

116TH CONGRESS  
1ST SESSION

# S. 671

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.

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## IN THE SENATE OF THE UNITED STATES

MARCH 6, 2019

Mrs. CAPITO (for herself and Mr. PORTMAN) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## 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) is amended—

5 (1) in paragraph (3)(A), by striking  
6 “\$490,000,000” and inserting “\$750,000,000”;

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

9 (3) 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(j)(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) CRITICAL STATUS TO BE MAIN-  
 17 TAINED.—Until such time as the 1974 UMWA  
 18 Pension Plan ceases to be eligible for the trans-  
 19 fers described in subparagraph (A)—

20 “(i) the Plan shall be treated as if it  
 21 were in critical status for purposes of sec-  
 22 tions 412(b)(3), 432(e)(3), and  
 23 4971(g)(1)(A) of the Internal Revenue  
 24 Code of 1986 and sections 302(b)(3) and

1           305(e)(3) of the Employee Retirement In-  
2           come Security Act;

3           “(ii) the Plan shall maintain and com-  
4           ply with its rehabilitation plan under sec-  
5           tion 432(e) of such Code and section  
6           305(e) of such Act, including any updates  
7           thereto; and

8           “(iii) the provisions of subsections (c)  
9           and (d) of section 432 of such Code and  
10          subsections (c) and (d) of section 305 of  
11          such Act shall not apply.

12          “(E) REQUIREMENT TO MAINTAIN CON-  
13          TRIBUTION RATE.—No transfer under subpara-  
14          graph (A) shall be made for a fiscal year unless  
15          the persons that are obligated to contribute to  
16          the 1974 UMWA Pension Plan as of the date  
17          of the transfer are obligated to make such con-  
18          tributions at rates that are no less than those  
19          in effect on the date which is 30 days before  
20          the date of enactment of the Miners Pension  
21          Protection Act.

22          “(F) ENHANCED ANNUAL REPORTING.—

23          “(i) IN GENERAL.—Not later than the  
24          90th day of each plan year beginning after  
25          the date of enactment of the Miners Pen-

1           sion Protection Act, the trustees of the  
2           1974 UMWA Pension Plan shall file with  
3           the Secretary of the Treasury or the Sec-  
4           retary's delegate and the Pension Benefit  
5           Guaranty Corporation a report (including  
6           appropriate documentation and actuarial  
7           certifications from the plan actuary, as re-  
8           quired by the Secretary of the Treasury or  
9           the Secretary's delegate) that contains—

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

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

24                   “(III) the market value of the as-  
25                   sets of the plan as of the last day of

1 the plan year preceding such plan  
2 year;

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

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

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

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

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

23 “(IX) any significant reduction  
24 in the number of active participants  
25 during the plan year preceding such

1 plan year, and the reason for such re-  
2 duction;

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

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

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

21 “(XIII) any scheduled benefit in-  
22 crease or decrease in the plan year  
23 preceding such plan year having a  
24 material effect on liabilities of the  
25 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 Retirement  
16 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



the plan, participant census data and distribution of benefits, the most recent actuarial valuation report as of the plan year, copies of collective bargaining agreements, and financial reports, and such other information as the Secretary of the Treasury or the Secretary's delegate, in consultation with the Secretary of Labor and the Director of the Pension Benefit Guaranty Corporation, may require.

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

“(iii) INFORMATION SHARING.—The Secretary of the Treasury or the Secretary's delegate shall share the information in the report under clause (i) with the Secretary of Labor.

“(iv) PENALTY.—Any failure to file the report required under clause (i) on or before the date described in such clause shall be treated as a failure to file a report required to be filed under section 6058(a) 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. REDUCTION IN MINIMUM AGE FOR ALLOWABLE IN-**  
 4       **SERVICE DISTRIBUTIONS.**

5       (a) IN GENERAL.—Section 401(a)(36) of the Internal  
 6   Revenue Code of 1986 is amended by striking “age 62”  
 7   and inserting “age 59½”.

8       (b) APPLICATION TO GOVERNMENTAL SECTION  
 9   457(b) PLANS.—Clause (i) of section 457(d)(1)(A) of the  
 10   Internal Revenue Code of 1986 is amended by inserting  
 11   “(in the case of a plan maintained by an employer de-  
 12   scribed in subsection (e)(1)(A), age 59½)” before the  
 13   comma at the end.

14       (c) EFFECTIVE DATE.—The amendments made by  
 15   this section shall apply to plan years beginning after De-  
 16   cember 31, 2017.

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