

116TH CONGRESS
1ST SESSION

S. 27

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

JANUARY 3, 2019

Mr. MANCHIN (for himself, Mr. KAINE, Mr. WARNER, Mr. BROWN, Mr. JONES, and Mr. CASEY) 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 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 “American Miners Act
5 of 2019”.

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

7 (a) IN GENERAL.—Subsection (i) of section 402 of
8 the Surface Mining Control and Reclamation Act of 1977

1 (30 U.S.C. 1232), as amended by the Further Continuing
 2 and Security Assistance Appropriations Act, 2017, is
 3 amended—

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

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

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

10 “(4) ADDITIONAL AMOUNTS.—

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

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

1 Employee Retirement Income Security Act of
2 1974.

3 “(E) REQUIREMENT TO MAINTAIN CON-
4 TRIBUTION RATE.—A transfer under subpara-
5 graph (A) shall not be made for a fiscal year
6 unless the persons that are obligated to con-
7 tribute to the 1974 UMWA Pension Plan on
8 the date of the transfer are obligated to make
9 the contributions at rates that are no less than
10 those in effect on the date which is 30 days be-
11 fore the date of enactment of the American
12 Miners Act of 2019.

13 “(F) ENHANCED ANNUAL REPORTING.—

14 “(i) IN GENERAL.—Not later than the
15 90th day of each plan year beginning after
16 the date of enactment of the American
17 Miners Act of 2019, the trustees of the
18 1974 UMWA Pension Plan shall file with
19 the Secretary of the Treasury or the Sec-
20 retary’s delegate and the Pension Benefit
21 Guaranty Corporation a report (including
22 appropriate documentation and actuarial
23 certifications from the plan actuary, as re-
24 quired by the Secretary of the Treasury or
25 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(j)(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 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. INCLUSION IN MULTIEMPLOYER HEALTH BENEFIT**
21 **PLAN.**

22 Section 402(h)(2)(C) of the Surface Mining Control
23 and Reclamation Act of 1977 (30 U.S.C. 1232(h)(2)(C))
24 is amended—

1 (1) by striking “the Health Benefits for Miners
2 Act of 2017” both places it appears in clause (ii)
3 and inserting “the American Miners Act of 2019”;

4 (2) by striking “, would be denied or reduced
5 as a result of a bankruptcy proceeding commenced
6 in 2012 or 2015” in clause (ii)(II) and inserting “or
7 a related coal wage agreement, would be denied or
8 reduced as a result of a bankruptcy proceeding com-
9 menced in 2012, 2015, or 2018”;

10 (3) by striking “January 1, 2017” in clause (ii)
11 and inserting “January 1, 2018”; and

12 (4) by adding at the end the following new
13 clause:

14 “(vi) RELATED COAL WAGE AGREE-
15 MENT.—For purposes of clause (ii), the
16 term ‘related coal wage agreement’ means
17 an agreement between the United Mine
18 Workers of America and an employer in
19 the bituminous coal industry that—

20 “(I) is a signatory operator; or

21 “(II) is or was a debtor in a
22 bankruptcy proceeding that was con-
23 solidated, administratively or other-
24 wise, with the bankruptcy proceeding
25 of a signatory operator or a related

1 person to a signatory operator (as
 2 those terms are defined in section
 3 9701(c) of the Internal Revenue Code
 4 of 1986).”.

5 **SEC. 4. REDUCTION IN MINIMUM AGE FOR ALLOWABLE IN-**
 6 **SERVICE DISTRIBUTIONS.**

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

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

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

19 **SEC. 5. BLACK LUNG LIABILITY TRUST FUND EXCISE TAX.**

20 (a) IN GENERAL.—Section 4121(e)(2)(A) of the In-
 21 ternal Revenue Code of 1986 is amended by striking “De-
 22 cember 31, 2018” and inserting “December 31, 2028”.

23 (b) EFFECTIVE DATE.—The amendment made by
 24 this section shall apply to sales after December 31, 2018.

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