

116TH CONGRESS
1ST SESSION

S. 2788

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

NOVEMBER 6, 2019

Mr. MANCHIN (for himself, Mrs. CAPITO, Mr. McCONNELL, Mr. JONES, Mr. KAINE, Ms. DUCKWORTH, Mr. BROWN, Mr. CASEY, Mr. DURBIN, Mr. WARNER, Mr. PORTMAN, Ms. SINEMA, and Mr. VAN HOLLEN) 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 “Bipartisan American
5 Miners Act of 2019”.

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

2 (a) IN GENERAL.—Subsection (i) of section 402 of
3 the Surface Mining Control and Reclamation Act of 1977
4 (30 U.S.C. 1232) is amended—

5 (1) in paragraph (3)(A), by striking
6 “\$490,000,000” and inserting “\$750,000,000”;

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

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

11 “(4) ADDITIONAL AMOUNTS.—

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

22 “(B) CESSATION OF TRANSFERS.—The
23 transfers described in subparagraph (A) shall
24 cease as of the first fiscal year beginning after
25 the first plan year for which the funded per-
26 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) CRITICAL STATUS TO BE MAIN-
 17 TAINED.—Until such time as the 1974 UMWA
 18 Pension Plan ceases to be eligible for the trans-
 19 fers described in subparagraph (A)—

20 “(i) the Plan shall be treated as if it
 21 were in critical status for purposes of sec-
 22 tions 412(b)(3), 432(e)(3), and
 23 4971(g)(1)(A) of the Internal Revenue
 24 Code of 1986 and sections 302(b)(3) and

1 305(e)(3) of the Employee Retirement In-
 2 come Security Act;

3 “(ii) the Plan shall maintain and com-
 4 ply with its rehabilitation plan under sec-
 5 tion 432(e) of such Code and section
 6 305(e) of such Act, including any updates
 7 thereto; and

8 “(iii) the provisions of subsections (c)
 9 and (d) of section 432 of such Code and
 10 subsections (c) and (d) of section 305 of
 11 such Act shall not apply.

12 “(E) TREATMENT OF TRANSFERS FOR
 13 PURPOSES OF WITHDRAWAL LIABILITY UNDER
 14 ERISA.—The amount of any transfer made
 15 under subparagraph (A) (and any earnings at-
 16 tributable thereto) shall be disregarded in deter-
 17 mining the unfunded vested benefits of the
 18 1974 UMWA Pension Plan and the allocation
 19 of such unfunded vested benefits to an employer
 20 for purposes of determining the employer’s
 21 withdrawal liability under section 4201 of the
 22 Employee Retirement Income Security Act of
 23 1974.

24 “(F) REQUIREMENT TO MAINTAIN CON-
 25 TRIBUTION RATE.—A transfer under subpara-

graph (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 Bipartisan American Miners Act of 2019.

“(G) ENHANCED ANNUAL REPORTING.—

“(i) IN GENERAL.—Not later than the 90th day of each plan year beginning after the date of enactment of the Bipartisan American Miners Act of 2019, 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

1 Income Security Act of 1974 and sec-
2 tion 432 of the Internal Revenue Code
3 of 1986 as of the first day of such
4 plan year;

5 “(II) the funded percentage (as
6 defined in section 432(j)(2) of such
7 Code) as of the first day of such plan
8 year, and the underlying actuarial
9 value of assets and liabilities taken
10 into account in determining such per-
11 centage;

12 “(III) the market value of the as-
13 sets of the plan as of the last day of
14 the plan year preceding such plan
15 year;

16 “(IV) the total value of all con-
17 tributions made during the plan year
18 preceding such plan year;

19 “(V) the total value of all bene-
20 fits paid during the plan year pre-
21 ceding such plan year;

22 “(VI) cash flow projections for
23 such plan year and either the 6 or 10
24 succeeding plan years, at the election
25 of the trustees, and the assumptions

1 relied upon in making such projec-
2 tions;

3 “(VII) funding standard account
4 projections for such plan year and the
5 9 succeeding plan years, and the as-
6 sumptions relied upon in making such
7 projections;

8 “(VIII) the total value of all in-
9 vestment gains or losses during the
10 plan year preceding such plan year;

11 “(IX) any significant reduction
12 in the number of active participants
13 during the plan year preceding such
14 plan year, and the reason for such re-
15 duction;

16 “(X) a list of employers that
17 withdrew from the plan in the plan
18 year preceding such plan year, and
19 the resulting reduction in contribu-
20 tions;

21 “(XI) a list of employers that
22 paid withdrawal liability to the plan
23 during the plan year preceding such
24 plan year and, for each employer, a
25 total assessment of the withdrawal li-

1 ability paid, the annual payment
2 amount, and the number of years re-
3 maining in the payment schedule with
4 respect to such withdrawal liability;

5 “(XII) any material changes to
6 benefits, accrual rates, or contribution
7 rates during the plan year preceding
8 such plan year;

9 “(XIII) any scheduled benefit in-
10 crease or decrease in the plan year
11 preceding such plan year having a
12 material effect on liabilities of the
13 plan;

14 “(XIV) details regarding any
15 funding improvement plan or rehabili-
16 tation plan and updates to such plan;

17 “(XV) the number of partici-
18 pants and beneficiaries during the
19 plan year preceding such plan year
20 who are active participants, the num-
21 ber of participants and beneficiaries in
22 pay status, and the number of termi-
23 nated vested participants and bene-
24 ficiaries;

1 “(XVI) the information contained
2 on the most recent annual funding no-
3 tice submitted by the plan under sec-
4 tion 101(f) of the Employee Retirement
5 Income Security Act of 1974;

6 “(XVII) the information con-
7 tained on the most recent Department
8 of Labor Form 5500 of the plan; and

9 “(XVIII) copies of the plan docu-
10 ment and amendments, other retire-
11 ment benefit or ancillary benefit plans
12 relating to the plan and contribution
13 obligations under such plans, a break-
14 down of administrative expenses of
15 the plan, participant census data and
16 distribution of benefits, the most re-
17 cent actuarial valuation report as of
18 the plan year, copies of collective bar-
19 gaining agreements, and financial re-
20 ports, and such other information as
21 the Secretary of the Treasury or the
22 Secretary’s delegate, in consultation
23 with the Secretary of Labor and the
24 Director of the Pension Benefit Guar-
25 anty Corporation, may require.

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

4 “(iii) INFORMATION SHARING.—The
5 Secretary of the Treasury or the Sec-
6 retary’s delegate shall share the informa-
7 tion in the report under clause (i) with the
8 Secretary of Labor.

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

24 “(H) 1974 UMWA PENSION PLAN DE-
25 FINED.—For purposes of this paragraph, the

1 term ‘1974 UMWA Pension Plan’ has the
 2 meaning given the term in section 9701(a)(3)
 3 of the Internal Revenue Code of 1986, but
 4 without regard to the limitation on participation
 5 to individuals who retired in 1976 and there-
 6 after.”.

7 (b) EFFECTIVE DATES.—

8 (1) IN GENERAL.—The amendments made by
 9 this section shall apply to fiscal years beginning
 10 after September 30, 2016.

11 (2) REPORTING REQUIREMENTS.—Section
 12 402(i)(4)(G) of the Surface Mining Control and Rec-
 13 lamation Act of 1977 (30 U.S.C. 1232(i)(4)(G)), as
 14 added by this section, shall apply to plan years be-
 15 ginning after the date of the enactment of this Act.

16 **SEC. 3. INCLUSION IN MULTIEMPLOYER HEALTH BENEFIT**
 17 **PLAN.**

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

21 (1) by striking “the Health Benefits for Miners
 22 Act of 2017” both places it appears in clause (ii)
 23 and inserting “the Bipartisan American Miners Act
 24 of 2019”;

1 (2) by striking “, would be denied or reduced
 2 as a result of a bankruptcy proceeding commenced
 3 in 2012 or 2015” in clause (ii)(II) and inserting “or
 4 a related coal wage agreement, would be denied or
 5 reduced as a result of a bankruptcy proceeding com-
 6 menced in 2012, 2015, 2018, or 2019”;

7 (3) by striking “and” at the end of clause
 8 (ii)(I), by striking the period at the end of clause
 9 (ii)(II) and inserting “; and”, and by inserting after
 10 clause (ii)(II) the following new subclause:

11 “(III) the cost of administering
 12 the resolution of disputes process ad-
 13 ministered (as of the date of the en-
 14 actment of the Bipartisan American
 15 Miners Act of 2019) by the Trustees
 16 of the Plan.”,

17 (4) by striking “January 1, 2017” in clause (ii)
 18 and inserting “January 1, 2019”; and

19 (5) by adding at the end the following new
 20 clause:

21 “(vi) RELATED COAL WAGE AGREE-
 22 MENT.—For purposes of clause (ii), the
 23 term ‘related coal wage agreement’ means
 24 an agreement between the United Mine

1 Workers of America and an employer in
 2 the bituminous coal industry that—

3 “(I) is a signatory operator; or

4 “(II) is or was a debtor in a
 5 bankruptcy proceeding that was con-
 6 solidated, administratively or other-
 7 wise, with the bankruptcy proceeding
 8 of a signatory operator or a related
 9 person to a signatory operator (as
 10 those terms are defined in section
 11 9701(c) of the Internal Revenue Code
 12 of 1986).”.

13 **SEC. 4. REDUCTION IN MINIMUM AGE FOR ALLOWABLE IN-**
 14 **SERVICE DISTRIBUTIONS.**

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

18 (b) APPLICATION TO GOVERNMENTAL SECTION
 19 457(b) PLANS.—Clause (i) of section 457(d)(1)(A) of the
 20 Internal Revenue Code of 1986 is amended by inserting
 21 “(in the case of a plan maintained by an employer de-
 22 scribed in subsection (e)(1)(A), age 59½)” before the
 23 comma at the end.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2019.

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