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111–651

CARE ACT

SEPTEMBER 29, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. RAHALL, from the Committee on Natural Resources, submitted the following

R E P O R T

[To accompany H.R. 5479]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 5479) to amend the Surface Mining Control and Reclamation Act of 1977 to provide for use of excess funds available under that Act to provide for certain benefits, and for other purposes, 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. 5479 is to amend the Surface Mining Control and Reclamation Act of 1977 to provide for use of excess funds available under that Act to provide for certain benefits, and for other purposes.

BACKGROUND AND NEED FOR LEGISLATION

H.R. 5479 would amend Title IV of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) to allow the transfer of certain unobligated funds to the United Mine Workers of America (UMWA) 1974 Pension Plan. The UMWA 1974 Pension Plan provides pensions or future pensions to approximately 120,000 employees in the bituminous coal industry and to their eligible spouses. Imminently, however, the Pension Plan faces insolvency.

Prior to 2008, actuaries deemed the Plan to be on solid financial footing and soundly managed, but the market collapse severely depleted its assets, which lost 22% of their value that calendar year. Compounding the Plan's problems is the fact that currently, only about 10,000 active mine workers support pension payments for

120,000 retirees. Additionally, 60% of the retirees in the plan are "orphans"—retirees for whom no company any longer makes contributions to the Pension Fund, typically because of bankruptcy. The cost of their pension payments represents 40% of plan liability and more than $200 million of the Plan's annual beneficiary obligation.

Given this perfect storm of problems, actuaries now project that without a significant infusion of income, the Plan's assets will continue to erode. By 2015 the Plan will face a funding deficiency. Cutting benefits—which average a mere $565 per beneficiary per month—cannot close the gap. For contributing employers to make up the shortfall and get the Pension Fund to a "funded status" of 80% (a ratio of assets to liabilities, a basic measure of health), employers would need to make an additional contribution of about $40,000 per employee annually—a tripling or quadrupling of their current contributions. If faced with such a requirement, many would likely abandon union workers, close mines, or declare bankruptcy.

H.R. 5479 would help solidify the Plan's financial health by transferring to the Pension Plan funds in excess of amounts needed to meet existing obligations under Title IV of SMCRA. This transfer would buy time for the Plan's asset base to recover. Currently, Title IV of SMCRA authorizes a mandatory annual appropriation from the Treasury of a maximum of $490 million for three purposes: (1) payments to states and Indian tribes in an amount equivalent to unappropriated state-share balances prior to October 1, 2007, from the Abandoned Mine Land (AML) Fund; (2) payments to certified states and tribes of an amount equivalent to their state-share balances after 2007; and (3) contributions to three UMWA health care plans. Projections by UMWA's actuary, using data from the Office of Surface Mining Reclamation and Enforcement, suggest that $75–283 million a year, or a total of $2.295 billion over the next 10 years, may not be needed to meet those three obligations. H.R. 5479 would transfer those unused funds to the Pension Plan, but would not affect statutory payments to certified states and tribes.

COMMITTEE ACTION

H.R. 5479 was introduced by Natural Resources Committee Chairman Nick J. Rahall II (D–WV) on June 8, 2010. The bill was referred to the Committee on Natural Resources. At a June 21, 2010 hearing before the Committee, the President of the United Mine Workers of America and the President of the Bituminous Coal Operators Association testified in support of H.R. 5479. The Administration expressed appreciation of the problem but noted budgetary concerns.

On July 22, 2010, the full Natural Resources Committee met to consider H.R. 5479. The bill was ordered favorably reported to the House of Representatives by unanimous consent.

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

Natural 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, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures.

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 amend the Surface Mining Control and Reclamation Act of 1977 to provide for use of excess funds available under that Act to provide for certain benefits.

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:

H.R. 5479—Coal Accountability and Retired Employee Act of 2010

Summary: H.R. 5479 would require the Office of Surface Mining (OSM) to make annual payments to the 1974 United Mine Workers Association (UMWA) pension plan for retired coal miners. Based on information provided by OSM, CBO estimates that enacting the legislation would increase direct spending by $2.3 billion over the 2011–2020 period; therefore, pay-as-you-go procedures apply. Enacting the legislation would not affect revenues.

H.R. 5479 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated cost to the Federal Government: The estimated budgetary impact of H.R. 5479 is shown in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 550 (health).

	By fiscal year in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
CHANGES IN DIRECT SPENDING												
Estimated Budget Authority	40	116	114	135	321	335	335	266	266	336	726	2,264

	By fiscal year in millions of dollars—											
	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2011–2015	2011–2020
Estimated Outlays	40	116	114	135	321	335	335	266	266	336	726	2,264

Basis of estimate: For this estimate, CBO assumes that the legislation will be enacted in 2010.

Under current law, OSM is obligated to make payments to certain states and private pension plans. Those obligations include grants to states where significant coal production occurred in the past and to states that have completed all of their outstanding coal reclamation projects, so-called certified states. OSM also makes annual payments derived from the general fund of the Treasury to certain pension plans for retired coal miners; however, the size of those payments depend on the interest credited to balances in the Abandoned Mine Reclamation Fund. Under current law, total obligations derived from the general fund for those purposes cannot exceed $490 million a year.

Under the bill, if those annual obligations are less than the $490 million cap, OSM would pay the 1974 UMWA pension plan the difference between that cap and its existing obligations to the states and other pension plans. Based on information from OSM and UMWA, CBO estimates that actual obligations authorized under current law will total about $2.3 billion less than the maximum amount authorized over the next 10 years. Thus, we estimate that enacting H.R. 5479 would increase direct spending by about $2.3 billion over that period. (Because the bill's provisions would be permanent, direct spending would continue after 2020.)

Estimated payments to states

Under current law, OSM must obligate $187 million a year over the 2011–2014 period to states where significant coal production occurred in the past. (Those payments end after 2014.) In addition, based on information from OSM, CBO estimates that the agency will obligate $100 million a year, on average, over the 2011–2020 period to certified states, based on those states' share of coal production in the U.S. in the prior year. In total, CBO estimates that OSM will obligate about $1.7 billion to coal-producing states over the 2011–2020 period. (We estimate that outlays from those obligated amounts will occur over the 2011–2023 period).

Estimated payments to UMWA pension plans

CBO estimates that, under current law, OSM will pay an average of $190 million a year to certain UMWA pension plans over the 2011–2020 period. Those payments are derived from the general fund of the Treasury and from interest earned on balances in the Abandoned Mine Reclamation Fund, a federal fund consisting of accrued collections of certain taxes on coal producers. Considering historical interest earnings on balances, CBO estimates that the fund will be credited with about $100 million a year in interest over the next 10 years that will be paid to the pension plans. In addition, we estimate that the OSM will spend $90 million a year—or about $900 million over the 2011–2020 period—to cover the remaining required contributions to those pension plans.

Estimated new direct spending

As described above, OSM currently is obligated to make payments to certain states and UMWA pension plans that CBO estimates will total $2.6 billion over the next 10 years ($1.7 billion for grants to states and $900 million for payments to UMWA pension plans). The general fund payment to the UMWA pension plans will vary depending on the amount of interest credited to the Abandoned Mine Reclamation Fund in future years. The total amount of obligations derived from the general fund for those purposes cannot exceed $4.9 billion over the 2011–2020 period. Over the next 10 years, the difference between the $4.9 billion cap and the required OSM obligations over that period will total $2.3 billion; thus, CBO estimates that, under the bill, OSM would make payments totaling $2.3 billion to the 1974 UMWA pension plan over the 2011–2020 period. Those payments would constitute new direct spending over that period.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays and revenues that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-CO EFFECTS FOR H.R. 5479, THE COAL ACCOUNTABILITY AND RETIRED EMPLOYEE ACT OF 2010, AS ORDERED REPORTED BY THE HOUSE COMMITTEE ON NATURAL RESOURCES ON JULY 22, 2010

	By fiscal year in millions of dollars—												
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2010–2015	2010–2020
NET INCREASE OR DECREASE (−) IN THE DEFICIT													
Statutory Pay-As-You-Go Impact ...	0	40	116	114	135	321	335	335	266	266	336	726	2,264

Intergovernmental and private-sector impact: H.R. 5479 contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Costs: Jeff LaFave and Julia Christensen; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH PUBLIC LAW 104–4

This bill contains no unfunded mandates.

EARMARK STATEMENT

H.R. 5479 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

PREEMPTION OF STATE, LOCAL OR TRIBAL LAW

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

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SURFACE MINING CONTROL AND RECLAMATION ACT OF 1977

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TITLE IV—ABANDONED MINE RECLAMATION

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RECLAMATION FEE

SEC. 402. (a) * * *

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(i) FUNDING.—

(1) * * *

(2) PAYMENTS TO STATES AND INDIAN TRIBES.—**[**Subject to**]** *(A) IN GENERAL.—Subject to* paragraph (3), out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of the Interior for distribution to States and Indian tribes such sums as are necessary to pay amounts described in paragraphs (1)(A) and (2)(A) of section 411(h).

(B) EXCESS AMOUNTS.—

(i) IN GENERAL.—Subject to paragraph (3), and after all transfers referred to in paragraph (1) and subparagraph (A) of this paragraph have been made, any amounts remaining after the application of paragraph (3)(A) (without regard to this subparagraph) shall be transferred to the trustees of the 1974 UMWA Pension Plan and used solely to pay pension benefits required under such plan.

(ii) 1974 UMWA PENSION PLAN.—In this subparagraph the term "1974 UMWA Pension Plan" means a pension plan referred to in section 9701(a)(3) of the Internal Revenue Code of 1986 but without regard to whether participation in such plan is limited to individuals who retired in 1976 and thereafter.

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