

115TH CONGRESS
1ST SESSION

S. 1105

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

IN THE SENATE OF THE UNITED STATES

MAY 11, 2017

Mr. MANCHIN (for himself, Mrs. CAPITO, Mr. BROWN, Mr. CASEY, Mr. WARNER, Mr. FRANKEN, Mrs. McCASKILL, Mr. NELSON, Ms. WARREN, Mrs. MURRAY, Mr. KAINE, Mr. DONNELLY, Ms. HEITKAMP, Mr. PORTMAN, Mr. WHITEHOUSE, Mr. DURBIN, Mr. HEINRICH, Mr. BURR, Mr. SANDERS, Mr. BOOKER, and Ms. DUCKWORTH) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Surface Mining Control and Reclamation Act of 1977 to transfer certain funds to 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 Pension Protec-
5 tion Act”.

1 **SEC. 2. TRANSFERS TO 1974 UMWA PENSION PLAN.**

2 (a) IN GENERAL.—Subsection (i) of section 402 of
 3 the Surface Mining Control and Reclamation Act of 1977
 4 (30 U.S.C. 1232), as amended by the Further Continuing
 5 and Security Assistance Appropriations Act, 2017, is
 6 amended—

7 (1) by redesignating paragraph (4) as para-
 8 graph (5); and

9 (2) by inserting after paragraph (3) the fol-
 10 lowing:

11 “(4) ADDITIONAL AMOUNTS.—

12 “(A) CALCULATION.—If the dollar limita-
 13 tion specified in paragraph (3)(A) exceeds the
 14 aggregate amount required to be transferred
 15 under paragraphs (1) and (2) for a fiscal year,
 16 the Secretary of the Treasury shall transfer an
 17 additional amount equal to the difference be-
 18 tween such dollar limitation and such aggregate
 19 amount to the trustees of the 1974 UMWA
 20 Pension Plan to pay benefits required under
 21 that plan.

22 “(B) CESSATION OF TRANSFERS.—The
 23 transfers described in subparagraph (A) shall
 24 cease as of the first fiscal year beginning after
 25 the first plan year for which the funded per-
 26 centage (as defined in section 432(i)(2) of the

1 Internal Revenue Code of 1986) of the 1974
2 UMWA Pension Plan is at least 100 percent.

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

16 “(D) TREATMENT OF TRANSFERS FOR
17 PURPOSES OF WITHDRAWAL LIABILITY UNDER
18 ERISA.—The amount of any transfer made
19 under subparagraph (A) (and any earnings at-
20 tributable thereto) shall be disregarded in deter-
21 mining the unfunded vested benefits of the
22 1974 UMWA Pension Plan and the allocation
23 of such unfunded vested benefits to an employer
24 for purposes of determining the employer’s
25 withdrawal liability under section 4201 of the

Employee Retirement Income Security Act of
1974.

“(E) REQUIREMENT TO MAINTAIN CONTRIBUTION RATE.—A transfer under subparagraph (A) shall not be made for a fiscal year unless the persons that are obligated to contribute to the 1974 UMWA Pension Plan on the date of the transfer are obligated to make the contributions at rates that are no less than those in effect on the date which is 30 days before the date of enactment of the Miners Pension Protection Act.

“(F) ENHANCED ANNUAL REPORTING.—

“(i) IN GENERAL.—Not later than the 90th day of each plan year beginning after the date of enactment of the Miners Pension Protection Act, the trustees of the 1974 UMWA Pension Plan shall file with the Secretary of the Treasury or the Secretary’s delegate and the Pension Benefit Guaranty Corporation a report (including appropriate documentation and actuarial certifications from the plan actuary, as required by the Secretary of the Treasury or the Secretary’s delegate) that contains—

1 “(I) whether the plan is in en-
2 dangered or critical status under sec-
3 tion 305 of the Employee Retirement
4 Income Security Act of 1974 and sec-
5 tion 432 of the Internal Revenue Code
6 of 1986 as of the first day of such
7 plan year;

8 “(II) the funded percentage (as
9 defined in section 432(i)(2) of such
10 Code) as of the first day of such plan
11 year, and the underlying actuarial
12 value of assets and liabilities taken
13 into account in determining such per-
14 centage;

15 “(III) the market value of the as-
16 sets of the plan as of the last day of
17 the plan year preceding such plan
18 year;

19 “(IV) the total value of all con-
20 tributions made during the plan year
21 preceding such plan year;

22 “(V) the total value of all bene-
23 fits paid during the plan year pre-
24 ceding such plan year;

1 “(VI) cash flow projections for
2 such plan year and either the 6 or 10
3 succeeding plan years, at the election
4 of the trustees, and the assumptions
5 relied upon in making such projec-
6 tions;

7 “(VII) funding standard account
8 projections for such plan year and the
9 succeeding plan years, and the as-
10 sumptions relied upon in making such
11 projections;

12 “(VIII) the total value of all in-
13 vestment gains or losses during the
14 plan year preceding such plan year;

15 “(IX) any significant reduction
16 in the number of active participants
17 during the plan year preceding such
18 plan year, and the reason for such re-
19 duction;

20 “(X) a list of employers that
21 withdrew from the plan in the plan
22 year preceding such plan year, and
23 the resulting reduction in contribu-
24 tions;

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

10 “(XII) any material changes to
11 benefits, accrual rates, or contribution
12 rates during the plan year preceding
13 such plan year;

14 “(XIII) any scheduled benefit in-
15 crease or decrease in the plan year
16 preceding such plan year having a
17 material effect on liabilities of the
18 plan;

19 “(XIV) details regarding any
20 funding improvement plan or rehabili-
21 tation plan and updates to such plan;

22 “(XV) the number of partici-
23 pants and beneficiaries during the
24 plan year preceding such plan year
25 who are active participants, the num-

1 ber of participants and beneficiaries in
2 pay status, and the number of termi-
3 nated vested participants and bene-
4 ficiaries;

5 “(XVI) the information contained
6 on the most recent annual funding no-
7 tice submitted by the plan under sec-
8 tion 101(f) of the Employee Retirement
9 Income Security Act of 1974;

10 “(XVII) the information con-
11 tained on the most recent Department
12 of Labor Form 5500 of the plan; and

13 “(XVIII) copies of the plan docu-
14 ment and amendments, other retire-
15 ment benefit or ancillary benefit plans
16 relating to the plan and contribution
17 obligations under such plans, a break-
18 down of administrative expenses of
19 the plan, participant census data and
20 distribution of benefits, the most re-
21 cent actuarial valuation report as of
22 the plan year, copies of collective bar-
23 gaining agreements, and financial re-
24 ports, and such other information as
25 the Secretary of the Treasury or the

1 Secretary's delegate, in consultation
2 with the Secretary of Labor and the
3 Director of the Pension Benefit Guar-
4 anty Corporation, may require.

5 “(ii) ELECTRONIC SUBMISSION.—The
6 report required under clause (i) shall be
7 submitted electronically.

8 “(iii) INFORMATION SHARING.—The
9 Secretary of the Treasury or the Sec-
10 retary's delegate shall share the informa-
11 tion in the report under clause (i) with the
12 Secretary of Labor.

13 “(iv) PENALTY.—Any failure to file
14 the report required under clause (i) on or
15 before the date described in such clause
16 shall be treated as a failure to file a report
17 required to be filed under section 6058(a)
18 of the Internal Revenue Code of 1986, ex-
19 cept that section 6652(e) of such Code
20 shall be applied with respect to any such
21 failure by substituting ‘\$100’ for ‘\$25’.
22 The preceding sentence shall not apply if
23 the Secretary of the Treasury or the Sec-
24 retary's delegate determines that reason-
25 able diligence has been exercised by the

1 trustees of such plan in attempting to
2 timely file such report.

3 “(G) 1974 UMWA PENSION PLAN DE-
4 FINED.—For purposes of this paragraph, the
5 term ‘1974 UMWA Pension Plan’ has the
6 meaning given the term in section 9701(a)(3)
7 of the Internal Revenue Code of 1986, but
8 without regard to the limitation on participation
9 to individuals who retired in 1976 and there-
10 after.”.

11 (b) EFFECTIVE DATES.—

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

15 (2) REPORTING REQUIREMENTS.—Section
16 402(i)(4)(F) of the Surface Mining Control and Rec-
17 lamation Act of 1977 (30 U.S.C. 1232(i)(4)(F)), as
18 added by this section, shall apply to plan years be-
19 ginning after the date of the enactment of this Act.

20 **SEC. 3. CUSTOMS USER FEES.**

21 (a) IN GENERAL.—Section 13031(j)(3)(A) of the
22 Consolidated Omnibus Budget Reconciliation Act of 1985
23 (19 U.S.C. 58c(j)(3)(A)), as amended by section 105(a)
24 of the Health Benefits for Miners Act of 2017, is amended

1 by striking “January 14, 2026” and inserting “May 13,
2 2026”.

3 (b) RATE FOR MERCHANDISE PROCESSING FEES.—
4 Section 503 of the United States–Korea Free Trade
5 Agreement Implementation Act (Public Law 112–41; 19
6 U.S.C. 3805 note), as amended by section 105(b) of the
7 Health Benefits for Miners Act of 2017, is amended by
8 striking “January 14, 2026” and inserting “May 13,
9 2026”.

○