

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

1 transfers under subparagraph (A), no amend-
2 ment of such plan which increases the liabilities
3 of the plan by reason of any increase in bene-
4 fits, any change in the accrual of benefits, or
5 any change in the rate at which benefits become
6 nonforfeitable under the plan may be adopted
7 unless the amendment is required as a condi-
8 tion of qualification under part I of subchapter
9 D of chapter 1 of the Internal Revenue Code of
10 1986.

11 “(D) TREATMENT OF TRANSFERS FOR
12 PURPOSES OF WITHDRAWAL LIABILITY UNDER
13 ERISA.—The amount of any transfer made
14 under subparagraph (A) (and any earnings at-
15 tributable thereto) shall be disregarded in deter-
16 mining the unfunded vested benefits of the
17 1974 UMWA Pension Plan and the allocation
18 of such unfunded vested benefits to an employer
19 for purposes of determining the employer’s
20 withdrawal liability under section 4201.

21 “(E) REQUIREMENT TO MAINTAIN CON-
22 TRIBUTION RATE.—A transfer under subpara-
23 graph (A) shall not be made for a fiscal year
24 unless the persons that are obligated to con-
25 tribute to the 1974 UMWA Pension Plan on

1 the date of the transfer are obligated to make
2 the contributions at rates that are no less than
3 those in effect on the date which is 30 days be-
4 fore the date of enactment of the Miners Pro-
5 tection Act of 2017.

6 “(F) ENHANCED ANNUAL REPORTING.—

7 “(i) IN GENERAL.—Not later than the
8 90th day of each plan year beginning after
9 the date of enactment of the Miners Pro-
10 tection Act of 2017, the trustees of the
11 1974 UMWA Pension Plan shall file with
12 the Secretary of the Treasury or the Sec-
13 retary’s delegate and the Pension Benefit
14 Guaranty Corporation a report (including
15 appropriate documentation and actuarial
16 certifications from the plan actuary, as re-
17 quired by the Secretary of the Treasury or
18 the Secretary’s delegate) that contains—

19 “(I) whether the plan is in en-
20 dangered or critical status under sec-
21 tion 305 of the Employee Retirement
22 Income Security Act of 1974 and sec-
23 tion 432 of the Internal Revenue Code
24 of 1986 as of the first day of such
25 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 Retirement
25 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-

1 retary’s delegate shall share the informa-
2 tion in the report under clause (i) with the
3 Secretary of Labor.

4 “(iv) PENALTY.—Any failure to file
5 the report required under clause (i) on or
6 before the date described in such clause
7 shall be treated as a failure to file a report
8 required to be filed under section 6058(a)
9 of the Internal Revenue Code of 1986, ex-
10 cept that section 6652(e) of such Code
11 shall be applied with respect to any such
12 failure by substituting ‘\$100’ for ‘\$25’.
13 The preceding sentence shall not apply if
14 the Secretary of the Treasury or the Sec-
15 retary’s delegate determines that reason-
16 able diligence has been exercised by the
17 trustees of such plan in attempting to
18 timely file such report.

19 “(G) 1974 UMWA PENSION PLAN DE-
20 FINED.—For purposes of this paragraph, the
21 term ‘1974 UMWA Pension Plan’ has the
22 meaning given the term in section 9701(a)(3)
23 of the Internal Revenue Code of 1986, but
24 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 (c) 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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