II

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Miners Protection Act of 2017’’.

SEC. 2. INCLUSION OF CERTAIN RETIREES IN THE MULTI-EMPLOYER HEALTH BENEFIT PLAN.

(a) IN GENERAL.—Section 402 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232), as amended by the Further Continuing and Security Assistance Appropriations Act, 2017, is amended—

(1) in subsection (h)(2)(C)—

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

(B) by inserting after clause (i) the following:

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

"(I) those beneficiaries actually enrolled in the Plan as of the date of the enactment of the Miners Protection Act of 2017 who are eligible to receive health benefits under the Plan on the first day of the calendar year for which the transfer is made, other than those beneficiaries enrolled in the Plan under the terms of a participation agreement with the current or former employer of such beneficiaries; and

"(II) those beneficiaries whose health benefits, defined as those benefits payable, following death or retirement or upon a finding of disability, directly by an employer in the bituminous coal industry under a coal wage agreement (as defined in section 9701(b)(1) of the Internal Revenue Code of 1986), would be denied or reduced as a result of a bankruptcy proceeding commenced in 2012 or 2015.

For purposes of subclause (I), a beneficiary enrolled in the Plan as of the date of the enactment of the Miners Protection Act of 2017 shall be deemed to have been eligible to receive health benefits under the Plan on January 1, 2017.

"(iii) ELIGIBILITY OF CERTAIN RETIREES.—Individuals referred to in clause (ii)(II) shall be treated as eligible to receive health benefits under the Plan.

"(iv) REQUIREMENTS FOR TRANSFER.—The amount of the transfer otherwise determined under this subparagraph 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 the first plan year for which the funded percentage (as defined in section 432(i)(2) of the Internal Revenue Code of 1986) of the 1974 UMWA Pension Plan is at least 100 percent.

"(C) PROHIBITION ON BENEFIT INCREASES, ETC.—During a fiscal year in which 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 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 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;

"(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;

"(V) the total value of all benefits paid during the plan year preceding such plan year;

"(VI) cash flow projections for such plan year and either the 6 or 10 succeeding plan years, at the election of the trustees, and the assumptions relied upon in making such projections;

"(VII) funding standard account projections for such plan year and the 9 succeeding plan years, and the assumptions relied upon in making such projections;

"(VIII) the total value of all investment gains or losses during the plan year preceding such plan year;

"(IX) any significant reduction in the number of active participants during the plan year preceding such plan year, and the reason for such reduction;

"(X) a list of employers that withdrew from the plan in the plan year preceding such plan year, and the resulting reduction in contributions;

"(XI) a list of employers that paid withdrawal liability to the plan during the plan year preceding such plan year and, for each employer, a total assessment of the withdrawal liability paid, the annual payment amount, and the number of years remaining in the payment schedule with respect to such withdrawal liability;

"(XII) any material changes to benefits, accrual rates, or contribution rates during the plan year preceding such plan year;

"(XIII) any scheduled benefit increase or decrease in the plan year preceding such plan year having a material effect on liabilities of the plan;

"(XIV) details regarding any funding improvement plan or rehabilitation plan and updates to such plan;

"(XV) the number of participants and beneficiaries during the plan year preceding such plan year who are active participants, the number of participants and beneficiaries in pay status, and the number of terminated vested participants and beneficiaries;

"(XVI) the information contained on the most recent annual funding notice submitted by the plan under section 101(f) of the Employee Retirement Income Security Act of 1974;

"(XVII) the information contained on the most recent Department of Labor Form 5500 of the plan; and

"(XVIII) copies of the plan document and amendments, other retirement benefit or ancillary benefit plans relating to the plan and contribution obligations under such plans, a breakdown 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, 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 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),

(2) by striking "three premiums" and inserting "two premiums", and

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

(b) CONFORMING AMENDMENTS.—

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

(A) by striking subsection (d), and

(B) by redesignating subsections (e) through (j) as subsections (d) through (i), respectively.

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

(A) by striking "3 separate accounts for each of the premiums described in subsections (b), (c), and (d)" in paragraph (1) and inserting "2 separate accounts for each of the premiums described in subsections (b) and (c)", and

(B) by striking "or the unassigned beneficiaries premium account" in paragraph (3)(B).

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

"9704(e)(3)(B)(i)" and inserting "9704(d)(3)(B)(i)".

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

(A) by striking "the unassigned beneficiary premium under section 9704(a)(3) and" in subparagraph (B), and

(B) by striking "9704(i)(1)(B)" and inserting "9704(h)(1)(B)".

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

(A) by striking "9704(j)(2)" in subparagraph (A)(i) and inserting "9704(i)(2)",

(B) by striking "9704(j)(2)(B)" in subparagraph (B) and inserting "9704(i)(2)(B)", and

(C) by striking "9704(j)" and inserting "9704(i)".

(6) Paragraph (4) of section 9712(d) of such Code is amended by striking "9704(j)" and inserting "9704(i)".

(c) ELIMINATION OF ADDITIONAL BACKSTOP PREMIUM.—

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

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

(A) by striking subparagraph (B),

(B) by striking ", and" at the end of subparagraph (A) and inserting a period, and

(C) by striking "shall provide for—" and all that follows through "annual adjustments" and inserting "shall provide for annual adjustments".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after September 30, 2016.

SEC. 4. CUSTOMS USER FEES.

(a) IN GENERAL.—Section 13031(j)(3)(A) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(j)(3)(A)) is amended by striking "September 30, 2025" and inserting "May 6, 2026".

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

U.S.C. 3805 note) is amended by striking "September 30, 2025" and inserting "May 6, 2026".

○