

COAL ACCOUNTABILITY AND RETIRED EMPLOYEE ACT FOR
THE 21ST CENTURY

SEPTEMBER 9, 2002.—Committed to the Committee of the Whole House on the State
of the Union and ordered to be printed

Mr. HANSEN, from the Committee on Resources,
submitted the following

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 3813]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 3813) to modify requirements relating to allocation of interest that accrues to the Abandoned Mine Reclamation Fund, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

PURPOSE OF THE BILL

The purpose of H.R. 3813 is to modify requirements relating to allocation of interest that accrues to the Abandoned Mine Reclamation Fund.

BACKGROUND AND NEED FOR LEGISLATION

The Surface Mining Control & Reclamation Act of 1977 (Public Law 95-87; 30 U.S.C. 1201 et seq.) established an abandoned coal mine reclamation fund supported by a fee on domestically produced coal. Section 6002 of Public Law 101-508 provided for investing unappropriated abandoned mine land (AML) funds and unspent appropriated funds in U.S. Treasury bills.

The Coal Act of 1992 created the United Mine Workers of America (UMWA) Combined Benefits Fund (CBF) to provide health ben-

efits by merging retiree benefit programs negotiated between the Bituminous Coal Operators Association (BCOA) and the UMWA in 1950. The CBF is financed through premiums levied on companies and individuals signatory to BCOA-UMWA labor agreements.

An “unassigned beneficiaries” class of retirees exists where no signatory company exists to pay their premiums. To finance these benefits, beginning in 1996, Congress provided that up to 100 percent of the interest collected on the AML fund in each fiscal year or \$70 million, whichever is smaller, be transferred to the CBF (Section 19143 of Public Law 102-486). This law also authorized transfer to the CBF of the interest earned on AML money from 1992 through 1996, if needed to finance net asset deficits exceeding the actual interest earned during the fiscal year, up to the \$70 million cap. The transferred funds are not subject to appropriation and can only be used to provide benefits to unassigned beneficiaries. The House Committee on Ways and Means has jurisdiction over the finances of the CBF, but the Resources Committee must authorize transfers from the AML to the CBF.

The number of unassigned beneficiaries has significantly increased due to several court decisions limiting signatory companies and bankruptcies. The effects of these factors combined with rising health care costs have created a financial crisis for the CBF. The problem has been temporarily solved by emergency appropriations from the unobligated interest balance earned on AML funds.

H.R. 3813 would remove the \$70 million cap on annual transfers of interest balances to the CBF. It would also remove the requirement that transferred funds must be used to provide benefits for the unassigned beneficiaries and allows interest transfers to be made to offset the amount of any deficits to the CBF to prevent reduction in health care coverage.

COMMITTEE ACTION

H.R. 3813 was introduced on February 27, 2002, by Congressman Nick J. Rahall II (D-WV). The bill was referred to the Committee on Resources, and within the Committee to the Subcommittee on Energy and Mineral Resources. On June 26, 2002, the Full Committee met to consider the bill and by unanimous consent discharged the Subcommittee on Energy and Mineral Resources from further consideration of H.R. 3813. No amendments were offered and the bill was ordered favorably reported to the House of Representatives by unanimous consent.

SECTION-BY-SECTION ANALYSIS

Section 1 provides that H.R. 3813 may be cited as the “Coal Accountability and Retired Employee Act for the 21st Century.”

Section 2 authorizes the transfer of any interest received on unappropriated AML funds and unspent appropriated funds to the CBF in such amounts needed to offset the estimated deficit in net assets in the CBF. The effect of Section 2 is to remove the \$70 million cap on annual transfers of interest balances to the CBF and the requirement that the transfers can only be used to offset deficits in the premium account for unassigned beneficiaries.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

CONSTITUTIONAL AUTHORITY STATEMENT

Article I, section 8 of the Constitution of the United States grants Congress the authority to enact this bill.

COMPLIANCE WITH HOUSE RULE XIII

1. Cost of Legislation. Clause 3(d)(2) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out this bill. However, clause 3(d)(3)(B) of that rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974.

2. Congressional Budget Act. As required by clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, this bill does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures. According to the Congressional Budget Office, enactment of this bill would result in a net change in direct spending of \$405 million over the 2004–2012 time period.

3. General Performance Goals and Objectives. As required by clause 3(c)(4) of rule XIII, the general performance goal or objective of this bill is to modify requirements relating to allocation of interest that accrues to the Abandoned Mine Reclamation Fund.

4. Congressional Budget Office Cost Estimate. Under clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for this bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 5, 2002.

Hon. JAMES V. HANSEN,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3813, the Coal Accountability and Retired Employee Act for the 21st Century.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Alexis Ahlstrom.

Sincerely,

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

Enclosure.

H.R. 3813—Coal Accountability and Retired Employee Act for the 21st Century

Summary: H.R. 3813 would require the Office of Surface Mining to transfer any remaining interest credited to the Abandoned Mine Reclamation (AML) Fund to the United Mine Workers of America Combined Benefit Fund (CBF) in the case of a deficit of net assets in that fund (that is, when expenditures exceed revenues in a particular year). CBO estimates that the CBF will record a deficit of net assets in 2002 and in each year thereafter.

If the bill were enacted, CBO estimates that an additional \$71 million in 2003 and about \$500 million over the 2003–2012 period would be transferred to the CBF, assuming that the reclamation fees paid by coal companies to the AML Fund expire in 2004 as scheduled and that no discretionary appropriations are made from the fund after fiscal year 2002. By themselves, the transfers, from one federal budget account to another, would not affect the budget totals. The transfers would, however, provide additional resources to the CBF, which would otherwise run out of money to pay health benefits to retired mine workers and their dependents. CBO estimates that those transfers would result in additional benefit payments of \$4 million in 2004 and \$421 million over the 2004–2012 period.

In addition, because of the increased payments from the CBF, federal Medicaid spending would decline by about \$2 million a year beginning in 2005. Therefore, CBO estimates that the net change in direct spending would be an increase of \$405 million over the 2004–2012 period. Because implementing H.R. 3813 would affect direct spending, pay-as-you-go procedures would apply.

H.R. 3813 contains no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would reduce Medicaid spending by state governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 3813 is shown in Table 1. The costs of this legislation fall within budget function 550 (health).

	By fiscal year, in millions of dollars—					
	2002	2003	2004	2005	2006	2007
CHANGES IN DIRECT SPENDING						
Additional Spending from the CBF:						
Estimated Budget Authority	0	0	4	63	60	58
Estimated Outlays	0	0	4	63	60	58
Federal Share of Medicaid:						
Estimated Budget Authority	0	0	(*)	–2	–2	–2
Estimated Outlays	0	0	(*)	–2	–2	–2
Net Effect on Federal Spending:						
Estimated Budget Authority	0	0	4	61	58	56
Estimated Outlays	0	0	4	61	58	56

Note.—*=Reduction of less than \$500,000.

Basis of estimate: The Abandoned Mine Reclamation Fund is supported by a fee on domestically produced coal, and a portion of the interest credited to that fund each year is transferred to the Combined Benefit Fund to provide health benefits for certain retired mine workers and their dependents. Under current law, the transfer of interest earnings is capped at \$70 million a year. H.R. 3813 would remove that cap and would allow interest transfers to be made to offset any deficits in the CBF. CBO estimates that the

CBF will run a deficit of more than \$450 million over the 2003–2012 period because the cost of providing health benefits has been growing more rapidly than the premiums collected by the fund. If the bill is enacted, CBO estimates that an additional \$71 million would be transferred in 2003 to cover deficits in 2002 and 2003.

Although the CBF is privately administered, revenues to the fund and outlays from the fund are recorded on the federal budget. The payments to the fund—health insurance premiums paid by certain coal producers—are mandated by the government, and the benefits paid by the fund are a federal entitlement program. Therefore, the transfer of funds from the AML to the CBF is an intragovernmental transaction and, by itself, has no net budgetary effect.

The budgetary impact of H.R. 3813 would not be the transfer itself, but the additional benefits that would be paid from the CBF as a result of the transfer. In the event of a deficit, the trustees of the CBF will first try to balance the fund by reducing spending on items and services other than health benefits. But if the deficit is large enough, they will have to cut benefits. CBO estimates that the fund will have to reduce benefits starting in 2004 and will need to cut \$421 million in benefits over the 2004–2012 period under current law—that is, with transfers limited to \$70 million a year.

This cost estimate assumes that no appropriations are made from the AML Fund after 2002, and that the fund receives no additional income after 2004 from taxes on companies producing coal. (Under current law, those taxes expire on September 30, 2004.) On that basis, CBO estimates that there would be enough interest available in the AML Fund to cover net deficits in the CBF so that no benefits would be cut through 2012 if H.R. 3813 were enacted. Thus, the transfer of interest from the AML Fund to cover net deficits in the CBF would enable the CBF to avoid reducing benefits, and therefore, would increase direct spending by \$421 million over the 2004–2012 period.

The result would be different if additional appropriations for other purposes were made from the AML Fund after 2002. If appropriations continue at current levels (without extensions of the taxes), the AML Fund would gradually be depleted and the sums available for transfer to the CBF would decline over time. After a few years, benefits payments would have to be reduced. Under that scenario, enactment of H.R. 3813 would not add to aggregate spending over the 2004–2012 period.

For beneficiaries who are also enrolled in Medicaid, a loss of benefits from the CBF would shift costs to the Medicaid program. Because this legislation would eliminate the need to reduce health benefits paid from the CBF, it would reduce the health care costs that would have to be paid by Medicaid. CBO estimates that this change would decrease federal Medicaid spending by \$2 million in 2005 and \$16 million over the 2005–2012 period.

Pay-as-you-go considerations: Section 252 of 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 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 through 2006 are counted.

	By fiscal year, in millions of dollars—											
	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	
Changes in outlays	0	0	4	61	58	56	53	50	45	41	36	
Changes in receipts	Not applicable											

Intergovernmental and private-sector impact: This bill contains no new intergovernmental or private-sector mandates as defined in UMRA. Because additional resources in the Combined Benefit Fund would provide health benefits to eligible beneficiaries, Medicaid spending would decrease. Consequently, CBO estimates that states would save over \$1 million in 2005 and \$12 million over the 2003–2012 period in the Medicaid program.

Estimate prepared By: Federal Costs: AML and CBF Funds—Alexis Ahlstrom, Medicaid—Eric Rollings, Impact on State, Local, and Tribal Governments: Leo Lex; and Impact on the Private Sector: Lauren Marks.

Estimate approved by: Robert A. Sunshine, Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

This bill is not intended to preempt any State, local or tribal law.

CHANGES IN EXISTING LAW

If enacted, this bill would make no changes to existing law.

ADDITIONAL VIEWS OF HON. NICK RAHALL

The purpose of this legislation is to restore our Nation's historic commitment to insuring lifetime health care for retired coal miners. At the outset, I would note that joining me as a sponsor of H.R. 3813 is the distinguished gentleman from Ohio, Bob Ney.

Enactment this year of CARE 21, the "Coal Accountability and Retired Employee Act for the 21st Century," is necessary if we are to avoid seeing a curtailment in health care coverage for thousands of retired coal miners and their widows. Indeed, this would not be the first time that Congress has acted in this matter. In 1992, in what is known as the "Coal Act" enacted as part of the Energy Policy Act, Congress established the UMWA Combined Benefit Funds (CBF) combining the union's 1950 and 1974 benefit plans. This action came in response to changes in the coal industry which created a large class of 'orphaned' miners whose benefits were no longer being paid by an active coal company. A key feature of the Coal Act was the financing of orphaned miner health care costs through an annual transfer of a portion of the interest which accrues to the unappropriated balance in the Abandoned Mine Reclamation Fund.

Simply put, in restoring abandoned coal mine lands we must not abandon the retired coal miner.

The Coal Act was working well, health care for retirees whose former employers could be identified would be financed by premiums paid by those companies while providing for a transfer of reclamation fund interest to finance orphaned miner care.

However, a barrage of litigation and adverse court decisions once again is threatening the financial integrity of the program. Among them, what is known as the "Chater" decision which overturned the Social Security Administration's premium determination reducing premiums by 10 percent. Another court decision ordered the CBF to refund about \$40 million in contributions. And the Supreme Court has rendered two especially harsh decisions; in the Eastern Enterprise case adding some 8,000 retirees to the orphaned miner rolls and just last week ruling that successor companies to signatories of the national wage agreement are not responsible to continue paying premiums for former employees. The result: Without a new source of funds, the CBF will face a cash shortage most likely beginning at the end of this year which could force curtailments in health care coverage for some 50,000 retirees and widows whose average age is 78.

CARE 21 takes a relatively simple and straightforward approach to addressing this impending crisis: It would lift the restriction in current law that reclamation fund interest can only be used for orphaned miner health care. Rather, it would allow AML interest transfers to be made for the purpose of offsetting any deficit in net assets in the CBF.

I would note that interest accrues to the Abandoned Mine Reclamation Fund at a rate of, for example, \$103 million last fiscal year. Meanwhile, there is a \$1.8 billion unappropriated balance in the Fund. CARE 21 in no way adversely affects the abandoned mine reclamation program. The principal remains intact for that effort, and is fueled by annual reclamation fees assessed on every ton of mined coal which finances the program.

As such, one of the key features of CARE 21 is that the general taxpayer is not being called upon to pay for retired coal miner health care, but rather, the coal industry itself would provide for this coverage through the interest which accrues to the fees it pays into the Abandoned Mine Reclamation Fund.

Earlier, I noted there is a historical commitment to providing health care for retired coal miners. This is a unique situation in that what would normally be a matter solely for the private sector is not in this instance. The genesis for this situation dates back to 1946 in an agreement between then-UMW President John L. Lewis and the federal government to resolve a long-running labor dispute. At the time, President Truman had ordered the Interior Secretary to take possession of all bituminous coal mines in the country in an effort to break a United Mine Workers of America strike. Eventually, Lewis and Secretary Julius Krug reached an agreement that included an industry-wide, miner controlled health plan.

In fact, the 1992 Coal Act itself was formulated partly on the basis of recommendations from the Coal Commission, established by former labor Secretary Libby Dole, which in 1990 recommended a statutory obligation to help finance the UMWA's Health Benefit Funds.

The people covered by this health care program spent their careers producing the energy which powered this Nation to greatness. We must not forsake them. We must not cast them adrift in their later years, robbed of the health care they so desperately need.

NICK RAHALL.

