

114TH CONGRESS  
1ST SESSION

# S. 1714

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.

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## IN THE SENATE OF THE UNITED STATES

JULY 7, 2015

Mr. MANCHIN (for himself, Mrs. CAPITO, Mr. CASEY, Mr. BROWN, Mr. KAINE, Mr. WARNER, and Mr. ROBERTS) 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 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 2015”.

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

3 Section 402 of the Surface Mining Control and Rec-  
 4 lamation Act of 1977 (30 U.S.C. 1232) is amended—

5 (1) in subsection (h)(2)(C)—

6 (A) by striking “A transfer” and inserting  
 7 the following:

8 “(i) TRANSFER TO THE PLAN.—A  
 9 transfer”;

10 (B) by redesignating clauses (i) and (ii) as  
 11 subclauses (I) and (II), respectively, and mov-  
 12 ing such subclauses 2 ems to the right; and

13 (C) by striking the matter following such  
 14 subclause (II) (as so redesignated) and insert-  
 15 ing the following:

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

19 “(I) those beneficiaries actually  
 20 enrolled in the Plan as of the date of  
 21 the enactment of the Miners Protec-  
 22 tion Act of 2015, who are eligible to  
 23 receive health benefits under the Plan  
 24 on the first day of the calendar year  
 25 for which the transfer is made; and

1                   “(II) those beneficiaries whose  
2                   health benefits, defined as those bene-  
3                   fits payable directly following death or  
4                   retirement or upon a finding of dis-  
5                   ability by an employer in the bitu-  
6                   minous coal industry under a coal  
7                   wage agreement (defined in section  
8                   9701(b)(1) of the Internal Revenue  
9                   Code of 1986), would be denied or re-  
10                  duced as a result of a bankruptcy pro-  
11                  ceeding commenced in 2012.

12                  “(iii) ELIGIBILITY OF CERTAIN RETIR-  
13                  EES.—Individuals referred to in clause  
14                  (ii)(II) shall be treated as eligible to re-  
15                  ceive health benefits under the Plan.

16                  “(iv) REQUIREMENTS FOR TRANS-  
17                  FER.—The amount of the transfer other-  
18                  wise determined under this subparagraph  
19                  for a fiscal year shall be reduced by any  
20                  amount transferred for the fiscal year to  
21                  the Plan, to pay benefits required under  
22                  the Plan, from a voluntary employees’ ben-  
23                  eficiary association established as a result  
24                  of the bankruptcy proceeding described in  
25                  clause (ii).

1                   “(v) VEBA TRANSFER.—The admin-  
2                   istrator of such voluntary employees’ bene-  
3                   ficiary association shall transfer to the  
4                   Plan any amounts received as a result of  
5                   such bankruptcy proceeding, reduced by an  
6                   amount for administrative costs of such as-  
7                   sociation.”; and

8                   (2) in subsection (i)—

9                   (A) by redesignating paragraph (4) as  
10                  paragraph (5); and

11                  (B) by inserting after paragraph (3) the  
12                  following:

13                  “(4) ADDITIONAL AMOUNTS.—

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

24                   “(B) CESSATION OF TRANSFERS.—The  
25                   transfers described in subparagraph (A) shall

1           cease as of the first fiscal year beginning after  
2           the first plan year for which the funded per-  
3           centage (as defined in section 432(i)(2) of the  
4           Internal Revenue Code of 1986) of the 1974  
5           UMWA Pension Plan is at least 100 percent.

6           “(C) PROHIBITION ON BENEFIT IN-  
7           CREASES, ETC.—During a fiscal year in which  
8           the 1974 UMWA Pension Plan is receiving  
9           transfers under subparagraph (A), no amend-  
10          ment of such plan which increases the liabilities  
11          of the plan by reason of any increase in bene-  
12          fits, any change in the accrual of benefits, or  
13          any change in the rate at which benefits become  
14          nonforfeitable under the plan may be adopted  
15          unless the amendment is required as a condi-  
16          tion of qualification under part I of subchapter  
17          D of chapter 1 of the Internal Revenue Code of  
18          1986.

19          “(D) TREATMENT OF TRANSFERS FOR  
20          PURPOSES OF WITHDRAWAL LIABILITY UNDER  
21          ERISA.—The amount of any transfer made  
22          under subparagraph (A) (and any earnings at-  
23          tributable thereto) shall be disregarded in deter-  
24          mining the unfunded vested benefits of the  
25          1974 UMWA Pension Plan and the allocation

1 of such unfunded vested benefits to an employer  
2 for purposes of determining the employer's  
3 withdrawal liability under section 4201.

4 “(E) REQUIREMENT TO MAINTAIN CON-  
5 TRIBUTION RATE.—A transfer under subpara-  
6 graph (A) shall not be made for a fiscal year  
7 unless the persons that are obligated to con-  
8 tribute to the 1974 UMWA Pension Plan on  
9 the date of the transfer are obligated to make  
10 the contributions at rates that are no less than  
11 those in effect on the date which is 30 days be-  
12 fore the date of enactment of the Miners Pro-  
13 tection Act of 2015.

14 “(F) ENHANCED ANNUAL REPORTING.—

15 “(i) IN GENERAL.—Not later than the  
16 90th day of each plan year beginning after  
17 the date of enactment of the Miners Pro-  
18 tection Act of 2015, the trustees of the  
19 1974 UMWA Pension Plan shall file with  
20 the Pension Benefit Guaranty Corporation  
21 a report (including appropriate documenta-  
22 tion and actuarial certifications from the  
23 plan actuary, as required by the Secretary  
24 of Labor) 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(i)(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 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 Retire-  
9 ment 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 Labor or the Sec-

1           retary of the Treasury may require by  
2           request to such Corporation.

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

6           “(iii) INFORMATION SHARING.—The  
7           Pension Benefit Guaranty Corporation  
8           shall share the information in the report  
9           under clause (i) with the Secretary of the  
10          Treasury and the Secretary of Labor.

11          “(iv) EXCISE TAX.—If the report re-  
12          quired under clause (i) is not filed as of  
13          the date described in such clause, there  
14          shall be a tax on the 1974 UMWA Pension  
15          Plan in the amount of \$100 for each day  
16          occurring after such date and before the  
17          date on which such report is actually filed.  
18          The preceding sentence shall not apply if  
19          the Pension Benefit Guaranty Corporation  
20          determines that reasonable diligence has  
21          been exercised by the trustees of such plan  
22          in attempting to timely file such report.

23          “(G) 1974 UMWA PENSION PLAN DE-  
24          FINED.—For purposes of this paragraph, the  
25          term ‘1974 UMWA Pension Plan’ has the

1 meaning given the term in section 9701(a)(3)  
2 of the Internal Revenue Code of 1986, but  
3 without regard to the limitation on participation  
4 to individuals who retired in 1976 and there-  
5 after.”.

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