the specific techniques to be evaluated
393 or objective to be attained;

394 (f) An identification of lands or interest therein to
395 be acquired and the estimated cost; and

396 (g) In each year after the first in which a plan is
397 filed, an inventory of each project funded under the previous
398 year's grant. This inventory shall include details of financial
399 expenditures on each project together with a brief description of
400 each project, including project locations, the landowner's name,
401 acreage, and the type of reclamation or abatement performed.

402 (3) The reported costs for each proposed project shall
403 include: actual construction costs, actual operation and
404 maintenance costs of permanent facilities, planning and
405 engineering costs, construction inspection costs, and other
406 necessary administrative expenses.

407 (4) The executive director shall make reports on operations
408 of the reclamation program as required by the secretary or by
409 Congress.

410 (5) The executive director shall at all times accept and
411 consider comments regarding annual grant applications and the
412 eligibility, priority ranking and selection of lands for
413 reclamation. At least thirty (30) days prior to the submission of
414 each annual grant application to the secretary, the executive
415 director shall provide for a public hearing and shall publish a
416 notice regarding the proposed grant application and the public
417 hearing in a newspaper of general circulation in the state. The
418 public notice shall state that a hearing will be held, generally
419 outline the grant application, and solicit comments regarding the
420 application. A listing and identification of all projects

421 included in the grant application shall be mailed to all persons
422 who have requested written notification of the annual grant
423 application and shall be available to any person upon request. At
424 the public hearing for review of an annual grant application, any
425 person may appear before the executive director or his or her
426 designee and be heard on the record. The executive director may
427 receive documentary or other evidence for inclusion in the record.
428 The executive director shall fix a time for the closing of the
429 record and may, in his discretion, receive other comments or
430 evidence that he deems appropriate after the public hearing and
431 before the closing of the record. A copy of the record shall be
432 included with the grant application to the secretary.

433 (6) The state shall not be liable under any provision of
434 federal law for any costs or damages as a result of action taken
435 or omitted in the course of carrying out the state reclamation
436 program approved by the secretary. This subsection shall not
437 preclude liability for costs or damages as a result of gross
438 negligence or intentional misconduct by the state. For purposes
439 of the preceding, reckless, willful or wanton misconduct shall
440 constitute gross negligence. However, nothing in this subsection
441 shall be deemed to waive any immunity provided by Mississippi law
442 to the state or its employees, or to waive the protection afforded
443 the state by the Eleventh Amendment to the United States
444 Constitution.

445 SECTION 7. (1) If the commission issues an order making a
446 finding in writing with supporting facts that:

447 (a) Land or water resources have been adversely
448 affected by past coal mining practices;

449 (b) The adverse effects are at a stage where, in the
450 public interest, action to restore, reclaim, abate, control, or
451 prevent should be taken;

452 (c) The owners of the land or water resources where
453 entry must be made to restore, reclaim, abate, control, or prevent

454 the adverse effects of past coal mining practices are not known or
455 readily available;

456 (d) The owners will not give permission for the state
457 or its agents, employees, or contractors to enter upon their
458 property to restore, reclaim, abate, control, or prevent the
459 adverse effects of past coal mining practices.

460 (2) Then, thirty (30) days after giving notice by mail to
461 the owners if known or if not known, by posting notice on the
462 premises and advertising once in a newspaper of general
463 circulation in the municipality or county where the land lies, the
464 executive director, his agents, employees, or contractors shall
465 have the right to enter upon the property adversely affected by
466 past coal mining practices and any other property to have access
467 to such property to do all things necessary or expedient to
468 restore, reclaim, abate, control, or prevent the adverse effects
469 if the landowner does not file an objection with the commission.
470 If, within the thirty-day notice period, the landowner files an
471 objection with the commission, the commission will schedule a
472 hearing on the matter to be conducted under Section 49-17-41.
473 After a hearing on the matter, the commission will issue an order
474 including findings of facts and conclusions of law, which, if
475 adverse to the landowner, may be appealed under Section 49-17-41.
476 Such entry, if ordered by the commission, shall be construed as an
477 exercise of the police power for the protection of public health,
478 safety, and general welfare and shall not be construed as an act
479 of condemnation of property or of trespass. The funds expended
480 for this work and the benefits accruing to the premises entered on
481 shall be chargeable against the land and shall mitigate or offset
482 any claim in, or any action brought by, any owner of any interest
483 in the premises for any alleged damages by virtue of such entry.
484 This provision is not intended to create new rights of action or
485 eliminate existing immunities.

486 (3) The commission, its agents, employees, or contractors
487 shall have the right to enter upon any property for the purpose of
488 conducting studies or exploratory work to determine the existence
489 of adverse effects of past coal and noncoal mining practices and
490 to determine the feasibility of restoration, reclamation,
491 abatement, control, or prevention of such adverse effects. Such
492 entry shall be construed as an exercise of the police power for
493 the protection of public health, safety, and general welfare and
494 shall not be construed as an act of condemnation of property or
495 trespass.

496 SECTION 8. (1) The commission, with the approval of the
497 secretary, may acquire title in the name of the state to any land
498 or interest in any land by purchase, donation or condemnation if
499 the land or interest is adversely affected by past coal mining
500 practices and upon a determination that acquisition of this land
501 is necessary to successful reclamation and that:

502 (a) The acquired land after restoration, reclamation,
503 abatement, control or prevention of the adverse effects of past
504 coal mining practices will serve recreation and historical
505 purposes, conservation and reclamation purposes or provide open
506 space benefits;

507 (b) Permanent facilities such as a treatment plant or a
508 relocated stream channel will be constructed on the land for
509 restoration, reclamation, abatement, control or prevention of the
510 adverse effects of past coal mining practices;

511 (c) Acquisition of coal refuse disposal sites and all
512 coal refuse at the site will serve the purpose of this chapter or
513 that public ownership is desirable to meet emergency situations
514 and prevent recurrences of the adverse effects of past coal mining
515 practices.

516 (2) The commission shall only acquire land that is necessary
517 for the reclamation work or the post reclamation use of the land
518 and acquisition shall be limited by the scope of the project. The

519 price paid for land acquired under this section shall reflect the
520 fair market value of the land as adversely affected by past coal
521 mining practices.

522 (3) In addition to the authority to acquire land under
523 subsection (1) of this section, the commission, with the approval
524 of the secretary, is authorized to use money in the fund to
525 acquire land by purchase, donation or condemnation, and to reclaim
526 and transfer acquired land to any agency of the state authorized
527 to own and operate real property or to a political subdivision of
528 the state, or to any person, firm, association or corporation, if
529 he determines that such is an integral and necessary element of an
530 economically feasible plan for the project to construct or
531 rehabilitate housing for persons disabled as the result of
532 employment in the mines or work incidental thereto, persons
533 displaced by acquisition of land pursuant to this section, or
534 persons dislocated as the result of adverse effects of coal mining
535 practices which constitute an emergency as provided in 30 USCS
536 1240 or persons dislocated as the result of natural disasters or
537 catastrophic failures from any cause. These activities shall be
538 accomplished under the terms and conditions required for the
539 secretary, which may include transfers of land with or without
540 monetary consideration: to the extent that the consideration is
541 below the fair market value of the land transferred, no portion of
542 the difference between the fair market value and the consideration
543 shall accrue as a profit to such persons, firm, association or
544 corporation. No part of the funds provided in this chapter may be
545 used to pay the actual construction costs of housing. The
546 commission, with approval of the secretary, and with grants
547 received for the purposes of this subsection may make grants and
548 commitments for grants and may advance money under the same terms
549 and conditions as it may require of the state or any department,
550 agency or instrumentality of the state or any public body or
551 nonprofit organization.

552 (4) Where land acquired is deemed to be suitable for
553 industrial, commercial, residential, or recreational development,
554 the commission, with the approval of the secretary, may sell,
555 after appropriate public notice, the land by public sale under a
556 system of competitive bidding, in accordance with the regulations
557 prescribed by the executive director, at not less than fair market
558 value, and the executive director is to ensure that the lands are
559 put to proper use consistent with any local, state or federal land
560 use plan, if any, for the area in which the land is located. The
561 executive director, when requested and after appropriate notice,
562 shall hold a public hearing in the county or counties or the
563 appropriate subdivisions of the state in which lands acquired
564 under this section are located. The hearings shall be held at a
565 time which shall afford local citizens and governments the maximum
566 opportunity to participate in the decision concerning the use or
567 disposition of the lands after restoration, reclamation,
568 abatement, control or prevention of the adverse effects of past
569 coal mining practices.

570 (5) The commission, with the approval of the secretary, may
571 transfer the administrative responsibility for land acquired under
572 this section to any state, regional or local agency, department or
573 institution, with or without cost, employing terms that will
574 ensure the use of the land is consistent with the authorization
575 under which the land was acquired.

576 (6) The commission may receive grants from the secretary
577 when necessary to carry out provisions of this section.

578 SECTION 9. (1) Any landowner who has received notice of
579 condemnation or acquisition from the commission under Section 8
580 may, within fifteen (15) days following the notice, make written
581 application to the commission for a formal hearing regarding the
582 actual need or advisability for the acquisition. The commission
583 shall hear the landowner's grievance within thirty (30) days
584 following the written application for a hearing and shall make a

585 determination as to the need for the acquisition. The
586 commission's determination shall be reflected in an order, which
587 may be appealed under Section 49-17-41. Any landowner adversely
588 affected by any other action of the commission under Section 8 may
589 institute proceedings to have the action reviewed in the chancery
590 court in the county where the property or a part of the property
591 affected by the action is located, provided that the proceedings
592 are filed within thirty (30) days following the date of the
593 action. The court may grant any relief it deems necessary,
594 including, but not limited to, injunctive relief pending a hearing
595 on the matter.

596 (2) Any landowner subject to condemnation proceedings for
597 sale under Section 8 shall retain all rights and remedies of law
598 provided by applicable federal and state laws governing
599 condemnation proceedings and sale at public auction. Any
600 landowner, his heir, assignee or personal representative shall
601 have a prior right of purchase at fair market value or the lowest
602 bid, whichever amount is more, over any other purchaser at the
603 public sale provided the lands are put to proper use consistent
604 with any local, state, or federal land use plan, if any, for the
605 area in which the land is located.

606 SECTION 10. (1) Within six (6) months after the completion
607 of projects funded by the commission, in whole or in part, with
608 funds from the Abandoned Mine Lands Reclamation Account to
609 restore, reclaim, abate, control or prevent adverse effects of
610 past mining practices on privately owned land, the executive
611 director shall itemize the funds expended and may file a statement
612 in the land records of the county in which the land lies together
613 with a notarized appraisal by a qualified independent appraiser of
614 the value of the land before the restoration, reclamation,
615 abatement, control or prevention of adverse effects of past coal
616 mining practices, if the funds expended shall result in a
617 significant increase in property value. The statement shall

618 constitute a lien upon the land. The lien shall not exceed the
619 amount determined by the appraisal to be the increase in the
620 market value of the land as a result of the restoration,
621 reclamation, abatement, control or prevention of the adverse
622 effects of past coal mining practices. No lien shall be filed
623 against the property of any person, in accordance with this
624 section, who owned the surface prior to May 2, 1977, and who
625 neither consented to, participated in, nor exercised control over
626 the mining operation which necessitated the reclamation performed
627 under this act.

628 (2) Any owner of land subject to a lien imposed pursuant to
629 this section may, within sixty (60) days of the filing of the
630 lien, file a petition in the chancery court of the county in which
631 the land lies to determine the increase in the market value of the
632 land as a result of the reclamation work. The amount determined
633 by the court to be the increase in value of the premises shall
634 constitute the amount of the lien and shall be recorded with the
635 statement required by this section. Any party aggrieved by the
636 decision may appeal as provided by law.

637 (3) The lien provided in this section shall be entered in
638 the land records in the office in the county in which the land
639 lies. The statement shall constitute a lien upon the land as of
640 the date of the expenditure of the monies and shall have priority
641 as a lien second only to the lien of real estate taxes imposed on
642 the land. Money derived from the satisfaction of liens shall be
643 deposited in the Abandoned Mine Reclamation Account.

644 SECTION 11. (1) The Governor may request the secretary to
645 authorize the commission to fill voids, seal open or abandoned
646 tunnels, shafts and entryways, and reclaim surface impacts of
647 underground or surface mining of minerals other than coal which
648 the secretary determines could endanger life and property,
649 constitute a hazard to public health and safety or degrade the
650 environment.

651 (2) Funds available for use in carrying out the purpose of
652 this section shall be limited to those funds which must be
653 allocated to the state under the provisions of 30 USCS 1232(g)(1)
654 and (5). Projects funded under this section must meet the
655 priorities described in Section 4(1) of this act, except that the
656 references to coal shall not apply.

657 (3) In those instances where mine waste piles are being
658 reworked for conservation purposes, the incremental costs of
659 disposing of the wastes from such operations by filling voids and
660 sealing tunnels may be eligible for funding providing that the
661 disposal of these wastes meet the purpose of this section.

662 (4) The commission, with the approval of the secretary, may
663 acquire by purchase, donation, easement or otherwise, an interest
664 in the land it determines is necessary to carry out the provisions
665 of this section.

666 SECTION 12. All departments, boards, commissions and
667 agencies of this state shall cooperate with the commission by
668 providing available technical expertise, personnel, equipment,
669 materials and supplies as may be required to implement and
670 administer the provisions of the state abandoned mine lands
671 reclamation program.

672 SECTION 13. The commission, in addition to any other
673 remedies allowed by law, may initiate in the name of the state, in
674 any court of competent jurisdiction, an action in equity for an
675 injunction to restrain any interference with the exercise of the
676 right to enter or to conduct any work provided in this chapter.

677 SECTION 14. The commission shall have the power and
678 authority to engage in any work and to do all things necessary or
679 expedient, including promulgation of rules and regulations, to
680 implement and administer the abandoned mine lands reclamation
681 program in Mississippi. The commission also shall have the power
682 and authority to engage in cooperative projects with any other
683 agency of the United States of America or any state or federal

684 agency to achieve the objectives of the abandoned mine lands
685 reclamation program in Mississippi.

686 SECTION 15. The commission shall have the authority granted
687 in Sections 7(1) and 8, as applied to land or water resources that
688 have been adversely affected by mining practices other than coal
689 mining practices, only upon the agreement of the current
690 landowner(s). The commission shall have this authority only after
691 making the findings required by Section 7(1)(a) and (b) of this
692 act, as modified to reflect that the effects were caused by
693 noncoal mining practices. No funds shall be expended from the
694 Abandoned Mine Lands Reclamation Account on lands adversely
695 affected by mining or processing practices other than coal mining
696 or processing practices unless and until the landowner(s) agrees
697 to abide with all provisions of Section 10 of this act. This
698 section does not limit the authority of the commission to take any
699 act authorized by the Mississippi Air and Water Pollution Control
700 Law, Section 49-17-1 et seq., the Organic Act of the commission,
701 Section 49-2-1 et seq., or the Mississippi Surface Mining and
702 Reclamation Law, Section 53-7-1 et seq.

703 SECTION 16. Sections 4 through 15 of this act shall be
704 codified in Chapter 9, Title 53, Mississippi Code of 1972.

705 SECTION 17. This act shall take effect and be in force from
706 and after July 1, 2001.