

S. 5

To amend the Employee Retirement Income Security Act of 1974 to establish an eighth fund to provide special financial assistance for multiemployer pension plans in critical status and critical and declining status and increase premium rates, to amend the Internal Revenue Code of 1986 to accommodate for such changes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2021

Mr. JOHNSON-KOAY (for himself, Ms. LONG of Jackson, and Ms. TOWARD) introduced the following bill;

A BILL

To amend the Employee Retirement Income Security Act of 1974 to establish an eighth fund to provide special financial assistance for multiemployer pension plans in critical status and critical and declining status and increase premium rates, to amend the Internal Revenue Code of 1986 to accommodate for such changes, and for other purposes.

Be it enacted by the Senate and House of Representatives in Congress Assembled,

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as—

(1) the “Relief and Assistance for Multiemployer Pensions Act of 2021”,
or;

(2) the “R.A.M.P. Act of 2021”.

SEC. 2 FINDINGS

Congress finds the following:

(1) The Pension Benefit Guaranty Corporation insures about 23.5 million under single-employer pension plans and about 10.9 million people under multiemployer pension plans;

(2) The Pension Benefit Guaranty Corporation’s Fiscal Year (FY) 2020 Annual Report found that the multiemployer insurance program operating under the corporation will become insolvent sometime in FY 2026;

(3) Over 70 multiemployer pension plans which the Pension Benefit Guaranty Corporation insures have already become insolvent, and around 130 are expected to become insolvent in the next decade if the current course continues;

(4) Multiemployer pension plans insured by the Pension Benefit Guaranty Corporation would be greatly affected by a PBGC Multiemployer Program insolvency as only a small fraction of the current guarantee is funded by premiums;

(5) As a result of a PBGC Multiemployer Program insolvency, current recipients of those plans insured under said program could see benefit levels drop by as much as 90%, however all plans would be affected by insolvency;

(6) The impact of a drop in benefit levels as a result of program insolvency is difficult to assess as current and future recipients are fairly evenly dispersed across the country, however some areas would likely be affected to a greater degree as a result of a difference in the amount of reliance, in regards to spending, etc., on such recipients in local economies;

SEC. 3 SEVERABILITY

(a) SEVERABILITY.—Should any provision of this Act be deemed invalid or unconstitutional for any reason in a court with relevant jurisdiction, the rest of this Act, and the application of the remaining provisions, shall not be affected.

SEC. 4 AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) IN GENERAL.—Section 4005 of the Employee Retirement Income Security Act of 1974 ([29 U.S.C. 1305](#)) is amended by adding at the end the following:

“(i) Establishment of eighth fund; purpose, availability, etc.

“(1) An eighth fund shall be established for special financial assistance to multiemployer pension plans, as provided under section 4262, and to pay for necessary administrative and operating expenses of the corporation relating to such assistance.

“(2) There is appropriated from the general fund such amounts as are necessary for the costs of providing financial assistance under section 4262 and necessary administrative and operating expenses of the corporation. The fund established under this subsection shall be provided with amounts determined appropriate by the Secretary of the Treasury in conjunction with the Director of the Pension Benefit Guaranty Corporation until no later than September 30, 2030.”

(b) The Employee Retirement Income Security Act of 1974 is amended by inserting after section 4261 of such Act ([29 U.S.C. 1431](#)) the following:

“SEC. 4262 SPECIAL FINANCIAL ASSISTANCE BY THE CORPORATION.

“(a) SPECIAL FINANCIAL ASSISTANCE.—

“(1) IN GENERAL.—The corporation shall provide special financial assistance to an eligible multiemployer plan under this section upon the application of a plan sponsor of such a plan for such assistance.

“(2) INAPPLICABILITY OF CERTAIN REPAYMENT OBLIGATION.—A plan receiving special financial assistance

pursuant to this section shall not be subject to repayment obligations with respect to such special financial assistance.

“(b) ELIGIBLE MULTIEMPLOYER PLANS.—

“(1) IN GENERAL.—For purposes of this section, a multiemployer plan is an eligible multiemployer plan if—

“(A) the plan is in critical and declining status, as defined in section 305(b)(6), in any plan year beginning in 2020 through 2025;

“(B) a suspension of benefits has been approved with respect to the plan under section 305(e)(9) as of the date of enactment of this section;

“(C) in any plan year beginning in 2020 through 2025, the plan is certified by the plan actuary to be in critical status, as defined in section 205(b)(2), has a modified funded percentage of less than 40 percent, and has a ratio of active to inactive participants less than 2 to 3; or

“(D) the plan became insolvent for purposes of [section 418E](#) of the Internal Revenue Code of 1986 after December 16, 2014, and has remained so insolvent and has not been terminated as of the date of enactment of this section.

“(2) MODIFIED FUNDED PERCENTAGE.—For purposes of paragraph (1)(C), the term ‘modified funded percentage’ means the percentage equal to a fraction the numerator of which is current value of plan assets, as defined in section 3(26) of such Act, and the denominator of which is current liabilities, as defined in section 431(c)(6)(D) of such Code and section 304(c)(6)(D) of such Act.

“(c) APPLICATIONS FOR SPECIAL FINANCIAL ASSISTANCE.—Within 90 days of the date of enactment of this section,

the corporation shall issue regulations or guidance setting forth requirements for special financial assistance applications under this section. In such regulations or guidance, the corporation shall—

“(1) ensure an effective application process by providing the necessary materials for special financial assistance applications directly to any multiemployer plan which requests such materials;

“(2) require the multiemployer plan to—

“(A) specify whether it is applying for financial assistance under section 4261(d) of the Employer Retirement Income Security Act of 1974 ([29 U.S.C. 1431\(d\)](#)) alongside special financial assistance;

“(B) specify for what purpose proceeds from special financial assistance will be utilized;

“(C) demonstrate that the plan will be able to pay benefits with proceeds from special financial assistance;

“(D) except as provided in subparagraph (E), maintain benefit levels as planned with no unplanned increases, disallow any employer participating in the plan to reduce its contributions, and decline any collective bargaining agreement which provides for reduced contribution rates; and

“(E) in the case in which a suspension of benefits has been approved under section 432(e)(9) of the Internal Revenue Code of 1986 and section 305(e)(9) of the Employee Retirement Income Security Act of 1974 before application for special financial assistance, reinstate suspended benefits at the earliest point of convenience or reverse any decision to suspend benefits that has yet to be implemented

“(3) specify effective dates for transfers of special financial assistance following approval of an application, based on the effective date of the supporting actuarial analysis and the date on which the application is submitted; and

“(4) provide for an alternative application for special financial assistance under this section which may be used by a plan that has been approved for partition under section 4233 before the date of enactment of this section.

“(d) PLANS REQUIRED TO APPLY FOR SPECIAL FINANCIAL ASSISTANCE.—A plan with which a suspension of benefits has been approved under [section 432\(e\)\(9\)](#) of the Internal Revenue Code of 1986 and section 305(e)(9) of the Employee Retirement Income Security Act of 1974 or under section 418E of such Code before the date of enactment of this section shall be required to apply for special financial assistance under this section.

“(e) TEMPORARY PRIORITY CONSIDERATION OF APPLICATIONS.—

“(1) IN GENERAL.—The corporation may specify in regulations or guidance under subsection (c) that, during a period no longer than the first 2 years following the date of enactment of this section, applications may not be filed by an eligible multiemployer plan unless—

“(A) the eligible multiemployer plan is insolvent or is likely to become insolvent within 5 years of the date of enactment of this section;

“(B) the corporation projects the eligible multiemployer plan to have a present value of financial assistance payments under section 4261 that exceeds \$1,000,000,000 if the special financial assistance is not ordered;

“(C) the eligible multiemployer plan has implemented benefit suspensions under section 305(e)(9) as of the date of the enactment of this section; or

“(D) the corporation determines it appropriate based on other similar circumstances.

“(f) ACTUARIAL ASSUMPTIONS.—

“(1) ELIGIBILITY.—In evaluating eligibility for special financial assistance, the corporation shall accept the determinations and demonstrations that a plan is in critical status or critical and declining status (with the meaning of section 305(b)) for certifications of plan status completed before May 31, 2021, unless the corporation, in consultation with the Director of the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary of Labor, concludes that determinations and demonstrations in the application were clearly erroneous. For certifications of plan status completed after June 1, 2021, a plan shall determine whether it is in critical or critical and declining status for purposes of eligibility for special financial assistance by using the assumptions that the plan used in its most recently completed certification of plan status before May 31, 2021, unless such assumptions (excluding the plan’s interest rate) are unreasonable.

“(2) AMOUNT OF FINANCIAL ASSISTANCE.—In determining the amount of special financial assistance in its application, an eligible multiemployer plan shall—

“(A) use the interest rate used by the plan in its most recently completed certification of plan status before May 31, 2021, provided that such interest rate may not exceed the interest rate limit; and

“(B) for other assumptions, use the assumptions that the plan used in its most recently completed certification of plan status before May 31, 2021, unless such assumptions are unreasonable.

“(3) INTEREST RATE LIMIT.—The interest rate limit for purposes of this subsection is the rate specified in section

303(h)(2)(C)(iii) (disregarding modifications made under clause (iv) of such section) for the month in which the application for special financial assistance is filed by the eligible multiemployer plan or the 3 preceding months, with such specified rate increased by 200 basis points.

“(4) CHANGES IN ASSUMPTIONS.—If a plan determines that use of one or more prior assumptions is unreasonable, the plan may propose in its application to change such assumptions, provided that the plan discloses such changes in its application and describes why such assumptions are no longer reasonable. The corporation shall accept such changed assumptions unless it, in consultation with the Director of the PBGC, the Secretary of the Treasury, and the Secretary of Labor, determines the changes are unreasonable, individually or in the aggregate. The plan may not propose a change to the interest rate otherwise required under this subsection for eligibility or financial assistance amount.

“(g) APPLICATION DEADLINE.—Any application by a plan for special financial assistance under this section shall be submitted to the corporation (and, in the case of a plan to which [section 432\(k\)\(1\)\(D\)](#) of the Internal Revenue Code of 1986 applies, to the Secretary of the Treasury) no later than December 31, 2025, and any revised application for special financial assistance shall be submitted no later than December 31, 2026.

“(h) DETERMINATIONS ON APPLICATIONS.—An application shall be deemed approved if the corporation fails to approve or deny any application under this subsection which is timely filed in accordance with the regulations or guidance issued under subsection (c) within 90 days after the submission of such application unless the corporation notifies the plan within such 90 days of an application error, incompleteness, or containment of determinations or demonstrations deemed clearly erroneous, as defined in subsection (g). If a plan is denied assistance under this subsection, the plan may submit a revised application under this section. Any revised application for special financial assistance submitted by a plan shall be deemed approved unless the corporation notifies the plan within 90 days of the filing of

the revised application that the application is incomplete, any proposed change or assumption is unreasonable, or the plan is not eligible under this section. Special financial assistance issued by the corporation shall be effective on a date determined by the corporation, but no later than 1 year after a plan's special financial assistance application is approved by the corporation or deemed approved. The corporation shall not pay any special financial assistance after September 30, 2030.

“(i) MANNER OF PAYMENT.—The payment made by the corporation to an eligible multiemployer plan under this section shall be made as a single, lump sum payment.

“(j) AMOUNT AND MANNER OF SPECIAL FINANCIAL ASSISTANCE.—

“(1) IN GENERAL.—Special financial assistance under this section shall be a transfer of funds in the amount necessary as demonstrated by the plan sponsor on the application for such special financial assistance, in accordance with the requirements described in subsection (k). Special financial assistance shall be paid to such plan as soon as practicable upon approval of the application by the corporation.

“(2) NO CAP.—Special financial assistance granted by the corporation under this section shall not be capped by the guarantee under 4022A.

“(k) DETERMINATION OF AMOUNT OF SPECIAL FINANCIAL ASSISTANCE.—

“(1) IN GENERAL.—The amount of financial assistance provided to a multiemployer plan eligible for such assistance under this section shall be such amount required for the plan to pay all benefits due during the period beginning on the date of payment of the special financial assistance payment under this section and ending on the last day of the plan year ending in 2051, with no reduction in a participant's or beneficiary's accrued benefit as of the date of enactment of this section, except to the extent of a reduction in accordance with section 305(e)(8)

adopted prior to the plan's application for special financial assistance under this section, and taking into account the reinstatement of benefits required under subsection (l).

“(2) PROJECTIONS.—The funding projections for purposes of this section shall be performed on a deterministic basis.

“(l) SUSPENDED BENEFITS.—The Secretary, in coordination with the Secretary of the Treasury and in consultation with the Director of the Pension Benefit Guaranty Corporation, shall ensure that any multiemployer plan receiving special financial assistance under this section reverses a suspension of benefits and reinstates such benefits for participants and beneficiaries, suspended under section 305(e)(9) of the Employee Retirement Income Security Act of 1974 ([29 U.S.C. 1085\(e\)\(9\)](#)) and [section 432\(e\)\(9\)](#) of the Internal Revenue Code of 1986 or section 4245(a) in accordance with guidance issued by the Secretary of the Treasury pursuant to section 432(k)(1)(B), in the first month in which the plan receives special financial assistance by the corporation. The plan shall provide payments equal to the amount of benefits previously before suspension to any participants or beneficiaries in pay status as of the effective date of the special financial assistance, payable, as determined by the eligible multiemployer plan—

“(1) as a lump sum within 3 months of such effective date;

or

“(2) in equal monthly installments over a period of 5 years, commencing within 3 months of such effective date, with no adjustment for interest.

“(m) RESTRICTIONS ON THE USE OF SPECIAL FINANCIAL ASSISTANCE.—Special financial assistance received under this section and any earnings thereon may be used by an eligible multiemployer plan to make benefit payments and pay plan expenses. Special financial assistance and any earnings on such assistance shall be segregated from other plan assets. Special financial assistance shall be invested by plans in investment-grade bonds or other investments as permitted by the corporation.

“(n) CONDITIONS ON PLANS RECEIVING SPECIAL FINANCIAL ASSISTANCE.—

“(1) IN GENERAL.—The corporation, in consultation with the Secretary of the Treasury, may impose, by regulation or other guidance, reasonable conditions on an eligible multiemployer plan that receives special financial assistance relating to increases in future accrual rates and any retroactive benefit improvements, allocation of plan assets, reductions in employer contribution rates, diversion of contributions to, and allocation of expenses to, other benefit plans, and withdrawal liability.

“(2) LIMITATION.—The corporation shall not impose conditions on an eligible multiemployer plan as a condition of, or following receipt of, special financial assistance under this section relating to—

“(A) any prospective reduction in plan benefits (including benefits that may be adjusted pursuant to section 305(e)(8));

“(B) plan governance, including selection of, removal of, and terms of contracts with, trustees, actuaries, investment managers, and other service providers; or

“(C) any funding rules relating to the plan receiving special financial assistance under this section.

“(3) PAYMENT OF PREMIUMS.—An eligible multiemployer plan receiving special financial assistance under this section shall continue to pay all premiums due under section 4007 for participants and beneficiaries in the plan.

“(4) ASSISTANCE NOT CONSIDERED FOR CERTAIN PURPOSES.— An eligible multiemployer plan that receives special financial assistance shall be deemed to be in critical

status within the meaning of section 305(b)(2) until the last plan year ending in 2051.

“(5) INSOLVENT PLANS.—An eligible multiemployer plan receiving special financial assistance under this section that subsequently becomes insolvent will be subject to the current rules and guarantee for insolvent plans.

“(6) INELIGIBILITY FOR OTHER ASSISTANCE.—An eligible multiemployer plan that receives special financial assistance under this section is not eligible to apply for a new suspension of benefits under section 305(e)(9)(G).

“(o) COORDINATION WITH SECRETARY OF THE TREASURY.—In prescribing the application process for eligible multiemployer plans to receive special financial assistance under this section and reviewing applications of such plans, the corporation shall coordinate with the Secretary of the Treasury in the following manner:

“(1) In the case of a plan which has suspended benefits under section 305(e)(9)—

“(A) in determining whether to approve the application, the corporation shall consult with the Secretary of the Treasury regarding the plan’s proposed method of reinstating benefits, as described in the plan’s application and in accordance with guidance issued by the Secretary of the Treasury, and

“(B) the corporation shall consult with the Secretary of the Treasury regarding the amount of special financial assistance needed based on the projected funded status of the plan as of the last day of the plan year ending in 2051, whether the plan proposes to repay benefits over 5 years or as a lump sum, as required by subsection (k)(2), and any other relevant factors, as determined by the corporation in consultation with the Secretary of the Treasury, to ensure the amount of

assistance is sufficient to meet such requirement and is sufficient to pay benefits as required in subsection (j)(1).

“(2) In the case of any plan which proposes in its application to change the assumptions used, as provided in subsection (e)(4), the corporation shall consult with the Secretary of the Treasury regarding such proposed change in assumptions.

“(3) If the corporation specifies in regulations or guidance that temporary priority consideration is available for plans which are insolvent within the meaning of [section 418E](#) of the Internal Revenue Code of 1986 or likely to become so insolvent or for plans which have suspended benefits under section 305(e)(9), or that availability is otherwise based on the funded status of the plan under section 305, as permitted by subsection (d), the corporation shall consult with the Secretary of the Treasury regarding any granting of priority consideration to such plans.”.

(c) PREMIUM RATE INCREASE.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 ([29 U.S.C. 1306\(a\)\(3\)](#)) is amended—

(1) in subparagraph (A)—

(A) in clause (vi)—

(i) by inserting “, and before January 1, 2031” after “December 31, 2014,”; and

(ii) by striking “or” at the end;

(B) in clause (vii)—

(i) by moving the margin 2 ems to the left; and

(ii) in subclause (II), by striking the period and inserting “, or”; and

(C) by adding at the end the following:

“(viii) in the case of a multiemployer plan, for plan years beginning after December 31, 2030, \$52 for each individual who is a participant in such plan during the applicable plan year.”; and

(2) by adding at the end the following:

“(N) For each plan year beginning in a calendar year after 2031, there shall be substituted for the dollar amount specified in clause (viii) of subparagraph (A) an amount equal to the greater of—

“(i) the product derived by multiplying such dollar amount by the ratio of—

“(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which such plan year begins, to

“(II) the national average wage index (as so defined) for 2029; and

“(ii) such dollar amount for plan years beginning in the preceding calendar year. If the amount determined under this subparagraph is not a multiple of \$1, such product shall be rounded to the nearest multiple of \$1.”.

(d) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—[Section 432\(a\)](#) of the Internal Revenue Code of 1986 is amended—

(A) by striking “and” at the end of paragraph (2)(B),

(B) by striking the period at the end of paragraph (3)(B) and inserting “, and”, and

(C) by adding at the end the following new paragraph:

“(4) if the plan is an eligible multiemployer plan which is applying for or receiving special financial assistance under section 4262 of the Employee Retirement Income Security Act of 1974, the requirements of subsection (k) shall apply to the plan.”.

(2) PLANS RECEIVING SPECIAL FINANCIAL ASSISTANCE TO BE IN CRITICAL STATUS.—[Section 432\(b\)](#) of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

“(7) PLANS RECEIVING SPECIAL FINANCIAL ASSISTANCE.—If an eligible multiemployer plan receiving special financial assistance under section 4262 of the Employee Retirement Income Security Act of 1974 meets the requirements of subsection (k)(2), notwithstanding the preceding paragraphs of this subsection, the plan shall be deemed to be in critical status for plan years beginning with the plan year in which the effective date for such assistance occurs and ending with the last plan year ending in 2051.”.

(3) RULES RELATING TO ELIGIBLE MULTIEMPLOYER PLANS.—[Section 432](#) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(k) RULES RELATING TO ELIGIBLE MULTIEMPLOYER PLANS.—

“(1) PLANS APPLYING FOR SPECIAL FINANCIAL ASSISTANCE.— In the case of an eligible multiemployer plan which applies for special financial assistance under section 4262 of such Act—

“(A) IN GENERAL.—Such application shall be submitted in accordance with the requirements of such section, including any guidance issued thereunder by the Pension Benefit Guaranty Corporation.

“(B) REINSTATEMENT OF SUSPENDED BENEFITS.—In the case of a plan for which a suspension of

benefits has been approved under subsection (e)(9), the application shall describe the manner in which suspended benefits will be reinstated in accordance with paragraph (2)(A) and guidance issued by the Secretary if the plan receives special financial assistance.

“(C) AMOUNT OF FINANCIAL ASSISTANCE.—

“(i) IN GENERAL.—In determining the amount of special financial assistance to be specified in its application, an eligible multiemployer plan shall—

“(I) use the interest rate used by the plan in its most recently completed certification of plan status before May 31, 2021, provided that such interest rate does not exceed the interest rate limit, and

“(II) for other assumptions, use the assumptions that the plan used in its most recently completed certification of plan status before May 31, 2021, unless such assumptions are unreasonable.

“(ii) INTEREST RATE LIMIT.—For purposes of clause (i), the interest rate limit is the rate specified in section 430(h)(2)(C)(iii) (disregarding modifications made under clause (iv) of such section) for the month in which the application for special financial assistance is filed by the eligible multiemployer plan or the 3 preceding months, with such specified rate increased by 200 basis points.

“(iii) CHANGES IN ASSUMPTIONS.—If a plan determines that use of one or more prior assumptions is unreasonable, the plan may propose in its application to change such assumptions,

provided that the plan discloses such changes in its application and describes why such assumptions are no longer reasonable. The plan may not propose a change to the interest rate otherwise required under this subsection for eligibility or financial assistance amount.

“(D) PLANS APPLYING FOR PRIORITY CONSIDERATION.— In the case of a plan applying for special financial assistance under rules providing for temporary priority consideration, as provided in paragraph (4)(C), such plan’s application shall be submitted to the Secretary in addition to the Pension Benefit Guaranty Corporation.

“(2) PLANS RECEIVING SPECIAL FINANCIAL ASSISTANCE.—In the case of an eligible multiemployer plan receiving special financial assistance under section 4262 of the Employee Retirement Income Security Act of 1974—

“(A) REINSTATEMENT OF SUSPENDED BENEFITS.—The plan shall—

“(i) reinstate any benefits that were suspended under subsection (e)(9) or section 4245(a) of the Employee Retirement Income Security Act of 1974, effective as of the first month in which the effective date for the special financial assistance occurs, for participants and beneficiaries as of such month, and

“(ii) provide payments equal to the amount of benefits previously suspended to any participants or beneficiaries in pay status as of the effective date of the special financial assistance, payable, as determined by the plan—

“(I) as a lump sum within 3 months of such effective date; or

“(II) in equal monthly installments over a period of 5 years, commencing within 3 months of such effective date, with no adjustment for interest.

“(B) RESTRICTIONS ON THE USE OF SPECIAL FINANCIAL ASSISTANCE.—Special financial assistance received by the plan may be used to make benefit payments and pay plan expenses. Such assistance shall be segregated from other plan assets, and shall be invested by the plan in investment-grade bonds or other investments as permitted by regulations or other guidance issued by the Pension Benefit Guaranty Corporation.

“(C) CONDITIONS ON PLANS RECEIVING SPECIAL FINANCIAL ASSISTANCE.—

“(i) IN GENERAL.—The Pension Benefit Guaranty Corporation, in consultation with the Secretary, may impose, by regulation or other guidance, reasonable conditions on an eligible multiemployer plan receiving special financial assistance relating to increases in future accrual rates and any retroactive benefit improvements, allocation of plan assets, reductions in employer contribution rates, diversion of contributions and allocation of expenses to other benefit plans, and withdrawal liability.

“(ii) LIMITATION.—The Pension Benefit Guaranty Corporation shall not impose conditions on an eligible multiemployer plan as a condition of, or following receipt of, special financial assistance relating to—

“(I) any prospective reduction in plan benefits (including benefits that may be adjusted pursuant to subsection (e)(8)),

“(II) plan governance, including selection of, removal of, and terms of contracts with, trustees, actuaries, investment managers, and other service providers, or

“(III) any funding rules relating to the plan.

“(D) ASSISTANCE DISREGARDED FOR CERTAIN PURPOSES.—

“(i) FUNDING STANDARDS.—Special financial assistance received by the plan shall not be taken into account for determining contributions required under section 431.

“(ii) INSOLVENT PLANS.—If the plan becomes insolvent within the meaning of section 418E after receiving special financial assistance, the plan shall be subject to all rules applicable to insolvent plans.

“(E) INELIGIBILITY FOR SUSPENSION OF BENEFITS.—The plan shall not be eligible to apply for a new suspension of benefits under subsection (e)(9)(G).

“(3) ELIGIBLE MULTIEMPLOYER PLAN.—

“(A) IN GENERAL.—For purposes of this section, a multiemployer plan is an eligible multiemployer plan if—

“(i) the plan is in critical and declining status in any plan year beginning in 2020 through 2022,

“(ii) a suspension of benefits has been approved with respect to the plan under subsection (e)(9) as of the date of the enactment of this subsection;

“(iii) in any plan year beginning in 2020 through 2022, the plan is certified by the plan actuary to be in critical status, has a modified funded percentage of less than 40 percent, and has a ratio of active to inactive participants which is less than 2 to 3, or

“(iv) the plan became insolvent within the meaning of section 418E after December 16, 2014, and has remained so insolvent and has not been terminated as of the date of enactment of this subsection.

“(B) MODIFIED FUNDED PERCENTAGE.—For purposes of subparagraph (A)(iii), the term ‘modified funded percentage’ means the percentage equal to a fraction the numerator of which is current value of plan assets (as defined in section 3(26) of the Employee Retirement Income Security Act of 1974) and the denominator of which is current liabilities (as defined in section 431(c)(6)(D)).

“(4) COORDINATION WITH PENSION BENEFIT GUARANTY CORPORATION.—In prescribing the application process for eligible multiemployer plans to receive special financial assistance under section 4262 of the Employee Retirement Income Security Act of 1974 and reviewing applications of such plans, the Pension Benefit Guaranty Corporation shall coordinate with the Secretary in the following manner:

“(A) In the case of a plan which has suspended benefits under subsection (e)(9)—

“(i) in determining whether to approve the application, such corporation shall consult with the Secretary regarding the plan’s proposed method of reinstating benefits, as described in the plan’s

application and in accordance with guidance issued by the Secretary, and

“(ii) such corporation shall consult with the Secretary regarding the amount of special financial assistance needed based on the projected funded status of the plan as of the last day of the plan year ending in 2051, whether the plan proposes to repay benefits over 5 years or as a lump sum, as required by paragraph (2)(A)(ii), and any other relevant factors, as determined by such corporation in consultation with the Secretary, to ensure the amount of assistance is sufficient to meet such requirement and is sufficient to pay benefits as required in section 4262(j)(1) of such Act.

“(B) In the case of any plan which proposes in its application to change the assumptions used, as provided in paragraph (1)(C)(iii), such corporation shall consult with the Secretary regarding such proposed change in assumptions.

“(C) If such corporation specifies in regulations or guidance that temporary priority consideration is available for plans which are insolvent within the meaning of section 418E or likely to become so insolvent or for plans which have suspended benefits under subsection (e)(9), or that availability is otherwise based on the funded status of the plan under this section, as permitted by section 4262(d) of such Act, such corporation shall consult with the Secretary regarding any granting of priority consideration to such plans.”.

SEC. 5 ENACTMENT.

EFFECTIVE DATE.—This Act shall go into effect immediately upon passage.

(Meta Notes:

Credit to the following members of Congress for inspiration/components of which this bill is based off of:

American Rescue Plan Act - H.R. 1319 - Sponsored by Rep. John Yarmuth (D-KY)

Rehabilitation for Multiemployer Pensions Act - H.R. 4444 - Sponsored by Rep. Richard Neal (D-MA)

Butch Lewis Act - S. 2254 - Sponsored by Sen. Sherrod Brown (D-OH))