II

115TH CONGRESS
1ST SESSION

S. 176

To amend the Surface Mining Control and Reclamation Act of 1977 to transfer certain funds to the Multiemployer Health Benefit Plan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 17, 2017

Mr. MCCONNELL introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to transfer certain funds to the Multiemployer Health Benefit Plan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Helping Ensure Long-Term Protection for Coal Miners Health Care Act of 2017'' or the ''HELP for Coal Miners Health Care Act of 2017''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Over the 8 years preceding the date of the introduction of this Act, the coal industry and the communities supported by that industry have struggled, in large part due to overregulation.

(2) Excessive regulation has, in large part, made coal more expensive to mine and use and has put it at an unfair disadvantage in the marketplace.

(3) Because of these struggles—

(A) the coal mining industry has lost over 30,000 jobs since President Obama's inauguration;

(B) over 600 coal mines have shuttered since President Obama's inauguration;

(C) more than 25 coal mining companies have filed for bankruptcy since President Obama's inauguration;

(D) Kentucky alone has lost over 10,000 coal mining jobs since President Obama's inauguration; and

(E) the total number of operating coal mines has hit its lowest point on record.

(4) Because of the health risks often associated with mining, robust health benefits are vital to coal miner retirees; however, coal company bankruptcies, job cuts, and closures have exhausted the ability of

many coal companies to continue providing health benefits to retirees and their dependents.

(5) Congress has stepped in twice before, in 1992 and in 2006, to assist retired miners and to secure their health benefits. When thousands more were at risk of losing their benefits at the end of 2016, Congress intervened again to provide a 4-month extension in health benefits for orphaned retired miners and their dependents.

(6) While this extension helped prevent the loss of health benefits for thousands of miners, it did not provide a long-term solution.

(7) It is necessary to provide a permanent extension of health care benefits for the orphaned retirees who are at risk of losing their retirement health benefits at the end of April 2017.

SEC. 3. INCLUSION OF CERTAIN RETIREES IN THE MULTI-EMPLOYER HEALTH BENEFIT PLAN.

(a) IN GENERAL.—Section 402(h)(2)(C) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)), as amended by the Further Continuing and Security Assistance Appropriations Act, 2017, is amended—

(1) by striking clauses (ii), (iii), and (iv); and

(2) by inserting after clause (i) the following:

"(ii) CALCULATION OF EXCESS.—The excess determined under clause (i) shall be calculated by taking into account only—

"(I) those beneficiaries actually enrolled in the Plan as of the date of the enactment of the HELP for Coal Miners Health Care Act of 2017 who are eligible to receive health benefits under the Plan on the first day of the calendar year for which the transfer is made, other than those beneficiaries enrolled in the Plan under the terms of a participation agreement with the current or former employer of such beneficiaries; and

"(II) those beneficiaries whose health benefits, defined as those benefits payable, following death or retirement or upon a finding of disability, directly by an employer in the bituminous coal industry under a coal wage agreement (as defined in section 9701(b)(1) of the Internal Revenue Code of 1986), would be denied or reduced as a result of a bankruptcy proceeding commenced in 2012 or 2015. For purposes of subclause (I), a beneficiary enrolled in the Plan as of the date of the enactment of the HELP for Coal Miners Health Care Act of 2017 shall be deemed to have been eligible to receive health benefits under the Plan on January 1, 2017.

"(iii) ELIGIBILITY OF CERTAIN RETIREES.—Individuals referred to in clause (ii)(II) shall be treated as eligible to receive health benefits under the Plan.

"(iv) REQUIREMENTS FOR TRANSFER.—The amount of the transfer otherwise determined under this subparagraph for a fiscal year shall be reduced by any amount transferred for the fiscal year to the Plan, to pay benefits required under the Plan, from a voluntary employees' beneficiary association established as a result of a bankruptcy proceeding described in clause (ii).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to fiscal years beginning after September 30, 2016.

(c) GAO AUDIT.—Not later than 3 years after the date of the enactment of this Act, and every 3 years thereafter, the Comptroller General of the United States shall conduct a study of the Multiemployer Health Benefit Plan described in section 402(h)(2)(C)(i) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C)(i)) and shall submit to the appropriate committees of Congress a report analyzing whether Federal funds are being spent appropriately by such Plan.

SEC. 4. CLARIFICATION OF FINANCING OBLIGATIONS.

(a) IN GENERAL.—Subsection (a) of section 9704 of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraph (3),

(2) by striking "three premiums" and inserting "two premiums", and

(3) by striking ", plus" at the end of paragraph (2) and inserting a period.

(b) CONFORMING AMENDMENTS.—

(1) Section 9704 of the Internal Revenue Code of 1986 is amended—

(A) by striking subsection (d), and

(B) by redesignating subsections (e) through (j) as subsections (d) through (i), respectively.

(2) Subsection (d) of section 9704 of such Code, as so redesignated, is amended—

(A) by striking "3 separate accounts for each of the premiums described in subsections (b), (c), and (d)" in paragraph (1) and inserting "2 separate accounts for each of the premiums described in subsections (b) and (c)", and

(B) by striking "or the unassigned beneficiaries premium account" in paragraph (3)(B).

(3) Subclause (I) of section 9703(b)(2)(C)(ii) of such Code is amended by striking "9704(e)(3)(B)(i)" and inserting "9704(d)(3)(B)(i)".

(4) Paragraph (3) of section 9705(a) of such Code is amended—

(A) by striking "the unassigned beneficiary premium under section 9704(a)(3) and" in subparagraph (B), and

(B) by striking "9704(i)(1)(B)" and inserting "9704(h)(1)(B)".

(5) Paragraph (2) of section 9711(c) of such Code is amended—

(A) by striking "9704(j)(2)" in subparagraph (A)(i) and inserting "9704(i)(2)",

(B) by striking "9704(j)(2)(B)" in subparagraph (B) and inserting "9704(i)(2)(B)", and

(C) by striking "9704(j)" and inserting "9704(i)".

(6) Paragraph (4) of section 9712(d) of such Code is amended by striking "9704(j)" and inserting "9704(i)".

(c) ELIMINATION OF ADDITIONAL BACKSTOP PREMIUM.—

(1) IN GENERAL.—Paragraph (1) of section 9712(d) of the Internal Revenue Code of 1986 is amended by striking subparagraph (C).

(2) CONFORMING AMENDMENT.—Paragraph (2) of section 9712(d) of such Code is amended—

(A) by striking subparagraph (B),

(B) by striking ", and" at the end of subparagraph (A) and inserting a period, and

(C) by striking "shall provide for—" and all that follows through "annual adjustments" and inserting "shall provide for annual adjustments".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after September 30, 2016.

SEC. 5. SENSE OF THE SENATE.

It is the sense of the Senate that Congress should work with the administration to—

(1) repeal onerous regulations that have contributed to the downfall of the coal industry; and

(2) support economic growth in Appalachia and other coal communities by promoting growth-oriented economic development efforts.

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