Statement of Cecil E. Roberts, International President
United Mine Workers of America
before the
United States House of Representatives
Committee on Natural Resources
Subcommittee on Energy and Mineral Resources
on H.R. 934, the Health Benefits for Miners Act of 2019, and
H.R. 935, the Miners Pension Protection Act of 2019
July 24, 2019

Chairman Lowenthal, Ranking Member Gosar, and members of the Subcommittee, thank you for holding this very important hearing today. Earlier this year, we marked the 73rd anniversary of the historic agreement between the UMWA and the federal government, known as the Krug-Lewis Agreement, that created the UMWA Health and Retirement Funds and established the government's promise to retired miners that their retirement would be secure. It is those funds, and more importantly the people they cover, that I am here to discuss today.

H.R 934, the Health Benefits for Miners Act, would ensure the promise of health care for retired miners is kept for those retirees whose companies were forced into bankruptcy in 2018 due to a continuing downturn in the coal industry. Some 1,200 retirees, their dependents or widows, mostly in the states of Virginia, Wyoming, Alabama, North Dakota, Colorado and West Virginia stand to lose their health care by the end of this year, if not sooner.

These are simple working people who live in rural communities. They are the kind of people that helped build America—deeply religious, patriotic, and family-oriented. When America calls on them, they always answer. Now, they need America's help. Some of them are with us in this hearing room today, including Mr. Sam Ball, who is testifying. They spent decades putting their lives and health on the line every single day, going into coal mines to provide the energy needed to make America the most powerful nation on earth. And they did that even though they knew they would pay a physical price for it.

Statistics show that UMWA retirees have a much higher level of cardio-pulmonary diseases than the general population of people their age. They have more musculo-skeletal injuries. They have higher rates of cancers. Many of them have black lung to at least some degree, thousands have severe cases of it.

So, knowing the eventual toll mining would take on their bodies, they demanded that their union negotiate the best possible health care benefits possible. Year after year, they gave up money that could have gone into better wage increases or better pensions and instead sought high-quality health care when their working days were over. The promise that began 73 years ago in the Krug-Lewis agreement—that they would have lifetime retiree health care and a pension benefit—was carried forward in every one of their contracts.

But now, through no fault of their own, these retirees face the loss of these lifetime benefits because of coal company bankruptcies that have plagued the coal industry for years. Bankruptcy courts have relieved their former employers of the contractual obligations to provide health care benefits for retirees.

These retirees have earned that health care many times over. They performed a critical service to our nation for decades. But more importantly, their government promised that they would have these benefits. And indeed, Congress has acted repeatedly to preserve retired coal miners' health care, most recently in 2017 when legislation was passed to save the health care benefits of 22,600 retirees, dependents and widows whose employers had filed for bankruptcy in 2012 and 2015. H.R. 934 simply calls on Congress to act again to preserve the same promise for a smaller group of about 1,200 retirees and widows whose lifetime benefits have recently been terminated by bankruptcy courts.

If this legislation does not pass, these retirees will be confronted with the loss of those benefits around the end of this year, or sooner. They and their dependents do not have the luxury of waiting any longer for this legislation to pass.

H.R. 935, the Miners Pension Protection Act, would ensure that the pensions more than 102,000 miners worked exceedingly hard to earn will be preserved. Enactment will also prevent the looming insolvency of the UMWA 1974 Pension Plan and the resulting failure of the Pension Benefit Guarantee Corporation (PBGC) if it is forced to assume the liabilities of the 1974 Pension Plan.

The UMWA 1974 Pension Plan is a Taft-Hartley multiemployer pension plan that is part of the UMWA Health and Retirement Funds, a group of multiemployer health and pension plans that originated in a contract between the UMWA and the federal government during a time of government seizure of the nation's bituminous coal industry in 1946. That contract, known as the Krug-Lewis agreement, was signed in the White House with President Harry S. Truman in attendance. The Krug-Lewis agreement, named after Secretary of the Interior Julius Krug and UMWA president John L. Lewis, promised miners that upon retirement they would be entitled to pensions and health benefits for life.

The 1974 Plan provides pension benefits to coal miners who worked under the National Bituminous Coal Wage Agreement (NBCWA). Other funds administered by the UMWA Health and Retirement Funds provide health benefits to retired coal miners and their dependents under the Coal Act of 1992 and the NBCWA.

The UMWA 1974 Pension Plan provides pensions to more than 82,000 pensioners in every state in the United States. There are also about 20,000 active miners and former miners who will have a claim for a future pension. Its' active and retired participants are concentrated in the coal producing states of Appalachia and the Midwest. The 1974 Plan is one of the largest multiemployer pension plans in the country, ranking it near the top of multiemployer plans in terms of assets and participants.

The 1974 Plan has been well managed. A study done several years ago by the actuarial firm Horizon Actuarial Services, found that investment returns over the previous ten years averaged 8.2% per year, placing it in the 97th percentile of multiemployer plans. However, one key measure showed the demographic problem facing the 1974 Pension Plan: its ratio of active participants to retired participants of 0.1, meaning there were 10 retired or non-working participants for every working miner under the Plan. This placed the 1974 Plan in the lowest

10th percentile among its multiemployer plan peers. Now, if you move forward to the present, after the devastating rounds of bankruptcies, the ratio of retired and non-working participants to active miners has grown to about 30 to 1, according to the 2018 actuarial valuation.

The 1974 Pension Plan is on the path to insolvency, and quickly. Although the average pension paid by the 1974 Plan is low (about $590 per month), the plan pays out a significant portion of its assets each year in total benefits. The 1974 Plan has about $2 billion in assets and pays out about $600 million in benefits, or about 30% of its assets, each year. Despite being about 93% funded just before the Great Recession hit in 2008, the 1974 Plan's actuary projects the plan will become insolvent sometime in 2022 absent passage of H.R. 935.

I want to repeat that the average pension benefit under the 1974 Pension Plan is about $590 per month. About 40% of the pension beneficiaries receive less than $300 per month. These are small pension benefits by any definition, but they help keep the wolf from the door for the retired miners and their families.

The 1974 Plan sponsors have taken steps to address the deteriorating financial outlook of the plan. Contribution rates were increased from $2.00 per hour in 2007 to $5.00 per hour in 2016. PBGC has reported that multiemployer plans on average increased their contributions in response to the financial crisis from 2008 to 2010 by 16.3%. Over the same period, the contribution rate for the 1974 Plan increased 42.9%, and from 2007 to 2016 it increased 150%. In addition, the 2011 contract closed the plan to new inexperienced miners hired after 2012. Even with these costly changes the 1974 Plan is still projected to become insolvent.

This likelihood has grown in just the last several years as four major coal companies – Patriot Coal, Walter Energy, Alpha Natural Resources and Mission Coal Company – filed for bankruptcy. All of these companies have been relieved of their pension obligations and have ceased making contributions to the 1974 Pension Plan.

As a result of this, the 1974 Pension Plan's employer contribution base has been destroyed. Adding to this is the severe downturn experienced by the coal industry the last several years, which has resulted in fewer active miners working and a corresponding drop in contributions. In 2012, when the first wave of bankruptcies began, coal industry employers contributed over $120 million per year to the 1974 Plan. That contribution level is now down to about $20 million per year, almost all from one employer group.

Perhaps even more devastating is the fact that the bankruptcy courts not only relieved the employers from future contributions, they destroyed the 1974 Plan's ability to collect withdrawal liability payments from the employer. Under ERISA, when an employer withdraws from a multiemployer pension plan, it is required to pay its share of the unfunded liability of the plan. The 1974 Plan assessed about $4.2 billion in withdrawal liability against the employers involved in the major coal industry bankruptcies mentioned above. With the stroke of a pen, the bankruptcy courts turned those legally-mandated withdrawal liability payments into unsecured creditor claims, meaning that the 1974 Plan will only collect pennies on the dollar.

As you know, the Multiemployer Pension Reform Act (MPRA) was enacted in December, 2014. It provides that certain plans that are "critical and declining" may voluntarily suspend accrued benefits for retired participants, provided the plan's actuary certifies that the plan is projected to avoid insolvency after taking into account the suspensions.

Actuarial projections show that the 1974 Plan cannot avoid insolvency even if it cut accrued benefits to the maximum extent allowed under the MPRA. Because benefits are very modest under the 1974 Plan, averaging less than $590 per month, cutting benefits for retired participants does not achieve sufficient savings to prevent insolvency.

The PBGC multiemployer program reported a net loss of $6.219 million in FY 2017. The FY 2017 deficit is an all-time high for the multiemployer program. PBGC further reported that it had a 2018 deficit of $53.9 billion under its multiemployer program.

The MPRA doubled the PBGC premium rate for multiemployer plans. That increased the annual premium receipts to about $293 million, up $9 million from the amount collected in 2016. Partitioning the 1974 Plan would consume more than half of the expected annual premium receipts, which almost certainly would impair PBGC's ability to meet its financial obligations to other plans.

H.R. 935, the Miners Pension Protection Act, clearly offers the most cost-effective solution of any legislative proposal to the problems of the 1974 Pension Plan. It is not a loan program; it does not require any additional administrative agencies or government employees. The funding mechanism for this legislation is already in place, it just lacks approval from Congress to allow it to be used to preserve miners' pensions. It solves the 1974 Plan financial problems without adding to the looming financial problems of the PBGC. Indeed, it will ease the burden PBGC faces with respect to the universal multiemployer pension crisis. I have attached an actuarial analysis demonstrating that H.R. 935 will work and will prevent the insolvency of the UMWA 1974 Pension Plan.

The MPRA is unworkable for the 1974 Plan because of the requirements that benefit suspensions allow a plan to avoid insolvency and that PBGC must make certain certifications about the cost of a partition. Given PBGC's projections that its current obligations will grow to $500 million per year in the coming decade, it is highly unlikely that PBGC could certify to Congress that partitioning the 1974 Plan would not impair its ability to assist other plans. Even if those problems could be overcome, the cost of MPRA to the government is greater than H.R. 935 would be.

The United States government has a long history of involvement with the UMWA Health and Retirement Funds, dating back to its creation in the White House in 1946. The Krug-Lewis agreement represented a joint commitment between the federal government and the nation's coal miners. Coal miners made a commitment to provide the nation with much-needed energy, even at the risk of their lives and health in often dangerous conditions. The government committed that upon their retirement they would have pensions and health care for life. The miners lived up their commitment and the federal government has enacted federal legislation on numerous occasions to live up to its commitments.

The pension plan that grew out of the Krug-Lewis agreement is now on the path to insolvency, not because of mismanagement or overly generous benefits, but because of demographic factors that it cannot overcome. It is time once again for the federal government to fulfill its commitment to retired coal miners. The Miners Pension Protection Act keeps the promise that began in the White House so long ago and has been periodically renewed by Congress over the last few decades, and it does so at a cost that is far lower than any other alternative.

Further, H.R. 935 will ensure that struggling coalfield communities will continue to received much-needed income. The $600 million per year in pension payments that flows into the coalfields may not sound like a lot here in the halls of Congress, but it is the only thing that is keeping the economies of hundreds of Appalachian communities even marginally viable. These communities are already some of the most economically depressed in America. Allowing the lifeline that is the pension payments of retirees like Mr. Ball and the other retired miners here today to be sucked out of those communities will devastate them.

I can only assume that those who advocate doing nothing to address this issue either do not understand the real-life implications of that or simply do not care. Sometimes it seems as if they just hope that these retirees die off quickly, so that the problem resolves itself while they turn a blind eye. But I urge you to look in the faces of those retirees who are here today, and those who have so frequently walked the halls of Congressional office buildings these last several years. They are literally lobbying for their lives and the lives of those in their communities who cannot make the trip.

I recognize other committees of the House have taken action on legislation, H.R. 397, which would address the larger multiemployer pension crisis. The UMWA has supported that legislation because it would solve our pension plan's funding problems. However, that will be true only until June 30, 2020. After that date, our actuaries estimate that any funding that came to the UMWA 1974 Plan as a result of H.R. 397 would arrive too late to prevent the Plan's insolvency. Frankly, retired coal miners and their widows need action now.

On March 1, 2016, I testified before the Senate Committee on Finance about a previous version of the legislation that is today before this subcommittee. At that hearing, a Senator asked me when legislation needed to be passed that would stave off insolvency and preserve our pension plan and I said, "Tomorrow." That obviously did not happen, because here we sit today discussing the same issue. As I predicted at that hearing, the cost of preserving the 1974 Plan has only grown, and the urgency has only become more pressing.

More than three years have passed since that date. I testified at that hearing that the expected insolvency date for the UMWA 1974 Pension Plan was 2026. Due to the dramatic decline of the coal industry since then and decisions of multiple bankruptcy courts, the insolvency date is now 2022. There is but one major employer left making contributions to the plan. As bankruptcies continue in the coal industry, there is a significant possibility that the last employer could also soon be relieved by a bankruptcy court of its obligations to make contributions to the Plan. This would lead to a mass withdrawal and collapse of the Plan within months.

Congresses' failure to act in these intervening three years has increased the cost of taking action today, but that cost still pales in comparison to the social costs Congress would be responsible for should the 1974 Plan fail. You have a moral responsibility to act to fulfill America's promise to its coal miners, and I urge you to do so without delay.

Thank you for this opportunity to testify before this committee, and I look forward to answering any questions you may have.

Attachment:

UMWA Health and Retirement Funds' health care and pension expenditures by state, 2018