

106TH CONGRESS
2D SESSION

S. 2729

To amend the Internal Revenue Code of 1986 and the Surface Mining Control and Reclamation Act of 1977 to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund by eliminating the liability of reachback operators, to provide additional sources of revenue to the Fund, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 14, 2000

Mr. CONRAD (for himself and Mr. SMITH of Oregon) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 and the Surface Mining Control and Reclamation Act of 1977 to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund by eliminating the liability of reachback operators, to provide additional sources of revenue to the Fund, 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,*

1 **SECTION 1. SHORT TITLE; AMENDMENTS OF 1986 CODE.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Combined Fund Stability and Fairness Act”.

4 (b) AMENDMENT OF 1986 CODE.—Except as other-
5 wise expressly provided, whenever in this Act an amend-
6 ment or repeal is expressed in terms of an amendment
7 to, or repeal of, a section or other provision, the reference
8 shall be considered to be made to a section or other provi-
9 sion of the Internal Revenue Code of 1986.

10 **TITLE I—REACHBACK**
11 **PROVISIONS**

12 **SEC. 101. REFORM OF REACHBACK PROVISIONS OF COAL**
13 **INDUSTRY HEALTH BENEFIT SYSTEM.**

14 (a) AGREEMENTS COVERED BY HEALTH BENEFIT
15 SYSTEM.—

16 (1) IN GENERAL.—Section 9701(b)(1) (defining
17 coal wage agreement) is amended to read as follows:

18 “(1) COAL AGREEMENTS.—

19 “(A) 1988 AGREEMENT.—The term ‘1988
20 agreement’ means the collective bargaining
21 agreement between the settlors which became
22 effective on February 1, 1988.

23 “(B) COAL WAGE AGREEMENT.—The term
24 ‘coal wage agreement’ means the 1988 agree-
25 ment and any predecessor to the 1988 agree-
26 ment.”

1 (2) CONFORMING AMENDMENT.—Section
2 9701(b) (relating to agreements) is amended by
3 striking paragraph (3).

4 (b) DEFINITIONS APPLICABLE TO OPERATORS.—

5 (1) SIGNATORY OPERATOR.—Section 9701(c)(1)
6 (defining signatory operator) is amended to read as
7 follows:

8 “(1) SIGNATORY OPERATOR.—The term ‘signa-
9 tory operator’ means a 1988 agreement operator.”

10 (2) 1988 AGREEMENT OPERATOR.—Section
11 9701(c)(3) (defining 1988 agreement operator) is
12 amended to read as follows:

13 “(3) 1988 AGREEMENT OPERATOR.—The term
14 ‘1988 agreement operator’ means—

15 “(A) an operator which was a signatory to
16 the 1988 agreement, or

17 “(B) a person in business which, during
18 the term of the 1988 agreement, was a signa-
19 tory to an agreement (other than the National
20 Coal Mine Construction Agreement or the Coal
21 Haulers’ Agreement) containing pension and
22 health care contribution and benefit provisions
23 which are the same as those contained in the
24 1988 agreement.

1 Such term shall not include any operator who was
 2 assessed, and paid the full amount of, contractual
 3 withdrawal liability to the 1950 UMWA Benefit
 4 Plan, the 1974 UMWA Benefit Plan, or the Com-
 5 bined Fund.”

6 (3) CONFORMING AMENDMENTS.—

7 (A) Section 9711(a) is amended by strik-
 8 ing “maintained pursuant to a 1978 or subse-
 9 quent coal wage agreement”.

10 (B) Section 9711(b)(1) is amended by
 11 striking “pursuant to a 1978 or subsequent
 12 coal wage agreement”.

13 (c) MODIFICATIONS TO REFLECT REACHBACK RE-
 14 FORMS.—

15 (1) BOARD OF TRUSTEES OF COMBINED
 16 FUND.—

17 (A) IN GENERAL.—Section 9702(b)(1) is
 18 amended—

19 (i) by striking “one individual who
 20 represents” in subparagraph (A) and in-
 21 serting “two individuals who represent”,

22 (ii) by striking subparagraph (B) and
 23 redesignating subparagraphs (C) and (D)
 24 as subparagraphs (B) and (C), respec-
 25 tively, and

1 (iii) by striking “(A), (B), and (C)” in
2 subparagraph (C) (as so redesignated) and
3 inserting “(A) and (B)”.

4 (B) CONFORMING AMENDMENT.—Section
5 9702(b)(3) is amended to read as follows:

6 “(3) SPECIAL RULE.—If the BCOA ceases to
7 exist, any trustee or successor under paragraph
8 (1)(A) shall be designated by the 3 employers who
9 were members of the BCOA on the enactment date
10 and who have been assigned the greatest number of
11 eligible beneficiaries under section 9706.”

12 (C) TRANSITION RULE.—Any trustee serv-
13 ing on the date of the enactment of this Act
14 who was appointed to serve under section
15 9702(b)(1)(B) of the Internal Revenue Code of
16 1986 (as in effect before the amendments made
17 by this paragraph) shall continue to serve until
18 a successor is appointed under section
19 9702(b)(1)(A) of such Code (as in effect after
20 such amendments).

21 (2) ASSIGNMENT OF BENEFICIARIES.—Section
22 9706 (relating to assignment of eligible bene-
23 ficiaries) is amended by adding at the end the fol-
24 lowing:

25 “(h) ASSIGNMENT AS OF OCTOBER 1, 2000.—

1 “(1) IN GENERAL.—Effective October 1, 2000,
2 the Commissioner of Social Security shall—

3 “(A) revoke all assignments to persons
4 other than 1988 agreement operators for pur-
5 poses of assessing premiums for periods after
6 September 30, 2000,

7 “(B) make no further assignments to per-
8 sons other than 1988 agreement operators, and

9 “(C) terminate all unpaid liabilities of per-
10 sons other than 1988 agreement operators with
11 respect to eligible beneficiaries whose assign-
12 ment to such persons is pending on October 1,
13 2000.

14 “(2) REASSIGNMENT UPON PURCHASE.—This
15 subsection shall not be construed to prohibit the re-
16 assignment under subsection (b)(2) of an eligible
17 beneficiary.”

18 (3) LIABILITY FOR 1992 PLAN.—

19 (A) IN GENERAL.—Section 9712(d) (relat-
20 ing to guarantee of benefits) is amended by
21 striking paragraph (3) and by redesignating
22 paragraphs (4), (5), and (6) as paragraphs (3),
23 (4), and (5), respectively.

24 (B) CONFORMING AMENDMENT.—Section
25 9712(d)(3) (as redesignated under subpara-

1 graph (A)) is amended by striking “or last sig-
 2 natory operator described in paragraph (3)”.

3 (C) EFFECTIVE DATE.—The amendments
 4 made by this paragraph shall apply to pre-
 5 miums assessed for periods after September 30,
 6 2000, except that a person other than a 1988
 7 agreement operator shall not be liable for any
 8 unpaid premium under section 9712(d) of the
 9 Internal Revenue Code of 1986 as of such date
 10 if liability for such premium had not been as-
 11 sessed or was being contested on such date.

12 **TITLE II—FINANCING** 13 **PROVISIONS**

14 **Subtitle A—Premiums**

15 **SEC. 201. REDUCTION IN ANNUAL PREMIUMS TO COAL MIN-**
 16 **ERS COMBINED FUND IF SURPLUS EXISTS.**

17 (a) IN GENERAL.—Part II of subchapter B of chap-
 18 ter 99 (relating to financing of Combined Benefit Fund)
 19 is amended by inserting after section 9704 the following
 20 new section:

21 **“SEC. 9704A. REDUCTIONS IN HEALTH BENEFIT PREMIUM**
 22 **IF SURPLUS EXISTS.**

23 “(a) GENERAL RULE.—If this section applies to any
 24 plan year, the per beneficiary premium used for purposes
 25 of computing the health benefit premium under section

1 9704(b) for the plan year shall be the reduced per bene-
2 ficiary premium determined under subsection (c).

3 “(b) YEARS TO WHICH SECTION APPLIES.—

4 “(1) IN GENERAL.—This section applies to any
5 plan year beginning after September 30, 2000, if the
6 trustees determine that the Combined Fund has an
7 excess reserve for the plan year.

8 “(2) EXCESS RESERVE.—For purposes of this
9 section—

10 “(A) IN GENERAL.—The term ‘excess re-
11 serve’ means, with respect to any plan year, the
12 excess (if any) of—

13 “(i) the projected net assets as of the
14 close of the test period for the plan year,
15 over

16 “(ii) the projected 3-month asset re-
17 serve as of such time.

18 “(B) PROJECTED NET ASSETS.—For pur-
19 poses of subparagraph (A)(i), the projected net
20 assets shall be the amount of the net assets
21 which the trustees determine will be available at
22 the end of the test period for projected fund
23 benefits. Such determination shall be made in
24 the same manner used by the Combined Fund
25 to calculate net assets available for projected

1 fund benefits in the Statement of Net Assets
2 (Deficits) Available for Fund Benefits for pur-
3 poses of the monthly financial statements of the
4 Combined Fund for the plan year beginning Oc-
5 tober 1, 1999.

6 “(C) PROJECTED 3-MONTH ASSET RE-
7 SERVE.—For purposes of subparagraph (A)(ii),
8 the projected 3-month asset reserve is an
9 amount equal to 25 percent of the projected ex-
10 penses (including administrative expenses) from
11 the health benefit premium account and unas-
12 signed beneficiaries premium account for the
13 plan year immediately following the test period.
14 The determination of such amount shall be
15 based on the 10-year forecast of the projected
16 net assets and cash balance of the Combined
17 Fund prepared annually by an actuary retained
18 by the Combined Fund.

19 “(D) TEST PERIOD.—For purposes of this
20 section, the term ‘test period’ means, with re-
21 spect to any plan year, the plan year and the
22 following plan year.

23 “(c) REDUCED PER BENEFICIARY PREMIUM.—For
24 purposes of this section, the reduced per beneficiary pre-
25 mium for any plan year to which this section applies is

1 the per beneficiary premium determined under section
 2 9704(b)(2) without regard to this section, reduced (but
 3 not below zero) by—

4 “(1) the excess reserve for the plan year, di-
 5 vided by

6 “(2) the total number of eligible beneficiaries
 7 which are assigned to assigned operators under sec-
 8 tion 9706 as of the close of the preceding plan year.

9 “(d) TERMINATION OF PREMIUM REDUCTION.—If,
 10 on any day during a plan year to which this section ap-
 11 plies, the Combined Fund has net assets available for pro-
 12 jected fund benefits (determined in the same manner as
 13 projected net assets under subsection (b)(2)(B)) in an
 14 amount less than the projected 3-month asset reserve de-
 15 termined under subsection (b)(2)(C) for the plan year—

16 “(1) this section shall not apply to months in
 17 the plan year beginning after such day, and

18 “(2) the monthly installment under section
 19 9704(g)(1) for such months shall be equal to the
 20 amount which would have been determined if the
 21 health benefits premium under section 9704(b) had
 22 not been reduced under this section for the plan
 23 year.”

24 (b) CONFORMING AMENDMENTS.—

1 (1) Section 9704(a) (relating to annual pre-
2 miums) is amended by striking “Each” and insert-
3 ing “Subject to section 9704A, each”.

4 (2) The table of sections for part II of sub-
5 chapter B of chapter 99 is amended by inserting
6 after the item relating to section 9704 the following
7 new item:

 “Sec. 9704A. Reductions in health benefit premium if surplus exists.”

8 (c) EFFECTIVE DATE.—The amendments made by
9 this subsection shall apply to plan years of the Combined
10 Fund beginning after September 30, 2000.

11 **SEC. 202. ELECTION TO PREFUND REQUIRED CONTRIBU-**
12 **TIONS.**

13 (a) COMBINED FUND.—Section 9704(g) (relating to
14 payment of premiums) is amended by redesignating para-
15 graph (2) as paragraph (3) and by inserting after para-
16 graph (1) the following:

17 “(2) ELECTION TO PREFUND.—

18 “(A) IN GENERAL.—An assigned operator
19 shall be entitled to prefund its obligations to
20 the Combined Fund by depositing into an irrev-
21 ocable trust dedicated solely to the payment of
22 such obligations an amount which the board of
23 trustees determines, on the basis of reasonable
24 actuarial assumptions, to be equal to the

1 present value of the operator's present and fu-
 2 ture obligations to the Combined Fund.

3 “(B) EFFECTS ON LIABILITY.—If an as-
 4 signed operator prefunds its obligations under
 5 this paragraph—

6 “(i) the assigned operator (and any
 7 successor) shall continue to remain liable
 8 for such obligations if the amount depos-
 9 ited is insufficient, but

10 “(ii) any related person to such oper-
 11 ator (or successor) shall be relieved of any
 12 liability for such obligations.”

13 (b) 1992 FUND.—Section 9712(d) (relating to guar-
 14 antee of benefits), as amended by section 101, is amended
 15 by adding at the end the following:

16 “(6) ELECTION TO PREFUND.—

17 “(A) IN GENERAL.—A 1988 last signatory
 18 operator shall be entitled to prefund its obliga-
 19 tions to the 1992 UMWA Benefit Plan by de-
 20 positing into an irrevocable trust dedicated sole-
 21 ly to the payment of such obligations an
 22 amount which the board of trustees determines,
 23 on the basis of reasonable actuarial assump-
 24 tions, to be equal to the present value of the op-

1 erator's present and future obligations to such
2 plan.

3 “(B) EFFECTS ON LIABILITY.—If a 1988
4 last signatory operator prefunds its obligations
5 under this paragraph—

6 “(i) the operator (and any successor)
7 shall continue to remain liable for such ob-
8 ligations if the amount deposited is insuffi-
9 cient, but

10 “(ii) any related person to such oper-
11 ator (or successor) shall be relieved of any
12 liability for such obligations.”

13 **SEC. 203. FIRST YEAR PAYMENTS OF 1988 OPERATORS.**

14 So much of section 9704(i)(1)(D) as precedes clause
15 (ii) is amended to read as follows:

16 “(D) PREMIUM REDUCTIONS AND RE-
17 FUNDS.—

18 “(i) 1st YEAR PAYMENTS.—In the
19 case of a 1988 agreement operator making
20 payments under subparagraph (A)—

21 “(I) the premium of such oper-
22 ator under subsection (a) shall be re-
23 duced by the amount paid under sub-
24 paragraph (A) by such operator for

1 the plan year beginning February 1,
2 1993, or

3 “(II) if the amount so paid ex-
4 ceeds the operator’s liability under
5 subsection (a), the excess shall be re-
6 funded to the operator.”

7 **Subtitle B—Transfers From Aban-**
8 **doned Mine Reclamation Fund**

9 **SEC. 211. TRANSFER OF INTEREST FROM ABANDONED**
10 **MINE RECLAMATION FUND TO COMBINED**
11 **FUND.**

12 (a) IN GENERAL.—Section 402(h)(2) of the Surface
13 Mining Control and Reclamation Act of 1977 (30 U.S.C.
14 1232(h)(2)) is amended to read as follows:

15 “(2)(A) Except as provided in subparagraph
16 (B), the Secretary shall transfer from the fund to
17 the United Mine Workers of America Combined
18 Benefit Fund established under section 9702 of the
19 Internal Revenue Code of 1986 for any fiscal year
20 the amount of interest which the Secretary estimates
21 will be earned and paid to the fund during the fiscal
22 year.

23 “(B) The Secretary shall increase the amount
24 transferred under subparagraph (A) for fiscal year
25 2001 by the excess of—

1 (b) EXTENSION OF FEE PROGRAM.—Section 402(b)
 2 of such Act (30 U.S.C. 1232(b)) is amended by striking
 3 “2004” and inserting “2010”.

4 (c) EFFECTIVE DATE.—The amendments made by
 5 subsection (a) shall apply to fiscal years beginning after
 6 September 30, 2000.

7 **SEC. 213. USE OF FUNDS TRANSFERRED FROM ABANDONED**
 8 **MINE RECLAMATION FUND.**

9 (a) IN GENERAL.—Section 9705(b)(2) of the Internal
 10 Revenue Code of 1986 (relating to use of funds) is amend-
 11 ed to read as follows:

12 “(2) USE OF FUNDS.—The amount transferred
 13 under paragraph (1) for any fiscal year shall be
 14 used—

15 “(A) first, to refund to an assigned oper-
 16 ator (and any related person to such operator)
 17 an amount equal to the sum of—

18 “(i) any amount paid by such oper-
 19 ator or person to the Combined Fund (and
 20 not previously refunded) solely by reason
 21 of the operator having been a signatory to
 22 a pre-1974 coal wage agreement, plus

23 “(ii) interest on the amount under
 24 clause (i) at the overpayment rate estab-
 25 lished under section 6621 for the period

1 from the payment of such amount to the
2 refund under this subparagraph,

3 “(B) second, to make any refund required
4 under section 9704(i)(1)(D)(i)(II),

5 “(C) third, to proportionately reduce the
6 unassigned beneficiary premium under section
7 9704(a)(3) of each assigned operator for the
8 plan year in which transferred, and

9 “(D) last, to pay the amount of any other
10 obligation occurring in the Combined Fund.”

11 (b) EFFECTIVE DATE.—The amendment made by
12 this subsection shall apply to fiscal years beginning after
13 September 30, 2000.

14 **Subtitle C—Authorization**

15 **SEC. 221. AUTHORIZATION OF TRANSFER OF FUNDS TO** 16 **COMBINED BENEFIT FUND.**

17 Section 9705 (relating to transfers to the Combined
18 Benefit Fund) is amended by adding at the end the fol-
19 lowing:

20 “(c) AUTHORIZATION OF APPROPRIATIONS.—

21 “(1) IN GENERAL.—There is authorized to be
22 appropriated \$38,000,000 for each fiscal year begin-
23 ning after September 30, 2000.

24 “(2) USE OF FUNDS.—Any amounts trans-
25 ferred to the Combined Fund under paragraph (1)

1 shall be available, without fiscal year limitation, to
2 cover any shortfall in any premium account estab-
3 lished under section 9704(e).

4 “(3) TRANSFERS.—

5 “(A) IN GENERAL.—The Secretary shall
6 transfer amounts appropriated under paragraph
7 (1) on October 1 of each fiscal year.

8 “(B) EXCESS AMOUNTS.—If the Secretary,
9 after examining the audit of the Combined
10 Fund by the Comptroller General of the United
11 States, determines that the amount transferred
12 for any fiscal year exceeds the amount required
13 to cover shortfalls for that year, the Secretary
14 shall notify the Committees on Appropriations
15 of the House of Representatives and the Senate
16 and the authorization of appropriations for the
17 first fiscal year after the determination shall be
18 reduced by the amount of the excess.”

19 **SEC. 222. ANNUAL AUDIT.**

20 Section 9702 (relating to establishment of the Com-
21 bined Fund) is amended by adding at the end the fol-
22 lowing:

23 “(d) ANNUAL AUDIT.—

1 “(1) AUDIT.—The Comptroller General of the
2 United States shall conduct an annual audit of the
3 Combined Fund. Such audit shall include—

4 “(A) a review of the progress the Com-
5 bined Fund is making toward a managed care
6 system as required under this subchapter, and

7 “(B) a review of the use of, and necessity
8 for, amounts transferred to the Combined Fund
9 under section 9705(c).

10 “(2) REPORT.—The Comptroller General shall
11 report the results of any audit under paragraph (1)
12 to the Secretary of the Treasury and to the appro-
13 priate committees of Congress, including its rec-
14 ommendations (if any) as to any administrative sav-
15 ings which may be achieved without reducing the ef-
16 fective level of benefits under section 9703.”

○