SENATE BILL NO. 2969

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

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

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

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

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

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

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

(d) Many surface mining operations result in disturbances of surface areas that burden and adversely affect commerce and the public welfare by destroying or diminishing the
utility of land for commercial, industrial, residential, recreational, agricultural and forestry purposes, by causing erosion and landslides, by contributing to floods, by polluting water, by destroying fish and wildlife habitats, by impairing natural beauty, by damaging the property of citizens, by creating hazards dangerous to life and property, by degrading the quality of life in local communities, and by counteracting governmental programs and efforts to conserve soil, water and other natural resources;

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

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

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

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

(i) Surface coal mining operations contribute to the economic well-being, security and general welfare of the state and nation and should be conducted in an environmentally sound manner; * * *
(j) This chapter is necessary to prevent or mitigate adverse environmental effects of surface coal mining operations;

and

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

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

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

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

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

(c) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access
roads, closely resembles the general surface configuration of the land before mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated. Water impoundments may be allowed if the permit board determines that the impoundments are in compliance with Section 53-9-45(2)(g).

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

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

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

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

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

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

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

(k) "Formal hearing" means a hearing on the record, as recorded and transcribed by a court reporter, before the commission or permit board where all parties to the hearing are allowed to present witnesses, cross-examine witnesses and present
evidence for inclusion into the record, as appropriate under rules promulgated by the commission or permit board.

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

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

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

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

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

(q) "Permit area" means the area of land indicated on the approved map submitted by the operator with the permit application, which area of land shall be covered by the operator's performance bond.
"Permit board" means the permit board created under Section 49-17-28.

"Person" means an individual, partnership, association, society, joint venture, joint stock company, firm, company, corporation, cooperative or other business organization and any agency, unit or instrumentality of federal, state or local government, including any publicly owned utility or publicly owned corporation.

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

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

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

"Revision" means any change to the permit or reclamation plan that does not significantly change the effect of the mining operation on either those persons impacted by the permitted operations or on the environment, including, but not limited to, incidental boundary changes to the permit area or a departure from or change within the permit area, incidental
changes in the mining method or incidental changes in the reclamation plan.

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

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

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

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

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

(cc) "Surface coal mining operations" means:

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

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

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

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

These activities do not include exploration operations subject to Section 53-9-41.
(ii) Areas upon which the activities occur or where the activities disturb the natural land surface. These areas shall also include, but are not limited to:

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

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

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

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

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

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

(b) Monies in the Surface Coal Mining Program Operations Account shall be used to pay the reasonable direct and indirect costs of administering and enforcing this chapter. Monies in the Surface Coal Mining Reclamation Account shall be
used to pay for the reclamation of lands for which bonds or other collateral were forfeited.

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

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

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

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

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

(v) All other necessary expenses to accomplish the purpose of reclaiming abandoned mine lands or of protecting public
health, safety and general welfare from adverse effects of mining practices at abandoned mine lands.

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

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

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

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

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

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

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

(c) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices including measures for the conservation and development
of soil, water (excluding channelization), woodland, fish and
wildlife, recreation resources, and agricultural productivity;
(d) The protection, repair, replacement, construction
or enhancement of public facilities such as utilities, roads,
recreation and conservation facilities adversely affected by coal
mining practices; and
(e) The development of publicly owned land adversely
affected by coal mining practices including land acquired as
provided in this chapter for recreation and historical purposes,
conservation, and reclamation purposes and open space benefits.
(2) After certification under 30 USCS 1240a(a) by the
Governor to the United States Secretary of the Interior that all
of the priorities stated in subsection (1) of this section for
eligible lands and waters have been achieved, and upon concurrence
by the secretary with that certification, funds in the Abandoned
Mine Lands Reclamation Account may be used for reclamation at
abandoned mine lands that were mined or processed for or effected
by the mining or processing of noncoal minerals. Expenditure of
funds for land, water and facilities referred to in this
subsection shall reflect the following priorities in the order
stated, in lieu of the priorities stated in subsection (1) of this
section:
(a) The protection of public health, safety, general
welfare and property from extreme danger of adverse effects of
mineral mining and processing practices;
(b) The protection of public health, safety and general
welfare from adverse effects of mineral mining and processing
practices;
(c) The restoration of land and water resources and the
environment previously degraded by the adverse effects of mineral
mining and processing practices.
(3) Sites and areas designated for remedial action under the
Uranium Mill Tailings Radiation Control Act of 1978, 42 USCS 7901
et seq., or which have been listed for remedial action under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USCS 9601 et seq., shall not be eligible for expenditure from the Abandoned Mine Lands Reclamation Account.

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

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

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

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

(a) A general description of each proposed project;
(b) A priority evaluation of each proposed project;
(c) A statement of the estimated benefits in such terms as: number of acres restored, miles of stream improved, acres of surface lands protected from subsidence, population protected from...
subsidence, air pollution, hazards of mine and coal refuse

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

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

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

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

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

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

(5) The executive director shall at all times accept and consider comments regarding annual grant applications and the eligibility, priority ranking and selection of lands for reclamation. At least thirty (30) days prior to the submission of each annual grant application to the secretary, the executive director shall provide for a public hearing and shall publish a notice regarding the proposed grant application and the public hearing in a newspaper of general circulation in the state. The public notice shall state that a hearing will be held, generally outline the grant application, and solicit comments regarding the application. A listing and identification of all projects...
included in the grant application shall be mailed to all persons who have requested written notification of the annual grant application and shall be available to any person upon request. At the public hearing for review of an annual grant application, any person may appear before the executive director or his or her designee and be heard on the record. The executive director may receive documentary or other evidence for inclusion in the record. The executive director shall fix a time for the closing of the record and may, in his discretion, receive other comments or evidence that he deems appropriate after the public hearing and before the closing of the record. A copy of the record shall be included with the grant application to the secretary.

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

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

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

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

(c) The owners of the land or water resources where entry must be made to restore, reclaim, abate, control, or prevent...
the adverse effects of past coal mining practices are not known or readily available;

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

(2) Then, thirty (30) days after giving notice by mail to the owners if known or if not known, by posting notice on the premises and advertising once in a newspaper of general circulation in the municipality or county where the land lies, the executive director, his agents, employees, or contractors shall have the right to enter upon the property adversely affected by past coal mining practices and any other property to have access to such property to do all things necessary or expedient to restore, reclaim, abate, control, or prevent the adverse effects if the landowner does not file an objection with the commission. If, within the thirty-day notice period, the landowner files an objection with the commission, the commission will schedule a hearing on the matter to be conducted under Section 49-17-41. After a hearing on the matter, the commission will issue an order including findings of facts and conclusions of law, which, if adverse to the landowner, may be appealed under Section 49-17-41. Such entry, if ordered by the commission, shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property or of trespass. The funds expended for this work and the benefits accruing to the premises entered on shall be chargeable against the land and shall mitigate or offset any claim in, or any action brought by, any owner of any interest in the premises for any alleged damages by virtue of such entry. This provision is not intended to create new rights of action or eliminate existing immunities.
(3) The commission, its agents, employees, or contractors shall have the right to enter upon any property for the purpose of conducting studies or exploratory work to determine the existence of adverse effects of past coal and noncoal mining practices and to determine the feasibility of restoration, reclamation, abatement, control, or prevention of such adverse effects. Such entry shall be construed as an exercise of the police power for the protection of public health, safety, and general welfare and shall not be construed as an act of condemnation of property or trespass.

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

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

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

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

(2) The commission shall only acquire land that is necessary for the reclamation work or the post reclamation use of the land and acquisition shall be limited by the scope of the project.
price paid for land acquired under this section shall reflect the fair market value of the land as adversely affected by past coal mining practices.

(3) In addition to the authority to acquire land under subsection (1) of this section, the commission, with the approval of the secretary, is authorized to use money in the fund to acquire land by purchase, donation or condemnation, and to reclaim and transfer acquired land to any agency of the state authorized to own and operate real property or to a political subdivision of the state, or to any person, firm, association or corporation, if he determines that such is an integral and necessary element of an economically feasible plan for the project to construct or rehabilitate housing for persons disabled as the result of employment in the mines or work incidental thereto, persons displaced by acquisition of land pursuant to this section, or persons dislocated as the result of adverse effects of coal mining practices which constitute an emergency as provided in 30 USCS 1240 or persons dislocated as the result of natural disasters or catastrophic failures from any cause. These activities shall be accomplished under the terms and conditions required for the secretary, which may include transfers of land with or without monetary consideration: to the extent that the consideration is below the fair market value of the land transferred, no portion of the difference between the fair market value and the consideration shall accrue as a profit to such persons, firm, association or corporation. No part of the funds provided in this chapter may be used to pay the actual construction costs of housing. The commission, with approval of the secretary, and with grants received for the purposes of this subsection may make grants and commitments for grants and may advance money under the same terms and conditions as it may require of the state or any department, agency or instrumentality of the state or any public body or nonprofit organization.
(4) Where land acquired is deemed to be suitable for industrial, commercial, residential, or recreational development, the commission, with the approval of the secretary, may sell, after appropriate public notice, the land by public sale under a system of competitive bidding, in accordance with the regulations prescribed by the executive director, at not less than fair market value, and the executive director is to ensure that the lands are put to proper use consistent with any local, state or federal land use plan, if any, for the area in which the land is located. The executive director, when requested and after appropriate notice, shall hold a public hearing in the county or counties or the appropriate subdivisions of the state in which lands acquired under this section are located. The hearings shall be held at a time which shall afford local citizens and governments the maximum opportunity to participate in the decision concerning the use or disposition of the lands after restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices.

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

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

SECTION 9. (1) Any landowner who has received notice of condemnation or acquisition from the commission under Section 8 may, within fifteen (15) days following the notice, make written application to the commission for a formal hearing regarding the actual need or advisability for the acquisition. The commission shall hear the landowner's grievance within thirty (30) days following the written application for a hearing and shall make a
determination as to the need for the acquisition. The
commission's determination shall be reflected in an order, which
may be appealed under Section 49-17-41. Any landowner adversely
affected by any other action of the commission under Section 8 may
institute proceedings to have the action reviewed in the chancery
court in the county where the property or a part of the property
affected by the action is located, provided that the proceedings
are filed within thirty (30) days following the date of the
action. The court may grant any relief it deems necessary,
including, but not limited to, injunctive relief pending a hearing
on the matter.

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

SECTION 10. (1) Within six (6) months after the completion
of projects funded by the commission, in whole or in part, with
funds from the Abandoned Mine Lands Reclamation Account to
restore, reclaim, abate, control or prevent adverse effects of
past mining practices on privately owned land, the executive
director shall itemize the funds expended and may file a statement
in the land records of the county in which the land lies together
with a notarized appraisal by a qualified independent appraiser of
the value of the land before the restoration, reclamation,
abatement, control or prevention of adverse effects of past coal
mining practices, if the funds expended shall result in a
significant increase in property value. The statement shall
constitute a lien upon the land. The lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control or prevention of the adverse effects of past coal mining practices. No lien shall be filed against the property of any person, in accordance with this section, who owned the surface prior to May 2, 1977, and who neither consented to, participated in, nor exercised control over the mining operation which necessitated the reclamation performed under this act.

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

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

SECTION 11. (1) The Governor may request the secretary to authorize the commission to fill voids, seal open or abandoned tunnels, shafts and entryways, and reclaim surface impacts of underground or surface mining of minerals other than coal which the secretary determines could endanger life and property, constitute a hazard to public health and safety or degrade the environment.
(2) Funds available for use in carrying out the purpose of this section shall be limited to those funds which must be allocated to the state under the provisions of 30 USCS 1232(g)(1) and (5). Projects funded under this section must meet the priorities described in Section 4(1) of this act, except that the references to coal shall not apply.

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

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

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

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

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

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

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

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