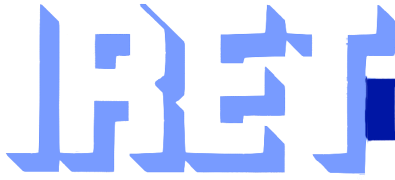
POLICY BULLETIN

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DON'T TAX THE ENTIRE COAL INDUSTRY TO SUBSIDIZE ONE PART OF IT

As the Economic Growth Acceleration tax bill (H.R. 4210) moved through the Senate Finance Committee, Senator John Rockefeller of West Virginia succeeded in attaching a proposal that he had previously introduced in Congress as stand alone legislation (S. 1989). The Rockefeller amendment would establish a federal program for guaranteeing the health benefits that the Bituminous Coal Operators' Association (BCOA) had agreed to pay in the past, or may agree to pay in the future, to retired coal miners belonging to the United Mine Workers of America (UMWA) and to their dependents. The subsidy would be accomplished by means of a new federal payment-guarantee program and financed with a tax on all domestic and imported bituminous coal. The new agency could also obtain funds by borrowing directly from the U.S. Treasury, a power which, if exercised, would increase the national debt.

Although the President temporarily blocked the payment-guarantee program from becoming law when he vetoed the tax bill, the issue is far from dead. Senator Rockefeller has succeeded in attaching the measure as one of the Senate Finance Committee's revenue provisions in the Comprehensive National Energy Act, H.R. 776. Accordingly, it remains prudent to take the measure seriously and to be cognizant of the economic damage it would cause, both in its own right and because of the precedent it would set.

The Rockefeller proposal is troubling in a number of respects. Most coal producers have not been party to the BCOA-UMWA agreements. Is it fair for the federal government to make non-participating producers and, indirectly, their employees and customers, subsidize the labor contracts of competitors? Is the payment-guarantee scheme fair to the American public who would be exposed to the potential liabilities arising from the new program? If coal producers and coal-using businesses are burdened with higher production expenses thanks to a tax increase, they would have less incentive to expand output and employment and be less capable of doing so. How is that consistent with a public policy focus on lessening the government's drag on productivity and job creation?

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Perhaps the gravest concern is that if this legislation were enacted, it would become harder to resist the next special interest group that also wants a federal bailout. The claims set in motion by that precedent could quickly become a major drain on taxpayers and the U.S. Treasury. If labor and industry groups with political clout come to believe that they, too, can obtain federal subsidies to rescue them from the costs of their mistakes and extravagance, they would have a strong incentive to behave irresponsibly because federal intervention would let them reap the benefits from their private collective bargaining actions while shifting many of the costs to others. It is amazing that another government guarantee program would be recommended when disasters like the federal guarantee program for S&L deposits have already wasted enormous resources, cost the American people hundreds of billions of dollars, often crippled the institutions they were supposed to protect, and are still unfolding. Further, the new payment agency, which is modelled on the troubled Pension Benefit Guarantee Corporation, would raise the cost of providing health services to its beneficiaries, both because federal agencies operate less efficiently than private ones and because special features of this particular agency would encourage excessive spending.

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What The Program Would Do

To help settle the long and violent Pittston coal strike, the federal government agreed to appoint a special advisory Coal Commission. The Commission was deeply split, especially with regard to financing, but made several recommendations akin to some that Senator Rockefeller had previously advanced.[1] In turn, the plan now put forward by the Senator draws on the Commission's recommendations, particularly on the benefits side. The main funding mechanism in the Rockefeller plan is an industry-wide coal tax, although this is something on which the Coal Commission emphatically did not reach a consensus. The Department of Labor never endorsed the Commission's report or recommendations. And Labor Secretary Lynn Martin has strongly opposed Rockefeller's legislation, urging a presidential veto, if necessary, to prevent it from becoming law.

As part of its collective bargaining agreement with the UMWA in 1974, the BCOA agreed to provide lifetime health benefits to retired UMWA miners and their dependents, even for those retired miners who did not work directly for them. In doing this, the BCOA assumed responsibility for "orphan" miners: miners whose last employer had been a signatory to a BCOA-UMWA contract but

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[1] See *Coal Commission Report, A Report To The Secretary Of Labor And The American People*, 1990.

later either went out of business or ceased to be a signatory. These "orphans" are the centerpiece of the debate about "who should pay?"[2]

The Rockefeller provision would immediately release the BCOA from its current responsibility for the health benefits of those retired UMWA miners and dependents whose last employer either cannot be readily identified or has gone out of business, and it would transfer that obligation to a new Coal Industry Retiree Health Benefit Corporation (known as the Corporation). The BCOA currently pays health benefits for the approximately 95,000 retired miners and dependents in these two categories.[3] The Corporation's funding would be supplied by a tax on the coal industry at large.

Fewer than half of all coal miners belong to the UMWA.[4] Although the provision's title (the "Coal Industry Retiree Health Benefit Act Of 1992") creates the impression that it would be guaranteeing the health benefits of all retired miners, it would, in fact, be of little or no assistance to non-UMWA miners. Non-UMWA miners who are now retired and not receiving health benefits would automatically be excluded from the guarantee program. In the future, some non-UMWA miners could qualify for the guarantee, but their eligibility and benefits would be subject to restrictions not applied to UMWA members.

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The Corporation would be headed by a five person board of directors. The legislation would require that "the board shall at all times have...as members" one representative from the BCOA, one from the UMWA, and one from another labor organization. Only one seat would be reserved for non-BCOA coal producers. Non-UMWA coal workers and the general public would not be guaranteed any seats.

The program's authorizing language claims that one of its purposes is to hold down medical costs. To do this, the provision would supposedly "require use of state-of-the-art cost containment and managed care measures..." In reality, however, the statutory language explicitly prohibits any benefit reductions for current retirees. And eligible UMWA miners who retire in the future would

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[2] For a more detailed examination of the relationship between the BCOA and UMWA and the history of their labor agreements, see Herbert R. Northrup, "Taxing Nonsignatory Companies To Pay For Collective-Bargaining Benefits Costs: The Coal-Mine Proposal," *Benefits Law Journal*, Spring 1992, pp. 103-120.

[3] The Corporation would also pay benefits to persons with at least 20 years of UMWA service by February 1, 1993 if, when they retire, their last employer is not a signatory and provides health benefits less generous than those under the BCOA-UMWA agreement then prevailing.

[4] Northrup, *Op. Cit.*

be guaranteed benefits at least equal to whatever is contained in the BCOA-UMWA agreement then in force. Far from facilitating the introduction of cost containment measures that are increasingly common in other health care plans, such as deductibles, copayments, and pre-surgery second opinions, the proposed legislation would limit the power that the BCOA and UMWA now possess to implement such reforms voluntarily.

Most coal is produced by companies that have not been party to agreements between the UMWA and the BCOA. They have negotiated their own compensation packages with their workers. In general, the Rockefeller proposal would not help these companies meet their contractual obligations. On the contrary, its industry-wide tax on domestic and imported bituminous coal would make it more difficult for these companies to meet their own obligations by taking money away from them and giving it to retirees of companies with UMWA contracts.

For bituminous coal produced in eastern states, a company's tax rate in 1992 (deceptively called its "premium payment obligation") would be 99 cents for each hour of coal production work; this would rise quickly to $1.45 per hour by 1996. For western bituminous coal, a producer's tax rate would be 15 cents per hour. Imported bituminous coal would be taxed on a per-ton basis, starting at 24.25 cents per ton in 1992 and rising to 36.25 cents by 1996.[5] Congress's official estimate is that the tax increase would be about $860 million over 5 years.

In addition to the industry-wide tax, each company that can be identified as the last employer of a retiree receiving benefits from the Corporation would also have to pay another "premium". In 1992, the tax for each such plan beneficiary would be $1,646, which would increase incrementally to $3,772 in 1996. This supplementary tax would be assessed on signatory companies that have plan beneficiaries. More significantly, it would be imposed on so-called "reachback" companies, companies that have legally bargained out of their funding obligations with the union or have gone out of business. Although many of these companies made substantial concessions in collective bargaining and complied with applicable labor laws in order to eliminate their contribution obligations, the Rockefeller legislation would override the collective bargaining agreements to strip the producers of the benefits from their bargains they made with the union. This is widely seen as a means of penalizing companies that have opted out of BCOA-UMWA agreements.

Since the 1974 BCOA-UMWA labor agreement, there have been two funds for paying pensions to retired miners and two funds for paying health benefits. Only the health benefit funds are experiencing financial difficulties. One of the pension funds has very substantial excess assets, even after a distribution approved by the BCOA and UMWA in 1990. The legislation would transfer $50 million of this pension overfunding to the Corporation and permit the remainder, which is estimated to exceed $150 million, to be transferred to a new 1991 UMWA Benefit Fund, which would be for

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[5] In an effort not to violate GATT regulations, the tax on imported bituminous coal is intended to be roughly equivalent to the tax imposed on domestically produced coal . Based on the assumption that producing a ton of foreign coal requires one-quarter hour of labor production work, the tax per ton of imports is 25 percent of the tax per hour of eastern-bituminous-coal production work.

the benefit of BCOA companies' own retirees. Because of this asset transfer and because the 1991 Fund would be relieved of the obligation to provide health benefits to the retirees picked up by the Corporation, the members of the BCOA would probably avoid having to make any further contributions to the Fund for more than a year.

The New Tax Would Hurt The Economy

The coal-production tax would raise business expenses for most domestic and foreign coal producers. Faced with higher costs, these companies would try to shift the tax forward to buyers. At the old coal price, they would no longer find it worthwhile to produce as much as before because their after-tax return would be smaller. Buyers, however, would react to higher prices by reducing the quantity of coal they demanded. This tug of war between buyers and producers of coal would result in a decrease in output and a price increase, but by less than the full amount of the tax.

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The fall in coal production would mean fewer jobs in the industry and a decrease in the incentive to undertake new investments. Because the program's combination of taxes and benefits would artificially raise the production costs of some coal producers while lowering those of others, it would also lead to a less efficient pattern of coal production, with less-capable producers who receive substantial benefits able to edge out more-efficient competitors who obtain fewer benefits.[6]

Nor would the adverse supply effects be confined to the coal industry. Coal is an extremely important energy input; most coal buyers are themselves businesses, and, as such, engaged in production. Accordingly, higher coal prices would raise production costs throughout the economy. Because the many businesses that use coal as an input would be buying less coal and paying more per unit, their own production would decrease in amount and increase in price. Less output and higher prices are hardly the recipe for economic growth. Compounding the injury, higher energy-

[6] The price that non-BCOA producers charge for their coal holds down how much BCOA companies can charge. BCOA companies generally have considerably higher production costs because of expensive work rules and fringe benefits, one substantial component of which is retiree benefits. Presently, if BCOA companies try to shift forward their higher expenses by means of higher coal prices, their potential customers can go to non-BCOA competitors. This helps explain why the BCOA's share of the coal market has been shrinking for decades. If legislation forces up the costs and prices of non-BCOA companies, it would give the BCOA members more elbow room to increase their prices. Thus, the Rockefeller proposal would be doubly advantageous to BCOA members: it would lower their retiree-benefit costs and allow them to boost their prices. Further, the BCOA companies could gain market share at the expense of the non-BCOA companies if the BCOA companies kept their price hikes slightly smaller than those of their rivals.

input costs would reduce the international competitiveness of domestically produced goods relative to goods produced in other countries not subject to the tax.

Another brake on efficiency in production is that the tax would encourage coal buyers to increase their reliance on other energy sources that are more costly than coal at the margin and that would become economical only because of the proposed tax's addition to coal costs. The tax, for example, would push some producers to substitute imported oil for relatively abundant coal.

The Tax Would Be Unfair

The proposed levy on all domestic and imported bituminous coal would tax an entire industry in order to benefit a segment of that industry. The subsidy would be particularly galling to non-BCOA producers because many of them provide health benefits to their own workers and retirees through non-UMWA contracts and are not asking anyone else to subsidize their collective bargaining agreements. Moreover, the benefits they would be compelled to help underwrite are unusually generous and expensive. The levy would be an abuse of the government's power of taxation. The government should not use taxes as a club for forcing some producers to subsidize their competitors.

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Coal miners at domestic, non-signatory mines would be threatened by the tax in two ways. First, some of them would lose their jobs because output at non-signatory mines would drop. In addition, the tax would threaten their jobs because its computation method would give producers an incentive to substitute machinery for labor. The tax would be assessed according to labor hours, thereby raising the relative cost of using labor in coal production. To counter the new, government-generated tax on employing labor, companies would also tend to pay the remaining miners less than otherwise.

Another problem is that the proposed legislation would violate the traditional labor law concept that companies may bargain out of prior obligations if they obtain labor union approval. The supplemental tax would retroactively penalize some companies for having done that.

Besides being unfair to most coal producers and coal miners and eroding the industry's efficiency, the new tax would also be an injustice to producers of other products, to their workers, and to consumers. In effect, the government would be raising fuel costs for all businesses and households in order to provide benefits for a handful. For instance, a tax-driven rise in coal prices would hurt the owner of a business that uses coal as an input because the higher production costs would reduce the business' earnings. Workers would also suffer. Since labor and energy

complement each other's productivity, the decline in energy usage would cause a generalized decline in employment and real wages.

Consumers would be disadvantaged, as well. They would end up paying a portion of the subsidy when some of the tax was passed along to them in higher product prices. Households, for example, would see their utility bills increase.

Why should the government compel any of these people to subsidize a private labor agreement in which they took no part and had no say? The plan is unfair to the American public in another sense. If the Corporation borrows from the U.S. Treasury, the government would have to issue more debt, which means the American people would have ultimate responsibility for picking up the tab.

Hasn't Washington Yet Learned That Government Guarantee Programs Invite Disaster?

The subsidy-guarantee plan would be another open-ended federal guarantee program. A long string of past debacles like the federal deposit insurance program and the federal pension guarantee program have demonstrated that normal market discipline evaporates when the federal government stands ready to shift much of the cost of ill-advised behavior from the parties involved onto the rest of society. This is the well-known problem of "moral hazard".

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The deposit insurance program, which was once touted as being stabilizing and self-financing, was the most expensive of the failures. What it did, in reality, was to shield business practices that would never have been tolerated in a free, private market. The foolish and reckless actions it sheltered are now costing the American people hundreds of billions of dollars.

The Pension Benefit Guarantee Corporation (PBGC), after which the health-benefit plan is modeled, insures employer-provided, defined-benefit pension plans. The PBGC was beset with problems from the start, when several troubled companies quickly dumped their underfunded pension plans onto the PBGC. It appears increasingly likely that the PBGC will require a taxpayer bailout, though its eventual obligations are so uncertain and its books in such disarray that no one can tell. In the meantime, the PBGC's rapidly escalating premiums and increasingly heavy-handed regulations are burdening companies that have soundly managed defined-benefit pension plans, and are choking off the creation of new defined-benefit plans. That, too, is part of the pattern. Government guarantees spawn problems, the problems perversely generate calls for more

government intervention, and the ensuing wave of regulations hurts the supposedly protected industry or activity.[7]

An existing federal assistance program for coal miners, the Black Lung Disability program, also sends warning signals with regard to expenditures and financing. The Black Lung program is supposedly financed by a tax on coal production. It developed a large deficit, however, because spending ran well ahead of predictions. To prevent the government program from collapsing, Washington then authorized a direct cash infusion from the Treasury, on top of the tax. The Black Lung Trust Funds are currently operating at more than a $2 billion deficit level. The American people thus have ample reason to be concerned that the Rockefeller plan would turn into another multi-billion dollar disaster.

Labor Secretary Martin has pointed to another expense that is potentially much larger, namely, that "this legislation would create a dangerous precedent for other industries that may seek similar subsidies."[8] Many companies, especially in mature industries like autos and steel, have very expensive commitments to current and retired workers. If federal aid is granted in this case, these companies and their workers would ask, why shouldn't they receive special medical-benefit subsidies, too? Under current law, producers have a strong incentive to control health care costs and learn from prior mistakes, but much of that discipline would evaporate if companies and their workers come to believe that Washington will bail them out. By heightening expectations that the government will offer retroactive bailouts to other politically well-connected industry and labor groups that get into trouble, the plan would erode sound business practices throughout the economy.

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Punishing Companies That Have Withdrawn From The BCOA

Several former BCOA members have withdrawn from the bargaining association. According to the BCOA, these companies are shirking commitments that they still carry from prior contracts. If so, the companies should be made to pay, but it must be determined objectively what their responsibilities really are. The judicial system is the proper forum for making that determination.

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[7] Ominously, some critics think that the fine print of the Rockefeller plan may offer some coal companies a means to dump retirees onto the Corporation. They allege that if one company sends some of its miners to another operator, the "second operator" would become the "last signatory". That could absolve the first company, they say, of further responsibility. If the second operator then closes, its workers' health benefits would become the obligation of the Corporation, The Corporation could go after the second operator financially, but that would accomplish little if the second operator has few assets.

[8] Statement of Lynn Martin, Secretary of Labor, to Senator Lloyd Bentsen Objecting to S. 1989.

So far, the courts have said that there are indeed some liabilities that cannot be terminated by withdrawing from the bargaining organization.

The proposed plan, however, would replace the court examination of the actual collective bargaining agreements with retroactive legislation declaring that a commitment exists, regardless of what the contracts really said. Moreover, if the "last signatory" is no longer in business, the legislation would extend the liability to affiliated and "successor" companies. That casts a very wide net. For example, a company which bought a mine from an operator that withdrew from the BCOA agreement after 1977 and has since gone out of business would generally find itself held liable under this retroactive "reachback" provision.

Such legislative rewriting of prior contracts and labor law is arbitrary and capricious. It also discourages businesses from engaging in long-term planning because it increases the risk that after-the-fact government meddling will upset the plans in any case. The upshot will be less regard for future consequences and, therefore, slower economic growth.

Would The Guarantee Program Merely Implement A Prior Federal Commitment?

Many supporters of the benefits program claim that this is a special case because of a promise the federal government supposedly made in the mid-1940s. The argument is repeated in the bill's "Findings And Declaration Of Policy", which insists that the health benefits specified in UMWA-BCOA contracts are "derived from an agreement with the United States [signed in 1946]." This is pure revisionist history.

In fact, when the government was still administering the coal mines immediately following World War II, it did agree to pay five cents per ton into a fund to cover "wage loss" for miners unable to work and for other related welfare purposes. A separate fund was to assist with medical and hospital expenses, but that health care fund was to be financed solely by wage deductions, not by any government contributions. It was the BCOA that agreed to pay lifetime health benefits, and that did not occur until almost 30 years later, with the signing of the 1974 labor contract. Thus, the 1946 agreement did notbind the government to subsidize the health benefits of retired UMWA miners then, and it clearly does not do so now. In any event, 40 years of private collective bargaining agreements supersede the past.

For added measure, the bill states that Washington is obliged to help because "the Government of the United States has regulated the coal industry, employment in the industry, and the provision of retirement benefits within the industry..." But if it ever comes to be believed that government involvement automatically creates obligations for permanent government support, America's taxpayers could soon find themselves forced to subsidize most of the businesses and workers in the nation. The government has intervened extensively in many industries, including trucking, banking, insurance, aviation, electronics, computers, steel, automobiles, construction, legal services, and waste disposal, to cite only some examples. If the segment of the coal industry that would be assisted by the proposed legislation were to receive federal aid, tens of millions of other businesses and workers throughout the economy could make at least as strong a claim for aid.

Will The Benefit Funds Collapse Without A Federal Bailout?

The BCOA has warned that the benefit funds are in dire financial shape. The proposed legislation seconds this view. It refers to the funds' "financial difficulty" and declares, "[I]t is necessary to modify and reform the current private benefit plan structure...in order to stabilize the provision of health care benefits...[I]t is necessary to supplement the current private benefit plan structure with a benefit protection program that will assure continued funding and contain program costs."

Although the benefit funds are in deficit, many observers, as well as the non-BCOA producers, contend that the deficit is largely the result of deliberate underfunding by the BCOA and that its severity is being exaggerated by the BCOA for strategic reasons. They note that the deficit developed after the BCOA, as part of its 1988 collective bargaining agreement with the UMWA, negotiated a change in the formula by which it determines its contributions to the benefit funds. The new formula greatly reduced the near-term liabilities of the BCOA's members, allegedly by hundreds of millions of dollars.[9] According to a court opinion, the UMWA initially objected to the modification but was mollified when the BCOA reminded the union that it was guaranteeing the benefits and pledged that it would raise its contributions later if necessary.[10] The UMWA may have been confident that the BCOA companies could make good on their financial commitments, even if funding was temporarily low, because most of the BCOA companies are owned by much larger corporations with deep financial pockets.

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Labor Secretary Martin also denied that the benefit funds are in a crisis.[11] She suggested several changes that "would substantially improve the solvency of the Funds." Currently, retired miners receive relatively generous medical benefits and pay almost no out-of-pocket costs. She urged the BCOA and the UMWA to negotiate some basic health-care cost-saving measures, which they could do without any need for legislation. Given that one of the pension funds is greatly overfunded, another of her recommendations is to transfer the bulk of its excess assets into the benefit funds. This would require legislation, but it could be done in a clean and simple bill, without inaugurating

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[9] See Northrup, *op. cit.*, pp. 107-108.

[10] Northrup, *Loc. Cit.* The court case that Northrup cites is *United Mine Workers Of America v. Nobel et al.*, 720 F. Supp. 1169 (W.D. Pa. 1989);aff'd 902 F. 2d 1558 (3rd Cir. 1990).

[11] See Martin, *loc. cit.*

a new tax or creating an ongoing federal support program.[12] She also observed that a recent court decision has directed some former signatories to the BCOA agreement to resume contributing and to make back payments. If upheld, that judgement will add substantially to the funds' assets.

Although their retiree obligations are surely a drain on the BCOA members, the above arguments cast doubt on the position that the benefit funds are about to fail. A more fundamental point, though, is that even if collapse were likely, the failure of a private labor-management agreement does not justify government intervention. Taxpayers are not wealthy enough to protect everyone from failure, nor are they under a moral obligation to do so. Foreign governments that have taken the route of trying to bail out losers have usually ended up driving their whole economies towards bankruptcy.

Moreover, even in the unlikely worst case, the threat to retired UMWA miners is easily exaggerated. Contrary to the suggestion that retirees would be without medical insurance if their current plans collapsed, Labor Secretary Martin has observed that about 85 percent of them already receive Medicare. Thus, for the great majority of retired miners, the UMWA medical plans are only a medicare supplement (though a much more generous supplement than those possessed by most other retired Americans.)

Would The Legislation Help Control Medical Costs?

Although the legislation promises to rein in health care costs, it would actually do the opposite. For instance, retired miners now have little incentive to object to high medical bills because their benefit plans pay virtually all charges. Deductibles and copayments are nonexistent or trivial. The BCOA and UMWA currently have the authority to change that. They can, if they wish, negotiate cost-saving reforms like deductibles and copayments without having to obtain legislative approval. The Rockefeller proposal, however, would take away their discretion. By locking in present benefit levels for current retirees, it would actually prohibit meaningful cost-containment reforms. Far from being "state-of-the-art cost containment", this mandating of the status quo would create an obstacle to cost containment. Although the legislation would not stop the BCOA and UMWA from negotiating more cost effective plans for future retirees (an option they already have under current law), it would make the process more difficult because the union would undoubtedly use the benefits provided by the Corporation as a benchmark in formulating its demands in future contract negotiations.

The Corporation would not be predisposed to control costs aggressively in any event. When an organization can rely on tax dollars and borrowings from the U.S. Treasury to meet its bills, it has little incentive to be worried about costs. That is especially true in this case since the act would guarantee that the BCOA and UMWA would always control the Corporation's board. Because the legislation would channel most of the program's benefits to the groups they represent while

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[12] In 1989, Senator Rockefeller had introduced legislation to do that. The bill (S. 1708) would also have restricted the ability of BCOA signatories to reduce their contributions by withdrawing from the agreement.

transferring a large share of the costs to the rest of the industry and to the American public, it would be in the board majority's interest to maintain generous benefit levels.

Senator Boren's Bill

Senator David Boren (D-Ok) has introduced legislation (S. 2550) that is designed to be an alternative to Rockefeller's plan. The thrust of Boren's proposal is that the signatories to the BCOA-UMWA agreement can and should continue to take responsibility for their health plans. His bill would eliminate the deficits in the health benefit funds by transferring to them the large surplus in one of the pension funds; it would establish liabilities for any current signatory that later withdraws, based on the estimated future cost of health benefits for that company's retirees; it would impose a statutory guarantee requiring signatories to continue providing benefits in the future; and it would mandate the adoption of managed health care and cost containment measures.

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The provision regarding the asset transfer is sensible and ought to be noncontroversial. The other provisions, however, are vulnerable to a basic objection raised with regard to the Rockefeller plan: they have the government dictating terms in what should be a private collective bargaining agreement between labor and management. For example, if labor and management want to adopt some cost containment measures, they should be permitted to do so, but the government should not be ramming made-in-Washington changes down their throats. Similarly, if the signatories have assumed certain obligations as the result of prior contracts, the proper role of the government is to enforce those contracts through the judicial system, not to override the contracts by creating statutory liabilities.

The Boren proposal seems to be taking government intervention for granted and then asking how it should be structured to protect retired miners without forcing taxpayers to pick up the tab or creating incentives for overspending. If government meddling is accepted as a given, the Boren plan would be far less harmful than Rockefeller's. A better approach, however, would be to reject government interference altogether. If government policy makers start dictating the terms of labor-management agreements, the shift of power to Washington would weaken both labor and management. And since the federal government is less capable than labor and management of tailoring compensation packages to meeting workers' needs while simultaneously holding down costs, the results would be less favorable to workers and producers.

Conclusion

If the Rockefeller proposal becomes law, it will impede growth: the tax will raise the expense of producing coal while the subsidy will reduce the normal market discipline that keeps labor costs in line. Higher production costs, higher sale prices, and less motivation to respect market forces are all body blows to productivity, job creation, and economic growth. They will also stifle U.S. export growth at a time when European markets demand low-cost, low-sulfur coal. Most important, the Rockefeller provision would serve as a precedent for other labor or business groups that may seek federal bailouts in the future. Congress and the President should read the handwriting on the wall. If the Congress fails to do so, the President should veto the energy bill.

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Note: Nothing here is to be construed as necessarily reflecting the views of IRET or as an attempt to aid or hinder the passage of any bill before the Congress.