

115TH CONGRESS
1ST SESSION

S. 175

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

JANUARY 17, 2017

Mr. MANCHIN (for himself, Mrs. CAPITO, Mr. CASEY, Mr. BROWN, Mr. KAINE, Mr. WARNER, Mr. PORTMAN, Mr. TESTER, Mrs. MURRAY, Mr. SANDERS, Mr. DURBIN, Mr. FRANKEN, Mr. BOOKER, Mr. DONNELLY, Mr. HEINRICH, Mrs. MCCASKILL, Ms. HEITKAMP, Mr. NELSON, Mr. BURR, and Mr. SULLIVAN) 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 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 2017”.

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), as amended by the Further Continuing and Secu-
 6 rity Assistance Appropriations Act, 2017, is amended—

7 (1) in subsection (h)(2)(C)—

8 (A) by striking clauses (ii), (iii), and (iv);

9 and

10 (B) by inserting after clause (i) the fol-
 11 lowing:

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

15 “(I) those beneficiaries actually
 16 enrolled in the Plan as of the date of
 17 the enactment of the Miners Protec-
 18 tion Act of 2017 who are eligible to
 19 receive health benefits under the Plan
 20 on the first day of the calendar year
 21 for which the transfer is made, other
 22 than those beneficiaries enrolled in
 23 the Plan under the terms of a partici-
 24 pation agreement with the current or
 25 former employer of such beneficiaries;
 26 and

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

12 For purposes of subclause (I), a bene-
 13 ficiary enrolled in the Plan as of the date
 14 of the enactment of the Miners Protection
 15 Act of 2017 shall be deemed to have been
 16 eligible to receive health benefits under the
 17 Plan on January 1, 2017.

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

22 “(iv) REQUIREMENTS FOR TRANS-
 23 FER.—The amount of the transfer other-
 24 wise determined under this subparagraph
 25 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)."; 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 amount to the trustees of the 1974 UMWA Pension Plan to pay benefits required under that plan.

“(B) CESSATION OF TRANSFERS.—The transfers described in subparagraph (A) shall cease as of the first fiscal year beginning after

1 the first plan year for which the funded per-
2 centage (as defined in section 432(i)(2) of the
3 Internal Revenue Code of 1986) of the 1974
4 UMWA Pension Plan is at least 100 percent.

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

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

for purposes of determining the employer’s 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 Protection Act of 2017.

“(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 Protection Act of 2017, 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 re-

quired by the Secretary of the Treasury or
the Secretary's delegate) that contains—

“(I) whether the plan is in endangered or critical status under section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 as of the first day of such plan year;

“(II) the funded percentage (as defined in section 432(i)(2) of such Code) as of the first day of such plan year, and the underlying actuarial value of assets and liabilities taken into account in determining such percentage;

“(III) the market value of the assets of the plan as of the last day of the plan year preceding such plan year;

“(IV) the total value of all contributions made during the plan year preceding such plan year;

1 “(V) the total value of all bene-
2 fits paid during the plan year pre-
3 ceding such plan year;

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

10 “(VII) funding standard account
11 projections for such plan year and the
12 9 succeeding plan years, and the as-
13 sumptions relied upon in making such
14 projections;

15 “(VIII) the total value of all in-
16 vestment gains or losses during the
17 plan year preceding such plan year;

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

23 “(X) a list of employers that
24 withdrew from the plan in the plan
25 year preceding such plan year, and

1 the resulting reduction in contribu-
2 tions;

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

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

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

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

24 “(XV) the number of partici-
25 pants and beneficiaries during the

1 plan year preceding such plan year
2 who are active participants, the num-
3 ber of participants and beneficiaries in
4 pay status, and the number of termi-
5 nated vested participants and bene-
6 ficiaries;

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

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

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

1 ports, and such other information as
2 the Secretary of the Treasury or the
3 Secretary's delegate, in consultation
4 with the Secretary of Labor and the
5 Director of the Pension Benefit Guar-
6 anty Corporation, may require.

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

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

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

retary'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 added by this section, shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 3. 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),

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

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

5 (b) CONFORMING AMENDMENTS.—

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

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

9 (B) by redesignating subsections (e)
10 through (j) as subsections (d) through (i), re-
11 spectively.

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

14 (A) by striking “3 separate accounts for
15 each of the premiums described in subsections
16 (b), (c), and (d)” in paragraph (1) and insert-
17 ing “2 separate accounts for each of the pre-
18 miums described in subsections (b) and (c)”,
19 and

20 (B) by striking “or the unassigned bene-
21 ficiaries premium account” in paragraph
22 (3)(B).

23 (3) Subclause (I) of section 9703(b)(2)(C)(ii) of
24 such Code is amended by striking

1 “9704(e)(3)(B)(i)” and inserting
 2 “9704(d)(3)(B)(i)”.

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

5 (A) by striking “the unassigned beneficiary
 6 premium under section 9704(a)(3) and” in sub-
 7 paragraph (B), and

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

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

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

14 (B) by striking “9704(j)(2)(B)” in sub-
 15 paragraph (B) and inserting “9704(i)(2)(B)”,
 16 and

17 (C) by striking “9704(j)” and inserting
 18 “9704(i)”.

19 (6) Paragraph (4) of section 9712(d) of such
 20 Code is amended by striking “9704(j)” and inserting
 21 “9704(i)”.

22 (c) ELIMINATION OF ADDITIONAL BACKSTOP PRE-
 23 MIUM.—

1 (1) IN GENERAL.—Paragraph (1) of section
2 9712(d) of the Internal Revenue Code of 1986 is
3 amended by striking subparagraph (C).

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

6 (A) by striking subparagraph (B),

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

9 (C) by striking “shall provide for—” and
10 all that follows through “annual adjustments”
11 and inserting “shall provide for annual adjust-
12 ments”.

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

16 **SEC. 4. CUSTOMS USER FEES.**

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

21 (b) RATE FOR MERCHANDISE PROCESSING FEES.—
22 Section 503 of the United States–Korea Free Trade
23 Agreement Implementation Act (Public Law 112–41; 19

- 1 U.S.C. 3805 note) is amended by striking “September 30,
- 2 2025” and inserting “May 6, 2026”.

