

115TH CONGRESS
1ST SESSION

H. R. 3913

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 HOUSE OF REPRESENTATIVES

OCTOBER 3, 2017

Mr. MCKINLEY (for himself, Mr. WELCH, Mr. BRADY of Pennsylvania, Mr. POCAN, Mr. THOMPSON of Mississippi, Ms. KAPTUR, Mr. RYAN of Ohio, Mr. YARMUTH, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. SCOTT of Virginia, Mr. NORCROSS, Mr. MOONEY of West Virginia, Mr. JENKINS of West Virginia, Mr. JOHNSON of Ohio, and Mrs. BUSTOS) 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 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “American Miners Pen-
3 sion Act of 2017”.

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

5 (a) IN GENERAL.—Subsection (i) of section 402 of
6 the Surface Mining Control and Reclamation Act of 1977
7 (30 U.S.C. 1232) is amended—

8 (1) by redesignating paragraph (4) as para-
9 graph (5); and

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

12 “(4) ADDITIONAL AMOUNTS.—

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

23 “(B) CESSATION OF TRANSFERS.—The
24 transfers described in subparagraph (A) shall
25 cease as of the first fiscal year beginning after
26 the first plan year for which the funded per-

1 centage (as defined in section 432(i)(2) of the
2 Internal Revenue Code of 1986) of the 1974
3 UMWA Pension Plan is at least 100 percent,
4 taking fully into account all outstanding liabil-
5 ities for loans made pursuant to subparagraph
6 (D).

7 “(C) PROHIBITION ON BENEFIT IN-
8 CREASES, ETC.—During a fiscal year in which
9 the 1974 UMWA Pension Plan is receiving
10 transfers under subparagraph (A), no amend-
11 ment of such plan which increases the liabilities
12 of the plan by reason of any increase in bene-
13 fits, any change in the accrual of benefits, or
14 any change in the rate at which benefits become
15 nonforfeitable under the plan may be adopted
16 unless the amendment is required as a condi-
17 tion of qualification under part I of subchapter
18 D of chapter 1 of the Internal Revenue Code of
19 1986.

20 “(D) TREATMENT OF TRANSFERS FOR
21 PURPOSES OF WITHDRAWAL LIABILITY UNDER
22 ERISA.—If the 1974 UMWA Pension Plan is in
23 critical, seriously endangered, or endangered
24 status (within the meaning of section 432 of
25 the Internal Revenue Code of 1986 and section

1 305 of the Employee Retirement Income Secu-
2 rity Act of 1974) for a plan year beginning in
3 a fiscal year, the amount of any transfer made
4 under subparagraph (A) for such fiscal year
5 (and any earnings attributable thereto) shall be
6 disregarded in determining the unfunded vested
7 benefits of the 1974 UMWA Pension Plan and
8 the allocation of such unfunded vested benefits
9 to an employer for purposes of determining the
10 employer’s withdrawal liability under section
11 4201 of the Employee Retirement Income Secu-
12 rity Act of 1974.

13 “(E) ADDITIONAL LOAN AUTHORITY.—

14 “(i) IN GENERAL.—In addition to the
15 amounts transferred under any provision
16 other than this subparagraph, and without
17 regard to the limitations described in para-
18 graph (3), each year beginning with fiscal
19 year 2018 the Secretary of the Treasury
20 shall transfer to the 1974 UMWA Pension
21 Plan as a loan the amount certified by the
22 Trustees of the 1974 UMWA Pension Plan
23 to be necessary to prevent the insolvency of
24 such plan.

1 “(ii) ANNUAL CAP.—The amount of
2 each annual loan under clause (i) shall not
3 exceed \$600,000,000.

4 “(iii) LOAN TERMS.—

5 “(I) IN GENERAL.—Each such
6 annual loan shall bear interest at the
7 rate of 1 percent per annum, and each
8 shall be treated as a separate loan.

9 “(II) REPAYMENT.—For the first
10 10 years of each such loan, only the
11 interest on such loan shall be repay-
12 able, and payments on the principal
13 shall be distributed over the 30-year
14 period beginning with the 11th year of
15 the loan.

16 “(III) ADDITIONAL PAYMENTS.—
17 Notwithstanding subclauses (I) and
18 (II), to the extent that the Trustees of
19 the 1974 UMWA Pension Plan certify
20 that such plan has surplus assets
21 which are not needed to pay benefits
22 under the plan or to ensure the future
23 solvency of the plan, such surplus as-
24 sets shall be applied towards the re-
25 payment of the oldest outstanding

1 loan made pursuant to this subpara-
2 graph.

3 “(IV) MAINTENANCE OF CER-
4 TAIN MEASURES UNDER REHABILITA-
5 TION PLAN.—Each loan under this
6 subparagraph shall specify as a condi-
7 tion of the loan that, if the 1974
8 UMWA Pension Plan emerges from
9 critical status (within the meaning of
10 section 432 of the Internal Revenue
11 Code of 1986 and section 305 of the
12 Employee Retirement Income Security
13 Act of 1974), the Plan will continue
14 to meet the requirements of section
15 432(b)(3) of such Code and 305(b)(3)
16 of such Act, the measures adopted
17 pursuant to section 432(e)(3)(A)(ii) of
18 such Code and section
19 305(e)(3)(A)(ii) of such Act will re-
20 main in place, and section 412(b)(3)
21 of such Code and section 302(b)(3) of
22 such Act shall continue to apply to
23 the Plan.

24 “(iv) ANNUAL CERTIFICATION.—Each
25 year beginning with fiscal year 2018, the

1 Trustees of the 1974 UMWA Pension Plan
2 shall certify the amount required to be
3 loaned pursuant to clause (i) and the
4 amount of any surplus assets described in
5 clause (iii)(III). Such certification shall
6 also include a certification that—

7 “(I) such loan amount, in com-
8 bination with future amounts available
9 to the Plan, is projected to be suffi-
10 cient to maintain indefinitely the sol-
11 vency of the plan (without regard to
12 any outstanding loan balance); and

13 “(II) the Plan is projected to be
14 able to repay the amount of such loan,
15 with interest, as required under clause
16 (iii).

17 The preceding sentence shall not apply
18 with respect to any year in which the
19 amount determined by the Trustees under
20 clause (i) is \$0 and no loans under this
21 subparagraph remain outstanding.

22 “(v) PLAN INSOLVENCY OR DE-
23 FAULT.—If the 1974 UMWA Pension Plan
24 becomes insolvent in any year despite re-
25 ceiving loan amounts under this subpara-

1 graph, or if the Plan is unable to make
2 any payment on a loan under this subpara-
3 graph when due, employers contributing to
4 the Plan and employer associations with
5 members contributing to the Plan shall not
6 be subject to any new or increased liability,
7 including any increased fee, expense, con-
8 tribution, assessment, or surcharge.

9 “(vi) INSOLVENCY.—For purposes of
10 this subparagraph, the term ‘insolvency’
11 has the meaning given such term by sec-
12 tion 418E(b)(1) of the Internal Revenue
13 Code of 1986.

14 “(vii) INITIAL LOAN.—The first loan
15 under this subparagraph shall be made not
16 later than 60 days after the date of enact-
17 ment of the American Miners Pension Act
18 of 2017.

19 “(F) ENHANCED ANNUAL REPORTING.—

20 “(i) IN GENERAL.—Not later than the
21 90th day of each plan year beginning after
22 the date of enactment of the American
23 Miners Pension Act of 2017, the trustees
24 of the 1974 UMWA Pension Plan shall file
25 with the Secretary of the Treasury or the

1 Secretary's delegate and the Pension Ben-
2 efit Guaranty Corporation a report (includ-
3 ing appropriate documentation and actu-
4 arial certifications from the plan actuary,
5 as required by the Secretary of the Treas-
6 ury or the Secretary's delegate) that con-
7 tains—

8 “(I) whether the plan is in en-
9 dangered or critical status under sec-
10 tion 305 of the Employee Retirement
11 Income Security Act of 1974 and sec-
12 tion 432 of the Internal Revenue Code
13 of 1986 as of the first day of such
14 plan year;

15 “(II) the funded percentage (as
16 defined in section 432(i)(2) of such
17 Code) as of the first day of such plan
18 year, and the underlying actuarial
19 value of assets and liabilities taken
20 into account in determining such per-
21 centage;

22 “(III) the market value of the as-
23 sets of the plan as of the last day of
24 the plan year preceding such plan
25 year;

1 “(IV) the total value of all con-
2 tributions made during the plan year
3 preceding such plan year;

4 “(V) the total value of all bene-
5 fits paid during the plan year pre-
6 ceding such plan year;

7 “(VI) cash flow projections for
8 such plan year and either the 6 or 10
9 succeeding plan years, at the election
10 of the trustees, and the assumptions
11 relied upon in making such projec-
12 tions;

13 “(VII) funding standard account
14 projections for such plan year and the
15 9 succeeding plan years, and the as-
16 sumptions relied upon in making such
17 projections;

18 “(VIII) the total value of all in-
19 vestment gains or losses during the
20 plan year preceding such plan year;

21 “(IX) any significant reduction
22 in the number of active participants
23 during the plan year preceding such
24 plan year, and the reason for such re-
25 duction;

1 “(X) a list of employers that
2 withdrew from the plan in the plan
3 year preceding such plan year, and
4 the resulting reduction in contribu-
5 tions;

6 “(XI) a list of employers that
7 paid withdrawal liability to the plan
8 during the plan year preceding such
9 plan year and, for each employer, a
10 total assessment of the withdrawal li-
11 ability paid, the annual payment
12 amount, and the number of years re-
13 maining in the payment schedule with
14 respect to such withdrawal liability;

15 “(XII) any material changes to
16 benefits, accrual rates, or contribution
17 rates during the plan year preceding
18 such plan year;

19 “(XIII) any scheduled benefit in-
20 crease or decrease in the plan year
21 preceding such plan year having a
22 material effect on liabilities of the
23 plan;

1 “(XIV) details regarding any
2 funding improvement plan or rehabili-
3 tation plan and updates to such plan;

4 “(XV) the number of partici-
5 pants and beneficiaries during the
6 plan year preceding such plan year
7 who are active participants, the num-
8 ber of participants and beneficiaries in
9 pay status, and the number of termi-
10 nated vested participants and bene-
11 ficiaries;

12 “(XVI) the information contained
13 on the most recent annual funding no-
14 tice submitted by the plan under sec-
15 tion 101(f) of the Employee Retire-
16 ment Income Security Act of 1974;

17 “(XVII) the information con-
18 tained on the most recent Department
19 of Labor Form 5500 of the plan; and

20 “(XVIII) copies of the plan docu-
21 ment and amendments, other retire-
22 ment benefit or ancillary benefit plans
23 relating to the plan and contribution
24 obligations under such plans, a break-
25 down of administrative expenses of

1 the plan, participant census data and
2 distribution of benefits, the most re-
3 cent actuarial valuation report as of
4 the plan year, copies of collective bar-
5 gaining agreements, and financial re-
6 ports, and such other information as
7 the Secretary of the Treasury or the
8 Secretary's delegate, in consultation
9 with the Secretary of Labor and the
10 Director of the Pension Benefit Guar-
11 anty Corporation, may require.

12 “(ii) ELECTRONIC SUBMISSION.—The
13 report required under clause (i) shall be
14 submitted electronically.

15 “(iii) INFORMATION SHARING.—The
16 Secretary of the Treasury or the Sec-
17 retary's delegate shall share the informa-
18 tion in the report under clause (i) with the
19 Secretary of Labor.

20 “(iv) PENALTY.—Any failure to file
21 the report required under clause (i) on or
22 before the date described in such clause
23 shall be treated as a failure to file a report
24 required to be filed under section 6058(a)
25 of the Internal Revenue Code of 1986, ex-

1 cept that section 6652(e) of such Code
2 shall be applied with respect to any such
3 failure by substituting ‘\$100’ for ‘\$25’.
4 The preceding sentence shall not apply if
5 the Secretary of the Treasury or the Sec-
6 retary’s delegate determines that reason-
7 able diligence has been exercised by the
8 trustees of such plan in attempting to
9 timely file such report.

10 “(G) 1974 UMWA PENSION PLAN DE-
11 FINED.—For purposes of this paragraph, the
12 term ‘1974 UMWA Pension Plan’ has the
13 meaning given the term in section 9701(a)(3)
14 of the Internal Revenue Code of 1986, but
15 without regard to the limitation on participation
16 to individuals who retired in 1976 and there-
17 after.”.

18 (b) COORDINATION WITH TAXATION OF UNRELATED
19 BUSINESS INCOME.—Subparagraph (A) of section
20 514(c)(6) of the Internal Revenue Code of 1986 is amend-
21 ed—

22 (1) by striking “or” at the end of clause (i);

23 (2) by striking the period at the end of clause

24 (ii)(II) and inserting “, or”; and

1 (3) by adding at the end the following new
2 clause:

3 “(iii) indebtedness with respect to the
4 1974 UMWA Pension Plan (as defined in
5 section 402(i)(4)(G) of the Surface Mining
6 Control and Reclamation Act of 1977)
7 under a loan made by the Secretary pursu-
8 ant to section 402(i)(4)(E) of the Surface
9 Mining Control and Reclamation Act of
10 1977.”.

11 (c) EFFECTIVE DATE.—The amendments made by
12 this section shall apply to fiscal years beginning after Sep-
13 tember 30, 2016.

○