

Calendar No. 669

114TH CONGRESS
2D SESSION**S. 3470****[Report No. 114–374]**

To amend the Surface Mining Control and Reclamation Act of 1977 to transfer certain funds to the Multiemployer Health Benefit Plan and the 1974 United Mine Workers of America Pension Plan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2016

Mr. HATCH, from the Committee on Finance, reported the following original bill; which was read twice and placed on the calendar

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to transfer certain funds to the Multiemployer Health Benefit Plan and the 1974 United Mine Workers of America Pension 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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Miners Protection Act
5 of 2016”.

1 **SEC. 2. INCLUSION OF CERTAIN RETIREES IN THE MULTI-**
 2 **EMPLOYER HEALTH BENEFIT PLAN.**

3 (a) IN GENERAL.—Section 402 of the Surface Min-
 4 ing Control and Reclamation Act of 1977 (30 U.S.C.
 5 1232) is amended—

6 (1) in subsection (h)(2)(C)—

7 (A) by striking “A transfer” and inserting
 8 the following:

9 “(i) TRANSFER TO THE PLAN.—A
 10 transfer”;

11 (B) by redesignating clauses (i) and (ii) as
 12 subclauses (I) and (II), respectively, and mov-
 13 ing such subclauses 2 ems to the right; and

14 (C) by striking the matter following such
 15 subclause (II) (as so redesignated) and insert-
 16 ing the following:

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

20 “(I) those beneficiaries actually
 21 enrolled in the Plan as of the date of
 22 the enactment of the Miners Protec-
 23 tion Act of 2016 who are eligible to
 24 receive health benefits under the Plan
 25 on the first day of the calendar year
 26 for which the transfer is made, other

1 than those beneficiaries enrolled in
2 the Plan under the terms of a partici-
3 pation agreement with the current or
4 former employer of such beneficiaries;
5 and

6 “(II) those beneficiaries whose
7 health benefits, defined as those bene-
8 fits payable directly following death or
9 retirement or upon a finding of dis-
10 ability by an employer in the bitu-
11 minous coal industry under a coal
12 wage agreement (as defined in section
13 9701(b)(1) of the Internal Revenue
14 Code of 1986), would be denied or re-
15 duced as a result of a bankruptcy pro-
16 ceeding commenced in 2012 or 2015.

17 “(iii) ELIGIBILITY OF CERTAIN RETIR-
18 EES.—Individuals referred to in clause
19 (ii)(II) shall be treated as eligible to re-
20 ceive health benefits under the Plan.

21 “(iv) REQUIREMENTS FOR TRANS-
22 FER.—The amount of the transfer other-
23 wise determined under this subparagraph
24 for a fiscal year shall be reduced by any
25 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).

“(v) VEBA TRANSFER.—The administrator of such voluntary employees' beneficiary association shall transfer to the Plan any amounts received as a result of such bankruptcy proceeding, reduced by an amount for administrative costs of such association.”; and

(2) in subsection (i)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following:

“(4) ADDITIONAL AMOUNTS.—

“(A) CALCULATION.—If the dollar limitation specified in paragraph (3)(A) exceeds the aggregate amount required to be transferred under paragraphs (1) and (2) for a fiscal year, the Secretary of the Treasury shall transfer an additional amount equal to the difference between such dollar limitation and such aggregate

1 amount to the trustees of the 1974 UMWA
2 Pension Plan to pay benefits required under
3 that plan.

4 “(B) CESSATION OF TRANSFERS.—The
5 transfers described in subparagraph (A) shall
6 cease as of the first fiscal year beginning after
7 the first plan year for which the funded per-
8 centage (as defined in section 432(i)(2) of the
9 Internal Revenue Code of 1986) of the 1974
10 UMWA Pension Plan is at least 100 percent.

11 “(C) PROHIBITION ON BENEFIT IN-
12 CREASES, ETC.—During a fiscal year in which
13 the 1974 UMWA Pension Plan is receiving
14 transfers under subparagraph (A), no amend-
15 ment of such plan which increases the liabilities
16 of the plan by reason of any increase in bene-
17 fits, any change in the accrual of benefits, or
18 any change in the rate at which benefits become
19 nonforfeitable under the plan may be adopted
20 unless the amendment is required as a condi-
21 tion of qualification under part I of subchapter
22 D of chapter 1 of the Internal Revenue Code of
23 1986.

24 “(D) TREATMENT OF TRANSFERS FOR
25 PURPOSES OF WITHDRAWAL LIABILITY UNDER

1 ERISA.—The amount of any transfer made
 2 under subparagraph (A) (and any earnings at-
 3 tributable thereto) shall be disregarded in deter-
 4 mining the unfunded vested benefits of the
 5 1974 UMWA Pension Plan and the allocation
 6 of such unfunded vested benefits to an employer
 7 for purposes of determining the employer’s
 8 withdrawal liability under section 4201.

9 “(E) REQUIREMENT TO MAINTAIN CON-
 10 TRIBUTION RATE.—A transfer under subpara-
 11 graph (A) shall not be made for a fiscal year
 12 unless the persons that are obligated to con-
 13 tribute to the 1974 UMWA Pension Plan on
 14 the date of the transfer are obligated to make
 15 the contributions at rates that are no less than
 16 those in effect on the date which is 30 days be-
 17 fore the date of enactment of the Miners Pro-
 18 tection Act of 2016.

19 “(F) ENHANCED ANNUAL REPORTING.—

20 “(i) IN GENERAL.—Not later than the
 21 90th day of each plan year beginning after
 22 the date of enactment of the Miners Pro-
 23 tection Act of 2016, the trustees of the
 24 1974 UMWA Pension Plan shall file with
 25 the Secretary of the Treasury or the Sec-

1 retary’s delegate and the Pension Benefit
2 Guaranty Corporation a report (including
3 appropriate documentation and actuarial
4 certifications from the plan actuary, as re-
5 quired by the Secretary of the Treasury or
6 the Secretary’s delegate) that contains—

7 “(I) whether the plan is in en-
8 dangered or critical status under sec-
9 tion 305 of the Employee Retirement
10 Income Security Act of 1974 and sec-
11 tion 432 of the Internal Revenue Code
12 of 1986 as of the first day of such
13 plan year;

14 “(II) the funded percentage (as
15 defined in section 432(i)(2) of such
16 Code) as of the first day of such plan
17 year, and the underlying actuarial
18 value of assets and liabilities taken
19 into account in determining such per-
20 centage;

21 “(III) the market value of the as-
22 sets of the plan as of the last day of
23 the plan year preceding such plan
24 year;

1 “(IV) the total value of all con-
2 tributions made during the plan year
3 preceding such plan year;

4 “(V) the total value of all bene-
5 fits paid during the plan year pre-
6 ceding such plan year;

7 “(VI) cash flow projections for
8 such plan year and either the 6 or 10
9 succeeding plan years, at the election
10 of the trustees, and the assumptions
11 relied upon in making such projec-
12 tions;

13 “(VII) funding standard account
14 projections for such plan year and the
15 9 succeeding plan years, and the as-
16 sumptions relied upon in making such
17 projections;

18 “(VIII) the total value of all in-
19 vestment gains or losses during the
20 plan year preceding such plan year;

21 “(IX) any significant reduction
22 in the number of active participants
23 during the plan year preceding such
24 plan year, and the reason for such re-
25 duction;

1 “(X) a list of employers that
2 withdrew from the plan in the plan
3 year preceding such plan year, and
4 the resulting reduction in contribu-
5 tions;

6 “(XI) a list of employers that
7 paid withdrawal liability to the plan
8 during the plan year preceding such
9 plan year and, for each employer, a
10 total assessment of the withdrawal li-
11 ability paid, the annual payment
12 amount, and the number of years re-
13 maining in the payment schedule with
14 respect to such withdrawal liability;

15 “(XII) any material changes to
16 benefits, accrual rates, or contribution
17 rates during the plan year preceding
18 such plan year;

19 “(XIII) any scheduled benefit in-
20 crease or decrease in the plan year
21 preceding such plan year having a
22 material effect on liabilities of the
23 plan;

1 “(XIV) details regarding any
2 funding improvement plan or rehabili-
3 tation plan and updates to such plan;

4 “(XV) the number of partici-
5 pants and beneficiaries during the
6 plan year preceding such plan year
7 who are active participants, the num-
8 ber of participants and beneficiaries in
9 pay status, and the number of termi-
10 nated vested participants and bene-
11 ficiaries;

12 “(XVI) the information contained
13 on the most recent annual funding no-
14 tice submitted by the plan under sec-
15 tion 101(f) of the Employee Retire-
16 ment Income Security Act of 1974;

17 “(XVII) the information con-
18 tained on the most recent Department
19 of Labor Form 5500 of the plan; and

20 “(XVIII) copies of the plan docu-
21 ment and amendments, other retire-
22 ment benefit or ancillary benefit plans
23 relating to the plan and contribution
24 obligations under such plans, a break-
25 down of administrative expenses of

1 the plan, participant census data and
2 distribution of benefits, the most re-
3 cent actuarial valuation report as of
4 the plan year, copies of collective bar-
5 gaining agreements, and financial re-
6 ports, and such other information as
7 the Secretary of the Treasury or the
8 Secretary's delegate, in consultation
9 with the Secretary of Labor and the
10 Director of the Pension Benefit Guar-
11 anty Corporation, may require.

12 “(ii) ELECTRONIC SUBMISSION.—The
13 report required under clause (i) shall be
14 submitted electronically.

15 “(iii) INFORMATION SHARING.—The
16 Secretary of the Treasury or the Sec-
17 retary's delegate shall share the informa-
18 tion in the report under clause (i) with the
19 Secretary of Labor.

20 “(iv) PENALTY.—Any failure to file
21 the report required under clause (i) on or
22 before the date described in such clause
23 shall be treated as a failure to file a report
24 required to be filed under section 6058(a)
25 of the Internal Revenue Code of 1986, ex-

cept that section 6652(e) of such Code shall be applied with respect to any such failure by substituting ‘\$100’ for ‘\$25’. The preceding sentence shall not apply if the Secretary of the Treasury or the Secretary’s delegate determines that reasonable diligence has been exercised by the trustees of such plan in attempting to timely file such report.

“(G) 1974 UMWA PENSION PLAN DEFINED.—For purposes of this paragraph, the term ‘1974 UMWA Pension Plan’ has the meaning given the term in section 9701(a)(3) of the Internal Revenue Code of 1986, but without regard to the limitation on participation to individuals who retired in 1976 and thereafter.”.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to fiscal years beginning after September 30, 2016.

(2) REPORTING REQUIREMENTS.—Section 402(i)(4)(F) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(i)(4)(F)), as

1 added by this section, shall apply to plan years be-
 2 ginning after the date of the enactment of this Act.

3 **SEC. 3. CLARIFICATION OF FINANCING OBLIGATIONS.**

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

6 (1) by striking paragraph (3),

7 (2) by striking “three premiums” and inserting
 8 “two premiums”, and

9 (3) by striking “, plus” at the end of paragraph
 10 (2) and inserting a period.

11 (b) CONFORMING AMENDMENTS.—

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

14 (A) by striking subsection (d), and

15 (B) by redesignating subsections (e)
 16 through (j) as subsections (d) through (i), re-
 17 spectively.

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

20 (A) by striking “3 separate accounts for
 21 each of the premiums described in subsections
 22 (b), (c), and (d)” in paragraph (1) and insert-
 23 ing “2 separate accounts for each of the pre-
 24 miums described in subsections (b) and (c)”,
 25 and

1 (B) by striking “or the unassigned bene-
 2 ficiaries premium account” in paragraph
 3 (3)(B).

4 (3) Subclause (I) of section 9703(b)(2)(C)(ii) of
 5 such Code is amended by striking
 6 “9704(e)(3)(B)(i)” and inserting
 7 “9704(d)(3)(B)(i)”.

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

10 (A) by striking “the unassigned beneficiary
 11 premium under section 9704(a)(3) and” in sub-
 12 paragraph (B), and

13 (B) by striking “9704(i)(1)(B)” and in-
 14 serting “9704(h)(1)(B)”.

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

17 (A) by striking “9704(j)(2)” in subpara-
 18 graph (A)(i) and inserting “9704(i)(2)”,

19 (B) by striking “9704(j)(2)(B)” in sub-
 20 paragraph (B) and inserting “9704(i)(2)(B)”,
 21 and

22 (C) by striking “9704(j)” and inserting
 23 “9704(i)”.

1 (6) Paragraph (4) of section 9712(d) of such
 2 Code is amended by striking “9704(j)” and inserting
 3 “9704(i)”.

4 (c) ELIMINATION OF ADDITIONAL BACKSTOP PRE-
 5 MIUM.—

6 (1) IN GENERAL.—Paragraph (1) of section
 7 9712(d) of the Internal Revenue Code of 1986 is
 8 amended by striking subparagraph (C).

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

11 (A) by striking subparagraph (B),

12 (B) by striking “, and” at the end of sub-
 13 paragraph (A) and inserting a period, and

14 (C) by striking “shall provide for—” and
 15 all that follows through “annual adjustments”
 16 and inserting “shall provide for annual adjust-
 17 ments”.

18 (d) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply to plan years beginning after Sep-
 20 tember 30, 2016.

21 **SEC. 4. CUSTOMS USER FEES.**

22 (a) IN GENERAL.—Section 13031(j)(3)(A) of the
 23 Consolidated Omnibus Budget Reconciliation Act of 1985
 24 (19 U.S.C. 58c(j)(3)(A)) is amended by striking “Sep-
 25 tember 30, 2025” and inserting “May 6, 2026”.

1 (b) RATE FOR MERCHANDISE PROCESSING FEES.—
2 Section 503 of the United States–Korea Free Trade
3 Agreement Implementation Act (Public Law 112–41; 19
4 U.S.C. 3805 note) is amended by striking “September 30,
5 2025” and inserting “May 6, 2026”.

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2^D Session

S. 3470

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A BILL

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