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(Original Signature of Member)

114TH CONGRESS  
1ST SESSION

**H. R.** 3844

To establish the Energy and Minerals Reclamation Foundation to encourage, obtain, and use gifts, devises, and bequests for projects to reclaim abandoned mine lands and orphan oil and gas well sites, and for other purposes.

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IN THE HOUSE OF REPRESENTATIVES

Mr. HICE of Georgia introduced the following bill; which was referred to the Committee on \_\_\_\_\_

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**A BILL**

To establish the Energy and Minerals Reclamation Foundation to encourage, obtain, and use gifts, devises, and bequests for projects to reclaim abandoned mine lands and orphan oil and gas well sites, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Energy and Minerals  
5 Reclamation Foundation Establishment Act of 2015”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ABANDONED MINE LANDS.—The term  
4 “abandoned mine lands” means all hardrock mines  
5 in the United States that were abandoned before  
6 January 1, 1981, and all coal mines in the United  
7 States that were abandoned before August 3, 1977,  
8 regardless of surface or mineral ownership.

9 (2) BOARD.—The term “Board” means the  
10 Board of Directors of the Foundation.

11 (3) DIRECTOR.—The term “Director” means  
12 the Directors of the Board.

13 (4) FOUNDATION.—The term “Foundation”  
14 means the Energy and Minerals Reclamation Foun-  
15 dation established by this Act.

16 (5) INTEREST IN REAL PROPERTY.—The term  
17 “interest in real property” includes mineral rights,  
18 rights-of-way, and easements, appurtenant or in  
19 gross.

20 (6) ORPHANED OIL AND GAS WELL SITES.—  
21 The term “orphaned oil and gas well sites” means  
22 all oil and gas wells in the United States that have  
23 no responsible or liable parties, regardless of surface  
24 or mineral ownership.

25 (7) SECRETARY.—The term “Secretary” means  
26 the Secretary of the Interior.

1           (8) SPLIT ESTATE LANDS.—The term “split es-  
2           tate lands” means lands with respect to which the  
3           surface is or will be in non-Federal ownership and  
4           a mineral interest is owned by the United States.

5 **SEC. 3. ESTABLISHMENT OF ENERGY AND MINERALS REC-**  
6 **LAMATION FOUNDATION.**

7           (a) IN GENERAL.—There is established the Energy  
8           and Minerals Reclamation Foundation. The Foundation is  
9           a charitable and nonprofit corporation domiciled in the  
10          District of Columbia.

11          (b) PURPOSE.—The purpose of the Foundation is to  
12          encourage, obtain, and use gifts, devises, and bequests of  
13          real and personal property for abandoned mine lands and  
14          orphaned oil and gas well site reclamation projects that  
15          further the conservation of natural, scenic, historic, sci-  
16          entific, educational, wildlife habitat, or recreational re-  
17          sources.

18          (c) GRANTS AND CONTRACTS.—The Foundation may  
19          use gifts, devises, bequests, and matching funds from the  
20          Secretary under section 10(b) to make grants and award  
21          contracts for projects that are—

- 22                  (1) approved by the Board of the Foundation;  
23                  and  
24                  (2) consistent with the purpose of the Founda-  
25          tion under subsection (b).

1 (d) LIMITATION AND CONFLICTS OF INTEREST.—

2 (1) IN GENERAL.—The Foundation shall have  
3 no power, other than as an insubstantial part of its  
4 activities, to spend funds or engage in activities that  
5 are not in furtherance of subsection (b).

6 (2) POLITICAL ACTIVITIES.—The Foundation  
7 shall not participate or intervene in any political  
8 campaign on behalf of any candidate for public of-  
9 fice.

10 (3) CONFLICT OF INTERESTS.—No Director or  
11 officer or employee of the Foundation shall partici-  
12 pate, directly or indirectly, in the consideration or  
13 determination of any question before the Foundation  
14 affecting—

15 (A) the direct or indirect financial or per-  
16 sonal interests of the Director, officer, or em-  
17 ployee; or

18 (B) the interests of any corporation part-  
19 nership, entity, or organization in which such  
20 Director, officer, or employee—

21 (i) is an officer, member of the board,  
22 or trustee; or

23 (ii) has any direct financial interest.

24 (e) LIMITATION ON ADMINISTRATIVE EXPENDI-  
25 TURES.—Of the amount available to the Foundation for

1 expenditure each fiscal year, not more than 10 percent  
2 may be used for administrative expenses.

3 **SEC. 4. BOARD OF DIRECTORS.**

4 (a) ESTABLISHMENT AND MEMBERSHIP.—

5 (1) IN GENERAL.—The Foundation shall have a  
6 governing Board of Directors (in this Act referred to  
7 as the “Board”), which shall consist of 15 Directors.

8 (2) EDUCATION AND EXPERIENCE OF DIREC-  
9 TORS.—The Directors must be educated or have ac-  
10 tual experience in—

11 (A) energy or minerals production; and

12 (B) reclamation of mine lands or oil and  
13 gas fields; or

14 (C) energy and mineral resource financing,  
15 law, or research.

16 (3) REPRESENTATION OF DIVERSE AREAS OF  
17 EXPERTISE.—To the extent practicable, the Direc-  
18 tors shall represent diverse areas of expertise relat-  
19 ing to mining and mine reclamation, and develop-  
20 ment and reclamation of oil and gas fields.

21 (4) EX OFFICIO DIRECTOR.—The Director of  
22 the Office of Surface Mining of the Department of  
23 the Interior shall be an ex officio, nonvoting Direc-  
24 tor.

25 (5) APPOINTMENT AND TERMS.—

1           (A) IN GENERAL.—Within one year after  
2           the date of the enactment of this Act, the Sec-  
3           retary of the Interior, in consultation with the  
4           Interstate Mining Compact Commission and the  
5           Interstate Oil and Gas Compact Commission,  
6           shall appoint the initial Directors. Thereafter  
7           the Secretary shall no longer have such author-  
8           ity, and subsequent appointments shall be made  
9           by the Chairman with the advice and consent of  
10          a majority of the Directors.

11          (B) NON-FEDERAL STATUS.—Appointment  
12          and service as a Director of the Board shall not  
13          constitute employment by, or the holding of an  
14          office of, the United States for the purposes of  
15          any Federal law.

16          (C) TERMS, GENERALLY.—Except as pro-  
17          vided in subparagraph (D), each Director shall  
18          be appointed for a term of 6 years.

19          (D) INITIAL APPOINTMENTS.—Of the Di-  
20          rectors initially appointed—

21                 (i) one-third shall be appointed for a  
22                 term of 2 years;

23                 (ii) one-third shall be appointed for a  
24                 term of 4 years; and

1 (iii) one-third shall be appointed for a  
2 term of 6 years.

3 (E) VACANCIES.—A vacancy on the Board  
4 shall be filled within 120 days after the occur-  
5 rence of such vacancy.

6 (F) LIMITATION.—No individual may serve  
7 more than 12 consecutive years as a Director.

8 (6) REMOVAL.—If a Director misses three con-  
9 secutive meetings of the Board, that individual may  
10 be removed from the Board by a majority vote of the  
11 Directors and that vacancy shall be filled in accord-  
12 ance with this subsection.

13 (b) CHAIRMAN.—The Chairman of the Board shall  
14 be elected by the Board from the Directors. An individual  
15 shall serve for a 2-year term as Chairman, and may be  
16 reelected to the post during the individual's tenure as a  
17 Director.

18 (c) QUORUM.—A majority of the current voting Di-  
19 rectors shall constitute a quorum for the transaction of  
20 business.

21 (d) MEETINGS.—The Board shall meet at the call of  
22 the Chairman at least once each year.

23 (e) REIMBURSEMENT OF EXPENSES.—Directors  
24 shall serve without pay, but may be reimbursed by the  
25 Foundation for the actual and necessary traveling and

1 subsistence expenses incurred by them in the performance  
2 of their duties for the Foundation. Such reimbursement  
3 may not exceed such amount as would be authorized under  
4 section 5703 of title 5, United States Code, for the pay-  
5 ment of expenses and allowances for individuals employed  
6 intermittently in Federal Government service.

7 (f) GENERAL POWERS.—The Board may complete  
8 the organization of the Foundation by—

9 (1) appointing officers and employees (subject  
10 to subsection (g)(1));

11 (2) adopting a constitution and bylaws con-  
12 sistent with the purpose of the Foundation under  
13 section 3(b) and the other provisions of this Act; and

14 (3) undertaking other such acts as may be nec-  
15 essary to function and to carry out this Act.

16 (g) OFFICERS AND EMPLOYEES.—Officers and em-  
17 ployees of the Foundation—

18 (1) may not be appointed until the Foundation  
19 has sufficient funds to pay for their services;

20 (2) shall be appointed without regard to the  
21 provisions of title 5, United States Code, governing  
22 appointment in the competitive service; and

23 (3) may be paid without regard to the provi-  
24 sions of chapter 51 and subchapter III of chapter 53



1 of such title relating to classification and General  
2 Schedule pay rates.

3 **SEC. 5. CORPORATE POWERS AND OBLIGATIONS.**

4 (a) IN GENERAL.—The Foundation—

5 (1) shall have perpetual succession;

6 (2) may conduct business throughout the sev-  
7 eral States, territories, and possessions of the  
8 United States;

9 (3) shall have a principle office in the metro-  
10 politan area of the District of Columbia that shall  
11 at all times maintain a designated agent in the Dis-  
12 trict of Columbia to accept service of process for the  
13 Foundation; and

14 (4) may maintain as many offices as considered  
15 necessary by the Board outside of the metropolitan  
16 area of the District of Columbia.

17 (b) NOTICE AND SERVICE OF PROCESS.—The serving  
18 of notice to, or service of process upon, the agent required  
19 under subsection (a)(3), or mailed to the business address  
20 of such agent, is deemed as service upon or notice to the  
21 Foundation.

22 (c) SEAL.—The Foundation shall have an official seal  
23 selected by the Board, which shall be judicially noticed.

24 (d) POWERS.—

1           (1) IN GENERAL.—To carry out its purpose, the  
2           Foundation shall have, in addition to powers other-  
3           wise authorized under this Act, the usual powers of  
4           a corporation acting as a trustee in the District of  
5           Columbia.

6           (2) INCLUDED POWERS.—The powers of the  
7           Foundation under this subsection include the power  
8           to—

9                   (A) accept, receive, solicit, hold, admin-  
10                  ister, and use any gift, devise, or bequest, either  
11                  absolutely or in trust, of real or personal prop-  
12                  erty or any income therefrom or other interest  
13                  therein;

14                  (B) unless otherwise required by the in-  
15                  strument of transfer by which the Foundation  
16                  acquires property, sell, donate, lease, invest, re-  
17                  invest, retain, or otherwise dispose of any prop-  
18                  erty or income therefrom;

19                  (C) borrow money and issue bonds, deben-  
20                  tures, or other debt instruments;

21                  (D) sue and be sued, and complain and de-  
22                  fend itself in any court of competent jurisdic-  
23                  tion, except that the Directors shall not be per-  
24                  sonally liable except for gross negligence;

1 (E) enter into contracts or other arrange-  
2 ments with public agencies, private organiza-  
3 tions, and persons, and to make such payments  
4 as may be necessary to carry out the purposes  
5 thereof; and

6 (F) do any and all acts necessary and  
7 proper to carry out the purpose of the Founda-  
8 tion under section 3(b).

9 (e) ACQUISITION OF PROPERTY.—

10 (1) IN GENERAL.—In addition to its powers  
11 under subsection (d), the Foundation may acquire,  
12 hold, and dispose of lands, waters, or other interests  
13 in real property by donation, gift, devise, purchase  
14 or exchange.

15 (2) EXEMPTION FROM CONDEMNATION.—No  
16 lands or waters, or interest therein, that are owned  
17 by the Foundation and are determined by the Sec-  
18 retary to be valuable for energy and mineral produc-  
19 tion, shall be subject to condemnation by any State  
20 or political subdivision, or any agent of instrumen-  
21 tality thereof.

22 **SEC. 6. ADMINISTRATIVE SERVICES AND SUPPORT.**

23 (a) STARTUP FUNDS.—For the purposes of assisting  
24 the Foundation in establishing an office and meeting ini-  
25 tial administrative, project, and other startup expenses,

1 the Secretary may provide to the Foundation \$2,000,000  
2 from funds appropriated under section 10(a) for each of  
3 fiscal years 2016 and 2017. Such funds shall remain avail-  
4 able to the Foundation until they are expended.

5 (b) ADMINISTRATIVE EXPENSES.—

6 (1) IN GENERAL.—The Secretary may provide  
7 the Foundation use of Department of the Interior  
8 personnel, facilities, and equipment, subject to such  
9 limitations, terms, and conditions as the Secretary  
10 shall establish.

11 (2) REIMBURSEMENT.—The Secretary—

12 (A) may require the Foundation to reim-  
13 burse the Secretary for the costs of providing  
14 personnel, facilities, and equipment under this  
15 subsection; and

16 (B) shall require such reimbursement be-  
17 ginning with expenses incurred by the Founda-  
18 tion after the end of the 5-year period begin-  
19 ning on the date of the enactment of this Act.

20 **SEC. 7. AUDITS AND ACTIVITIES SUMMARY.**

21 (a) AUDITS.—For purposes of section 10101 of title  
22 36, United States Code, the Foundation shall be treated  
23 as a corporation in part B of subtitle II of such title.

24 (b) ACTIVITIES SUMMARY.—The Foundation shall,  
25 within 60 days after the end of each fiscal year, transmit

1 to the Committee on Natural Resources of the House of  
2 Representatives and the Committee on Energy and Nat-  
3 ural Resources of the Senate a summary of its proceedings  
4 and activities during such fiscal year, including—

5 (1) a full and complete statement of its re-  
6 ceipts, expenditures, and investments;

7 (2) a description of all acquisition and disposal  
8 of real property by the Foundation;

9 (3) a detailed statement of the recipient,  
10 amount, and purpose of each grant made by the  
11 Foundation;

12 (4) copies of all minutes of Board meetings;

13 (5) a copy of the Foundation bylaws; and

14 (6) a copy of the audit for such fiscal year.

15 **SEC. 8. RELIEF WITH RESPECT TO CERTAIN FOUNDATION**  
16 **ACTS OR FAILURE TO ACT.**

17 The Attorney General may petition in the United  
18 States District Court for the District of Columbia for such  
19 equitable relief as may be necessary or appropriate if the  
20 Foundation—

21 (1) engages in, or threatens to engage in, any  
22 act, practice, or policy that is inconsistent with its  
23 purpose set forth in section 3(b); or

24 (2) refuses, fails, or neglects to discharge its  
25 obligations under this Act, or threatens to do so.

1 **SEC. 9. UNITED STATES RELEASE FROM LIABILITY.**

2       The United States shall not be liable for any debts,  
3 defaults, acts, or omissions of the Foundation, nor shall  
4 the full faith and credit of the United States extend to  
5 any obligations of the Foundation.

6 **SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

7       (a) **STARTUP FUNDS.**—There is authorized to be ap-  
8 propriated to the Secretary \$4,000,000 to carry out sec-  
9 tion 6(a).

10       (b) **MATCHING FUNDS.**—There is authorized to be  
11 appropriated to the Secretary \$3,000,000 for each of fiscal  
12 years 2016 through 2020, which shall be made available  
13 by the Secretary to the Foundation to match, on a one-  
14 for-one basis, private contributions made to the Founda-  
15 tion.