

Calendar No. 955

106TH CONGRESS } 2d Session }	SENATE	{ REPORT 106-512
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RETIRED COAL MINERS HEALTH BENEFIT SECURITY ACT

NOVEMBER 1 (legislative day, SEPTEMBER 22), 2000.—Ordered to be printed

Mr. ROTH, from the Committee on Finance,
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany S. 3267]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance reported an original bill (S. 3267) to amend the Internal Revenue Code of 1986 to extend the solvency of and adjust inequities related to the United Mine Workers of America Combined Benefit Fund, having considered the same, reports favorably thereon with an amendment and recommends that the bill do pass.

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I. LEGISLATIVE BACKGROUND

Committee markup

The Senate Committee on Finance marked up an original bill (the “Retired Coal Miners Health Benefit Security Act”) on September 7, 2000, and approved the provisions on September 7, 2000 by a rollcall vote of 12 yeas and 1 nay, with a quorum present.

II. EXPLANATION OF THE BILL

A. TRANSFER OF FUNDS TO THE COMBINED BENEFIT FUND (SEC. 2 OF THE BILL AND SEC. 9705 OF THE CODE)

PRESENT LAW

The United Mine Workers of America (the “UMWA”) Combined Benefit Fund was established by the Coal Industry Retiree Health Benefit Act of 1992 (the “Coal Act”) to assume responsibility of payments for medical care expenses of retired miners and their dependents who were eligible for health care from the private 1950 and 1974 UMWA Benefit Plans. The Combined Benefit Fund is financed by assessments on current and former signatories to labor agreements with the UMWA, past transfers from an overfunded United Mine Workers pension fund, and transfers from the Abandoned Mine Land reclamation fund (the “AML Fund”). Pursuant to the Coal Act, the Social Security Administration is responsible for assigning eligible retired miners and their dependents to current and former signatories to labor agreements with UMWA and calculating annual contributions to be paid by each such signatory for each beneficiary assigned to the signatory.

In June 1998, the United States Supreme Court ruled in *Eastern Enterprises* that assignments of beneficiaries to companies that were not signatories to the 1974 or later labor agreements with the UMWA were unconstitutional. The *Eastern Enterprises* ruling has enabled several companies to obtain refunds with respect to their contributions to the Combined Benefit Fund. However, other companies that did not sign the 1974 or later agreements with the UMWA, claimed that the assignments of beneficiaries as applied to them were unconstitutional, and received final judgments against their claims are not entitled to receive refunds for their contributions to the Combined Benefit Fund.

REASONS FOR CHANGE

Although the Committee is concerned about the state of the Combined Benefit Fund, the Committee believes that no consensus currently exists with respect to the appropriate long-term reform of the Combined Benefit Fund and the Coal Act. The Committee believes that the solvency of the Combined Benefit Fund should be extended until the Congress is able to analyze recommendations for such reform. In addition, the Committee believes that all companies with respect to whom assignments of beneficiaries have been declared unconstitutional should be entitled to recover their contributions to the Combined Benefit Fund.

EXPLANATION OF PROVISION

The provision authorizes a transfer of \$77,438,000 of general revenue to the Combined Benefit Fund for fiscal year 2001 and directs the Secretary of the Treasury to make the transfer on October 1, 2000. The provision provides that \$57,000,000 of the amount transferred shall be available to pay benefits. The remaining \$20,438,000 of the amount transferred shall be available to refund amounts previously paid to the Combined Benefit Fund on or before September 7, 2000, by companies (1) whose beneficiary assignments have been voided by the Commissioner of the Social Security Administration, (2) that brought actions prior to September 7, 2000, claiming that their beneficiary assignments were unconstitutional, and (3) that received final judgments against such claims. In addition, the provision directs the General Accounting Office to submit to the Senate Committee on Finance prior to March 1, 2001, recommendations for long-term reform of the Coal Act.

EFFECTIVE DATE

The provision is effective on the date of enactment.

III. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATES

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the provisions of the bill as reported.

The estimated budget effects of the bill, as reported, for fiscal years 2001–2005 are described in the Congressional Budget Office Cost Estimate for the bill (see CBO statement in Part III.C., below).

B. BUDGET AUTHORITY AND TAX EXPENDITURES

Budget authority

In compliance with section 308(a)(1) of the Budget Act, the Committee states that the provisions of the bill, as reported, involve new or increased budget authority as described in the Congressional Budget Office Cost Estimate for the bill (see CBO statement in Part III.C., below).

Tax expenditures

In compliance with section 308(a)(2) of the Budget Act, the Committee states that the revenue-reducing income tax provisions do not involve increased tax expenditures (See CBO statement in Part III.C., below.)

C. CONSULTATION WITH THE CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget office has submitted a statement on this bill.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 5, 2000.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR. MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for the Retired Coal Miners Health Benefit Security Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Cyndi Dudzinski Smith.
Sincerely,

STEVEN LIEBERMAN
(For Dan L. Crippen, Director).

Enclosure.

Retired Coal Miners Health Benefit Security Act

Summary: The Retired Coal Miners Health Benefit Security Act would transfer \$77 million from the general fund of the U.S. Treasury to the United Mine Workers of America Combined Benefit Fund (CBF). Of that total, \$57 million would be available to pay for the health and death benefits of the retired coal miners and their dependents who are beneficiaries of the CBF. The remaining \$20 million would be available to reimburse companies that had their assignments voided by the Commissioner of the Social Security Administration following *Eastern Enterprises v. Apfel*, 524 U.S. 498 (1988), but did not receive refunds of their premiums from the CBF because they already were subject to final judgments.

The transfer would decrease federal Medicaid spending by about \$1 million in each of fiscal years 2001 and 2002, and increase receipts from corporate income taxes by \$5 million in 2001.

In total, enacting this legislation would increase direct spending by \$54 million in 2001 and by \$21 million in 2002, and increase federal receipts by \$5 million. Because the bill would affect direct spending and receipts, pay-as-you-go procedures would apply.

The Retired Coal Miners Health Benefit Security Act contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). Enacting the bill would result in Medicaid savings for state governments.

Estimated cost to the Federal Government: The estimated budgetary impact of the Retired Coal Miners Health Benefit Security Act is shown in the following table. The costs of this legislation fall within budget functions 550 (health).

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
CHANGES IN DIRECT SPENDING					
Additional CBF Payments:					
Budget Authority	77	0	0	0	0
Estimated Outlays	55	22	0	0	0
Federal Share of Medicaid:					
Estimated Budget Authority	-1	-1	0	0	0
Estimated Outlays	-1	-1	0	0	0
Net Effect:					
Estimated Budget Authority	76	-1	0	0	0
Estimated Outlays	54	21	0	0	0

	By fiscal year, in millions of dollars—				
	2001	2002	2003	2004	2005
CHANGES IN REVENUES					
Estimated Revenues	5	0	0	0	0

Basis of estimate: CBO estimates that in 2001, \$35 million of the amount transferred by the legislation would be spent on benefits and \$20 million of the transfer would be spent to refund premiums paid by companies that had their assignments revoked following the case of *Eastern Enterprises*. The remaining \$22 million of the transfer would be spent on benefits in 2002.

CBO estimates that beginning in 2001, the CBF will not have sufficient income to cover benefits. In the event of a deficit, the trustees of the CBF would first try to balance the fund through reducing spending on items and services other than health benefits. But if the deficit were large enough, they would have to cut benefits. For retired coal miners who are also enrolled in Medicaid, a portion of those benefits would be shifted to the Medicaid program. Under the bill, \$57 million of the transfer to the CBF would reduce the amount of benefits that would otherwise be shifted to Medicaid. That change would decrease federal Medicaid spending by about \$1 million each year for 2001 and 2002.

In addition, the \$20 million refunded to the coal companies would be counted as income that is subject to corporate income tax. The Joint Committee on Taxation (JCT) estimates that provision would increase revenues from the corporate income tax by \$5 million in 2001.

The bill also would require the Comptroller General of the United States to study long-term reform of the Coal Industry Retiree Health Benefit Act of 1992 and retiree health benefits under that act. Under current law, the General Accounting Office is performing this study pursuant to a request from the Congress. As a result, CBO estimates no additional cost from mandating the report through legislation.

Pay-as-you-go considerations: The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purposes of enforcing pay-as-you-go procedures, only the effects in the budget year and the succeeding four years are counted.

	By fiscal year, in millions of dollars—									
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
Changes in outlays	54	21	0	0	0	0	0	0	0	0
Changes in receipts	5	0	0	0	0	0	0	0	0	0

Estimated impact on state, local, and tribal governments: The Retired Coal Miners Health Benefit Security Act contains no inter-governmental mandates as defined in UMRA. Because additional resources in the combined Benefit Fund would provide health benefits to eligible retired coal miners, estimated Medicaid spending would decrease. CBO estimates that states would save about \$500,000 in each of the fiscal years 2001 and 2002 in the Medicaid program.

Estimated impact on the private sector: This bill contains no new private-sector mandates as defined in UMRA.

Estimate prepared by: Federal Costs: Cyndi Dudzinski Smith (CBF). Eric Rollins (Medicaid). Ron Jeremias (corporate income tax), JCT. Impact on State, Local, and Tribal Governments: Leo Lex. Impact on the Private Sector: Lauren Marks.

Estimated approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

IV. VOTES OF THE COMMITTEE

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the following statements are made concerning the rollcall votes in the Committee's consideration of the bill.

Motion to report the bill

The bill, as amended, was ordered favorably reported by a rollcall vote of 12 yeas and 1 nay on September 7, 2000. If proxies were allowed in reporting a measure, the vote would have been 17 yeas and 1 nay. A quorum was present. The vote was as follows:

Yeas—Senators Roth, Grassley, Hatch, Nickles, Lott (proxy), Jeffords, Mack, Thompson, Moynihan, Baucus (proxy), Rockefeller, Breaux, Conrad, Graham (proxy), Bryan, Kerrey (proxy), Robb (proxy).

Nays—Senator Gramm.

Votes on amendments

An amendment in the nature of a substitute by Senator Nickles to provide for a transfer of general revenue to extend the solvency of the Combined Benefit Fund and to direct the General Accounting Office to submit recommendation for the long-term reform of the Coal Act was approved by a voice vote.

A second degree amendment by Senator Conrad to reduce the assessment on reachback companies by 50 percent was defeated by a rollcall vote of 6 yeas and 13 nays. The vote was as follows:

Yeas—Senators Grassley, Murkowski (proxy), Gramm, Mack, Thompson, Conrad.

Nays—Senators Roth, Hatch, Nickles, Lott (proxy), Jeffords, Moynihan, Baucus, Rockefeller, Breaux, Graham (proxy), Bryan, Kerrey, Robb (proxy).

An amendment by Senator Grassley to authorize a transfer of general revenue to the Combined Benefit Fund in order to refund contributions to final judgment companies was approved by a rollcall vote of 11 yeas and 8 nays. The vote was as follows:

Yeas—Senators Roth, Grassley, Hatch, Murkowski (proxy), Nickles, Gramm, Lott (proxy), Jeffords, Mack, Thompson, Conrad.

Nays—Senators Moynihan, Baucus (proxy), Rockefeller, Breaux, Graham (proxy), Bryan, Kerrey (proxy), Robb (proxy).

V. REGULATORY IMPACT AND OTHER MATTERS

A. REGULATORY IMPACT

Pursuant to paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement con-

cerning the regulatory impact that might be incurred in carrying out the providings of the bill as reported.

Impact on individuals and businesses

The bill provides for transfers of funds to the United Mine Workers of America Combined Benefit Fund in order to extend the solvency of the fund and adjust inequities related to contributions by certain companies to the fund. The bill will have no impact on individuals taxpayers. The bill will reduce the tax burden on affected businesses.

Impact on personal privacy and paperwork

The bill should not have any adverse impact on personal privacy. No additional paperwork will be required by the provisions of the bill.

B. UNFUNDED MANDATES STATEMENT

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104-4).

The Committee has determined that the bill does not contain Federal mandates on the private sector. The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, and tribal governments.

C. COMPLEXITY ANALYSIS

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 requires the staff of the Joint Committee on Taxation (in consultation with the Internal Revenue Service ("IRS") and the Treasury Department) to provide a complexity analysis of tax legislation reported by the House Committee on Ways and Means, the Senate Committee on Finance, or a Conference Report containing tax provisions. The complexity analysis is required to report on the complexity and administrative issues raised by provisions that directly or indirectly amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses.

VI. ADDITIONAL VIEWS

The Coal Act was passed as part of the Energy Policy Act of 1992. It established a United Mine Workers Combined Benefit Fund (“the Fund”) to preserve the health benefits of a defined group of about 120,000 retired coalminers and their dependents whose employers signed the National Bituminous Coal Wage Agreement or another similar agreement with the United Mine Workers of America (“UMWA”). Approximately 66,000 retired miners and their widows remain covered by the Fund and about half are over 80 years old; the beneficiaries of the Fund are a closed and declining population of individuals. The Fund is part of the Internal Revenue Code and is under the jurisdiction of the Senate Finance Committee.

We all agree that retired mine workers covered by the Fund need the health benefits they were promised. Unfortunately, the Fund is inadequately financed, and, without legislative changes, these retired miners and their widows will have their health benefits cut.

Today, the Committee reports a bill that partially addresses the Fund’s financing deficit. It mandates a \$57 million general revenue transfer to the Fund to ensure that no benefit cuts will occur in fiscal year 2001. However, the Fund continues to project annual deficits of \$40 to \$50 million per year due to several factors, including an inadequate inflation adjustor, skyrocketing prescription drug costs, and court decisions that have reduced the Fund’s contribution base. While we are pleased that the Committee acts to maintain these health care benefits for another year, we regret that there was no consensus to report more than a one-year financing solution. It is the responsibility of this Committee to reach a long-term funding solution to maintain full benefits. The beneficiaries of the Coal Act and the companies who pay into the fund should not face continued uncertainty regarding benefits from and liability to the Fund. And despite the Committee’s action today, without further legislative changes, affected parties will be left with the same uncertainty after 2001.

In its fiscal year 2001 budget, the Administration proposed a comprehensive package of reforms to provide retired miners and their dependents with ten years of health care security. Even the Chairman’s mark adopted the fundamental components of the ten-year solution in the Administration’s proposal. Yet, the Committee is acting on only a short-term basis. Congress and this Committee cannot neglect the long-term solvency of this health care fund, and we urge the Committee to find as soon as possible in 2001 a long-term solution that ensures full retiree health benefits.

We do not pretend that the solution is simple, and the bill we report today provides evidence of this fact. It provides relief to so-called “final judgment” companies—companies that received an unfavorable final judgment court ruling and, thus, were unable to re-

cover contributions to the Fund that were subsequently awarded to similarly situated taxpayers. A number of companies contributing to the Fund identify themselves as part of a unique taxpaying class (such as so-called “reachback” companies, “super-reachback” companies, and “stranded interim” companies). They identify themselves generally according to which UMWA contract(s) they signed and for which retirees they are liable. (A vote on an amendment to this bill to provide 50% premium relief to reachback companies failed by a vote of 6–13.) Any long-term solution for the Fund must ensure the full health benefits of retired miners and their dependents who were promised those benefits by their former employers and by the federal government. The Committee should also consider the future obligations to the Fund of the companies currently paying premiums.

DANIEL P. MOYNIHAN.
JAY ROCKEFELLER.
KENT CONRAD.
RICHARD H. BRYAN.
CHARLES ROBB.
MAX BAUCUS.
JOHN BREAU.
BOB GRAHAM.
BOB KERREY.

**VII. CHANGES IN EXISTING LAW MADE BY THE BILL, AS
REPORTED**

In the opinion of the Committee, it is necessary in order to expedite the business of the Senate, to dispense with the requirements of paragraph 12 of rule XXVI of the Standing Rules of the Senate (relating to the showing of changes in existing law made by the bill as reported by the Committee).

