

107TH CONGRESS
2D SESSION

S. 2637

To amend the Internal Revenue Code of 1986 and the Surface Mining Control and Reclamation Act of 1977 to protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund and 1992 Benefit Plan by providing additional sources of revenue to the Fund and Plan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 18, 2002

Mr. CONRAD (for himself, Mr. SMITH of Oregon, Mr. ALLEN, and Mr. WARNER) 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 protect the health benefits of retired miners and to restore stability and equity to the financing of the United Mine Workers of America Combined Benefit Fund and 1992 Benefit Plan by providing additional sources of revenue to the Fund and Plan, 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, ETC.**

2 (a) SHORT TITLE.—This Act may be cited as the
3 “Coal Industry Retiree Health Benefit Stability and Fair-
4 ness Act”.

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

11 (c) TABLE OF CONTENTS.—The table of contents for
12 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—FINANCING PROVISIONS

Subtitle A—Federal Funds

Sec. 101. Mandatory transfer of general funds to Combined Benefit Fund and
the 1992 Fund.

Sec. 102. Annual audit.

Sec. 103. Appointment of Government trustees.

Subtitle B—Premiums

Sec. 111. Elimination of unassigned beneficiaries premium.

Sec. 112. Refunds to certain operators.

Sec. 113. Reduction in annual premiums to Combined Benefit Fund if surplus
exists.

Sec. 114. Refund of contributions paid by certain small entities to United Mine
Workers Combined Benefit Fund.

Sec. 115. First year payments of 1988 operators.

Sec. 116. Liability in the event of pre-funding.

Sec. 117. Definition of successor in interest.

TITLE II—RETROACTIVE PROVISIONS

Sec. 201. Reform of retroactive provisions of Coal Industry Health Benefit Sys-
tem.

TITLE I—FINANCING
PROVISIONS
Subtitle A—Federal Funds

SEC. 101. MANDATORY TRANSFER OF GENERAL FUNDS TO
COMBINED BENEFIT FUND AND THE 1992
FUND.

(a) IN GENERAL.—Subsection (b) of section 9705 (relating to transfers to the Combined Benefit Fund) is amended to read as follows:

“(b) MANDATORY TRANSFERS FROM GENERAL FUND.—

“(1) IN GENERAL.—There are hereby authorized and appropriated, out of any amounts in the Treasury not otherwise appropriated, to the Combined Fund and the UMWA 1992 Benefit Plan such sums as may be necessary to—

“(A) pay any benefit or administrative costs of unassigned beneficiaries of the Combined Fund,

“(B) pay any benefit or administrative costs of unassigned beneficiaries of the 1992 UMWA Plan, and

“(C) eliminate any annual deficit in any premium account of the Combined Fund as certified by the Trustees of the Combined Fund.

1 Deficits referred to in subparagraph (C) shall be
 2 certified by the trustees only after utilizing and tak-
 3 ing into account all premiums and other government
 4 reimbursements to the Fund.

5 “(2) USE OF FUNDS.—Any amounts trans-
 6 ferred under paragraph (1) shall be available, with-
 7 out fiscal year limitation.

8 “(3) TRANSFER.—The Secretary of the Treas-
 9 ury shall transfer amounts appropriated under para-
 10 graph (1) on October 1 of each fiscal year.”.

11 (b) EFFECTIVE DATE.—The amendment made by
 12 subsection (a) shall take effect on the date of the enact-
 13 ment of this Act.

14 **SEC. 102. ANNUAL AUDIT.**

15 (a) IN GENERAL.—Section 9702 (relating to estab-
 16 lishment of the Combined Fund) is amended by adding
 17 at the end the following:

18 “(d) ANNUAL AUDIT.—

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

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

1 “(B) a review of the use of, and necessity
 2 for, amounts transferred to the Combined Fund
 3 under section 9705(c).

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

11 (b) EFFECTIVE DATE.—The amendment made by
 12 subsection (a) shall apply to years beginning after the date
 13 of the enactment of this Act.

14 **SEC. 103. APPOINTMENT OF GOVERNMENT TRUSTEES.**

15 (a) IN GENERAL.—Section 9702(b) (relating to the
 16 Board of Trustees) is hereby amended by adding the fol-
 17 lowing new subparagraph:

18 “(D) 2 persons designated by the Sec-
 19 retary of the Treasury.”.

20 (b) EFFECTIVE DATE.—The amendment made by
 21 subsection (a) shall take effect on the date of the enact-
 22 ment of this Act.

Subtitle B—Premiums

SEC. 111. ELIMINATION OF UNASSIGNED BENEFICIARIES

PREMIUM.

Section 9704(d) (establishing unassigned beneficiaries premium) is amended to read as follows:

“(d) UNASSIGNED BENEFICIARIES PREMIUM.—

“(1) PLAN YEARS ENDING ON OR BEFORE SEPTEMBER 30, 2001.—For plan years ending on or before September 30, 2001, the unassigned beneficiaries premium for any assigned operator shall be equal to the applicable percentage of the product of the per beneficiary premium for the plan year multiplied by the number of eligible beneficiaries who are not assigned under section 9706 to any person for such plan year.

“(2) PLAN YEARS BEGINNING ON OR AFTER OCTOBER 1, 2001.—For plan years beginning on or after October 1, 2001, there shall be no unassigned beneficiaries premium.”.

SEC. 112. REFUNDS TO CERTAIN OPERATORS.

(a) IN GENERAL.—Section 9704 (relating to the liability of assigned operators) is further amended by adding at the end the following new subsection:

“(j) The Combined Fund shall, before December 31, 2001, refund to an assigned operator which was an as-

1 signed operator prior to the date of the enactment of this
 2 subsection (and any related person to such operator) an
 3 amount equal to the sum of—

4 “(1) any amount paid by such operator or per-
 5 son to the Combined Fund (and not previously re-
 6 funded) by reason of the operator having been a sig-
 7 natory to a pre-1974 coal wage agreement, and

8 “(2) interest on the amount under paragraph
 9 (1) at the overpayment rate established under sec-
 10 tion 6621 for the period from the payment of such
 11 amount to the refund under this subsection.”.

12 (b) EFFECTIVE DATE.—The amendment made by
 13 subsection (a) shall take effect on the date of the enact-
 14 ment of this Act.

15 **SEC. 113. REDUCTION IN ANNUAL PREMIUMS TO COM-**
 16 **BINED BENEFIT 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, 2001, 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, 2001.

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 ex-
 ists.”.

8 (c) EFFECTIVE DATE.—The amendments made by
 9 this section shall apply to plan years of the Combined
 10 Fund beginning after September 30, 2001.

11 **SEC. 114. REFUND OF CONTRIBUTIONS PAID BY CERTAIN**
 12 **SMALL ENTITIES TO UNITED MINE WORKERS**
 13 **COMBINED BENEFIT FUND.**

14 (a) IN GENERAL.—Part II of subchapter B of chap-
 15 ter 99 is amended by inserting after section 9704A the
 16 following new section:

17 **“SEC. 9704B. REFUNDS OF ANNUAL PREMIUMS OF CERTAIN**
 18 **SMALL ENTITIES.**

19 “(a) GENERAL RULE.—The annual premiums paid
 20 by certain small entities under section 9704(a) shall, in
 21 the case of an eligible small entity which was an assigned
 22 operator prior to the date of the enactment of this section,
 23 be refunded as provided in subsection (b).

1 “(b) REFUNDS FOR ELIGIBLE SMALL ENTITIES
2 WHICH WERE FORMERLY ASSIGNED OPERATORS.—

3 “(1) IN GENERAL.—To the extent an eligible
4 small entity which was an assigned operator prior to
5 October 1, 2001, has paid premiums to the Com-
6 bined Fund, any such premiums shall be refunded
7 by the Combined Fund.

8 “(2) YEARS TO WHICH SUBSECTION APPLIES.—
9 This subsection shall apply to any plan year of the
10 Combined Fund which began before October 1,
11 2001.

12 “(3) ELIGIBLE SMALL ENTITIES.—For pur-
13 poses of this section, the term ‘eligible small entity’
14 means any entity which was an assigned operator
15 prior to October 1, 2001, and, according to the
16 records of the Combined Fund, such operator (or
17 any related persons of such operator)—

18 “(A) was not a signatory to the 1981 or
19 later National Bituminous Coal Wage Agree-
20 ment or any ‘me too’ agreement related to such
21 Coal Wage Agreement;

22 “(B) reported credit hours to the UMWA
23 1974 Pension Plan on fewer than ten classified
24 mine workers in every month during its last
25 year of operations under the National Bitu-

1 minous Coal Wage Agreement of 1978 or any
 2 ‘me too’ agreement related to such Coal Wage
 3 Agreement;

4 “(C) has had not more than 60 bene-
 5 ficiaries, including eligible dependents of retired
 6 miners, assigned to it under section 9706 not
 7 including beneficiary assignments relieved by
 8 the Social Security Administration;

9 “(D) was assessed premiums by the Com-
 10 bined Fund, made payments pursuant to those
 11 assessments, and has no delinquency as of Sep-
 12 tember 30, 2001; and

13 “(E) is not directly engaged in the produc-
 14 tion or sale of coal and has no related person
 15 engaged in the production of coal as of Sep-
 16 tember 30, 2001.”.

17 (b) CONFORMING AMENDMENT.—The table of sec-
 18 tions for part II of subchapter B of chapter 99 is amended
 19 by inserting after the item relating to section 9704A the
 20 following new item:

 “Sec. 9704B. Refunds of annual premiums of certain small enti-
 ties.”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall take effect on the date of the enactment
 23 of this Act.

1 **SEC. 115. FIRST YEAR PAYMENTS OF 1988 OPERATORS.**

2 (a) IN GENERAL.—So much of section 9704(i)(1)(D)
3 as precedes clause (ii) is amended to read as follows:

4 “(D) PREMIUM REDUCTIONS AND RE-
5 FUNDS.—

6 “(i) 1st YEAR PAYMENTS.—In the
7 case of a 1988 agreement operator making
8 payments under subparagraph (A)—

9 “(I) the premium of such oper-
10 ator under subsection (a) shall be re-
11 duced by the amount paid under sub-
12 paragraph (A) by such operator for
13 the plan year beginning February 1,
14 1993, or

15 “(II) if the amount so paid ex-
16 ceeds the operator’s liability under
17 subsection (a), the excess shall be re-
18 funded to the operator before Decem-
19 ber 31, 2001.”.

20 (b) EFFECTIVE DATE.—The amendment made by
21 subsection (a) shall take effect on the date of the enact-
22 ment of this Act.

23 **SEC. 116. LIABILITY IN THE EVENT OF PRE-FUNDING.**

24 (a) IN GENERAL.—Section 9701(c)(2) is amended by
25 adding the following new subparagraphs:

1 “(C) EXCEPTION UPON ESTABLISHMENT
2 OF CERTAIN VOLUNTARY EMPLOYEES’ BENEFIT
3 ASSOCIATION.—In the event an association de-
4 scribed in section 501(c)(9) is established by a
5 signatory operator, or a related person to such
6 signatory operator, or a member of the con-
7 trolled group of corporations which includes the
8 signatory operator, and such association is de-
9 scribed in subparagraph (D), all persons consid-
10 ered to be related persons to such signatory op-
11 erator under subparagraph (A) shall perma-
12 nently cease to be considered related persons to
13 such signatory operator when—

14 “(i) the balance of funds held by the
15 association, resulting from one or more
16 contributions to the association and earn-
17 ings thereon, equals or exceeds the sum
18 of—

19 “(I) the present value of the total
20 premium liability of the signatory op-
21 erator for its assignees under section
22 9704 with respect to the Combined
23 Fund, plus

1 “(II) the amount necessary to
2 pay administrative and other inci-
3 dental expenses of such association,
4 as determined by the association’s enrolled
5 actuary (as defined in section
6 7701(a)(35)), using actuarial methods and
7 assumptions each of which is reasonable
8 and which are reasonable in the aggregate,
9 as determined by such enrolled actuary;

10 “(ii) a signed actuarial report is filed
11 with the Secretary by the association’s en-
12 rolled actuary containing—

13 “(I) the date of the actuarial
14 valuation applicable to the report,

15 “(II) a description of the funding
16 method and actuarial assumptions
17 used to determine costs of the associa-
18 tion,

19 “(III) a statement by the en-
20 rolled actuary signing the report that
21 to the best of the actuary’s knowledge
22 the report is complete and accurate
23 and that in the actuary’s opinion the
24 actuarial assumptions used are in the
25 aggregate—

1 “(aa) reasonably related to
2 the experience of the association
3 and to reasonable expectations,
4 and

5 “(bb) represent the actu-
6 ary’s best estimate of anticipated
7 experience of the association, and

8 “(IV) such other information as
9 may be necessary to fully and fairly
10 disclose the actuarial position of the
11 association;

12 “(iii) security (in the form of a bond,
13 letter of credit, or cash escrow) is provided
14 to the trustees of the 1992 UMW Benefit
15 Plan, solely for the purpose of paying pre-
16 miums for beneficiaries described in sec-
17 tion 9712(b)(2)(B), equal in amount to
18 one year’s liability of the signatory oper-
19 ator under section 9711, determined by
20 using the average cost of such operator’s
21 liability during its prior three calendar
22 years; and

23 “(iv) 30 calendar days have elapsed
24 after the report required by clause (ii) is
25 filed with the Secretary, along with a de-

1 scription of the security required by clause
 2 (iii), and the Secretary has not notified the
 3 association's enrolled actuary in writing
 4 that the requirements of this subparagraph
 5 have not been satisfied.

6 The security described in clause (iii) shall re-
 7 main in place for a period of 5 years.

8 “(D) REQUIREMENTS FOR ASSOCIATION.—

9 An association is described in this subpara-
 10 graph if—

11 “(i) the purpose of the association is
 12 exclusively—

13 “(I) to satisfy the premium liabil-
 14 ity of the signatory operator with re-
 15 spect to the Combined Fund,

16 “(II) to fund health benefits pro-
 17 vided pursuant to a collective bar-
 18 gaining agreement, including benefits
 19 for individuals covered by sections
 20 9711 and 9712, or to fund premiums
 21 for insurance exclusively covering such
 22 benefits, and

23 “(III) to pay administrative and
 24 other incidental expenses of such asso-
 25 ciation;

1 “(ii) no part of the assets of the asso-
2 ciation may be used for, or diverted to, any
3 purpose other than the purpose described
4 in clause (i); and

5 “(iii) payments from such association
6 for the purpose described in clause (i)(II)
7 shall only be made to the extent that—

8 “(I) the signatory operator no
9 longer has an obligation to make pay-
10 ments under clause (i)(I); or

11 “(II) during any annual account-
12 ing period of the association such pay-
13 ments do not exceed in the aggregate
14 90 percent of the excess between the
15 fair market value of the association’s
16 assets and the present value of the li-
17 ability described in clause (i)(I), both
18 determined as of the end of the asso-
19 ciation’s prior year annual accounting
20 period, as determined by the associa-
21 tion’s enrolled actuary (as defined in
22 section 7701(a)(35)), using actuarial
23 methods and assumptions each of
24 which is reasonable and which are

1 reasonable in the aggregate, as deter-
2 mined by such enrolled actuary.

3 “(E) OTHER RULES RELATING TO ASSO-
4 CIATIONS.—For purposes of an association de-
5 scribed in subparagraph (C)—

6 “(i) if a payment is made under
7 clause (iii) of paragraph (D), an enrolled
8 actuary shall within 30 days after the end
9 of the association’s annual accounting pe-
10 riod file with the Secretary an actuarial re-
11 port containing the information described
12 in subparagraph (C)(ii) and a statement
13 that the requirements of subparagraph
14 (D)(iii) have been satisfied during the
15 prior year; and

16 “(ii) a signatory operator, or member
17 of the controlled group of corporations
18 which includes such signatory operator,
19 which has previously established an asso-
20 ciation under section 501(c)(9) for pur-
21 poses including those set forth in subpara-
22 graph (D), may use funds from such pre-
23 viously established association to fund all
24 or a portion of the association established
25 pursuant to this section.”.

1 (b) CONFORMING AMENDMENT.—Section 419A(f)(5)
 2 is amended by adding before the comma in subparagraph
 3 (A) the following: “, which shall include an association es-
 4 tablished under section 9701(c)(2)(C)”.

5 (c) EFFECTIVE DATE.—The amendments made by
 6 this section shall apply with respect to associations estab-
 7 lished after the date of the enactment of this Act.

8 **SEC. 117. DEFINITION OF SUCCESSOR IN INTEREST.**

9 (a) IN GENERAL.—Subsection (c) of section 9701 is
 10 amended by adding at the end the following new para-
 11 graph:

12 “(8) SUCCESSOR IN INTEREST.—

13 “(A) SAFE HARBOR.—The term ‘successor
 14 in interest’ shall not include any person who is
 15 an unrelated person and, as a result of a bona
 16 fide, arm’s-length sale, purchases for fair mar-
 17 ket value assets, or all the stock of a related
 18 person, if the transaction is subject to—

19 “(i) section 5 of the Securities Act of
 20 1933 (15 U.S.C. 77f et seq.), or

21 “(ii) the Securities Exchange Act of
 22 1934 (15 U.S.C. 78a et seq.).

23 “(B) UNRELATED PARTY.—The term ‘un-
 24 related party’ means a purchaser who does not

1 bear a relationship to the seller described in
2 section 267(b).

3 “(C) CONTINGENT LIABILITY.—This para-
4 graph shall apply if the contract for sale pro-
5 vides that, if the seller fails to make a premium
6 payment to the Combined Fund during the first
7 5 plan years beginning after the sale, then the
8 purchaser shall be secondarily liable for any li-
9 ability to the Combined Fund it would have had
10 but for the provisions of this paragraph.

11 “(D) NO INFERENCE.—In the event of a
12 sale not described in this paragraph, there shall
13 be no inference that because the sale is not so
14 described the purchaser is a ‘successor in inter-
15 est’.”.

16 (b) EFFECTIVE DATE.—The amendments made by
17 subsection (a) shall apply to transactions after the date
18 of the enactment of this Act.

19 **TITLE II—RETROACTIVE** 20 **PROVISIONS**

21 **SEC. 201. REFORM OF RETROACTIVE PROVISIONS OF COAL** 22 **INDUSTRY HEALTH BENEFIT SYSTEM.**

23 (a) AGREEMENTS COVERED BY HEALTH BENEFIT
24 SYSTEM.—

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

3 “(1) COAL AGREEMENTS.—

4 “(A) 1988 AGREEMENT.—The term ‘1988
5 agreement’ means the collective bargaining
6 agreement between the settlors which became
7 effective on February 1, 1988.

8 “(B) COAL WAGE AGREEMENT.—The term
9 ‘coal wage agreement’ means the 1988 agree-
10 ment and any predecessor to the 1988 agree-
11 ment.”.

12 (2) CONFORMING AMENDMENT.—Section
13 9701(b) (relating to agreements) is amended by
14 striking paragraph (3).

15 (b) DEFINITIONS APPLICABLE TO OPERATORS.—

16 (1) SIGNATORY OPERATOR.—Section 9701(c)(1)
17 (defining signatory operator) is amended to read as
18 follows:

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

21 (2) 1988 AGREEMENT OPERATOR.—Section
22 9701(c)(3) (defining 1988 agreement operator) is
23 amended to read as follows:

24 “(3) 1988 AGREEMENT OPERATOR.—The term
25 ‘1988 agreement operator’ means—

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

3 “(B) a person in business which, during
4 the term of the 1988 agreement, was a signa-
5 tory to an agreement (other than the National
6 Coal Mine Construction Agreement or the Coal
7 Haulers’ Agreement) containing pension and
8 health care contribution and benefit provisions
9 which are the same as those contained in the
10 1988 agreement.

11 Such term shall not include any operator who was
12 assessed, and paid the full amount of, contractual
13 withdrawal liability to the 1950 UMWA Benefit
14 Plan, the 1974 UMWA Benefit Plan, or the Com-
15 bined Fund.”.

16 (3) CONFORMING AMENDMENTS.—

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

20 (B) Section 9711(b)(1) is amended by
21 striking “pursuant to a 1978 or subsequent
22 coal wage agreement”.

23 (c) MODIFICATIONS TO REFLECT REACHBACK RE-
24 FORMS.—

1 (1) BOARD OF TRUSTEES OF COMBINED
2 FUND.—

3 (A) IN GENERAL.—Section 9702(b)(1) is
4 amended—

5 (i) by striking “one individual who
6 represents” in subparagraph (A) and in-
7 serting “two individuals who represent”,

8 (ii) by striking subparagraph (B) and
9 redesignating subparagraphs (C) and (D)
10 as subparagraphs (B) and (C), respec-
11 tively, and

12 (iii) by striking “(A), (B), and (C)” in
13 subparagraph (C) (as so redesignated) and
14 inserting “(A) and (B)”.

15 (B) CONFORMING AMENDMENT.—Section
16 9702(b)(3) is amended to read as follows:

17 “(3) SPECIAL RULE.—If the BCOA ceases to
18 exist, any trustee or successor under paragraph
19 (1)(A) shall be designated by the 3 employers who
20 were members of the BCOA on October 24, 1992,
21 and who have been assigned the greatest number of
22 eligible beneficiaries under section 9706.”.

23 (C) TRANSITION RULE.—Any trustee serv-
24 ing on the date of the enactment of this Act
25 who was appointed to serve under section

1 9702(b)(1)(B) of the Internal Revenue Code of
 2 1986 (as in effect before the amendments made
 3 by this paragraph) shall continue to serve until
 4 a successor is appointed under section
 5 9702(b)(1)(A) of such Code (as in effect after
 6 such amendments).

7 (2) ASSIGNMENT OF BENEFICIARIES.—Section
 8 9706 (relating to assignment of eligible bene-
 9 ficiaries) is amended by adding at the end the fol-
 10 lowing:

11 “(h) ASSIGNMENT AS OF OCTOBER 1, 2001.—

12 “(1) IN GENERAL.—Effective October 1, 2001,
 13 the Commissioner of Social Security shall—

14 “(A) revoke all assignments to persons
 15 other than 1988 agreement operators for pur-
 16 poses of assessing premiums for periods after
 17 September 30, 2001,

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

20 “(C) terminate all unpaid liabilities of per-
 21 sons other than 1988 agreement operators with
 22 respect to eligible beneficiaries whose assign-
 23 ment to such persons is pending on October 1,
 24 2001.

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

5 (3) LIABILITY FOR 1992 PLAN.—

6 (A) IN GENERAL.—Section 9712(d) (relat-
 7 ing to guarantee of benefits) is amended by
 8 striking paragraph (3) and by redesignating
 9 paragraphs (4), (5), and (6) as paragraphs (3),
 10 (4), and (5), respectively.

11 (B) CONFORMING AMENDMENT.—Section
 12 9712(d)(3) (as redesignated under subpara-
 13 graph (A)) is amended by striking “or last sig-
 14 natory operator described in paragraph (3)”.

15 (C) EFFECTIVE DATE.—The amendments
 16 made by this paragraph shall apply to pre-
 17 miums assessed for periods after September 30,
 18 2001, except that a person other than a 1988
 19 agreement operator shall not be liable for any
 20 unpaid premium under section 9712(d) of the
 21 Internal Revenue Code of 1986 as of such date
 22 if liability for such premium had not been as-
 23 sessed or was being contested on such date.

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