

115TH CONGRESS 1ST SESSION

H. R. 179

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 HOUSE OF REPRESENTATIVES

January 3, 2017

Mr. McKinley (for himself, Mr. Michael F. Doyle of Pennsylvania, Mr. Bost, Ms. Fudge, Mr. Mooney of West Virginia, Mr. Jenkins of West Virginia, and Ms. Kaptur) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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. REINSTATEMENT OF MULTIEMPLOYER HEALTH
2	BENEFIT PLAN PROVISIONS OF SURFACE
3	MINING CONTROL AND RECLAMATION ACT
4	OF 1977.
5	Except as otherwise provided in this Act, the Surface
6	Mining Control and Reclamation Act of 1977 (30 U.S.C.
7	1201 et seq.) is amended to read as if section 167 of the
8	Continuing Appropriations Act, 2017, as amended by sec-
9	tion 101(3) of division A of Public Law 114–254, were
10	not enacted.
11	SEC. 3. INCLUSION OF CERTAIN RETIREES IN THE MULTI-
12	EMPLOYER HEALTH BENEFIT PLAN.
13	(a) In General.—Section 402 of the Surface Min-
14	ing Control and Reclamation Act of 1977 (30 U.S.C.
15	1232) is amended—
16	(1) in subsection $(h)(2)(C)$ —
17	(A) by striking "A transfer" and inserting
18	the following:
19	"(i) Transfer to the plan.—A
20	transfer";
21	(B) by redesignating clauses (i) and (ii) as
22	subclauses (I) and (II), respectively, and mov-
23	ing such subclauses 2 ems to the right; and
24	(C) by striking the matter following such
25	subclause (II) (as so redesignated) and insert-
26	ing the following:

1	"(ii) Calculation of excess.—The
2	excess determined under clause (i) shall be
3	calculated by taking into account only—
4	"(I) those beneficiaries actually
5	enrolled in the Plan as of the date of
6	the enactment of the Miners Protec-
7	tion Act of 2017 who are eligible to
8	receive health benefits under the Plan
9	on the first day of the calendar year
10	for which the transfer is made, other
11	than those beneficiaries enrolled in
12	the Plan under the terms of a partici-
13	pation agreement with the current or
14	former employer of such beneficiaries;
15	and
16	"(II) those beneficiaries whose
17	health benefits, defined as those bene-
18	fits payable directly following death or
19	retirement or upon a finding of dis-
20	ability by an employer in the bitu-
21	minous coal industry under a coal
22	wage agreement (as defined in section
23	9701(b)(1) of the Internal Revenue
24	Code of 1986), would be denied or re-

1	duced as a result of a bankruptcy pro-
2	ceeding commenced in 2012 or 2015.
3	"(iii) Eligibility of certain retir-
4	EES.—Individuals referred to in clause
5	(ii)(II) shall be treated as eligible to re-
6	ceive health benefits under the Plan.
7	"(iv) Requirements for trans-
8	FER.—The amount of the transfer other-
9	wise determined under this subparagraph
10	for a fiscal year shall be reduced by any
11	amount transferred for the fiscal year to
12	the Plan, to pay benefits required under
13	the Plan, from a voluntary employees' ben-
14	eficiary association established as a result
15	of a bankruptcy proceeding described in
16	clause (ii).
17	"(v) VEBA TRANSFER.—The admin-
18	istrator of such voluntary employees' bene-
19	ficiary association shall transfer to the
20	Plan any amounts received as a result of
21	such bankruptcy proceeding, reduced by an
22	amount for administrative costs of such as-
23	sociation."; and
24	(2) in subsection (i)—

1	(A) by redesignating paragraph (4) as
2	paragraph (5); and
3	(B) by inserting after paragraph (3) the
4	following:
5	"(4) Additional amounts.—
6	"(A) CALCULATION.—If the dollar limita-
7	tion specified in paragraph (3)(A) exceeds the
8	aggregate amount required to be transferred
9	under paragraphs (1) and (2) for a fiscal year,
10	the Secretary of the Treasury shall transfer an
11	additional amount equal to the difference be-
12	tween such dollar limitation and such aggregate
13	amount to the trustees of the 1974 UMWA
14	Pension Plan to pay benefits required under
15	that plan.
16	"(B) CESSATION OF TRANSFERS.—The
17	transfers described in subparagraph (A) shall
18	cease as of the first fiscal year beginning after
19	the first plan year for which the funded per-
20	centage (as defined in section 432(i)(2) of the
21	Internal Revenue Code of 1986) of the 1974
22	UMWA Pension Plan is at least 100 percent.
23	"(C) Prohibition on Benefit in-
24	CREASES, ETC.—During a fiscal year in which
25	the 1974 UMWA Pension Plan is receiving

transfers under subparagraph (A), no amendment of such plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

- "(D) TREATMENT OF TRANSFERS FOR PURPOSES OF WITHDRAWAL LIABILITY UNDER ERISA.—The amount of any transfer made under subparagraph (A) (and any earnings attributable thereto) shall be disregarded in determining the unfunded vested benefits of the 1974 UMWA Pension Plan and the allocation of such unfunded vested benefits to an employer for purposes of determining the employer's withdrawal liability under section 4201.
- "(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 required 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;

1	"(II) the funded percentage (as
2	defined in section 432(i)(2) of such
3	Code) as of the first day of such plan
4	year, and the underlying actuarial
5	value of assets and liabilities taken
6	into account in determining such per-
7	centage;
8	"(III) the market value of the as-
9	sets of the plan as of the last day of
10	the plan year preceding such plan
11	year;
12	"(IV) the total value of all con-
13	tributions made during the plan year
14	preceding such plan year;
15	"(V) the total value of all bene-
16	fits paid during the plan year pre-
17	ceding such plan year;
18	"(VI) cash flow projections for
19	such plan year and either the 6 or 10
20	succeeding plan years, at the election
21	of the trustees, and the assumptions
22	relied upon in making such projec-
23	tions;
24	"(VII) funding standard account
25	projections for such plan year and the

1	9 succeeding plan years, and the as-
2	sumptions relied upon in making such
3	projections;
4	"(VIII) the total value of all in-
5	vestment gains or losses during the
6	plan year preceding such plan year;
7	"(IX) any significant reduction
8	in the number of active participants
9	during the plan year preceding such
10	plan year, and the reason for such re-
11	duction;
12	"(X) a list of employers that
13	withdrew from the plan in the plan
14	year preceding such plan year, and
15	the resulting reduction in contribu-
16	tions;
17	"(XI) a list of employers that
18	paid withdrawal liability to the plan
19	during the plan year preceding such
20	plan year and, for each employer, a
21	total assessment of the withdrawal li-
22	ability paid, the annual payment
23	amount, and the number of years re-
24	maining in the payment schedule with
25	respect to such withdrawal liability;

1	"(XII) any material changes to
2	benefits, accrual rates, or contribution
3	rates during the plan year preceding
4	such plan year;
5	"(XIII) any scheduled benefit in-
6	crease or decrease in the plan year
7	preceding such plan year having a
8	material effect on liabilities of the
9	plan;
10	"(XIV) details regarding any
11	funding improvement plan or rehabili-
12	tation plan and updates to such plan;
13	"(XV) the number of partici-
14	pants and beneficiaries during the
15	plan year preceding such plan year
16	who are active participants, the num-
17	ber of participants and beneficiaries in
18	pay status, and the number of termi-
19	nated vested participants and bene-
20	ficiaries;
21	"(XVI) the information contained
22	on the most recent annual funding no-
23	tice submitted by the plan under sec-
24	tion 101(f) of the Employee Retire-
25	ment Income Security Act of 1974;

1	"(XVII) the information con-
2	tained on the most recent Department
3	of Labor Form 5500 of the plan; and
4	"(XVIII) copies of the plan docu-
5	ment and amendments, other retire-
6	ment benefit or ancillary benefit plans
7	relating to the plan and contribution
8	obligations under such plans, a break-
9	down of administrative expenses of
10	the plan, participant census data and
11	distribution of benefits, the most re-
12	cent actuarial valuation report as of
13	the plan year, copies of collective bar-
14	gaining agreements, and financial re-
15	ports, and such other information as
16	the Secretary of the Treasury or the
17	Secretary's delegate, in consultation
18	with the Secretary of Labor and the
19	Director of the Pension Benefit Guar-
20	anty Corporation, may require.
21	"(ii) Electronic submission.—The
22	report required under clause (i) shall be
23	submitted electronically.
24	"(iii) Information sharing.—The
25	Secretary of the Treasury or the Sec-

retary'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, except 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 DE-FINED.—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

1	to individuals who retired in 1976 and there-
2	after.".
3	(b) Effective Dates.—
4	(1) IN GENERAL.—The amendments made by
5	this section shall apply to fiscal years beginning
6	after September 30, 2016.
7	(2) Reporting requirements.—Section
8	402(i)(4)(F) of the Surface Mining Control and Rec-
9	lamation Act of 1977 (30 U.S.C. 1232(i)(4)(F)), as
10	added by this section, shall apply to plan years be-
11	ginning after the date of the enactment of this Act.
12	SEC. 4. CLARIFICATION OF FINANCING OBLIGATIONS.
13	(a) In General.—Subsection (a) of section 9704 of
14	the Internal Revenue Code of 1986 is amended—
15	(1) by striking paragraph (3),
16	(2) by striking "three premiums" and inserting
17	"two premiums", and
18	(3) by striking ", plus" at the end of paragraph
19	(2) and inserting a period.
20	(b) Conforming Amendments.—
21	(1) Section 9704 of the Internal Revenue Code
22	of 1986 is amended—
23	(A) by striking subsection (d), and

1	(B) by redesignating subsections (e)
2	through (j) as subsections (d) through (i), re-
3	spectively.
4	(2) Subsection (d) of section 9704 of such
5	Code, as so redesignated, is amended—
6	(A) by striking "3 separate accounts for
7	each of the premiums described in subsections
8	(b), (c), and (d)" in paragraph (1) and insert-
9	ing "2 separate accounts for each of the pre-
10	miums described in subsections (b) and (c)",
11	and
12	(B) by striking "or the unassigned bene-
13	ficiaries premium account" in paragraph
14	(3)(B).
15	(3) Subclause (I) of section 9703(b)(2)(C)(ii) of
16	such Code is amended by striking
17	"9704(e)(3)(B)(i)" and inserting
18	"9704(d)(3)(B)(i)".
19	(4) Paragraph (3) of section 9705(a) of such
20	Code is amended—
21	(A) by striking "the unassigned beneficiary
22	premium under section 9704(a)(3) and" in sub-
23	paragraph (B), and
24	(B) by striking "9704(i)(1)(B)" and in-
25	serting "9704(h)(1)(B)".

1	(5) Paragraph (2) of section 9711(c) of such
2	Code is amended—
3	(A) by striking " $9704(j)(2)$ " in subpara-
4	graph (A)(i) and inserting "9704(i)(2)",
5	(B) by striking " $9704(j)(2)(B)$ " in sub-
6	paragraph (B) and inserting "9704(i)(2)(B)",
7	and
8	(C) by striking "9704(j)" and inserting
9	"9704(i)".
10	(6) Paragraph (4) of section 9712(d) of such
11	Code is amended by striking "9704(j)" and inserting
12	"9704(i)".
13	(e) Elimination of Additional Backstop Pre-
14	MIUM.—
15	(1) In General.—Paragraph (1) of section
16	9712(d) of the Internal Revenue Code of 1986 is
17	amended by striking subparagraph (C).
18	(2) Conforming amendment.—Paragraph (2)
19	of section 9712(d) of such Code is amended—
20	(A) by striking subparagraph (B),
21	(B) by striking ", and" at the end of sub-
22	paragraph (A) and inserting a period, and
23	(C) by striking "shall provide for—" and
24	all that follows through "annual adjustments"

- 1 and inserting "shall provide for annual adjust-
- 2 ments".
- 3 (d) Effective Date.—The amendments made by
- 4 this section shall apply to plan years beginning after Sep-
- 5 tember 30, 2016.
- 6 SEC. 5. CUSTOMS USER FEES.
- 7 (a) In General.—Section 13031(j)(3)(A) of the
- 8 Consolidated Omnibus Budget Reconciliation Act of 1985
- 9 (19 U.S.C. 58c(j)(3)(A)) is amended by striking "Sep-
- 10 tember 30, 2025" and inserting "May 6, 2026".
- 11 (b) Rate for Merchandise Processing Fees.—
- 12 Section 503 of the United States–Korea Free Trade
- 13 Agreement Implementation Act (Public Law 112–41; 19
- 14 U.S.C. 3805 note) is amended by striking "September 30,
- 15 2025" and inserting "May 6, 2026".

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