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Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. GRASSLEY).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal God, our hearts are steadfast toward You. Lead us faithfully to the refuge of Your choosing, for You desire to give us a future and a hope.

Today, give our Senators the power to do Your will as they realize more fully that they are servants of Heaven and stewards of Your mysteries. Lord, inspire them to seek Your best for our Nation, repeatedly requesting Your guidance and following Your leading. May they help people maximize possibilities for Your glory.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

The PRESIDING OFFICER (Mrs. HYDE-SMITH). The Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask unanimous consent for 1 minute in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOMINATIONS

Mr. GRASSLEY. Madam President, we are getting, perhaps, close to a new Presidency. So there is a lot of talk about how the Senate might handle new Cabinet people. Democrats are always lecturing Republican Senators about approving future Biden Cabinet nominees, even if we don't agree with them.

Now, that is pretty darn rich. In other words, they are saying something like this: Don't follow our example from the past four years.

Or another way to put that is: Don't treat Biden nominees to the Cabinet like we treated Trump nominees to the Cabinet.

So they seem to want two sets of rules for Republican and Democratic Cabinet nominees, just like they want with judicial nominees.

President Obama had six Cabinet Secretaries approved by the Senate on his Inauguration Day, without even needing a rollcall vote, so that President Obama could hit the ground running.

President Trump had none by voice vote, and only two were approved by rollcall votes before the President took over. Trump Cabinet and sub-Cabinet nominees, even ones who had been easily confirmed in previous Republican administrations, faced obstruction and partisan ''nay'' votes. Many Democrat Senators who aspired to be President voted against virtually every single Trump nominee, no matter how well qualified.

My position has always been that a President should have the ability to choose his own Cabinet people whom he gets along with and whom he gets along with on policy, provided, of course, that they are qualified and will follow the law.

That is the way it should be. It is how I have approached nominees to date. But can Senate Republicans be sure that if we employ that standard, Democrats will play fair with the next Republican President?

I don't want retaliation for its own sake, but the threat of holding Democratic Senators to their own standards has been our only means of deterrence of obstruction. I want to hear from Democrats why we should not now adopt their standards and vote down nominees based on politics.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. The leadership time is reserved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to resume consideration of the following nomination, which the clerk will report.

The senior assistant legislative clerk read the nomination of Charles Edward Atchley, Jr., of Tennessee, to be United States District Judge for the Eastern District of Tennessee.

The PRESIDING OFFICER. The assistant Democratic leader.

NOMINATIONS

Mr. DURBIN. Madam President, I am sorry that the Senator from Iowa, who spoke before me, left the floor before I could get his attention.

Senator GRASSLEY is my friend. We have served together for many years. We have worked on a lot of things together, and I bet we will in the future. I like working with him. He shoots from the hip and tells you exactly what he thinks. He has—I know this sounds a little vain—a midwestern approach to him that I like a lot.

He just gave us a little reminder here about the difficulties that faced some

of the Trump nominees on the floor of the U.S. Senate. I remember that. There were some that were delayed because of very basic things. They had not filed their financial disclosure forms and the ethics reports, which were expected of all Cabinet nominees.

I don't expect President-Elect Biden to cut any corners. I expect his nominees to follow the rules and the law, and I am hoping that they will have bipartisan support when it comes to the Senate. I want to give this President a chance to get off to a good, solid start, and he is going to need it.

We are in the midst of this pandemic. The numbers that roll in every single day are frightening. Even in my home State of Illinois, where Governor Pritzker and Mayor Lightfoot and so many others have worked hard to establish standards of conduct that will keep people safe, we know that the numbers are just unacceptable in terms of infections and hospitalizations and, sadly, deaths as well. Over 300,000 Americans have died.

We want to make sure that President Biden and Vice President Harris have the team and the wherewithal and the resources to respond quickly when they take office on January 20.

I hope my Republican friends will join me in that effort. They have every right to expect these nominees to answer the very basic questions that are required, but I hope that they will also do their best to expedite that process so that those going into critical positions to keep our country safe from this pandemic are in place, as well as those who are going to serve our Nation in critical capacities, whether it is Secretary of State or Attorney General or Department of Homeland Security.

But I look forward to working with my friend from Iowa. I take heed of his warning that we will hold these nominees to the same standards as we held President Trump's nominees.

GOVERNMENT FUNDING

Madam President, we are at the eleventh hour before a funding deadline where the budget of the United States is at stake. Tomorrow, the continuing resolution expires, and we are facing the prospect of another continuing resolution. I pray that we don't do that.

This has been a very disappointing year for the Appropriations process. Historically, the process begins with the President's budget, and then comes a budget resolution passed by the House and the Senate for the spending priorities in the next fiscal year. We didn't do that.

Then there is an allocation, usually, after the passage of a budget resolution of how much each subcommittee of the Appropriations Committee can work with, the total amounts of dollars. We didn't do that.

Then the subcommittees have hearings, and some of these subcommittees of Appropriations have many hearings, to explore whether the dollar amounts that are allocated for a certain purpose really are well spent and serve their purpose. We didn't do that.

Then the subcommittee is supposed to meet and vote out an appropriations bill at the end of that process, reporting it to the full committee. And we didn't do that.

Then the Appropriations Committee is supposed to take up the subcommittee's product, debate it, subject to amendment, and pass it out for a consideration by the full body. We never did that as well.

The matter is supposed to come to the floor of the Senate, be debated, as well, perhaps amended, and pass the Senate, if it has the right, the necessary votes. We didn't do that.

Then it is supposed to go to the House of Representatives to see how it matches up with their similar work product. We didn't do that either.

Ultimately, it may result in a conference report, according to the rules, between the House and the Senate, and that never happened.

So the entire budget appropriations process was completely avoided, and we find ourselves extending a continuing resolution for the spending of the U.S. Government for weeks at a time until after the election.

So now we face the prospect, at the eleventh hour, of a decision to finish the work we were elected to do or to simply delay the situation again.

Well, we need to do our job, and we need to do it now. We need to pass our annual appropriations bills to keep the government running. I cannot imagine the unforgivable and embarrassing tragedy it would be if the government is shut down for our failure to reach a decision.

CORONAVIRUS

Madam President, we need to pass a COVID relief bill.

I was happy to join a group of 10 Senators—5 Democrats and 5 Republicans—3 weeks ago. We met for dinner one night—safe social distancing—in one of the Member's houses and spent several hours talking about our frustration that we hadn't passed a COVID relief bill since March, when we passed the CARES Act. And we know that things have gotten worse in this country, not only with the pandemic but also with the state of the economy. For some reason, we just couldn't reach an agreement—the two parties.

Well, this mixed group of Senators of both political parties had a bold idea: Let's try to do it ourselves. So we sat down, and in the course of 3 weeks, I cannot tell you how many hours we spent on the phone—zoom calls, other conference calls, and calls were even taking place on Thanksgiving Day—talking about what a COVID relief bill might look like. Some of the items we debated long and hard. Most of them we agreed on.

This last Tuesday, this week, we reported our bill to the U.S. Senate, to the floor of the Senate, and to the leaders. And we didn't just give them a memo with concepts. We gave them an actual bill that could be introduced today.

The bill itself is significant in that it has $748 billion in spending.

The areas of spending are fairly predictable: extending unemployment insurance benefits with a $300-a-week Federal supplement; $300 billion for business loans for those that are struggling to survive; an additional $13 billion for the food stamp program, now known as SNAP, so that people who are relying on that, perhaps in the midst of unemployment, will have enough to eat; $13 billion for our farmers; $25 billion for emergency rental assistance to avoid evictions; $34 billion to hospitals and clinics for help as well, with a portion of that set aside for rural hospitals; $16 billion for testing and tracing and the logistics of delivering the vaccine across America; $12 billion for a CDFI project for minority businesses.

There is $5 billion for additional help with mental health counseling, and we know that this pandemic and the economy have taken their toll on the mental health of America.

There is $82 billion for education, $20 billion of that for higher education, school districts and schools—universities too. They have to spend a lot of money because of COVID–19, and we want to help them get back on their feet.

There is $10 billion for childcare, a critical element for many families. If they can't find childcare, many people can't go back to work. We want to give them help.

There is $10 billion for broadband. Expanding broadband became critically important when kids relied on it to continue their education on remote learning.

There is $45 billion for transportation, everything from the airline industry to Amtrak, to transit, to buses. They have all been hit hard, and we need them to come back with our economy.

There is $10 billion for our Postal Service, and, boy, have they worked hard during this pandemic to keep up with the demands.

And there are extensions of opportunities to use CARES money into the next fiscal year—the next calendar year, I should say.

There were more. We reached agreement on all of these and came up with a bill that we presented to the leadership of both the House and the Senate, both parties. The good news is they didn't ignore it; they embraced it and started their own negotiations at the very highest levels of leadership in the Congress.

Fingers crossed, we may come up with a bill today, a COVID relief bill. So from the time of our press conference on Tuesday to the delivery of a product as soon as today is an amazing accomplishment when you consider all the time that we have spent waiting in hopes that we could find that solution.

We have made significant progress. Funding the government is basic to our work in Congress, and this COVID relief bill is essential as well.

Now, I am disappointed in our work product. There is pride and disappointment. The disappointment is the fact that we didn't reach an agreement on State and local government assistance. I favor that strongly, and I hope we turn to that issue as soon as we return in January.

Also, there was a question of liability and lawsuits during the time of COVID–19. We offered several alternatives. The Republicans countered with theirs. We never had a meeting of the minds on that issue. I hope that we do return to it at some point soon.

We need to put government spending on a course that makes sense for the next year that we are going to be tackling as soon as January. From the military and the FBI, public housing and transportation, to medical research and cybersecurity, in any way that we approach it, governing by CR is the worst possible way to do business.

Continuing resolutions impede our government's ability to operate efficiently and, frankly, waste money. Taxpayers deserve better. The continuing resolution would leave us operating under funding levels before we faced this national emergency, which affects every part of America today.

It would restrict agencies from shifting dollars around to meet the challenges, and it would hurt their ability to plan ahead, hire and train new employees, start new projects.

Continuing resolutions cause delays in contracts and grants when we need them the most. There are many examples of these, such as funding for medical research. I don't think there is an American alive today who doesn't value medical research today more than they did a year ago.

The Warp Speed project appears to be a dramatic success. I pray that it will be. Although I have been a frequent critic of this administration, I want to give them credit for organizing this effectively and delivering a vaccine in a timely way—an almost amazing timely way—in this pandemic that we face. I thank all who were involved in it, especially the scientists and researchers who didn't give up until they found these vaccines.

We know that FEMA would be prohibited from awarding Homeland Security grants to State and local governments unless we do our business of passing a budget. Safety and efficiency improvements in our transportation programs, such as bridge repairs, need to be timely and implemented. States and cities would not receive their community development block grants, which they desperately need. The list goes on and on.

Our constituents elected us to do a job, and part of that job is to create a budget for this government. Months of bipartisan committee work and weeks of bipartisan negotiations should not be cast aside. I am hopeful that we will finalize a deal today and vote on it as early as today or tomorrow at the latest.

We can't expect people to wait with any patience. We have waited too long ourselves.

CYBER SECURITY

Madam President, let me close on a topic that is related to this. The press reports of Russian hacking into the security systems of the United States are as troubling as can be. This is nothing short of a virtual invasion by the Russians into critical accounts of our Federal Government.

It is possible that they have compromised some of the most important and sensitive information that this government owns, information that we rely on to keep America safe. Of course, Vladimir Putin denies it, but we know better. It is not the first time, but I hope it is one of the last times.

We need to make it clear to Mr. Putin, to China, to Iran, to North Korea, and to any nation that would compromise and breach our security that there is a price to pay. No, I am not calling for an invasion myself or all-out war. I don't want to see that happen, but it is no longer a buddy-buddy arrangement between the United States and Vladimir Putin. We have to take this man very seriously because he is a serious threat to the United States when he captures this kind of information, which we use so that our troops are safe in the field and we are safe in our homes.

We thought we had a defense mechanism established. It turns out that it failed and compromised the integrity of our security in the cyber world. We need to do better and, through the Department of Homeland Security and the Department of Defense, dedicate the resources and say to Mr. Putin and others like him around the world: We are not going to stand by and let you take advantage of us. There will be a price to pay for this.

Frankly, if we do anything less than that, it is hard to imagine we are doing our best to protect this great Nation. There will be more. I am sure there will be security briefings for Members of Congress going into detail here, but the news that is coming out in the media is very troubling.

We need to do all that we can to keep America safe. And when adversaries such as Russia torment us, tempt us, breach the security of our Nation, we need to respond in kind.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. THUNE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORONAVIRUS

Mr. THUNE. Madam President, I am encouraged that we are making progress on coronavirus relief legislation, but we need to finish up and get this bill out the door. The virus is surging around the country, and we need to get help to struggling Americans as soon as possible. The time for debate is over. Let's get this done.

We started this week out with a tremendously hopeful moment in our COVID fight—the first vaccinations against this virus. It is incredible that barely a year since we first learned about the virus, we have a vaccine, with more vaccines likely on the way. I have been thinking a lot this week about the people who volunteered for vaccine trials.

We have gained a new appreciation this year for a lot of people whose work we might have taken for granted in the past—the farmers and grocery store workers and truckdrivers who kept food on our grocery store shelves; the delivery drivers, whom we have relied on so heavily this year, who have brought our packages to us so we can minimize our time at the store; all the workers whose jobs can't be done from home—from electrical workers, to trashmen, to pharmacists—who get up every day and put on their masks and go out and keep our country running; and, of course, our Nation's medical professionals, who have faced down this virus with courage and determination and with great compassion.

There have been a lot of quiet heroes this year, and the people who volunteered for vaccine trials should be high on that list. A lot of courageous people stepped forward when we needed them, and we would not have a COVID vaccine today without their willingness to help.

Monday was the beginning of what will hopefully be a decisive victory in our COVID battle. We owe that to the hard work and persistence of medical researchers, but we owe it also to the vaccine trial volunteers, who enabled researchers to complete the process of developing a safe and effective vaccine.

It is no exaggeration to say that the bravery of vaccine volunteers could end up saving hundreds of thousands or even millions of lives. I doubt we will ever know most of the volunteers' names, but they are heroes of this battle just the same, and I am very grateful for the opportunity they have given us to defeat this virus.

TRIBUTE TO JOHANNA JABLONSKI

Madam President, before I close, I would like to take a moment to pay tribute to one of my staffers, Johanna Jablonski. Johanna is originally from the small town of Ethan, SD, and is a graduate of and former basketball star at Mount Marty College.

She first joined our team as a summer intern, working in Sioux Falls. A little over 6 years ago, she moved to Washington, DC, and became a permanent member of the office. She started out as a staff assistant and eventually worked her way up to become my scheduler—and our starting pitcher, I might add—here in DC.

When Johanna first came to my office, she intended to move back home after a year or two, but God had plans

for her here in DC. About 3 years ago, she met her husband Anthony at a Boy Scouts fish fry at St. Peter's Church right here on Capitol Hill. I know Johanna regards that as a blessing for her, but it was a blessing for our office, too, because we got to keep her around a little longer than she had originally anticipated. But now, in a couple of weeks, Johanna will move back to South Dakota. We are all very excited for her, but she will be sorely missed.

Madam President, I know I don't have to tell you or any other Senator here just how important the role of a scheduler is in any office. The days here on Capitol Hill are busy. Our schedulers are the ones who bring some semblance of organization to an otherwise chaotic day, making sure we get to connect with our constituents in town, make it to committee hearings and votes on time, get the briefings we need on legislation, and much more.

Johanna is not only a good scheduler, she is a great one. I will miss her patience, her professionalism, and her unparalleled ability to keep trains running on time. But what I and I think the rest of my staff will miss the most about Johanna is her kindness. Johanna has had a positive impact on pretty much every staffer who has worked with me during her time here, taking the time to get to know each of them on a personal level. Whether she is interacting with an agency head, constituent, or a fellow staffer, she is always the same—unfailingly gracious, patient, and kind.

No matter how busy or chaotic the day, Johanna can be counted on to bring a steady hand and a positive attitude. She is a woman of deep faith, and it shows. I am sad to see her go, but I want to wish her the very best of everything as she embarks on this new chapter in life.

Johanna, thank you for all your hard work on behalf of South Dakota. You will be missed.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCOTT of Florida). Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

GOVERNMENT FUNDING

Mr. MCCONNELL. Mr. President, well, we in Congress are no strangers to December funding deadlines or the occasional pre-Christmas cliffhanger.

In that respect, the situation we face now is familiar. Funding for the Federal Government is hanging in the balance. In the next few days, Congress will either succeed or fail at providing secure and stable funding for our military commanders, our Federal Departments, and key investments for our future.

Fortunately, our colleagues on the Appropriations Committee and their House counterparts have been on the case. Bipartisan, bicameral committee work has full-year government funding legislation on the 1-yard line.

I am optimistic that if we can close out our other parallel business, we should be able to fund the government and move forward together.

But that brings me to the way in which this year is unlike anything we have seen before. It has been more than 9 months since our Nation began to feel the full force of the COVID–19 pandemic. The American people have done what Americans do when crises come knocking.

Essential workers have kept our Nation running. Healthcare professionals have worked day and night to care for strangers. Heroic American businesses have adapted, reinvented, and obeyed the advice of medical experts.

Now we can see the light at the end of the tunnel. Operation Warp Speed has given us safe and effective vaccines in record time, but the American people need another bridge to those better days that are not so far off. The country needs Congress to come through with another targeted rescue package. They have waited months. They have waited and suffered, and some have died while needless political games have played out. The American people's wait for more emergency assistance ought to be over.

For months, I have called for a targeted, bipartisan package that would put hundreds of billions of dollars into payroll support, testing, vaccine distribution, extended unemployment aid, safe schools, and other essential priorities.

So I am encouraged that our Democratic colleagues have now embraced this framework that has been the right solution for our country all this time. And a bipartisan, bicameral agreement appears to be close at hand.

The outline that I have been discussing with the Democratic leader, Speaker PELOSI, and Leader MCCARTHY would get another huge dose of bipartisan support out the door as fast as possible.

We have yet to nail down every detail, but in broad strokes, we have been discussing the targeted second round of the job-saving Paycheck Protection Program that Republicans have sought since last summer.

We are discussing many tens of billions of dollars for distributing vaccines, COVID testing, and equipping safe schools to get our kids' educations back on track. We are discussing extending important unemployment programs.

At the particular urging of President Trump and Secretary Mnuchin, who continue to be the champions of cash relief for American families, we are discussing more direct impact payments for individuals, plus the bonus for families with children.

These are just some of the major pillars. And equally important, we are agreeing to be smart about financing these extraordinary policies.

Now listen to this. We intend to repurpose more than $400 billion in unspent funds which we have already allocated in the CARES Act. It turned out these funds did not need to be tapped to restore basic stability to our economy. It is time we put that money to urgent use.

Like I said at the time yesterday, I am heartened by our discussions and our progress. I believe all sides are working in good faith for our shared goal of getting an outcome.

But I will say this. In my judgment, we are very close to a point that arises in every major negotiation. It is the point where each side faces a fork in the road.

Do we want to lapse into politics as usual and let negotiations lose steam? Do we want to haggle and spar like this were an ordinary political exercise, get wrapped around the axle of language or policy riders that we know are controversial, or, on the other hand, after months of inaction, do we want to move swiftly and with unusual bipartisanship to close out our issues, seal the deal, and write text that can quickly pass into law?

In short, we are near the point in this process where we decide if we are going to stay on the fast track or drift back toward business as usual.

I say the answer should be obvious. After all these months, struggling Americans don't just need action; they need action fast—fast.

So I continue to appreciate our productive discussions, but I hope we also remember just how urgent the situation is for millions and millions of our fellow citizens.

So for the information of all Senators, we are going to stay right here—right here—until we are finished, even if that means working through the weekend, which is highly likely.

And if we need to further extend the Friday funding deadline before final legislation can pass in both Chambers, I hope we will extend it for a very, very short—short—window of time.

Our citizens can't afford for us to get bogged down in the back-and-forth. Let's finish up our bipartisan framework. Let's make law as soon as possible. That is what our people deserve.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The Democratic leader is recognized.

CORONAVIRUS

Mr. SCHUMER. Mr. President, we continue to move closer to a final

agreement on an omnibus appropriations bill and a package of emergency Federal aid to provide the country relief from the continuing impact from the COVID–19 pandemic.

Yesterday, House and Senate leadership worked well into the night. We resumed first thing this morning. While many, if not all, of the difficult topics are behind us, a few final issues must be hammered out. We are very close to an agreement, but the details really matter. When it comes to unemployment benefits, stimulus checks, aid to small businesses, and so much else, we have a responsibility to get this right. People's lives depend upon it.

I would note that had the Republican majority joined in negotiations anytime in the last 6 months, as we had requested, we would not be in the unfortunate position of negotiating against the government funding deadline. Leader MCCONNELL kept calling for a pause, and here we are. I also note that we would have a much larger bill that met crucial needs of so many Americans if Republicans had not been so intransigent.

But we are all eager to conclude our work and deliver the relief that the American people have been waiting for. Everyone wants to see this get done, and soon. It is not an easy feat or process. We are talking about providing relief to a country that is hurting from coast to coast; a country with tens of millions of unemployed workers and more slipping into poverty every day; a country with businesses of all sizes and varieties struggling in different ways and more in danger of closing for good every week; a country that just yesterday suffered the worst day of the entire pandemic—the most cases, the most hospitalizations, the most deaths, more than 3,600 American lives.

Already, we know that the size of this emergency relief bill would be the largest stimulus in the history of our country if not for the other COVID relief bill, the CARES bill, which I negotiated with Secretary Mnuchin and we passed earlier this year.

Let me say that again. We are putting the final touches on what would be the largest stimulus in the history of the country with the exception of the CARES Act—larger even than ARRA, the stimulus bill Congress passed in the wake of the financial crisis in 2009.

None of the remaining hurdles cannot be overcome. Everyone is committed to achieving a result, and we will not leave until we get the job done.

I yield the floor.

VOTE ON ATCHLEY NOMINATION

The PRESIDING OFFICER. All postcloture time has expired.

The question is, Will the Senate advise and consent to the Atchley nomination?

Mr. SCHUMER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Wyoming (Mr. ENZI), the Senator from Nebraska (Mrs. FISCHER), the Senator from Georgia (Mrs. LOEFFLER), and the Senator from Georgia (Mr. PERDUE).

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS) is necessarily absent.

The PRESIDING OFFICER (Mr. GARDNER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 54, nays 41, as follows:

[Rollcall Vote No. 272 Ex.]

YEAS—54

Alexander	Graham	Risch
Barrasso	Grassley	Roberts
Blackburn	Hawley	Romney
Blunt	Hoeven	Rounds
Boozman	Hyde-Smith	Rubio
Braun	Inhofe	Sasse
Burr	Johnson	Scott (FL)
Capito	Jones	Scott (SC)
Cassidy	Kelly	Shelby
Collins	Kennedy	Sinema
Cornyn	Lankford	Sullivan
Cotton	Lee	Tester
Cramer	Manchin	Thune
Crapo	McConnell	Tillis
Cruz	Moran	Toomey
Daines	Murkowski	Whitehouse
Ernst	Paul	Wicker
Gardner	Portman	Young

NAYS—41

Baldwin	Gillibrand	Reed
Bennet	Hassan	Rosen
Blumenthal	Heinrich	Sanders
Booker	Hirono	Schatz
Brown	Kaine	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Smith
Carper	Leahy	Stabenow
Casey	Markey	Udall
Coons	Menendez	Van Hollen
Cortez Masto	Merkley	Warner
Duckworth	Murphy	Warren
Durbin	Murray	Wyden
Feinstein	Peters	

NOT VOTING—5

Enzi	Harris	Perdue
Fischer	Loeffler	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

The Senator from North Dakota.

Mr. CRAMER. Mr. President, I ask unanimous consent that the mandatory quorum call be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Zachary N. Somers, of the District of Columbia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Mitch McConnell, James E. Risch, Mike Crapo, Roy Blunt, Shelley Moore Capito, Tom Cotton, John Cornyn, Chuck Grassley, Thom Tillis, Richard Burr, Pat Roberts, Cory Gardner, Lindsey Graham, Todd Young, Marco Rubio, John Boozman, John Barrasso.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the nomination of Zachary N. Somers, of the District of Columbia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Wyoming (Mr. ENZI), the Senator from Nebraska (Mrs. FISCHER), the Senator from Georgia (Mrs. LOEFFLER), and the Senator from Georgia (Mr. PERDUE).

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS) and the Senator from Alabama (Mr. JONES) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote or change their vote?

The yeas and nays resulted—yeas 52, nays 42, as follows:

[Rollcall Vote No. 273 Ex.]

YEAS—52

Alexander	Graham	Romney
Barrasso	Grassley	Rounds
Blackburn	Hawley	Rubio
Blunt	Hoeven	Sasse
Boozman	Hyde-Smith	Scott (FL)
Braun	Inhofe	Scott (SC)
Burr	Johnson	Shelby
Capito	Kelly	Sinema
Cassidy	Kennedy	Sullivan
Collins	Lankford	Tester
Cornyn	Lee	Thune
Cotton	McConnell	Tillis
Cramer	Moran	Toomey
Crapo	Murkowski	Whitehouse
Cruz	Paul	Wicker
Daines	Portman	Young
Ernst	Risch	
Gardner	Roberts	

NAYS—42

Baldwin	Gillibrand	Peters
Bennet	Hassan	Reed
Blumenthal	Heinrich	Rosen
Booker	Hirono	Sanders
Brown	Kaine	Schatz
Cantwell	King	Schumer
Cardin	Klobuchar	Shaheen
Carper	Leahy	Smith
Casey	Manchin	Stabenow
Coons	Markey	Udall
Cortez Masto	Menendez	Van Hollen
Duckworth	Merkley	Warner
Durbin	Murphy	Warren
Feinstein	Murray	Wyden

NOT VOTING—6

Enzi	Harris	Loeffler
Fischer	Jones	Perdue

The PRESIDING OFFICER. On this vote, the yeas are 52, the nays are 42.

The motion is agreed to.

EXECUTIVE CALENDAR

The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of Zachary N. Somers, of the District of Columbia, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

The PRESIDING OFFICER. The Senator from Iowa.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 5045 are printed in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. GRASSLEY. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. BLACKBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. YOUNG). Without objection, it is so ordered.

CHINA

Mrs. BLACKBURN. Mr. President, I have to tell you, when I am back home, I am struck by one of the things I am hearing in Tennessee, and it is this odd mix of optimism and also of concern.

And Tennesseans are very concerned that we are not going to pass another round of COVID relief in time to help save their businesses and in time to help people who lost their job through no fault of their own. And, on the other hand, they are excited about the fact that we finally have vaccines that are going through the process, that are getting to communities, and there are vaccinations taking place. And I have thought, you know, this is really an interesting mix of emotions, especially with Christmas right around the corner.

And Sunday, after I had visited with some folks, I thought, you know, this, I think, is where people are going to be for a while. Some are very optimistic. Some are incredibly worried. But there is one thing that is a constant—and I have really watched this grow over the last several months. It is the confusion and the anger that is directed at the Chinese Communist Party. And, quite frankly, this is something that I fully believe has reached a boiling point with Tennesseans and with the American public.

Tennesseans were familiar with the tense relationship between China and the United States well before they found themselves in the middle of this pandemic. Here is a good example. At this point, most everyone is familiar with China's notorious disregard for intellectual property rights, but when I first started working on this issue in the House with songwriters back in Tennessee—and it was in the early 2000s—we felt like we were fighting that battle all alone. We had to fight with Chinese officials and eventually were able to establish some initial royalty rates payable to U.S. copyright owners whose sound recordings are broadcast in China. That was a solid win, but the fact that we had to fight so hard for something so simple really was frustrating, and people in Tennessee have not forgotten that frustration.

Before this year, they were painfully familiar with the Chinese Government's abysmal human rights record. That initial footage of massive protests in Hong Kong had resurrected memories of Tiananmen Square and reminded everyone that the Chinese Government still uses political violence, speech suppression, and torture to silence dissent.

The people I talked to had read about diplomatic tensions and trade deals, and they could sense that in spite of all those optimistic perspectives on the nightly news, our biggest rival in Asia had become our adversary.

So they weren't at all shocked when news reports started rolling in that the Chinese Communist Party officials in Hebei Province and Beijing had done nothing—not one thing—to stop the spread of the novel coronavirus.

Since then, Tennesseans and, indeed, most Americans have received a valuable education, courtesy of Xi Jinping and the Chinese Communist Party. We learned that the Chinese Government's failure to sound the alarm wasn't an anomaly. It was intentional. Neither was there strong-arming of the World Health Organization or the incarceration and torture of doctors and journalists who defied gag orders to blast out warnings to anyone who would listen. They tried to tell us this was reaching a pandemic, and they were punished.

And as they look around at the economic ruin in their communities, as small businesses are shuttered and independent music venues are boarded up for the long haul, all those puzzle pieces are falling into place, and, quite frankly, they are justifiably upset. I would venture to say many of them are absolutely furious with what the Chinese Government has done.

By now, we understand this is what the Chinese Communist Party does as a government, as an all-powerful political organization, and as a group of rabid ideologues from whom acts of genocide flow as easily as the propaganda posted to their many official Twitter accounts. This is all a part of their quest for global dominance, and their success depends on gaining complete control over speech, thought, resources, and their relationships with other nations.

This is the Chinese Communist Party's master plan.

When Xi Jinping took power in 2012, there were a lot of optimistic pundits out there who thought that he would embrace transparency and liberal economic policies, but oh my goodness, have they ever been wrong. In fact, he styled himself in the image of Mao, creating a personality cult that equates attacks on Xi with challenges to the legitimacy of party rule. It is all about him.

Anyone who has opened a history book knows this doesn't bode well for diplomatic efforts to rebalance power. This isn't my political opinion; this is the reality that diplomats, members of the defense community, and policy experts accept as a matter of fact. The Senate Armed Services Committee accepted this reality when we drafted the bipartisan 2021 NDAA. This year's bill contains the most substantial action we have ever taken to counter Chinese aggression and great power competition. It establishes the Pacific Deterrence Initiative, which will help the military enhance defense capabilities in the region and reaffirms our commitments to Taiwan, India, Vietnam, Japan, and other allies and partners geographically near China.

We drafted numerous provisions to keep U.S. intellectual property, technology, and data out of Beijing's grasp by limiting funding for universities that host Confucius Institutes and restricting defense industrial base employees from working for Chinese-owned companies. Why did we do this? Because we have learned that not only is this part of China's propaganda, this is where they are embedding their spies.

In 2021, we will take major steps to secure our supply chain and invest in American innovation to maintain our technological advantage. We paid particular attention to accelerating the development of 5G networks that are needed by our troops in the field and, to complement that expansion, enhancing our Nation's cyber security strategy.

The Chinese Communist Party isn't just playing politics on Twitter; their tactics pose a very real threat to our Nation's security and that of our allies and our partners.

I have spoken at length about how badly we need to unravel our relationship with China. I have examined problems related to our medical supply chains, security issues in the building blocks of popular technology, and sourcing for rare earth elements. Reclaiming these critical resources will take time and investment, but it can be done, and I will continue to fight for this as we move into the next Congress. But I want to consider just for a moment a few examples of this entanglement that hit particularly close to home and really give a sense of how much private companies and organizations compromise just to maintain access to the Chinese marketplace.

Earlier this year, the PR professionals at the NBA worked some serious overtime after an investigative report published by ESPN showed that the Chinese Communist Party-affiliated coaches at the league's training facilities in Xinjiang were abusing players. That is correct—abusing players. Initial reports of this abuse were ignored by NBA officials.

Keep in mind that these training facilities existed in the same region as those concentration camps used to imprison the Uighur Muslims and others guilty of thought crimes against the

Chinese Communist Party. So what was the NBA doing there in the first place? How could something like this actually happen? Here is the reason: Communist China plays host to an estimated $4 billion NBA market. They say that China is ''basketball obsessed,'' and NBA execs have used every avenue they can to take advantage of that $4 billion market. They jealously protect those relationships even if it means using skyrocketing sales numbers to explain away the blind eye they have turned to the CCP's crimes against humanity.

They are not alone. This fall, Walt Disney released their live-action version of ''Mulan'' and caught some well-deserved hell after sharp-eyed rights activists combed through the credits and discovered that filmmakers chose to shoot scenes for the movie—where? Xinjiang, knowing that they would have to cooperate—with whom? The Chinese Communist Party's propaganda flacks to get the kind of footage they wanted to play to their desired Chinese audience.

Netflix also ran afoul of human rights activists when they inked an adaptation deal with an author who parrots Chinese Communist Party propaganda and made racist comments about the persecuted Uighur Muslims in Xinjiang.

None—none of these scenarios involved high-stakes diplomatic negotiations. No one involved was on a mission to balance the geopolitical scales at all cost. They did, however, stand to net a tidy profit by maintaining friendly relations with the Chinese Communist Party. But did they ever stand up and defend the Uighur Muslim minority? No, they did not.

When faced with such manipulation on a global scale, Tennesseans expect accountability. They want news reports and hearings and absolute condemnation. But that is not what they get. Instead, they get regurgitated propaganda transmitted directly from the CCP, peppered with media buzz words and distilled into sound bites.

Our attempts to hold the Chinese Communist Party accountable for covering up the origins of the pandemic were met with baseless accusations of xenophobia and of racism. I have met similar resistance when speaking truth to power about the CCP's aggression in Tibet, Mongolia, the concentration camps in Xinjiang, and the arbitrary detention of the Hong Kong freedom fighters. Prominent members of the press, pundits, and even Members of Congress who have access to more than enough information to know better—all provide cover for the Chinese Communist Party at the expense of American lives and livelihoods. It is all there in black and white. They are failing an open-book test because they are refusing—refusing to admit that their coziness with China does not serve the American people or our allies well.

This situation will not evaporate with the start of the new Congress. Vaccines and defense funding and new technology will solve some immediate problems, but they are not a strategy. Those are action items.

We must all commit right now to an aggressive strategy that leads a whole-of-government approach to protecting American intellectual property, securing our critical supply chains, and bringing our manufacturing back home.

We must assert our role as a leader on the global stage and stand between the Chinese Government and leadership roles in international organizations. How is it that China could have a seat on the Human Rights Council of the United Nations? Look at what they are doing to the Tibetans, to the Taiwanese, to the Hong Kong freedom fighters, and to the Uighur Muslims.

We should continue to provide support for Hong Kong and for Taiwan, build a strong network of allies and partners across the Indo-Pacific, and we should increase our defense investment in the Indo-Pacific Command.

I laid out more items in a white paper I released earlier this year. It is online at Blackburn.Senate.gov. It is time to pay attention to everything the CCP is doing.

In today's New York Post, I have an op-ed that lays out how they are using Twitter to troll and intimidate the rest of the world into staying silent. Do you know what? They are, unfortunately, having some success with that. World leaders, powerful corporations, and celebrities are all scared into silence by online propaganda campaigns.

Mr. President, I ask unanimous consent that a copy of my op-ed be printed in the RECORD with these remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Post, Dec. 16, 2020]

HOW CHINA USES INTERNET TROLLS TO HELP COVER UP ITS ATROCITIES

(By Marsha Blackburn)

The greatest benefit to Big Tech's otherwise dubious influence over our lives is that it's impossible for the world's human-rights violators to hide their crimes. Information that years ago would have been filtered by official, sanitized sources now flows from anyone with the guts to tweet about it.

But social media's power to disseminate ideas means the tyrants themselves are better equipped than ever to obfuscate, lie and troll their way out of crises—capitalizing on the moral confusion and greed of the modern West.

Last December, freedom fighters a world away were busy tweeting about the Chinese Communist Party's aggression in Hong Kong. Much to the chagrin of party bosses in Beijing, guerrilla coverage of mass protests spread rapidly, prompting digital activists worldwide to condemn the CCP's latest horror show.

Civil-society groups seized the moment to spotlight the CCP's colonialism in Tibet and Inner Mongolia, the regime's cruelty—toward Uighur Muslims in Xinjiang and the horrifying plight of Falun Gong practitioners. Shock turned into revulsion that manifested in demands for change. It was a shining moment of international unity that vowed an end to totalitarianism in Asia.

Today, hundreds of dissenters, including Hong Kong activists Joshua Wong and Jimmy Lai, sit in jail for the sin of criticizing their government. Tibetan language, culture and religion are so repressed that more than 150 Tibetans have self-immolated since 2009. Communist officials terrorize Uighurs under the guise of cultural re-education, locking dissenters in concentration camps and perpetrating mass violence on a scale that has prompted many lawmakers like me to support legislation labeling the violence in Xinjiang a genocide.

Yet fashionable concern soon gave way to a parade of appalling statements from world leaders, multinational corporations and celebrities desperate to preserve their interests in China's economy. Beijing breathed a sigh of relief and ramped up its own disinformation campaign—about the origins of COVID–19 and the Hong Kong crisis—by taking a page from the freedom fighters' playbook.

Between March and September, the CCP violated its own ban against Twitter and amassed nearly 1.5 million followers stretched across dozens of official accounts. Using a mix of typical viral content, weird propaganda and COVID–19 misinformation to attract attention, diplomats and other political leaders used their mainstream clout to lob insults at Western leaders and dismiss the global outcry over Beijing's atrocities as the product of ''racism.''

Beijing's propaganda doesn't generally pass even a minimal smell test, of course. Its play at ''wolf-warrior diplomacy,'' named after a patriotic film franchise, is a trollish p.r. campaign that relies on sheer numbers and whataboutism to intimidate critics.

The Chinese diplomats have even learned to tap into the rhetoric of wokeness. And sadly, it's working. China's ''wolf warriors'' can sink their teeth into the impressionable, the contrarian and, terrifyingly, the complicit among Western influencers and audiences.

The CCP is counting on our fear of retaliation, not to mention the undying tendency of our own elites to first blame America and the West, to mislead us.

We have no excuse for ignoring reality, however. If you need proof, it's sitting in your hand. Google phrases like ''Uighur forced sterilization'' and ''Mongol ethnic assimilation,'' then brace yourself.

Millions of victims of Xi Jinping's ''China Dream''—a nightmarish blend of ideological conformity and behavior controls—regularly risk their lives speaking truth to power. Meanwhile, in the safe confines of the West, powerhouse personalities and companies agonize over the financial risks of criticizing Beijing.

In 50 or 100 years, when historians ask how such things could have happened, I hope someone invokes the cowardice inherent in that cost-benefit analysis as the answer to their question.

Mrs. BLACKBURN. If they can do that with a hashtag—all of that suppression, all of that intimidation—then think about what they will do in the real world.

If we stand down, the Chinese Government is going to keep pushing to stand up. They will fill a power vacuum because their determination is to be the leader, the global dominator. They want the 21st century to be the China century. It is their strategy. It is what they do. So now is the time to act. I would encourage my colleagues to remember this as we begin a new Congress.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BROWN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICAN WORKERS

Mr. BROWN. Mr. President, this spring, I was talking with a grocery store worker in Ohio, who told me: ''They call me essential, but I feel expendable.'' That grocery store worker and thousands of others who are on the frontlines of this pandemic risk their lives so that Americans can keep food on their tables and get their packages delivered. They change linen in hospitals. They drive city buses or rural buses. They stock shelves in supermarkets.

When these workers go home at night, having been exposed to the public pretty much their whole workday, they worry they are going to bring the virus home and infect their families.

It is essential workers keeping our society going. A number of American corporations claim to recognize this. They have run feel-good ads—at least they did early in the pandemic—saying ''thank you'' to essential workers, claiming these workers are the heart of their companies.

But saying ''thank you'' is not nearly enough. Workers don't need a PR campaign. They need fair pay and protections on the job. These corporations get positive press off their workers while too often paying them poverty wages and, in too many cases, failing to protect their safety in the workplace.

I wrote an open letter this summer to corporate executives, published in their paper of record, the Wall Street Journal. I said to these corporations: You say your workers are essential. Then treat them that way. Our economy is supposed to reward people whose talents are in high demand. That is what we are all taught. That is what you always tell us; right? These workers' skills keep our economy going. Their paychecks should reflect that.

It has been 6 months since that letter was published. It may surprise no one to learn that my phone has not been ringing off the hook with calls from CEOs who want to discuss renewed efforts to invest in their workers.

All that has changed is that corporate profits have gone up, hazard pay has disappeared, and more workers have died. Profits are up at most of the biggest companies, especially the largest retail companies.

The Brookings Institution studied the 13 biggest retailers in this country and found that their earnings have shot up 39 percent compared with last year, and stock prices are up 33 percent. Guess how much wages have gone up. One dollar an hour.

The Washington Post looked at the 50 biggest corporations. Between April and September, these companies handed out more than $240 billion—240,000 million, $240 billion—to their stockholders through stock buybacks and dividends.

It is workers making these companies successful. It is workers risking their lives on the job, but shareholders got nearly 8 percent of the profits workers created.

Look at Amazon. The company's quarterly profits increased by a staggering 200 percent. But that same Amazon rolled back its tiny $2-an-hour raise in June and announced a bonus of just $300 per worker. You heard that correctly—not $3,000 but $300, from a company that brought in $280 billion in revenue last year.

If even a global pandemic, where American workers have been on the frontlines—if even that—will not get corporations to rethink their business model that treats workers as expendable, then, frankly, it is time—and my colleagues should hear this—to stop letting them run this economy.

They had their chance. They failed. Just look around us. If corporate America won't deliver for its workers, it is time we step in and create a better system, centered on the dignity of work.

The American people have made it clear that they want a government that is on the side of workers. Eighty-one million voters gave Joe Biden a decisive victory of more than 7 million votes. That is a mandate for change.

In June, I laid out actions that corporations could take on their own, like raising base pay to $15 an hour. Since they mostly refused, we should raise the Federal minimum wage to $15 an hour.

Workers are still not safe on the job. So President Biden can immediately issue an OSHA, or Occupational Safety and Health Administration, emergency temporary standard forcing corporations to protect their workers.

Many companies still deny their employees paid sick leave, even during a pandemic. So we have to pass a national paid family leave plan.

Corporations are expanding rather than ending their exploitive ''independent contractor'' business model. So we are going to have to use the law to make them treat their workers as true employees. You know how they do it: Particularly large corporations will contract out custodial work, security work, and food service work in their company cafeteria, for instance. They contract it out to a private company that pays much less than the corporation pays, often wages barely above the minimum wage. Those workers should have to be treated like workers living under American labor law.

Corporations continue to coerce workers out of forming unions. So we need to pass the PRO Act—Protecting Our Right to Organize Act—to empower workers with a voice in their workplace.

The economy isn't physics. It is not governed by a scientific law outside our control. It is made up of people making choices about our values and in what kind of society we want to live.

That is the reason we have an Occupational Safety and Health Administration. It is why we have these agencies: to make sure that workers are treated fairly to begin with.

We have the power to change how the economy works so that it rewards work instead of greed. We can create more jobs at middle-class wages. We can give people power over their lives and schedules. We can expand economic security and opportunity for everyone.

Americans voted for this change. Americans aren't going to wait for corporations to reform themselves on their own. That is for sure. They never have. They never will. It is up to the rest of us to deliver for the people whom we serve and create a country where all work has dignity.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MARKEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO CORY GARDNER

Mr. MARKEY. Mr. President, it is my pleasure to honor my good friend and my colleague Senator CORY GARDNER. CORY and I were friends in the House of Representatives. Our friendship deepened in the Senate, especially after he took the reins as chair and I as the ranking member of the Subcommittee on East Asia of the Senate Foreign Relations Committee in the 115th Congress.

We were unlikely partners in a lot of ways. He is a conservative Republican and I am a liberal Democrat. I know that Tom Brady is the best quarterback ever. He just might say that it is John Elway.

But like me, CORY is a pragmatist, and we did find common ground. In fact, we were a two-man legislative wrecking crew, with several credits to our names.

GARDNER-MARKEY collaborated on such hits as the Asia Reassurance Initiative Act, ARIA, sweeping Asia-focused legislation to reorient our Indo-Pacific strategy around alliances, common values, and mutual security; the Cambodia Democracy Act, to stand up for civil society the rights of a political opposition; the Taiwan International Participation Act of 2018, to signal both our commitment to the island nation and our displeasure with China's efforts to shut it out of international organizations; and the Leverage to Enhance Effective Diplomacy Act, to build the conditions for a future North Korea that no longer threatens its neighbors and the world with nuclear weapons.

With CORY as chair and myself as ranking member, we convened hearings, drafted broad legislation, hosted

foreign leaders. As the foreign policy gravitational pull rightly moved to the Indo-Pacific in recent years, CORY brought the top policymakers, human rights defenders, and government witnesses to the fourth floor of the Dirksen Senate Office Building—not exactly the Diplomatic Room of the White House.

In the 115th Congress, we held 11 hearings. It was a constant beat of meetings and hearings that CORY would be leading. I was always honored to be partnered with him in organizing those efforts.

CORY grew up on a farm, so it is no wonder that he is a workhorse. Each time he gaveled in a hearing, he was professional, prepared, good-humored. And he, on more than a few occasions, allowed particularly verbose Senators to blow past their allotted time.

Nowhere did I enjoy our work together more than in the drafting and the ultimate passage of the landmark Asia Reassurance Initiative Act. Our bill, which is now the law of the land, adopts a long-term U.S. strategy for the most consequential region in the world, the Indo-Pacific. It was a credit to our foreign policy staffs—led by Igor in CORY'S staff and Zack in mine—that we were able to get it past the finish line.

A fully resourced ARIA will ensure that the United States will remain a Pacific power. Investments through ARIA offer a critical counterweight to China by helping our partners in the region build defenses and defend democracy and the rule of law.

But CORY understood passage of a law alone does not equate to the implementation of policy. When ARIA was signed into law, he and I convened a series of hearings to ensure the Departments of Defense and State and the USAID were putting resources to the challenge.

The Asia-Pacific is home to 60 percent of the world's population. This fact and the wide geographic scope of the region means that we need to respond nimbly to the latest international crisis of the day.

When North Korea policy vacillated between ''fire and fury'' and detente, he used the subcommittee to provide critical oversight.

When China and Hong Kong authorities turned to batons and tear gas in a futile attempt to end democratic protests, he hosted one of the architects of the student-powered Umbrella Movement, Nathan Law.

When just this past year, some wished to shake down our Japanese and South Korean allies, we partnered on two resolutions, which reaffirmed our ironclad relationships to both allies.

In his farewell address, CORY said that the pillars of the Senate Chamber are principles shared by all Americans. They are immutable. CORY, it was a pleasure to work with you these past years to also strengthen the pillars of U.S. foreign policy, standing up for human rights, our allies, and the rule of law around the world.

I hope that this son of Yuma, CO, is not finished with public service yet. I am grateful for what we accomplished together on the Asia Subcommittee and even more grateful for our friendship.

My best to Jaime and your wonderful family and to you, my friend.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. LANKFORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PREVENT GOVERNMENT SHUTDOWNS ACT

Mr. LANKFORD. Mr. President, this all feels strangely familiar. It is the middle of December. We are facing a government shutdown, arguing behind the scenes over the final details, discussing whether we are going to do a short-term CR, wondering what is going to happen. Everyone has this sense that if we don't get the bill done by tomorrow, then we are going to end up in shutdown and all the problems that causes.

Senator HASSAN and I stand in the back and hold up our hands and say: In February of last year, we proposed a solution to this that fits this exact scenario to keep us from holding Federal workers and all of our agencies in harm's way.

The ending government shutdowns bill is designed for this moment. For whatever reason, we have not been able to agree to pass it. It is a process document. It doesn't solve all of the policy issues we have. We have real policy differences, but we should not have process differences at moments like this. It is not good for the American people. It is not good for the U.S. Senate or the U.S. Congress to stand at the precipice of a shutdown and to say: Maybe we go over; maybe we don't. Maybe we have a short-term continuing resolution; maybe we pass the 12 appropriations bills. We shouldn't ever get to that moment.

Our simple idea is not a partisan idea. Senator HASSAN and I released a simple, straightforward idea. You get to the end of the fiscal year, whenever that may be, and if we have not finished all the appropriations work, we continue working until it gets done. An automatic continuing resolution kicks in so that no Federal worker is worried that they are going to have furloughs right before Christmas; no agency is panicked about what happens next and who do I have to furlough and who do I have to keep and who is essential and who is nonessential. None of that happens. None of that waste occurs. We continue debating until we resolve the issue. That is all that it is.

We have 12 appropriations bills that are not done. Painfully, in this year of COVID, there have been only 22 total appropriations hearings in 12 months—22. That is 12 appropriations committees, 12 months, only 22 hearings total for all of them.

We have not completed the appropriations work on time, so now we are struggling with the what-ifs. Senator HASSAN and I have a straightforward idea. Let's pass the end government shutdowns bill. Let's continue our negotiations so we don't have to be in the shadow of a shutdown again next year.

It is doable. It shouldn't be controversial. It should be obvious. When we get to a time period like this, if we are not complete, we keep working until it is done. In the meantime, we don't leave. It is the exact statement I have heard from everybody in the Chamber so far today. We need to stay until it is done. I agree. That should be the process every time we get to this moment. We stay until the work gets done. Our bill just mandates that, and it keeps us from ever having to say the word ''shutdown'' again.

So I would encourage this body again, as I did all of last year, as I did all of this year: Let's end government shutdowns. Let's keep debating the policy. We have differences. We know that. But let's end the thought of government shutdowns.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

CORONAVIRUS

Mr. PETERS. Mr. President, 2020 has been a year of immense challenges. We are in the middle of an unprecedented economic and public health crisis. Small businesses have been forced to shutter or are barely staying afloat. Workers are out of jobs through no fault of their own, and folks are stressed about feeding their families and keeping a roof over their heads. Healthcare workers are exhausted—pressed to their breaking points from treating patients with COVID.

But, thankfully, there is light at the end of the tunnel. With the recent FDA vaccine emergency use authorization, Michiganians and Americans are finally starting to receive much needed reinforcements to combat and to control this virus.

Although there is light at the end of the tunnel, we know the next 2 or 3 months or more are going to be difficult. We cannot let our guard down. We must continue to wear a mask, practice social distancing, and wash our hands. We all can—and we must—play an important role in defeating this virus, and we can do that if we work together.

Working together is the key to get through this pandemic. We know what happens when we work together here in this Chamber. Early on in this pandemic, we worked together to pass the CARES Act, which provided vital resources and support to keep families and workers afloat.

We worked together to pass additional aid for small businesses, for testing, for healthcare providers, and for hospitals. And, right now, we need to

once again come together and work together to pass another round of help. We have done it before, and we did it when case counts were far lower than they are now.

We need to summon the same sense of urgency, and we must come together at the end of this week and pass meaningful bipartisan and comprehensive COVID relief. We must prove to the American people that bipartisan negotiation is not a relic of the past.

As I talk to Michiganians each and every day, the message is very clear. They want us to put partisan politics aside and solve the very real challenges confronting our country.

Finding common ground and bringing people together has always been my approach to serving Michigan and the people of this Nation. This past year, I am proud to say, we worked together to advance legislation on priorities that not only addressed the pandemic but also tackled issues facing Michiganians and people across this country each and every day.

On a bipartisan basis, we have been able to pass legislation out of Congress on a number of topics, whether it has been expanding apprenticeship opportunities for veterans, closing loopholes that pose a threat to our national security, saving taxpayer dollars, protecting the Great Lakes, which is one of our Nation's most precious natural resources, hiring more agricultural inspectors at our Nation's ports of entry, or improving the Department of Veterans Affairs caregiver program.

I want to take this opportunity to thank my colleagues on both sides of the aisle for their partnership with me in advancing these priorities. I know there is no shortage of differences among us, but when we put personal politics aside and focus on addressing the problem at hand, I know we can get results.

As we enter this next session of Congress, I am hopeful that we can build on some of the progress we have made. Whether it is supporting small businesses, lowering prescription drug costs, ensuring our Nation remains a global leader in innovation, or getting through this public health and economic crisis, there is much more that can be done in the next Congress when we are all willing to reach across the aisle to find lasting solutions.

Two years ago, I delivered George Washington's Farewell Address on the Senate floor. It is an annual tradition here in the Senate. In that address, President Washington warned of the dangers of tribalism and political polarization in our country. We cannot forget President Washington's message, particularly during these uncertain and daunting times. We cannot let polarization prevent us from doing the people's work. Let us build on that spirit of bipartisanship. Let us work together to get things done. Our constituents demand it.

This week, we can again work in a bipartisan way to pass a COVID relief bill that makes a difference to everyone suffering from this pandemic.

I yield the floor.

VOTE ON SOMERS NOMINATION

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the Somers nomination?

Mr. PETERS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Wyoming (Mr. ENZI), the Senator from Nebraska (Mrs. FISCHER), the Senator from Georgia (Mrs. LOEFFLER), and the Senator from Georgia (Mr. PERDUE).

Mr. DURBIN. I announce that the Senator from California (Ms. HARRIS) is necessarily absent.

The PRESIDING OFFICER (Mr. SCOTT of Florida). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 52, nays 43, as follows:

[Rollcall Vote No. 274 Ex.]

YEAS—52

Alexander	Graham	Romney
Barrasso	Grassley	Rounds
Blackburn	Hawley	Rubio
Blunt	Hoeven	Sasse
Boozman	Hyde-Smith	Scott (FL)
Braun	Inhofe	Scott (SC)
Burr	Johnson	Shelby
Capito	Kelly	Sinema
Cassidy	Kennedy	Sullivan
Collins	Lankford	Tester
Cornyn	Lee	Thune
Cotton	McConnell	Tillis
Cramer	Moran	Toomey
Crapo	Murkowski	Whitehouse
Cruz	Paul	Wicker
Daines	Portman	Young
Ernst	Risch	
Gardner	Roberts	

NAYS—43

Baldwin	Hassan	Reed
Bennet	Heinrich	Rosen
Blumenthal	Hirono	Sanders
Booker	Jones	Schatz
Brown	Kaine	Schumer
Cantwell	King	Shaheen
Cardin	Klobuchar	Smith
Carper	Leahy	Stabenow
Casey	Manchin	Udall
Coons	Markey	Van Hollen
Cortez Masto	Menendez	Warner
Duckworth	Merkley	Warren
Durbin	Murphy	Wyden
Feinstein	Murray	
Gillibrand	Peters	

NOT VOTING—5

Enzi	Harris	Perdue
Fischer	Loeffler	

The nomination was confirmed.

The PRESIDING OFFICER. The Senator from Ohio.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. PORTMAN. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

CORONAVIRUS

Mr. PORTMAN. Mr. President, I am here on the floor today to talk again about the need for us to pass a legislative package, which I would call an emergency package, to deal with our COVID–19 crisis we have in this country.

As we talk today on the floor of the Senate, there are negotiators working busily in a room nearby to try to come up with that package, and that is a good thing. I know they have run into some roadblocks, at least so I have been told. We need to work through those roadblocks. They are relatively small compared to the importance of the overall mission of helping the people we represent, helping those small businesses, helping those hospitals, helping those families who find themselves without a paycheck through no fault of their own. And my hope is that we can get there.

The legislation that is being looked at today, which may be part of a larger package that we will vote on either tomorrow or the next day, is, as I understand it, informed by work that a bipartisan group of us did over the past several weeks. I appreciate my colleagues so much. I see Senator MURKOWSKI is here on the floor today. She was one of those people. Senator MANCHIN was one of the people to help organize it. In fact, I think the first meeting was because LISA MURKOWSKI invited people to have pizza at her place. And that resulted in a very positive interaction between Democrats and Republicans on a lot of detail, a lot of specific issues, to be able to put together a package that will help our country right now to work through this crisis.

I wish I could say that things are better. But when I look at my own home State of Ohio, I see just the opposite. In fact, over the past few weeks, we have had weekly cases that have increased, not decreased. Our number of daily new cases is averaging around 10,000 a day now every day. That is double what it was just a month ago. At least in my State, the coronavirus crisis has increased, not decreased.

By the same token, the economic crisis that is a result of the COVID–19 crisis has continued to grow. We have seen people who have lost their jobs because their restaurant doesn't have any business, not because there is a government edict; although, there are in some States. Some States have said you have to shut down. Some States have gone so far as to say you have to shut down outdoor dining, not just indoor dining. Of course, those people have lost their jobs.

In many cases, it is just because the virus is so prevalent, people aren't

going out; they aren't going shopping; they aren't going to the movie theater; they aren't going to the bowling alley; they aren't going to the restaurant; and they aren't going to the hotels. Folks are losing their jobs. Again, not because of something they did or something they could control. It is almost like a natural disaster, and, therefore, they need some help and need it now.

We really have kind of a K-shaped recovery here. People talk about a V-shaped recovery, where you have a recession and you come right back out the same way you went in. I wish that were the case here. Instead, it is kind of K-shaped. We do have some industries that are doing quite well, actually. In some areas of the country, they are doing OK. That is the top of the K. But the bottom of the K is those who are not. If you are in the hospitality business, the travel business, if you are someone who has a job that is no longer there because of this crisis, then you are in trouble. You are in trouble.

I am told that I have now given 20 floor speeches on the need for us to do something. I think it ought to be targeted. I think it ought to be focused. What I have said is that we have this wonderful new vaccine coming out. Moderna is about to be approved, I believe. Pfizer was just approved. I am in a trial for the Janssen, J&J—Johnson & Johnson—vaccine, actually. I think that is coming along well. We will probably have AstraZeneca coming soon.

This is something that is very positive about this crisis. We actually finally have something that can help us turn the corner. I think it is important that we wear our masks. I think it is important that we social distance. I think it is important that we use the hand sanitizer—all of that. We need to keep doing it. But the difference between that and the vaccine is that the vaccine gives you the immunity we are all seeking. People talk about herd immunity and that that could come—early on people said—by so many people getting infected. We can't have that happen. Why? Because that will lead to a lot of pain, a lot more deaths. Three hundred thousand people have already died in this country from this crisis. We don't want to bring herd immunity in that way. We want to bring herd immunity from the vaccine.

By the way, these vaccines are safe. They are effective. I mean, if you look at the numbers, 95 percent efficacy—unbelievable. Do your own research and look at it and make your own decision, but this is not a situation where, as with the flu, actually—when you take the flu shot, I am told, only about one-third of the time does it work and about two-thirds of the time it doesn't. That has happened to my family members, probably to you or your family members, where you take a flu shot, and it doesn't really help. But here, 90, 95 percent, 98 percent—the numbers are amazing. Take a look at them—''efficacy,'' meaning that is how effective they are. Again, in the trial that I am in, the initial numbers are quite positive.

Also, it was done in a way that I think makes a lot of sense for the future in terms of public-private partnership. The government basically said to these companies that we will provide a market for you if you get busy producing this lifesaving vaccine. By the way, you can go ahead and start producing the vaccine, even before it is approved so we don't have to wait 4, 5 months after an approval to then get the production up and going. If you don't get the approval, we are going to throw away the vaccine.

It was worth doing. It was probably the best expenditure of Federal money we had here in the last package, the CARES package, because it ensured that we not only would get these vaccines quickly, but we would get them distributed quickly. As an example, even while the vaccines were being approved recently—and these were the Pfizer vaccines—those vaccines were already on their way to my home State of Ohio. They were pre-positioned there. And when the approval came, we could move quickly. People are being vaccinated today in my State and in your State—primarily, people who are on the frontlines as healthcare providers.

Next, we are helping with the nursing homes, people who come in and out of the nursing homes, which is where, obviously, most of this disease happens, and then the people in the nursing homes, then our EMS and other first responders, people who have health problems, preconditions that make them more vulnerable to the virus, seniors. This is really exciting. This is the answer. This is what is going to help us turn the tide, but that is going to be a ways off until that is widely available.

What I think, in terms of this package, again—I think of it as a bridge. It is an emergency package to get us from where we are now to this period probably in the March, April, May time period, when the vaccine will be widely available, and we will be able to have that kind of herd immunity we talked about earlier. We don't want community spread. We want community immunity. And that is the idea.

The package that the bipartisan group put together was $908 billion. Six of the ten of us voted for that. All of us voted for a smaller package, which was $748 billion. It is important to note that of that $908 billion, or $748 billion, we also repurposed a lot of money that has already been spent. So, roughly, $600 billion was pulled back from the PPP program that had not been spent yet and also from a Trump program that the Treasury and the Fed had to provide loans that were not being used. That is the 13(3) Program you might have heard about. That program, fortunately, was not tapped into because the commercial bank stepped in and provided a lot of that lending that was necessary. Rates are at historic lows right now for mortgages, as an example, and other loans, so they didn't need to step in. That money is being repurposed. So, instead of $748 billion, it is more like $148 billion; instead of $908 billion, if you went for the whole thing, it is more like $300 billion—not that that is not a lot of money. It is. But compare that to what was being talked about only a couple of weeks ago and for the previous 9 months, by the way, which was a package in the House of Representatives, called the Heroes Act, which was trillions of dollars—$3.5 trillion, initially, and then they agreed, maybe, $2.4 trillion. I think the last offer that was on the table that they didn't take was $1.8 trillion. We are not talking about those kind of numbers now. We are talking about a bridge, on an emergency basis. It is targeted and focused. I will give you an example of that.

In this package—the bipartisan package, which I hope is picked up, and I think it will be by the package that the final negotiators are working on. That would be Secretary Mnuchin, who has been very eager to get an agreement that helps the American people, working for the President, but also the leadership here—the Democratic leader, the Republican leader, and in the House, the Democratic leader, the Speaker, and the Republican leader. That is the group right now. What they are saying is, we want to get a package done. I think, as an example, with the PPP program, they will end up picking up what this bipartisan group agreed to, which is to have a more narrow Paycheck Protection Program, PPP, to help small businesses but to particularly focus on those businesses that are small businesses, instead of under 500 as an example, maybe 300 people, and those that are really hurting; in other words, those that are losing money relative to where they were last year. When you do a quarter-to-quarter comparison—fourth quarter this year, fourth quarter back in 2019—if you have a loss, let's say, of 25 percent or 30 percent, that is significant. With the funding that we have, isn't it better to target that funding toward those small businesses that are really hurting? That, I think, will be in the final package.

Again, I commend my bipartisan colleagues for coming up with some of these ideas and working out some of this stuff because there are some differences. By the way, no one of the 10 of us involved in this thing, agreed with every part of this package, trust me.

I would have written a different package, as any of my colleagues would have, but it was necessary to get to yes, to get to a result. We have done that and, I think, again, it will inform where we end up in terms of the package coming to the floor.

The Paycheck Protection Program is a good example of that. We also provided in that program loan forgiveness for small loans—$150,000 or less—in a

very simplified manner, so you wouldn't have to go through all the bureaucracy and the costs and the loops and the hoops, which small businesses just can't afford to do. So I am proud of our work there as well.

We also provided help to some of the hardest hit industries, including the airline industry. We want to keep a viable airline industry in this country. We don't want them to go bankrupt and planes to stop flying. We actually want, over this bridge period—between now and, as I mentioned, March, April, May—to be sure that the economy can get back on its feet as quickly as possible. That is why we don't want these small businesses to go out of business and their employees to be put on the unemployment lines. That is why we want to be sure our airlines can continue. They are having a tough time. But 90,000 jobs alone in this industry will be lost, we are told, unless we do something along the lines we did in the bipartisan package—90,000 additional jobs lost. We don't want that. We want to be sure we are positioned for growth.

By the way, in my view—for whatever it is worth—I think this economy is incredibly resilient. I know it is not going great right now. We still have 10 million people out of work who were working as of February of this year. We have 10 million people who haven't found their way back to work yet. We still have relatively high unemployment compared to where we were. In my State, it is about double where it was. But we have been resilient, given what we have been hit with. I believe that if we can get to this period of time where we have the vaccine readily available, we are poised for a takeoff.

I think there is pent-up demand. Among my constituents, they are going to be happy to get out and shop again—to go to the restaurants and go to the hotels, to travel, to go to the movie theaters and go to the stages, the places where there is a performance that has to be canceled now and where people are struggling to keep these venues open. Those will not just be reopened. People, I think, will flock there. We have to get through to that period.

In my view, it is worth helping to ensure that in the interim period, we don't have even more pain and more loss in jobs and are prepared to move forward.

On unemployment insurance, again, if you lost your job, not because of what you did but because of what I said earlier—almost like a natural disaster of the virus—we should provide additional help. We do that in the legislation.

The day after Christmas, the current relief ends in terms of the Federal help and unemployment insurance. That is not something that any of us should want to see. If you are self-employed, if you are a so-called gig economy worker, then, you are able to get unemployment insurance right now if you don't have a job. If you can't work because of this virus, you can get unemployment insurance. That is not typical in my State, and it is not typical in most States.

But because of the Federal law we passed, the CARES Act—again, 9 months ago—that is permitted, but it ends the day after Christmas. I have people self-employed coming up to me back home saying: I have to know. I don't know if I can pay the rent. I don't know if I can make a car payment. I need to know. I don't know if I can make my mortgage.

We are going to tell them, I hope, in this legislation that passes that, indeed, they are going to get the coverage. And the 13 weeks of the Federal extension on the State unemployment will also be extended so that the day after Christmas, again, people aren't falling off the cliff.

Again, the Federal supplement per week originally was $600 per week, as you know. That $600 per week, I thought, was relatively high, meaning that many people were getting more on unemployment than they were in their jobs. That was a problem for many employers, typically small employers that had a tough time getting people to come back to work. As the economy started to improve after the March, April, May time period, when things started to pick up a little bit, it was tough.

This compromise, I think, will be $300. Maybe it will be $200. I don't know what exactly they are working out. Our proposal was $300, which is a bipartisan compromise. Many Democrats would like to go back to the $600. Some Republicans think it should be less than $300. But this is a compromise, and it is a way for us to ensure that during this time period—and this is for 16 weeks only, so between now and the end of March—on this bridge that we talked about, if people are unemployed through no fault of their own, they should be able to get a little bit to be able to put food on the table, make the car payment, make the rent. That is in this package, too.

There is also funding in here for rental assistance. As you know, some people have been hanging on wondering if they are going to be evicted or not. Evictions make no sense right now for the tenants or the landlords or the economy. We don't want people out on the street. Landlords don't want to go through the pain of having to go through an eviction and trying to find somebody else. They can get some help just to hold on during this period. There is funding in rental assistance to help keep people in their homes with a roof over their head as we go through this period.

The final one I want to talk about—and there are a lot of other provisions here that I don't have time to go into. What I want to talk about is one that is a heartbreaker for me. For many years now, we have been challenged with this drug addiction issue, particularly opioids. It is prescription drugs and heroin and fentanyl, the deadly synthetic opioid—to the point that only 4 years ago, we had the highest rates of overdose deaths in the history of our country. Seventy-two thousand people were dying a year. A lot of us focused on that year.

For the past 4 or 5 years, this Congress spent money and changed policies to help people get treatment and get into longer term recovery. More money went into prevention activities to keep people from getting into the funnel of addiction, in the first place. This was at epidemic levels.

In 2018 and 2019, we started to see a reversal of that for the first time in really 3 decades. Every year—for something like 30 years—in my home State of Ohio, we would see more overdose deaths every year—every year. In 2018, we had a 20-plus percent reduction in overdose deaths. It was about a 22-percent reduction in Ohio—a 22-percent reduction of deaths. That is because we all focused at the Federal level, State level, and local level, and we made a difference.

We began to change this dynamic of young people and middle-aged people and across the spectrum. Regardless of the ZIP Code you lived in, you were being affected by this. We changed it so that people were actually getting the help they needed, getting out from under their addiction, getting back to work and back to their families. It was good news. The heartbreaking part of this for me is that, having made that progress, finally, we now see, during this coronavirus pandemic, an epidemic underneath it. It is the epidemic of drug addiction.

There are new numbers out today that I saw that don't surprise me as much as they discourage me, which is that, this year, instead of 72,000 people dying of overdose deaths in America from drug abuse—this is not just opioids but all drugs, including psychostimulants, like methamphetamine; crystal meth from Mexico that is cheap, powerful, deadly—this year, it is expected that our overdose death rate will be the highest ever. We are getting back to where we were. Plus-83,000 is the number I saw today. Remember, I mentioned 72,000 people dying only 4 years ago. Now we are back to 83,000. This is a crisis within a pandemic, and we need to deal with it.

There are lots of different opinions out there as to why this is happening. I believe strongly a lot of this is just from the isolation that comes from this pandemic. People haven't been able to go and meet with and talk to their recovery coaches, which is one of the ways that we were changing this dynamic. People were able to meet with people who were recovering addicts themselves to help them get through it. It was working for a lot of people.

Yet at some of these longer term recovery places where people can be—say a home, a sober home—they had issues with the pandemic and have not been

able to have the group homes provide that care.

Also, people have not been able just to go see their doctors or their treatment providers. Telemedicine has helped. That is one reason in our package that we put more funding into telemedicine, because that is a way you can get to people. Both in regard to behavioral health, mental health issues, and with regard to addiction, it hasn't filled the gap.

Also, a lot of people are feeling a great deal of stress and even despair and joblessness. And, obviously, if you go to the food banks in Ohio, you see people who are in their cars waiting for 3, 4, 5, 6 hours at times. There is something going on here, folks. These are people who are feeling desperation. To wait in line for 6 hours to get a box of food means that you have a real problem in your family.

By the way, some of these people—because I talked to people who have gone to these food banks—have never been in a food bank in their lives. They found themselves in a tough situation.

Again, it is not everybody. Remember the K-shaped recovery? For some people, it has been fine. If you are a white collar worker and you can telework from home virtually—maybe you are in the finance industry or maybe you are in the tech industry—you might be doing great. But your neighbor who has a job at that restaurant or perhaps in another business like the travel business or the motorcoach business, they don't have the opportunities to get that job. They are the ones in the food bank line.

By the way, putting more funding into the food banks, as well as into helping people to be able to afford food, is, obviously, a big issue right now.

The notion here is that, with this legislation, we are going to provide more help for people who are suffering from addiction, with the thought of trying all we can to try to reverse this trend.

Ultimately, again, the best way to reverse it is to have this coronavirus pandemic behind us so that people can socialize again and gather again and aren't feeling the despair, aren't isolated. And that is coming.

But the bridge to there is important so we save as many lives as we can. There is $5 billion in our legislation—the bipartisan bill—to do just that. My hope is, again, that that will be in the final package, and I believe it will be. I believe that what the negotiators are working on is very similar to what is in the legislation that we came together with as a bipartisan group.

My only disappointment in the group is that we couldn't end up with this combination of State and local funding—targeted toward need, by the way, not the way it was done last time, per capita, but targeted for need—and liability protection for these small businesses, for these private nursing homes, for these EMS personnel, for emergency medical people who are concerned. They are concerned about it.

What we tried to put together was a package that said: OK, if you are a bad actor, if you didn't follow the rules—and the rules were pretty clear—you aren't protected. You are accountable.

But if you followed the rules, and you were trying your best to deal with ever-changing standards—and, let's face it; they have been quite different. Remember back in March and April, people were saying: Don't wear a mask. Now, of course, we know that was a mistake. At the time, we didn't. The notion is to protect people from frivolous lawsuits who were doing their best.

By the way, there was a survey done of people saying: Do you think there should be protection for people who are doing their best, whereas people who are grossly negligent—that was the word used, ''gross negligence''—would not be protected; they would be accountable? And 79 percent of the American people agreed with that.

There has also been polling out there with regard to small businesses, from the NFIB, saying that 70 percent of small businesses are very concerned and worried about this. Again, think of the business. Revenue has crashed. Profits have crashed. They are hanging on. The PPP is going to help them because we are getting more PPP. The Paycheck Protection Program, which we talked about earlier, will help to get them through this.

If they are facing a lawsuit—whether they win it or not, whether they can prove that they were doing the right thing—just the cost of that lawsuit could well be the difference of that small business continuing operations or not.

Nonprofits. The nonprofits in Ohio are very interested in the liability reforms, as are the education community—the higher ed people, the school teachers—as are people in the healthcare industry across the board—nursing homes and hospitals. My hope is that we can get back to work on that. Perhaps after this legislation has passed, as we look at what we do next, let's be sure that we are providing that protection in combination with providing that help to our State and local governments that need it, where they can demonstrate they need it. I don't think it will be in this package, but it should be in the next package.

I will say, this legislation on COVID is needed and we ought to move it now. We cannot go home for the holidays without passing COVID–19 rescue legislation.

Again, to me, it is a rescue package. It is not a stimulus package as much as it is getting us through this period, providing that bridge between now and when the vaccine is readily available.

This legislation is likely to be part of a broader bill that will include a number of things, including spending for the year so we don't have a government shutdown. It is a good thing not to have a government shutdown.

It is also likely that it will include some tax provisions which are so-called tax extenders.

I would say one thing, that I hope it includes is the permanent extension of tax relief for our craft beverage industry. This would be craft breweries, craft vintners, craft distillers. We passed legislation a few years ago that was very important to them, that allowed them to have a reduction in the excise tax they pay on certain volumes—relatively low volumes of their product.

As a result, many of these businesses have been able to expand, hire people, and now they have the possibility of this expiring at the end of the year and having a big bill due that they cannot afford.

We are proud in Ohio to be the home of an industry, the craft beer production industry. It is now No. 6 in the country. It supports 81,000 jobs. It is a business that has been hurt for two reasons: One, if you think about it, the restaurants aren't doing the business they used to do, so if you are providing your product to a restaurant, you are hurt. But also, a lot of these craft distillers or craft brewers or craft vintners have their own tasting rooms or their own brew pubs, and those, in some cases, have been shut down altogether. In other cases, their revenues have crashed, so it would not be the time for them to be facing a big tax bill, and that is what the excise tax would be. Income tax you pay later in the year; excise tax you would have to pay right away.

So my hope is that that will be extended permanently. More than half the Members of this body joined me and Senator WYDEN on a letter to our leadership about this, urging that this extender, which has worked so well to increase jobs and opportunity in America, can continue on a permanent basis going forward.

My hope is that that is part of the package as well. That will help in terms of the economic stimulus part of this, which is also important.

I thank you for what you are doing if you are one of those people out there who is promoting the vaccines and talking about the importance of our getting the vaccines. If you are not, I hope you will look at the research. I hope you will look at the fact that we should be encouraging everyone to get vaccinated unless someone has a health problem that makes it difficult for them.

The polling data is not encouraging on this. The last Gallup poll shows that only 58 percent of Americans are comfortable being vaccinated. That needs to change.

I have heard some people say: Well, when you look at the polling, it shows that Democrats are concerned because this happened in the Trump administration, this vaccine development.

This is not political. Take the politics out of it.

These are scientists. They have been working around the clock over the past

9 months, 10 months, to get us to this point. These are scientists who are now working around the clock to look carefully at these vaccines to determine whether they are approved or not. These are the scientists who are making decisions, not the politicians. It is the people in the white coats. We need to trust them, for the sake of our country, because we need to reverse this terrible virus and the pandemic that is causing all of the issues that we talked about earlier today, to our communities, to our families. So the way to do that is to ensure that we do, in fact, not just have this vaccine available but that people take advantage of it and are willing to be vaccinated.

I hope, if you are listening this evening, that you will pass that word along and that you, again, will do your own research. Look at it. But my hope is that the conclusion will be to get to the period we want to get, which is to have people feel like they can reengage in the economy and feel like they can be back with their loved ones and congregate and feel like they can go back to church or their other place of worship; they feel like they can send their kids back to school; they feel like they can get back to a more normal life. That will happen through the accessibility and the ability to actually get that vaccine.

So my hope is that those listening tonight will do that and do their part in spreading that message instead of spreading the virus.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

CORONAVIRUS

Ms. MURKOWSKI. Mr. President, I had an opportunity to listen to my friend and colleague from the State of Ohio outline in great detail the efforts that a bipartisan group has been working on for just a month now.

It was just a month ago, I was reminded—November 17, apparently—that I had an opportunity to invite some colleagues over to my house for dinner and conversation. And while it wasn't pizza, it didn't make any difference what we were eating. It was all about the conversation and what we could do to be responsive to the urgency of the need.

As my friend from Ohio has said, people in Ohio are suffering. People in Alaska are suffering. People around the country are suffering. And they are looking to us for answers and for hope.

I felt on Monday that there was that sense of hope that we could offer. It is not the end-all and be-all in terms of a legislative proposal, but it was a dozen Members, bipartisan—Republicans and Democrats from this body, as well as Republicans and Democrats from the House—coming together over the course of a month, hours on Zoom, digging into the details and the issues in a way that, as someone who has been part of this body now for 18 years, I have not had the opportunity to be as engaged in every level of the debate and aspect as we were in these conversations.

The Senator from Ohio, while he might not have been at that dinner, was with us every step of the way and was truly leading on the negotiations when it came to the liability provisions and the input in so many other areas.

But what we were able to outline, given a framework of how we can be responsive to the pandemic and the economic crisis at hand, focusing on the most vulnerable—those who have lost their jobs, those who have a small business that is open but just barely open because there are no customers or because the limitations on your restaurant are so small you can barely even afford to keep your doors open—to be responsive to those who have lost their jobs, to those who are looking at the first of January and wondering if they are going to be able to stay in their home or in their apartment, to those families who have children at home who haven't been in a classroom since March of this year, for those rural healthcare providers that have been struggling as they have tried to meet the crush of demand and need within their small hospitals.

What we tried to do was build a package that was responsive to the emergency at hand. And as Senator PORTMAN has noted, this was not designed to be a stimulus bill. This is not designed to be the end-all, be-all for how we move forward. It is targeted emergency relief.

What we were able to present on Monday, which I felt was so hopeful, were not only the debate and the contours of the framework but then to actually put that into legislative text—5 or 6 inches of legislative language, a bill—a bill for this body to consider, a path to move us forward at a time when it is so incredibly critical.

Also on Monday, we were met with hope because the vaccine—the long-promised vaccine—has come about in extraordinarily short order, historic efforts by so many to get the development to this point, to get the approval, the safe approval, and now moving forward to distribution.

The headline in our largest newspaper yesterday was ''Morale gets a boost'' as vaccine arrives. And, boy, do we need a morale boost.

This is a dark time in Alaska right now. The sun sets about, I don't know, maybe about 3:45 in the afternoon right now, so it makes for a short day. But we are used to short days because we know that in the darkest times of winter, there is going to come that time when things start to change and the days actually begin to get longer; the sunlight is with us more and more.

And as Alaskans are considering the very deep, deep economic strife that we are in right now, we know that there is light at the end because the vaccine is arriving; that is coming.

But in the meantime, they need to get from here to there. So what we have outlined in this proposal—this bipartisan, bicameral proposal—is just exactly that. It is that lifeline that can get them from December to March, to April, when hope really starts to return.

So I know that there is a great deal that is being considered right now. As I have shared with folks, I say: Well, we were able to advance the ball significantly with this effort that we have made. But when we presented that multihundred-page package to the public, to the administration, to leadership, we basically said: Here is a gift. Take it.

So we have kind of lost ball control, if you will. That is good. That is fine. That is what this process is all about. But I am just urging that we commit with every sense of expediency and urgency to do our business quickly and fairly, with the politics aside, because the last thing that folks back home need, whether it is in Ohio or Alaska, is to know that we might have wrapped up our business here, and we didn't hear them. We didn't respond to their need. We left them hanging. That is not an option for us, and that will not happen.

We are all pledging to make sure that we resolve this before Christmas or we are not going home. But we can do better than that. We don't need to draw this out. We have an opportunity, working together, so I encourage those who are negotiating. We have provided not only a template and a framework, but we have really given you considerable meat in terms of this legislation.

My hope is that we are going to have good news very, very shortly that will allow us to not only address the urgency in response to this COVID pandemic but also be able to resolve our end-of-year appropriations and other matters that we have had working before this body.

But as they say, we are running out of daylight, so let's get moving with it.

TRIBUTE TO BRIAN HUGHES

Ms. MURKOWSKI. Mr. President, speaking of moving, I wanted to take a few minutes on the floor this afternoon to recognize a couple of individuals who are moving on.

We have heard some floor speeches in these past several weeks from colleagues who have been with us, some for decades, like Senator ALEXANDER, Senator ENZI, and some who were with us for not quite as long, Senator JONES. We have had an opportunity to hear from them and to share our thanks, but I think we all know that as Members of Congress, Members here in the Senate, we are as good as our staffs—the staff who help guide us, who help give us the information, who work with us as we not only help to build policy but just kind of probe and develop and encourage us. The work that our teams do for us is considerable, and it is appreciated, and we need to show that thanks and appreciation.

I want to talk about two gentlemen today, and I want to start first with a longtime friend and a longtime member of the Senate, a gentleman who has provided absolutely outstanding service to the Senate and to the State of Alaska, and that is Brian Hughes, an Alaskan who has worked tirelessly for our State. He has served as my staff director on the Energy and Natural Resources Committee for the past several years.

Brian has been here a long time. In my view, he has been kind of a fixture on energy issues, and many of you know him.

But Brian is going to be leaving on a well-deserved sabbatical when this Congress adjourns. He says he is going to spend some time with his sister and brother-in-law. They have 4-year-old twins out in California, and I know he dotes on them.

I am excited for his next steps. He is going to figure out where he is going to be going next, taking a breather right now, which is important. But Brian is one of those types of individuals who are very humble. He is always giving the credit to others. I did not want Brian's Senate service to conclude without giving it and Brian himself the recognition that he has assiduously avoided for years.

Brian first came to the Senate during his college years at Washington State. His previous summer jobs were working up on Alaska's North Slope and on commercial fishing boats.

In 2004, he qualified for Senator Ted Stevens' intern program. I am very familiar with Senator Ted's intern program because I, too, was an intern for Ted Stevens. Brian was pretty much a standout, though. He was there not only once, but he participated in two successful intern summers. Even before he finished his studies in finance, Senator Stevens said: Why don't you just come back? And Brian, in his characteristic generosity, skipped the fun of his final semester and returned instead to Washington, DC, to work full time here in the Senate while finishing his degree remotely. It was true to form for Brian because he is an extraordinarily hard worker.

It wasn't only the Alaskans, though, who recognized Brian's talent. Less than a year and a half after he had come back and with the blessing of Senator Stevens, Senator Domenici ''poached'' Brian to work on the Energy Committee staff. I had the opportunity to work with Senator Domenici when I first came to the Senate, and so I first met Brian at that time. Brian came over to the Energy Committee with Senator Domenici. He pretty much has gone through just about every job on the committee. He took a brief timeout in 2012 to serve as a speechwriter for Senator ROMNEY's Presidential campaign, but other than that, he has been there throughout. Every step of the way, Brian has distinguished himself as an original thinker and a voracious reader. I don't know where he finds the time to do all of the reading that he does on top of all the work he does. I think he doesn't sleep. He is an eloquent writer and a versatile high-achiever. So when I had the opportunity in 2017, it was pretty much a natural and obvious pick to appoint Brian as staff director for the Energy and Natural Resources Committee.

During Brian's tenure, we have had some pretty considerable and notable successes and victories that I will look back on for a long, long time, the efforts that he led relating to development and conservation of our natural resources and modernizing America's energy laws. Brian oversaw the staff work leading to enactment of the Dingell Act. He helped ensure that a talented group of nominees were confirmed to their posts in the executive branch. He was also very key, very central to the small ENR team that drafted the legislation to open up Alaska's 1002 Area to responsible oil and gas development.

As we are working to conclude the business here in the Congress—knock on wood—Brian will be able to add the Energy bill to his list of accomplishments as we seek to close that out. This is something we have been working on in the committee now for over a dozen years to update and to modernize our Nation's energy policies, and I am pleased to be at this point and to know that it will be Brian who will be bringing it home for this Energy bill.

Although Brian has a list of legislative and administrative wins that speak for itself, his true gift, his talent is writing and storytelling. For years now, when anybody on the Energy staff is writing a particular document, they take their best work, but they won't just end it there; they go to Brian. Every time, without fail, he will take their work, and he will move it to the next level by adding what they call ''the Brian gloss,'' usually driving home the point more effectively when he throws in an anecdote, a funny story, or a joke or whatever, but it is just ''the Brian gloss.''

Brian has a little bit of a sense of humor. As I say, he works very hard, but he doesn't let the seriousness of the work take over. We were working on an energy bill back in 2016, and we had been on the floor for a couple of weeks. There was an amendment that was pending for a voice vote, and it had to do with wild horses. Just prior to the vote, Brian and I were talking in the cloakroom, and he jokingly said to me: You know, when the ayes and the nays are called, you should say ''nay'' like a horse. Of course, I am not going to say that on the floor of the Senate.

So then it came down, and the yeas and nays were requested, and I don't know where it came from, but I literally blurted out ''neighhh'' without realizing that my microphone was on. I was leading the bill there. The whole Chamber heard it. I turned beet red. I looked straight back at Brian, who was sitting on the bench with several of his staff, just laughing.

Yeah, Brian, thank you for that one.

I know that I am going to be looking back very fondly on the time Brian spent on my team. In part, that will be because Brian exemplifies three principles to which congressional staff who excel consistently adhere.

The first is that staff must be well prepared, honest, and straightforward. I have always, always been able to count on Brian to just be straight with me, ''shoot me straight.'' He knows the facts, good and bad, and he shares them no matter what.

Second is that you have to work hard and treat everyone on both sides of the aisle with respect and fairness. I think Brian's successes are the direct result of the many strong relationships that he has forged even as he has relentlessly pursued his long list of to-do's. Everyone recognizes that Brian is one of those guys who is a workhorse. He is not a show horse.

Finally, the best staff discharge their delegated authority wisely and to good effect, and Brian really takes that to heart. He constantly reminds those around him that only Senators are Senators, even if sometimes people would have it otherwise.

I have been fortunate enough to have been on the Energy and Natural Resources Committee since I came to the Senate 18 years ago. It is the best committee out there. I have been privileged now to chair the committee for 6 years, and prior to that, I was privileged to be the ranking member on that committee for 6 years. Everybody—everybody—on the ENR Committee works their tail off. They are hard workers. They are an extraordinary team. But I think that work ethic is set by our staff directors. I have been so blessed to have staff directors who show and model that work ethic, and Brian has done that over the years.

Whether on a late night or an early morning call on pending legislation or a trip to check up on our volcano monitoring systems, Brian has been there at my side as an indispensable aide and an inspiration to all of my colleagues. He really is one of those extraordinary staff who helped me refine my thinking, hone my voice, multiply my strengths, overcome my weaknesses, and really helped serve the people of Alaska and our country.

So, Brian, I want to say a very genuine and sincere thank-you for the years you have devoted, not just to me but the years you have devoted to the Senate and the years you have devoted to our home State of Alaska and to the Nation. I hope that rather than being up at 2 a.m. trying to resolve a scoring issue, the only things that will be keeping you up at night will be the Yellowstone supervolcano and your little niece and nephew. I will miss your leadership, your wit, and your friendship. Brian, I speak for so many here in the Senate when I wish you a well-

earned break and a confident and bright future.

I have been blessed to have extraordinary leadership on the Energy and Natural Resources Committee, and I am going to miss Brian and so many of the team.

I am not leaving the Energy and Natural Resources Committee, but I have maxed out, termed-out in terms of chairmanship or ranking member. So it is a different place for me, but I am still going to be involved with so many who continue to do good, strong things on the energy front.

TRIBUTE TO MICHAEL PAWLOWSKI

Ms. MURKOWSKI. Mr. President, another individual who came to me through the energy front, if you will, is a gentleman by the name of Michael Pawlowski. Most of you who know me and know my chief of staff don't know that my chief of staff's name is actually Michael Pawlowski because nobody refers to him as that. They refer to him simply as ''Fish''—no last name, just ''Fish.'' And I think that is actually somewhat appropriate for my office, where we celebrate a lot of good things with fish. I was fortunate to be able to share some filets of salmon with some colleagues as Christmas appreciation, and I would say nothing says ''thank you'' more than fish.

This is now my opportunity to say thank you to my Fish.

Fish came to Washington, DC, back in 2015, when we brought him on to the Energy and Natural Resources Committee. Again, all good things come through ENR. We brought him back to be senior policy adviser in 2015, and he served in that capacity until I brought him over to be my chief of staff in 2016. He has served me here in my personal office since that time.

Fish is an Alaskan through and through. His family has lived in Alaska for five generations. He was raised in Anchorage. He has worked for multiple State legislators. He has worked in our State government. He has worked on budget and energy policies. He was deputy commissioner of revenue. He has worked to help build up so many different energy projects—the Alaska LNG project. He served on the AIDEA board, on the Alaska Energy Authority.

He has been involved in so many different aspects of what is making our State move that when he first agreed to come back to Washington, DC, I figured I would be able to keep him back here for just a couple years. Somebody with this much potential, somebody with this much on the ball—how was I possibly going to be able to keep him here? I figured out how to do it—just make sure he could get back to Alaska for work throughout the summer so he could do the fishing that he really, really wants to do first and foremost.

But that is just the human, personal side of him. What Fish has provided me is a view towards relationships and how we operate in business and professional relationships here in the Senate, working with different offices. He has worked to build relationships because he truly and genuinely cares about the people he is talking to. He is genuinely interested.

He has taken upon himself the mentoring of our youngest staff, more particularly. In the order that we have in many of the offices, you have levels of seniority, and oftentimes the younger staff, those who may have just graduated from college, come to Washington, DC, and they may be answering phones and they may be answering letters, but they don't feel like they have a real say in what is going on in the decisionmaking and are kind of out of the loop. And Fish—Fish decided that he was going to bring them into the loop with what he called ''morning stand-ups.'' They were designed for the young legislative correspondents to come on in, and we will just kind of tell you what is going on. You can ask questions. We will talk about process. We will talk about issues. And they were not required meetings but more informational. I think now everybody comes to the morning stand-ups just because the communication that goes back and forth is so uplifting to so many.

Because of the relationships and how he conducts himself, his level of professionalism, Fish is respected within the business community, the Native community, and by the political types. He has become viewed as one of these guys—if you want to talk about proposals where you are looking to bring Republicans and Democrats together, Fish is there. Fish is part of those discussions.

He is engaged with the bipartisan chiefs. He works to build those relationships across the aisle—not because he is looking for something but because he knows that is how we are going to get something done. And when we can get something done that benefits Alaska, it is ultimately going to benefit all.

He is a brilliant thinker—I mean, just a brilliant thinker with a strategic mind. He is one of these guys who can come up with things that I swear nobody else has thought about.

I was reading an article—this is something that was published a few years ago by a former teacher and mentor of his from college, and this is from Lynn Paulson. It provides a quote from Fish talking about his educational background at Alaska Pacific University. He said: I have learned to think strategically in a way that is unique and invaluable and has allowed me to do anything, from developing financing for renewable energy programs to negotiating multibillion-dollar deals.

Lynn Paulson goes on to say that Fish ''has the temperament to be in the middle of this highly charged and polarized arena and to emerge unruffled . . . supremely well informed and his trenchant logic.'' These are words that others have used to describe him.

But when I think about how Fish will take an idea—whether it was from a constituent when we were working on the 2017 tax bill—and provide assistance to our Native corporations to be able to better utilize their resources, really brainstorming to come up with what we now have in law that we refer to as settlement trusts—Fish is one of those individuals who—you know his mind is just on fire all the time. But he doesn't present as ''I have the best idea, and you need to listen to me.'' He takes the good from so many. He builds and uplifts and empowers, and that is good leadership. That is management.

Fish gets frustrated every now and again because not everybody communicates the way he does. Not everybody is a relationship builder. And he will say: Pick up the phone. Just go talk to the person. This building isn't that big. Put your device aside. Don't send a text. Get up from your desk, and go across and talk.

That may be old school, but let me tell you, it has worked extraordinarily well for this man.

I mentioned that Fish's passion is fishing; thus the name. He likes to spend a lot of quiet time on the river just out where it is cold and it is clear, or it is wet and you are with the water and you are with the fish, and I think it gives him a lot of time to do some just deep, deep thinking. He collects his thoughts. He is able to process and to really dream. So when he comes back to the real world where it is busy and loud, he has this reserve within him that he draws on, and it helps. It helps him present these ideas and the vision that he is able to articulate.

But like all good Alaskans, we seem to find our way back home, like a salmon returning to its stream. And Fish is going to be returning. I have no doubt he will continue to do great things for the people he loves, and I think he knows that we love him and will miss him, as we will miss Brian Hughes and as we will miss so many great colleagues who will be leaving us at the end of this year. I have taken time on the floor today to recognize some of those individuals who make us as Members stronger and better able to do the jobs we do.

With that, I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

BUSINESS BEFORE THE SENATE

Mr. MCCONNELL. Mr. President, here is where we are: Conversations are still underway and making progress on the major pandemic relief package we have all been seeking for the American people.

As I have been saying, families across the Nation have waited far too long already for another significant dose of assistance. We must not slide into treating these talks like routine negotiations to be conducted at Congress's routine pace.

So we need to complete this work, and we need to complete it right away. That is what I have said. The Senate is not going anywhere until we have COVID relief out the door. We are staying right here until COVID relief is out the door.

In the meantime, we are going to stay productive while these negotiations are going on. So for the information of all of my colleagues, we should expect continued votes on nominations throughout the weekend. We will continue accomplishing other aspects of the people's business—confirming well-qualified nominees to important posts—until we can act on the major rescue package the American people deserve.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 895.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Thompson Michael Dietz, of New Jersey, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

CLOTURE MOTION

Mr. MCCONNELL. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Thompson Michael Dietz, of New Jersey, to be a Judge of the United States Court of Federal Claims for a term of fifteen years.

Mitch McConnell, Chuck Grassley, Mike Crapo, Shelley Moore Capito, John Cornyn, Cindy Hyde-Smith, Steve Daines, Mike Lee, Ron Johnson, Thom Tillis, Richard Burr, Pat Roberts, Cory Gardner, Tom Cotton, John Boozman, John Hoeven, Lindsey Graham.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 712.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of John Chase Johnson, of Oklahoma, to be Inspector General, Federal Communications Commission. (New Position)

CLOTURE MOTION

Mr. MCCONNELL. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of John Chase Johnson, of Oklahoma, to be Inspector General, Federal Communications Commission. (New Position)

Mitch McConnell, Lamar Alexander, Rick Scott, Tom Cotton, Mike Crapo, Cory Gardner, Ron Johnson, James Lankford, Roger F. Wicker, Marco Rubio, Cindy Hyde-Smith, Thom Tillis, Shelley Moore Capito, John Boozman, Joni Ernst, Mike Braun, Pat Roberts.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 904.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The assistant legislative clerk read the nomination of Eric J. Soskin, of Virginia, to be Inspector General, Department of Transportation.

CLOTURE MOTION

Mr. MCCONNELL. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Eric J. Soskin, of Virginia, to be Inspector General, Department of Transportation.

Mitch McConnell, Lamar Alexander, Rick Scott, Tom Cotton, Mike Crapo, Cory Gardner, Ron Johnson, James Lankford, Roger F. Wicker, Marco Rubio, Cindy Hyde-Smith, Thom Tillis, Shelley Moore Capito, John Boozman, Joni Ernst, Mike Braun, Pat Roberts.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 757.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Beth Harwell, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2024.

CLOTURE MOTION

Mr. MCCONNELL. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Beth Harwell, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2024.

Mitch McConnell, Lamar Alexander, Rick Scott, Tom Cotton, Mike Crapo, Cory Gardner, Ron Johnson, James Lankford, Roger F. Wicker, Marco Rubio, Cindy Hyde-Smith, Thom Tillis, Shelley Moore Capito, John Boozman, Joni Ernst, Mike Braun, Pat Roberts.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 758.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Brian Noland, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2024.

CLOTURE MOTION

Mr. MCCONNELL. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Brian Noland, of Tennessee, to be a Member of the Board of Directors of the Tennessee Valley Authority for a term expiring May 18, 2024.

Mitch McConnell, Lamar Alexander, Rick Scott, Tom Cotton, Mike Crapo, Cory Gardner, Ron Johnson, James Lankford, Roger F. Wicker, Marco Rubio, Cindy Hyde-Smith, Thom Tillis, Shelley Moore Capito, John Boozman, Joni Ernst, Mike Braun, Pat Roberts.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 836.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Charles A. Stones, of Kansas, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

CLOTURE MOTION

Mr. MCCONNELL. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Charles A. Stones, of Kansas, to be a Member of the Board of Directors of the Federal Agricultural Mortgage Corporation.

Mitch McConnell, Pat Roberts, Cory Gardner, Richard Burr, John Thune, Michael B. Enzi, Steve Daines, Cindy Hyde-Smith, John Boozman, Thom Tillis, John Cornyn, Roger F. Wicker, Marco Rubio, Roy Blunt, Joni Ernst, Mike Braun, Mike Crapo.

LEGISLATIVE SESSION

Mr. MCCONNELL. Mr. President, I move to proceed to legislative session.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I move to proceed to executive session to consider Calendar No. 591.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The clerk will report the nomination.

The senior assistant legislative clerk read the nomination of Fernando L. Aenlle-Rocha, of California, to be United States District Judge for the Central District of California.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the nomination of Fernando L. Aenlle-Rocha, of California, to be United States District Judge for the Central District of California.

Mitch McConnell, John Barrasso, David Perdue, Thom Tillis, Tom Cotton, Mike Rounds, Roger F. Wicker, Kevin Cramer, Richard Burr, Mike Crapo, Steve Daines, Marsha Blackburn, John Thune, James E. Risch, Mike Braun, Tim Scott.

The PRESIDING OFFICER. The Senator from Louisiana.

IMPROVING MENTAL HEALTH ACCESS FOR STUDENTS ACT

Mr. KENNEDY. Mr. President, suicide is the second leading cause of death for youth and for young adults aged 10 to 34. It is also the second leading cause of death among college students. Thirty-nine percent, in fact, of college students experience a significant mental health issue, and 50 percent of mental health issues begin by age 14. Seventy-five percent of them begin by age 24.

Senators CORNYN, JONES, WARREN, GILLIBRAND, ROSEN, and I have introduced the Improving Mental Health Access for Students Act. There is companion legislation in the House that is also bipartisan that has 51 cosponsors.

Our legislation is pretty simple. It would require colleges that participate in Federal student aid programs to share contact information for suicide prevention resources with their students, and this is how it works:

If a university distributes student ID cards—most do; not all of them do but most do—then the universities would be directed to include the phone numbers for the National Suicide Prevention Lifeline, for the Crisis Text Line, and for a campus mental health center or program on the student ID card. If a university doesn't have a student ID card, they don't have to publish a student ID card just for that purpose. They can put the information on their websites.

The National Suicide Prevention Lifeline is well known. It is a national network of over, I think, 180 local crisis centers. Those centers provide confidential emotional support to anybody in a suicidal crisis or emotional distress. They offer 24/7 services, and those services are free.

I would also point out that our legislation is also supported by the American Foundation for Suicide Prevention, the National Alliance on Mental Illness, the National Association of School Psychologists, and 14 other mental health-related organizations.

Our legislation, finally, would not take effect until 1 year. So I don't want anyone to think that we are requiring our colleges to go out and immediately publish new student IDs. As they publish new student IDs when the current year runs out, we are just asking them to include this information on those IDs.

Toward that end, as if in legislative session, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of our legislation, S. 1782, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1782) to add suicide prevention resources to school identification cards.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. KENNEDY. I ask unanimous consent that the bill be considered read a third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. KENNEDY. Mr. President, I know of no further debate on the bill.

The PRESIDING OFFICER. If there is no further debate on the bill, the bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 1782) was passed, as follows:

S. 1782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Improving Mental Health Access for Students Act''.

SEC. 2. ADDING SUICIDE PREVENTION CONTACT INFORMATION TO SCHOOL IDENTIFICATION CARDS.

(a) IN GENERAL.—Section 487(a) of the Higher Education Act of 1965 (20 U.S.C. 1094(a)) is amended by adding at the end the following:

''(30)(A) In the case of an institution that creates and distributes identification cards for students at any time after the date of enactment of this paragraph, such institution shall include phone contact information on each such card for the following organizations:

''(i) The National Suicide Prevention Lifeline.

''(ii) Crisis Text Line.

''(iii) A campus mental health center or program, as determined by the institution.

''(B) In the case of an institution that does not create and distribute identification cards for students at any time after the date of enactment of this paragraph, such institution shall publish the suicide prevention contact information specified in subparagraph (A) on the website of such institution.

''(C) If an organization in clause (i) or (ii) of subparagraph (A) ceases to exist, the Secretary may designate a different entity with a similar purpose to be included on the identification card.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning on the day that is 1 year after the date of enactment of this Act.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KENNEDY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

(Mr. KENNEDY assumed the Chair.)

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SCOTT of Florida). Without objection, it is so ordered.

TRIBUTE TO THE TEXAS DELEGATION

Mr. CORNYN. Mr. President, at the end of each Congress, we have the bittersweet task of saying good-bye to some of our retiring colleagues, and today I want to talk a little bit about our departing Members of Team Texas.

When I came to the Senate, succeeding Senator Phil Gramm, Senator Kay Bailey Hutchison, now our Ambassador to NATO, always schooled us on Team Texas and said: We may be Democrats, we may be House Members, we may be Republicans, we may be Members of the Senate, but when it comes to Texas, we are all part of Team Texas.

And I tried to carry that tradition on as well.

Our delegation is losing six incredible statesmen, including three ranking Members in the House, whose contributions have notched countless wins for our State during their time in Congress.

TRIBUTE TO MAC THORNBERRY

Mr. CORNYN. Mr. President, the first name I want to mention is MAC THORNBERRY. MAC is the dean of the Texas delegation. His district is the second largest in Texas, and comprises parts of 41 different counties. It stretches from the suburbs of Dallas, across Wichita Falls, Amarillo, and most of the Texas Panhandle.

The folks throughout Texas 13 couldn't have asked for a stronger advocate over these last 26 years than MAC. His background as a rancher, a former Capitol Hill staffer, and a State Department official under the Reagan administration, then brought him to Congress with a well-rounded view of the problems facing our country. He possessed the leadership characteristics needed to address each of those.

He spent his time here consistently fighting to rein in government spending—something that, as the Presiding Officer knows, sometimes seems like a futile task but necessary.

He has consistently fought to protect our freedoms and liberties and ensure that all Texans have a shot at the American dream.

We have worked together many times over the years on everything from protecting the property rights of folks along the Red River to renaming the Amarillo courthouse after a trailblazing Texan, Mary Lou Robinson.

There is no question that some of his greatest accomplishments are related to our national defense. MAC has served on the House Armed Services Committee throughout his time in Congress, and he became the first Texan of either party to chair that committee. He has used this important and powerful post to ensure that our servicemembers have what they need to defend our freedoms abroad and the training and the equipment to make it home safely.

He has done a lot—more than most—to improve military readiness, including through needed improvements at our Texas military installations. I remember visiting Sheppard Air Force Base in MAC's district with him a couple of years ago and being taken aback by the look of admiration and appreciation on the faces of those airmen we encountered who knew of MAC's incredible advocacy on their behalf.

It is appropriate that the National Defense Authorization Act that just passed both Chambers of Congress carries his name—the MAC THORNBERRY National Defense Authorization Act. There could not be a more fitting tribute to the countless ways our friend from Clarendon has improved our great country.

I want to thank MAC for his incredible leadership, as well as his service and his friendship over the years. The halls of Congress won't be the same without him, but I know he is eager to spend more time with his wonderful wife Sally and the rest of their extended family.

MAC has done what we all aspire to do, and that is to leave Congress better than he found it, and I thank him on behalf of all Texans for the true patriot that he is.

TRIBUTE TO WILL HURD

Mr. CORNYN. Mr. President, as we like to say, everything is a little bit bigger in Texas than the rest of the country, and that is true not only of MAC's district but also the largest congressional district represented by another one of our departing colleagues, WILL HURD. WILL was a former CIA officer when he was elected to the House of Representatives in 2014. One Texan aptly observed: ''He has been running a marathon like a sprint for seven years.''

I think WILL's last congressional race he won by 900 votes in this sprawling border district.

His expertise is in cyber security, as well as intelligence matters. He has helped steer our efforts to bolster our national security, counterterrorism, and strengthen our intelligence community and capacity.

Considering his district includes 800 miles of our southern border, you can imagine that he has been a strong advocate for our border communities. We have worked together on cross-border trade, modernizing our ports of entry, and ensuring communities along the border are safe and prosperous.

We have also been working together on establishing a national museum of the American Latino here in Washington, and I hope we will be able to push this authorization bill over the line here in the coming days.

Unlike some folks whom we meet in Washington who seem to be all talk and who never seem to listen, WILL understands the importance of sitting down for a conversation with his constituents and actually listening to what they have to say. He launched the highly popular ''DC to DQ tour,'' where he met with constituents at local Dairy Queens in all 29 counties in his district in only 5 days.

For everything from healthcare to education, to veterans affairs, Texans can sit down with their Congressman and have a real conversation about the things that counted for the most in their lives and the things they would like to see him pursue on their behalf here in Washington, DC.

I would hate to know how many Blizzards WILL ate during that time, but these conversations certainly drove his policymaking and ensured the people of the Texas 23rd were truly heard here in Congress.

Last year, WILL and I both took part in San Antonio's annual Martin Luther King, Jr., March, which is one of the largest in the country. WILL happens to be the only Black Republican in the House of Representatives and has become a trusted voice for those whose experience and ideas are too often overlooked or underrepresented.

That has been especially true over the last several months, when we have

had an honest national conversation about racial reconciliation and injustice in this country, and I know that he will continue to use his voice as a force for good long after leaving Congress.

WILL has been a steady hand in reminding our colleagues alike that good policies should always come before partisan politics, and it is fair to say we need more leaders like that in Congress these days, not fewer.

I am grateful for his friendship and service to our country, and I know this isn't the end of the road for WILL HURD. I am eager to see where his next career takes him, and I will be happy to cheer him along the way.

TRIBUTE TO MIKE CONAWAY

Mr. CORNYN. Mr. President, much of the area that is sandwiched between MAC and WILL's two districts is represented by another retired Member of our delegation, MIKE CONAWAY. Before finding his way into public service, MIKE served our country in the Army and was stationed at Fort Hood. But he quickly made his way to the Permian Basin and built a successful career in the private sector before getting involved with politics.

During his 16 years in Congress, he has represented the folks of Texas 11 and burned the candle at both ends in the process of doing so.

MIKE is a man of faith, believes in the right to life, and is an advocate for a strong defense and has been a champion for our Nation's veterans.

His background as a CPA—we could use a few more of those, maybe less lawyers. But his background as a CPA has helped drive debates on our Nation's spending habits, and I know his expertise in this area will be deeply missed.

I believe MIKE would agree that at the top of his mountain of achievements are those for our farmers and ranchers. He authored the 2018 farm bill, which provides the support, certainty, and stability for our farmers that they need in order to operate in a modern economy. This legislation strengthened crop insurance, created seed cotton eligibility for the farm bill safety net, and helped counter cattle tick fever and other animal risks.

It would have been tough for Texas farmers and ranchers and producers to make it through these times but for MIKE as the lead agriculture policymaker in Congress. The halls of Congress will not be the same without him, but MIKE's contributions, his leadership, and devoted service will never be forgotten.

I know he and his wife Suzanne are eager to spend more time at home with their extended family, and I wish them a happy and well-deserved retirement.

TRIBUTE TO KENNY MARCHANT

Mr. CORNYN. Mr. President, it seems like we have a lot of Texans leaving Congress, and one of those is KENNY MARCHANT.

KENNY is a genuine statesman, quiet but serious and effective, and he has devoted almost his entire career to public service. He started out on the Carrolton City Council and then became mayor and then spent nine terms as a State representative, and, finally, eight terms in the U.S. House of Representatives. And he proudly represents North Texans and has for the last four decades.

As a Member of the Ways and Means Committee, he has played an integral role in the effort to keep taxes down, including passage of the Tax Cuts and Jobs Act in 2018, which was part of the spur of our great economic growth leading up to the pandemic.

He has been a staunch supporter of efforts to reduce government waste and ensure that Congress is a responsible steward of taxpayer dollars. He has fought for our servicemembers, veterans, and for strong national defense.

As the top Republican on the House Ethics Committee, KENNY helped to strengthen transparency and public confidence in our government, and there couldn't be a more important time for such a lofty goal.

I know KENNY is eager to spend more time at home with his wife Donna, their kids, and a growing gaggle of grandkids. Most of their children are grown now, but the number of grandkids seems to be increasing in pace.

I want to thank him for his incredible contributions to our State and wish him the best in the next chapter.

TRIBUTE TO BILL FLORES

Mr. CORNYN. Mr. President, the House will lose a true class act and the epitome of a self-made success with the retirement of Congressman BILL FLORES. At just 9 years old, Congressman FLORES began tending to cattle with his dad in the Texas Panhandle, and he hasn't quit working since.

He is a ninth generation Texan, representing Waco, College Station, and parts of North Austin and Pflugerville. You would be hard-pressed to find a more deeply divided district than Texas 17, and I don't mean divided in terms of politics or geography. You have the Aggies, the Bears, and the Longhorns—three of Texas's proudest fan bases—squeezed into one congressional district. Ever the diplomat, BILL considers himself tripartisan. Although he is an Aggie himself, he would gladly throw up the ''Hook 'em Horns'' or the ''Sic 'em Bears.''

Throughout his time in Congress, I have been proud to work with BILL on a number of shared priorities. We teamed up on legislation to designate the Waco Mammoth site as a national monument. We worked together to rename the Waco Veterans Affairs Medical Center after World War II Hero Petty Officer Doris Miller.

We both had the pleasure of attending the long overdue Purple Heart ceremony honoring the victims of the Fort Hood attack after a long fight here in Congress to give these heroes the recognition and the benefits they deserve. BILL has been a reliable advocate for our veterans and servicemembers, as well as our energy industry and our free enterprise system, in general.

I want to thank him for his service to our State and to our Nation and wish him and Gina the best in the next chapter of their lives.

TRIBUTE TO PETE OLSON

Mr. CORNYN. Mr. President, finally, I would say last, but certainly not least, is my friend, my former chief of staff, and proud Representative of Texas 22, PETE OLSON. As the old saying goes, Pete wasn't born in Texas, but he got there as fast as he could.

His family moved from Washington State to Texas when PETE was only 10 years old. He grew up in Seabrook. He went to Rice for his undergraduate degree and UT for law school and hardly left the Lone Star State until he enlisted in the Navy.

As a Navy pilot, he flew missions all over the world, and he was eventually brought to the U.S. Senate as a naval liaison.

I had the good fortune of meeting PETE because he worked for Phil Gramm, my predecessor, and he had a stellar reputation, likely due to his Navy days of making the ships run on time.

PETE served as my first chief of staff for several years and made it back home to Texas before making his own run for congressional office.

His district is literally one of the most ethnically diverse in the State and one of the most diverse in the country. PETE has consistently prioritized connecting with folks of different backgrounds and cultures to learn about the challenges they are facing and to figure out how to lead positive changes in Congress.

PETE has been a reliable helping hand during some of our toughest times. Following the Deepwater Horizon accident, PETE and I flew several hours into the Gulf of Mexico to a drilling rig rooted in 9,000 feet of water to learn more about the rigors of working on offshore rigs.

After Hurricane Harvey, PETE and I joined Team Rubicon's veteran volunteers to muck out some of the flooded homes in the Houston area. We fought alongside one another to secure the funding from Congress to recover and rebuild after Hurricane Harvey.

It was common then to see PETE around Capitol Hill with a Houston Astros jersey over his dress shirt to draw attention—by any means, whatsoever—to the need for additional funding for the folks in his district and folks in that region.

It is safe to say that PETE OLSON's presence has been a constant throughout my time here in the Senate, and I will miss having him just across the dome.

Like the others I have mentioned, I know PETE is eager to spend more time at home in Sugar Land with his wife Nancy and his extended family, but I hope he knows how much we will miss him in Congress.

If it isn't already obvious, the Texas delegation is losing some truly outstanding Members, and our new additions will have some big boots to fill. But I just want to tell you how much I appreciate the opportunity to express my gratitude to each of these six outstanding Congressmen for their friendship and service to our State and wish them and their families well as they take on new challenges ahead.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HEINRICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAFEGUARD TRIBAL OBJECTS OF PATRIMONY ACT OF 2019

Mr. HEINRICH. Mr. President, as if in legislative session, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 608, S. 2165.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2165) to enhance protections of Native American tangible cultural heritage, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safeguard Tribal Objects of Patrimony Act of 2020''.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to carry out the trust responsibility of the United States to Indian Tribes;

(2) to increase the maximum penalty for actions taken in violation of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act), in order to strengthen deterrence;

(3) to stop the export, and facilitate the international repatriation, of cultural items prohibited from being trafficked by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act) and archaeological resources prohibited from being trafficked by the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) by—

(A) explicitly prohibiting the export;

(B) creating an export certification system; and

(C) confirming the authority of the President to request from foreign nations agreements or provisional measures to prevent irremediable damage to Native American cultural heritage;

(4) to establish a Federal framework in order to support the voluntary return by individuals and organizations of items of tangible cultural heritage, including items covered by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act) and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.);

(5) to establish an interagency working group to ensure communication between Federal agencies to successfully implement this Act, the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and other relevant Federal laws;

(6) to establish a Native working group of Indian Tribes and Native Hawaiian organizations to assist in the implementation of this Act, the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act), the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.), and other relevant Federal laws;

(7) to exempt from disclosure under section 552 of title 5, United States Code (commonly known as the ''Freedom of Information Act'')—

(A) information submitted by Indian Tribes or Native Hawaiian organizations pursuant to this Act; and

(B) information relating to an Item Requiring Export Certification for which an export certification was denied pursuant to this Act; and

(8) to encourage buyers to purchase legal contemporary art made by Native artists for commercial purposes.

SEC. 3. DEFINITIONS.

In this Act:

(1) ARCHAEOLOGICAL RESOURCE.—The term ''archaeological resource'' means an archaeological resource (as defined in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb)) that is Native American.

(2) CULTURAL AFFILIATION.—The term ''cultural affiliation'' means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present day Indian Tribe or Native Hawaiian organization and an identifiable earlier group.

(3) CULTURAL ITEM.—The term ''cultural item'' means any 1 or more cultural items (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)).

(4) INDIAN TRIBE.—The term ''Indian Tribe'' has the meaning given the term ''Indian tribe'' in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

(5) ITEM PROHIBITED FROM EXPORTATION.—The term ''Item Prohibited from Exportation'' means—

(A) a cultural item prohibited from being trafficked, including through sale, purchase, use for profit, or transport for sale or profit, by—

(i) section 1170(b) of title 18, United States Code, as added by the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.); or

(ii) any other Federal law or treaty; and

(B) an archaeological resource prohibited from being trafficked, including through sale, purchase, exchange, transport, receipt, or offer to sell, purchase, or exchange, including in interstate or foreign commerce, by—

(i) subsections (b) and (c) of section 6 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ee); or

(ii) any other Federal law or treaty.

(6) ITEM REQUIRING EXPORT CERTIFICATION.—

(A) IN GENERAL.—The term ''Item Requiring Export Certification'' means—

(i) a cultural item; and

(ii) an archaeological resource.

(B) EXCLUSION.—The term ''Item Requiring Export Certification'' does not include an item described in clause (i) or (ii) of subparagraph (A) for which an Indian Tribe or Native Hawaiian organization with a cultural affiliation with the item has provided a certificate authorizing exportation of the item.

(7) NATIVE AMERICAN.—The term ''Native American'' means—

(A) Native American (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)); and

(B) Native Hawaiian (as so defined).

(8) NATIVE HAWAIIAN ORGANIZATION.—The term ''Native Hawaiian organization'' has the meaning given the term in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001).

(9) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

(10) TANGIBLE CULTURAL HERITAGE.—The term ''tangible cultural heritage'' means—

(A) Native American human remains; or

(B) culturally, historically, or archaeologically significant objects, resources, patrimony, or other items that are affiliated with a Native American culture.

SEC. 4. ENHANCED NAGPRA PENALTIES.

Section 1170 of title 18, United States Code, is amended—

(1) by striking ''5 years'' each place it appears and inserting ''10 years'';

(2) in subsection (a), by striking ''12 months'' and inserting ''1 year and 1 day''; and

(3) in subsection (b), by striking ''one year'' and inserting ''1 year and 1 day''.

SEC. 5. EXPORT PROHIBITIONS; EXPORT CERTIFICATION SYSTEM; INTERNATIONAL AGREEMENTS.

(a) EXPORT PROHIBITIONS.—

(1) IN GENERAL.—It shall be unlawful for any person—

(A) to export, attempt to export, or otherwise transport from the United States any Item Prohibited from Exportation;

(B) to conspire with any person to engage in an activity described in subparagraph (A); or

(C) to conceal an activity described in subparagraph (A).

(2) PENALTIES.—Any person who violates paragraph (1) and knows, or in the exercise of due care should have known, that the Item Prohibited from Exportation was taken, possessed, transported, or sold in violation of, or in a manner unlawful under, any Federal law or treaty, shall be fined in accordance with section 3571 of title 18, United States Code, imprisoned for not more than 1 year and 1 day for a first violation, and not more than 10 years for a second or subsequent violation, or both.

(3) DETENTION, FORFEITURE, AND REPATRIATION.—

(A) DETENTION AND DELIVERY.—The Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, shall—

(i) detain any Item Prohibited from Exportation that is exported, attempted to be exported, or otherwise transported from the United States in violation of paragraph (1); and

(ii) deliver the Item Prohibited from Exportation to the Secretary.

(B) FORFEITURE.—Any Item Prohibited from Exportation that is exported, attempted to be exported, or otherwise transported from the United States in violation of paragraph (1) shall be subject to forfeiture to the United States in accordance with chapter 46 of title 18, United States Code (including section 983(c) of that chapter).

(C) REPATRIATION.—Any Item Prohibited from Exportation that is forfeited under subparagraph (B) shall be expeditiously repatriated to the appropriate Indian Tribe or Native Hawaiian organization in accordance with, as applicable—

(i) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act); or

(ii) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

(b) EXPORT CERTIFICATION SYSTEM.—

(1) EXPORT CERTIFICATION REQUIREMENT.—

(A) IN GENERAL.—No Item Requiring Export Certification may be exported from the United States without first having obtained an export certification in accordance with this subsection.

(B) PUBLICATION.—The Secretary, in consultation with Indian Tribes and Native Hawaiian organizations, shall publish in the Federal Register a notice that includes—

(i) a description of characteristics typical of Items Requiring Export Certification, which shall—

(I) include the definitions of the terms—

(aa) ''cultural items'' in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001); and

(bb) ''archaeological resource'' in section 3 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470bb);

(II) describe the provenance requirements associated with the trafficking prohibition applicable to—

(aa) cultural items under section 1170(b) of title 18, United States Code; and

(bb) archaeological resources under subsections (b) and (c) of section 6 of Archaeological Resources Protection Act of 1979 (16 U.S.C. 470ee);

(III)(aa) include the definitions of the terms ''Native American'' and ''Native Hawaiian'' in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001); and

(bb) describe how those terms apply to archaeological resources under this Act; and

(IV) be sufficiently specific and precise to ensure that—

(aa) an export certification is required only for Items Requiring Export Certification; and

(bb) fair notice is given to exporters and other persons regarding which items require an export certification under this subsection; and

(ii) a description of characteristics typical of items that do not qualify as Items Requiring Export Certification and therefore do not require an export certification under this subsection, which shall clarify that—

(I) an item made solely for commercial purposes is presumed to not qualify as an Item Requiring Export Certification, unless an Indian Tribe or Native Hawaiian organization challenges that presumption; and

(II) in some circumstances, receipts or certifications issued by Indian Tribes or Native Hawaiian organizations with a cultural affiliation with an item may be used as evidence to demonstrate a particular item does not qualify as an Item Requiring Export Certification.

(2) ELIGIBILITY FOR EXPORT CERTIFICATION.—An Item Requiring Export Certification is eligible for an export certification under this subsection if—

(A) the Item Requiring Export Certification is not under ongoing Federal investigation;

(B) the export of the Item Requiring Export Certification would not otherwise violate any other provision of law; and

(C) the Item Requiring Export Certification—

(i) is not an Item Prohibited from Exportation;

(ii) was excavated or removed pursuant to a permit issued under section 4 of the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470cc) and in compliance with section 3(c) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002(c)), if the permit for excavation or removal authorizes export; or

(iii) is accompanied by written confirmation from the Indian Tribe or Native Hawaiian organization with authority to alienate the Item Requiring Export Certification that—

(I) the exporter has a right of possession (as defined in section 2 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001)) of the Item Requiring Export Certification; or

(II) the Indian Tribe or Native Hawaiian organization has relinquished title or control of the Item Requiring Export Certification in accordance with section 3 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3002).

(3) EXPORT CERTIFICATION APPLICATION AND ISSUANCE PROCEDURES.—

(A) APPLICATIONS FOR EXPORT CERTIFICATION.—

(i) IN GENERAL.—An exporter seeking to export an Item Requiring Export Certification from the United States shall submit to the Secretary an export certification application in accordance with clause (iii).

(ii) CONSEQUENCES OF FALSE STATEMENT.—Any willful or knowing false statement made on an export certification application form under clause (i) shall—

(I) subject the exporter to criminal penalties pursuant to section 1001 of title 18, United States Code; and

(II) prohibit the exporter from receiving an export certification for any Item Requiring Export Certification in the future unless the exporter submits additional evidence in accordance with subparagraph (B)(iii)(I).

(iii) FORM OF EXPORT CERTIFICATION APPLICATION.—The Secretary, in consultation with Indian Tribes and Native Hawaiian organizations, and at the discretion of the Secretary, in consultation with third parties with relevant expertise, including institutions of higher education, museums, dealers, and collector organizations, shall develop an export certification application form, which shall require that an applicant—

(I) describe, and provide pictures of, each Item Requiring Export Certification that the applicant seeks to export;

(II) include all available information regarding the provenance of each such Item Requiring Export Certification; and

(III) include the attestation described in subparagraph (B)(i).

(B) EVIDENCE.—

(i) IN GENERAL.—In completing an export certification application with respect to an Item Requiring Export Certification that the exporter seeks to export, the exporter shall attest that, to the best of the knowledge and belief of the exporter, the exporter is not attempting to export an Item Prohibited from Exportation.

(ii) SUFFICIENCY OF ATTESTATION.—An attestation under clause (i) shall be considered to be sufficient evidence to support the application of the exporter under subparagraph (A)(iii)(III), on the condition that the exporter is not required to provide additional evidence under clause (iii)(I).

(iii) ADDITIONAL REQUIREMENTS.—

(I) IN GENERAL.—The Secretary shall give notice to an exporter that submits an export certification application under subparagraph (A)(i) that the exporter is required to submit additional evidence in accordance with subclause (III) if the Secretary has determined under subparagraph (A)(ii) that the exporter made a willful or knowing false statement on the application or any past export certification application.

(II) DELAYS OR DENIALS.—The Secretary shall give notice to an exporter that submits an export certification application under subparagraph (A)(i) that the exporter may submit additional evidence in accordance with subclause (III) if the issuance of an export certification is—

(aa) delayed pursuant to the examination by the Secretary of the eligibility of the Item Requiring Export Certification for an export certification; or

(bb) denied by the Secretary because the Secretary determined that the Item Requiring Export Certification is not eligible for an export certification under this subsection.

(III) ADDITIONAL EVIDENCE.—On receipt of notice under subclause (I), an exporter shall, or on receipt of a notice under subclause (II), an exporter may, provide the Secretary with such additional evidence as the Secretary may require to establish that the Item Requiring Export Certification is eligible for an export certification under this subsection.

(C) DATABASE APPLICATIONS.—

(i) IN GENERAL.—The Secretary shall establish and maintain a secure central Federal database information system (referred to in this subparagraph as the ''database'') for the purpose of making export certification applications available to Indian Tribes and Native Hawaiian organizations.

(ii) COLLABORATION REQUIRED.—The Secretary shall collaborate with Indian Tribes, Native Hawaiian organizations, and the interagency working group convened under section 7(a) in the design and implementation of the database.

(iii) AVAILABILITY.—Immediately on receipt of an export certification application, the Secretary shall make the export certification application available on the database.

(iv) DELETION FROM DATABASE.—On request by an Indian Tribe or Native Hawaiian organization, the Secretary shall delete an export certification application from the database.

(v) TECHNICAL ASSISTANCE.—If an Indian Tribe or Native Hawaiian organization lacks sufficient resources to access the database or respond to agency communications in a timely manner, the Secretary, in consultation with Indian Tribes and Native Hawaiian organizations, shall provide technical assistance to facilitate that access or response, as applicable.

(D) ISSUANCE OF EXPORT CERTIFICATION.—On receipt of an export certification application for an Item Requiring Export Certification that meets the requirements of subparagraphs (A) and (B), if the Secretary, in consultation with Indian Tribes and Native Hawaiian organizations with a cultural affiliation with the Item Requiring Export Certification, determines that the Item Requiring Export Certification is eligible for an export certification under paragraph (2), the Secretary may issue an export certification for the Item Requiring Export Certification.

(E) REVOCATION OF EXPORT CERTIFICATION.—

(i) IN GENERAL.—If credible evidence is provided that indicates that an item that received an export certification under subparagraph (D) is not eligible for an export certification under paragraph (2), the Secretary may immediately revoke the export certification.

(ii) DETERMINATION.—In determining whether a revocation is warranted under clause (i), the Secretary shall consult with Indian Tribes and Native Hawaiian organizations with a cultural affiliation with the affected Item Requiring Export Certification.

(4) DETENTION, FORFEITURE, REPATRIATION, AND RETURN.—

(A) DETENTION AND DELIVERY.—The Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, shall—

(i) detain any Item Requiring Export Certification that an exporter attempts to export or otherwise transport without an export certification; and

(ii) deliver the Item Requiring Export Certification to the Secretary, for seizure by the Secretary.

(B) FORFEITURE.—Any Item Requiring Export Certification that is detained under subparagraph (A)(i) shall be subject to forfeiture to the United States in accordance with chapter 46 of title 18, United States Code (including section 983(c) of that chapter).

(C) REPATRIATION OR RETURN TO EXPORTER.—

(i) IN GENERAL.—Not later than 60 days after the date of delivery to the Secretary of an Item Requiring Export Certification under subparagraph (A)(ii), the Secretary shall determine whether the Item Requiring Export Certification is an Item Prohibited from Exportation.

(ii) REPATRIATION.—If an Item Requiring Export Certification is determined by the Secretary to be an Item Prohibited from Exportation and

is forfeited under subparagraph (B), the item shall be expeditiously repatriated to the appropriate Indian Tribe or Native Hawaiian organization in accordance with, as applicable—

(I) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act); or

(II) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

(iii) RETURN TO EXPORTER.—

(I) IN GENERAL.—If the Secretary determines that credible evidence does not establish that the Item Requiring Export Certification is an Item Prohibited from Exportation, or if the Secretary does not complete the determination by the deadline described in clause (i), the Secretary shall return the Item Requiring Export Certification to the exporter.

(II) EFFECT.—The return of an Item Requiring Export Certification to an exporter under subclause (I) shall not mean that the Item Requiring Export Certification is eligible for an export certification under this subsection.

(5) PENALTIES.—

(A) ITEMS REQUIRING EXPORT CERTIFICATION.—

(i) IN GENERAL.—It shall be unlawful for any person to export, attempt to export, or otherwise transport from the United States any Item Requiring Export Certification without first obtaining an export certification.

(ii) PENALTIES.—Except as provided in subparagraph (D), any person who violates clause (i) shall be—

(I) assessed a civil penalty in accordance with such regulations as the Secretary promulgates pursuant to section 10; and

(II) subject to any other applicable penalties under this Act.

(B) ITEMS PROHIBITED FROM EXPORTATION.—Whoever exports an Item Prohibited from Exportation without first securing an export certification shall be liable for a civil money penalty, the amount of which shall equal the total cost of storing and repatriating the Item Prohibited from Exportation.

(C) USE OF FINES COLLECTED.—Any amounts collected by the Secretary as a civil penalty under subparagraph (A)(ii)(I) or (B)—

(i) may be used by the Secretary—

(I) for fines collected under subparagraph (A)(ii)(I), to process export certification applications under this subsection; and

(II) for fines collected under subparagraph (B), to store and repatriate the Item Prohibited from Exportation;

(ii) shall supplement (and not supplant) any appropriations to the Secretary to carry out this subsection; and

(iii) shall not be covered into the Treasury as miscellaneous receipts.

(D) VOLUNTARY RETURN.—

(i) IN GENERAL.—Any person who attempts to export or otherwise transport from the United States an Item Requiring Export Certification without first obtaining an export certification, but voluntarily returns the Item Requiring Export Certification, or directs the Item Requiring Export Certification to be returned, to the appropriate Indian Tribe or Native Hawaiian organization in accordance with section 6 prior to the commencement of an active Federal investigation shall not be prosecuted for a violation of subparagraph (A) with respect to the Item Requiring Export Certification.

(ii) ACTIONS NOT COMMENCING A FEDERAL INVESTIGATION.—For purposes of clause (i), the following actions shall not be considered to be actions that commence an active Federal investigation:

(I) The submission by the exporter of an export certification application for the Item Requiring Export Certification under paragraph (3)(A)(i).

(II) The detention of the Item Requiring Export Certification by the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, under paragraph (4)(A)(i).

(III) The delivery to the Secretary of the Item Requiring Export Certification by the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, under paragraph (4)(A)(ii).

(IV) The seizure by the Secretary of the Item Requiring Export Certification under paragraph (4)(A)(ii).

(6) FEES.—

(A) IN GENERAL.—The Secretary may collect reasonable fees to process export certification applications under this subsection.

(B) AVAILABILITY OF AMOUNTS COLLECTED.—Any amounts collected by the Secretary under subparagraph (A)—

(i) shall supplement (and not supplant) any appropriations to the Secretary for the activities described in subparagraph (A); and

(ii) shall not be covered into the Treasury as miscellaneous receipts.

(7) ADMINISTRATIVE APPEAL.—If the Secretary denies an export certification or an Item Requiring Export Certification is detained under this subsection, the exporter, on request, shall be given a hearing on the record in accordance with such rules and regulations as the Secretary promulgates pursuant to section 10.

(8) TRAINING.—

(A) IN GENERAL.—The Secretary, the Secretary of State, the Attorney General, and the heads of all other relevant Federal agencies shall require all appropriate personnel to participate in training regarding applicable laws and consultations to facilitate positive government-to-government interactions with Indian Tribes and Native Hawaiian Organizations.

(B) U.S. CUSTOMS AND BORDER PROTECTION TRAINING.—The Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection, shall require all appropriate personnel of U.S. Customs and Border Protection to participate in training provided by the Secretary of the Interior or an Indian Tribe or Native Hawaiian organization to assist the personnel in identifying, handling, and documenting in a culturally sensitive manner Items Requiring Export Certification for purposes of this Act.

(C) CONSULTATION.—In developing or modifying and delivering trainings under subparagraphs (A) and (B), the applicable heads of Federal agencies shall consult with Indian Tribes and Native Hawaiian organizations.

(c) AGREEMENTS TO REQUEST RETURN FROM FOREIGN COUNTRIES.—The President may request from foreign nations agreements that specify concrete measures that the foreign nation will carry out—

(1) to discourage commerce in, and collection of, Items Prohibited from Exportation;

(2) to encourage the voluntary return of tangible cultural heritage; and

(3) to expand the market for the products of Indian art and craftsmanship in accordance with section 2 of the Act of August 27, 1935 (49 Stat. 891, chapter 748; 25 U.S.C. 305a) (commonly known as the ''Indian Arts and Crafts Act'').

SEC. 6. VOLUNTARY RETURN OF TANGIBLE CULTURAL HERITAGE.

(a) LIAISON.—The Secretary and the Secretary of State shall each designate a liaison to facilitate the voluntary return of tangible cultural heritage.

(b) TRAININGS AND WORKSHOPS.—The liaisons designated under subsection (a) shall offer to representatives of Indian Tribes and Native Hawaiian organizations and collectors, dealers, and other individuals and organizations trainings and workshops regarding the voluntary return of tangible cultural heritage.

(c) REFERRALS.—

(1) IN GENERAL.—The Secretary shall refer individuals and organizations to 1 or more Indian Tribes and Native Hawaiian organizations with a cultural affiliation to tangible cultural heritage for the purpose of facilitating the voluntary return of tangible cultural heritage.

(2) REFERRAL REPRESENTATIVES.—The Secretary shall compile a list of representatives from each Indian Tribe and Native Hawaiian organization for purposes of referral under paragraph (1).

(3) CONSULTATION.—The Secretary shall consult with Indian Tribes, Native Hawaiian organizations, and the Native working group convened under section 8(a) before making a referral under paragraph (1).

(4) THIRD-PARTY EXPERTS.—The Secretary may use third parties with relevant expertise, including institutions of higher education, museums, dealers, and collector organizations, in determining to which Indian Tribe or Native Hawaiian organization an individual or organization should be referred under paragraph (1).

(d) LEGAL LIABILITY.—Nothing in this section imposes on any individual or entity any additional penalties or legal liability.

(e) TAX DOCUMENTATION.—In facilitating the voluntary return of tangible cultural heritage under this section, the Secretary shall include provision of tax documentation for a deductible gift to an Indian Tribe or Native Hawaiian organization, if the recipient Indian Tribe or Native Hawaiian organization consents to the provision of tax documentation.

(f) REPATRIATION UNDER NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT.—The voluntary return provisions of this section shall apply to a specific item of tangible cultural heritage only to the extent that the repatriation provisions under section 7 of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3005) do not apply to the item of tangible cultural heritage.

SEC. 7. INTERAGENCY WORKING GROUP.

(a) IN GENERAL.—The Secretary shall designate a coordinating office to convene an interagency working group consisting of representatives from the Departments of the Interior, Justice, State, and Homeland Security.

(b) GOALS.—The goals of the interagency working group convened under subsection (a) are—

(1) to facilitate the repatriation to Indian Tribes and Native Hawaiian organizations of items that have been illegally removed or trafficked in violation of applicable law;

(2) to protect tangible cultural heritage, cultural items, and archaeological resources still in the possession of Indian Tribes and Native Hawaiian organizations; and

(3) to improve the implementation by the applicable Federal agencies of—

(A) the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001 et seq.) (including section 1170 of title 18, United States Code, as added by that Act);

(B) the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.); and

(C) other relevant Federal laws.

(c) RESPONSIBILITIES.—The interagency working group convened under subsection (a) shall—

(1) aid in implementation of this Act and the amendments made by this Act, including by aiding in—

(A) the voluntary return of tangible cultural heritage under section 6; and

(B) halting international sales of items that are prohibited from being trafficked under Federal law; and

(2) collaborate with—

(A) the Native working group convened under section 8(a);

(B) the review committee established under section 8(a) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3006(a));

(C) the Cultural Heritage Coordinating Committee established pursuant to section 2 of the Protect and Preserve International Cultural Property Act (Public Law 114–151; 19 U.S.C. 2601 note); and

(D) any other relevant committees and working groups.

SEC. 8. NATIVE WORKING GROUP.

(a) IN GENERAL.—The Secretary shall convene a Native working group consisting of not fewer than 12 representatives of Indian Tribes and Native Hawaiian organizations with relevant expertise, who shall be nominated by Indian Tribes and Native Hawaiian organizations, to advise the Federal Government in accordance with this section.

(b) RECOMMENDATIONS.—The Native working group convened under subsection (a) may provide recommendations regarding—

(1) the voluntary return of tangible cultural heritage by collectors, dealers, and other individuals and non-Federal organizations that hold such tangible cultural heritage; and

(2) the elimination of illegal commerce of cultural items and archaeological resources in the United States and foreign markets.

(c) REQUESTS.—The Native working group convened under subsection (a) may make formal requests to initiate certain agency actions, including requests that—

(1) the Department of Justice initiate judicial proceedings domestically or abroad to aid in the repatriation cultural items and archaeological resources; and

(2) the Department of State initiate dialogue through diplomatic channels to aid in that repatriation.

(d) AGENCY AND COMMITTEE ASSISTANCE.—

(1) IN GENERAL.—On request by the Native working group convened under subsection (a), the agencies and committees described in paragraph (2) shall make efforts to provide information and assistance to the Native working group.

(2) DESCRIPTION OF AGENCIES AND COMMITTEES.—The agencies and committees referred to in paragraph (1) are the following:

(A) The Department of the Interior.

(B) The Department of Justice.

(C) The Department of Homeland Security.

(D) The Department of State.

(E) The review committee established under section 8(a) of the Native American Graves Protection and Repatriation Act (25 U.S.C. 3006(a)).

(F) The Cultural Heritage Coordinating Committee established pursuant to section 2 of the Protect and Preserve International Cultural Property Act (Public Law 114–151; 19 U.S.C. 2601 note).

(G) Any other relevant Federal agency, committee, or working group.

(e) APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Native working group convened under subsection (a).

SEC. 9. TREATMENT UNDER FREEDOM OF INFORMATION ACT.

(a) IN GENERAL.—Except as provided in subsection (c), the following information shall be exempt from disclosure under section 552 of title 5, United States Code:

(1) Information that a representative of an Indian Tribe or Native Hawaiian organization—

(A) submits to a Federal agency pursuant to this Act or an amendment made by this Act; and

(B) designates as sensitive or private according to Native American custom, law, culture, or religion.

(2) Information that any person submits to a Federal agency pursuant to this Act or an amendment made by this Act that relates to an item for which an export certification is denied under this Act.

(b) APPLICABILITY.—For purposes of subsection (a), this Act shall be considered a statute described in section 552(b)(3)(B) of title 5, United States Code.

(c) EXCEPTION.—An Indian Tribe or Native Hawaiian organization may request and shall receive its own information, as described in subsection (a), from the Federal agency to which the Indian Tribe or Native Hawaiian organization submitted the information.

SEC. 10. REGULATIONS.

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of State, the Secretary of Homeland Security, and the Attorney General, and after consultation with Indian Tribes and Native Hawaiian organizations, shall promulgate rules and regulations to carry out this Act.

(b) INCLUSION.—The regulations promulgated by the Secretary pursuant to subsection (a) shall include a reasonable deadline by which the Secretary shall approve or deny an export certification application under section 5(b).

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $3,000,000 for each of fiscal years 2021 through 2026.

Mr. HEINRICH. I further ask unanimous consent that the Heinrich amendment to the committed-reported substitute amendment at the desk be considered and agreed to and that the committee-reported substitute amendment, as amended, be agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2712) was agreed to as follows

(Purpose: To modify certain penalties)

On page 28, strike lines 15 through 23 and insert the following:

SEC. 4. ENHANCED NAGPRA PENALTIES.

Section 1170 of title 18, United States Code, is amended—

(1) by striking ''5 years'' each place it appears and inserting ''10 years''; and

(2) in subsection (a), by striking ''12 months'' and inserting ''1 year and 1 day''.

The committee-reported amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HEINRICH. I know of no further debate on the bill, as amended.

The PRESIDING OFFICER. Is there further debate?

If not, the bill having been read the third time, the question is, Shall the bill pass, as amended?

The bill (S. 2165), as amended, was passed.

(The bill (S. 2165), as amended, is printed in the Record of January 22, 2021.)

Mr. HEINRICH. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

INDIAN COMMUNITY ECONOMIC ENHANCEMENT ACT OF 2020

Mr. HEINRICH. Mr. President, as if in legislative session, I ask that the Chair lay before the Senate the message to accompany S. 212.

The Presiding Officer laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 212) entitled ''An Act to amend the Native American Business Development, Trade Promotion, and Tourism Act of 2000, the Buy Indian Act, and the Native American Programs Act of 1974 to provide industry and economic development opportunities to Indian communities.'', do pass with an amendment.

MOTION TO CONCUR

Mr. HEINRICH. I move to concur in the House amendment, and I know of no further debate on the motion.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the question is on agreeing to the motion.

The motion was agreed to.

Mr. HEINRICH. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINRICH. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRAUN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

MORNING BUSINESS

Mr. BRAUN. Mr. President, I ask unanimous consent that the Senate proceed to legislative session and be in a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered

BICENTENNIAL OF LYNNVILLE, KENTUCKY

Mr. MCCONNELL. Mr. President, over the course of this year, dedicated citizens in a small Jackson Purchase community have poured through their hometown's historical record. The bicentennial of Lynnville, KY, was coming, and they wanted to celebrate every detail. Today, it is my privilege to join these passionate Kentuckians in marking 200 years of Bluegrass history and heritage.

Lynnville is no ordinary town. Near the Tennessee border in Graves County, this agricultural community has survived all-consuming fires, devastating tornadoes, and even the Black Patch Tobacco War. Through perseverance and grit, Lynnville has certainly earned its nickname ''The Little Town That Won't Die.

For 200 years, stalwart Kentuckians have overcome challenges, come together to rebuild, and made Lynnville a wonderful place to live. I am proud of their resilient spirit, and I look forward to this community's bright future.

Unfortunately, the ongoing coronavirus pandemic canceled some aspects of Lynnville's bicentennial celebrations, but the Kentucky Historical Society joined the festivities with a special commemoration. They delivered a new historical marker to Lynnville to detail this community's rich heritage. It is a well-deserved tribute. I am grateful to everyone who made the historical marker and this

year of celebration possible. On behalf of the Senate, I share our congratulations with every Lynnville family on its 200 years of proud Kentucky history.

ANTI-MONEY LAUNDERING ACT OF 2020

Mr. CRAPO. Mr. President, before joining with my colleagues in an important colloquy, concerning the Anti-Money Laundering Act of 2020, I want to applaud Senator GRASSLEY's tireless efforts that spanned years of bipartisan work to establish the first whistleblower reward program at the Department of the Treasury's Financial Crimes Enforcement Network.

Mr. GRASSLEY. Mr. President, I would like to thank Chairman CRAPO and Ranking Member BROWN for their work on the Anti-Money Laundering Act of 2020 division contained in this year's NDAA conference report, including the important new whistleblower protections provided in the measure. These whistleblower protections that all three of us agreed upon, were modelled after successful programs that were created through the Dodd Frank Act for the Securities and Exchange Commission and the Commodity's and Exchange Commission. One key feature that makes these programs successful is that whistleblowers are guaranteed a minimum of 10 percent in awards for qualifying disclosures. These rewards cost taxpayers nothing because they are paid from fines and other monies collected as a result of the whistleblower's disclosures. To ensure whistleblowers always receive the money owed, both the SEC and CFTC, as well our original amendment to the NDAA, created a special fund that would be filled by the fines collected and then used to pay whistleblower awards. With that, I will be happy to begin the colloquy.

Chairman CRAPO, can you please describe your intent with respect to changes made in the whistleblower provisions in the conference agreement?

Mr. CRAPO. Certainly. The NDAA conference agreement provides for whistleblower rewards with a 30 percent maximum of certain monies collected in cases involving Bank Secrecy Act violations, but provides for no explicit minimum award requirement.

The conferees agreed that updating the Bank Secrecy Act's whistleblower incentives and protections was necessary to protect individuals who provide original information which leads to any successful judicial or administrative Bank Secrecy Act action brought by the Secretary of the Treasury or Attorney General and results in monetary sanctions exceeding $1,000,000.

To accomplish this and to avoid any direct spending complications, our intention is to authorize necessary resources and work with appropriators and the administration to ensure that necessary funding be made available on an ongoing basis, that is effectively offset by BSA penalties imposed in these cases. Such funding will enable the Secretary to provide, subject to available funds, substantial whistleblower awards based upon monetary penalties recovered in those whistleblower cases.

It was always the intent of the conferees that these awards to individual whistleblowers are important and justified and that they be substantial, such that both a minimum and maximum percentage of such monetary sanction was contemplated. In this case, it is the intent of the conferees, in addition to the conference report providing for the stated maximum 30 percent award, to provide for a 10 prcent minimum award, as both reasonable and sensible.

Finally, it is the intent of the conferees that no such award should be made available to either employees of the Treasury Department, the Department of Justice, or covered law enforcement agencies, if the original information that led to the successful enforcement action is acquired acting in the normal course of their job duties.

We will work with Senator GRASSLEY and with administration officials to provide for robust minimum awards which meet the 10 percent threshold wherever appropriate. We will work with the Senator in the next Congress to draft legislation that addresses the important concerns he has raised.

Does Senator BROWN agree?

Mr. BROWN. I agree and agree to work with Chairman CRAPO and with his successor as Banking Committee chairman, with Senator GRASSLEY, and with appropriate administration officials consistent with that intent. I share the desire to ensure that adequate funds are provided and agree that the best way to do so is through the creation of a fund that is to be used exclusively for the payment of whistleblower awards. Such a fund should also provide for awards of at least 10 percent of the funds in cases covered by the bill. I will work with Senator GRASSLEY to make clear that this is our intent to administration officials.

Mr. GRASSLEY. I thank both for these clarifications of their intent. I look forward to working with them toward these ends.

ADDITIONAL STATEMENTS

TRIBUTE TO CATHY HUGHES AND RECOGNIZING THE 40TH ANNIVERSARY OF URBAN ONE

● Mr. CARDIN. Mr. President, I rise today to ask the Senate to join me in recognizing my constituent and friend Cathy Hughes on the 40th anniversary of Urban One, Inc., formerly known as Radio One. Urban One, headquartered in Montgomery County, MD, is America's largest broadcast company primarily focused on African-American consumers. Over the last four decades, it has elevated and celebrated African-American voices while telling stories from their perspective. Today, Urban One employs more than 1,500 people and reaches an estimated 82 percent of African-Americans nationwide.

This remarkable success is attributable to the skillful and passionate leadership of Cathy Hughes. Not long after Cathy started her radio career in her hometown of Omaha, NE, she found herself lecturing at Howard University's school of communications and serving as general sales manager at the university's iconic radio station, WHUR. Cathy started Radio One in 1980 with the purchase of her flagship station WOL–AM in Washington, DC, and served as its morning show host for 11 years. As founder and chairwoman, Cathy has directed the successful expansion of Radio One into new radio markets nationwide while generating original content across the spectrum of radio, television, and digital media. I am proud to note that Baltimore was the first city into which Radio One expanded.

Urban One's remarkable 40 years of growth are all the more impressive given the obstacles that Cathy has overcome, not least the racism and sexism she has encountered during her groundbreaking career. In her initial search for financing to buy the station that would become Radio One, 32 banks rejected Cathy's bid.

Cathy has steered her company successfully through the changes and challenges in media markets over the years, most recently navigating the impact of COVID–19. While Radio One itself has been hurt by the pandemic, she chose to support her community by providing free advertising to Black-owned businesses.

Cathy's philanthropic work rivals her exceptional business achievements. Of note is her passion for education, demonstrated by her strong support of the Piney Woods School in Piney Woods, MS. This school, which her grandfather established in 1909, currently serves as the largest of four African-American boarding schools in the county. Cathy has been recognized for extraordinary contributions many times over the years: National Association of Broadcasters Hall of Fame in 2019, the Woman of the Year Award by 100 Black Men of America in 2018, the Ida B. Wells Living Legacy Award in 2011, and the Essence Women Shaping the World Award in 2018. In 2019, Howard University named its school of communications after her.

I ask the Senate to join me in recognizing the extraordinary career of an extraordinary woman, Cathy Hughes, on the 40th anniversary of Urban One.●

TRIBUTE TO EMILE OESTRIECHER

● Mr. CASSIDY. Mr. President, Mr. Emile Oestriecher, known in the Scouting community as ''Mr. O,'' has served the community of Alexandria as Boy Scout scoutmaster for almost 50 years.

Troop 6, sponsored by St. Frances Cabrini Church, has been in existence since 1967. When Mr. O became. scoutmaster, it had about 12 Scouts; today that number is between 60 and 70. Mr. O, the founding partner in the Alexandria CPA firm Oestriecher & Company, CPAs, has received the Distinguished Public Service Award by the Louisiana CPA Society and the American Institute of Certified Public Accountants. He has been honored with many awards from the Scouting community as well as other local organizations. Mr. O has led trips to destinations like Philmont Scout Ranch and Canada Canoe trips, as well as taught other adult leaders across the Nation and represented the area at four national Scout jamborees. Now, his oldest scouts are in their 60s, but he is still there as scoutmaster. He has several ''grandscouts,'' whose fathers were members of troop 6 under him, and one ''great-grandscout,'' who shared the same scoutmaster as his grandfather. Troop 6 has had over 160 Eagle Scouts during his tenure scoutmaster and six of his Scouts have been ordained as Catholic priests. He certainly lives the Scout Law every day and epitomizes the troop 6 motto ''Optimus Optimorum''—Best of the Best. We thank Mr. O for his dedication to being scoutmaster and being a good influence on so many young men in his community.●

RECOGNIZING AUNT CATFISH'S ON THE RIVER

● Mr. RUBIO. Mr. President, as chairman of the Committee on Small Business and Entrepreneurship, each week I recognize a small business that exemplifies the American entrepreneurial spirit that drives our economy. It is my privilege to recognize a family-owned small business committed to investing in its community. This week, it is my pleasure to honor Aunt Catfish's on the River, of Port Orange, FL, as the Senate Small Business of the Week.

A long-time resident of Port Orange, Jim followed in the Galbreath family tradition of entrepreneurship. His mother, Ann Galbreath, founded and ran a restaurant called Marko's Drive-In in the 1950s. After it closed briefly, Jim bought Marko's and reopened it. Building on his experience, Jim used an old fishing dock to open a new restaurant in 1979, Aunt Catfish's on the River.

More than 40 years later, Aunt Catfish's on the River is still family-owned and operated. Jim's son, Brendan Galbreath, who started as a teenager, took the helm, keeping the business in the family. Under his leadership, Aunt Catfish's has stayed true to its reputation for outstanding service and delicious cuisine.

The Galbreath family's focus on building strong relationships with their community is a key part of their success. During the coronavirus pandemic, Aunt Catfish's opened a drive-through operation and expanded its carryout services. Brendan served on the Port Orange South Daytona Chamber of Commerce/City of Port Orange Reopening Task Force, working with local business owners, civic leaders, and public health experts. Together, they designed and implemented the Port Orange Phase One Reopening Plan, enabling their community to reopen safely. Additionally, Aunt Catfish's on the River participated in the chamber's ''I Am, I Go, I Support Local'' campaign to support local businesses.

Like many Florida small businesses, Aunt Catfish's on the River experienced a sharp drop in revenue due to the coronavirus pandemic. In April 2020, the U.S. Small Business Administration launched the Paycheck Protection Program, a small business relief program that I was proud to author. The PPP provides forgivable loans to impacted small businesses and nonprofits who maintain their payroll during the COVID–19 pandemic. Aunt Catfish's on the River used their PPP loan to keep their employees paid, while maintaining the highest health and safety standards for their customers.

Aunt Catfish's on the River is a notable example of the endurance and resilience of family-owned small businesses. Through their advocacy and service, Aunt Catfish's on the River has strengthened their local small business community. Congratulations to Brendan and the entire team at Aunt Catfish's on the River. I look forward to watching your continued growth and success.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Roberts, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

In executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 11:05 a.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 2216. An act to require the Secretary of Veterans Affairs to formally recognize caregivers of veterans, notify veterans and caregivers of clinical determinations relating to eligibility for the family caregiver program, and temporarily extend benefits for veterans who are determined ineligible for the family caregiver program, and for other purposes.

S. 2472. An act to redesignate the NASA John H. Glenn Research Center at Plum Brook Station, Ohio, as the NASA John H. Glenn Research Center at the Neil A. Armstrong Test Facility.

The message further announced that the House has agreed to the amendment of the Senate to the bill (H.R. 7105) to provide flexibility for the Secretary of Veterans Affairs in caring for homeless veterans during a covered public health emergency, to direct the Secretary of Veterans Affairs to carry out a retraining assistance program for unemployed veterans, and for other purposes.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 1694. An act to require any Federal agency that issues licenses to conduct lunar activities to include in the requirements for such licenses an agreement relating to the preservation and protection of the Apollo 11 landing site, and for other purposes.

The message further announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2174. An act to expand the grants authorized under Jennifer's Law and Kristen's Act to include processing of unidentified remains, resolving missing persons cases, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, with an amendment, in which it requests the concurrence of the Senate:

S. Con. Res. 52. Concurrent resolution to correct the enrollment of S. 3312.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–6159. A communication from the Attorney, Office of the General Counsel, Consumer Product Safety Commission, transmitting, pursuant to law, the report of a rule entitled ''Safety Standard for Hand-Held Infant Carriers'' (16 CFR Part 1225) received in the Office of the President of the Senate on December 14, 2020; to the Committee on Commerce, Science, and Transportation.

EC–6160. A communication from the Attorney Adviser, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Qualification and Certification of Locomotive Engineers; Miscellaneous Revisions'' (RIN2130–AC40) received in the Office of the President of the Senate on December 16, 2020; to the Committee on Commerce, Science, and Transportation.

EC–6161. A communication from the Attorney Adviser, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of Method for Calculating Monetary Threshold for Reporting Rail Equipment Accidents/Incidents'' (RIN2130–AC49) received in the Office of the President of the Senate on December 16, 2020; to the Committee on Commerce, Science, and Transportation.

EC–6162. A communication from the Attorney Adviser, Federal Railroad Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule

entitled ''State Highway-Rail Grade Crossing Action Plans'' (RIN2130–AC72) received in the Office of the President of the Senate on December 16, 2020; to the Committee on Commerce, Science, and Transportation.

EC–6163. A communication from the Director of the Bureau of Consumer Financial Protection, transmitting, pursuant to law, the report of a rule entitled ''Truth in Lending (Regulation Z); Earned Wage Access Programs'' (12 CFR Part 1026) received in the Office of the President of the Senate on December 16, 2020; to the Committee on Banking, Housing, and Urban Affairs.

EC–6164. A communication from the Program Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting , pursuant to law, the report of a rule entitled ''Appraisals for Higher-Priced Mortgage Loans Exemption Threshold'' (RIN1557–AF04) received in the Office of the President of the Senate on December 16, 2020; to the Committee on Banking, Housing, and Urban Affairs.

EC–6165. A communication from the Program Specialist, Office of the Comptroller of the Currency, Department of the Treasury, transmitting , pursuant to law, the report of a rule entitled ''Licensing Amendments'' (RIN1557–AE71) received in the Office of the President of the Senate on December 16, 2020; to the Committee on Banking, Housing, and Urban Affairs.

EC–6166. A communication from the Director of the Legal Processing Division, Internal Revenue Service, Department of the Treasury , transmitting, pursuant to law, the report of a rule entitled ''Statutory Limitations on Like-Kind Exchanges'' (RIN1545–BP02) received in the Office of the President of the Senate on December 16, 2020; to the Committee on Finance.

EC–6167. A communication from the Secretary of Transportation, transmitting, pursuant to law, the Department's Semiannual Report of the Office of Inspector General for the period from April 1, 2020 through September 30, 2020; to the Committee on Homeland Security and Governmental Affairs.

EC–6168. A communication from the Chairman of the U.S. Election Assistance Commission, transmitting, pursuant to law, the Commission's Semiannual Report of the Inspector General for the period from April 1, 2020 through September 30, 2020; to the Committee on Homeland Security and Governmental Affairs.

EC–6169. A communication from the Attorney Advisor, Executive Office for Immigration Review, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Procedures for Asylum and Withholding of Removal; Credible Fear and Reasonable Fear Review'' (RIN1125–AA94) received in the Office of the President of the Senate on December 16, 2020; to the Committee on the Judiciary.

EC–6170. A communication from the Agency Representative, Patent and Trademark Office, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Trademark Fee Adjustment'' (RIN0651–AD42) received in the Office of the President of the Senate on December 16, 2020; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–266. A concurrent resolution adopted by the Legislature of the State of Louisiana urging the United States Congress and the Louisiana congressional delegation to take such actions as are necessary to fully fund the Livestock Indemnity Program in response to the negative impact created by losses to the Louisiana livestock industry as a result of Hurricane Laura and Hurricane Delta; to the Committee on Agriculture, Nutrition, and Forestry.

HOUSE CONCURRENT RESOLUTION NO. 24

Whereas, Hurricane Laura made landfall along the coast of Louisiana on August 27, 2020, as a category four storm, becoming the strongest storm in Louisiana history and causing an estimated ten billion dollars in damage from the southwestern to the northern part of the state; and

Whereas, Hurricane Laura created an estimated one billion six hundred million dollar loss to the Louisiana agriculture industry, including a loss of one million eight hundred thousand dollars to the livestock sector alone; and

Whereas, an estimated one hundred one thousand poultry, one hundred thirty cattle, and a dozen horses died as a direct result of the storm and the extreme health and insect conditions that followed; and

Whereas, Louisiana was hit directly by Hurricane Delta on October 9, 2020, causing more catastrophic damage to many of the same areas of the state as Hurricane Laura; and

Whereas, Hurricane Delta likely created numerous additional losses to the Louisiana agriculture industry, including livestock, the extent of which will only be known after surveys and research of the industry can be conducted; and

Whereas, the 2014 Farm Bill authorized the Livestock Indemnity Program, within the United States Department of Agriculture, to provide benefits to eligible livestock owners or contract growers for livestock deaths in excess of normal mortality caused by eligible loss conditions, including adverse weather, disease, and attacks; and

Whereas, the United States Congress neglected to fund the Livestock Indemnity Program properly, creating a situation where Louisiana livestock producers are unable to utilize the program at a time when it is needed most to offset losses created by Hurricane Laura and Hurricane Delta. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress and the Louisiana congressional delegation to take such actions as are necessary to fully fund the Livestock Indemnity Program in response to the negative impact created by losses to the Louisiana livestock industry as a result of Hurricane Laura and Hurricane Delta; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

POM–267. A concurrent resolution adopted by the Legislature of the State of Louisiana urging the United States Congress to take such actions as are necessary to pass a stimulus plan that includes funds for unemployment, housing, local government, struggling businesses, education, and health care; to the Committee on Finance.

HOUSE CONCURRENT RESOLUTION NO. 30

Whereas, since surging around the globe into a worldwide pandemic earlier this year, the COVID–19 virus has taken an enormous economic and human toll across countries and continents, crippling heretofore healthy citizens and industries; and

Whereas, to help states with costs for COVID–19 mitigation and response measures, the United States Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act; and

Whereas, measures designed to protect the health and safety of Louisiana's populace from the COVID–19 virus have also had a negative impact on the economic fortunes of many of those same citizens through lost or reduced income from closures, capacity restrictions, and other public health measures; and

Whereas, the cost of this highly infectious pandemic to Louisiana businesses, citizens, and local and state government continues to rise; and

Whereas, the unprecedented number of unemployment insurance claims due to COVID–19 has drained the state's previously robust unemployment insurance trust fund; and

Whereas, local revenue collections have plummeted as economic activity has slowed, and as a result, local governments are struggling to provide crucial services; and

Whereas, already made vulnerable by lost jobs or decreased income from the COVID–19 pandemic, many Louisiana citizens face the prospect of housing insecurity as they struggle to provide a safe and secure place for themselves and their families to live while also maintaining basic services such as water, electricity, and food; and

Whereas, the federal government provided unemployment and housing assistance in its last COVID stimulus package, but there is a great need for further economic relief. Therefore, be it

Resolved, That the Legislature of Louisiana does hereby memorialize the United States Congress to take such actions as are necessary to pass a stimulus plan that includes funds for unemployment, housing, local government, struggling businesses, education, and health care; and be it further

Resolved, That a copy of this Resolution be transmitted to the presiding officers of the Senate and the House of Representatives of the Congress of the United States of America and to each member of the Louisiana congressional delegation.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEE, from the Joint Economic Committee:

Special Report entitled ''The 2020 Joint Economic Report'' (Rept. No. 116–335).

By Ms. COLLINS, from the Special Committee on Aging:

Special Report entitled ''A Record of Bipartisan Policymaking in Support of Older Americans'' (Rept. No. 116–336).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CARDIN:

S. 5040. A bill to require the Secretary of State to submit to Congress a strategy of the Department of State and the United States Agency for International Development to address the global climate change crisis, improve the energy and resource efficiency of the Department, and for other purposes; to the Committee on Foreign Relations.

By Mrs. FEINSTEIN (for herself and Ms. CORTEZ MASTO):

S. 5041. A bill to establish the Advisory Committee on Climate Risk on the Financial Stability Oversight Council; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. WYDEN:

S. 5042. A bill to amend the Ethics in Government Act of 1978 to require high-ranking officers to provide adequate disclosure of debts; to the Committee on Homeland Security and Governmental Affairs.

By Ms. SINEMA (for Mrs. FISCHER (for herself and Ms. SINEMA)):

S. 5043. A bill to require the Federal Trade Commission and the Secretary of Commerce to conduct studies and submit reports on the impact of artificial intelligence and other technologies on United States businesses conducting interstate commerce, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BROWN (for himself and Mr. THUNE):

S. 5044. A bill to amend title XVIII of the Social Security Act to establish requirements with respect to the use of prior authorization under Medicare Advantage plans, and for other purposes; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. ALEXANDER):

S. 5045. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to reform the treatment of multiemployer plans, to ensure the ability of the Pension Benefit Guaranty Corporation to provide guaranteed benefits of retirees, and for other purposes; to the Committee on Finance.

By Mr. BARRASSO (for Mrs. FISCHER):

S. 5046. A bill to amend the Consolidated Farm and Rural Development Act to authorize the contracting of functions under the Rural Business Investment Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CASEY (for himself and Ms. ERNST):

S. 5047. A bill to require automatic sealing of certain criminal records, and for other purposes; to the Committee on the Judiciary.

By Mr. CASEY (for himself, Mr. BROWN, and Mr. MANCHIN):

S. 5048. A bill to improve compliance with mine safety and health laws, empower miners to raise safety concerns, and prevent future mine tragedies, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CASEY:

S. 5049. A bill to require reviews of United States investment in foreign countries that may threaten national critical capabilities and to improve the use of authorities under the Defense Production Act of 1950, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. KLOBUCHAR (for herself and Ms. ERNST):

S. 5050. A bill to amend the Farm Security and Rural Investment Act of 2002 to provide grants for deployment of renewable fuel infrastructure, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CRAPO (for himself, Mr. BENNET, Mr. SCOTT of South Carolina, and Mr. CARDIN):

S. 5051. A bill to amend title XVIII of the Social Security Act to provide for Medicare coverage of multi-cancer early detection screening tests; to the Committee on Finance.

By Mr. COONS:

S. 5052. A bill to increase fairness and transparency in algorithmic eligibility determinations; to the Committee on Commerce, Science, and Transportation.

By Mr. BLUMENTHAL:

S. 5053. A bill to improve the management of forage fish; to the Committee on Commerce, Science, and Transportation.

By Mr. MERKLEY (for himself and Mr. SASSE):

S. 5054. A bill to prevent the uploading of pornographic images to online platforms without the consent of the individuals in the images; to the Committee on Commerce, Science, and Transportation.

By Ms. CORTEZ MASTO:

S. 5055. A bill to protect immigrant families, combat fraud, promote citizenship, and build community trust, and for other purposes; to the Committee on the Judiciary.

By Mr. MERKLEY:

S. 5056. A bill to require the Administrator of the National Oceanic and Atmospheric Administration to provide for ocean-based climate solutions to reduce carbon emissions and global warming, to make coastal communities more resilient, and to provide for the conservation and restoration of ocean and coastal habitats, biodiversity, and marine mammal and fish populations, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PAUL:

S. 5057. A bill to permit voluntary economic activity; to the Committee on the Judiciary.

By Mr. PAUL:

S. 5058. A bill to repeal the limitations on multiple ownership of radio and television stations imposed by the Federal Communications Commission, to prohibit the Federal Communications Commission from limiting common ownership of daily newspapers and full-power broadcast stations, and for other purposes; to the Committee on the Judiciary.

By Mr. MURPHY:

S. 5059. A bill to amend chapter 22 of title 44, United States Code, to ensure Presidential records are preserved, duly created when non-official electronic messaging accounts are used, and made available to the public and the next administration in a timely fashion to advance national security and accountability, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. MURPHY:

S. 5060. A bill to provide for the establishment of the Office for Access to Justice in the Department of Justice, and for other purposes; to the Committee on the Judiciary.

By Ms. KLOBUCHAR (for herself and Mr. KAINE):

S. 5061. A bill to authorize a grant program for the development and implementation of housing supply and affordability plans, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BOOKER (for himself, Mr. BLUMENTHAL, Mrs. GILLIBRAND, and Mr. SCHATZ):

S. 5062. A bill to protect the rights of college athletes and to establish the Commission on College Athletics, and for other purposes; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. TOOMEY (for himself, Mr. COTTON, Mr. LANKFORD, Mr. CRAMER, Mr. HOEVEN, Mr. YOUNG, Mrs. HYDE-SMITH, Mr. SASSE, Mr. CORNYN, Mrs. BLACKBURN, Mr. BOOZMAN, Mr. WICKER, Mr. RUBIO, Mr. TILLIS, Mr. JOHNSON, Mr. CRUZ, Mr. INHOFE, Mr. KENNEDY, Mrs. FISCHER, Mr. BRAUN, Mr. SCOTT of South Carolina, Mr. ROUNDS, Mr. DAINES, Mr. BARRASSO, Mrs. CAPITO, and Mr. LEE):

S. Res. 804. A resolution expressing the sense of the Senate that the United States should initiate negotiations to enter into a free trade agreement with Taiwan; to the Committee on Finance.

By Mr. BLUNT:

S. Res. 805. A resolution providing for staff transition for a Senator if the results of the election for an additional term of office of the Senator have not been certified; considered and agreed to.

ADDITIONAL COSPONSORS

S. 695

At the request of Mr. SASSE, the name of the Senator from Louisiana (Mr. KENNEDY) was added as a cosponsor of S. 695, a bill to amend the Elementary and Secondary Education Act of 1965 to allow parents of eligible military dependent children to establish Military Education Savings Accounts, and for other purposes.

S. 776

At the request of Mr. KELLY, his name was added as a cosponsor of S. 776, a bill to amend the Radiation Exposure Compensation Act for purposes of making claims under such Act based on exposure to atmospheric nuclear testing, and for other purposes.

S. 883

At the request of Mr. KELLY, his name was added as a cosponsor of S. 883, a bill to provide for the unencumbering of title to non-Federal land owned by Win Oil Company, Inc., for purposes of economic development by removing the Federal reversionary interest in the land, and for other purposes.

S. 1783

At the request of Mr. KELLY, his name was added as a cosponsor of S. 1783, a bill to establish responsibility for the International Outfall Interceptor.

S. 1849

At the request of Mr. KELLY, his name was added as a cosponsor of S. 1849, a bill to provide flexibility and improve the effectiveness of the Four Forests Restoration Initiative in the State of Arizona.

S. 2006

At the request of Mr. MENENDEZ, the name of the Senator from Hawaii (Ms. HIRONO) was added as a cosponsor of S. 2006, a bill to amend title 18, United States Code, to prohibit certain conduct relating to the use of horses for human consumption.

S. 2044

At the request of Mr. KELLY, his name was added as a cosponsor of S. 2044, a bill to amend the Omnibus Public Land Management Act of 2009 to establish an Aging Infrastructure Account, to amend the Reclamation Safety of Dams Act of 1978 to provide additional funds under that Act, to establish a review of flood control rule curves pilot project within the Bureau of Reclamation, and for other purposes.

S. 2365

At the request of Mr. UDALL, the name of the Senator from Arizona (Mr.

KELLY) was added as a cosponsor of S. 2365, a bill to amend the Indian Health Care Improvement Act to authorize urban Indian organizations to enter into arrangements for the sharing of medical services and facilities, and for other purposes.

S. 2390

At the request of Mr. DURBIN, the name of the Senator from Minnesota (Ms. SMITH) was added as a cosponsor of S. 2390, a bill to prohibit the imposition of the death penalty for any violation of Federal law, and for other purposes.

S. 2419

At the request of Mr. KELLY, his name was added as a cosponsor of S. 2419, a bill to provide for the conveyance of a small parcel of Coconino National Forest land in the State of Arizona.

S. 2666

At the request of Mr. KELLY, his name was added as a cosponsor of S. 2666, a bill to promote the development of renewable energy on public land, and for other purposes.

S. 2795

At the request of Mr. KELLY, his name was added as a cosponsor of S. 2795, a bill to designate the community-based outpatient clinic of the Department of Veterans Affairs in Gilbert, Arizona, as the ''Staff Sergeant Alexander W. Conrad Veterans Affairs Health Care Clinic''.

S. 2898

At the request of Mr. INHOFE, the name of the Senator from Arizona (Mr. KELLY) was added as a cosponsor of S. 2898, a bill to amend title 5, United States Code, to provide for a full annuity supplement for certain air traffic controllers.

S. 2912

At the request of Mr. KELLY, his name was added as a cosponsor of S. 2912, a bill to direct the Secretary of the Interior to take certain land located in Pinal County, Arizona, into trust for the benefit of the Gila River Indian Community, and for other purposes.

S. 3022

At the request of Mr. KELLY, his name was added as a cosponsor of S. 3022, a bill to establish a pilot program waiving the Form I–94 document issuance requirement for certain Mexican nationals.

S. 3119

At the request of Mr. KELLY, his name was added as a cosponsor of S. 3119, a bill to modify the boundary of the Casa Grande Ruins National Monument, and for other purposes.

S. 3120

At the request of Mr. KELLY, his name was added as a cosponsor of S. 3120, a bill to reauthorize the Yuma Crossing National Heritage Area.

S. 3121

At the request of Mr. KELLY, his name was added as a cosponsor of S. 3121, a bill to establish the Chiricahua National Park in the State of Arizona as a unit of the National Park System, and for other purposes.

S. 3156

At the request of Mr. KELLY, his name was added as a cosponsor of S. 3156, a bill to authorize the Secretary of the Interior to establish the January 8th National Memorial in Tucson, Arizona, as an affiliated area of the National Park System, and for other purposes.

S. 3353

At the request of Mr. CASSIDY, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 3353, a bill to amend title XVIII of the Social Security Act to provide for extended months of Medicare coverage of immunosuppressive drugs for kidney transplant patients, and for other purposes.

S. 3471

At the request of Mr. RUBIO, the name of the Senator from Minnesota (Ms. SMITH) was added as a cosponsor of S. 3471, a bill to ensure that goods made with forced labor in the Xinjiang Uyghur Autonomous Region of the People's Republic of China do not enter the United States market, and for other purposes.

S. 3657

At the request of Mr. CASEY, the names of the Senator from Ohio (Mr. BROWN), the Senator from Nevada (Ms. ROSEN), the Senator from New York (Mrs. GILLIBRAND), the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Wisconsin (Ms. BALDWIN) and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 3657, a bill to provide for the coverage of medically necessary food and vitamins and individual amino acids for digestive and inherited metabolic disorders under Federal health programs and private health insurance, and for other purposes.

S. 3763

At the request of Mr. CASEY, the name of the Senator from Ohio (Mr. BROWN) was added as a cosponsor of S. 3763, a bill to establish the Pandemic Responder Service Award program to express our gratitude to front-line health care workers.

S. 4012

At the request of Mr. WICKER, the name of the Senator from Arizona (Mr. KELLY) was added as a cosponsor of S. 4012, a bill to establish a $120,000,000,000 Restaurant Revitalization Fund to provide structured relief to food service or drinking establishments through December 31, 2020, and for other purposes.

S. 4152

At the request of Mr. HOEVEN, the name of the Senator from Arizona (Mr. KELLY) was added as a cosponsor of S. 4152, a bill to provide for the adjustment or modification by the Secretary of Agriculture of loans for critical rural utility service providers, and for other purposes.

S. 4258

At the request of Mr. CORNYN, the name of the Senator from Arizona (Mr. KELLY) was added as a cosponsor of S. 4258, a bill to establish a grant program for small live venue operators and talent representatives.

S. 4461

At the request of Mr. LANKFORD, the name of the Senator from Iowa (Ms. ERNST) was added as a cosponsor of S. 4461, a bill to provide for a period of continuing appropriations in the event of a lapse in appropriations under the normal appropriations process, and establish procedures and consequences in the event of a failure to enact appropriations.

S. 4486

At the request of Ms. SMITH, the names of the Senator from Oregon (Mr. MERKLEY) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 4486, a bill to establish an interactive online dashboard to allow the public to review information for Federal grant funding related to mental health programs.

S. 4569

At the request of Mr. KELLY, his name was added as a cosponsor of S. 4569, a bill to modify the boundary of the Sunset Crater Volcano National Monument in the State of Arizona, and for other purposes.

S. 4757

At the request of Mr. DURBIN, the names of the Senator from Rhode Island (Mr. REED), the Senator from Oregon (Mr. MERKLEY) and the Senator from California (Ms. HARRIS) were added as cosponsors of S. 4757, a bill to amend the Animal Welfare Act to establish additional requirements for dealers, and for other purposes.

S. 4922

At the request of Ms. SINEMA, the name of the Senator from North Dakota (Mr. CRAMER) was added as a cosponsor of S. 4922, a bill to expand and enhance programs and activities of the Department of Defense for prevention of and response to domestic violence and child abuse and neglect among military families, and for other purposes.

S. 4949

At the request of Mr. TOOMEY, the names of the Senator from New Jersey (Mr. MENENDEZ), the Senator from Arizona (Ms. SINEMA) and the Senator from Wisconsin (Ms. BALDWIN) were added as cosponsors of S. 4949, a bill to require the Secretary of Health of Human Services to publish guidance for States on strategies for maternal care providers participating in the Medicaid program to reduce maternal mortality and severe morbidity with respect to individuals receiving medical assistance under such program.

S. 5019

At the request of Mr. DAINES, the names of the Senator from Kansas (Mr. ROBERTS) and the Senator from Montana (Mr. TESTER) were added as cosponsors of S. 5019, a bill to amend the Internal Revenue Code of 1986 to limit the charitable deduction for certain qualified conservation contributions.

S. RES. 798

At the request of Mr. RISCH, the names of the Senator from Maryland (Mr. VAN HOLLEN), the Senator from Virginia (Mr. WARNER) and the Senator from Delaware (Mr. COONS) were added as cosponsors of S. Res. 798, a resolution calling on the Government of Ethiopia and the Tigray People's Liberation Front to cease all hostilities, protect the human rights of all Ethiopians, and pursue a peaceful resolution of the conflict in the Tigray region of Ethiopia.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTION

By Mrs. FEINSTEIN (for herself and Ms. CORTEZ MASTO):

S. 5041. A bill to establish the Advisory Committee on Climate Risk on the Financial Stability Oversight Council; to the Committee on Banking, Housing, and Urban Affairs.

Ms. FEINSTEIN. Mr. President, I rise to speak in support of the ''Addressing Climate Financial Risk Act,'' which I introduced today.

BACKGROUND

The average global temperature has increased by over 3 degrees Fahrenheit in parts of my home State of California over the last century, and 2020 is on track to be the hottest year on record. Climate change is driving the increasing frequency and severity of wildfires, floods, droughts, and other natural disasters and extreme weather events.

In California, wildfires in particular have become a major annual concern. This year alone, wildfires have burned 4.1 million acres of California forests and destroyed more than 10,000 structures, including more than 5,000 homes.

The damage and risk generated by these events—in addition to the changes needed to transition to a lower-carbon economy—threaten to severely disrupt real estate values in high-risk areas, make insuring against risk increasingly unaffordable, and dramatically change whole sectors of the economy.

NEED FOR LEGISLATION

Unfortunately, U.S. Federal financial regulators have not done enough to ensure that they fully understand and are appropriately acting on the risk that climate change poses to the stability of the U.S. financial system.

Therefore, I believe there are a series of simple steps we should take to ensure that U.S. financial regulators are well-equipped to mitigate climate financial risk.

This bill would make five main improvements to the U.S. financial regulatory system.

First, it would establish a permanent committee on the Financial Stability Oversight Council (FSOC)—which Congress has charged with identifying risks to the U.S. financial system—made up of experts in climate science, climate economics, and climate financial risk.

This committee would assist FSOC in publishing a report that assesses the ability of the U.S. financial regulatory system to mitigate climate financial risk and makes recommendations for improving its ability to do so.

Second, the bill would require each Federal bank and credit union regulatory agency to update its supervisory guidance to include climate financial risk, and to develop a strategy to identify and mitigate climate financial risk.

Third, the bill would require FSOC to specify how it will take climate financial risk into account when making decisions on whether to subject nonbank financial firms to additional oversight by the Federal Reserve Board.

Fourth, the bill would mandate a report from the Federal Insurance Office on how to modernize and improve the regulation of climate financial risk insurance regulation in the United States.

Finally, the bill would express the sense of Congress that climate change is a global problem, and that U.S. financial regulators should join international organizations focused on addressing climate financial risk and work with financial regulators in other countries to the extent possible and consistent with U.S. law.

CONCLUSION

Climate change is real. It's happening now and it will have a profound effect on our financial system if we continue to do nothing. We must act to ensure that federal financial regulators have expertise in climate financial risk and develop approaches to mitigate that risk.

I hope my colleagues will join me in support of this bill. Thank you, Mr. President, and I yield the floor.

By Mr. GRASSLEY (for himself and Mr. ALEXANDER):

S. 5045. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to reform the treatment of multiemployer plans, to ensure the ability of the Pension Benefit Guaranty Corporation to provide guaranteed benefits of retirees, and for other purposes; to the Committee on Finance.

Mr. GRASSLEY. Mr. President, in late June, I came to the floor to speak about the need to fix the multiemployer pension system and how that system is failing its employees and retirees. I spoke about the need to secure retirement benefits for the millions of Americans who will start to see plans fail and benefits cut in the coming years if Congress doesn't fix this problem.

For the past 2 weeks, Chairman ALEXANDER and I were negotiating with our Democratic colleagues to do just that—fix the system so future retirees and retirees now would not lose out on what they were promised. Those negotiations were very constructive, and I believe that both sides worked in good faith. While both sides agreed to make significant changes, in the end, we weren't able to find a compromise that satisfied our respective principles and objectives for resolving this situation.

Here is the hang up—time. Now at the end of the session, with the end-of-the-year agenda and adjournment of the Congress, we just ran out of time. So in the midst of yearend appropriations and COVID relief negotiations, there simply wasn't enough time to reconcile our differences on how to fix this failing system.

My hope had been to use the last 8 months to negotiate a solution in a thoughtful and measured manner, instead of like now, in the heat of a complex yearend bill. But sadly, those 8 months didn't produce results.

From the beginning, we have agreed that Federal funds will be needed to solve the crisis in the short term—yes, money from the Treasury for pension plans that are in trouble now. But we have been equally resolute that reforms are essential to ensure the system can be self-sustaining in the long term. So we were trying to find a short-term solution that would involve the injection of Federal dollars, but we wanted a long-term solution that would make sure that private pension plans were self-sustaining and not relying upon the Federal Treasury. Otherwise, taxpayers will be perpetually subsidizing a private sector system of employee benefit promises.

Last November, Chairman ALEXANDER and I presented our comprehensive approach to rescue and reform the multiemployer pension system, which we have been working on and improving ever since. The product was improved with an amazing amount of input from workers, retirees, unions, employers, actuaries, academics, plan officials, and even members of the general public. Something as big as this needed to involve all of those people being at the table.

Today, Chairman ALEXANDER and I will introduce a revised version of that plan, the Chris Allen Multiemployer Pension Recapitalization and Reform Act. This legislation served as the basis for our recent negotiations and is the product of years of work with Chairman ALEXANDER to produce a serious, responsible plan that can provide relief to failing plans and to protect retirees' benefits.

It is also designed to ensure the long-term solvency of the Pension Benefit Guaranty Corporation's multiemployer insurance fund, based on the many comments and proposals we received to the original Grassley-Alexander plan released last November.

We believe this legislation would ensure that the PBGC's multiemployer insurance fund remains solvent over the long term after the initial rescue of the currently failing plans. But, most importantly, this legislation would reform the system to prevent this from happening again.

I would also like to note that the bill is named after Chris Allen, who was a

dedicated member of my Finance Committee staff, who passed away nearly 1 year ago at too young of an age. Chris poured thousands of hours of work into developing, drafting, and perfecting the Grassley-Alexander plan. I am grateful for all the work that Chris did, and I am proud this legislation bears his name.

I am also grateful to Andy Banducci, who helped us continue Chris's work while on detail to the committee from the PBGC for several months earlier this year. His expertise and commitment, especially during the pandemic, were essential to bringing this legislation to completion.

Lastly, Mark Warren of the Finance Committee staff has led my team on this very important issue with the help of Jamie Cummins.

This bill would not be possible without their efforts. So I thank Mark, Jamie, Andy, and Chris for their dedicated service.

Let me close by stressing two points for my Democratic colleagues. I appreciate the Democrats' professional and good-faith effort to try to find an agreement to this important issue. Although we were not able to reconcile our differences before the clock ran out, we need to carry that work forward, and I remain ready to continue that discussion. I want to make clear that, while the last 2 years I have been chairman of the Finance Committee, I won't be chairman the next 2 years, and we will be working under the leadership of the next chairman, Senator CRAPO, if Republicans continue to be in the majority.

These issues are not simple, and as I said in June, delaying the solution is only going to make the whole effort more costly. We should continue to work together to find a solution for the 10 million workers and retirees in these multiemployer plans. America's retirees deserve it.

Mr. President. I ask that the text of the bill be printed in the RECORD.

S. 5045

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—RESTRUCTURING PENSION INSURANCE FOR MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS

Subtitle A—Special Partitions of Eligible Multiemployer Plans

SEC. 101. SPECIAL PARTITIONS OF ELIGIBLE MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) is amended by inserting after section 4233 the following:

''SEC. 4233A. SPECIAL PARTITIONS OF ELIGIBLE MULTIEMPLOYER PLANS.

''(a) IN GENERAL.—

''(1) REQUIREMENT TO ORDER PARTITION.—Upon the application by the plan sponsor of an eligible multiemployer plan described in subsection (b) for a partition of the plan, the corporation shall order a partition of the plan in accordance with this section, provided the other requirements in this section are met. The corporation shall make a determination regarding the application not later than 150 days after the date such application was filed (or, if later, the date such application was completed) in accordance with regulations that shall be issued by the corporation under subsection (h).

''(2) NOTIFICATION OF PARTICIPANTS.—Not later than 30 days after submitting an application for partition of a plan under paragraph (1), the plan sponsor of the plan shall notify the participants and beneficiaries of such application, in the form and manner prescribed by the corporation.

''(3) IMPLEMENTATION OF TRANSFER.—The corporation shall implement the partition order issued under this section not later than 60 days after the completion of the corporation's determination under paragraph (1).

''(4) FILING DATE OF APPLICATION.—Partitions under this section shall apply only with respect to any eligible multiemployer plan whose plan sponsor files an application that is determined by the corporation to be complete pursuant to regulations issued by the corporation under subsection (h)(1) and that is filed by the later of the time specified in such regulations or 1 year after the corporation issues such regulations.

''(b) ELIGIBLE MULTIEMPLOYER PLAN.—For purposes of this section—

''(1) IN GENERAL.—The term 'eligible multiemployer plan' means a multiemployer plan that meets any of the following conditions:

''(A) The plan became insolvent (as described in section 4245(b), as in effect the day before the date of enactment of this section) on or after December 16, 2014, and prior to the date of enactment of this section and has not terminated.

''(B) The plan—

''(i)(I) was certified, in the most recent annual certification filed pursuant to section 305(b)(3) (as in effect on the day before the date of enactment of this section) before the date of enactment of this section, to be in critical and declining status (as defined in section 305(b)(6), as so in effect), and has not terminated as of such date;

''(II) implemented a suspension of benefits under section 305(e)(9) (as in effect on the day before the date of enactment of this section) prior to the date of enactment of this section;

''(III)(aa) was certified, in the most recent annual certification filed pursuant to section 305(b)(3) (as so in effect) before the date of enactment of this section, to be in critical status (as defined in section 305(b)(2), as so in effect), and has not terminated as of such date;

''(bb) has a funded percentage that is less than 40 percent on a current liability basis, based on the most recent Form 5500, Schedule MB, line 1b(1) for current value of assets and line 1d(2)(a) for current liability, filed before the date of enactment of this section; and

''(cc) has an active to inactive participant ratio that is below 40 percent as of the most recent Form 5500 filed before the date of enactment of this section; or

''(IV)(aa) was certified, in the most recent annual certification filed pursuant to section 305(b)(3) (as so in effect) before the date of

enactment of this section, to be in critical status (as defined in section 305(b)(2), as so in effect) and has not terminated before such date,

''(bb) has an active to total participant ratio that is below 20 percent as of the most recent Form 5500 filed before the date of enactment of the section; and

''(cc) has more than 100,000 participants as of the most recent Form 5500 filed before the date of enactment of the section; and

''(ii) is not the plan described in section 9701(a)(3) of the Internal Revenue Code of 1986, determined without regard to the limitation on participation to individuals who retired in 1976 and thereafter.

''(2) ELIGIBLE PLANS REQUIRED TO FILE FOR PARTITION.—

''(A) IN GENERAL.—An eligible multiemployer plan (other than a plan eligible under paragraph (1)(B)(i)(II)) shall file with the corporation for partition under this section. If an eligible plan required under the preceding sentence to file for partition does not so file in a timely manner, the plan is subject to termination under section 4042.

''(B) EXCEPTION.—If a plan is reasonably determined to be ineligible for future adjustments under subsection (j)(3)(C)(iii)—

''(i) subparagraph (A) shall not apply to such plan, and

''(ii) such plan may withdraw the partition application (or, as provided by the corporation in regulations, not submit such application at all).

''(c) CONDITIONS FOR PARTITION.—

''(1) RATE OF ACCRUALS.—

''(A) IN GENERAL.—As a condition of any partition under this section, the rate of future accruals, during the period beginning on the date of the partition order and ending 15 years after the effective date of the partition, shall not exceed the lesser of—

''(i) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal or equivalent to 1 percent of the annual contributions required to be made with respect to a participant as of the first day of the first plan year that begins after the date of enactment of this section; or

''(ii) the accrual rate under the plan on such first day.

''(B) DETERMINATION OF EQUIVALENT RATE.—The plan sponsor may determine the equivalent rate of future accruals based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Such determinations by the plan sponsor may be made on the basis of individual active participants, groups of active participants, or all active participants in total.

''(C) SPECIAL RULE FOR FUTURE ACCRUALS.—To the extent that the rate of future accruals exceeds the limitation determined under this paragraph, the plan sponsor shall adjust the rate of future accruals in accordance with this paragraph effective as of the date of the partition order.

''(2) ELIMINATION OF ADJUSTABLE BENEFITS.—As a condition of any partition under this section, the plan sponsor of an eligible multiemployer plan shall eliminate all adjustable benefits in the nature of an early retirement subsidy (including a subsidized early retirement actuarial reduction factor) for all participants not in pay status as of the date of the partition application. Nothing in this paragraph shall affect the right of a participant to receive an unsubsidized early retirement benefit.

''(d) SUCCESSOR PLANS AND ORIGINAL PLANS.—

''(1) IN GENERAL.—The plan created by the partition order is a successor plan to which section 4022A applies.

''(2) PLAN SPONSOR AND PLAN ADMINISTRATOR.—The plan sponsor of an eligible multiemployer plan prior to partition and the administrator of such plan shall be the plan sponsor and the administrator, respectively, of the original plan and the successor plan created by the partition order.

''(3) ORIGINAL PLAN.—The remaining plan after benefits have been transferred to the successor plan pursuant to the partition order is the original plan. Benefit payments made by the successor plan shall not constitute a reduction in benefits with respect to the original plan.

''(e) FINANCIAL ASSISTANCE TO SUCCESSOR PLANS FROM THE CORPORATION.—

''(1) IN GENERAL.—Upon approval of an application filed pursuant to subsection (i), the corporation shall provide financial assistance to each successor plan of an eligible multiemployer plan.

''(2) NONAPPLICABILITY OF REPAYMENT RULE.—Financial assistance provided to a successor plan pursuant to this subsection shall not be subject to the requirements of section 4261(b)(2), except that the corporation may condition receipt of financial assistance under this subsection on reasonable terms consistent with regulations prescribed by the corporation to prevent abuse of the multiemployer plan program or prevent unreasonable risk of loss to the corporation.

''(f) PAYMENT REQUIREMENTS OF ORIGINAL PLAN.—For each participant or beneficiary of the plan whose benefit or portion thereof was transferred to the successor plan, the original plan shall pay a monthly benefit to such participant or beneficiary for each month in which such benefit is in pay status following the effective date of such partition in an amount equal to the excess of—

''(1) the monthly benefit that would be paid to the participant or beneficiary under the terms of the original plan had the transfer of benefits not occurred (taking into account any applicable benefit reductions or plan amendments following the effective date of the partition); over

''(2) the monthly benefit for such participant or beneficiary that is paid by the successor plan.

''(g) TRANSFER OF BENEFITS.—

''(1) IN GENERAL.—A partition order under subsection (a) shall provide for a transfer of benefits from the original plan to the successor plan in the amount necessary for the original plan to be projected to remain solvent indefinitely, as defined in section 1.432(e)(9)–1(d)(5)(ii) of title 26, Code of Federal Regulations (excluding subparagraph (A)(2)), as in effect on the date on which such regulations were issued, using actuarial and other assumptions to be promulgated by the corporation in the regulations described in subsection (h)(4). Such transfer amounts shall be determined without respect to the amount guaranteed under section 4022A.

''(2) CONSIDERATIONS.—

''(A) IN GENERAL.—In determining the transfer amount under paragraph (1), the corporation shall take into account all obligations of the original plan, including the payment of benefits required under subsection (f) in excess of the amount paid by the successor plan and all plan expenses and premium amounts.

''(B) PROJECTION OF ASSETS AND LIABILITIES.—The amount of the transfer of benefits shall be based on a projection of plan assets and liabilities to the projected partition date, as specified in the partition application, and—

''(i) the projection of plan assets shall be based on the fair market value of plan assets as of the end of the last plan year preceding the date of the application, with appropriate adjustments for actual or anticipated plan experience through the projected partition date; and

''(ii) the projection of plan liabilities shall be based on the participant data used in the most recently completed actuarial valuation.

''(3) SPECIAL RULE FOR INSOLVENT PLANS.—With respect to an insolvent plan described in subsection (b)(1)(A), the corporation shall provide financial assistance to the original plan, as needed for the plan to pay to each participant and beneficiary in the successor plan the excess, if any, of—

''(A) the monthly benefit that would be paid to the participant or beneficiary under the terms of the original plan, prior to insolvency, had the transfer of benefits not occurred (taking into account any applicable benefit reductions or plan amendments following the effective date of the partition); over

''(B) the monthly benefit for such participant or beneficiary that is paid by the successor plan.

''(h) REGULATIONS.—

''(1) IN GENERAL.—The corporation shall issue regulations on the requirements for partition applications not later than 180 days after the date of enactment of this section. By regulation, the corporation may assign eligible multiemployer plans into groups, based on plan size (prioritizing larger plans), projected date of plan insolvency (prioritizing plans expected to become insolvent within 5 years), or such other factors as the corporation deems appropriate, for determining when an application for partition under this section may be filed. Any regulations issued under this section shall be interim final or final regulations.

''(2) EFFECT OF NO REGULATION.—If the corporation does not issue regulations within 180 days after the date of enactment of this section, any applications for partition under this section filed after the date that is 180 days after such date of enactment (and prior to the date regulations are issued) shall be deemed to be approved.

''(3) RULES FOR DETERMINING PARTICIPANTS AND BENEFICIARIES.—The regulations under this subsection shall include rules for determining which participants and beneficiaries are included in the transfer of benefits.

''(4) ACTUARIAL ASSUMPTIONS.—The regulations under this subsection shall prescribe acceptable actuarial assumptions, for purposes of an application, relating to the following:

''(A) Future investment returns which must be consistent with the applicable discount rate under section 304, except that—

''(i) in no case shall the assumption for future returns be less than 5.5 percent for purposes of determining the initial partition amount; and

''(ii) in no case, while the partition amount is being determined or while the partition is in effect, shall the assumption used for determining adjustments under subsection (j) be less than the lesser of—

''(I) the rate equal to the 24-month average of the third segment rate (as defined in section 303(h)(2)(C)(iii)), as of the date the determination is made, without regard to section 303(h)(2)(C)(iv), increased by 2 percent; or

''(II) 5.5 percent.

''(B) Future contribution base units.

''(C) Future contribution rate increases, taking into account the adopted rehabilitation plan.

''(D) Future withdrawal liability payments.

''(E) Future administrative expenses.

''(F) Mortality.

''(G) Any other assumptions deemed by the corporation to be material.

''(5) RULES RELATING TO ASSUMPTIONS.—

''(A) INFORMATION REQUIRED.—For purposes of paragraph (4), when prescribing acceptable actuarial assumptions, the corporation shall not require a plan sponsor to obtain data or other information that a plan sponsor should not reasonably be expected to have in its possession, unless it can be obtained with reasonable effort and expense.

''(B) ECONOMIC ACTIVITY ASSUMPTION.—For purposes of paragraph (4)(B), an assumption related to future contribution base units shall be considered reasonable and appropriate for purposes of the application under this section, provided that—

''(i) if the recent experience of the plan has been declining contribution base units, the plan actuary may assume future contribution base units will continue to decline at the same annualized trend as over the 5 immediately preceding plan years unless such assumption is unreasonable based on criteria which may be prescribed by the corporation by regulation, and

''(ii) if the recent experience of the plan has been increasing, or neither increasing nor decreasing, contribution base units, the plan actuary may assume future contribution base units will remain unchanged indefinitely, unless such assumption is unreasonable based on criteria the corporation may prescribe.

''(6) DETERMINATION OF BENEFITS GUARANTEES.—The regulations under this subsection shall include rules for determining the amounts of benefits guaranteed under section 4022A, including acceptable methods to approximate credited service for participants and beneficiaries in pay status where records cannot reasonably be obtained by the plan administrator.

''(i) PARTITION APPLICATIONS.—

''(1) IN GENERAL.—An application for partition under this section submitted by a plan sponsor shall be filed electronically and contain the required information set forth in regulations promulgated by the corporation.

''(2) APPROVAL STANDARDS.—The corporation shall approve a partition application if the applying plan meets the requirements for a partition under this section.

''(3) EVALUATION OF INITIAL TRANSFER.—In reviewing an application under this section, the plan shall propose the initial amount of the transfer of benefits under the partition order that is required under subsection (g)(1) and the corporation shall review and modify the amount, if applicable, pursuant to its regulations.

''(4) DETERMINATIONS BY THE CORPORATION.—

''(A) DETERMINATION OF INELIGIBILITY.—If the corporation determines the plan to be ineligible under subsection (b) for a partition under this section, the corporation shall notify the plan sponsor in writing of such determination not later than 30 days after the application is filed. Such notice shall specify the reasons the plan is ineligible for a special partition. The applicant plan will have a period of at least 60 days, or longer if specified by the Corporation through regulations, to modify its application, which shall be subject to expedited review by the corporation and, for purposes of satisfying the 1-year filing requirement for special partition, will relate back to the date the application was initially filed.

''(B) INCOMPLETE APPLICATIONS.—If the corporation determines the application by the plan sponsor lacks information necessary for the corporation to approve or deny the application, the corporation shall notify the plan sponsor in writing, detailing which components are missing, not later than 30 days after the application is filed. Nothing in the preceding sentence shall prevent the corporation from asking the plan sponsor at a later date for additional information necessary to determine the partition amount.

''(C) FACTUAL SUBMISSIONS BY PLAN SPONSOR.—The factual submissions made by a plan sponsor in a partition application, including participant data and benefit calculations, shall be presumed to be correct, unless clearly erroneous.

''(j) POST–PARTITION ADJUSTMENTS.—

''(1) PROCESS FOR ADJUSTMENTS.—

''(A) IN GENERAL.—After benefits have been transferred under the partition order, the corporation shall, at least every third year thereafter, adjust the transfer of benefits, as necessary to enable the original plan to be projected to remain solvent indefinitely, consistent with limitations on guaranteed benefits (if applicable under paragraph (3)(C)). The adjustments shall be made based on such procedures as the corporation shall prescribe by regulation.

''(B) PLANS PROJECTED TO BE INSOLVENT.—If the original plan is not projected to be solvent 30 years after any adjustment review date (without regard to whether or not an adjustment takes place in connection with such date), taking into account the adjustments permitted by this paragraph, such plan shall electronically file a report with the corporation, as the corporation shall require by regulation. If the plan subsequently reports for 3 consecutive years for which an adjustment review is conducted that the plan is not projected to be solvent 30 years after the date of each such adjustment review, the plan shall be terminated.

''(2) BASIS FOR ADJUSTMENT.—The adjustment shall be based solely on, as applicable, updated participant data, calculations of guaranteed benefits for participants and beneficiaries covered under the successor plan, contribution experience, current actuarial assumptions (if changed since the initial transfer of benefits), and changes in the market value of the original plan's assets.

''(3) LIMITATIONS ON ADJUSTMENT.—

''(A) IN GENERAL.—The corporation shall not adjust under paragraph (1) the transfer of benefits to provide additional financial assistance if the corporation determines that the original plan or the bargaining parties committed an abuse of the multiemployer program with respect to the original plan or otherwise unreasonably took actions (or avoided taking actions) with the result that there is an increased risk of loss to the corporation with respect to the successor plan or the original plan.

''(B) END OF ADJUSTMENT AUTHORITY.— No adjustments under paragraph (1) to the transfer of benefits shall be allowed with respect to any plan year beginning 30 or more years after the date of the partition.

''(C) AGGREGATE LIMITS.—If the initial transfer of benefits from the plan under subsection (g)—

''(i) was less than 100 percent of the amount of benefits under the plan guaranteed under section 4022A for each participant, any adjustment under paragraph (1) shall not result in a benefit for any participant in the successor plan in excess of 100 percent of the participant's guaranteed benefit, determined as of the date of the initial transfer;

''(ii) was equal to or greater than 100 percent of the amount of benefits so guaranteed, any adjustment under paragraph (1) shall not result in a benefit for any participant in the successor plan in excess of the amount of the participant's benefit subject to the initial transfer; and

''(iii) was less than 5 percent of the amount of benefits so guaranteed, there shall be no adjustment under paragraph (1).

''(4) TERMINATED AND INSOLVENT PLANS.—With respect to an original plan partitioned under this section that subsequently is terminated or becomes insolvent, the benefits transferred under the partition order shall revert to the original plan, the partition shall be reversed, and financial assistance provided pursuant to the partition order shall cease.

''(5) REGULATIONS.—The corporation shall promulgate regulations describing the process and requirements for reporting and the circumstances under which plans will be terminated in accordance with the provisions of section 4041A pursuant to this subsection.

''(k) PLANS THAT IMPLEMENTED SUSPENSION OF BENEFITS.—

''(1) IN GENERAL.—An eligible multiemployer plan described in subsection (b)(1)(B)(i)(II) may be approved for a partition under this section only if it unwinds the suspension, and, if applicable, the previous partition described in such subsection in accordance with regulations to be issued by the corporation, in consultation with the Secretary of the Treasury. The unwinding of a suspension or partition described in such subsection must be contingent upon the corporation's approval of the application for partition under this section.

''(2) TIMING OF UNWINDING OF SUSPENSION OF BENEFITS.—In the case of a partition described in paragraph (1), the suspension of benefits shall be unwound retroactively. Benefits shall be restored to pre-suspension levels as of the effective date of the partition under this section and participants who are receiving benefits on the date of enactment of this section shall, beginning not later than 180 days after the approval of a partition order under this section, receive a special payment, payable over a period not to exceed 2 years, equal to the amount of benefits previously suspended as prescribed in regulations. Such plans are subject to the requirements of subsection (c).

''(l) FIDUCIARY PROTECTION.—Plan participants and beneficiaries shall not have a claim under section 409 or section 502 of this Act against plan fiduciaries with respect to an application for partition assistance made in good faith or the allocation of benefit liabilities between the successor plan and the original plan.

''(m) EFFECT OF PARTITION ON WITHDRAWAL LIABILITY.—

''(1) IN GENERAL.—A partition order under this section is taken into account in determining withdrawal liability under section 4201 of an employer that contributes to the original plan, provided that the employer remains a contributing employer to the original plan (and in compliance with any applicable funding improvement or rehabilitation plan) for a period of 15 years following the effective date of the liability transfer.

''(2) WITHDRAWALS AFTER LESS THAN 15 YEARS.—

''(A) IN GENERAL.—If an employer completely withdraws or partially withdraws from a plan that was partitioned under this section at any time within the 15-year period described in paragraph (1), the transfer of benefits under subsection (g) shall not be taken into account in computing the employer's complete or partial withdrawal liability, and the amount of the annual withdrawal liability payment amount otherwise determined shall be increased by 10 percent.

''(B) EXCEPTION.—Subparagraph (A) shall not apply—

''(i) if the complete or partial withdrawal is due to a decertification, a change in bargaining representatives, disclaimer of interest, or because of an event described in section 4218; or

''(ii) in the case of a partial withdrawal due to a bargaining unit or facility take-out if the contribution base units for the plan year immediately following the year of the partial withdrawal are at least 97 percent of the

contribution base units for the plan year immediately preceding the year of the partial withdrawal.

''(3) EXCEPTION.— Paragraphs (1) and (2) shall not apply to an employer that first had an obligation to contribute to the plan partitioned under this section after the date of enactment of this section.

''(n) RESTRICTIONS ON BENEFIT IMPROVEMENTS.—

''(1) INCREASE IN PLAN LIABILITIES.—

''(A) IN GENERAL.—If the plan sponsor adopts a plan amendment that increases plan liabilities (due to any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable) that takes effect after the effective date of the partition, the original plan shall make payments to the corporation for each year during the 20-year period following the effective date of the benefit increase. For purposes of this paragraph, an increase in benefits due to an increase in the contribution rate or compensation shall be considered a prohibited increase in benefits.

''(B) EXCEPTION FOR CERTAIN ACCRUALS.—Subparagraph (A) shall not apply to any change in future accruals after the end of the 15-year period during which such accruals are limited under subsection (c).

''(2) AMOUNT PAYABLE TO CORPORATION.—The amount paid by the original plan to the corporation under paragraph (1) each year shall be equal to the lesser of—

''(A) the total value of the increase in benefit payments for the year that is attributable to the benefit improvement; or

''(B) the total benefit payments from the successor plan for such year.

''(3) TIMING OF PAYMENT.—Payments under paragraph (2) shall be made by the original plan at the time of, and in addition to, any premium imposed by the corporation on the plan.

''(4) PBGC AUTHORITY.—The corporation is authorized to bring an action against the original plan to prevent or correct any and all actions by plan sponsors, a principal purpose of which is to evade or avoid payments due to the corporation under paragraph (2), or that may have the effect of evading or avoiding such payments. Payments under paragraph (2) shall be determined without regard to such actions by plan sponsors.

''(5) EXCEPTION FOR CERTAIN CHANGES.—The requirements of this subsection do not apply to an increase or change in benefits that is required by law or that is a de minimis change, as determined by the corporation.

''(o) POST-PARTITION DISCLOSURES.—Not later than 90 days after the first day of each plan year beginning after the effective date of a partition under this section, the plan sponsor of the original plan shall electronically file with the corporation a report including the following information:

''(1) The estimated funded percentage (as defined in section 305(k)(2)) as of the first day of such plan year, and the underlying actuarial value of assets and liabilities taken into account in determining such percentage.

''(2) The estimated amount of all investment returns for the original plan during the preceding plan year.

''(3) The market value of the assets of the plan (determined as provided in paragraph (1)) as of the last day of the plan year preceding such plan year.

''(4) The total value of all contributions made by employers and employees during the plan year preceding such plan year.

''(5) The total value of all benefits paid during the plan year preceding such plan year.

''(6) Cash flow projections for such plan year and the 29 succeeding plan years, and the assumptions used in making such projections.

''(7) Funding standard account projections for such plan year and the 9 succeeding plan years, and the assumptions used in making such projections.

''(8) Any significant reduction in the number of active participants during the plan year preceding such plan year, and the reason for such reduction.

''(9) A list of employers that withdrew from the plan in the plan year preceding such plan year, and the resulting reduction in contributions.

''(10) A list of employers that paid withdrawal liability to the plan during the plan year preceding such plan year and, for each employer, a total assessment of the withdrawal liability paid, the annual payment amount, and the number of years remaining in the payment schedule with respect to such withdrawal liability.

''(11) Any material changes to benefits, accrual rates, or contribution rates during the plan year preceding such plan year, and whether such changes relate to the conditions of the partition assistance.

''(12) Details regarding any funding improvement plan or rehabilitation plan and updates to such plan.

''(13) The number of participants and beneficiaries during the plan year preceding such plan year who are active participants, the number of participants and beneficiaries in pay status, and the number of terminated vested participants and beneficiaries.

''(14) For—

''(A) the first plan year after the effective date of the partition, a list of all employers that contributed to the plan during the plan year; and

''(B) subsequent plan years, changes to the list of contributing employers.

''(15) The information contained on the most recent annual return under section 6058 of the Internal Revenue Code of 1986 and actuarial report under section 6059 of such Code of the plan.

''(16) Copies of the plan document and amendments, other retirement benefit or ancillary benefit plans relating to the plan and contribution obligations under such plans, a breakdown of administrative expenses of the plan, participant census data and distribution of benefits, the most recent actuarial valuation report as of the plan year, financial reports, and copies of the portions of collective bargaining agreements relating to plan contributions, funding coverage, or benefits, and such other information as the corporation may reasonably require.

''(17) A list of the employers that contributed more than 5 percent of total contributions to the plan during the preceding plan year, and the amount contributed by each such employer.

Any information or documentary material submitted to the corporation pursuant to this subsection that could identify individual employers, if clearly designated by the person making the submission as confidential (on each page in the case of a document, and in the file name in the case of a digital file), shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public except as may be relevant to any administrative or judicial action or proceeding, including an informal rulemaking.

''(p) RESTRICTIONS ON CONTRIBUTION DECREASES.—

''(1) IN GENERAL.—Subject to paragraph (2), except in any plan year in which the plan is certified by the plan actuary as in unrestricted status pursuant to section 305(b)(1)(B), the plan sponsor of an original plan may not accept a collective bargaining agreement with respect to such original plan that includes a reduction in employer contribution rates.

''(2) EXCEPTION.—Under a process to be promulgated by regulation by the corporation, a plan sponsor of an original plan may petition the corporation for the authority to approve a collective bargaining agreement that contemplates a reduction in employer contribution rates. Such regulation shall include a requirement that a plan petitioning for such authority demonstrate that its existing contribution rates are higher than contribution rates paid on behalf of other workers covered by collective bargaining agreements in the same industry in nearby localities. The corporation shall approve the petition if the plan sponsor demonstrates that the reduction in contribution rates improves the long-term funding or solvency of the plan, and does not increase the corporation's expected loss with respect to the plan.

''(q) EFFECT ON ACCUMULATED FUNDING DEFICIENCY.—Any accumulated funding deficiency (as defined in section 304(a)) of a plan shall be reduced to zero as of the first day of the plan year during which the partition under this section is effective.

''(r) COORDINATION OF REPORTING AND DISCLOSURE REQUIREMENTS.—The corporation, the Secretary, and the Secretary of the Treasury may, individually or collectively, promulgate regulations to reduce reporting and disclosure obligations for successor plans, including coordinating with reporting and disclosure by original plans.''.

(b) CONFORMING AMENDMENT.—Section 4233 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1413) is amended by adding at the end the following:

''(g) This section shall not apply to an eligible multiemployer plan described in section 4233A(b) that receives a special partition under that section.''.

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended by inserting after the item relating to section 4233 the following:

''4233A. Special partitions of eligible multiemployer plans.''.

Subtitle B—PBGC Reforms

SEC. 111. GUARANTEE RATE INCREASE FOR PLANS RECEIVING FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 4022A(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(1)) is amended by striking subparagraph (A) and inserting the following:

''(A) 100 percent of the accrual rate up to $15, plus 75 percent of the lesser of—

''(i) $54.67, or

''(ii) the accrual rate, if any, in excess of $15, and''.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to financial assistance provided by the Pension Benefit Guaranty Corporation—

(A) to plans that become insolvent after the date of the enactment of this Act; or

(B) pursuant to a special partition under section 4233A of the Employee Retirement Income Security Act of 1974, as added by this Act.

(2) EXCEPTION FOR PARTITIONS ON OR BEFORE DATE OF ENACTMENT.—The amendments made by this section shall not apply to financial assistance provided by the Pension Benefit Guaranty Corporation pursuant to a partition of a multiemployer plan occurring on or before the date of the enactment of this Act.

SEC. 112. AMENDMENT TO DEFINITION OF INSOLVENCY.

(a) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 4245

of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1426) is amended—

(1) by amending subsection (a) to read as follows:

''(a) Notwithstanding sections 203 and 204, an insolvent multiemployer plan shall suspend the payments of benefits which are not basic benefits, in accordance with this section, and terminate the plan under section 4041A(a)(4).'';

(2) in subsection (b)—

(A) by striking paragraphs (1) and (2) and inserting the following:

''(1) a multiemployer plan is insolvent if the plan's available resources in any of the next 5 plan years are projected not to be sufficient to pay benefits under the plan when due for the plan year;'';

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(C) in paragraph (2), as so redesignated, by inserting ''expected'' before ''contributions'';

(3) by striking subsection (c);

(4) by redesignating subsections (d) through (g) as subsections (c) through (f), respectively;

(5) in subsection (c), as so redesignated—

(A) in paragraph (1)—

(i) by striking ''critical status, as described in subsection 305(b)(2),)'' and inserting ''such critical status)'';

(ii) by striking ''3 times'' and inserting ''10 times''; and

(iii) by striking ''5 plan years'' each place such term appears and inserting ''8 plan years'';

(B) in paragraph (2)—

(i) by striking ''plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year'' and inserting ''plan will be insolvent in any of the next 10 plan years''; and

(ii) by inserting ''and the corporation'' before the period at the end;

(C) by striking paragraph (3); and

(D) by redesignating paragraph (4) as paragraph (3).

(6) in subsection (d), as so redesignated—

(A) in paragraph (1)—

(i) by striking ''subsection (d)(1) or (2)'' and inserting ''subsection (c)(1) or (2)''; and

(ii) by striking ''Treasury,'' in subparagraph (A) and inserting ''Treasury and'';

(B) in paragraph (2)—

(i) by striking ''resource benefit level determined in writing for that insolvency year'' and inserting ''reduction of benefit payments to the level of basic benefits and the termination of the plan under section 4041A(a)(4) as of the first day of the seventh full plan month of the plan's first insolvency year under subsection (b)(3)''; and

(ii) by striking ''each insolvency year'' and inserting ''the first insolvency year'';

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(7) in subsection (e), as so redesignated—

(A) in paragraph (1) by striking '', for which the resource benefit level is above the level of basic benefits,''; and

(B) by striking paragraph (2) and inserting after paragraph (1) the following new paragraph:

''(2) A plan sponsor who has determined that the plan's available resources for an insolvency year are below the level of basic benefits shall apply for financial assistance from the corporation under section 4261.''; and

(8) in subsection (f), as so redesignated, by striking ''Subsections (a) and (c)'' and inserting ''Subsection (a)''.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Section 418E of the Internal Revenue Code of 1986 is amended—

(1) by amending subsection (a) to read as follows:

''(a) SUSPENSION OF CERTAIN BENEFIT PAYMENTS; TERMINATION.—Notwithstanding section 411, an insolvent multiemployer plan shall suspend the payments of benefits which are not basic benefits, in accordance with this section, and terminate the plan under section 4041A(a)(4) of the Employee Retirement Income Security Act of 1974.'';

(2) in subsection (b)—

(A) by striking paragraphs (1) and (2) and inserting the following:

''(1) INSOLVENT MULTIEMPLOYER PLAN.—A multiemployer plan is insolvent if the plan's available resources in any of the next 5 plan years are projected not to be sufficient to pay benefits under the plan when due for the plan year.'';

(B) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively; and

(C) in paragraph (2), as so redesignated, by inserting ''expected'' before ''contributions'';

(3) by striking subsection (c);

(4) by redesignating subsections (d) through (h) as subsections (c) through (g), respectively;

(5) in subsection (c), as so redesignated—

(A) in paragraph (1)—

(i) by striking ''critical status, as described in subsection 432(b)(2))'' and inserting ''such critical status)'';

(ii) by striking ''3 times'' and inserting ''10 times''; and

(iii) by striking ''5 plan years'' each place such term appears and inserting ''8 plan years'';

(B) in paragraph (2)—

(i) by striking ''plan's available resources are not sufficient to pay benefits under the plan when due for the next plan year'' and inserting ''plan will be insolvent in any of the next 10 plan years''; and

(ii) by inserting ''and the corporation'' before the period at the end;

(C) by striking paragraph (3); and

(D) by redesignating paragraph (4) as paragraph (3);

(6) in subsection (d), as so redesignated—

(A) in paragraph (1), by striking ''subsection (d)(1) or (2)'' and inserting ''subsection (c)(1) or (2)'';

(B) in paragraph (2)—

(i) by striking ''resource benefit level determined in writing for that insolvency year'' and inserting ''reduction of benefit payments to the level of basic benefits and the termination of the plan under section 4041A(a)(4) of the Employee Retirement Income Security Act of 1974 as of the first day of the seventh full plan month of the plan's first insolvency year under subsection (b)(3)'';

(ii) by striking ''each insolvency year'' and inserting ''the first insolvency year''; and

(iii) by striking ''RESOURCE BENEFIT LEVEL'' in the heading and inserting ''NOTICE OF INSOLVENCY'';

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(7) in subsection (e), as so redesignated—

(A) in paragraph (1) by striking '', for which the resource benefit level is above the level of basic benefits,''; and

(B) by striking paragraph (2) and inserting after paragraph (1) the following new paragraph:

''(2) PLANS WITHOUT AVAILABLE RESOURCES.—A plan sponsor who has determined that the plan's available resources for an insolvency year are below the level of basic benefits shall apply for financial assistance from the Pension Benefit Guaranty Corporation under section 4261 of the Employee Retirement Income Security Act of 1974.''; and

(8) in subsection (g), as so redesignated, by striking ''Subsections (a) and (c)'' and inserting ''Subsection (a)''.

(c) REGULATIONS.—The Pension Benefit Guaranty Corporation shall issue regulations implementing the amendments made by this section. Such regulations shall address the assumptions a plan may use in projecting whether a plan's available resources in any of the next 5 plan years are projected not to be sufficient to pay benefits under the plan when due.

SEC. 113. TERMINATION OF MULTIEMPLOYER PLANS.

(a) TERMINATION BY COURT ORDER.—Section 4041A of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341a) is amended by adding at the end the following:

''(g) EFFECT OF TERMINATION ORDER.—If a court orders the termination of a multiemployer plan under section 4042—

''(1) the corporation shall determine whether the termination of such plan shall be carried out in accordance with paragraph (1) or (2) of subsection (a) (and such termination shall be treated as described in whichever of such paragraphs is applicable under the determination), and

''(2) the plan shall take such actions as the corporation determines necessary to implement the corporation's determination under paragraph (1) by such date as the corporation specifies in such determination.''.

(b) TERMINATION BY REASON OF INSOLVENCY.—

(1) IN GENERAL.—Section 4041A(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341a(a)) is amended—

(A) in paragraph (2), by striking ''or'' at the end;

(B) in paragraph (3)—

(i) by striking ''section 4203(b)(1)'' and inserting ''section 4021(b)(1)''; and

(ii) by striking the period and inserting ''; or''; and

(C) by adding at the end the following:

''(4) becoming insolvent (within the meaning of section 4245(b)(1).''.

(2) TIME OF TERMINATION.—Section 4041A(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341a(b)) is amended by adding at the end the following new paragraphs:

''(3) Except as provided in paragraph (4), the date on which a plan terminates under paragraph (4) of subsection (a) is the first day of the seventh full plan month of the plan's first insolvency year under section 4245(b)(3).

''(4)(A) In the case of a multiemployer plan which is an insolvent plan on the date of enactment of this paragraph—

''(i) paragraph (4) of subsection (a) shall apply to such plan unless such plan applies for, and receives, a special partition under section 4233A, and

''(ii) the date on which plan terminates shall be determined under subparagraph (B).

''(B) In the case of a plan described in subparagraph (A), the date on which a plan terminates under paragraph (4) of subsection (a) is—

''(i) if the plan is not eligible for a special partition under section 4233A, the first day of the seventh full plan month following such date of enactment, except that such plan may, notwithstanding the amendment required to be adopted by the plan under section 4245(a), continue to provide service credit solely for purposes of vesting under the plan until such time as the plan's available resources are not sufficient to pay benefits under the plan, and

''(ii) if the plan applies for such special partition but the corporation does not approve it, the first day of the seventh full plan month following the final determination of the corporation disallowing such special partition.''.

(3) ADOPTION OF AMENDMENT PROVIDING FOR NO SERVICE CREDIT.—Section 4245(a) of such

Act (29 U.S.C. 1426(a)), as amended by this Act, is amended by adding at the end the following: ''The insolvent multiemployer plan shall also, at the time of becoming insolvent, adopt an amendment which provides that participants will receive no credit for any purpose under the plan for service with any employer after the date specified in 4041A(b)(3) or (4), whichever is applicable.''

(4) OTHER AMENDMENTS.—Section 4041A of such Act of 1974 (29 U.S.C. 1341a) is amended—

(A) in subsection (c)—

(i) in the matter preceding paragraph (1)—

(I) by striking ''Except'' and inserting ''Consistent with the provisions of section 4281, and except''; and

(II) by striking ''paragraph (2)'' and inserting ''paragraph (1), (2), or (4)'';

(ii) in paragraph (1), by striking ''and'' at the end;

(iii) by redesignating paragraph (2) as paragraph (3); and

(iv) by inserting after paragraph (1) the following:

''(2) suspend the payment of benefits in excess of the level of basic benefits, and'';

(B) by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively; and

(C) in subsection (d), as so redesignated—

(i) by striking ''paragraph (1) or (3)'' and inserting ''paragraph (1), (3), or (4)'';

(ii) by striking ''termination date, unless'' and inserting ''termination date and the total contribution amount shall be not less than the average amount of the highest 3 contributions in the previous 10 years, unless''; and

(iii) by adding at the end the following new sentence: ''Any liability under section 4201 due by an employer that withdraws from the plan after the plan termination date shall be offset by the contributions made under this subsection subsequent to the plan termination.''.

(c) POOLING OF ASSETS.—Section 4041A of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341a), as amended by this section, is further amended by adding at the end the following:

''(g) POOLING OF ASSETS.—Notwithstanding any other provision of this title, the corporation is authorized to pool assets of terminated or insolvent multiemployer plans with fewer than 5,000 participants or to consolidate such plans by merger, for purposes of administration, investment, payment of liabilities of all such plans, and such other purposes as it determinates to be appropriate in the administration of this title, if it determines that such action would reduce administrative expenses or avoid an increased risk of loss. The corporation may exercise this consolidation authority by administrative action without petitioning a court for an order to replace the plan's governing board of trustees, including receivership by the corporation, or to consolidate or merge any plans.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this section, except that the amendments made by subsection (b) shall also apply to multiemployer plans that are insolvent on such date.

SEC. 114. BENEFITS UNDER CERTAIN TERMINATED PLANS.

Section 4281 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1441) is amended—

(1) in subsection (a), by striking ''section 4041A(d)'' and inserting ''Section 4041A(c)'';

(2) by striking subsections (b), (c), and (d); and

(3) by inserting after subsection (a) the following:

''(b)(1) If a plan has been terminated pursuant to paragraph (1), (2), or (4) of section 4041A(a), the plan sponsor shall amend the plan to suspend benefits in excess of the level of basic benefits.

''(2) Any plan amendment required by this subsection shall, in accordance with regulations prescribed by the corporation, take effect not later than 6 months after the date on which the plan is terminated.

''(c)(1) The value of nonforfeitable benefits under a terminated plan described in subsection (a), and the value of the plan's assets, shall be determined in writing, in accordance with regulations prescribed by the corporation, as of the end of the plan year during which section 4041A(c) becomes applicable to such plan.

''(2) For purposes of this subsection, plan assets include outstanding claims for withdrawal liability (within the meaning of section 4001(a)(12).

''(3) If, according to the determination made under paragraph (1), the value of plan assets is sufficient to pay nonforfeitable benefits, the plan sponsor shall use the plan assets to purchase irrevocable commitments to provide such benefits from an insurer or otherwise distribute plan assets in satisfaction of the plan's obligations with respect to nonforfeitable benefits, in accordance with all applicable regulations.

''(d)(1) If, according to the determination made under subsection (c)(1), the value of nonforfeitable benefits exceeds the value of the plan's assets, the plan sponsor shall amend the plan to reduce benefits under the plan as provided in paragraph (2).

''(2) Any plan amendment required by paragraph (1) shall, in accordance with regulations prescribed by the corporation—

''(A) reduce benefits to the extent necessary to eliminate any benefits that are not nonforfeitable;

''(B) reduce accrued benefits to the extent that those benefits are not eligible for the corporation's guarantee under section 4022A(b); and

''(C) suspend payment of benefits which are not basic benefits under section 4022A(c).

''(e) The powers and duties under this section of a sponsor of a plan that is terminated as described in section 4041A, before or after the plan begins receiving financial assistance under section 4261, shall be prescribed by the corporation, and the corporation shall prescribe by regulation the requirements which assure that plan participants and beneficiaries receive adequate notice of any suspension of benefits.''.

Subtitle C—Pension Insurance Modeling

SEC. 121. PENSION INSURANCE MODELING.

Section 40233(a) of the Moving Ahead for Progress in the 21st Century Act (126 Stat. 857; Public Law 112–141) is amended—

(1) in the subsection heading, by striking ''ANNUAL'';

(2) by striking ''The Pension'' and inserting ''Not later than January 1, 2025, and not less frequently than once every 5 years thereafter, the Pension'';

(3) by striking ''an annual peer review'' and inserting ''a peer review''; and

(4) by striking the third sentence.

TITLE II—FUNDING RULES, WITHDRAWAL LIABILITY, AND OTHER REFORMS

Subtitle A—Minimum Funding Standard for Multiemployer Plans

SEC. 201. VALUATION OF PLAN LIABILITIES.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) CHARGES TO FUNDING STANDARD ACCOUNT.—Subparagraph (B) of section 431(b)(2) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''and'' at the end of clause (iii),

(B) by redesignating clause (iv) as clause (v),

(C) by striking ''actuarial assumptions'' in clause (v), as so redesignated, and inserting ''actuarial assumptions not described in clause (iv)'', and

(D) by inserting after clause (iii) the following new clause:

''(iv) separately, with respect to each plan year, an amount equal to the excess, if any, of—

''(I) the net increase (if any) in the unfunded past service liability resulting from a reduction in the interest rate under paragraph (6)(A) from the rate which applied for the preceding year, over

''(II) the amount in the investment risk reduction subaccount under paragraph (9),

over a period of 30 years, and''.

(2) CREDITS TO FUNDING STANDARD ACCOUNT.—Clause (iii) of section 431(b)(3)(B) of such Code is amended by inserting '', except that any amount of net gain resulting from an increase in the interest rate from the rate which applied for the preceding year shall first be offset against any unamortized amounts charged under paragraph (2)(B)(iv)'' after ''15 plan years''.

(3) INTEREST.—Paragraph (6) of section 431(b) of such Code is amended to read as follows:

''(6) INTEREST.—

''(A) IN GENERAL.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine the unfunded past service liability. Notwithstanding any other provision of this section, the interest rate used shall not exceed—

''(i) 7.5 percent for actuarial valuations for plan years beginning after December 31, 2020, and before January 1, 2024,

''(ii) 7.25 percent for actuarial valuations for plan years beginning after December 31, 2023, and before January 1, 2028,

''(iii) 7.0 percent for actuarial valuations for plan years beginning after December 31, 2027, and before January 1, 2032,

''(iv) 6.75 percent for actuarial valuations for plan years beginning after December 31, 2031, and before January 1, 2036, and

''(v) 6.5 percent for actuarial valuations for plan years beginning after December 31, 2035.

Notwithstanding subsection (c), the plan sponsor may direct the plan actuary to use any rate which is not lower than the rate determined under subparagraph (B) (without regard to this sentence) and not greater than the rate determined under the preceding sentence. for the plan year. Nothing in this subparagraph shall require a plan to take into account the interest rate limitation for subsequent years under the preceding sentence in determining actuarial valuations as of any given year.

''(B) INTEREST RATE FOR DETERMINING NORMAL COST.—Notwithstanding any other provision of this section, the interest rate used for determining the normal cost to be charged under paragraph (2) for the plan year shall be equal to the least of—

''(i) the interest rate applicable under subparagraph (A) for the plan year,

''(ii) a rate equal to the 24-month average of the third segment rate (as defined in section 430(h)(2)(C)(iii)), as of the date the determination is made, without regard to section 430(h)(2)(C)(iv), increased by 2 percent, or

''(iii) 5.5 percent.

''(C) EXCEPTION FOR CERTAIN PARTITIONED PLANS.—Notwithstanding subparagraph (A), in the case of a plan which has been partitioned under section 4233A of the Employee Retirement Income Security Act of 1974, the rate of interest used to determine normal cost under subparagraph (B) shall also be

used to determine the unfunded past service liability of the plan.

''(D) EXCEPTION FOR PLANS USING A SPREAD-GAIN METHOD.—Notwithstanding subparagraph (B), and except as noted in subparagraph (C), in the case of a plan which uses a funding method other than the unit credit method or entry-age normal method—

''(i) the normal cost and past service liability shall be calculated using interest rates under subparagraph (A),

''(ii) an additional normal cost component shall be calculated in the same manner as under paragraph (9)(B)(i) based on the unit credit method, and

''(iii) the amount determined under clause (ii) shall be added to the otherwise calculated normal cost under the funding method in lieu of the credit under paragraph (9)(B)(i).''.

(4) INVESTMENT RISK REDUCTION SUBACCOUNT.—Subsection (b) of section 431 of such Code is amended by adding at the end the following new paragraph:

''(9) INVESTMENT RISK REDUCTION SUBACCOUNT.—For purposes of this part—

''(A) IN GENERAL.—The funding standard account shall include an investment risk reduction subaccount used solely to offset losses attributable to reductions in the rate of interest used to determine the unfunded past service liability of the plan over time.

''(B) ANNUAL ADJUSTMENTS.—For a plan year, the investment risk reduction subaccount shall be—

''(i) credited with the net change (if any) in the normal cost for the immediately preceding plan year due to recalculation to reflect the difference in interest rates under paragraphs (6)(A) and (6)(B),

''(ii) charged with the amount of any reduction applied under paragraph (2)(B)(iv)(II), or, in the case of a plan using a spread-gain method, an amount equal to the lesser of—

''(I) the entire remaining balance of such subaccount immediately before the charge, or

''(II) the amount of the increase in the present value of benefits resulting from a decrease in the interest rate from the rate which applied for the preceding year,

''(iii) at the election of the plan sponsor, and pursuant to regulations to be issued by the Secretary, credited with the net decrease in the unfunded past service liability (or present value of benefits, in the case of a plan using a spread-gain method) resulting from an increase in the interest rate under paragraph (6)(A), not to exceed the amount of any previous charges to the account under clause (ii), reduced by any previous credits under this clause, and

''(iv) adjusted with interest at the rate under paragraph (6)(A), as applicable.''.

(5) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—Paragraph (1) of section 431(c) of such Code is amended to read as follows:

''(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—

''(A) IN GENERAL.—For purposes of this part, normal costs, accrued liability, and experience gains and losses used to determine the unfunded past service liability for the plan shall be determined under the funding method used to determine costs under the plan and based on the interest rate under subparagraph (A) (or subparagraph (C), if applicable) of subsection (b)(6).

''(B) ADJUSTMENTS FOR FUNDING STANDARD ACCOUNT NORMAL COST.—Notwithstanding subparagraph (A), in the case of a plan using the unit credit funding method or the entry-age normal funding method, the normal cost for a plan year to be charged to the funding standard account under subsection (b)(2) shall be determined under the funding method used to determine costs under the plan and based on the interest rate under subsection (b)(6)(B).''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) CHARGES TO FUNDING STANDARD ACCOUNT.—Subparagraph (B) of section 304(b)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)(2)) is amended—

(A) by striking ''and'' at the end of clause (iii),

(B) by redesignating clause (iv) as clause (v),

(C) by striking ''actuarial assumptions'' in clause (v), as so redesignated, and inserting ''actuarial assumptions not described in clause (iv)'', and

(D) by inserting after clause (iii) the following new clause:

''(iv) separately, with respect to each plan year, an amount equal to the excess, if any, of—

''(I) the net increase (if any) in the unfunded past service liability resulting from a reduction in the interest rate under paragraph (6)(A) from the rate which applied for the preceding year, over

''(II) the amount in the investment risk reduction subaccount under paragraph (9),

over a period of 30 years, and''.

(2) CREDITS TO FUNDING STANDARD ACCOUNT.—Clause (iii) of section 304(b)(3)(B) of such Act (29 U.S.C. 1084(b)(3)(B)) is amended by inserting '', except that any amount of net gain resulting from an increase in the interest rate from the rate which applied for the preceding year shall first be offset against any unamortized amounts charged under paragraph (2)(B)(iv)'' after ''15 plan years''.

(3) INTEREST.—

(A) IN GENERAL.—Paragraph (6) of section 304(b) of such Act (29 U.S.C. 1084(b)) is amended to read as follows:

''(6) INTEREST.—

''(A) IN GENERAL.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine the unfunded past service liability. Notwithstanding any other provision of this section, this interest rate shall not exceed—

''(i) 7.5 percent for actuarial valuations for plan years beginning after December 31, 2020, and before January 1, 2024,

''(ii) 7.25 percent for actuarial valuations for plan years beginning after December 31, 2023, and before January 1, 2028,

''(iii) 7.0 percent for actuarial valuations for plan years beginning after December 31, 2027, and before January 1, 2032,

''(iv) 6.75 percent for actuarial valuations for plan years beginning after December 31, 2031, and before January 1, 2036, and

''(v) 6.5 percent for actuarial valuations for plan years beginning after December 31, 2035.

Notwithstanding subsection (c), the plan sponsor may direct the plan actuary to use any rate which is not lower than the rate determined under subparagraph (B) (without regard to this sentence) and not greater than the rate determined under the preceding sentence. for the plan year. Nothing in this subparagraph shall require a plan to take into account the interest rate limitation for subsequent years under the preceding sentence in determining actuarial valuations as of any given year.

''(B) INTEREST RATE FOR DETERMINING NORMAL COST.—Notwithstanding any other provision of this section, the interest rate used for determining the normal cost to be charged under paragraph (2) for the plan year shall be equal to the least of—

''(i) the interest rate applicable under subparagraph (A) for the plan year,

''(ii) a rate equal to the 24-month average of the third segment rate (as defined in section 303(h)(2)(C)(iii)), as of the date the determination is made, without regard to section 303(h)(2)(C)(iv), increased by 2 percent, or

''(iii) 5.5 percent.

''(C) EXCEPTION FOR CERTAIN PARTITIONED PLANS.—Notwithstanding subparagraph (A), in the case of a plan which has been partitioned under section 4233A, the rate of interest used to determine normal cost under subparagraph (B) shall also be used to determine the unfunded past service liability of the plan.

''(D) EXCEPTION FOR PLANS USING A SPREAD-GAIN METHOD.—Notwithstanding subparagraph (B), and except as noted in subparagraph (C), in the case of a plan which uses a funding method other than the unit credit method or entry-age normal method—

''(i) the normal cost and past service liability shall be calculated using interest rates under subparagraph (A),

''(ii) an additional normal cost component shall be calculated in the same manner as under paragraph (9)(B)(i) based on the unit credit method, and

''(iii) the amount determined under clause (ii) shall be added to the otherwise calculated normal cost under the funding method in lieu of the credit under paragraph (9)(B)(i).''.

(B) CONFORMING AMENDMENT.—Subparagraph (A) of section 4233A(h)(4) of such Act, as added by this Act, is amended by inserting '', consistent with section 304(b)(6)(C)'' before the period.

(4) INVESTMENT RISK REDUCTION SUBACCOUNT.—Subsection (b) of section 304 of such Act (29 U.S.C. 1084) is amended by adding at the end the following new paragraph:

''(9) INVESTMENT RISK REDUCTION SUBACCOUNT.—For purposes of this part—

''(A) IN GENERAL.—The funding standard account shall include an investment risk reduction subaccount used solely to offset losses attributable to reductions in the rate of interest used to determine the unfunded past service liability of the plan over time.

''(B) ANNUAL ADJUSTMENTS.—For a plan year, the investment risk reduction subaccount shall be—

''(i) credited with the net change (if any) in the normal cost for the immediately preceding plan year due to recalculation to reflect the difference in interest rates under paragraphs (6)(A) and (6)(B),

''(ii) charged with the amount of any reduction applied under paragraph (2)(B)(iv)(II), or, in the case of a plan using a spread-gain method, an amount equal to the lesser of—

''(I) the entire remaining balance of such subaccount immediately before the charge, or

''(II) the amount of the increase in the present value of benefits resulting from a decrease in the interest rate from the rate which applied for the preceding year,

''(iii) at the election of the plan sponsor, and pursuant to regulations to be issued by the Secretary of the Treasury, credited with the net decrease in the unfunded past service liability (or present value of benefits, in the case of a plan using a spread-gain method) resulting from an increase in the interest rate under paragraph (6)(A), not to exceed the amount of any previous charges to the account under clause (ii), reduced by any previous credits under this clause, and

''(iv) adjusted with interest at the rate under paragraph (6)(A), as applicable.''.

(5) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—Paragraph (1) of section 304(c) of such Act (29 U.S.C. 1084(c)) is amended to read as follows:

''(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—

''(A) IN GENERAL.—For purposes of this part, normal costs, accrued liability, and experience gains and losses used to determine the unfunded past service liability for the plan shall be determined under the funding method used to determine costs under the plan and based on the interest rate under subparagraph (A) (or subparagraph (C), if applicable) of subsection (b)(6).

''(B) ADJUSTMENTS FOR FUNDING STANDARD ACCOUNT NORMAL COST.—Notwithstanding subparagraph (A), in the case of a plan using the unit credit funding method or the entry-age normal funding method, the normal cost for a plan year to be charged to the funding standard account under subsection (b)(2) shall be determined under the funding method used to determine costs under the plan and based on the interest rate under subsection (b)(6)(B).''.

(c) PLAN PETITIONS TO INCREASE INTEREST ASSUMPTIONS.—

(1) IN GENERAL.—Pursuant to regulations to be issued by the Secretary of the Treasury (or such Secretary's delegate), a multiemployer plan must petition the Secretary of the Treasury (or delegate) for any increase in the interest assumption made after a 30-year amortization base is established in accordance with section 431(b)(2)(B)(iv) of the Internal Revenue Code of 1986 and section 304(b)(2)(B)(iv) of the Employee Retirement Income Security Act of 1974 (as added by this Act). The Secretary of the Treasury (or delegate) shall approve such request upon a determination that the change is reasonably supported by changes in the financial markets or changes in the plan's asset allocation, and is consistent with the manner in which prior changes in interest rate assumptions were determined since the date of the enactment of this Act.

(2) APPROVAL.—If the Secretary of the Treasury (or such Secretary's delegate) does not approve or deny any petition submitted pursuant to paragraph (1) within 180 days of receiving such petition, such petition shall be deemed to have been approved.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2020.

Subtitle B—Additional Funding Rules for Multiemployer Plans

PART I—PLAN STATUS AMENDMENTS

SEC. 211. AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.

(a) RULES APPLYING TO ALL MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Subsection (a) of section 432 of the Internal Revenue Code of 1986 is amended—

(A) by striking ''a multiemployer plan in effect on July 16, 2006—'' and inserting ''any multiemployer plan—'',

(B) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively,

(C) by inserting before paragraph (2), as so redesignated, the following new paragraph:

''(1) the rules of subsection (c) shall apply,'',

(D) by striking ''subsection (c)'' in paragraph (2)(A), as so redesignated, and inserting ''subsection (d)'',

(E) by striking ''subsection (d)'' in paragraph (2)(B), as so redesignated, and inserting ''subsection (e)'',

(F) by striking ''subsection (e)'' in paragraph (3)(A), as so redesignated, and inserting ''subsection (f)'',

(G) by striking ''subsection (f)'' in paragraph (3)(B), as so redesignated, and inserting ''subsection (g)'', and

(H) by striking ''subsection (e)(9)'' in paragraph (4)(B), as so redesignated, and inserting ''subsection (f)(9)''.

(2) RULES OF IMMEDIATE APPLICATION.—Section 432 of such Code is amended—

(A) by redesignating subsections (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and

(B) by inserting after subsection (b) the following new subsection:

''(c) RULES APPLYING TO ALL MULTIEMPLOYER PLANS.—

''(1) BENEFIT INCREASES.—

''(A) INCREASES BY PLAN AMENDMENT.—The plan sponsor of any multiemployer plan shall not adopt a plan amendment which increases plan liabilities (as determined as of the date of the adoption of the amendment) due to any increase in benefits, any change in the accrual rate of benefits, or any change in the rate at which benefits become nonforfeitable, unless—

''(i) if the plan is in unrestricted status as of the adoption of such amendment, the plan actuary certifies in accordance with subsection (b)(4) that the increase in liabilities will not cause the plan to no longer be in unrestricted status,

''(ii) if the plan is in stable status as of the adoption of such amendment, the plan actuary certifies in accordance with subsection (b)(4) that any such increase or change in benefits will be paid from additional contributions not required by any collective bargaining agreement in effect as of the adoption of the amendment,

''(iii) if the plan is in endangered status as of the adoption of such amendment, the plan actuary certifies in accordance with subsection (b)(4) that any such increase or change in benefits will be paid from additional contributions not contemplated in any current funding improvement plan, or

''(iv) the increase or change in benefits is required by law or is a de minimis change.

''(B) INCREASES UNDER CRITICAL OR CRITICAL AND DECLINING STATUS.—Unless required as a condition of qualification under part I of this subchapter or to comply with other applicable law, in the case of a plan which is in critical or critical and declining status, no increase in benefits, change in the accrual rate of benefits, or change in the rate at which benefits become nonforfeitable which increases plan liabilities shall take effect while the plan is in such status, without regard to whether such increase or change would otherwise occur under the provisions of the plan, unless the increase in plan liabilities due to the change is de minimis.

''(2) CONTRIBUTION REDUCTIONS.—The plan sponsor of any multiemployer plan shall not accept any collective bargaining agreement or participation agreement which reduces the rate of contributions under the plan for any participants, suspends contributions with respect to any period of service, or directly or indirectly excludes younger, probationary, or newly hired employees from participation in the plan, unless—

''(A) the plan is in unrestricted status as of the adoption of such agreement and the plan actuary certifies in accordance with subsection (b)(4) that the reduction in contributions will not cause the plan to no longer be in unrestricted status,

''(B) the reduction in contributions is accompanied by a reduction in future accruals for the affected participants, and the plan actuary certifies in accordance with subsection (b)(4) that the combined effect of the changes in contributions and benefits is not projected to reduce the funded percentage of the plan in any year, or

''(C) subject to regulations issued by the Secretary, the plan sponsor reasonably determines that the acceptance of such an agreement is in the best interests of plan participants and beneficiaries and that rejection of the agreement would have an adverse financial effect on the plan.''.

(3) STABLE AND UNRESTRICTED PLANS.—Subsection (b) of section 432 of such Code is amended—

(A) by striking ''ENDANGERED AND CRITICAL'' in the heading,

(B) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as paragraphs (2), (3), (4), (5), (6), and (7), respectively, and

(C) by inserting before paragraph (2) the following new paragraph:

''(1) STABLE AND UNRESTRICTED STATUS.—

''(A) STABLE.—A multiemployer plan is in stable status for a plan year if, as determined by the plan actuary under paragraph (4), the plan is not in unrestricted status for the plan year, is not in endangered, critical, or critical and declining status for the plan year, and is not described in paragraph (6).

''(B) UNRESTRICTED.—A multiemployer plan is in unrestricted status for a plan year if, as determined by the plan actuary under paragraph (4)—

''(i) the plan is not in endangered, critical, or critical and declining status for the plan year,

''(ii) the plan is not described in paragraph (6), and

''(iii) as of the beginning of the plan year—

''(I) the plan's current liability funded percentage for such plan year is at least 70 percent and the plan's projected funded percentage as of the first day of the 15th succeeding plan year is at least 115 percent, or

''(II) the plan's current liability funded percentage for such plan year is at least 80 percent.

''(C) CURRENT LIABILITY FUNDED PERCENTAGE.—For purposes of this section, the term 'current liability funded percentage' means the percentage equal to a fraction the numerator of which is the value of plan assets (as determined for purposes of section 431(c)(6)(A)(ii)(II)) and the denominator of which is the current liabilities of the plan (as defined in section 431(c)(6)(D)).''.

(4) AMENDMENT TO ANNUAL CERTIFICATION BY PLAN ACTUARY.—Subparagraph (A) of paragraph (4) (as redesignated by paragraph (3)) of section 432(b) of such Code is amended by inserting ''whether or not the plan is in unrestricted or stable status for such plan year,'' in clause (i) before ''whether or not the plan is in endangered status''.

(5) CONFORMING AMENDMENTS.—

(A) Paragraphs (2) and (3) of section 432(b) of such Code, as redesignated by paragraph (3), are each amended by striking ''paragraph (3)'' and inserting ''paragraph (4)''.

(B) Section 432(b)(2) of such Code, as so redesignated and amended, is further amended by striking ''paragraph (5)'' and inserting ''paragraph (6)''.

(C) Section 432(b)(4) of such Code, as so redesignated, is amended—

(i) by striking ''paragraph (4)'' in subparagraph (B)(iv) thereof and inserting ''paragraph (5)'',

(ii) by striking ''subsection (e)(9)'' both places it appears in subparagraph (B)(v) and inserting ''subsection (f)(9)'',

(iii) by striking ''subsection (e)(3)(A)(ii)'' in subparagraph (B)(v) and inserting ''subsection (f)(3)(A)(ii)'',

(iv) by striking ''subsection (e)'' in subparagraph (B)(v) and inserting ''subsection (f)'',

(v) by striking ''paragraph (4)'' each place it appears in subparagraphs (D)(i) and (D)(v) thereof and inserting ''paragraph (5)'',

(vi) by striking ''subsection (e)(8)'' in subparagraph (D)(ii)(I) thereof and inserting ''subsection (f)(8)'',

(vii) by striking ''paragraph (5)'' in subparagraph (D)(iii) thereof and inserting ''paragraph (6)'', and

(viii) by striking ''(iii) In the case of'' in subparagraph (D)(iii) thereof and inserting ''(iii) SPECIAL RULE.—''.

(D) Section 432(b)(5) of such Code, as redesignated by paragraph (3), is amended—

(i) by striking ''paragraph (2)'' and inserting ''paragraph (3)'',

(ii) by striking ''paragraph (3)(B)(iv)'' and inserting ''paragraph (4)(B)(iv)'',

(iii) by striking ''paragraph (3)'' in subparagraph (A) thereof and inserting ''paragraph (4)'',

(iv) by striking ''paragraph (3)(A)'' in subparagraph (A) thereof and inserting ''paragraph (4)(A)'',

(v) by striking ''paragraph (2)'' in subparagraph (B) thereof and inserting ''paragraph (3)'', and

(vi) by striking ''subsection (e)(4)(B)'' in subparagraph (C) thereof and inserting ''subsection (f)(4)(B)''.

(E) Section 432(b)(6)(A) of such Code, as so redesignated, is amended—

(i) by striking ''paragraph (3)(A)'' and inserting ''paragraph (4)(A)'',

(ii) by striking ''paragraph (1)(A)'' and inserting ''paragraph (2)(A)'', and

(iii) by striking ''paragraph (1)(B)'' and inserting ''paragraph (2)(B)''.

(F) Section 432(b)(7) of such Code, as so redesignated, is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(G) Paragraphs (1)(A), (4)(A)(ii), (4)(C)(i), (4)(C)(ii), (4)(D), (5)(A)(i), (5)(B), and (8) of subsection (d), and subsections (e)(2), (f)(1)(A), (f)(4)(B)(i), (f)(4)(B)(ii)(I), (f)(5), and (g)(3) of section 432 of such Code, as respectively redesignated by paragraph (2), are each amended by striking ''subsection (b)(3)(A)'' and inserting ''subsection (b)(4)(A)''.

(H) Section 432(d)(3)(A)(i)(I) of such Code, as so redesignated, is amended by striking ''paragraph (b)(3)'' and inserting ''subsection (b)(4)''.

(I) Section 432(d)(4)(D) of such Code, as so redesignated, is amended by striking ''subsection (d)'' and inserting ''subsection (e)''.

(J) Section 432(e) of such Code, as so redesignated, is amended to read as follows:

''(e) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (d) so as to be inconsistent with the funding improvement plan or the requirements of subsection (c).''.

(K) Clauses (i)(I) and (ii)(I) of section 432(f)(4)(B) of such Code, as so redesignated, are each amended by striking ''subsection (b)(2)'' and inserting ''subsection (b)(3)''.

(L) Subsections (f)(8)(A)(ii) and (g)(2)(A) of section 432 of such Code, as so redesignated, are each amended by striking ''subsection (b)(3)(D)'' and inserting ''subsection (b)(4)(D)''.

(M) Section 432(f)(9)(J) of such Code, as so redesignated, is amended—

(i) by striking ''subsection (b)(3)'' and inserting ''subsection (b)(4)'', and

(ii) by striking ''paragraphs (1) and (2)'' in clause (i) thereof and inserting ''paragraphs (2) and (3)''.

(N) Subparagraphs (A) and (B) of section 432(g)(1) of such Code, as so redesignated, are each amended by striking ''subsection (e)'' and inserting ''subsection (f)''.

(O) Paragraph (2)(A) of section 432(g) of such Code, as so redesignated, is amended by striking ''(b)(3)(D)'' and inserting ''(b)(4)(D)''.

(P) Section 432(h) of such Code, as so redesignated, is amended—

(i) by striking ''subsection (e)(8) or (f)'' in paragraph (1) thereof and inserting ''subsection (f)(8) or (g)'',

(ii) by striking ''subsection (e)(9)'' in paragraph (1) thereof and inserting ''subsection (f)(9)'',

(iii) by striking ''subsection (e)(7)'' in paragraph (2) thereof and inserting ''subsection (f)(7)'', and

(iv) by striking ''rehabilitation plan'' and all that follows in paragraph (3)(B) thereof and inserting ''rehabilitation plan. The preceding sentence shall not apply to any increase in contribution requirements due to increased levels of work, employment, or periods for which compensation is provided, except to the extent such an increase is used to provide an increased accrual rate of benefits or change in the rate at which benefits become nonforfeitable which increases plan liabilities.''.

(Q) Section 432(i) of such Code, as so redesignated, is amended—

(i) by striking ''subsection (c)'' and inserting ''subsection (d)'', and

(ii) by striking ''subsection (e)'' and inserting ''subsection (f)''.

(R) Section 432(j)(2) of such Code, as so redesignated, is amended by striking ''subsections (c) and (e)'' and inserting ''subsections (d) and (f)''.

(S) Section 412(b)(3) of such Code is amended by striking ''section 432(e)'' and inserting ''section 432(f)''.

(T) Section 418E of such Code, as amended by this Act, is further amended—

(i) by striking ''432(b)(2)'' each place it appears in subsections (c)(1), (c)(2), (d)(1), and (d)(2), as redesignated by section 112, and inserting ''432(b)(3)'', and

(ii) by striking ''432(e)(9)'' in subsection (g), as so redesignated, and inserting ''432(f)(9)''.

(U) Section 4971(g) of such Code is amended—

(i) by striking ''432(e)'' in paragraph (3)(B)(i) and inserting ''432(f)'',

(ii) by striking ''432(b)(3)(A)(ii)'' in paragraph (3)(B)(ii) and inserting ''432(b)(4)(A)(i)(II)'',

(iii) by striking ''432(e)(1)(A)'' in paragraph (4)(B)(ii) and inserting ''432(f)(1)(A)'', and

(iv) by striking ''432(j)(9)'' in paragraph (4)(C)(ii) and inserting ''432(k)(9)''.

(V) Subsection (c)(1) of section 4980I of such Code, as added by this Act, is amended by adding at the end the following: ''Such term shall not include such an original plan for any plan year in which the plan is in unrestricted status (as defined in section 432(b)(1)(B)).''.

(W) The heading of section 432 of such Code is amended by striking ''**IN ENDANGERED STATUS OR CRITICAL STATUS**''.

(6) WITHDRAWAL LIABILITY DETERMINATION FOR PLANS EMERGING FROM ENDANGERED OR CRITICAL STATUS.—Section 432(h) of such Code, as redesignated by paragraph (2) and as amended by paragraph (5), is further amended by striking paragraph (4) and by inserting after paragraph (3) the following new paragraph:

''(4) EMERGENCE FROM ENDANGERED OR CRITICAL STATUS.—

''(A) IN GENERAL.—In the case of increases in the contribution rate (or other increases in contribution requirements unless due to increased levels of work, employment, or periods for which compensation is provided) disregarded pursuant to paragraph (3), this subsection shall cease to apply as of the later of—

''(i) the end of the first plan year following the plan year in which the plan is no longer in endangered or critical status, or

''(ii) the end of the plan year which includes the expiration date of the first collective bargaining agreement requiring plan contributions which expires after the plan is no longer in endangered or critical status.

''(B) HIGHEST CONTRIBUTION RATE.—Notwithstanding subparagraph (A), once the plan emerges from endangered or critical status—

''(i) increases in the contribution rate disregarded pursuant to paragraph (3) shall continue to be disregarded in determining the highest contribution rate under section 4219(c) of such Act for plan years during which the plan was in endangered or critical status, and

''(ii) the highest contribution rate for purposes of such section shall be the greater of—

''(I) the sum of—

''(aa) the employer's contribution rate as of the later of the last day of the last plan year ending before December 31, 2014, and the last day of the plan year for which the employer first had an obligation to contribute to the plan, and

''(bb) any contribution increases determined in accordance with this section after such later date and before the date the employer withdraws from the plan, or

''(II) the highest contribution rate for any plan year after the plan year which includes the earlier of—

''(aa) the expiration date of the first collective bargaining agreement applicable to the withdrawing employer requiring plan contributions which expires after the plan is no longer in endangered or critical status, or

''(bb) the date as of which the withdrawing employer negotiated a contribution rate effective after the plan year in which the plan is no longer in endangered or critical status.''.

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) DETERMINATION OF ENDANGERED STATUS.—Paragraph (2) of section 432(b) of the Internal Revenue Code of 1986, as redesignated by subsection (a)(3), is amended to read as follows:

''(2) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (5), the plan is not in critical or declining status for the plan year and is not described in paragraph (7), and, as of the beginning of the plan year—

''(A) the plan's funded percentage for such plan year is less than 80 percent,

''(B) the plan is projected to have an accumulated funding deficiency for any of the 9 succeeding plan years, taking into account any extension of amortization periods under section 431(d), or

''(C) the plan's projected funded percentage as of the first day of the 15th succeeding plan year is less than 100 percent.''.

(c) DETERMINATION OF CRITICAL STATUS.—Paragraph (3) of section 432(b) of the Internal Revenue Code of 1986, as redesignated by subsection (a)(3), is amended to read as follows:

''(3) CRITICAL STATUS.—

''(A) IN GENERAL.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (5), the plan is not in declining status for the plan year and, as of the beginning of the plan year—

''(i) the plan's funded percentage is less than 65 percent,

''(ii) the plan has an accumulated funding deficiency for the plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 431(d), or

''(iii) the plan's projected funded percentage as of the first day of the 15th succeeding plan year is less than 80 percent.

''(B) ORIGINAL PLANS.—Notwithstanding subparagraph (A), a multiemployer plan which is an original plan pursuant to section 4233A(d)(3) of the Employee Retirement Income Security Act of 1974 shall be treated as being in critical status for the period of 15 consecutive plan years beginning with the

plan year that includes the date of the partition under such section 4233A.''.

(d) DECLINING STATUS.—

(1) IN GENERAL.—

(A) The following provisions of section 432 of the Internal Revenue Code of 1986 are each amended by striking ''critical and declining'' each place it appears and inserting ''declining'':

(i) Subsection (a)(4) (as redesignated by subsection (a)(1)).

(ii) Subparagraphs (A) and (B)(i) of subsection (b)(1), as added by subsection (a)(3).

(iii) Subsection (b)(4)(B)(v) (as redesignated by subsection (a)(3)), and the heading thereof.

(iv) Paragraph (1)(B), and the heading of such paragraph (1)(B), of subsection (c), as added by subsection (a)(2).

(v) The heading of paragraph (9) of subsection (f) (as redesignated by subsection (a)(2)).

(vi) Subparagraphs (A), (C), (G)(i), and (J) of subsection (f)(9) (as so redesignated).

(vii) Subsection (h)(1) (as so redesignated).

(B) Section 418E(g) of such Code, as amended by section 112 and subsection (a), is further amended by striking ''critical and declining status'' and inserting ''declining status''.

(2) DETERMINATION OF DECLINING STATUS.—

(A) IN GENERAL.—Subsection (b) of section 432 of such Code is amended—

(i) by striking paragraph (7), as redesignated by subsection (a)(3),

(ii) by redesignating paragraphs (4), (5), and (6), as so redesignated, as paragraphs (5), (6), and (7), respectively, and

(iii) by inserting after paragraph (3), as so redesignated, the following new paragraph:

''(4) DECLINING STATUS.—A multiemployer plan is in declining status for a plan year if—

''(A) as determined by the plan actuary under paragraph (5), as of the beginning of the plan year the plan is projected to become insolvent within the plan year or any of the 29 succeeding plan years,

''(B) the plan is otherwise in critical status for the plan year as determined by the plan actuary under paragraph (5), and the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan cannot reasonably be expected to emerge from critical status within the next 30 plan years, or

''(C) the plan has a funded percentage for the plan year which is greater than the projected funded percentage as of the first day of the 15th succeeding plan year, unless the funded percentage for the plan year is 100 percent or greater and the projected funded percentage as of the first day of such 15th succeeding plan year is less than 100 percent.''.

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (1) of section 432(b) of such Code, as added by subsection (a)(3), is amended—

(I) by striking ''paragraph (4)'' each place it appears in subparagraphs (A) and (B) and inserting ''paragraph (5)'', and

(II) by striking ''paragraph (6)'' each place it appears in subparagraphs (A) and (B) and inserting ''paragraph (7)''.

(ii) Subsection (c) of section 432 of such Code, as added by subsection (a)(2), is amended by striking ''(b)(4)'' each place it appears in paragraphs (1)(A)(i), (1)(A)(ii), (1)(A)(iii), (2)(A), and (2)(B) and inserting ''(b)(5)''.

(iii) Section 432(b)(5) of such Code, as further redesignated by subparagraph (A) and as amended by section 321 and subsection (a), is further amended—

(I) by striking ''paragraph (5)'' in subparagraph (B)(iv) thereof and inserting ''paragraph (6)'',

(II) by striking ''paragraph (5)'' each place it appears in subparagraphs (D)(i) and (D)(vi) thereof and inserting ''paragraph (6)'', and

(III) by striking ''paragraph (6)'' in subparagraph (D)(iv) thereof and inserting ''paragraph (7)''.

(iv) Section 432(b)(6) of such Code, as so further redesignated and amended, is further amended—

(I) by striking ''paragraph (4)(B)(iv)'' and inserting ''paragraph (5)(B)(iv)'',

(II) by striking ''paragraph (4)'' in subparagraph (A) thereof and inserting ''paragraph (5)'', and

(III) by striking ''paragraph (4)(A)'' in subparagraph (A) thereof and inserting ''paragraph (5)(A)''.

(v) Section 432(b)(7)(A) of such Code, as so further redesignated and amended, is further amended—

(I) by striking ''paragraph (4)(A)'' and inserting ''paragraph (5)(A)'', and

(II) by striking ''either paragraph (2)(A) or paragraph (2)(B)'' and inserting ''any subparagraph of paragraph (2)''.

(vi) Section 432(b)(7)(B) of such Code, as so further redesignated, is amended by striking ''critical or endangered'' and inserting ''endangered, critical, or declining''.

(vii) Paragraphs (1)(A), (4)(A)(ii), (4)(C)(i), (4)(C)(ii), (4)(D), and (8) of subsection (d), and subsections (f)(1)(A), (f)(4)(B)(i), (f)(4)(B)(ii)(I), (f)(5), and (g)(3) of section 432 of such Code, as redesignated and amended by subsection (a), are each further amended by striking ''subsection (b)(4)(A)'' and inserting ''subsection (b)(5)(A)''.

(viii) Section 432(d)(3)(A)(i)(I) of such Code, as so redesignated and amended, is further amended by striking ''subsection (b)(4)'' and inserting ''subsection (b)(5)''.

(ix) Subsections (f)(8)(A)(ii) and (g)(2)(A) of section 432 of such Code, as so redesignated and amended, are each further amended by striking ''subsection (b)(4)(D)'' and inserting ''subsection (b)(5)(D)''.

(x) Section 432(f)(9)(J) of such Code, as so redesignated and amended, is further amended by striking ''subsection (b)(4)'' and inserting ''subsection (b)(5)''.

(3) SOLVENCY PLAN.—

(A) IN GENERAL.—Paragraph (4) (as redesignated by subsection (a)(1) and amended by paragraph (1)) of section 432(a) of such Code is amended—

(i) by redesignating subparagraph (B) as subparagraph (D), and

(ii) by striking subparagraph (A) and inserting before subparagraph (D) (as so redesignated) the following new subparagraphs:

''(A) the plan sponsor shall adopt and implement a solvency plan in accordance with the requirements of subsection (h),

''(B) any rehabilitation plan in place as of the date the plan enters declining status shall continue to apply throughout the solvency plan adoption period,

''(C) the requirements of subsection (i) and paragraphs (6) and (7) of subsection (f) shall apply during the solvency plan adoption period and the solvency attainment period, and''.

(B) ADOPTION OF PLAN.—Section 432 of such Code, as amended by this section, is further amended—

(i) by redesignating subsection (l), as added by title V of this Act, as subsection (n), and by further redesignating subsections (h), (i), (j), and (k), as redesignated by subsection (a)(2), as subsections (j), (k), (l), and (m), respectively, and

(ii) by inserting after subsection (g), as redesignated by subsection (a)(2), the following new subsections:

''(h) SOLVENCY PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN DECLINING STATUS.—

''(1) IN GENERAL.—In any case in which a multiemployer plan is in declining status for a plan year, the plan sponsor, in accordance with this subsection—

''(A) shall adopt a solvency plan not later than 240 days following the required date for the actuarial certification of declining status under subsection (b)(5)(A), and

''(B) within 30 days after the adoption of the solvency plan shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the requirements of paragraph (3), including—

''(i) one default proposal under which—

''(I) all adjustable benefits in the form of early retirement subsidies (including early reduction factors which are not provided on an actuarially equivalent basis) under the plan are eliminated, and

''(II) the future monthly benefit accrual rate under the plan is reduced to the equivalent of 1 percent of annual contributions (or, if lower, the current accrual rate) based on the contribution rate in effect as of the later of the first day of the plan year in which the plan enters declining status or the date of a partition under section 4233A of the Employee Retirement Income Security Act of 1974, and

which may also include reduction or elimination of any other adjustable benefits under the plan, and

''(ii) any additional schedules which reduce or eliminate adjustable benefits under the plan which the plan sponsor deems appropriate to provide as an alternative to the default proposal.

No schedule provided to or adopted by the bargaining parties shall provide for a monthly benefit accrual rate in excess of the rate described in subparagraph (B)(i)(II).

''(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a solvency plan adoption period or solvency attainment period by reason of the plan being in declining status for a preceding plan year, except that the next update of the solvency plan shall fulfill the requirement of paragraph (1)(B)(i). For purposes of this section, such preceding plan year shall be the initial determination year with respect to the solvency plan to which it relates.

''(3) SOLVENCY PLAN.—For purposes of this section, a solvency plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to delay or avoid the projected insolvency.

''(4) SOLVENCY ATTAINMENT PERIOD.—For purposes of this section—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the solvency attainment period for any solvency plan adopted pursuant to this subsection is the period—

''(i) beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

''(I) the second anniversary of the date of the adoption of the solvency plan, or

''(II) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of declining status for the initial determination year under subsection (b)(5)(A) and covering, as of such due date, at least 75 percent of the active participants in such plan, and

''(ii) ending on the date the plan either emerges from declining status or becomes insolvent.

''(B) COORDINATION WITH CHANGES IN STATUS.—

''(i) PLANS NO LONGER IN DECLINING STATUS.—If the plan's actuary certifies in accordance with subparagraph (C) for a plan year in any solvency plan adoption period or solvency attainment period that the plan is no longer in declining status, the solvency plan adoption period or solvency attainment period, whichever is applicable, shall end as of the date of such certification.

''(ii) PLANS IN CRITICAL OR ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(5)(A) for the plan year described in clause (i) that the plan is in critical or endangered rather than declining status, the provisions of subsections (d) and (e), or subsections (f) and (g), whichever are applicable, shall be applied as if such plan year were an initial determination year, except that the plan may not be amended in a manner inconsistent with the solvency plan in effect for the preceding plan year until a new funding improvement plan or rehabilitation plan, whichever is applicable, is adopted.

''(C) EMERGENCE.—A plan in declining status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(5)(A), that the plan is not described in one or more of the subparagraphs in subsection (b)(4) as of the beginning of the plan year.

''(5) UPDATES TO SOLVENCY PLANS AND SCHEDULES.—

''(A) SOLVENCY PLAN.—The plan sponsor shall annually update the solvency plan and shall file the update with the plan's annual report under section 104 of the Employee Retirement Income Security Act of 1974.

''(B) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

''(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

''(6) IMPOSITION OF SCHEDULE WHERE FAILURE TO ADOPT SOLVENCY PLAN.—

''(A) INITIAL CONTRIBUTION SCHEDULE.—If—

''(i) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered declining status expires, and

''(ii) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to adopt a contribution schedule with terms consistent with the solvency plan and a schedule from the plan sponsor,

the plan sponsor shall implement the schedule described in paragraph (1)(B)(i) beginning on the date specified in subparagraph (C).

''(B) SUBSEQUENT CONTRIBUTION SCHEDULE.—If—

''(i) a collective bargaining agreement providing for contributions under a multiemployer plan in accordance with a schedule provided by the plan sponsor pursuant to a solvency plan (or imposed under subparagraph (A)) expires while the plan is still in declining status, and

''(ii) after receiving one or more updated schedules from the plan sponsor under paragraph (5)(B), the bargaining parties with respect to such agreement fail to adopt a contribution schedule with terms consistent with the updated solvency plan and a schedule from the plan sponsor,

then the contribution schedule applicable under the expired collective bargaining agreement, as updated and in effect on the date the collective bargaining agreement expires, shall be implemented by the plan sponsor beginning on the date specified in subparagraph (C).

''(C) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the date which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) or (B) expires.

''(7) SOLVENCY PLAN ADOPTION PERIOD.—For purposes of this section, the term 'solvency plan adoption period' means the period beginning on the date of the certification under subsection (b)(5)(A) for the initial determination year and ending on the day before the first day of the solvency attainment period.

''(i) RULES FOR OPERATION OF PLAN DURING ADOPTION AND ATTAINMENT PERIODS.—

''(1) COMPLIANCE WITH SOLVENCY PLAN.—

''(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a solvency plan under subsection (h) so as to be inconsistent with the solvency plan.

''(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a solvency plan under subsection (h) so as to increase benefits, including future benefit accruals, unless the increase is required by law or is a de minimis change.

''(C) SPECIAL RULES FOR INCREASES IN COMPENSATION OR CONTRIBUTION RATE.—Any increase in employee compensation or contribution rates which takes effect after the first day of the plan year in which the plan enters declining status shall not give rise to an increase in benefits or future benefit accruals under the plan.

''(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

''(A) IN GENERAL.—Effective on the date the notice of certification of the plan's declining status for the initial determination year under subsection (b)(5)(D) is sent, and notwithstanding section 411(d)(6), the plan shall not pay—

''(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(a)(9)), to a participant or beneficiary whose annuity starting date (as defined in section 417(f)(2)) occurs after the date such notice is sent,

''(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, or

''(iii) any other payment specified by the Secretary by regulations,

unless it is a de minimis amount.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 411(a)(11) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

''(3) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the period beginning on the date of the certification under subsection (b)(5)(A) for the initial determination year and ending on the date of the adoption of a solvency plan—

''(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

''(i) a reduction in the level of contributions for any participants,

''(ii) a suspension of contributions with respect to any period of service, or

''(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

unless the plan sponsor reasonably determines that the acceptance of such an agreement is in the best interests of participants and beneficiaries and that rejection of such agreement would adversely affect the plan, and

''(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law.''.

(C) SUSPENSION OF BENEFITS.—Section 432 of such Code, as amended by this section, is further amended—

(i) by redesignating paragraph (9) of subsection (f) (as redesignated by subsection (a)(2)) as paragraph (8) of subsection (h) (as added by subparagraph (B)), and

(ii) by moving such paragraph to the position immediately after paragraph (7) of such subsection (h).

(4) CONFORMING AMENDMENTS.—

(A) Subsection (a)(4)(D) of section 432 of such Code, as redesignated and amended by the preceding provisions of this section, is further amended by striking ''subsection (f)(9)'' and inserting ''subsection (h)(8)''.

(B) Paragraph (5) of section 432(b) of such Code, as so redesignated and as amended by section 321 and the preceding provisions of this section, is further amended—

(i) by striking ''critical'' in subparagraph (A)(i)(I) and inserting ''critical or declining'',

(ii) by striking ''funding improvement or rehabilitation period'' in subparagraph (A)(i)(II) and inserting ''funding improvement, rehabilitation, or solvency attainment period'',

(iii) by striking ''funding improvement or rehabilitation plan'' in subparagraph (A)(i)(II) and inserting ''funding improvement, rehabilitation, or solvency plan'',

(iv) by striking ''endangered or critical'' in subparagraph (A)(i)(V)(bb) and inserting ''endangered, critical, or declining'',

(v) by striking ''funding improvement plan or rehabilitation'' in subparagraph (A)(iv) and inserting ''funding improvement, rehabilitation, or solvency'',

(vi) by striking ''critical'' each place it appears in subparagraph (A)(vi) and inserting ''critical or declining'',

(vii) by striking ''rehabilitation period'' in subparagraph (A)(vi) and inserting ''rehabilitation or solvency attainment period'',

(viii) by striking ''as described in subsection (f)(9)'' in subparagraph (B)(v),

(ix) by inserting ''if the plan is already in a rehabilitation period, and'' before ''if reasonable'' in subparagraph (B)(v)(I),

(x) by striking ''subsection (f)(9)'' in subparagraph (B)(v)(II) and inserting ''subsection (h)(8)'',

(xi) by striking ''endangered or critical'' both places it appears in subparagraph (D)(i) and inserting ''endangered, critical, or declining'',

(xii) by striking ''ENDANGERED OR CRITICAL'' in the heading of subparagraph (D)(ii) and inserting ''ENDANGERED, CRITICAL, OR DECLINING'',

(xiii) by striking ''endangered or critical'' in subparagraph (D)(ii) and inserting ''endangered, critical, or declining'',

(xiv) by striking ''funding improvement or rehabilitation plan'' both places it appears in subclauses (I) and (II) of subparagraph (D)(ii) and inserting ''funding improvement, rehabilitation, or solvency plan'', and

(xv) by adding at the end of subparagraph (D) the following new clause:

''(vii) NOTICE OF PROJECTION TO BE IN DECLINING STATUS IN A FUTURE PLAN YEAR.—In any case in which it is certified under subparagraph (A)(i) that a multiemployer plan will be in declining status for any of 5 succeeding plan years (but not for the current plan year), the plan sponsor shall, not later

than 30 days after the date of the certification, provide notification of the projected declining status to the Pension Benefit Guaranty Corporation.''.

(C) Subparagraph (J) of section 432(h)(8) of such Code, as so redesignated and amended, is further amended—

(i) by striking ''CRITICAL'' in the heading and inserting ''DECLINING'', and

(ii) by striking ''shall not emerge from critical status under paragraph (4)(B),'' and inserting ''shall not emerge from declining status''.

(D) Subsection (j) of section 432 of such Code, as so redesignated and amended, is further amended—

(i) by striking ''(f)(8) or (g)'' in paragraph (1) and inserting ''(f)(8), (g), or (i)'',

(ii) by striking ''subsection (f)(9)'' in paragraph (1) and inserting ''subsection (h)(8)'',

(iii) by striking ''FUNDING IMPROVEMENT OR REHABILITATION PLAN'' in the heading of paragraph (3) and inserting ''FUNDING IMPROVEMENT, REHABILITATION, OR SOLVENCY'',

(iv) by striking ''funding improvement plan or rehabilitation plan'' both places it appears in subparagraphs (A) and (B) of paragraph (3) and inserting ''funding improvement, rehabilitation, or solvency plan'',

(v) by striking ''ENDANGERED OR CRITICAL'' in the heading of paragraph (4), as amended by subsection (a), and inserting ''ENDANGERED, CRITICAL, OR DECLINING'',

(vi) by striking ''endangered or critical'' each place it appears in paragraph (4), as so amended, and inserting ''endangered, critical, or declining'', and

(vii) by striking ''critical or endangered'' in paragraph (4) and inserting ''endangered, critical, or declining''.

(E) Subsection (k) of section 432 of such Code, as so redesignated and amended, is further amended—

(i) by striking ''or a rehabilitation plan under subsection (f)'' and inserting '', a rehabilitation plan under subsection (f), or a solvency plan under subsection (h)'',

(ii) by striking ''endangered status or a plan in critical status'' and inserting ''endangered, critical, or declining status'',

(iii) by striking ''has not agreed on a funding improvement plan or rehabilitation plan'' and inserting ''has not agreed on a funding improvement, rehabilitation, or solvency plan (whichever is applicable)'', and

(iv) by striking ''adoption of a funding improvement plan or rehabilitation plan'' and inserting ''adoption of a funding improvement, rehabilitation, or solvency plan''.

(F) Subsection (l) of section 432 of such Code, as so redesignated and amended, is further amended—

(i) by striking ''endangered status or in critical status'' in paragraph (1) and inserting ''endangered, critical, or declining status'',

(ii) by striking ''endangered or critical'' in paragraph (1) and inserting ''endangered, critical, or declining'', and

(iii) by striking ''(d) and (f)'' in paragraph (2) and inserting ''(d), (f), and (h)''.

(G) Section 418E of such Code, as amended by section 112 and this section, is further amended—

(i) by striking ''432(b)(3)'' each place it appears in subsections (c)(1), (c)(2), (d)(1), and (d)(2) and inserting ''432(b)(3), or a plan in declining status, as described in section 432(b)(4)'', and

(ii) by striking ''432(f)(9)'' in subsection (g) and inserting ''432(h)(8)''.

(H) Section 4971(g) of such Code, as amended by this section, is further amended—

(i) by striking ''ENDANGERED OR CRITICAL'' in the heading and inserting ''ENDANGERED, CRITICAL, OR DECLINING'',

(ii) by striking ''critical status'' in paragraph (1)(A) and inserting ''critical or declining status'',

(iii) by striking ''OR REHABILITATION PLAN'' in the heading of paragraph (2) and inserting '', REHABILITATION, OR SOLVENCY PLAN'',

(iv) by striking ''plan or rehabilitation plan'' in paragraph (2)(A) and inserting '', rehabilitation, or solvency plan'',

(v) by striking ''rehabilitation plan'' in paragraph (2)(C) and inserting ''funding improvement, rehabilitation, or solvency plan'',

(vi) by striking paragraph (3) and redesignating paragraphs (4), (5), and (6) as paragraphs (3), (4), and (5), respectively,

(vii) by striking ''REHABILITATION PLAN'' in the heading of paragraph (3), as so redesignated, and inserting ''REHABILITATION OR SOLVENCY PLAN'',

(viii) by striking ''critical status'' in paragraph (3)(A), as so redesignated, and inserting ''critical or declining status'',

(ix) by striking ''rehabilitation plan'' in paragraph (3)(A), as so redesignated, and inserting ''rehabilitation or solvency plan'',

(x) by striking ''described in section 432(f)(1)(A) and ending on the day on which the rehabilitation plan is adopted'' in paragraph (3)(B)(ii), as so redesignated, and inserting ''described in section 432(f)(1)(A) or 432(h)(1)(A), whichever is applicable, and ending on the day on which the rehabilitation plan or solvency plan is adopted'',

(xi) by striking ''432(k)(9)'' in paragraph (3)(C)(ii), as so redesignated, and inserting ''432(n)(9)'', and

(xii) by striking ''or (3)'' in paragraph (4), as so redesignated.

(e) ADJUSTMENT OF BENEFITS.—

(1) IN GENERAL.—Section 432 of the Internal Revenue Code of 1986, as amended by this section, is further amended—

(A) by further redesignating subsections (m) and (n), as redesignated by subsection (d), as subsections (n) and (o), respectively,

(B) by redesignating paragraph (8) of subsection (f), as redesignated by subsection (a)(2), as subsection (m), and

(C) by moving such subsection to the position immediately after subsection (l).

(2) CLERICAL AND CONFORMING AMENDMENTS.—

(A) The heading of subsection (m) of section 432 of such Code, as redesignated by paragraph (1), is amended to read as follows:

''(m) ADJUSTMENT OF BENEFITS.—''.

(B) The following provisions of such subsection (m) are amended as follows:

(i) Subparagraphs (A), (B), and (C) are redesignated as paragraphs (1), (2), and (4), respectively, and moved 2 ems to the left.

(ii) Clauses (i), (ii), (iii), and (iv) of paragraph (1) (as so redesignated) are redesignated as subparagraphs (A), (B), (C), and (D), respectively, and moved 2 ems to the left.

(iii) Subclauses (I), (II), and (III) of paragraph (1)(D) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(iv) Clauses (i), (ii), and (iii) of paragraph (4) (as so redesignated) are redesignated as subparagraphs (A), (B), and (C), respectively, and moved 2 ems to the left, and the flush sentence at the end of subparagraph (C) (as so redesignated) is moved 2 ems to the left.

(v) Subclauses (I), (II), and (III) of paragraph (4)(A) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(vi) Subclauses (I) and (II) of paragraph (4)(B) (as so redesignated) are redesignated as clauses (i) and (ii), respectively, and moved 2 ems to the left.

(vii) Subclauses (I), (II), and (III) of paragraph (4)(C) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(viii) Paragraph (1)(A), as so redesignated, is amended by striking ''subparagraph (C)'' and inserting ''paragraph (4)''.

(ix) Paragraph (1)(B), as so redesignated, is amended by striking ''clause (iv)(III)'' and inserting ''subparagraph (D)(iii)''.

(x) Paragraph (1)(D), as so redesignated, is amended by striking ''this paragraph'' and inserting ''this subsection''.

(xi) Paragraph (2), as so redesignated, is amended—

(I) by striking ''subparagraph (A)(iv)(III)'' and inserting ''paragraph (1)(D)(iii)'', and

(II) by striking ''this paragraph'' and inserting ''this subsection''.

(xii) Paragraph (4)(A), as so redesignated, is amended by striking ''subparagraph (A)'' and inserting ''paragraph (1)''.

(xiii) Paragraphs (4)(B) and (4)(C), as so redesignated, are each amended by striking ''clause (i)'' each place it appears and inserting ''subparagraph (A)''.

(xiv) The last sentence of paragraph (4)(C), as so redesignated, is amended—

(I) by striking ''subclause (I)'' and inserting ''clause (i)'', and

(II) by striking ''this subparagraph'' and inserting ''this paragraph''.

(3) APPLICATION TO ALL PLANS IN ENDANGERED, CRITICAL, OR DECLINING STATUS.—

(A) IN GENERAL.—Subparagraph (A) of section 432(m)(1) of such Code, as redesignated and amended by this section, is further amended—

(i) by striking ''the plan sponsor shall'' and inserting ''the plan sponsor of a multiemployer plan in endangered, critical, or declining status may'', and

(ii) by striking ''paragraph (1)(B)(i)'' and inserting ''subsection (d)(1)(B), (f)(1)(B), or (h)(1)(B), whichever is applicable''.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 432(m)(1) of such Code, as redesignated and amended by this section, is further amended by striking ''critical'' both places it appears and inserting ''endangered, critical, or declining''.

(4) ADDITIONAL ADJUSTABLE BENEFITS.—

(A) IN GENERAL.—Subparagraph (D) of section 432(m)(1) of such Code, as redesignated by this section, is amended—

(i) by inserting '', including early reduction factors which are not provided on an actuarially equivalent basis,'' after ''(i))'' in clause (ii), as so redesignated,

(ii) by striking ''and'' at the end of clause (ii) (as so redesignated),

(iii) by striking ''that would not be eligible'' and all that follows through the period in clause (iii) (as so redesignated) and inserting ''which were adopted (or, if later, took effect) less than 120 months before the first day of the first plan year in which the plan was in endangered, critical, or declining status,'', and

(iv) by adding at the end the following new clauses:

''(iv) any one-time bonus payment or 'thirteenth check' provision, and

''(v) benefits granted for periods of service prior to participation in the plan.''.

(B) CONFORMING AMENDMENTS.—

(i) Subparagraph (B) of section 432(m)(1) of such Code, as redesignated and amended by this section, is further amended by striking ''subparagraph (D)(iii)'' and inserting ''clause (iii), (iv), or (v) of subparagraph (D)''.

(ii) Paragraph (2) of section 432(m) of such Code, as amended by paragraph (2)(B), is further amended by striking ''paragraph (1)(D)(iii)'' and inserting ''clause (iii), (iv), or (v) of paragraph (1)(D)''.

(5) RULES RELATING TO SUSPENSION OF BENEFITS UPON RETURN TO WORK.—Subsection (m) of section 432 of such Code, as redesignated and amended by this section, is further

amended by inserting after paragraph (2) the following new paragraph:

''(3) RULES RELATING TO SUSPENSION OF BENEFITS UPON RETURN TO WORK.—The plan sponsor of a multiemployer plan in endangered, critical, or declining status may amend rules regarding the suspension of a participant's benefits upon a return to work after commencement of benefits, or the commencement of benefits after normal retirement age (including in the case of continued employment after normal retirement age). Any such changes shall apply only to future payments of benefits.''.

(6) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 432(b)(5)(D) of such Code, as redesignated and amended by this section, is further amended—

(i) by striking ''CRITICAL'' in the heading and inserting ''ENDANGERED, CRITICAL, OR DECLINING'',

(ii) by striking ''critical status'' both places it appears and inserting ''endangered, critical, or declining status'', and

(iii) by striking ''subsection (f)(8)'' in subclause (I) and inserting ''subsection (m)(1)(D)''.

(B) Subsection (j) of section 432 of such Code, as amended by subsection (d), is further amended by striking ''(f)(8), (g), or (i)'' and inserting ''(e), (g), (i), or (m)''.

(f) ELECTIONS TO BE IN CRITICAL OR ENDANGERED STATUS.—

(1) IN GENERAL.—Paragraph (6) of section 432(b) of the Internal Revenue Code of 1986, as redesignated and amended by this section, is further amended—

(A) by striking ''is not in critical status'' in subparagraph (A) and inserting ''is not in critical or declining status'',

(B) by striking ''but that is projected'' in subparagraph (A) and inserting ''but—

''(i) that is projected'',

(C) by striking ''5 plan years may, not later than'' in subparagraph (A) and inserting ''5 plan years, or

''(ii) that is in endangered status and is not reasonably projected to be able to emerge from endangered status within the funding improvement period under the funding improvement plan in effect,

may, not later than'', and

(D) by striking ''under paragraph (3)'' in subparagraph (B) and inserting ''under paragraph (3) or for endangered status under paragraph (2)''.

(2) ELECTION TO BE IN ENDANGERED STATUS.—Subsection (b) of section 432 of such Code, as so redesignated and amended, is further amended by adding at the end the following new paragraph:

''(8) ELECTION TO BE IN ENDANGERED STATUS.—Notwithstanding paragraph (2)—

''(A) the plan sponsor of a multiemployer plan that is not in endangered, critical, or declining status for a plan year but that is projected by the plan actuary, pursuant to the determination under paragraph (5), to be in endangered status in any of the 5 succeeding plan years, may, not later than 30 days after the date of the certification under paragraph (5)(A), elect to be in endangered status effective for the current plan year,

''(B) the plan year in which the plan sponsor elects to be in endangered status under subparagraph (A) shall be treated for purposes of this section as the first year in which the plan is in endangered status, regardless of the date on which the plan first satisfies the criteria for endangered status under paragraph (2), and

''(C) a plan that is in endangered status under this paragraph shall not emerge from endangered status unless the plan's actuary certifies under paragraph (5)(A) that the plan is no longer in endangered status and is not in critical or declining status.''.

(g) AMENDMENTS RELATING TO FUNDING IMPROVEMENT PLAN.—

(1) IN GENERAL.—Paragraph (1) of section 432(d) of the Internal Revenue Code of 1986, as redesignated and amended by this section, is further amended—

(A) by striking the last sentence, and

(B) in subparagraph (B), by striking ''funding improvement plan—'' and all that follows and inserting ''funding improvement plan, shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the requirements of paragraph (3), including—

''(i) one default proposal under which—

''(I) all adjustable benefits in the form of early retirement subsidies (including early reduction factors which are not provided on an actuarially equivalent basis) under the plan are eliminated, and

''(II) the future monthly benefit accrual rate under the plan is reduced to the equivalent of 1 percent of annual contributions (or, if lower, the accrual rate as of the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020) based on the contribution rate in effect as of the first day of the plan year in which the plan enters endangered status, and which may also include reduction or elimination of any other adjustable benefits under the plan, and

''(ii) any additional schedules which reduce or eliminate adjustable benefits under the plan which the plan sponsor deems appropriate to provide as an alternative to the default proposal.''.

(2) FUNDING IMPROVEMENT PLAN.—Paragraph (3) of section 432(d) of such Code, as so redesignated and amended, is further amended—

(A) by striking ''For purposes of this section—'' and all that follows through ''which consists of'' in subparagraph (A) and inserting ''For purposes of this section, a funding improvement plan is a plan which consists of'', and

(B) by striking ''formulated to provide'' and all that follows and inserting ''formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to—

''(A) enable the plan to no longer be in endangered status (as certified by the plan actuary) by the end of the funding improvement period, and

''(B) avoid any accumulated funding deficiencies during the funding improvement period (taking into account any extension of amortization periods under section 431(d)).''.

(3) FUNDING IMPROVEMENT PERIOD.—Paragraph (4) of section 432(d) of such Code, as so redesignated and amended, is further amended by striking subparagraph (B) and inserting after subparagraph (A) the following new subparagraph:

''(B) NEW PERIOD BASED ON ADVERSE EXPERIENCE.—

''(i) IN GENERAL.—If the plan's actuary determines necessary based on adverse plan experience, the plan sponsor may provide for a new 10-year period as of the first day of any plan year in the original funding improvement period, but only if the plan is still projected to meet the requirements of the funding improvement plan and emerge from endangered status at the end of the new funding improvement period.

''(ii) LIMITATION.—A plan sponsor may provide a new 10-year period under clause (i) not more than 1 time in any 20-consecutive-year period, unless the plan sponsor submits to the Secretary an application for an additional new period. Such application shall include a certification that the plan is projected to emerge from endangered status in the proposed new 10-year period and a description of key assumptions, to be specified in regulations promulgated by the Secretary in consultation with the Pension Benefit Guaranty Corporation.''.

(4) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 432(d)(4) of such Code, as so redesignated and amended, is further amended—

(i) by striking ''critical status'' both places it appears in clauses (i) and (ii) and inserting ''critical or declining status'',

(ii) by striking ''rehabilitation period'' in clause (ii) and inserting ''rehabilitation or solvency attainment period'', and

(iii) by striking ''CRITICAL STATUS'' in the heading of clause (ii) and inserting ''CRITICAL OR DECLINING STATUS''.

(B) Subsection (d) of section 432 of such Code, as so redesignated and amended, is further amended by striking paragraph (5) and by redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

(C) Paragraph (6) of section 432(d) of such Code, as so redesignated, is amended—

(i) by striking ''(1)(B)(i)(I)'' in subparagraph (A) and inserting ''(1)(B)(i)'', and

(ii) by striking ''paragraph (6)(B)'' in subparagraph (B)(ii) and inserting ''paragraph (5)(B)''.

(D) Paragraph (2) of section 432(d) of such Code, as so redesignated, is amended by inserting '', except that the next update of the funding improvement plan shall fulfill the requirement of paragraph (1)(B)(i)'' after ''for a preceding plan year''.

(h) AMENDMENTS RELATING TO REHABILITATION PLAN.—

(1) IN GENERAL.—Paragraph (1) of section 432(f) of the Internal Revenue Code of 1986, as redesignated and amended by this section, is further amended—

(A) by striking the last 2 sentences, and

(B) in subparagraph (B), by striking ''rehabilitation plan—'' and all that follows and inserting ''rehabilitation plan, shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the requirements of paragraph (3), including—

''(i) one default proposal under which—

''(I) all adjustable benefits in the form of early retirement subsidies (including early reduction factors which are not provided on an actuarially equivalent basis) under the plan are eliminated, and

''(II) the future monthly benefit accrual rate under the plan is reduced to the equivalent of 1 percent of annual contributions (or, if lower, the accrual rate as of the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020) based on the contribution rate in effect as of the first day of the plan year in which the plan enters critical status, and

which may also include reduction or elimination of any other adjustable benefits under the plan, and

''(ii) any additional schedules which reduce or eliminate adjustable benefits under the plan which the plan sponsor deems appropriate to provide as an alternative to the default proposal.

In the case of a plan adopting a rehabilitation plan described in paragraph (3)(A)(ii), no schedule provided to or adopted by the bargaining parties shall provide for a monthly benefit accrual rate in excess of the rate described in subparagraph (B)(i)(II).''.

(2) REHABILITATION PLAN.—

(A) IN GENERAL.—Subparagraph (A) of section 432(f)(3) of such Code, as so redesignated, is amended—

(i) by striking ''and may include'' and all that follows through ''such actions'' in clause (i),

(ii) by inserting '', while delaying insolvency for as long as possible and maximizing the income of the plan, including income after insolvency'' before the period in clause (ii), and

(iii) by striking ''(1)(B)(i)'' in the last sentence and inserting ''(1)(B)''.

(B) CONFORMING AMENDMENTS.—Clause (i) of section 432(f)(3)(C) of such Code, as so redesignated, is amended—

(i) by striking ''(1)(B)(i)'' in subclause (II) and inserting ''(1)(B)'', and

(ii) by striking ''the last sentence of paragraph (1)'' and inserting ''paragraph (1)(B)(i)''.

(3) REHABILITATION PERIOD.—

(A) IN GENERAL.—Subparagraph (A) of section 432(f)(4) of such Code, as so redesignated and amended, is further amended—

(i) by striking ''The rehabilitation period'' and inserting ''Except as otherwise provided in this subparagraph, the rehabilitation period'', and

(ii) by adding at the end the following: ''If, upon exhaustion of all reasonable measures, the plan is not reasonably expected to emerge from critical status by the end of such 10-year period, the rehabilitation period shall be extended to take into account the projected date of emergence from critical status (if the rehabilitation plan remained in effect until such date) or the projected date of insolvency (if applicable) (unless the plan enters declining status).''.

(B) EMERGENCE FROM CRITICAL STATUS.—Subparagraph (B) of section 432(f)(4) of such Code, as so redesignated and amended, is further amended—

(i) by inserting ''and is not in declining status,'' after the comma in clause (i)(I),

(ii) by striking subclause (III) of clause (i) and inserting the following:

''(III) the plan's projected funded percentage as of the first day of the 15th succeeding plan year is at least 100 percent and is projected to increase after such date.'',

(iii) by striking ''that—'' and all that follows through ''regardless of whether'' in clause (ii)(I) and inserting ''that the plan meets the requirements of subclauses (II) and (III) of clause (i), regardless of whether'', and

(iv) by striking ''unless—'' and all that follows in clause (ii)(II) and inserting ''unless, as of such plan year, the plan fails to meet the requirements of subclause (II) or (III) of clause (i).''.

(4) RULES RELATING TO BENEFIT INCREASES DURING REHABILITATION PERIOD.—Subparagraph (B) of section 432(g)(1) of such Code, as so redesignated and amended, is further amended by striking ''unless'' and all that follows and inserting ''unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law, or the amendment provides for only a de minimis increase in the liabilities of the plan.''.

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 432(f) of such Code, as so redesignated, is amended by striking ''the last sentence of paragraph (1)'' and inserting ''paragraph (1)(B)(i)''.

(B) Paragraph (2) of section 432(f) of such Code, as so redesignated, is amended by inserting '', except that the next update of the rehabilitation plan shall fulfill the requirement of paragraph (1)(B)(i)'' after ''for a preceding plan year''.

(i) ACTUARIAL ASSUMPTIONS.—

(1) IN GENERAL.—Subsection (n) of section 432 of the Internal Revenue Code of 1986, as redesignated by subsections (a), (d), and (e), is amended—

(A) by striking ''METHOD'' in the heading and inserting ''METHOD AND ASSUMPTIONS'', and

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

''(11) ACTUARIAL ASSUMPTIONS.—

''(A) IN GENERAL.—The actuarial assumptions relied upon for purposes of this section by a plan actuary shall be individually reasonable and, in the aggregate, shall be reasonable and (with the exception of assumptions regarding future contributions) represent the actuary's best estimate of future plan experience, within limitations prescribed by the Secretary. A plan actuary shall avoid conservatism or optimism in individual assumptions to the extent that they would result in a set of assumptions that is unreasonable in the aggregate.

''(B) INVESTMENT RETURNS.—The investment return assumption for projecting plan assets may differ from the actuarial valuation interest rate. In selecting the investment return assumption for projecting plan assets, the plan actuary shall estimate the expected return of the plan's investments as currently invested and as expected to be invested in the future, consistent with the plan's adopted investment policy, if applicable. It is reasonable for an actuary to expect that the plan's investment decisions will consider risk, expected returns over time, and expected future benefit payments. The investment return assumption shall not exceed the interest rate used to determine past service liability under section 431(b)(6).

''(C) CONTRIBUTIONS.—

''(i) IN GENERAL.—The plan actuary shall develop assumptions for the projection of future contributions, including assumptions regarding industry activity among contributing employers and contribution rates, based on information provided by the plan sponsor, which must act reasonably and in good faith. The plan actuary shall certify the reasonableness of all assumptions.

''(ii) PROJECTED INDUSTRY ACTIVITY.—Any projection of activity in the industry or industries covered by the plan, including future covered employment and contribution levels, shall be based on information provided by the plan sponsor acting reasonably and in good faith.

''(iii) FUTURE CONTRIBUTION BASE UNITS.—

''(I) DECLINING CONTRIBUTION BASE UNITS.—If recent experience of the plan has been declining contribution base units, the plan actuary may assume future contribution base units will continue to decline at the same annualized trend as over the 5 immediately preceding plan years, unless the actuary determines that there have been significant changes that would make such assumption unreasonable.

''(II) FLAT OR INCREASING CONTRIBUTION BASE UNITS.—If recent experience of the plan has been increasing, or neither increasing nor decreasing, contribution base units, the plan actuary may assume future contribution base units will remain unchanged indefinitely, unless the actuary determines that there have been significant changes that would make such assumption unreasonable.

''(iv) FUTURE CONTRIBUTION RATES.—

''(I) IN GENERAL.—Projections of contributions shall be based on the contribution rates consistent with the terms of collective bargaining and participation agreements currently in effect.

''(II) FUTURE INCREASES IN ACCORDANCE WITH CORRECTION PLANS.—If reasonable and applicable, the plan actuary may assume future increases in contribution rates consistent with the adopted funding improvement plan, rehabilitation plan, or solvency plan.

''(III) ADDITIONAL FACTORS.—Information provided by the plan sponsor to the plan actuary in setting the assumption regarding future increases in contribution rates shall take into account the ability of the participating employers to make contributions at the scheduled rates over time, considering relevant factors such as projected industry activity, the financial strength of participating employers, market competition, and the scheduled contribution rate to the plan relative to the overall wage package.

''(D) ASSUMPTIONS FOR DEVELOPING SCHEDULES.—All schedules under any funding improvement plan, rehabilitation plan, or solvency plan must be developed based on the same set of actuarial assumptions unless it would be unreasonable to do so, taking into account the anticipated impact of the schedules on participant behavior and employer participation.''.

(2) ADDITIONS TO FORM 5500 SCHEDULE MB.—Subparagraph (B) of section 432(b)(5) of such Code, as redesignated and amended by this section, is further amended by adding at the end the following new clause:

''(vi) ADDITIONAL ATTACHMENTS.—The plan actuary shall attach to the certification required under subparagraph (A)—

''(I) documentation supporting the certification of status under subparagraph (A), including projections of the funding standard account, funded percentage, and solvency of the plan,

''(II) a clear description of the key assumptions used in performing the projections, including investment returns, contribution base units, and contribution rates,

''(III) a 5-year history of contributions, including contribution base units, average contribution rates, and withdrawal liability payments, and a comparison of such contribution base units, rates, and payments to projections made by the plan, and

''(IV) an alternate projection of the funding standard account, funded percentage, and solvency, based on the following assumptions:

''(aa) Annual future investment returns on plan assets equal the actuarial interest rate assumption minus 1 percent.

''(bb) Future contribution base units projected using a trend equal to the lesser of—

''(AA) the annualized trend of actual contribution base units over the 5 preceding plan years, and

''(BB) no change in future contribution base units.

''(cc) No increases in future contribution rates beyond those consistent with the collective bargaining agreements and participation agreements in effect for the plan year.

''(dd) The withdrawal from the plan of the employer which has contributed the greatest total amount of contributions over the 5 preceding plan years, if such employer has contributed at least 10 percent of the total contributions to the plan over such 5 plan years and such employer has a below investment grade credit rating (but only if obtaining the credit rating of such employer is not an undue burden).

''(ee) If such credit rating cannot be obtained without undue burden, the withdrawal of the employer which has contributed the greatest total amount of contributions over the 5 preceding plan years, if such employer has contributed at least 10 percent of the total contributions to the plan over such 5 plan years without regard to collection of any withdrawal liability.

''(ff) If no employer has contributed at least 10 percent of the total contributions to the plan over the 5 preceding plan years, the

withdrawal of the employer which contributed the greatest total amount of contributions for the current plan year, without regard to collection of any withdrawal liability, unless the employer contributed less than 1 percent of the total contributions to the plan for such plan year.

''(gg) Other assumptions consistent with the projection based on the actuary's best estimate assumptions.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 432(b)(5)(B)(i) of such Code, as redesignated by this section, is amended by striking ''assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(B) Section 432(b)(5)(A)(vi) of such Code, as amended by this section and section 321, is further amended by striking ''reasonable actuarial assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(C) Paragraph (3) of section 432(d) of such Code, as amended by subsection (g), is further amended by striking ''reasonable actuarial assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(D) Clause (i) of section 432(f)(3)(A) of such Code, as amended by subsection (h), is further amended by striking ''reasonable actuarial assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(E) Section 432(h)(3) of such Code, as added by subsection (d), is amended by striking ''reasonable actuarial assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(j) CONFORMING AMENDMENTS RELATING TO LEGACY PLANS.—

(1) Subsections (a)(3)(F), (b)(1)(B)(i), (b)(1)(H)(iv), and (d)(6)(A) of section 411 of the Internal Revenue Code of 1986, as amended by title V, are each further amended by striking ''432(f)'' each place it appears and inserting ''432(h)(8)''.

(2) Sections 431(b)(10), 440A(d)(2)(D), and 440A(d)(4) of such Code, as added by title V, are each amended by striking ''endangered or critical'' and inserting ''endangered, critical, or declining''.

(3) Section 437(b)(1) of such Act, as so added, is amended by striking ''endangered or critical'' both places it appears and inserting ''endangered, critical, or declining''.

(4) Sections 437(b)(5)(B) and 440A(b)(1)(A) of such Code, as so added, are each amended by striking ''endangered or critical'' and inserting ''endangered, critical, or declining''.

(5) Sections 437(b)(1), 437(b)(5)(B), 440A(b)(1)(A), and 440A(e)(3) of such Code, as so added, are each amended by striking ''432(b)(4)'' and inserting ''432(b)(5)''.

(6) Sections 438(b)(5) and 440A(d)(2)(A) of such Code, as so added, are each amended by striking ''432(b)(4)(B)'' and inserting ''432(b)(5)(B)''.

(7) Section 438(b)(1) of such Code, as so added, is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting '', and'', and by adding at the end the following new subparagraph:

''(D) consistent with the principles of subparagraphs (B), (C), and (D) of section 432(n)(11).''.

(8) Section 439(a)(2)(D) of such Code, as so added, is amended by striking ''432(f)(9)(D)(vi)'' and inserting ''432(h)(8)(D)(vi)''.

(9) Section 439(a)(3) of such Code, as so added, is amended by striking ''432(f)(8)'' and inserting ''432(m)(1)(D)''.

(10) Section 440A(d)(2)(D) of such Code, as so added and amended, is further amended by striking ''funding improvement or rehabilitation plan'' and inserting ''funding improvement, rehabilitation, or solvency plan''.

(k) EFFECTIVE DATE.—Except as otherwise provided in subsection (a)(7), the amendments made by this section shall apply to plan years beginning after December 31, 2020.

(l) CREDIT RATINGS.—No requirement of section 939 or 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (124 Stat. 1887; 15 U.S.C. 78o–7 note) shall apply with respect to the amendment made by subsection (i)(2).

SEC. 212. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.

(a) RULES APPLYING TO ALL MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Subsection (a) of section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085) is amended—

(A) by striking ''a multiemployer plan in effect on July 16, 2006—'' and inserting ''any multiemployer plan—'',

(B) by redesignating paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively,

(C) by inserting before paragraph (2), as so redesignated, the following new paragraph:

''(1) the rules of subsection (c) shall apply,'',

(D) by striking ''subsection (c)'' in paragraph (2)(A), as so redesignated, and inserting ''subsection (d)'',

(E) by striking ''subsection (d)'' in paragraph (2)(B), as so redesignated, and inserting ''subsection (e)'',

(F) by striking ''subsection (e)'' in paragraph (3)(A), as so redesignated, and inserting ''subsection (f)'',

(G) by striking ''subsection (f)'' in paragraph (3)(B), as so redesignated, and inserting ''subsection (g)'', and

(H) by striking ''subsection (e)(9)'' in paragraph (4)(B), as so redesignated, and inserting ''subsection (f)(9)''.

(2) RULES OF IMMEDIATE APPLICATION.—Section 305 of such Act (29 U.S.C. 1085) is amended—

(A) by redesignating subsections (c), (d), (e), (f), (g), (h), (i), and (j) as subsections (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and

(B) by inserting after subsection (b) the following new subsection:

''(c) RULES APPLYING TO ALL MULTIEMPLOYER PLANS.—

''(1) BENEFIT INCREASES.—

''(A) INCREASES BY PLAN AMENDMENT.—The plan sponsor of any multiemployer plan shall not adopt a plan amendment which increases plan liabilities (as determined as of the date of the adoption of the amendment) due to any increase in benefits, any change in the accrual rate of benefits, or any change in the rate at which benefits become nonforfeitable, unless—

''(i) if the plan is in unrestricted status as of the adoption of such amendment, the plan actuary certifies in accordance with subsection (b)(4) that the increase in liabilities will not cause the plan to no longer be in unrestricted status,

''(ii) if the plan is in stable status as of the adoption of such amendment, the plan actuary certifies in accordance with subsection (b)(4) that any such increase or change in benefits will be paid from additional contributions not required by any collective bargaining agreement in effect as of the adoption of the amendment,

''(iii) if the plan is in endangered status as of the adoption of such amendment, the plan actuary certifies in accordance with subsection (b)(4) that any such increase or change in benefits will be paid from additional contributions not contemplated in any current funding improvement plan, or

''(iv) the increase or change in benefits is required by law or is a de minimis change.

''(B) INCREASES UNDER CRITICAL OR CRITICAL AND DECLINING STATUS.—Unless required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law, in the case of a plan which is in critical or critical and declining status, no increase in benefits, change in the accrual rate of benefits, or change in the rate at which benefits become nonforfeitable which increases plan liabilities shall take effect while the plan is in such status, without regard to whether such increase or change would otherwise occur under the provisions of the plan, unless the increase in plan liabilities due to the change is de minimis.

''(2) CONTRIBUTION REDUCTIONS.—The plan sponsor of any multiemployer plan shall not accept any collective bargaining agreement or participation agreement which reduces the rate of contributions under the plan for any participants, suspends contributions with respect to any period of service, or directly or indirectly excludes younger, probationary, or newly hired employees from participation in the plan, unless—

''(A) the plan is in unrestricted status as of the adoption of such agreement and the plan actuary certifies in accordance with subsection (b)(4) that the reduction in contributions will not cause the plan to no longer be in unrestricted status,

''(B) the reduction in contributions is accompanied by a reduction in future accruals for the affected participants, and the plan actuary certifies in accordance with subsection (b)(4) that the combined effect of the changes in contributions and benefits is not projected to reduce the funded percentage of the plan in any year, or

''(C) subject to regulations issued by the Secretary of the Treasury, the plan sponsor reasonably determines that the acceptance of such an agreement is in the best interests of plan participants and beneficiaries and that rejection of the agreement would have an adverse financial effect on the plan.''.

(3) STABLE AND UNRESTRICTED PLANS.—Subsection (b) of section 305 of such Act (29 U.S.C. 1085) is amended—

(A) by striking ''ENDANGERED AND CRITICAL'' in the heading,

(B) by redesignating paragraphs (1), (2), (3), (4), (5), and (6) as paragraphs (2), (3), (4), (5), (6), and (7), respectively, and

(C) by inserting before paragraph (2) the following new paragraph:

''(1) STABLE AND UNRESTRICTED STATUS.—

''(A) STABLE.—A multiemployer plan is in stable status for a plan year if, as determined by the plan actuary under paragraph (4), the plan is not in unrestricted status for the plan year, is not in endangered, critical, or critical and declining status for the plan year, and is not described in paragraph (6).

''(B) UNRESTRICTED.—A multiemployer plan is in unrestricted status for a plan year if, as determined by the plan actuary under paragraph (4)—

''(i) the plan is not in endangered, critical, or critical and declining status for the plan year,

''(ii) the plan is not described in paragraph (6), and

''(iii) as of the beginning of the plan year—

''(I) the plan's current liability funded percentage for such plan year is at least 70 percent and the plan's projected funded percentage as of the first day of the 15th succeeding plan year is at least 115 percent, or

''(II) the plan's current liability funded percentage for such plan year is at least 80 percent.

''(C) CURRENT LIABILITY FUNDED PERCENTAGE.—For purposes of this section, the term 'current liability funded percentage' means

the percentage equal to a fraction the numerator of which is the value of plan assets (as determined for purposes of section 304(c)(6)(A)(ii)(II)) and the denominator of which is the current liabilities of the plan (as defined in section 304(c)(6)(D)).''.

(4) AMENDMENT TO ANNUAL CERTIFICATION BY PLAN ACTUARY.—Subparagraph (A) of paragraph (4) (as redesignated by paragraph (3)) of section 305(b) of such Act (29 U.S.C. 1085(b)) is amended by inserting ''whether or not the plan is in unrestricted or stable status for such plan year,'' in clause (i) before ''whether or not the plan is in endangered status''.

(5) CONFORMING AND TECHNICAL AMENDMENTS.—

(A) TECHNICAL CORRECTION.—Section 305(b)(3)(B) of such Act (29 U.S.C. 1085(b)(3)(B)) is amended by redesignating the clause (iv) relating to projections of critical and declining status, as added by section 201(a)(5) of the Consolidated and Further Continuing Appropriations Act, 2015, as clause (v), and by moving such clause to the position immediately after clause (iv).

(B) CONFORMING AMENDMENTS.—

(i) Paragraphs (2) and (3) of section 305(b) of such Act (29 U.S.C. 1085(b)), as redesignated by paragraph (3), are each amended by striking ''paragraph (3)'' and inserting ''paragraph (4)''.

(ii) Section 305(b)(2) of such Act (29 U.S.C. 1085(b)(2)), as so redesignated and amended, is further amended by striking ''paragraph (5)'' and inserting ''paragraph (6)''.

(iii) Section 305(b)(4) of such Act (29 U.S.C. 1085(b)(4)), as so redesignated, is amended—

(I) by striking ''paragraph (4)'' in subparagraph (B)(iv) thereof and inserting ''paragraph (5)'',

(II) by striking ''subsection (e)(9)'' both places it appears in subparagraph (B)(v), as redesignated by subparagraph (A), and inserting ''subsection (f)(9)'',

(III) by striking ''subsection (e)(3)(A)(ii)'' in subparagraph (B)(v), as so redesignated, and inserting ''subsection (f)(3)(A)(ii)'',

(IV) by striking ''subsection (e)'' in subparagraph (B)(v), as so redesignated, and inserting ''subsection (f)'',

(V) by striking ''paragraph (4)'' each place it appears in subparagraphs (D)(i) and (D)(v) thereof and inserting ''paragraph (5)'',

(VI) by striking ''subsection (e)(8)'' in subparagraph (D)(iii)(I) thereof and inserting ''subsection (f)(8)'',

(VII) by striking ''paragraph (5)'' in subparagraph (D)(iii) thereof and inserting ''paragraph (6)'', and

(VIII) by striking ''(iii) In the case of'' in subparagraph (D)(iii) thereof and inserting ''(iii) SPECIAL RULE.—''.

(iv) Section 305(b)(5) of such Act (29 U.S.C. 1085(b)(5)), as redesignated by paragraph (3), is amended—

(I) by striking ''paragraph (2)'' and inserting ''paragraph (3)'',

(II) by striking ''paragraph (3)(B)(iv)'' and inserting ''paragraph (4)(B)(iv)'',

(III) by striking ''paragraph (3)'' in subparagraph (A) thereof and inserting ''paragraph (4)'',

(IV) by striking ''paragraph (3)(A)'' in subparagraph (A) thereof and inserting ''paragraph (4)(A)'',

(V) by striking ''paragraph (2)'' in subparagraph (B) thereof and inserting ''paragraph (3)'', and

(VI) by striking ''subsection (e)(4)(B)'' in subparagraph (C) thereof and inserting ''subsection (f)(4)(B)''.

(v) Section 305(b)(6)(A) of such Act (29 U.S.C. 1085(b)(6)(A)), as so redesignated, is amended—

(I) by striking ''paragraph (3)(A)'' and inserting ''paragraph (4)(A)'',

(II) by striking ''paragraph (1)(A)'' and inserting ''paragraph (2)(A)'', and

(III) by striking ''paragraph (1)(B)'' and inserting ''paragraph (2)(B)''.

(vi) Section 305(b)(7) of such Act (29 U.S.C. 1085(b)(7)), as so redesignated, is amended by striking ''paragraph (2)'' and inserting ''paragraph (3)''.

(vii) Paragraphs (1)(A), (4)(A)(ii), (4)(C)(i), (4)(C)(ii), (4)(D), (5)(A)(i), (5)(B), and (8) of subsection (d), and subsections (e)(2), (f)(1)(A), (f)(4)(B)(i), (f)(4)(B)(ii)(I), (f)(5), and (g)(3) of section 305 of such Act (29 U.S.C. 1085), as respectively redesignated by paragraph (2), are each amended by striking ''subsection (b)(3)(A)'' and inserting ''subsection (b)(4)(A)''.

(viii) Section 305(d)(3)(A)(i)(I) of such Act (29 U.S.C. 1085(d)(3)(A)(i)(I)), as so redesignated, is amended by striking ''paragraph (b)(3)'' and inserting ''subsection (b)(4)''.

(ix) Section 305(d)(4)(D) of such Act (29 U.S.C. 1085(d)(4)(D)), as so redesignated, is amended by striking ''subsection (d)'' and inserting ''subsection (e)''.

(x) Section 305(e) of such Act (29 U.S.C. 1085(e)), as so redesignated, is amended to read as follows:

''(e) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (d) so as to be inconsistent with the funding improvement plan or the requirements of subsection (c).''.

(xi) Clauses (i)(I) and (ii)(I) of section 305(f)(4)(B) of such Act (29 U.S.C. 1085(f)(4)(B)), as so redesignated, are each amended by striking ''subsection (b)(2)'' and inserting ''subsection (b)(3)''.

(xii) Subsections (f)(8)(A)(ii) and (g)(2)(A) of section 305 of such Act (29 U.S.C. 1085), as so redesignated, are each amended by striking ''subsection (b)(3)(D)'' and inserting ''subsection (b)(4)(D)''.

(xiii) Section 305(f)(9)(J) of such Act (29 U.S.C. 1085(f)(9)(J)), as so redesignated, is amended—

(I) by striking ''subsection (b)(3)'' and inserting ''subsection (b)(4)'', and

(II) by striking ''paragraphs (1) and (2)'' in clause (i) thereof and inserting ''paragraphs (2) and (3)''.

(xiv) Subparagraphs (A) and (B) of section 305(g)(1) of such Act (29 U.S.C. 1085(g)(1)), as so redesignated, are each amended by striking ''subsection (e)'' and inserting ''subsection (f)''.

(xv) Paragraph (2)(A) of section 305(g) of such Act (29 U.S.C. 1085(g)), as so redesignated, is amended by striking ''(b)(3)(D)'' and inserting ''(b)(4)(D)''.

(xvi) Section 305(h) of such Act (29 U.S.C. 1085(h)), as so redesignated, is amended—

(I) by striking ''subsection (e)(8) or (f)'' in paragraph (1) thereof and inserting ''subsection (f)(8) or (g)'',

(II) by striking ''subsection (e)(9)'' in paragraph (1) thereof and inserting ''subsection (f)(9)'',

(III) by striking ''subsection (e)(7)'' in paragraph (2) thereof and inserting ''subsection (f)(7)'', and

(IV) by striking ''rehabilitation plan'' and all that follows in paragraph (3)(B) thereof and inserting ''rehabilitation plan. The preceding sentence shall not apply to any increase in contribution requirements due to increased levels of work, employment, or periods for which compensation is provided, except to the extent such an increase is used to provide an increased accrual rate of benefits or change in the rate at which benefits become nonforfeitable which increases plan liabilities.''.

(xvii) Section 305(i) of such Act (29 U.S.C. 1085(i)), as so redesignated, is amended—

(I) by striking ''subsection (c)'' and inserting ''subsection (d)'', and

(II) by striking ''subsection (e)'' and inserting ''subsection (f)''.

(xviii) Section 305(j)(2) of such Act (29 U.S.C. 1085(j)(2)), as so redesignated, is amended by striking ''subsections (c) and (e)'' and inserting ''subsections (d) and (f)''.

(xix) Section 101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B)) is amended—

(I) by striking ''305(i)'' in clause (i)(II) and inserting ''305(k)'', and

(II) by striking ''305(i)(8)'' in clause (ii)(II) and inserting ''305(k)(8)''.

(xx) Section 103(f)(1)(B)(ii) of such Act (29 U.S.C. 1023(f)(1)(B)(ii)) is amended by striking ''305(i)(2)'' and inserting ''305(k)(2)''.

(xxi) Section 302(b)(3) of such Act (29 U.S.C. 1082) is amended by striking ''section 305(e)'' and inserting ''section 305(f)''.

(xxii) Section 4231(e)(2)(A) of such Act (29 U.S.C. 1411(e)(2)(A)) is amended by striking ''section 305(b)(4)'' and inserting ''305(b)(7)''.

(xxiii) Section 4233 of such Act (29 U.S.C. 1413) is amended—

(I) by striking ''305(e)(9)'' each place it appears in subsections (b)(2) and (e)(1)(A) and inserting ''305(f)(9)'', and

(II) by striking ''305(e)(9)(E)(vi)'' in subsection (e)(2) and inserting ''305(f)(9)(E)(vi)''.

(xxiv) Section 4245 of such Act (29 U.S.C. 1426), as amended by this Act, is amended—

(I) by striking ''305(b)(2),,'' in subsection (c)(1), as redesignated by section 112, and inserting ''305(b)(3),'',

(II) by striking ''305(b)(2)'' each place it appears in subsections (c)(2), (d)(1), and (d)(2), as so redesignated, and inserting ''305(b)(3)'', and

(III) by striking ''305(e)(9)'' in subsection (f), as so redesignated, and inserting ''305(f)(9)''.

(xxv) The heading of section 305 of such Act (29 U.S.C. 1085) is amended by striking ''**IN ENDANGERED STATUS OR CRITICAL STATUS**''.

(6) WITHDRAWAL LIABILITY DETERMINATION FOR PLANS EMERGING FROM ENDANGERED OR CRITICAL STATUS.—Section 305(h) of such Act (29 U.S.C. 1085(h)), as redesignated by paragraph (2) and as amended by paragraph (5), is further amended by striking paragraph (4) and by inserting after paragraph (3) the following new paragraph:

''(4) EMERGENCE FROM ENDANGERED OR CRITICAL STATUS.—

''(A) IN GENERAL.—In the case of increases in the contribution rate (or other increases in contribution requirements unless due to increased levels of work, employment, or periods for which compensation is provided) disregarded pursuant to paragraph (3), this subsection shall cease to apply as of the later of—

''(i) the end of the first plan year following the plan year in which the plan is no longer in endangered or critical status, or

''(ii) the end of the plan year which includes the expiration date of the first collective bargaining agreement requiring plan contributions which expires after the plan is no longer in endangered or critical status.

''(B) HIGHEST CONTRIBUTION RATE.—Notwithstanding subparagraph (A), once the plan emerges from endangered or critical status—

''(i) increases in the contribution rate disregarded pursuant to paragraph (3) shall continue to be disregarded in determining the highest contribution rate under section 4219(c) for plan years during which the plan was in endangered or critical status, and

''(ii) the highest contribution rate for purposes of such section shall be the greater of—

''(I) the sum of—

''(aa) the employer's contribution rate as of the later of the last day of the last plan year ending before December 31, 2014, and the

last day of the plan year for which the employer first had an obligation to contribute to the plan, and

''(bb) any contribution increases determined in accordance with this section after such later date and before the date the employer withdraws from the plan, or

''(II) the highest contribution rate for any plan year after the plan year which includes the earlier of—

''(aa) the expiration date of the first collective bargaining agreement applicable to the withdrawing employer requiring plan contributions which expires after the plan is no longer in endangered or critical status, or

''(bb) the date as of which the withdrawing employer negotiated a contribution rate effective after the plan year in which the plan is no longer in endangered or critical status.''.

(7) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(b) DETERMINATION OF ENDANGERED STATUS.—Paragraph (2) of section 305(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(b)), as redesignated by subsection (a)(3), is amended to read as follows:

''(2) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (5), the plan is not in critical or declining status for the plan year and is not described in paragraph (7), and, as of the beginning of the plan year—

''(A) the plan's funded percentage for such plan year is less than 80 percent,

''(B) the plan is projected to have an accumulated funding deficiency for any of the 9 succeeding plan years, taking into account any extension of amortization periods under section 304(d), or

''(C) the plan's projected funded percentage as of the first day of the 15th succeeding plan year is less than 100 percent.''.

(c) DETERMINATION OF CRITICAL STATUS.—Paragraph (3) of section 305(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(b)), as redesignated by subsection (a)(3), is amended to read as follows:

''(3) CRITICAL STATUS.—

''(A) IN GENERAL.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (5), the plan is not in declining status for the plan year and, as of the beginning of the plan year—

''(i) the plan's funded percentage is less than 65 percent,

''(ii) the plan has an accumulated funding deficiency for the plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 304(d), or

''(iii) the plan's projected funded percentage as of the first day of the 15th succeeding plan year is less than 80 percent.

''(B) ORIGINAL PLANS.—Notwithstanding subparagraph (A), a multiemployer plan which is an original plan pursuant to section 4233A(d)(3) shall be treated as being in critical status for the period of 15 consecutive plan years beginning with the plan year that includes the date of the partition under section 4233A.''.

(d) DECLINING STATUS.—

(1) IN GENERAL.—

(A) The following provisions of section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085) are each amended by striking ''critical and declining'' each place it appears and inserting ''declining'':

(i) Subsection (a)(4) (as redesignated by subsection (a)(1)).

(ii) Subparagraphs (A) and (B)(i) of subsection (b)(1), as added by subsection (a)(3).

(iii) Subsection (b)(4)(B)(v) (as redesignated by subsection (a)(3)).

(iv) The heading of clause (v) of subsection (b)(4)(B), as redesignated by subsection (a)(3).

(v) Paragraph (1)(B), and the heading of such paragraph (1)(B), of subsection (c), as added by subsection (a)(2).

(vi) The heading of paragraph (9) of subsection (f) (as redesignated by subsection (a)(2)).

(vii) Subparagraphs (A), (C), (G)(i), and (J) of subsection (f)(9) (as so redesignated).

(viii) Subsection (h)(1) (as so redesignated).

(B) Subsections (c), as amended by section 221, and (e)(2)(A), as amended by this section, of section 4231 of such Act (29 U.S.C. 1411(e)(2)(A)) are each further amended by striking ''critical and declining status'' and inserting ''declining status''.

(C) Section 4233(b)(1) of such Act (29 U.S.C. 1413(b)(1)) is amended by striking ''critical and declining status'' and inserting ''declining status''.

(D) Section 4245(f) of such Act (29 U.S.C. 1426), as amended by section 112 and subsection (a), is further amended by striking ''critical and declining status'' and inserting ''declining status''.

(2) DETERMINATION OF DECLINING STATUS.—

(A) IN GENERAL.—Subsection (b) of section 305 of such Act (29 U.S.C. 1085) is amended—

(i) by striking paragraph (7), as redesignated by subsection (a)(3),

(ii) by redesignating paragraphs (4), (5), and (6), as so redesignated, as paragraphs (5), (6), and (7), respectively, and

(iii) by inserting after paragraph (3), as so redesignated, the following new paragraph:

''(4) DECLINING STATUS.—A multiemployer plan is in declining status for a plan year if—

''(A) as determined by the plan actuary under paragraph (5), as of the beginning of the plan year the plan is projected to become insolvent within the plan year or any of the 29 succeeding plan years,

''(B) the plan is otherwise in critical status for the plan year as determined by the plan actuary under paragraph (5), and the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan cannot reasonably be expected to emerge from critical status within the next 30 plan years, or

''(C) the plan has a funded percentage for the plan year which is greater than the projected funded percentage as of the first day of the 15th succeeding plan year, unless the funded percentage for the plan year is 100 percent or greater and the projected funded percentage as of the first day of such 15th succeeding plan year is less than 100 percent.''.

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (1) of section 305(b) of such Act (29 U.S.C. 1085), as added by subsection (a)(3), is amended—

(I) by striking ''paragraph (4)'' each place it appears in subparagraphs (A) and (B) and inserting ''paragraph (5)'', and

(II) by striking ''paragraph (6)'' each place it appears in subparagraphs (A) and (B) and inserting ''paragraph (7)''.

(ii) Subsection (c) of section 305 of such Act (29 U.S.C. 1085), as added by subsection (a)(2), is amended by striking ''(b)(4)'' each place it appears in paragraphs (1)(A)(i), (1)(A)(ii), (1)(A)(iii), (2)(A), and (2)(B) and inserting ''(b)(5)''.

(iii) Section 305(b)(5) of such Act (29 U.S.C. 1085(b)(5)), as further redesignated by subparagraph (A) and as amended by section 321 and subsection (a), is further amended—

(I) by striking ''paragraph (5)'' in subparagraph (B)(iv) thereof and inserting ''paragraph (6)'',

(II) by striking ''paragraph (5)'' each place it appears in subparagraphs (D)(i) and (D)(vi) thereof and inserting ''paragraph (6)'', and

(III) by striking ''paragraph (6)'' in subparagraph (D)(iv) thereof and inserting ''paragraph (7)''.

(iv) Section 305(b)(6) of such Act (29 U.S.C. 1085(b)(6)), as so further redesignated and amended, is further amended—

(I) by striking ''paragraph (4)(B)(iv)'' and inserting ''paragraph (5)(B)(iv)'',

(II) by striking ''paragraph (4)'' in subparagraph (A) thereof and inserting ''paragraph (5)'', and

(III) by striking ''paragraph (4)(A)'' in subparagraph (A) thereof and inserting ''paragraph (5)(A)''.

(v) Section 305(b)(7)(A) of such Act (29 U.S.C. 1085(b)(7)(A)), as so further redesignated and amended, is further amended—

(I) by striking ''paragraph (4)(A)'' and inserting ''paragraph (5)(A)'', and

(II) by striking ''either paragraph (2)(A) or paragraph (2)(B)'' and inserting ''any subparagraph of paragraph (2)''.

(vi) Section 305(b)(7)(B) of such Act (29 U.S.C. 1085(b)(7)(B)), as so further redesignated, is amended by striking ''critical or endangered'' and inserting ''endangered, critical, or declining''.

(vii) Paragraphs (1)(A), (4)(A)(ii), (4)(C)(i), (4)(C)(ii), (4)(D), and (8) of subsection (d), and subsections (f)(1)(A), (f)(4)(B)(i), (f)(4)(B)(ii)(I), (f)(5), and (g)(3) of section 305 of such Act (29 U.S.C. 1085), as redesignated and amended by subsection (a), are each further amended by striking ''subsection (b)(4)(A)'' and inserting ''subsection (b)(5)(A)''.

(viii) Section 305(d)(3)(A)(i)(I) of such Act (29 U.S.C. 1085(d)(3)(A)(i)(I)), as so redesignated and amended, is further amended by striking ''subsection (b)(4)'' and inserting ''subsection (b)(5)''.

(ix) Subsections (f)(8)(A)(ii) and (g)(2)(A) of section 305 of such Act (29 U.S.C. 1085), as so redesignated and amended, are each further amended by striking ''subsection (b)(4)(D)'' and inserting ''subsection (b)(5)(D)''.

(x) Section 305(f)(9)(J) of such Act (29 U.S.C. 1085(f)(9)(J)), as so redesignated and amended, is further amended by striking ''subsection (b)(4)'' and inserting ''subsection (b)(5)''.

(xi) Section 4231(e)(2)(A) of such Act (29 U.S.C. 1411(e)(2)(A)), as amended by this section, is further amended by striking ''305(b)(7)'' and inserting ''305(b)(4)''.

(3) SOLVENCY PLAN.—

(A) IN GENERAL.—Paragraph (4) (as redesignated by subsection (a)(1) and amended by paragraph (1)) of section 305(a) of such Act (29 U.S.C. 1085(a)) is amended—

(i) by redesignating subparagraph (B) as subparagraph (D), and

(ii) by striking subparagraph (A) and inserting before subparagraph (D) (as so redesignated) the following new subparagraphs:

''(A) the plan sponsor shall adopt and implement a solvency plan in accordance with the requirements of subsection (h),

''(B) any rehabilitation plan in place as of the date the plan enters declining status shall continue to apply throughout the solvency plan adoption period,

''(C) the requirements of subsection (i) and paragraphs (6) and (7) of subsection (f) shall apply during the solvency plan adoption period and the solvency attainment period, and''.

(B) ADOPTION OF PLAN.—Section 305 of such Act (29 U.S.C. 1085), as amended by this section, is further amended—

(i) by redesignating subsection (l), as added by title V of this Act, as subsection (n), and by further redesignating subsections (h), (i), (j), and (k), as redesignated by subsection

(a)(2), as subsections (j), (k), (l), and (m), respectively, and

(ii) by inserting after subsection (g), as redesignated by subsection (a)(2), the following new subsections:

''(h) SOLVENCY PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN DECLINING STATUS.—

''(1) IN GENERAL.—In any case in which a multiemployer plan is in declining status for a plan year, the plan sponsor, in accordance with this subsection—

''(A) shall adopt a solvency plan not later than 240 days following the required date for the actuarial certification of declining status under subsection (b)(5)(A), and

''(B) within 30 days after the adoption of the solvency plan shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the requirements of paragraph (3), including—

''(i) one default proposal under which—

''(I) all adjustable benefits in the form of early retirement subsidies (including early reduction factors which are not provided on an actuarially equivalent basis) under the plan are eliminated, and

''(II) the future monthly benefit accrual rate under the plan is reduced to the equivalent of 1 percent of annual contributions (or, if lower, the current accrual rate) based on the contribution rate in effect as of the later of the first day of the plan year in which the plan enters declining status or the date of a partition under section 4233A, and

which may also include reduction or elimination of any other adjustable benefits under the plan, and

''(ii) any additional schedules which reduce or eliminate adjustable benefits under the plan which the plan sponsor deems appropriate to provide as an alternative to the default proposal.

No schedule provided to or adopted by the bargaining parties shall provide for a monthly benefit accrual rate in excess of the rate described in subparagraph (B)(i)(II).

''(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a solvency plan adoption period or solvency attainment period by reason of the plan being in declining status for a preceding plan year, except that the next update of the solvency plan shall fulfill the requirement of paragraph (1)(B)(i). For purposes of this section, such preceding plan year shall be the initial determination year with respect to the solvency plan to which it relates.

''(3) SOLVENCY PLAN.—For purposes of this section, a solvency plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to delay or avoid the projected insolvency.

''(4) SOLVENCY ATTAINMENT PERIOD.—For purposes of this section—

''(A) IN GENERAL.—Except as provided in subparagraph (B), the solvency attainment period for any solvency plan adopted pursuant to this subsection is the period—

''(i) beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

''(I) the second anniversary of the date of the adoption of the solvency plan, or

''(II) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of declining status for the initial determination year under subsection (b)(5)(A) and covering, as of such due date, at least 75 percent of the active participants in such plan, and

''(ii) ending on the date the plan either emerges from declining status or becomes insolvent.

''(B) COORDINATION WITH CHANGES IN STATUS.—

''(i) PLANS NO LONGER IN DECLINING STATUS.—If the plan's actuary certifies in accordance with subparagraph (C) for a plan year in any solvency plan adoption period or solvency attainment period that the plan is no longer in declining status, the solvency plan adoption period or solvency attainment period, whichever is applicable, shall end as of the date of such certification.

''(ii) PLANS IN CRITICAL OR ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(5)(A) for the plan year described in clause (i) that the plan is in critical or endangered rather than declining status, the provisions of subsections (d) and (e), or subsections (f) and (g), whichever are applicable, shall be applied as if such plan year were an initial determination year, except that the plan may not be amended in a manner inconsistent with the solvency plan in effect for the preceding plan year until a new funding improvement plan or rehabilitation plan, whichever is applicable, is adopted.

''(C) EMERGENCE.—A plan in declining status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(5)(A), that the plan is not described in one or more of the subparagraphs in subsection (b)(4) as of the beginning of the plan year.

''(5) UPDATES TO SOLVENCY PLANS AND SCHEDULES.—

''(A) SOLVENCY PLAN.—The plan sponsor shall annually update the solvency plan and shall file the update with the plan's annual report under section 104.

''(B) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

''(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

''(6) IMPOSITION OF SCHEDULE WHERE FAILURE TO ADOPT SOLVENCY PLAN.—

''(A) INITIAL CONTRIBUTION SCHEDULE.—If—

''(i) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered declining status expires, and

''(ii) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to adopt a contribution schedule with terms consistent with the solvency plan and a schedule from the plan sponsor,

the plan sponsor shall implement the schedule described in paragraph (1)(B)(i) beginning on the date specified in subparagraph (C).

''(B) SUBSEQUENT CONTRIBUTION SCHEDULE.—If—

''(i) a collective bargaining agreement providing for contributions under a multiemployer plan in accordance with a schedule provided by the plan sponsor pursuant to a solvency plan (or imposed under subparagraph (A)) expires while the plan is still in declining status, and

''(ii) after receiving one or more updated schedules from the plan sponsor under paragraph (5)(B), the bargaining parties with respect to such agreement fail to adopt a contribution schedule with terms consistent with the updated solvency plan and a schedule from the plan sponsor,

then the contribution schedule applicable under the expired collective bargaining agreement, as updated and in effect on the date the collective bargaining agreement expires, shall be implemented by the plan sponsor beginning on the date specified in subparagraph (C).

''(C) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the date which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) or (B) expires.

''(7) SOLVENCY PLAN ADOPTION PERIOD.—For purposes of this section, the term 'solvency plan adoption period' means the period beginning on the date of the certification under subsection (b)(5)(A) for the initial determination year and ending on the day before the first day of the solvency attainment period.

''(i) RULES FOR OPERATION OF PLAN DURING ADOPTION AND ATTAINMENT PERIODS.—

''(1) COMPLIANCE WITH SOLVENCY PLAN.—

''(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a solvency plan under subsection (h) so as to be inconsistent with the solvency plan.

''(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a solvency plan under subsection (h) so as to increase benefits, including future benefit accruals, unless the increase is required by law or is a de minimis change.

''(C) SPECIAL RULES FOR INCREASES IN COMPENSATION OR CONTRIBUTION RATE.—Any increase in employee compensation or contribution rates which takes effect after the first day of the plan year in which the plan enters declining status shall not give rise to an increase in benefits or future benefit accruals under the plan.

''(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

''(A) IN GENERAL.—Effective on the date the notice of certification of the plan's declining status for the initial determination year under subsection (b)(5)(D) is sent, and notwithstanding section 204(g), the plan shall not pay—

''(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)), to a participant or beneficiary whose annuity starting date (as defined in section 205(h)(2)) occurs after the date such notice is sent,

''(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, or

''(iii) any other payment specified by the Secretary of the Treasury by regulations,

unless it is a de minimis amount.

''(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 203(e) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

''(3) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the period beginning on the date of the certification under subsection (b)(5)(A) for the initial determination year and ending on the date of the adoption of a solvency plan—

''(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

''(i) a reduction in the level of contributions for any participants,

''(ii) a suspension of contributions with respect to any period of service, or

''(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

unless the plan sponsor reasonably determines that the acceptance of such an agreement is in the best interests of participants and beneficiaries and that rejection of such

agreement would adversely affect the plan, and

''(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.''.

(C) SUSPENSION OF BENEFITS.—Section 305 of such Act (29 U.S.C. 1085), as amended by this section, is further amended—

(i) by redesignating paragraph (9) of subsection (f) (as redesignated by subsection (a)(2)) as paragraph (8) of subsection (h) (as added by subparagraph (B)), and

(ii) by moving such paragraph to the position immediately after paragraph (7) of such subsection (h).

(4) CONFORMING AMENDMENTS.—

(A) Subsection (a)(4)(D) of section 305 of such Act (29 U.S.C. 1085), as redesignated and amended by the preceding provisions of this section, is further amended by striking ''subsection (f)(9)'' and inserting ''subsection (h)(8)''.

(B) Paragraph (5) of section 305(b) of such Act (29 U.S.C. 1085(b)), as so redesignated and as amended by section 321 and the preceding provisions of this section, is further amended—

(i) by striking ''critical'' in subparagraph (A)(i)(I) and inserting ''critical or declining'',

(ii) by striking ''funding improvement or rehabilitation period'' in subparagraph (A)(i)(II) and inserting ''funding improvement, rehabilitation, or solvency attainment period'',

(iii) by striking ''funding improvement or rehabilitation plan'' in subparagraph (A)(i)(II) and inserting ''funding improvement, rehabilitation, or solvency plan'',

(iv) by striking ''endangered or critical'' in subparagraph (A)(i)(V)(bb) and inserting ''endangered, critical, or declining'',

(v) by striking ''funding improvement plan or rehabilitation'' in subparagraph (A)(iv) and inserting ''funding improvement, rehabilitation, or solvency'',

(vi) by striking ''critical'' each place it appears in subparagraph (A)(vi) and inserting ''critical or declining'',

(vii) by striking ''rehabilitation period'' in subparagraph (A)(vi) and inserting ''rehabilitation or solvency attainment period'',

(viii) by striking ''as described in subsection (f)(9)'' in subparagraph (B)(v),

(ix) by inserting ''if the plan is already in a rehabilitation period, and'' before ''if reasonable'' in subparagraph (B)(v)(I),

(x) by striking ''subsection (f)(9)'' in subparagraph (B)(v)(II) and inserting ''subsection (h)(8)'',

(xi) by striking ''endangered or critical'' both places it appears in subparagraph (D)(i) and inserting ''endangered, critical, or declining'',

(xii) by striking ''ENDANGERED OR CRITICAL'' in the heading of subparagraph (D)(ii) and inserting ''ENDANGERED, CRITICAL, OR DECLINING'',

(xiii) by striking ''endangered or critical'' in subparagraph (D)(ii) and inserting ''endangered, critical, or declining'',

(xiv) by striking ''funding improvement or rehabilitation plan'' both places it appears in subclauses (I) and (II) of subparagraph (D)(ii) and inserting ''funding improvement, rehabilitation, or solvency plan'', and

(xv) by adding at the end of subparagraph (D) the following new clause:

''(vii) NOTICE OF PROJECTION TO BE IN DECLINING STATUS IN A FUTURE PLAN YEAR.—In any case in which it is certified under subparagraph (A)(i) that a multiemployer plan will be in declining status for any of 5 succeeding plan years (but not for the current plan year), the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the projected declining status to the Pension Benefit Guaranty Corporation.''.

(C) Subparagraph (J) of section 305(h)(8) of such Act (29 U.S.C. 1085(h)(8)), as so redesignated and amended, is further amended—

(i) by striking ''CRITICAL'' in the heading and inserting ''DECLINING'', and

(ii) by striking ''shall not emerge from critical status under paragraph (4)(B),'' and inserting ''shall not emerge from declining status''.

(D) Subsection (j) of section 305 of such Act (29 U.S.C. 1085), as so redesignated and amended, is further amended—

(i) by striking ''(f)(8) or (g)'' in paragraph (1) and inserting ''(f)(8), (g), or (i)'',

(ii) by striking ''subsection (f)(9)'' in paragraph (1) and inserting ''subsection (h)(8)'',

(iii) by striking ''FUNDING IMPROVEMENT OR REHABILITATION PLAN'' in the heading of paragraph (3) and inserting ''FUNDING IMPROVEMENT, REHABILITATION, OR SOLVENCY'',

(iv) by striking ''funding improvement plan or rehabilitation plan'' both places it appears in subparagraphs (A) and (B) of paragraph (3) and inserting ''funding improvement, rehabilitation, or solvency plan'',

(v) by striking ''ENDANGERED OR CRITICAL'' in the heading of paragraph (4), as amended by subsection (a), and inserting ''ENDANGERED, CRITICAL, OR DECLINING'',

(vi) by striking ''endangered or critical'' each place it appears in paragraph (4), as so amended, and inserting ''endangered, critical, or declining'', and

(vii) by striking ''critical or endangered'' in paragraph (4) and inserting ''endangered, critical, or declining''.

(E) Subsection (k) of section 305 of such Act (29 U.S.C. 1085), as so redesignated and amended, is further amended—

(i) by striking ''or a rehabilitation plan under subsection (f)'' and inserting '', a rehabilitation plan under subsection (f), or a solvency plan under subsection (h)'',

(ii) by striking ''endangered status or a plan in critical status'' and inserting ''endangered, critical, or declining status'',

(iii) by striking ''has not agreed on a funding improvement plan or rehabilitation plan'' and inserting ''has not agreed on a funding improvement, rehabilitation, or solvency plan (whichever is applicable)'', and

(iv) by striking ''adoption of a funding improvement plan or rehabilitation plan'' and inserting ''adoption of a funding improvement, rehabilitation, or solvency plan''.

(F) Subsection (l) of section 305 of such Act (29 U.S.C. 1085), as so redesignated and amended, is further amended—

(i) by striking ''endangered status or in critical status'' in paragraph (1) and inserting ''endangered, critical, or declining status'',

(ii) by striking ''endangered or critical'' in paragraph (1) and inserting ''endangered, critical, or declining'', and

(iii) by striking ''(d) and (f)'' in paragraph (2) and inserting ''(d), (f), and (h)''.

(G) Section 101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B)), as amended by this section, is amended—

(i) by striking ''305(k)'' in clause (i)(II) and inserting ''305(m)'', and

(ii) by striking ''305(k)(8)'' in clause (ii)(II) and inserting ''305(m)(8)''.

(H) Section 101(k)(1)(K) of such Act (29 U.S.C. 1021(k)(1)(K)) is amended—

(i) by striking ''critical or endangered'' and inserting ''endangered, critical, or declining'', and

(ii) by striking ''funding improvement or rehabilitation'' both places it appears and inserting ''funding improvement, rehabilitation, or solvency''.

(I) Section 103(f)(1)(B)(ii) of such Act (29 U.S.C. 1023(f)(1)(B)(ii)), as amended by this section, is amended by striking ''305(k)(2)'' and inserting ''305(m)(2)''.

(J) Section 103(f)(2)(G) of such Act (29 U.S.C. 1023(f)(2)(G)) is amended—

(i) by striking ''critical or endangered'' and inserting ''endangered, critical, or declining'', and

(ii) by striking ''funding improvement or rehabilitation'' and inserting ''funding improvement, rehabilitation, or solvency''.

(K) Section 104(d)(1)(E) of such Act (29 U.S.C. 1024(d)(1)(E)) is amended—

(i) by striking ''critical or endangered'' and inserting ''endangered, critical, or declining'', and

(ii) by striking ''funding improvement or rehabilitation'' and inserting ''funding improvement, rehabilitation, or solvency''.

(L) Section 502(a)(10) of such Act (29 U.S.C. 1132(a)(10)) is amended—

(i) by striking ''endangered or critical'' and inserting ''endangered, critical, or declining'', and

(ii) by striking ''funding improvement or rehabilitation'' each place it appears and inserting ''funding improvement, rehabilitation, or solvency''.

(M) Section 502(c)(8) of such Act (29 U.S.C. 1132(c)(8)) is amended—

(i) by striking ''funding improvement plan or rehabilitation'' in subparagraph (A) and inserting ''funding improvement, rehabilitation, or solvency'',

(ii) by striking ''endangered or critical'' in subparagraph (A) and inserting ''endangered, critical, or declining'',

(iii) by striking ''which is not in seriously endangered status'' in subparagraph (B), and

(iv) by striking ''meet the applicable benchmarks'' in subparagraph (B) and inserting ''emerge from endangered status''.

(N) Section 4233 of such Act (29 U.S.C. 1413), as amended by this section, is further amended—

(i) by striking ''305(f)(9)'' each place it appears in subsections (b)(2) and (e)(1)(A) and inserting ''305(h)(8)'', and

(ii) by striking ''305(f)(9)(E)(vi)'' in subsection (e)(2) and inserting ''305(h)(8)(E)(vi)''.

(O) Section 4233(m)(1) of such Act, as added by this Act, is amended by striking ''funding improvement or rehabilitation'' and inserting ''funding improvement, rehabilitation, or solvency''.

(P) Section 4233A(h)(4)(C) of such Act, as added by this Act, is amended by striking ''rehabilitation plan'' and inserting ''rehabilitation or solvency plan''.

(Q) Section 4233A(m)(1) of such Act, as added by this Act, is amended by striking ''funding improvement or rehabilitation'' and inserting ''funding improvement, rehabilitation, or solvency''

(R) Section 4233A(o)(1) of such Act, as added by this Act, is amended by striking ''305(k)(2)'' and inserting ''305(m)(2)''.

(S) Section 4233A(o)(12) of such Act, as added by this Act, is amended by striking ''funding improvement plan or rehabilitation'' and inserting ''funding improvement, rehabilitation, or solvency''.

(T) Section 4245 of such Act (29 U.S.C. 1426), as amended by section 112 and this section, is further amended—

(i) by striking ''305(b)(3)'' each place it appears in subsections (c)(1), (c)(2), (d)(1), and (d)(2) and inserting ''305(b)(3), or a plan in declining status, as described in section 305(b)(4)'', and

(ii) by striking ''305(f)(9)'' in subsection (f) and inserting ''305(h)(8)''.

(e) ADJUSTMENT OF BENEFITS.—

(1) IN GENERAL.—Section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085), as amended by this section, is further amended—

(A) by further redesignating subsections (m) and (n), as redesignated by subsection (d), as subsections (n) and (o), respectively,

(B) by redesignating paragraph (8) of subsection (f), as redesignated by subsection (a)(2), as subsection (m), and

(C) by moving such subsection to the position immediately after subsection (l).

(2) CLERICAL AND CONFORMING AMENDMENTS.—

(A) The heading of subsection (m) of section 305 of such Act (29 U.S.C. 1085), as redesignated by paragraph (1), is amended to read as follows:

''(m) ADJUSTMENT OF BENEFITS.—''.

(B) The following provisions of such subsection (m) are amended as follows:

(i) Subparagraphs (A), (B), and (C) are redesignated as paragraphs (1), (2), and (4), respectively, and moved 2 ems to the left.

(ii) Clauses (i), (ii), (iii), and (iv) of paragraph (1) (as so redesignated) are redesignated as subparagraphs (A), (B), (C), and (D), respectively, and moved 2 ems to the left.

(iii) Subclauses (I), (II), and (III) of paragraph (1)(D) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(iv) Clauses (i), (ii), and (iii) of paragraph (4) (as so redesignated) are redesignated as subparagraphs (A), (B), and (C), respectively, and moved 2 ems to the left, and the flush sentence at the end of subparagraph (C) (as so redesignated) is moved 2 ems to the left.

(v) Subclauses (I), (II), and (III) of paragraph (4)(A) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(vi) Subclauses (I) and (II) of paragraph (4)(B) (as so redesignated) are redesignated as clauses (i) and (ii), respectively, and moved 2 ems to the left.

(vii) Subclauses (I), (II), and (III) of paragraph (4)(C) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(viii) Paragraph (1)(A), as so redesignated, is amended by striking ''subparagraph (C)'' and inserting ''paragraph (4)''.

(ix) Paragraph (1)(B), as so redesignated, is amended by striking ''clause (iv)(III)'' and inserting ''subparagraph (D)(iii)''.

(x) Paragraph (1)(D), as so redesignated, is amended by striking ''this paragraph'' and inserting ''this subsection''.

(xi) Paragraph (2), as so redesignated, is amended—

(I) by striking ''subparagraph (A)(iv)(III)'' and inserting ''paragraph (1)(D)(iii)'', and

(II) by striking ''this paragraph'' and inserting ''this subsection''.

(xii) Paragraph (4)(A), as so redesignated, is amended by striking ''subparagraph (A)'' and inserting ''paragraph (1)''.

(xiii) Paragraphs (4)(B) and (4)(C), as so redesignated, are each amended by striking ''clause (i)'' each place it appears and inserting ''subparagraph (A)''.

(xiv) The last sentence of paragraph (4)(C), as so redesignated, is amended—

(I) by striking ''subclause (I)'' and inserting ''clause (i)'', and

(II) by striking ''this subparagraph'' and inserting ''this paragraph''.

(3) APPLICATION TO ALL PLANS IN ENDANGERED, CRITICAL, OR DECLINING STATUS.—

(A) IN GENERAL.—Subparagraph (A) of section 305(m)(1) of such Act (29 U.S.C. 1085(m)(1)), as redesignated and amended by this section, is further amended—

(i) by striking ''the plan sponsor shall'' and inserting ''the plan sponsor of a multiemployer plan in endangered, critical, or declining status may'', and

(ii) by striking ''paragraph (1)(B)(i)'' and inserting ''subsection (d)(1)(B), (f)(1)(B), or (h)(1)(B), whichever is applicable''.

(B) CONFORMING AMENDMENTS.—Subparagraph (B) of section 305(m)(1) of such Act (29 U.S.C. 1085(m)(1)), as redesignated and amended by this section, is further amended by striking ''critical'' both places it appears and inserting ''endangered, critical, or declining''.

(4) ADDITIONAL ADJUSTABLE BENEFITS.—

(A) IN GENERAL.—Subparagraph (D) of section 305(m)(1) of such Act (29 U.S.C. 1085(m)(1)), as redesignated by this section, is amended—

(i) by inserting '', including early reduction factors which are not provided on an actuarially equivalent basis,'' after ''(i))'' in clause (ii), as so redesignated,

(ii) by striking ''and'' at the end of clause (ii) (as so redesignated),

(iii) by striking ''that would not be eligible'' and all that follows through the period in clause (iii) (as so redesignated) and inserting ''which were adopted (or, if later, took effect) less than 120 months before the first day of the first plan year in which the plan was in endangered, critical, or declining status,'', and

(iv) by adding at the end the following new clauses:

''(iv) any one-time bonus payment or 'thirteenth check' provision, and

''(v) benefits granted for periods of service prior to participation in the plan.''.

(B) CONFORMING AMENDMENTS.—

(i) Subparagraph (B) of section 305(m)(1) of such Act (29 U.S.C. 1085), as redesignated and amended by this section, is further amended by striking ''subparagraph (D)(iii)'' and inserting ''clause (iii), (iv), or (v) of subparagraph (D)''.

(ii) Paragraph (2) of section 305(m) of such Act (29 U.S.C. 1085), as amended by paragraph (2)(B), is further amended by striking ''paragraph (1)(D)(iii)'' and inserting ''clause (iii), (iv), or (v) of paragraph (1)(D)''.

(iii) Section 4233A(o)(1) of such Act, as added by this Act and as amended by this section, is further amended by striking ''305(m)(2)'' and inserting ''305(n)(2)''.

(5) RULES RELATING TO SUSPENSION OF BENEFITS UPON RETURN TO WORK.—Subsection (m) of section 305 of such Act (29 U.S.C. 1085), as redesignated and amended by this section, is further amended by inserting after paragraph (2) the following new paragraph:

''(3) RULES RELATING TO SUSPENSION OF BENEFITS UPON RETURN TO WORK.—The plan sponsor of a multiemployer plan in endangered, critical, or declining status may amend rules regarding the suspension of a participant's benefits upon a return to work after commencement of benefits, or the commencement of benefits after normal retirement age (including in the case of continued employment after normal retirement age). Any such changes shall apply only to future payments of benefits.''.

(6) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 305(b)(5)(D) of such Act (29 U.S.C. 1085(b)(5)(D)), as redesignated and amended by this section, is further amended—

(i) by striking ''CRITICAL'' in the heading and inserting ''ENDANGERED, CRITICAL, OR DECLINING'',

(ii) by striking ''critical status'' both places it appears and inserting ''endangered, critical, or declining status'', and

(iii) by striking ''subsection (f)(8)'' in subclause (I) and inserting ''subsection (m)(1)(D)''.

(B) Subsection (j) of section 305 of such Act (29 U.S.C. 1085), as amended by subsection (d), is further amended by striking ''(f)(8), (g), or (i)'' and inserting ''(e), (g), (i), or (m)''.

(C) Section 101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B)), as amended by this section, is amended—

(i) by striking ''305(m)'' in clause (i)(II) and inserting ''305(n)'', and

(ii) by striking ''305(m)(8)'' in clause (ii)(II) and inserting ''305(n)(8)''.

(D) Section 103(f)(1)(B)(ii) of such Act (29 U.S.C. 1023(f)(1)(B)(ii)), as amended by this section, is amended by striking ''305(m)(2)'' and inserting ''305(n)(2)''.

(f) ELECTIONS TO BE IN CRITICAL OR ENDANGERED STATUS.—

(1) IN GENERAL.—Paragraph (6) of section 305(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(b)), as redesignated and amended by this section, is further amended—

(A) by striking ''is not in critical status'' in subparagraph (A) and inserting ''is not in critical or declining status'',

(B) by striking ''but that is projected'' in subparagraph (A) and inserting ''but—

''(i) that is projected'',

(C) by striking ''5 plan years may, not later than'' in subparagraph (A) and inserting ''5 plan years, or

''(ii) that is in endangered status and is not reasonably projected to be able to emerge from endangered status within the funding improvement period under the funding improvement plan in effect,

may, not later than'', and

(D) by striking ''under paragraph (3)'' in subparagraph (B) and inserting ''under paragraph (3) or for endangered status under paragraph (2)''.

(2) ELECTION TO BE IN ENDANGERED STATUS.—Subsection (b) of section 305 of such Act (29 U.S.C. 1085), as so redesignated and amended, is further amended by adding at the end the following new paragraph:

''(8) ELECTION TO BE IN ENDANGERED STATUS.—Notwithstanding paragraph (2)—

''(A) the plan sponsor of a multiemployer plan that is not in endangered, critical, or declining status for a plan year but that is projected by the plan actuary, pursuant to the determination under paragraph (5), to be in endangered status in any of the 5 succeeding plan years, may, not later than 30 days after the date of the certification under paragraph (5)(A), elect to be in endangered status effective for the current plan year,

''(B) the plan year in which the plan sponsor elects to be in endangered status under subparagraph (A) shall be treated for purposes of this section as the first year in which the plan is in endangered status, regardless of the date on which the plan first satisfies the criteria for endangered status under paragraph (2), and

''(C) a plan that is in endangered status under this paragraph shall not emerge from endangered status unless the plan's actuary certifies under paragraph (5)(A) that the plan is no longer in endangered status and is not in critical or declining status.''.

(g) AMENDMENTS RELATING TO FUNDING IMPROVEMENT PLAN.—

(1) IN GENERAL.—Paragraph (1) of section 305(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(d)), as redesignated and amended by this section, is further amended—

(A) by striking the last sentence, and

(B) in subparagraph (B), by striking ''funding improvement plan—'' and all that follows and inserting ''funding improvement plan, shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the requirements of paragraph (3), including—

''(i) one default proposal under which—

''(I) all adjustable benefits in the form of early retirement subsidies (including early reduction factors which are not provided on an actuarially equivalent basis) under the plan are eliminated, and

''(II) the future monthly benefit accrual rate under the plan is reduced to the equivalent of 1 percent of annual contributions (or, if lower, the accrual rate as of the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020) based on the contribution rate in effect as of the first day of the plan year in which the plan enters endangered status, and which may also include reduction or elimination of any other adjustable benefits under the plan, and

''(ii) any additional schedules which reduce or eliminate adjustable benefits under the plan which the plan sponsor deems appropriate to provide as an alternative to the default proposal.''.

(2) FUNDING IMPROVEMENT PLAN.—Paragraph (3) of section 305(d) of such Act (29 U.S.C. 1085(d)), as so redesignated and amended, is further amended—

(A) by striking ''For purposes of this section—'' and all that follows through ''which consists of'' in subparagraph (A) and inserting ''For purposes of this section, a funding improvement plan is a plan which consists of'', and

(B) by striking ''formulated to provide'' and all that follows and inserting ''formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to—

''(A) enable the plan to emerge from endangered status by the end of the funding improvement period, and

''(B) avoid any accumulated funding deficiencies during the funding improvement period (taking into account any extension of amortization periods under section 304(d)).''.

(3) FUNDING IMPROVEMENT PERIOD.—Paragraph (4) of section 305(d) of such Act (29 U.S.C. 1085(d)(4)), as so redesignated and amended, is further amended by striking subparagraph (B) and inserting after subparagraph (A) the following new subparagraph:

''(B) NEW PERIOD BASED ON ADVERSE EXPERIENCE.—

''(i) IN GENERAL.—If the plan's actuary determines necessary based on adverse plan experience, the plan sponsor may provide for a new 10-year period as of the first day of any plan year in the original funding improvement period, but only if the plan is still projected to meet the requirements of the funding improvement plan and emerge from endangered status at the end of the new funding improvement period.

''(ii) LIMITATION.—A plan sponsor may provide a new 10-year period under clause (i) not more than 1 time in any 20-consecutive-year period, unless the plan sponsor submits to the Secretary an application for an additional new period. Such application shall include a certification that the plan is projected to emerge from endangered status in the proposed new 10-year period and a description of key assumptions, to be specified in regulations promulgated by the Secretary in consultation with the Pension Benefit Guaranty Corporation.''.

(4) CONFORMING AMENDMENTS.—

(A) Subparagraph (C) of section 305(d)(4) of such Act (29 U.S.C. 1085(d)(4)), as so redesignated and amended, is further amended—

(i) by striking ''critical status'' both places it appears in clauses (i) and (ii) and inserting ''critical or declining status'',

(ii) by striking ''rehabilitation period'' in clause (ii) and inserting ''rehabilitation or solvency attainment period'', and

(iii) by striking ''CRITICAL STATUS'' in the heading of clause (ii) and inserting ''CRITICAL OR DECLINING STATUS''.

(B) Subsection (d) of section 305 of such Act (29 U.S.C. 1085), as so redesignated and amended, is further amended by striking paragraph (5) and by redesignating paragraphs (6), (7), and (8) as paragraphs (5), (6), and (7), respectively.

(C) Paragraph (6) of section 305(d) of such Act (29 U.S.C. 1085(d)), as so redesignated, is amended—

(i) by striking ''(1)(B)(i)(I)'' in subparagraph (A) and inserting ''(1)(B)(i)'', and

(ii) by striking ''paragraph (6)(B)'' in subparagraph (B)(ii) and inserting ''paragraph (5)(B)''.

(D) Paragraph (2) of section 305(d) of such Act (29 U.S.C. 1085(d)), as so redesignated, is amended by inserting '', except that the next update of the funding improvement plan shall fulfill the requirement of paragraph (1)(B)(i)'' after ''for a preceding plan year''.

(h) AMENDMENTS RELATING TO REHABILITATION PLAN.—

(1) IN GENERAL.—Paragraph (1) of section 305(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(f)), as redesignated and amended by this section, is further amended—

(A) by striking the last 2 sentences, and

(B) in subparagraph (B), by striking ''rehabilitation plan—'' and all that follows and inserting ''rehabilitation plan, shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the requirements of paragraph (3), including—

''(i) one default proposal under which—

''(I) all adjustable benefits in the form of early retirement subsidies (including early reduction factors which are not provided on an actuarially equivalent basis) under the plan are eliminated, and

''(II) the future monthly benefit accrual rate under the plan is reduced to the equivalent of 1 percent of annual contributions (or, if lower, the accrual rate as of the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020) based on the contribution rate in effect as of the first day of the plan year in which the plan enters critical status, and which may also include reduction or elimination of any other adjustable benefits under the plan, and

''(ii) any additional schedules which reduce or eliminate adjustable benefits under the plan which the plan sponsor deems appropriate to provide as an alternative to the default proposal.

In the case of a plan adopting a rehabilitation plan described in paragraph (3)(A)(ii), no schedule provided to or adopted by the bargaining parties shall provide for a monthly benefit accrual rate in excess of the rate described in subparagraph (B)(i)(II).''.

(2) REHABILITATION PLAN.—

(A) IN GENERAL.—Subparagraph (A) of section 305(f)(3) of such Act (29 U.S.C. 1085(f)(3)), as so redesignated, is amended—

(i) by striking ''and may include'' and all that follows through ''such actions'' in clause (i),

(ii) by inserting '', while delaying insolvency for as long as possible and maximizing the income of the plan, including income after insolvency'' before the period in clause (ii), and

(iii) by striking ''(1)(B)(i)'' in the last sentence and inserting ''(1)(B)''.

(B) CONFORMING AMENDMENTS.—Clause (i) of section 305(f)(3)(C) of such Act (29 U.S.C. 1085(f)(3)(C)), as so redesignated, is amended—

(i) by striking ''(1)(B)(i)'' in subclause (II) and inserting ''(1)(B)'', and

(ii) by striking ''the last sentence of paragraph (1)'' and inserting ''paragraph (1)(B)(i)''.

(3) REHABILITATION PERIOD.—

(A) IN GENERAL.—Subparagraph (A) of section 305(f)(4) of such Act (29 U.S.C. 1085(f)(4)), as so redesignated and amended, is further amended—

(i) by striking ''The rehabilitation period'' and inserting ''Except as otherwise provided in this subparagraph, the rehabilitation period'', and

(ii) by adding at the end the following: ''If, upon exhaustion of all reasonable measures, the plan is not reasonably expected to emerge from critical status by the end of such 10-year period, the rehabilitation period shall be extended to take into account the projected date of emergence from critical status (if the rehabilitation plan remained in effect until such date) or the projected date of insolvency (if applicable) (unless the plan enters declining status).''.

(B) EMERGENCE FROM CRITICAL STATUS.—Subparagraph (B) of section 305(f)(4) of such Act (29 U.S.C. 1085(f)(4)), as so redesignated and amended, is further amended—

(i) by inserting ''and is not in declining status,'' after the comma in clause (i)(I),

(ii) by striking subclause (III) of clause (i) and inserting the following:

''(III) the plan's projected funded percentage as of the first day of the 15th succeeding plan year is at least 100 percent and is projected to increase after such date.'',

(iii) by striking ''that—'' and all that follows through ''regardless of whether'' in clause (ii)(I) and inserting ''that the plan meets the requirements of subclauses (II) and (III) of clause (i), regardless of whether'', and

(iv) by striking ''unless—'' and all that follows in clause (ii)(II) and inserting ''unless, as of such plan year, the plan fails to meet the requirements of subclause (II) or (III) of clause (i).''.

(4) RULES RELATING TO BENEFIT INCREASES DURING REHABILITATION PERIOD.—Subparagraph (B) of section 305(g)(1) of such Act (29 U.S.C. 1085(g)(1)), as so redesignated and amended, is further amended by striking ''unless'' and all that follows and inserting ''unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law, or the amendment provides for only a de minimis increase in the liabilities of the plan.''.

(5) CONFORMING AMENDMENTS.—

(A) Paragraph (6) of section 305(f) of such Act (29 U.S.C. 1085(f)), as so redesignated, is amended by striking ''the last sentence of paragraph (1)'' and inserting ''paragraph (1)(B)(i)''.

(B) Paragraph (2) of section 305(f) of such Act (29 U.S.C. 1085(f)), as so redesignated, is amended by inserting '', except that the next update of the rehabilitation plan shall fulfill the requirement of paragraph (1)(B)(i)'' after ''for a preceding plan year''.

(i) ACTUARIAL ASSUMPTIONS.—

(1) IN GENERAL.—Subsection (n) of section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085), as redesignated by subsections (a), (d), and (e), is amended—

(A) by striking ''METHOD'' in the heading and inserting ''METHOD AND ASSUMPTIONS'', and

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

''(11) ACTUARIAL ASSUMPTIONS.—

''(A) IN GENERAL.—The actuarial assumptions relied upon for purposes of this section

by a plan actuary shall be individually reasonable and, in the aggregate, shall be reasonable and (with the exception of assumptions regarding future contributions) represent the actuary's best estimate of future plan experience, within limitations prescribed by the Secretary of the Treasury. A plan actuary shall avoid conservatism or optimism in individual assumptions to the extent that they would result in a set of assumptions that is unreasonable in the aggregate.

''(B) INVESTMENT RETURNS.—The investment return assumption for projecting plan assets may differ from the actuarial valuation interest rate. In selecting the investment return assumption for projecting plan assets, the plan actuary shall estimate the expected return of the plan's investments as currently invested and as expected to be invested in the future, consistent with the plan's adopted investment policy, if applicable. It is reasonable for an actuary to expect that the plan's investment decisions will consider risk, expected returns over time, and expected future benefit payments. The investment return assumption shall not exceed the interest rate used to determine past service liability under section 431(b)(6).

''(C) CONTRIBUTIONS.—

''(i) IN GENERAL.—The plan actuary shall develop assumptions for the projection of future contributions, including assumptions regarding industry activity among contributing employers and contribution rates, based on information provided by the plan sponsor, which must act reasonably and in good faith. The plan actuary shall certify the reasonableness of all assumptions.

''(ii) PROJECTED INDUSTRY ACTIVITY.—Any projection of activity in the industry or industries covered by the plan, including future covered employment and contribution levels, shall be based on information provided by the plan sponsor acting reasonably and in good faith.

''(iii) FUTURE CONTRIBUTION BASE UNITS.—

''(I) DECLINING CONTRIBUTION BASE UNITS.—If recent experience of the plan has been declining contribution base units, the plan actuary may assume future contribution base units will continue to decline at the same annualized trend as over the 5 immediately preceding plan years, unless the actuary determines that there have been significant changes that would make such assumption unreasonable.

''(II) FLAT OR INCREASING CONTRIBUTION BASE UNITS.—If recent experience of the plan has been increasing, or neither increasing nor decreasing, contribution base units, the plan actuary may assume future contribution base units will remain unchanged indefinitely, unless the actuary determines that there have been significant changes that would make such assumption unreasonable.

''(iv) FUTURE CONTRIBUTION RATES.—

''(I) IN GENERAL.—Projections of contributions shall be based on the contribution rates consistent with the terms of collective bargaining and participation agreements currently in effect.

''(II) FUTURE INCREASES IN ACCORDANCE WITH CORRECTION PLANS.—If reasonable and applicable, the plan actuary may assume future increases in contribution rates consistent with the adopted funding improvement plan, rehabilitation plan, or solvency plan.

''(III) ADDITIONAL FACTORS.—Information provided by the plan sponsor to the plan actuary in setting the assumption regarding future increases in contribution rates shall take into account the ability of the participating employers to make contributions at the scheduled rates over time, considering relevant factors such as projected industry activity, the financial strength of participating employers, market competition, and the scheduled contribution rate to the plan relative to the overall wage package.

''(D) ASSUMPTIONS FOR DEVELOPING SCHEDULES.—All schedules under any funding improvement plan, rehabilitation plan, or solvency plan must be developed based on the same set of actuarial assumptions unless it would be unreasonable to do so, taking into account the anticipated impact of the schedules on participant behavior and employer participation.''.

(2) ADDITIONS TO FORM 5500 SCHEDULE MB.—Subparagraph (B) of section 305(b)(5) of such Act (29 U.S.C. 1085(b)(5)), as redesignated and amended by this section, is further amended by adding at the end the following new clause:

''(vi) ADDITIONAL ATTACHMENTS.—The plan actuary shall attach to the certification required under subparagraph (A)—

''(I) documentation supporting the certification of status under subparagraph (A)(i), including projections of the funding standard account, funded percentage, and solvency of the plan,

''(II) a clear description of the key assumptions used in performing the projections, including investment returns, contribution base units, and contribution rates,

''(III) a 5-year history of contributions, including contribution base units, average contribution rates, and withdrawal liability payments, and a comparison of such contribution base units, rates, and payments to projections made by the plan, and

''(IV) an alternate projection of the funding standard account, funded percentage, and solvency, based on the following assumptions:

''(aa) Annual future investment returns on plan assets equal the actuarial interest rate assumption minus 1 percent.

''(bb) Future contribution base units projected using a trend equal to the lesser of—

''(AA) the annualized trend of actual contribution base units over the 5 preceding plan years, and

''(BB) no change in future contribution base units.

''(cc) No increases in future contribution rates beyond those consistent with the collective bargaining agreements and participation agreements in effect for the plan year.

''(dd) The withdrawal from the plan of the employer which has contributed the greatest total amount of contributions over the 5 preceding plan years, if such employer has contributed at least 10 percent of the total contributions to the plan over such 5 plan years and such employer has a below investment grade credit rating (but only if obtaining the credit rating of such employer is not an undue burden).

''(ee) If such credit rating cannot be obtained without undue burden, the withdrawal of the employer which has contributed the greatest total amount of contributions over the 5 preceding plan years, if such employer has contributed at least 10 percent of the total contributions to the plan over such 5 plan years without regard to collection of any withdrawal liability.

''(ff) If no employer has contributed at least 10 percent of the total contributions to the plan over the 5 preceding plan years, the withdrawal of the employer which contributed the greatest total amount of contributions for the current plan year, without regard to collection of any withdrawal liability, unless the employer contributed less than 1 percent of the total contributions to the plan for such plan year.

''(gg) Other assumptions consistent with the projection based on the actuary's best estimate assumptions.''.

(3) CONFORMING AMENDMENTS.—

(A) Section 305(b)(5)(B)(i) of such Act (29 U.S.C. 1085(b)(5)(B)(i)), as redesignated by this section, is amended by striking ''assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(B) Section 305(b)(5)(A)(vi) of such Act (29 U.S.C. 1085(b)(5)(A)(vi), as amended by this section and section 321, is further amended by striking ''reasonable actuarial assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(C) Paragraph (3) of section 305(d) of such Act (29 U.S.C. 1085(d)), as amended by subsection (g), is further amended by striking ''reasonable actuarial assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(D) Clause (i) of section 305(f)(3)(A) of such Act (29 U.S.C. 1085(f)(3)(A)), as amended by subsection (h), is further amended by striking ''reasonable actuarial assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(E) Section 305(h)(3) of such Act (29 U.S.C. 1085(h)(3)), as added by subsection (d), is amended by striking ''reasonable actuarial assumptions'' and inserting ''assumptions meeting the requirements of subsection (n)(11)''.

(j) CONFORMING AMENDMENTS RELATING TO PREMIUMS.—Paragraph (10) of section 4006(a) of such Act (29 U.S.C. 1306(a)), as added by this Act, is amended—

(1) by striking ''305(b)(7)'' in subparagraph (B)(iii) thereof and inserting ''305(b)(4)'',

(2) by striking ''critical and declining'' in subparagraph (B)(iii) thereof and inserting ''declining'', and

(3) by striking ''305(f)(9)'' in subparagraph (C) and inserting ''305(h)(8)''.

(k) CONFORMING AMENDMENTS RELATING TO COMPOSITE AND LEGACY PLANS.—

(1) Sections 203(a)(3)(E)(ii), 204(b)(1)(B)(i), 204(b)(1)(H)(v), and 204(g)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(E)(ii), 1054(b)(1)(B)(i), 1054(b)(1)(H)(v), and 1054(g)(1)), as amended by title V, are each further amended by striking ''305(f)'' each place it appears and inserting ''305(h)(8)''.

(2) Sections 304(b)(10), 805(d)(2)(D), and 805(d)(4) of such Act, as added by title V, are each amended by striking ''endangered or critical'' and inserting ''endangered, critical, or declining''.

(3) Section 801(b)(1) of such Act, as so added, is amended by striking ''endangered or critical'' both places it appears and inserting ''endangered, critical, or declining''.

(4) Sections 801(b)(1), 801(b)(5)(B), 805(b)(1)(A), and 805(e)(3) of such Act, as so added, are each amended by striking ''305(b)(4)'' and inserting ''305(b)(5)''.

(5) Sections 801(b)(5)(B) and 805(b)(1)(A) of such Act, as so added, are each amended by striking ''endangered or critical'' and inserting ''endangered, critical, or declining''.

(6) Section 802(b)(1) of such Act, as so added, is amended by striking ''and'' at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting ''; and'', and by adding at the end the following new subparagraph:

''(D) consistent with the principles of subparagraphs (B), (C), and (D) of section 305(n)(11).''.

(7) Sections 802(b)(5) and 805(d)(2)(A) of such Act, as so added, are each amended by striking ''305(b)(4)(B)'' and inserting ''305(b)(5)(B)''.

(8) Section 803(a)(2)(D) of such Act, as so added, is amended by striking ''305(f)(9)(D)(vi)'' and inserting ''305(h)(8)(D)(vi)''.

(9) Section 803(a)(3) of such Act, as so added, is amended by striking ''305(f)(8)'' and inserting ''305(m)(1)(D)''.

(10) Section 805(d)(2)(D) of such Act, as so added and amended, is further amended by striking ''funding improvement or rehabilitation plan'' and inserting ''funding improvement, rehabilitation, or solvency plan''.

(l) ADDITIONAL CONFORMING AMENDMENTS.—

(1) Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)) is amended—

(A) in paragraph (7)(B), as added by section 322, by striking ''305(b)(4)(D)'' and inserting ''305(b)(5)(D)'', and

(B) in paragraph (14), as so added and as redesignated by section 501—

(i) by striking ''305(b)(4)(D)'' in subparagraph (A) and inserting ''305(b)(5)(D)'', and

(ii) by striking ''305(b)(4)'' in subparagraph (B) and inserting ''305(b)(5)''.

(2) Section 4003(g) of such Act (29 U.S.C. 1303(g)), as added by section 321, is amended by striking ''section 305(b)(4)(A)'' and inserting ''section 305(b)(5)(A)''.

(3) Section 4042(b)(2)(B)(i) of such Act (29 U.S.C. 1342(b)(2)(B)), as added by section 301, is amended—

(A) by striking ''critical and declining'' and inserting ''declining'', and

(B) by striking ''(7)'' and inserting ''(4)''.

(m) EFFECTIVE DATE.—Except as otherwise provided in subsection (a)(7), the amendments made by this section shall apply to plan years beginning after December 31, 2020.

(n) CREDIT RATINGS.—No requirement of section 939 or 939A of the Dodd-Frank Wall Street Reform and Consumer Protection Act (124 Stat. 1887; 15 U.S.C. 78o–7 note) shall apply with respect to the amendment made by subsection (i)(2).

SEC. 213. TRANSITION RULES.

(a) PLANS IN ENDANGERED STATUS.—

(1) IN GENERAL.—In the case of a multiemployer plan which is in endangered status as of the date of the enactment of this Act, and is on schedule as of such date to meet the applicable benchmarks in accordance with the plan's funding improvement plan—

(A) ELECTION TO APPLY LAW BEFORE AMENDMENT.—The plan sponsor may elect to remain in endangered status and to apply section 432 of the Internal Revenue Code of 1986 and section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085) as in effect before January 1, 2021, to the plan, but only if the plan continues to meet such applicable benchmarks.

(B) TRANSITIONAL EFFECTIVE DATE.—If the plan sponsor does not make the election under paragraph (1)—

(i) section 432 of such Code and section 305 of such Act as in effect on January 1, 2021, shall apply to such plan as of the first day of the first plan year beginning after December 31, 2020, and

(ii) section 432(d)(1)(B)(i)(II) of such Code and section 305(d)(1)(B)(i)(II) of such Act, as amended by sections 211(g) and 212(g), respectively, shall each apply to such plan by substituting ''the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020'' for ''the first day of the plan year in which the plan enters endangered status''.

In the case of any plan with respect to which the plan sponsor makes the election under subparagraph (A) but which fails to continue to meet the applicable benchmarks under the funding improvement plan, this subparagraph shall apply to such plan by substituting ''the plan year after the first plan year for which the plan fails to meet the applicable benchmarks'' for ''the first plan year beginning after December 31, 2020''.

(2) PLANS ENTERING ENDANGERED STATUS BETWEEN ENACTMENT AND JANUARY 1, 2021.—In the case of a multiemployer plan which enters endangered status after the date of the enactment of this Act and before January 1, 2021—

(A) section 432 of such Code and section 305 of such Act as in effect on January 1, 2021, shall apply to such plan as if already in effect, and

(i) section 432(d)(1)(B)(i)(II) of such Code and section 305(d)(1)(B)(i)(II) of such Act, as amended by sections 211(g) and 212(g), respectively, shall each apply to such plan by substituting ''the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020'' for ''the first day of the plan year in which the plan enters endangered status''.

(b) PLANS IN CRITICAL OR CRITICAL AND DECLINING STATUS.—

(1) IN GENERAL.—In the case of a qualified critical multiemployer plan—

(A) ELECTION TO APPLY LAW BEFORE AMENDMENT.—The plan sponsor may elect to remain in critical or critical and declining status and to apply section 432 of the Internal Revenue Code of 1986 and section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085) as in effect before January 1, 2021, to the plan, but only if the plan continues to make scheduled progress under the plan's rehabilitation plan.

(B) TRANSITIONAL EFFECTIVE DATE.—If the plan sponsor does not make the election under paragraph (1)—

(i) section 432 of such Code and section 305 of such Act as in effect on January 1, 2021, shall apply to such plan as of the first day of the first plan year beginning after December 31, 2020,

(ii) section 432(f)(1)(B)(i)(II) of such Code and section 305(f)(1)(B)(i)(II) of such Act, as amended by sections 211(h) and 212(h), respectively, shall each apply to such plan by substituting ''the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020'' for ''the first day of the plan year in which the plan enters critical status'', and

(iii) section 432(h)(1)(B)(i)(II) of such Code and section 305(h)(1)(B)(i)(II) of such Act, as amended by sections 211(d)(3) and 212(d)(3), respectively, shall each apply to such plan by substituting ''the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020'' for ''the first day of the plan year in which the plan enters declining status''.

In the case of any plan with respect to which the plan sponsor makes the election under subparagraph (A) but which fails to continue to make scheduled progress under the rehabilitation plan, this subparagraph shall apply to such plan by substituting ''the plan year after the first plan year for which the plan fails to make scheduled progress under the rehabilitation plan'' for ''the first plan year beginning after December 31, 2020''.

(C) APPLICATION OF PREMIUM AMENDMENTS.—A plan with respect to which the plan sponsor makes the election under subparagraph (A) shall be treated as described in clause (iii) of section 4006(a)(10)(B) of the Employee Retirement Income Security Act of 1974 until such time as the plan emerges from critical and declining status pursuant to section 432 of such Code and section 305 of such Act as in effect before January 1, 2021.

(2) PLANS ENTERING CRITICAL OR CRITICAL AND DECLINING STATUS BETWEEN ENACTMENT AND JANUARY 1, 2021.—In the case of a multiemployer plan which enters critical or critical and declining status after the date of the enactment of this Act and before January 1, 2021—

(A) section 432 of such Code and section 305 of such Act as in effect on January 1, 2021, shall apply to such plan as if already in effect,

(B) section 432(f)(1)(B)(i)(II) of such Code and section 305(f)(1)(B)(i)(II) of such Act, as amended by sections 211(h) and 212(h), respectively, shall each apply to such plan by substituting ''the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020'' for ''the first day of the plan year in which the plan enters critical status'', and

(C) section 432(h)(1)(B)(i)(II) of such Code and section 305(h)(1)(B)(i)(II) of such Act, as amended by sections 211(d)(3) and 212(d)(3), respectively, shall each apply to such plan by substituting ''the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020'' for ''the first day of the plan year in which the plan enters declining status''.

(3) QUALIFIED CRITICAL MULTIEMPLOYER PLAN.—For purposes of this subsection, the term ''qualified critical multiemployer plan'' means a multiemployer plan which is in critical or critical and declining status as of the date of the enactment of this Act, and is making scheduled progress under the plan's rehabilitation plan, but only if the rehabilitation plan (as in effect without regard to the amendments made by this Act) targets emergence from critical status not later than 3 years after the end of the rehabilitation period as in effect with respect to such plan on the date of the enactment of this Act.

(c) ELECTION.—

(1) IN GENERAL.—An election under subsection (a)(1)(A) or (b)(1)(A) shall be made—

(A) by notice to the Secretary of the Treasury and the Pension Benefit Guaranty Corporation, in such manner as the Secretary of the Treasury may prescribe,

(B) not later than the due date for the notice of endangered status or critical status for the first plan year beginning after December 31, 2020.

(2) PERIODS AFTER ELECTION.—After making a timely election under paragraph (1)—

(A) the plan sponsor shall annually review and update (if necessary) the plan's funding improvement plan or rehabilitation plan, and

(B) the plan actuary shall certify annually whether the plan is making scheduled progress under the funding improvement plan or rehabilitation plan.

(d) DEFINITIONS.—Any term used in this section which is also used in section 432 of the Internal Revenue Code of 1986 or section 305 of the Employee Retirement Income Security Act of 1974 (before or after the amendments made by this Act) shall have the same meaning as when used in such sections.

PART II—PROVISIONS RELATING TO PLAN MERGERS

SEC. 221. PROVISIONS RELATING TO PLAN MERGERS AND CONSOLIDATIONS.

(a) IN GENERAL.—Section 4231(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1411(c)) is amended—

(1) by striking ''section 406(a) or section 406(b)(2)'' and inserting ''section 404, 406(a), or 406(b)(2)'', and

(2) by adding at the end the following: ''The corporation shall prescribe safe harbor provisions whereby a merger of multiemployer plans or the transfer of assets or liabilities between multiemployer plans, where one of the plans is in critical and declining status pursuant to section 305 and one is in stable or unrestricted status pursuant to such section, shall be deemed to satisfy the requirements of this section. Notwithstanding the preceding sentences, the implementation of such merger or transfer shall be subject to the rules of section 404.''.

(b) CALCULATION OF WITHDRAWAL LIABILITY.—

(1) IN GENERAL.—Section 4231 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1411) is amended by adding at the end the following new subsection:

''(f) CALCULATION OF WITHDRAWAL LIABILITY POST-MERGER.—The corporation shall

prescribe the methods and conditions under which employers contributing to plans which are in stable or unrestricted status under section 305 when such plan merges with a plan in declining status under such section will not be allocated the unfunded vested benefits of the plan in declining status (as determined immediately before the merger).''.

(2) EFFECTIVE DATE.—The amendment made by this section shall apply to plan mergers after December 31, 2020.

SEC. 222. CLARIFICATION OF PBGC FINANCIAL ASSISTANCE FOR PLAN MERGERS AND PARTITIONS.

(a) IN GENERAL.—Paragraph (2) of section 4231(e) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1411(e)) is amended—

(1) by striking the semicolon in subparagraph (B)(ii) and inserting '', determined solely with respect to the liabilities and assets of the plan which was in critical and declining status prior to the merger; and''; and

(2) by striking subparagraph (C) and redesignating subparagraph (D) as subparagraph (C).

(b) PARTITIONS.—Section 4233(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1413(b)) is amended by striking paragraph (4), by adding ''and'' at the end of paragraph (3)(B), and by redesignating paragraph (5) as paragraph (4).

(c) CONFORMING AMENDMENT RELATING TO STATUS CHANGES.—Section 4231(e)(2)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1411(e)(2)(B)(ii)), as amended by subsection (a), is further amended by striking ''critical and declining'' and inserting ''declining''.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall apply to plan mergers and partitions taking effect after the date of the enactment of this Act.

(2) CONFORMING AMENDMENT.—The amendment made by subsection (c) shall apply to plan mergers taking effect in plan years beginning after December 31, 2020.

SEC. 223. RESTORATION NOT REQUIRED FOR CERTAIN MERGERS.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Clause (ii) of section 432(f)(9)(C) of the Internal Revenue Code of 1986, as redesignated by section 211(a) and as in effect before the amendments made by section 211 other than subsection (a) thereof, is amended by adding at the end the following flush language:

''If, during the period of the benefit suspension, the plan merges with a plan which is in stable or unrestricted status, nothing in this clause shall be construed to require the plan formed by the merger to restore the suspension of benefits.''.

(b) AMENDMENT OF ERISA.—Clause (ii) of section 305(f)(9)(C) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(f)(9)(C)), as redesignated by section 212(a) and as in effect before the amendments made by section 212 other than subsection (a) thereof, is amended by adding at the end the following flush language:

''If, during the period of the benefit suspension, the plan merges with a plan which is in stable or unrestricted status, nothing in this clause shall be construed to require the plan formed by the merger to restore the suspension of benefits.''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply to plan mergers taking effect after the date of the enactment of this Act.

PART III—WITHDRAWAL LIABILITY REFORM

SEC. 231. WITHDRAWAL LIABILITY REFORM.

(a) WITHDRAWAL LIABILITY DEFINITION.—Section 4201(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381(b)(1)) is amended to read as follows:

''(1) DETERMINATION OF WITHDRAWAL LIABILITY.—

''(A) IN GENERAL.—The withdrawal liability of an employer to a plan is the applicable amount determined under subparagraph (B), adjusted—

''(i) first, in the case of a partial withdrawal, in accordance with section 4206;

''(ii) second, by any de minimis reduction applicable under section 4209; and

''(iii) third, in accordance with section 4225.

''(B) APPLICABLE AMOUNT.— The applicable amount determined under this subparagraph is the lesser of—

''(i) the amount determined under section 4211 to be the allocable amount of unfunded vested benefits; or

''(ii) the present value of a series of 20 equal annual payments in the amount determined with respect to the employer under section 4219(c)(1)(C).

In the case of an employer withdrawing from a multiemployer plan described in subparagraph (C), clause (i) shall be applied by substituting '25' for '20'.

''(C) PLANS FOR WHICH 25 PAYMENTS REQUIRED.—

''(i) IN GENERAL.—A multiemployer plan is described in this subparagraph if the plan—

''(I) is certified to be in declining status (or, for plan years prior to 2021, in critical or declining status) for the plan year in which the employer's withdrawal occurs; or

''(II) terminates as described in section 4041A(a) or 4042.

''(ii) SPECIAL RULE FOR TERMINATIONS.—Clause (i)(II) shall apply to each employer who withdraws from a plan during a period of 3 consecutive plan years that includes the withdrawal of every employer from the plan, or the cessation of the obligation of all employers to contribute under the plan, as described in section 4041A(a)(2). For purposes of this clause, withdrawal by an employer from a plan, during a period of 3 consecutive plan years within which substantially all the employers who have an obligation to contribute under the plan withdraw, shall be presumed to be a withdrawal pursuant to an agreement or arrangement, unless the employer proves otherwise by a preponderance of the evidence.

''(D) PRESENT VALUE.—For purposes of subparagraph (B)(ii), the present value of the annual payments shall be determined based on the assumptions used for the most recent actuarial valuation for the plan used to determine unfunded past service liability for funding purposes.''.

(b) DE MINIMIS RULE.—Section 4209 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1389) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''unfunded vested benefits allocable under section 4211 to'' and inserting ''applicable amount determined under section 4201(b)(1)(B) with respect to'';

(B) in paragraph (2), by striking ''$50,000'' and inserting ''$100,000''; and

(C) in the flush text following paragraph (2)—

(i) by striking ''the unfunded vested benefits'' and inserting ''such applicable amount''; and

(ii) by striking ''$100,000'' and inserting ''$200,000'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''amount determined under section 4211'' and inserting ''applicable amount determined under section 4201(b)(1)(B) with respect to an employer'';

(B) in paragraph (2)(B), by striking ''$100,000'' and inserting ''$250,000''; and

(C) in the flush text at the end—

(i) by striking ''the amount determined under section 4211 for'' and inserting ''such applicable amount with respect to''; and

(ii) by striking ''$150,000'' and inserting ''$500,000''.

(c) PAYMENT OF WITHDRAWAL LIABILITY.—Section 4219(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1399(c)(1)) is amended—

(1) by striking so much of paragraph (1) as precedes subparagraph (C) and inserting:

''(1)(A)(i) Subject to subparagraph (B), an employer shall pay its liability determined under section 4201(b)(1) in level annual payments determined under subparagraph (C) over the applicable period of years determined under clause (ii), calculated as if the first payment were made on the first day of the plan year following the plan year in which the withdrawal occurs and as if each subsequent payment were made on the first day of each subsequent plan year. Actual payment shall commence in accordance with paragraph (2).

''(ii) For purposes of clause (i), if the applicable amount used under section 4201(b)(1)(A) is the amount determined—

''(I) under section 4201(b)(1)(B)(i), the applicable period of years is the period of years necessary to amortize such amount in level annual payments determined under subparagraph (C), or

''(II) under section 4201(b)(1)(B)(ii), the applicable period of years is 20 years (25 years if the plan is described in section 4201(b)(1)(C)).

''(iii) For purposes of clause (ii)(I), the determination of the amortization period described in clause (i) shall be based on the assumptions used for the most recent actuarial valuation for the plan to determine unfunded past service liability for funding purposes.

''(B)(i) If any adjustment is required to the withdrawal liability amount by reason of clause (i), (ii), or (iii) of section 4210(b)(1)(A), modifications shall be made under subparagraph (A) to reflect such adjustments in accordance with this subparagraph and in such manner as the corporation shall provide.

''(ii) In the case of a partial withdrawal described in section 4205(a), the amount of each annual payment shall be the product of—

''(I) the amount determined under subparagraph (C) (determined without regard to this subparagraph), multiplied by

''(II) the fraction determined under section 4206(a)(2).

''(iii) In the case of a de minimis reduction under section 4209, the period of years described in subparagraph (A)(ii)(I) shall be adjusted so that the withdrawal liability amount, as reduced under such section, is amortized in level annual payments determined under subparagraph (C).''.

(2) in subparagraph (C)—

(A) in clause (i)(I)—

(i) by striking ''3'' and inserting ''5''; and

(ii) by striking ''10'' and inserting ''20''; and

(B) by striking clause (iii);

(3) by striking subparagraphs (D) and(E) and inserting the following:

''(D)(i) In the case of a subsequent partial withdrawal or a complete withdrawal that was preceded by one or more partial withdrawals, the amount of the annual payment with respect to the subsequent partial withdrawal or complete withdrawal shall be reduced by the amounts of the payments determined under subparagraph (B)(ii) with respect to each of the preceding partial withdrawals.

''(ii) The amount of any reductions described in clause (i) shall be phased out consistent with the method and period of time being used by the plan to allocate unfunded vested benefits under section 4211.

''(iii) The corporation may prescribe regulations as may be necessary to provide for proper adjustments in the reduction in the payment amount under clauses (i) and (ii).''.

(d) AMENDMENT OF PLAN.—Section 4211(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1391(c)(1)) is amended—

(1) by inserting ''(A)'' after ''(c)(1)'',

(2) by striking ''(b) or (d). A plan'' and inserting ''(b) or (d).

''(B) A multiemployer plan'', and

(3) by striking '', to the extent provided'' and all that follows and inserting ''to provide—

''(i) that the amount of the unfunded vested benefits allocable to an employer that withdraws from the plan is an amount determined under paragraph (5) of this subsection, rather than under subsection (b), or

''(ii) to the extent provided in regulations prescribed by the corporation, that the amount of the unfunded vested benefits allocable to an employer not described in section 4203(b)(1)(A) shall be determined in a manner different from that provided in subsection (b).''.

TITLE III—PLAN GOVERNANCE, DISCLOSURE, AND OTHER REFORMS FOR MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS

Subtitle A—Plan Governance and Operations for Multiemployer Plans

SEC. 301. INDEPENDENT TRUSTEES.

Section 4042 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking ''a plan'' and inserting ''a single-employer or multiemployer plan'';

(B) in paragraph (3)—

(i) by inserting ''with respect to a single-employer plan'' before the comma; and

(ii) by striking ''or'';

(C) in paragraph (4), by striking the period at the end and inserting '', or''; and

(D) by inserting after paragraph (4) the following:

''(5) in the case of a multiemployer plan—

''(A) such plan is an eligible multiemployer plan as defined in section 4233A which fails to apply for a special partition under such section, or

''(B) termination of the plan would protect the interests of participants and beneficiaries.'';

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in subparagraph (A)—

(I) by inserting ''or remove'' after ''appoint'',

(II) by inserting ''or removal'' after ''appointment'', and

(III) by striking ''and'' at the end;

(ii) by striking subparagraph (B) and inserting the following:

''(B) upon the petition of the corporation, the appropriate United States district court shall appoint a trustee proposed by the corporation for—

''(i) any multiemployer plan which is in critical status or critical and declining status (as defined in paragraph (3) or (7), respectively, of section 305(b)), if the court finds the appointment of the trustee would help prevent an abuse of the multiemployer insurance program or any unreasonable increase in the liability of the fund, and

''(ii) any multiemployer plan which has terminated under section 4041A(a), unless a party opposing appointment of a trustee shows that such appointment would be materially adverse to the interests of the plan participants and beneficiaries in the aggregate, and''; and

(iii) by adding at the end the following:

''(C) in the case of a special partition of a plan under section 4233A, the corporation may remove and appoint trustees subject to the provisions of paragraph (5).''; and

(B) by adding at the end the following:

''(4)(A) A trustee appointed to a multiemployer plan under paragraph (2)(B), (2)(C), or (3) shall report plan activity to the corporation, in the form and manner provided for in the judicial or administrative order or agreement appointing the trustee. A trustee so appointed may remain a trustee engaged in the ongoing governance of a multiemployer plan whether or not the corporation initiates plan termination proceedings under subsection (c).

''(B) Notwithstanding plan or trust documents to the contrary, in addition to any powers described in subsection (d), the order or agreement appointing a trustee under paragraph (2)(B), (2)(C), or (3) may include authority for the corporation to monitor and oversee plan activity and to review and approve trustee decisions related to funding or financial activities of the plan.

''(5)(A) The corporation may remove any trustees of an original plan that received a special partition under section 4233A if the corporation determines that the actions of such trustees unreasonably increased the risk of loss to participants in the plan or to the corporation, and may appoint 1 or more new trustees as replacements.

''(B) The corporation may appoint a special master, which may be an employee of the corporation, the duties of whom shall be disclosed to participants and contributing employers in accordance with regulations to be issued by the corporation, with respect to each original plan, as defined in section 4233A. Such special master shall be invited to every meeting of the plan's board of trustees or any committees thereof; shall be furnished any requested actuarial or financial information by the plan or agents thereof; shall receive all creditable complaints or other information from participants, beneficiaries, employers, plan employees and contractors, and any other person regarding the plan's operations; and shall furnish the corporation with semiannual reports of the board's activities, the plan's performance, and the potential liabilities of the corporation with respect to the plan. The trustees shall provide the special master with not less than 30 days notice prior to taking any action that could increase the risk of loss to the corporation, and the special master shall report such potential action to the corporation within 5 days of receiving such notice from the trustees.'';

(3) in subsection (c)(1)—

(A) in the second sentence, by striking ''subsection (b)'' and inserting ''subsection (b)(1)''; and

(B) in the third sentence, by inserting '', including, in the case of a multiemployer plan, by requiring the withdrawal of employers'' before the period; and

(4) in subsection (d)(1)—

(A) in subparagraph (A), by striking ''subsection (b)'' in the second sentence and inserting ''subsection (b)(1)''; and

(B) in subparagraph (B), by striking ''If'' and inserting ''If a trustee is appointed under paragraph (2) or (3) of subsection (b), or if''.

SEC. 302. INVESTIGATORY AUTHORITY.

Section 4003(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303(a)) is amended to read as follows:

''(a)(1) The corporation may, in its discretion, investigate any facts, conditions, practices, or matters as the corporation determines necessary or proper to aid in—

''(A) the enforcement of any provision of this title or any rule or regulation thereunder;

''(B) the prescribing of rules and regulations under this title; or

''(C) evaluating the corporation's liability or potential liability with respect to a plan.

''(2) Any information or documentary material submitted to the corporation pursuant to this section, if clearly designated by the person making the submission as confidential (on each page in the case of a document, and in the file name in the case of a digital file), shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding, including an informal rulemaking.

''(3) The corporation may require or permit any person to submit a statement in writing, under oath or otherwise as the corporation determines, as to all facts and circumstances concerning the matter to be investigated.

''(4) The corporation shall annually audit a statistically significant number of plans terminating under section 4041(b) to determine whether participants and beneficiaries have received their benefit commitments and whether section 4050(a) has been satisfied. Each audit shall include a statistically significant number of participants and beneficiaries.''.

SEC. 303. CONDITIONS ON FINANCIAL ASSISTANCE.

(a) IN GENERAL.—Section 4261(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431(b)) is amended—

(1) in paragraph (1), by striking the period at the end and inserting '', or to prevent an abuse of the multiemployer insurance program or any unreasonable increase in the liability of the fund. The corporation shall provide the plan sponsor written notice of each condition on financial assistance and a written explanation of its determination. If the sponsor fails to satisfy timely a condition on financial assistance, the corporation may withhold financial assistance until the condition is satisfied.''; and

(2) by adding at the end the following:

''(3) The conditions described in paragraph (1) may include an offset for the guaranteed benefits of a participant whose benefit in excess of the benefit guaranteed under this title is provided by another plan, or in the case of a plan that has not yet terminated, the cessation of future accruals or a requirement that contribution amounts or annual withdrawal liability payment amounts under section 4219 be maintained as if the employer had withdrawn on the date of insolvency.''.

(b) CONFORMING AMENDMENT.—Section 4261(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1431(a)) is amended by striking ''section 4245(f) or section 4281(d)'' and inserting ''section 4245(e) or 4281''.

SEC. 304. EXCISE TAX ON EXCESS COMPENSATION OF COVERED EMPLOYEES OF PARTITIONED MULTIEMPLOYER PLANS.

(a) IN GENERAL.—Chapter 43 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

''SEC. 4980I. TAX ON EXCESS COMPENSATION OF COVERED EMPLOYEES OF PARTITIONED MULTIEMPLOYER PLANS.

''(a) TAX IMPOSED.—In the case of an applicable multiemployer plan, there is hereby imposed an excise tax for each plan year in an amount equal to the product of—

''(1) the rate of tax under section 11 for taxable years beginning in the calendar year in which such plan year begins, and

''(2) so much of the remuneration paid by the applicable multiemployer plan for the plan year with respect to employment of any covered employee as exceeds $500,000.

For purposes of the preceding sentence, remuneration shall be treated as paid when

there is no substantial risk of forfeiture (within the meaning of section 457(f)(3)(B)) of the rights to such remuneration.

''(b) LIABILITY FOR TAX.—The applicable multiemployer plan shall be liable for the tax imposed under subsection (a).

''(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

''(1) APPLICABLE MULTIEMPLOYER PLAN.—The term 'applicable multiemployer plan' means any multiemployer plan which is an original plan (as defined in section 4233A(d)(3) of the Employee Retirement Income Security Act of 1974) with respect to a multiemployer plan which was partitioned pursuant to an order by the Pension Benefit Guaranty Corporation under section 4233A of such Act.

''(2) COVERED EMPLOYEE.—The term 'covered employee' means any employee (including any former employee) of an applicable multiemployer plan if the employee—

''(A) is one of the 5 highest compensated employees of the plan for the plan year, or

''(B) was a covered employee of the organization (or any predecessor) for any preceding plan year beginning after the date of the enactment of this section.

''(3) REMUNERATION.—The term 'remuneration' means wages (as defined in section 3401(a)).

''(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to prevent avoidance of the tax under this section, including regulations to prevent avoidance of such tax through the performance of services other than as an employee or by providing compensation through a pass-through or other entity (including a related entity) to avoid such tax.''.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 43 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''Sec. 4980I. Tax on excess compensation of covered employees of partitioned multiemployer plans.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of enactment of this Act.

Subtitle B—Reportable Events for Multiemployer Plans

SEC. 311. REPORTABLE EVENTS.

(a) ADDITIONAL REPORTABLE EVENTS.—

(1) IN GENERAL.—Section 4043(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1343(c)) is amended by striking ''or'' at the end of paragraph (12), by redesignating paragraph (13) as paragraph (17), and by inserting after paragraph (12) the following new paragraphs:

''(13) when the plan sponsor of a multiemployer plan, or such sponsor's delegate, convenes or otherwise takes action to adopt any amendment (or accepts any collective bargaining agreement) that would exclude newly hired employees from participation in the plan, or any amendment (or agreement) that would substantially reduce the rate of future benefit accruals or the contribution rate for any participants under the plan;

''(14) when—

''(A) the plan sponsor of a multiemployer plan, or such sponsor's delegate, convenes or otherwise takes action to adopt; or

''(B) the plan sponsor receives notice under subsection (f) or otherwise becomes aware that the bargaining parties have negotiated an agreement to adopt;

a new pension plan, including any plan a trust forming part of which is a qualified trust under section 401(a) of the Internal Revenue Code of 1986 and any plan treated as a welfare plan by reason of section 3(2)(B)(ii), the expected participants of which are expected to substantially overlap with the active participants in a preexisting plan;

''(15) when an event pertaining to a multiemployer plan occurs that is prescribed by the corporation in regulations, if the event materially jeopardizes the security of participant benefits or the financial condition of the plan, or is likely to increase the risk of loss to the corporation;

''(16) when a multiemployer plan has, or will foreseeably have, only one trustee or no trustees on its board; or''.

(2) NOTIFICATION BY BARGAINING PARTIES.—Section 4043 of such Act (29 U.S.C. 1343) is amended by redesignating subsection (f) as subsection (g), and by inserting after subsection (e) the following new subsection:

''(f) NOTIFICATION BY BARGAINING PARTIES.—Not later than 60 days prior to the adoption of a new pension plan described in subsection (c)(14), the bargaining parties shall notify the plan sponsor of the negotiation of an agreement to adopt such plan.''.

(3) CONFORMING AMENDMENT.—Section 4043(b)(3) of such Act (29 U.S.C. 1343(b)(3)) is amended by striking ''(13)'' and inserting ''(17)''.

(b) APPLICATION TO PLANS.—

(1) IN GENERAL.—Section 4043(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1343(a)) is amended by inserting '', plan sponsor (in the case of a multiemployer plan),'' after ''plan administrator''.

(2) NOTIFICATION THAT EVENT IS ABOUT TO OCCUR.—Section 4043(b) of such Act (29 U.S.C. 1343(b)) is amended—

(A) in paragraph (1)—

(i) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by moving such clauses 2 ems to the right;

(ii) by striking ''shall be applicable to a contributing sponsor'' and inserting ''shall be applicable—

''(A) to any plan sponsor of a multiemployer plan; and

''(B) to any contributing sponsor''; and

(iii) in the last sentence, by striking ''subparagraph (B)'' and inserting ''clause (ii)'';

(B) by striking ''This subsection'' in paragraph (2) and inserting ''In the case of a single-employer plan, this subsection'';

(C) by striking ''any contributing sponsor'' in paragraph (4) and inserting ''any plan sponsor of a multiemployer plan or any contributing sponsor'';

(D) by redesignating paragraph (4), as so amended, as paragraph (5); and

(E) by inserting after paragraph (3) the following new paragraph:

''(4) No later than 60 days prior to an event described in paragraph (13), (14)(A), (15), or (16) of subsection (c), the plan sponsor of a multiemployer plan shall notify the corporation that the event is about to occur.''.

(c) TECHNICAL CORRECTIONS.—

(1) Section 4045(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1345(c)(1)) is amended by striking ''4043(b)(7)'' and inserting ''4043(c)(7)''.

(2) Section 4065(2) of such Act (29 U.S.C. 1365(2)) is amended by striking ''4043(b)'' and inserting ''4043(c)''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to reportable events (as defined in section 4043(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1343(c))) occurring after the date of the enactment of this Act.

Subtitle C—Funding Notices to Participants in Multiemployer Plans

SEC. 321. IMPROVED MULTIEMPLOYER PLAN DISCLOSURE.

(a) PLAN FUNDING NOTICES.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is amended—

(1) in paragraph (2)(B)—

(A) in clause (iv), by striking ''setting forth'' and inserting ''describing how a person may obtain information regarding'';

(B) by striking clauses (v) and (vi);

(C) by redesignating clauses (vii) through (xi) as clauses (v) through (ix), respectively;

(D) in clause (vi), as so redesignated—

(i) by striking ''(I) in the case of'' and inserting ''in the case of'';

(ii) by striking '', or'' and inserting a comma; and

(iii) by striking subclause (II); and

(E) by amending clause (vii), as so redesignated, to read as follows:

''(vii)(I) in the case of a single-employer plan, a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, and

''(II) in the case of a multiemployer plan, a statement that eligible benefits are guaranteed by the Pension Benefit Guaranty Corporation, and a statement of how to obtain both a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply,''; and

(2) in paragraph (4)(C)—

(A) by striking ''(C) may be provided'' and inserting ''(C)(i) subject to clause (ii), may be provided'';

(B) by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(ii) in the case of such a notice provided to the Pension Benefit Guaranty Corporation, shall be in an electronic format in such manner prescribed in regulations of such Corporation.''.

(b) DISCLOSURES BY PLANS REGARDING STATUS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 305(b)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(b)(4)), as redesignated by section 212(a) and as in effect before the amendments made by section 212 other than subsection (a) thereof, is further amended—

(A) in the paragraph heading, by striking ''BY PLAN ACTUARY'' and inserting ''AND REPORT'';

(B) by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—Not later than the 90th day of each plan year of a multiemployer plan, the plan sponsor shall file, in accordance with regulations prescribed by the ERISA agencies, a report that contains—

''(i) documentation from the plan actuary certifying to the ERISA agencies and to the plan sponsor—

''(I) whether or not the plan is in unrestricted or stable status for such plan year, whether or not the plan is in endangered status for such plan year and whether or not the plan is or will be in critical status for such plan year or any of the 5 succeeding plan years,

''(II) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan and, if not, a summary of the primary reasons the plan is not making the scheduled progress,

''(III) the funded percentage of the plan determined as of the first day of the current plan year and the value of assets and liabilities used to calculate such funded percentage,

''(IV) a projection of the funding standard account on a year-by-year basis for the current plan year and the 14 succeeding plan

years and a statement of the actuarial assumptions for such projections, and

''(V)(aa) subject to item (bb), a projection of the cash flow of the plan and actuarial assumptions for the current plan year and 14 succeeding plan years, and

''(bb) in the case in which it is certified that a multiemployer plan is or will be in endangered or critical status for a plan year, the projection of the cash flow of the plan and actuarial assumptions for the current year and 29 succeeding plan years,

''(ii) as of the last day of the prior plan year, a good faith determination of—

''(I) the fair market value of the assets of the plan,

''(II) the number of participants who are—

''(aa) retired or separated from service and are receiving benefits,

''(bb) retired or separated participants entitled to future benefits, and

''(cc) active participants under the plan,

''(III) the total value of all benefits paid during the prior plan year,

''(IV) the total value of all contributions and withdrawal liability payments made to the plan during the prior plan year, and

''(V) the total value of all investment gains or losses during the prior plan year,

''(iii) a description of any material changes during the previous plan year to the rates at which participants accrue benefits or the rate at which employers contribute,

''(iv) a copy of any funding improvement plan or rehabilitation plan, and any update thereto or modification thereof, that was adopted under this section prior to the filing of the report for the current plan year in accordance with this subparagraph and, if applicable, after the filing of the report required by this subparagraph for the prior plan year,

''(v) in the case of any plan amendment, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year (as defined in regulations by the ERISA agencies), an explanation of the amendment, scheduled increase or reduction, or event, and a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities,

''(vi) in the case of a multiemployer plan certified to be in critical status for which the plan sponsor has determined that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan cannot reasonably be expected to emerge from critical status by the end of the rehabilitation period, a description of all reasonable measures, whether or not such measures were implemented, and a summary of the consideration of such measures,

''(vii) a statement, containing the information available to the plan sponsor, describing—

''(I) the withdrawal of any employer during the prior plan year and the percentage of total contributions made by that employer during the prior plan year,

''(II) any material reduction in total contributions or withdrawal liability payments of any employers and the reason for such reduction, and a comparison to contributions projected previously,

''(III) any material reduction in the number of active plan participants and the reason for such reduction, and

''(IV) the annual withdrawal liability payment each withdrawn employer is obligated to pay to the plan for the plan year, whether that amount was collected by the plan (and if not, the amount that was collected), and the remaining years on the employer's obligation to make withdrawal liability payments, and

''(viii) such other information as may be required by the ERISA agencies by regulation.'';

(C) by striking subparagraph (C) and inserting the following:

''(C) FORM AND MANNER.—The report required by subparagraph (A) shall be filed electronically in accordance with regulations prescribed by the ERISA agencies.''; and

(D) in subparagraph (D)—

(i) by redesignating clauses (ii), (iii), (iv), and (v) as clauses (iii), (iv), (v), and (vi), respectively;

(ii) by inserting after clause (i) the following:

''(ii) PLANS IN ENDANGERED OR CRITICAL STATUS.—If it is certified under subparagraph (A) that a multiemployer plan is or will be in endangered or critical status, the plan sponsor shall include in the notice under clause (i)—

''(I) a statement describing how a person may obtain a copy of the plan's funding improvement or rehabilitation plan, as appropriate, adopted under this section and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement,

''(II) a summary of any funding improvement or rehabilitation plan, and any update thereto or modification thereof, adopted under this section prior to the furnishing of such notice,

''(III) a summary of the rules governing insolvency, including the limitations on benefit payments, and

''(IV) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.'';

(iii) in clause (v), as so redesignated—

(I) by striking ''The Secretary of the Treasury, in consultation with the Secretary'' and inserting ''The ERISA agencies''; and

(II) by striking ''(ii) and (iii)'' and inserting ''(ii), (iii), and (iv)''; and

(E) by adding at the end the following:

''(E) DESIGNATION AND COORDINATION.—The ERISA agencies shall—

''(i) designate one ERISA agency to receive the report described in subparagraph (A) on behalf of all the ERISA agencies, which shall each have full access to such report; and

''(ii) consult with each other and develop rules, regulations, practices, and forms, which to the extent appropriate for the efficient administration of the provisions of this paragraph are designed to replace duplication of effort, duplication of reporting, conflicting or overlapping requirements, and the burden of compliance with such provisions by plan administrators and plan sponsors.

''(F) ERISA AGENCIES.—In this paragraph, the term 'ERISA agencies' means the Secretary, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation.''.

(2) AMENDMENTS TO 1986 CODE.—Section 432(b)(4) of the Internal Revenue Code of 1986, as redesignated by section 211(a) and as in effect before the amendments made by section 211 other than subsection (a) thereof, is further amended—

(A) in the paragraph heading, by striking ''BY PLAN ACTUARY'' and inserting ''AND REPORT'';

(B) by amending subparagraph (A) to read as follows:

''(A) IN GENERAL.—Not later than the 90th day of each plan year of a multiemployer plan, the plan sponsor shall file, in accordance with regulations prescribed by the ERISA agencies, a report that contains—

''(i) documentation from the plan actuary certifying to the ERISA agencies and to the plan sponsor—

''(I) whether or not the plan is in unrestricted or stable status for such plan year, whether or not the plan is in endangered status for such plan year and whether or not the plan is or will be in critical status for such plan year or any of the 5 succeeding plan years,

''(II) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan and, if not, a summary of the primary reasons the plan is not making the scheduled progress,

''(III) the funded percentage of the plan determined as of the first day of the current plan year and the value of assets and liabilities used to calculate such funded percentage,

''(IV) a projection of the funding standard account on a year-by-year basis for the current plan year and the 14 succeeding plan years and a statement of the actuarial assumptions for such projections, and

''(V)(aa) subject to item (bb), a projection of the cash flow of the plan and actuarial assumptions for the current plan year and 14 succeeding plan years, and

''(bb) in the case in which it is certified that a multiemployer plan is or will be in endangered or critical status for a plan year, the projection of the cash flow of the plan and actuarial assumptions for the current year and 29 succeeding plan years,

''(ii) as of the last day of the prior plan year, a good faith determination of—

''(I) the fair market value of the assets of the plan,

''(II) the number of participants who are—

''(aa) retired or separated from service and are receiving benefits,

''(bb) retired or separated participants entitled to future benefits, and

''(cc) active participants under the plan,

''(III) the total value of all benefits paid during the prior plan year,

''(IV) the total value of all contributions and withdrawal liability payments made to the plan during the prior plan year, and

''(V) the total value of all investment gains or losses during the prior plan year,

''(iii) a description of any material changes during the previous plan year to the rates at which participants accrue benefits or the rate at which employers contribute,

''(iv) a copy of any funding improvement plan or rehabilitation plan, and any update thereto or modification thereof, that was adopted under this section prior to the filing of the report for the current plan year in accordance with this subparagraph and, if applicable, after the filing of the report required by this subparagraph for the prior plan year,

''(v) in the case of any plan amendment, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year (as defined in regulations by the ERISA agencies), an explanation of the amendment, scheduled increase or reduction, or event, and a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities,

''(vi) in the case of a multiemployer plan certified to be in critical status for which the plan sponsor has determined that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan cannot reasonably be expected to emerge from critical status by the end of the rehabilitation period, a description of all

reasonable measures, whether or not such measures were implemented, and a summary of the consideration of such measures,

''(vii) a statement, containing the information available to the plan sponsor, describing—

''(I) the withdrawal of any employer during the prior plan year and the percentage of total contributions made by that employer during the prior plan year, and a comparison to contributions projected previously.

''(II) any material reduction in total contributions or withdrawal liability payments of any employers and the reason for such reduction,

''(III) any material reduction in the number of active plan participants and the reason for such reduction, and

''(IV) the annual withdrawal liability payment each withdrawn employer is obligated to pay to the plan for the plan year, whether that amount was collected by the plan (and if not, the amount that was collected), and the remaining years on the employer's obligation to make withdrawal liability payments, and

''(viii) such other information as may be required by the ERISA agencies by regulation.'';

(C) by striking subparagraph (C) and inserting the following:

''(C) FORM AND MANNER.—The report required by subparagraph (A) shall be filed electronically in accordance with regulations prescribed by the ERISA agencies.'';

(D) in subparagraph (D)—

(i) by redesignating clauses (ii), (iii), (iv), and (v) as clauses (iii), (iv), (v), and (vi), respectively;

(ii) by inserting after clause (i) the following:

''(ii) PLANS IN ENDANGERED OR CRITICAL STATUS.—If it is certified under subparagraph (A) that a multiemployer plan is or will be in endangered or critical status, the plan sponsor shall include in the notice under clause (i)—

''(I) a statement describing how a person may obtain a copy of the plan's funding improvement or rehabilitation plan, as appropriate, adopted under this section and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement,

''(II) a summary of any funding improvement or rehabilitation plan, and any update thereto or modification thereof, adopted under this section prior to the furnishing of such notice,

''(III) a summary of the rules governing insolvency, including the limitations on benefit payments, and

''(IV) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.''; and

(iii) in clause (v), as so redesignated—

(I) by striking ''The Secretary of the Treasury, in consultation with the Secretary'' and inserting ''The ERISA agencies''; and

(II) by striking ''(ii) and (iii)'' and inserting ''(ii), (iii), and (iv)''; and

(E) by adding at the end the following:

''(E) DESIGNATION AND COORDINATION.—The ERISA agencies shall—

''(i) designate one ERISA agency to receive the report described in subparagraph (A) on behalf of all the ERISA agencies, which shall each have full access to such report; and

''(ii) consult with each other and develop rules, regulations, practices, and forms, which to the extent appropriate for the efficient administration of the provisions of this paragraph are designed to replace duplication of effort, duplication of reporting, conflicting or overlapping requirements, and the burden of compliance with such provisions by plan administrators and plan sponsors.

''(F) ERISA AGENCIES.—In this paragraph, the term 'ERISA agencies' means the Secretary, the Secretary of Labor, and the Pension Benefit Guaranty Corporation.''.

(3) INVESTIGATIONS.—Section 4003 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1303) is amended by adding at the end the following:

''(g) The corporation may investigate or review any facts, conditions, practices, or other matters it determines necessary or proper related to the actuarial certification and report by multiemployer plans under section 305(b)(4)(A), or to obtain such information as any duly authorized committee or subcommittee of the Congress may request with respect to such plans. Any information or documentary material submitted to the corporation pursuant to this section, if clearly designated by the person making the submission as confidential (on each page in the case of a document, and in the file name in the case of a digital file), shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding, including an informal rulemaking.''.

SEC. 322. PENALTIES FOR FAILURE TO PROVIDE NOTICES.

(a) IN GENERAL.—Section 502(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in paragraph (7)—

(A) by striking ''(7) The Secretary'' and inserting ''(7)(A) The Secretary''; and

(B) by adding at the end the following:

''(B) The Secretary may assess a civil penalty against a plan sponsor of up to $110 per day from the date of the plan administrator's or sponsor's failure or refusal to provide the relevant notices under section 101(f) or section 305(b)(4)(D) to a recipient other than the Secretary or the Pension Benefit Guaranty Corporation. For purposes of this paragraph, each violation with respect to any single recipient shall be treated as a separate violation.''; and

(2) by adding at the end the following:

''(13)(A) The Secretary may assess a civil penalty against any plan sponsor of up to $2,140 per day from the date of the plan sponsor's failure to file with the Secretary or the Pension Benefit Guaranty Corporation the notice required under section 305(b)(4)(D) or with the Pension Benefit Guaranty Corporation the notice required under section 101(f).

''(B) The Secretary may assess a civil penalty against any plan sponsor of up to $1,100 per day from the date of the plan sponsor's failure to file with the ERISA agency designated in accordance with subparagraph (E) of section 305(b)(4) the report under subparagraph (A) of such section.''.

(b) CONFORMING AMENDMENT.—Section 502(a)(6) of such Act is amended by striking ''or (9)'' and inserting ''(9), (10), or (13)''.

Subtitle D—Consistency of Criminal Penalties

SEC. 331. CONSISTENCY OF CRIMINAL PENALTIES.

Part I of title 18, United States Code, is amended—

(1) in section 664, in the first undesignated paragraph, by striking ''five years'' and inserting ''10 years'';

(2) in section 1027, by striking ''five years'' and inserting''10 years''; and

(3) in section 1954, in the undesignated matter following paragraph (4), by striking ''three years'' and inserting ''10 years''.

TITLE IV—OTHER MULTIEMPLOYER PLAN REFORMS

SEC. 401. CLARIFICATION OF FIDUCIARY DUTY OF RETIREE REPRESENTATIVE WHO IS A TRUSTEE.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Subclause (III) of section 432(f)(9)(B)(v) of the Internal Revenue Code of 1986, as redesignated by section 211(a) and as in effect before the amendments made by section 211 other than subsection (a) thereof, is amended by striking the period and inserting '', or to any other duties performed by such person pursuant to such person's role as a plan trustee.''.

(b) AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subclause (III) of section 305(f)(9)(B)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(f)(9)(B)(v)), as redesignated by section 212(a) and as in effect before the amendments made by section 212 other than subsection (a) thereof, is amended by striking the period and inserting '', or to any other duties performed by such person pursuant to such person's role as a plan trustee.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 402. SAFE HARBORS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) EQUITABLE DISTRIBUTION OF BENEFIT SUSPENSIONS.—Clause (vi) of section 432(f)(9)(D) of the Internal Revenue Code of 1986, as redesignated by section 211(a) and as in effect before the amendments made by section 211 other than subsection (a) thereof, is amended by adding at the end the following flush language:

''For purposes of the preceding sentence, a suspension of benefits in the form of a flat percentage reduction in benefits which is applied in the same manner to all participants and beneficiaries (before application of clauses (ii) and (iii)) shall be treated as being equitably distributed across the participant and beneficiary population.''.

(2) APPLICATION ASSUMPTIONS.—Clause (v) of section 432(f)(9)(G) of such Code, as so redesignated and in effect, is amended—

(A) by striking ''STANDARD FOR ACCEPTING'' in the heading and inserting ''STANDARDS FOR ASSUMPTIONS AND ACCEPTING'', and

(B) by striking ''In evaluating'' and inserting ''The Secretary, in consultation with the Pension Benefit Guaranty Corporation and the Secretary of Labor, shall promulgate regulations regarding the actuarial assumptions that plans may use for purposes of the application under this subparagraph. Such regulations shall create safe harbors regarding assumptions for future rate of investment returns, future industry activity and contribution base units, mortality, and other assumptions as determined by the Secretary, and shall describe the situations in which actuarial assumptions may change during review of an application without the withdrawal and resubmission of the application. In evaluating''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EQUITABLE DISTRIBUTION OF BENEFIT SUSPENSIONS.—Clause (vi) of section 305(f)(9)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(f)(9)(D)), as redesignated by section 212(a) and as in effect before the amendments made by section 212 other than subsection (a) thereof, is amended by adding at the end the following flush language:

''For purposes of the preceding sentence, a suspension of benefits in the form of a flat percentage reduction in benefits which is applied in the same manner to all participants and beneficiaries (before application of

clauses (ii) and (iii)) shall be treated as being equitably distributed across the participant and beneficiary population.''.

(2) APPLICATION ASSUMPTIONS.—Clause (v) of section 305(f)(9)(G) of such Act (29 U.S.C. 1085(f)(9)(G)), as so redesignated and in effect, is amended—

(A) by striking ''STANDARD FOR ACCEPTING'' in the heading and inserting ''STANDARDS FOR ASSUMPTIONS AND ACCEPTING'', and

(B) by striking ''In evaluating'' and inserting ''The Secretary of the Treasury, in consultation with the Pension Benefit Guaranty Corporation and the Secretary of Labor, shall promulgate regulations regarding the actuarial assumptions that plans may use for purposes of the application under this subparagraph. Such regulations shall create safe harbors regarding assumptions for future rate of investment returns, future industry activity and contribution base units, mortality, and other assumptions as determined by the Secretary, and shall describe the situations in which actuarial assumptions may change during review of an application without the withdrawal and resubmission of the application. In evaluating''.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a)(1) and (b)(1) shall apply to suspensions of benefits taking effect after the date of the enactment of this Act.

(2) APPLICATIONS.—The amendments made by subsections (a)(2) and (b)(2) shall apply to applications submitted after the date of the enactment of this Act.

SEC. 403. CLARIFICATION OF NOTICE AND COMMENT PROCESS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) NOTICE TO PARTICIPANTS.—Subparagraph (F) of section 432(f)(9) of the Internal Revenue Code of 1986, as redesignated by section 211(a) and as in effect before the amendments made by section 211 other than subsection (a) thereof, is amended by adding at the end the following new clause:

''(vi) DE MINIMIS CHANGES.—Notice under clause (i) is not required in the case of a change to a notice previously issued, and an application previously submitted under subparagraph (G), if such change would have a de minimis effect on the suspension of benefits proposed, such as a change of 5 percent or less (whether increase or decrease) of a participant's post-suspension benefits.''.

(2) SOLICITATION OF COMMENTS.—

(A) DE MINIMIS CHANGES.—Clause (ii) of section 432(f)(9)(G) of such Code, as so redesignated and in effect, is amended by adding at the end the following: ''The preceding sentences shall not apply in the case of a resubmission of an application previously submitted if such change would have a de minimis effect on the suspension of benefits proposed, such as a change of 5 percent or less (whether increase or decrease) of a participant's post-suspension benefits.''.

(B) EXTENSION OF PERIOD FOR CORRECTION OF DEFECT.—Clause (iii) of section 432(f)(9)(G) of such Code, as so redesignated and in effect, is amended by inserting after the second sentence the following: ''If the only failure with respect to an application is a failure to provide adequate notice to participants under subparagraph (F), the Secretary may extend the 225-day deadline for consideration of the application by notice to the plan sponsor.''.

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) NOTICE TO PARTICIPANTS.—Subparagraph (F) of section 305(f)(9) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(f)(9)), as redesignated by section 212(a) and as in effect before the amendments made by section 212 other than subsection (a) thereof, is amended by adding at the end the following new clause:

''(vi) DE MINIMIS CHANGES.—Notice under clause (i) is not required in the case of a change to a notice previously issued, and an application previously submitted under subparagraph (G), if such change would have a de minimis effect on the suspension of benefits proposed, such as a change of 5 percent or less (whether increase or decrease) of a participant's post-suspension benefits.''.

(2) SOLICITATION OF COMMENTS.—

(A) DE MINIMIS CHANGES.—Clause (ii) of section 305(f)(9)(G) of such Act (29 U.S.C. 1085(f)(9)(G)), as so redesignated and in effect, is amended by adding at the end the following: ''The preceding sentences shall not apply in the case of a resubmission of an application previously submitted if such change would have a de minimis effect on the suspension of benefits proposed.''.

(B) EXTENSION OF PERIOD FOR CORRECTION OF DEFECT.—Clause (iii) of section 305(f)(9)(G) of such Act (29 U.S.C. 1085(f)(9)(G)), as so redesignated and in effect, is amended by inserting after the second sentence the following: ''If the only failure with respect to an application is a failure to provide adequate notice to participants under subparagraph (F), the Secretary may extend the 225-day deadline for consideration of the application by notice to the plan sponsor.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to applications, or changes to applications, submitted after the date of the enactment of this Act.

SEC. 404. PROTECTION OF PARTICIPANTS RECEIVING DISABILITY BENEFITS.

(a) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Clause (iii) of section 432(f)(9)(D) of the Internal Revenue Code of 1986, as redesignated by section 211(a) and as in effect before the amendments made by section 211 other than subsection (a) thereof, is amended to read as follows:

''(iii) No benefits based on disability (as defined under the plan) may be suspended under this paragraph if the participant or beneficiary is disabled (as so defined) or receiving disability benefits under the plan as of the date of the suspension of benefits. No benefits under the plan may be suspended under this paragraph of any participant or beneficiary who is entitled to a benefit under title II of the Social Security Act on the basis of a disability (as defined in section 223(d)(2) of such Act) as of such date.''.

(b) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Clause (iii) of section 305(f)(9)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(f)(9)(D)), as redesignated by section 212(a) and as in effect before the amendments made by section 212 other than subsection (a) thereof, is amended to read as follows:

''(iii) No benefits based on disability (as defined under the plan) may be suspended under this paragraph if the participant or beneficiary is disabled (as so defined) or receiving disability benefits under the plan as of the date of the suspension of benefits. No benefits under the plan may be suspended under this paragraph of any participant or beneficiary who is entitled to a benefit under title II of the Social Security Act on the basis of a disability (as defined in section 223(d)(2) of such Act) as of such date.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to suspensions of benefits taking effect after the date of the enactment of this Act.

SEC. 405. MODEL NOTICE.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Labor and the Pension Benefit Guaranty Corporation, shall develop a 1-page, plain-language, cover-page format for the model notice under section 432(e)(9)(F)(v) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) and section 305(e)(9)(F)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(e)(9)(F)(v)), as so in effect.

TITLE V—ALTERNATIVE PLAN STRUCTURES

SEC. 501. COMPOSITE PLANS.

(a) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended by adding at the end the following:

''PART 8—COMPOSITE PLANS AND LEGACY PLANS

''SEC. 801. COMPOSITE PLAN DEFINED.

''(a) IN GENERAL.—For purposes of this Act, the term 'composite plan' means a pension plan—

''(1) which is a multiemployer plan that is neither a defined benefit plan nor a defined contribution plan;

''(2) the terms of which provide that the plan is a composite plan for purposes of this title with respect to which not more than one multiemployer defined benefit plan is treated as a legacy plan within the meaning of section 805, unless there is more than one legacy plan following a merger of composite plans under section 806;

''(3) which provides systematically for the payment of benefits—

''(A) objectively calculated pursuant to a nondiscretionary formula specified in the plan document with respect to plan participants for life; and

''(B) in the form of life annuities, except for benefits which under section 203(e) may be immediately distributed without the consent of the participant;

''(4) for which the anticipated employer contributions to the plan for the first plan year are at least 120 percent of the normal cost for the plan year;

''(5) which requires—

''(A) an annual valuation of the liability of the plan as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year;

''(B) an annual actuarial determination of the plan's current funded ratio and projected funded ratio under section 802(a);

''(C) corrective action through a realignment program pursuant to section 803 whenever the plan's projected funded ratio is below 120 percent for the plan year; and

''(D) an annual notification to each participant describing benefits under the plan and explaining that such benefits may be subject to reduction under a realignment program pursuant to section 803 based on the plan's funded status in future plan years; and

''(6) the board of trustees of which includes at least one retiree or beneficiary in pay status during each plan year following the first plan year in which at least 5 percent of the participants in the plan are retirees or beneficiaries in pay status.

''(b) TRANSITION FROM A MULTIEMPLOYER DEFINED BENEFIT PLAN.—

''(1) IN GENERAL.—The plan sponsor of a defined benefit plan that is a multiemployer plan may, subject to paragraph (2), amend the plan to incorporate the features of a composite plan as a component of the multiemployer plan separate from the defined benefit plan component, except in the case of a defined benefit plan for which the plan actuary has certified under section 305(b)(4) that the plan is or will be in endangered or critical status for the plan year in which such amendment would become effective or in endangered or critical status for any of the succeeding 5 plan years.

''(2) REQUIREMENTS.—Any amendment pursuant to paragraph (1) to incorporate the features of a composite plan as a component of a multiemployer plan shall—

''(A) apply with respect to all collective bargaining agreements providing for contributions to the multiemployer plan on or after the effective date of the amendment;

''(B) apply with respect to all participants in the multiemployer plan for whom contributions are made to the multiemployer plan on or after the effective date of the amendment;

''(C) specify that the effective date of the amendment is—

''(i) the first day of a specified plan year following the date of the adoption of the amendment, except that the plan sponsor may alternatively provide for a separate effective date with respect to each collective bargaining agreement under which contributions to the multiemployer plan are required, which shall occur on the first day of the first plan year beginning after the termination, or if earlier, the re-opening, of each such agreement, or such earlier date as the parties to the agreement and the plan sponsor of the multiemployer plan shall agree to; and

''(ii) not later than the first day of the fifth plan year beginning on or after the date of the adoption of the amendment;

''(D) specify that, as of the amendment's effective date, no further benefits shall accrue under the defined benefit component of the multiemployer plan; and

''(E) specify that, as of the amendment's effective date, the plan sponsor of the multiemployer plan shall be the plan sponsor of both the composite plan component and the defined benefit plan component of the plan.

''(3) SPECIAL RULES.—If a multiemployer plan is amended pursuant to paragraph (1)—

''(A) the requirements of this title and title IV shall be applied to the composite plan component and the defined benefit plan component of the multiemployer plan as if each such component were maintained as a separate plan; and

''(B) the assets of the composite plan component and the defined benefit plan component of the plan shall be held in a single trust forming part of the plan under which the trust instrument expressly provides—

''(i) for separate accounts (and appropriate records) to be maintained to reflect the interest which each of the plan components has in the trust, including separate accounting for additions to the trust for the benefit of each plan component, disbursements made from each plan component's account in the trust, investment experience of the trust allocable to that account, and administrative expenses (whether direct expenses or shared expenses allocated proportionally), and permits, but does not require, the pooling of some or all of the assets of the two plan components for investment purposes, subject to the judgment of the plan fiduciaries; and

''(ii) that the assets of each of the two plan components shall be held, invested, reinvested, managed, administered and distributed for the exclusive benefit of the participants and beneficiaries of each such plan component, and in no event shall the assets of one of the plan components be available to pay benefits due under the other plan component.

''(4) NOT A TERMINATION EVENT.—Notwithstanding section 4041A, an amendment pursuant to paragraph (1) to incorporate the features of a composite plan as a component of a multiemployer plan does not constitute termination of the multiemployer plan.

''(5) NOTICE TO THE SECRETARY.—

''(A) NOTICE.—The plan sponsor of a composite plan shall provide notice to the Secretary of the intent to establish the composite plan (or, in the case of a composite plan incorporated as a component of a multiemployer plan as described in paragraph (1), the intent to amend the multiemployer plan to incorporate such composite plan) at least 30 days prior to the effective date of such establishment or amendment.

''(B) CERTIFICATION.—In the case of a composite plan incorporated as a component of a multiemployer plan as described in paragraph (1), such notice shall include a certification by the plan actuary under section 305(b)(4) that the effective date of the amendment occurs in a plan year for which the multiemployer plan is not in endangered or critical status for that plan year and any of the succeeding 5 plan years.

''(6) REFERENCES TO COMPOSITE PLAN COMPONENT.—As used in this part, the term 'composite plan' includes a composite plan component added to a defined benefit plan pursuant to paragraph (1).

''(7) RULE OF CONSTRUCTION.—Paragraph (2)(A) shall not be construed as preventing the plan sponsor of a multiemployer plan from adopting an amendment pursuant to paragraph (1) because some collective bargaining agreements are amended to cease any covered employer's obligation to contribute to the multiemployer plan before or after the plan amendment is effective. Paragraph (2)(B) shall not be construed as preventing the plan sponsor of a multiemployer plan from adopting an amendment pursuant to paragraph (1) because some participants cease to have contributions made to the multiemployer plan on their behalf before or after the plan amendment is effective.

''(c) COORDINATION WITH FUNDING RULES.—Except as otherwise provided in this part, sections 302, 304, and 305 shall not apply to a composite plan.

''(d) TREATMENT OF A COMPOSITE PLAN.—For purposes of this Act (other than sections 302 and 4245), a composite plan shall be treated as if it were a defined benefit plan unless a different treatment is provided for under applicable law.

''SEC. 802. FUNDED RATIOS; ACTUARIAL ASSUMPTIONS.

''(a) CERTIFICATION OF FUNDED RATIOS.—

''(1) IN GENERAL.—Not later than the one-hundred twentieth day of each plan year of a composite plan, the plan actuary of the composite plan shall certify to the Secretary, the Secretary of the Treasury, and the plan sponsor the plan's current funded ratio and projected funded ratio for the plan year.

''(2) DETERMINATION OF CURRENT FUNDED RATIO AND PROJECTED FUNDED RATIO.—For purposes of this section:

''(A) CURRENT FUNDED RATIO.—The current funded ratio is the ratio (expressed as a percentage) of—

''(i) the value of the plan's assets as of the first day of the plan year; to

''(ii) the plan actuary's calculation of the present value of the plan liabilities as of the first day of the plan year.

''(B) PROJECTED FUNDED RATIO.—The projected funded ratio is the funded ratio determined under subparagraph (A), projected as of the first day of the fifteenth plan year following the plan year for which the determination is being made.

''(3) CONSIDERATION OF CONTRIBUTION RATE INCREASES.—For purposes of projections under this subsection, the plan actuary may anticipate contribution rate increases beyond the term of the current collective bargaining agreement and any agreed-to supplements, if reasonable, not to exceed 2.5 percent per year, compounded annually.

''(b) ACTUARIAL ASSUMPTIONS AND METHODS.—For purposes of this part:

''(1) IN GENERAL.—All costs, liabilities, rates of interest, and other factors under the plan shall be determined for a plan year on the basis of actuarial assumptions and methods—

''(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations);

''(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan; and

''(C) with respect to which any change from the actuarial assumptions and methods used in the previous plan year shall be certified by the plan actuary and the actuarial rationale for such change provided in the annual report required by section 103.

''(2) FAIR MARKET VALUE OF ASSETS.—The value of the plan's assets shall be taken into account on the basis of their fair market value.

''(3) DETERMINATION OF NORMAL COST AND PLAN LIABILITIES.—A plan's normal cost and liabilities shall be based—

''(A) on the most recent actuarial valuation required under section 801(a)(5)(A) and the unit credit funding method; and

''(B) on rates of interest subject to section 304(b)(6).

''(4) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—Any contributions for a plan year made by an employer after the last day of such plan year, but not later than 2½ months after such day, shall be deemed to have been made on such last day. For purposes of this paragraph, such 2½-month period may be extended to a total of not more than 120 days under regulations prescribed by the Secretary of the Treasury.

''(5) ADDITIONAL ACTUARIAL ASSUMPTIONS.—Except where otherwise provided in this part, the provisions of section 305(b)(4)(B) shall apply to any determination or projection under this part.

''SEC. 803. REALIGNMENT PROGRAM.

''(a) REALIGNMENT PROGRAM.—

''(1) ADOPTION.—In any case in which the plan actuary certifies under section 802(a) that the plan's projected funded ratio is below 120 percent for the plan year, the plan sponsor shall adopt a realignment program under paragraph (2) not later than 210 days after the due date of the certification required under such section 802(a). The plan sponsor shall adopt an updated realignment program for each succeeding plan year for which a certification described in the preceding sentence is made.

''(2) CONTENT OF REALIGNMENT PROGRAM.—

''(A) IN GENERAL.—A realignment program adopted under this paragraph is a written program which consists of reasonable measures, including options or a range of options to be undertaken by the plan sponsor or proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year.

''(B) INITIAL PROGRAM ELEMENTS.—Reasonable measures under a realignment program described in subparagraph (A) may include any of the following:

''(i) Proposed contribution increases.

''(ii) A reduction in the rate of future benefit accruals, so long as the resulting rate is not less than 1 percent of the contributions on which benefits are based as of the start of the plan year (or the equivalent standard accrual rate as described in section 305(f)(6)).

''(iii) A modification or elimination of adjustable benefits of participants that are not in pay status before the date of the notice required under subsection (b)(1).

''(iv) Any other lawfully available measures not specifically described in this subparagraph or subparagraph (C) or (D) that the plan sponsor determines are reasonable.

''(C) ADDITIONAL PROGRAM ELEMENTS.—If the plan sponsor has determined that all reasonable measures available under subparagraph (B) will not enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year, the realignment program may also include—

''(i) a reduction of accrued benefits that are not in pay status by the date of the notice required under subsection (b)(1); or

''(ii) a reduction of any benefits of participants that are in pay status before the date of the notice required under subsection (b)(1) other than core benefits as defined in paragraph (4).

''(D) ADDITIONAL ELEMENTS.—In the case of a composite plan for which the plan sponsor has determined that all reasonable measures available under subparagraphs (B) and (C) will not enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year, the realignment program may also include—

''(i) a further reduction in the rate of future benefit accruals without regard to the limitation applicable under subparagraph (B)(ii); or

''(ii) a reduction of core benefits;

provided that such reductions shall be equitably distributed across the participant and beneficiary population, taking into account factors, with respect to participants and beneficiaries and their benefits, that may include one or more of the factors listed in subclauses (I) through (X) of section 305(f)(9)(D)(vi), to the extent necessary to enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year.

''(3) ADJUSTABLE BENEFIT DEFINED.—For purposes of this part, the term 'adjustable benefit' means—

''(A) benefits, rights, and features under the plan, including post-retirement death benefits, disability benefits not yet in pay status, and similar benefits,

''(B) any early retirement benefit or retirement-type subsidy (within the meaning of section 204(g)(2)(A)) (including early reduction factors which are not provided on an actuarially equivalent basis) and any benefit payment option (other than the qualified joint and survivor annuity),

''(C) benefit increases which were adopted (or, if later, took effect) less than 120 months before the first day of the first plan year in which such realignment program took effect,

''(D) any one-time bonus payment or 'thirteenth check' provision, and

''(E) benefits granted for period of service prior to participation in the plan.

''(4) CORE BENEFIT DEFINED.—For purposes of this part, the term 'core benefit' means a participant's accrued benefit payable in the normal form of an annuity commencing at normal retirement age, determined without regard to—

''(A) any early retirement benefits, retirement-type subsidies, or other benefits, rights, or features that may be associated with that benefit; and

''(B) any cost-of-living adjustments or benefit increases effective after the date of retirement.

''(5) COORDINATION WITH CONTRIBUTION INCREASES.—

''(A) IN GENERAL.—A realignment program may provide that some or all of the benefit modifications described in the program will only take effect if the bargaining parties fail to agree to specified levels of increases in contributions to the plan, effective as of specified dates.

''(B) INDEPENDENT BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that are independent of potential contribution increases, such changes shall take effect not later than 180 days after the first day of the first plan year that begins following the adoption of the realignment program.

''(C) CONDITIONAL BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that take effect only if the bargaining parties fail to agree to contribution increases, such changes shall take effect not later than the first day of the first plan year beginning after the third anniversary of the date of adoption of the realignment program.

''(D) REVOCATION OF CERTAIN BENEFIT MODIFICATIONS.—Benefit modifications described in subparagraph (C) may be revoked, in whole or in part, and retroactively or prospectively, when contributions to the plan are increased, as specified in the realignment program, including any amendments thereto. The preceding sentence shall not apply unless the contribution increases are to be effective not later than the fifth anniversary of the first day of the first plan year that begins after the adoption of the realignment program.

''(b) NOTICE.—

''(1) IN GENERAL.—In any case in which it is certified under section 802(a) that the projected funded ratio is less than 120 percent, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the current and projected funded ratios to the participants and beneficiaries, the bargaining parties, the Secretary of the Treasury, and the Secretary. Such notice shall include—

''(A) an explanation that contribution rate increases or benefit reductions may be necessary;

''(B) a description of the types of benefits that might be reduced; and

''(C) an estimate of the contribution increases and benefit reductions that may be necessary to achieve a projected funded ratio of 120 percent.

''(2) NOTICE OF BENEFIT MODIFICATIONS.—

''(A) IN GENERAL.—No modifications may be made that reduce the rate of future benefit accrual or that reduce core benefits or adjustable benefits unless notice of such reduction has been given at least 180 days before the general effective date of such reduction for all participants and beneficiaries to—

''(i) plan participants and beneficiaries;

''(ii) each employer who has an obligation to contribute to the composite plan; and

''(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such employers.

''(B) CONTENT OF NOTICE.—The notice under subparagraph (A) shall contain—

''(i) sufficient information to enable participants and beneficiaries to understand the effect of any reduction on their benefits, including an illustration of any affected benefit or subsidy, on an annual or monthly basis that a participant or beneficiary would otherwise have been eligible for as of the general effective date described in subparagraph (A); and

''(ii) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of the Treasury for further information and assistance, where appropriate.

''(C) FORM AND MANNER.—Any notice under subparagraph (A)—

''(i) shall be provided in a form and manner prescribed in regulations of the Secretary of the Treasury;

''(ii) shall be written in a manner so as to be understood by the average plan participant.

''(3) MODEL NOTICES.—The Secretary of the Treasury shall—

''(A) prescribe model notices that the plan sponsor of a composite plan may use to satisfy the notice requirements under this subsection; and

''(B) by regulation enumerate any details related to the elements listed in paragraph (1) that any notice under this subsection must include.

''(4) DELIVERY METHOD.—Any notice under this part shall be provided in writing and may be provided in electronic form to the extent that the form is reasonably accessible to persons to whom the notice is provided.

''SEC. 804. LIMITATION ON INCREASING BENEFITS.

''(a) LEVEL OF CURRENT FUNDED RATIOS.—Except as provided in subsections (c), (d), and (e), no plan amendment increasing benefits or establishing new benefits under a composite plan may be adopted for a plan year unless—

''(1) the plan's current funded ratio is at least 110 percent (without regard to the benefit increase or new benefits);

''(2) taking the benefit increase or new benefits into account, the current funded ratio is at least 100 percent and the projected funded ratio for the current plan year is at least 120 percent;

''(3) in any case in which, after taking the benefit increase or new benefits into account, the current funded ratio is less than 140 percent and the projected funded ratio is less than 140 percent, the benefit increase or new benefits are projected by the plan actuary to increase the present value of the plan's liabilities for the plan year by not more than 3 percent; and

''(4) expected contributions for the current plan year are at least 120 percent of normal cost for the plan year, determined using the unit credit funding method and treating the benefit increase or new benefits as in effect for the entire plan year.

''(b) ADDITIONAL REQUIREMENTS WHERE CORE BENEFITS REDUCED.—If a plan has been amended to reduce core benefits pursuant to a realignment program under section 803(a)(2)(D), such plan may not be subsequently amended to increase core benefits unless the amendment—

''(1) increases the level of future benefit payments only; and

''(2) provides for an equitable distribution of benefit increases across the participant and beneficiary population, taking into account the extent to which the benefits of participants were previously reduced pursuant to such realignment program.

''(c) EXCEPTION TO COMPLY WITH APPLICABLE LAW.—Subsection (a) shall not apply in connection with a plan amendment if the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

''(d) EXCEPTION WHERE MAXIMUM DEDUCTIBLE LIMIT APPLIES.—Subsection (a) shall not apply in connection with a plan amendment if and to the extent that contributions to the composite plan would not be deductible for the plan year under section 404(a)(1)(E) of the Internal Revenue Code of 1986 if the plan amendment is not adopted.

''(e) EXCEPTION FOR CERTAIN BENEFIT MODIFICATIONS.—Subsection (a) shall not apply in connection with a plan amendment under section 803(a)(5)(C), regarding conditional benefit modifications.

''(f) TREATMENT OF PLAN AMENDMENTS.—For purposes of this section—

''(1) if two or more plan amendments increasing benefits or establishing new benefits are adopted in a plan year, such amendments shall be treated as a single amendment adopted on the last day of the plan year;

''(2) all benefit increases and new benefits adopted in a single amendment are treated

as a single benefit increase, irrespective of whether the increases and new benefits take effect in more than one plan year; and

''(3) increases in contributions or decreases in plan liabilities which are scheduled to take effect in future plan years may be taken into account in connection with a plan amendment if they have been agreed to in writing or otherwise formalized by the date the plan amendment is adopted.

''SEC. 805. COMPOSITE PLAN RESTRICTIONS TO PRESERVE LEGACY PLAN FUNDING.

''(a) TREATMENT AS A LEGACY PLAN.—

''(1) IN GENERAL.—For purposes of this part and parts 2 and 3, a defined benefit plan shall be treated as a legacy plan with respect to the composite plan under which employees who were eligible to accrue a benefit under the defined benefit plan become eligible to accrue a benefit under such composite plan.

''(2) COMPONENT PLANS.—In any case in which a defined benefit plan is amended to add a composite plan component pursuant to section 801(b), paragraph (1) shall be applied by substituting 'defined benefit component' for 'defined benefit plan' and 'composite plan component' for 'composite plan'.

''(3) ELIGIBLE TO ACCRUE A BENEFIT.—For purposes of paragraph (1), an employee is considered eligible to accrue a benefit under a composite plan as of the first day in which the employee completes an hour of service under a collective bargaining agreement that provides for contributions to and accruals under the composite plan in lieu of accruals under the defined benefit plan.

''(4) COLLECTIVE BARGAINING AGREEMENT.—As used in this part, the term 'collective bargaining agreement' includes any agreement under which an employer has an obligation to contribute to a plan.

''(5) OTHER TERMS.—Any term used in this part which is not defined in this part and which is also used in section 305 shall have the same meaning provided such term in such section.

''(b) RESTRICTIONS ON ACCEPTANCE BY COMPOSITE PLAN OF AGREEMENTS AND CONTRIBUTIONS.—

''(1) IN GENERAL.—The plan sponsor of a composite plan shall not accept or recognize a collective bargaining agreement (or any modification to such agreement), and no contributions may be accepted and no benefits may be accrued or otherwise earned under the agreement—

''(A) in any case in which the plan actuary of any defined benefit plan that would be treated as a legacy plan with respect to such composite plan has certified under section 305(b)(4) that such defined benefit plan is or will be in endangered or critical status for the plan year in which such agreement would take effect or for any of the succeeding 5 plan years; and

''(B) unless the agreement requires each employer who is a party to such agreement, including employers whose employees are not participants in the legacy plan, to provide contributions to the legacy plan with respect to such composite plan in a manner that satisfies the transition contribution requirements of subsection (d).

''(2) NOTICE.—Not later than 30 days after a determination by a plan sponsor of a composite plan that an agreement fails to satisfy the requirements described in paragraph (1), the plan sponsor shall provide notification of such failure and the reasons for such determination—

''(A) to the parties to the agreement;

''(B) to active participants of the composite plan who have ceased to accrue or otherwise earn benefits with respect to service with an employer pursuant to paragraph (1); and

''(C) to the Secretary, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation.

''(3) LIMITATION ON RETROACTIVE EFFECT.—This subsection shall not apply to benefits accrued before the date on which notice is provided under paragraph (2).

''(c) RESTRICTION ON ACCRUAL OF BENEFITS UNDER A COMPOSITE PLAN.—

''(1) IN GENERAL.—In any case in which an employer, under a collective bargaining agreement entered into after the date of enactment of this part, ceases to have an obligation to contribute to a multiemployer defined benefit plan, no employees employed by the employer may accrue or otherwise earn benefits under any composite plan, with respect to service with that employer, for a 60-month period beginning on the date on which the employer entered into such collective bargaining agreement.

''(2) NOTICE OF CESSATION OF OBLIGATION.—Within 30 days of determining that an employer has ceased to have an obligation to contribute to a legacy plan with respect to employees employed by an employer that is or will be contributing to a composite plan with respect to service of such employees, the plan sponsor of the legacy plan shall notify the plan sponsor of the composite plan of that cessation.

''(3) NOTICE OF CESSATION OF ACCRUALS.—Not later than 30 days after determining that an employer has ceased to have an obligation to contribute to a legacy plan, the plan sponsor of the composite plan shall notify the bargaining parties, the active participants affected by the cessation of accruals, the Secretary, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation of the cessation of accruals, the period during which such cessation is in effect, and the reasons therefor.

''(4) LIMITATION ON RETROACTIVE EFFECT.—This subsection shall not apply to benefits accrued before the date on which notice is provided under paragraph (3).

''(d) TRANSITION CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—A collective bargaining agreement satisfies the transition contribution requirements of this subsection if the agreement—

''(A) authorizes payment of contributions to a legacy plan at a rate, or multiple rates, as described in paragraph (2)(B), equal to or greater than the transition contribution rate established by the legacy plan under paragraph (2); and

''(B) does not provide for—

''(i) a suspension of contributions to the legacy plan with respect to any period of service; or

''(ii) any new direct or indirect exclusion of younger or newly hired employees of the employer from being taken into account in determining contributions owed to the legacy plan.

''(2) TRANSITION CONTRIBUTION RATE.—

''(A) IN GENERAL.—The transition contribution rate for a plan year is the contribution rate that, as certified by the actuary of the legacy plan in accordance with the principles in section 305(b)(4)(B), is reasonably expected to be adequate—

''(i) to fund the normal cost for the plan year;

''(ii) to amortize the plan's unfunded liabilities in level annual installments over 25 years, beginning with the plan year in which the transition contribution rate is first established; and

''(iii) to amortize any subsequent changes in the legacy plan's unfunded liability due to experience gains or losses (including investment gains or losses, gains or losses due to contributions greater or less than the contributions made under the prior transition contribution rate, and other actuarial gains or losses), changes in actuarial assumptions, changes to the legacy plan's benefits, or changes in funding method over a period of 15 plan years beginning with the plan year following the plan year in which such change in unfunded liability is incurred, unless otherwise prescribed.

The transition contribution rate for any plan year may not be less than the transition contribution rate for the plan year in which such rate is first established.

''(B) MULTIPLE RATES.—If different rates of contribution are payable to the legacy plan by different employers or for different classes of employees, the certification by the actuary of the legacy plan shall specify a transition contribution rate for each such employer or class of employees.

''(C) RATE APPLICABLE TO EMPLOYER.—

''(i) IN GENERAL.—Except as provided by clause (ii), the transition contribution rate applicable to an employer for a plan year is the rate in effect for the plan year of the legacy plan that commences on or after 180 days before the earlier of—

''(I) the effective date of the collective bargaining agreement pursuant to which the employer contributes to the legacy plan; or

''(II) 5 years after the last plan year for which the transition contribution rate applicable to the employer was established or updated.

''(ii) EXCEPTION.—The transition contribution rate applicable to an employer for the first plan year beginning on or after the commencement of the employer's obligation to contribute to the composite plan is the rate in effect for the plan year of the legacy plan that commences on or after 180 days before such first plan year.

''(D) EFFECT OF LEGACY PLAN FINANCIAL CIRCUMSTANCES.—If the plan actuary of the legacy plan has certified under section 305 that the plan is in endangered or critical status for a plan year, the transition contribution rate for the following plan year is the rate determined with respect to the employer under the legacy plan's funding improvement or rehabilitation plan under section 305, if greater than the rate otherwise determined, but in no event shall the transition contribution rate be greater than 75 percent of the sum of the contribution rates applicable to the legacy plan and the composite plan for the plan year. Notwithstanding the preceding sentence, if the transition contribution rate in the prior year is more than 75 percent of the sum of the contribution rates applicable to the legacy plan and the composite plan for the prior plan year, the transition contribution rate applicable to the legacy plan shall not be subject to the 75-percent limitation, but shall be neither increased nor reduced as a percentage of the sum of the contribution rates applicable to the legacy plan and the composite plan for the plan year.

''(E) OTHER ACTUARIAL ASSUMPTIONS AND METHODS.—Except as provided in subparagraph (A), the determination of the transition contribution rate for a plan year shall be based on actuarial assumptions and methods consistent with the minimum funding determinations made under section 304 (or, if applicable, section 305) with respect to the legacy plan for the plan year.

''(F) ADJUSTMENTS IN RATE.—The plan sponsor of a legacy plan from time to time may adjust the transition contribution rate or rates applicable to an employer under this paragraph by increasing some rates and decreasing others if the actuary certifies that such adjusted rates in combination will produce projected contribution income for the plan year beginning on or after the date of certification that is not less than would be produced by the transition contribution

rates in effect at the time of the certification.

''(G) NOTICE OF TRANSITION CONTRIBUTION RATE.—The plan sponsor of a legacy plan shall provide notice to the parties to collective bargaining agreements pursuant to which contributions are made to the legacy plan of changes to the transition contribution rate requirements at least 30 days before the beginning of the plan year for which the rate is effective.

''(H) NOTICE TO COMPOSITE PLAN SPONSOR.—Not later than 30 days after a determination by the plan sponsor of a legacy plan that a collective bargaining agreement provides for a rate of contributions that is below the transition contribution rate applicable to one or more employers that are parties to the collective bargaining agreement, the plan sponsor of the legacy plan shall notify the plan sponsor of any composite plan under which employees of such employer would otherwise be eligible to accrue a benefit.

''(3) CORRECTION PROCEDURES.—Pursuant to standards prescribed by the Secretary, the plan sponsor of a composite plan shall adopt rules and procedures that give the parties to the collective bargaining agreement notice of the failure of such agreement to satisfy the transition contribution requirements of this subsection, and a reasonable opportunity to correct such failure, not to exceed 180 days from the date of notice given under subsection (b)(2).

''(4) SUPPLEMENTAL CONTRIBUTIONS.—A collective bargaining agreement may provide for supplemental contributions to the legacy plan for a plan year in excess of the transition contribution rate determined under paragraph (2), regardless of whether the legacy plan is in endangered or critical status for such plan year.

''(e) NONAPPLICATION OF COMPOSITE PLAN RESTRICTIONS.—

''(1) IN GENERAL.—The provisions of subsections (a), (b), and (c) shall not apply with respect to a collective bargaining agreement, to the extent the agreement, or a predecessor agreement, provides or provided for contributions to a defined benefit plan that is a legacy plan, as of the first day of the first plan year following a plan year for which the plan actuary certifies that the plan is fully funded, has been fully funded for at least three out of the immediately preceding 5 plan years, and is projected to remain fully funded for at least the following 4 plan years.

''(2) DETERMINATION OF FULLY FUNDED.—A plan is fully funded for purposes of paragraph (1) if, as of the valuation date of the plan for a plan year, the value of the plan's assets equals or exceeds the present value of the plan's liabilities, determined in accordance with the rules prescribed by the Pension Benefit Guaranty Corporation under sections 4219(c)(1)(D) and 4281 for multiemployer plans terminating by mass withdrawal, as in effect for the date of the determination, except the plan's reasonable assumption regarding the starting date of benefits may be used.

''(3) OTHER APPLICABLE RULES.—Except as provided in paragraph (2), actuarial determinations and projections under this section shall be based on the rules in section 802(b).

''SEC. 806. MERGERS AND ASSET TRANSFERS OF COMPOSITE PLANS.

''(a) IN GENERAL.—Assets and liabilities of a composite plan may only be merged with, or transferred to, another plan if—

''(1) the other plan is a composite plan;

''(2) the plan or plans resulting from the merger or transfer is a composite plan;

''(3) no participant's accrued benefit or adjustable benefit is lower immediately after the transaction than it was immediately before the transaction; and

''(4) the value of the assets transferred in the case of a transfer reasonably reflects the value of the amounts contributed with respect to the participants whose benefits are being transferred, adjusted for allocable distributions, investment gains and losses, and administrative expenses.

A plan which is not a composite plan may not merge with or transfer assets and liabilities to a composite plan.

''(b) LEGACY PLAN.—

''(1) IN GENERAL.—After a merger or transfer involving a composite plan, the legacy plan with respect to an employer that is obligated to contribute to the resulting composite plan is the legacy plan that applied to that employer immediately before the merger or transfer.

''(2) MULTIPLE LEGACY PLANS.—If an employer is obligated to contribute to more than one legacy plan with respect to employees eligible to accrue benefits under more than one composite plan and there is a merger or transfer of such legacy plans, the transition contribution rate applicable to the legacy plan resulting from the merger or transfer with respect to that employer shall be determined in accordance with the provisions of section 805(d)(2)(B).''.

(2) PENALTIES.—

(A) CIVIL ENFORCEMENT OF FAILURE TO COMPLY WITH REALIGNMENT PROGRAM.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(i) in paragraph (10), by striking ''or'' at the end;

(ii) in paragraph (11), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following:

''(12) in the case of a composite plan required to adopt a realignment program under section 803, if the plan sponsor—

''(A) has not adopted a realignment program under that section by the deadline established in such section; or

''(B) fails to update or comply with the terms of the realignment program in accordance with the requirements of such section, by the Secretary, by an employer that has an obligation to contribute with respect to the composite plan, or by an employee organization that represents active participants in the composite plan, for an order compelling the plan sponsor to adopt a realignment program, or to update or comply with the terms of the realignment program, in accordance with the requirements of such section and the realignment program.''.

(B) CIVIL PENALTIES.—Section 502(c) of such Act (29 U.S.C. 1132(c)), as amended by this Act, is further amended—

(i) by moving paragraphs (8), (10), and (12) each 2 ems to the left;

(ii) by redesignating paragraphs (9) through (13) as paragraphs (12) through (16), respectively; and

(iii) by inserting after paragraph (8) the following:

''(9) The Secretary may assess against any plan sponsor of a composite plan a civil penalty of not more than $2,140 per day for each violation by such sponsor—

''(A) of the requirement under section 801(a)(5)(D) to furnish an annual notification to each participant;

''(B) of the requirement under section 802(a) on the plan actuary to certify the plan's current or projected funded ratio by the date specified in such subsection; or

''(C) of the requirement under section 803 to adopt a realignment program by the deadline established in that section and to comply with its terms.

''(10)(A) The Secretary may assess against any plan sponsor of a composite plan a civil penalty of not more than $100 per day for each violation by such sponsor of the requirement under section 803(b) to provide notice as described in such section, except that no penalty may be assessed in any case in which the plan sponsor exercised reasonable diligence to meet the requirements of such section and—

''(i) the plan sponsor did not know that the violation existed; or

''(ii) the plan sponsor provided such notice during the 30-day period beginning on the first date on which the plan sponsor knew, or in exercising reasonable due diligence should have known, that such violation existed.

''(B) In any case in which the plan sponsor exercised reasonable diligence to meet the requirements of section 803(b), the Secretary may waive part or all of such penalty to the extent that the payment of such penalty would be excessive or otherwise inequitable relative to the violation involved.

''(11) The Secretary may assess against any plan sponsor of a composite plan a civil penalty of not more than $100 per day for each violation by such sponsor of the notice requirements under sections 801(b)(5) and 805(b)(2).''.

(3) AUTHORITIES.—Section 101(a) of Reorganization Plan No. 4 of 1978 (29 U.S.C. 1001 note) is amended by striking ''Parts 2 and 3'' and inserting ''Parts 2, 3, and 8''.

(4) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 734 the following:

''PART 8—COMPOSITE PLANS AND LEGACY PLANS

''Sec. 801. Composite plan defined.
''Sec. 802. Funded ratios; actuarial assumptions.
''Sec. 803. Realignment program.
''Sec. 804. Limitation on increasing benefits.
''Sec. 805. Composite plan restrictions to preserve legacy plan funding.
''Sec. 806. Mergers and asset transfers of composite plans.''.

(b) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''PART IV—COMPOSITE PLANS AND LEGACY PLANS

''Sec. 437. Composite plan defined.
''Sec. 438. Funded ratios; actuarial assumptions.
''Sec. 439. Realignment program.
''Sec. 440. Limitation on increasing benefits.
''Sec. 440A. Composite plan restrictions to preserve legacy plan funding.
''Sec. 440B. Mergers and asset transfers of composite plans.

''SEC. 437. COMPOSITE PLAN DEFINED.

''(a) IN GENERAL.—For purposes of this title, the term 'composite plan' means a pension plan—

''(1) which is a multiemployer plan that is neither a defined benefit plan nor a defined contribution plan,

''(2) the terms of which provide that the plan is a composite plan for purposes of this title with respect to which not more than one multiemployer defined benefit plan is treated as a legacy plan within the meaning of section 440A, unless there is more than one legacy plan following a merger of composite plans under section 440B,

''(3) which provides systematically for the payment of benefits—

''(A) objectively calculated pursuant to a nondiscretionary formula specified in the plan document with respect to plan participants for life; and

''(B) in the form of life annuities, except for benefits which under section 411(a)(11) may be immediately distributed without the consent of the participant;

''(4) for which the anticipated employer contributions to the plan for the first plan

year are at least 120 percent of the normal cost for the plan year;

''(5) which requires—

''(A) an annual valuation of the liability of the plan as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year,

''(B) an annual actuarial determination of the plan's current funded ratio and projected funded ratio under section 438(a),

''(C) corrective action through a realignment program pursuant to section 439 whenever the plan's projected funded ratio is below 120 percent for the plan year, and

''(D) an annual notification to each participant describing benefits under the plan and explaining that such benefits may be subject to reduction under a realignment program pursuant to section 439 based on the plan's funded status in future plan years; and

''(6) the board of trustees of which includes at least one retiree or beneficiary in pay status during each plan year following the first plan year in which at least 5 percent of the participants in the plan are retirees or beneficiaries in pay status.

''(b) TRANSITION FROM A MULTIEMPLOYER DEFINED BENEFIT PLAN.—

''(1) IN GENERAL.—The plan sponsor of a defined benefit plan that is a multiemployer plan may, subject to paragraph (2), amend the plan to incorporate the features of a composite plan as a component of the multiemployer plan separate from the defined benefit plan component, except in the case of a defined benefit plan for which the plan actuary has certified under section 432(b)(4) that the plan is or will be in endangered or critical status for the plan year in which such amendment would become effective or in endangered or critical status for any of the succeeding 5 plan years.

''(2) REQUIREMENTS.—Any amendment pursuant to paragraph (1) to incorporate the features of a composite plan as a component of a multiemployer plan shall—

''(A) apply with respect to all collective bargaining agreements providing for contributions to the multiemployer plan on or after the effective date of the amendment,

''(B) apply with respect to all participants in the multiemployer plan for whom contributions are made to the multiemployer plan on or after the effective date of the amendment,

''(C) specify that the effective date of the amendment is—

''(i) the first day of a specified plan year following the date of the adoption of the amendment, except that the plan sponsor may alternatively provide for a separate effective date with respect to each collective bargaining agreement under which contributions to the multiemployer plan are required, which shall occur on the first day of the first plan year beginning after the termination, or if earlier, the re-opening, of each such agreement, or such earlier date as the parties to the agreement and the plan sponsor of the multiemployer plan shall agree to, and

''(ii) not later than the first day of the fifth plan year beginning on or after the date of the adoption of the amendment,

''(D) specify that, as of the amendment's effective date, no further benefits shall accrue under the defined benefit component of the multiemployer plan, and

''(E) specify that, as of the amendment's effective date, the plan sponsor of the multiemployer plan shall be the plan sponsor of both the composite plan component and the defined benefit plan component of the plan.

''(3) SPECIAL RULES.—If a multiemployer plan is amended pursuant to paragraph (1)—

''(A) the requirements of this title shall be applied to the composite plan component and the defined benefit plan component of the multiemployer plan as if each such component were maintained as a separate plan, and

''(B) the assets of the composite plan component and the defined benefit plan component of the plan shall be held in a single trust forming part of the plan under which the trust instrument expressly provides—

''(i) for separate accounts (and appropriate records) to be maintained to reflect the interest which each of the plan components has in the trust, including separate accounting for additions to the trust for the benefit of each plan component, disbursements made from each plan component's account in the trust, investment experience of the trust allocable to that account, and administrative expenses (whether direct expenses or shared expenses allocated proportionally), and permits, but does not require, the pooling of some or all of the assets of the two plan components for investment purposes, subject to the judgment of the plan fiduciaries, and

''(ii) that the assets of each of the two plan components shall be held, invested, reinvested, managed, administered and distributed for the exclusive benefit of the participants and beneficiaries of each such plan component, and in no event shall the assets of one of the plan components be available to pay benefits due under the other plan component.

''(4) NOT A TERMINATION EVENT.—Notwithstanding section 4041A of the Employee Retirement Income Security Act of 1974, an amendment pursuant to paragraph (1) to incorporate the features of a composite plan as a component of a multiemployer plan does not constitute termination of the multiemployer plan.

''(5) NOTICE TO THE SECRETARY OF LABOR.—

''(A) NOTICE.—The plan sponsor of a composite plan shall provide notice to the Secretary of Labor of the intent to establish the composite plan (or, in the case of a composite plan incorporated as a component of a multiemployer plan as described in paragraph (1), the intent to amend the multiemployer plan to incorporate such composite plan) at least 30 days prior to the effective date of such establishment or amendment.

''(B) CERTIFICATION.—In the case of a composite plan incorporated as a component of a multiemployer plan as described in paragraph (1), such notice shall include a certification by the plan actuary under section 432(b)(4) that the effective date of the amendment occurs in a plan year for which the multiemployer plan is not in endangered or critical status for that plan year and any of the succeeding 5 plan years.

''(6) REFERENCES TO COMPOSITE PLAN COMPONENT.—As used in this part, the term 'composite plan' includes a composite plan component added to a defined benefit plan pursuant to paragraph (1).

''(7) RULE OF CONSTRUCTION.—Paragraph (2)(A) shall not be construed as preventing the plan sponsor of a multiemployer plan from adopting an amendment pursuant to paragraph (1) because some collective bargaining agreements are amended to cease any covered employer's obligation to contribute to the multiemployer plan before or after the plan amendment is effective. Paragraph (2)(B) shall not be construed as preventing the plan sponsor of a multiemployer plan from adopting an amendment pursuant to paragraph (1) because some participants cease to have contributions made to the multiemployer plan on their behalf before or after the plan amendment is effective.

''(c) COORDINATION WITH FUNDING RULES.—Except as otherwise provided in this part, sections 412, 431, and 432 shall not apply to a composite plan.

''(d) TREATMENT OF A COMPOSITE PLAN.—For purposes of this title (other than sections 412 and 418E), a composite plan shall be treated as if it were a defined benefit plan unless a different treatment is provided for under applicable law.

''SEC. 438. FUNDED RATIOS; ACTUARIAL ASSUMPTIONS.

''(a) CERTIFICATION OF FUNDED RATIOS.—

''(1) IN GENERAL.—Not later than the one-hundred twentieth day of each plan year of a composite plan, the plan actuary of the composite plan shall certify to the Secretary, the Secretary of Labor, and the plan sponsor the plan's current funded ratio and projected funded ratio for the plan year.

''(2) DETERMINATION OF CURRENT FUNDED RATIO AND PROJECTED FUNDED RATIO.—For purposes of this section—

''(A) CURRENT FUNDED RATIO.—The current funded ratio is the ratio (expressed as a percentage) of—

''(i) the value of the plan's assets as of the first day of the plan year, to

''(ii) the plan actuary's calculation of the present value of the plan liabilities as of the first day of the plan year.

''(B) PROJECTED FUNDED RATIO.—The projected funded ratio is the funded ratio determined under subparagraph (A), projected as of the first day of the fifteenth plan year following the plan year for which the determination is being made.

''(3) CONSIDERATION OF CONTRIBUTION RATE INCREASES.—For purposes of projections under this subsection, the plan actuary may anticipate contribution rate increases beyond the term of the current collective bargaining agreement and any agreed-to supplements, if reasonable, not to exceed 2.5 percent per year, compounded annually.

''(b) ACTUARIAL ASSUMPTIONS AND METHODS.—For purposes of this part—

''(1) IN GENERAL.—All costs, liabilities, rates of interest, and other factors under the plan shall be determined for a plan year on the basis of actuarial assumptions and methods—

''(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations),

''(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan, and

''(C) with respect to which any change from the actuarial assumptions and methods used in the previous plan year shall be certified by the plan actuary and the actuarial rationale for such change provided in the annual report required by section 6058.

''(2) FAIR MARKET VALUE OF ASSETS.—The value of the plan's assets shall be taken into account on the basis of their fair market value.

''(3) DETERMINATION OF NORMAL COST AND PLAN LIABILITIES.—A plan's normal cost and liabilities shall be based on—

''(A) the most recent actuarial valuation required under section 437(a)(5)(A) and the unit credit funding method; and

''(B) rates of interest subject to section 431(b)(6).

''(4) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—Any contributions for a plan year made by an employer after the last day of such plan year, but not later than 2½ months after such day, shall be deemed to have been made on such last day. For purposes of this paragraph, such 2½-month period may be extended to a total of not more than 120 days under regulations prescribed by the Secretary.

''(5) ADDITIONAL ACTUARIAL ASSUMPTIONS.—Except where otherwise provided in this part, the provisions of section 432(b)(4)(B) shall apply to any determination or projection under this part.

''SEC. 439. REALIGNMENT PROGRAM.

''(a) REALIGNMENT PROGRAM.—

''(1) ADOPTION.—In any case in which the plan actuary certifies under section 438(a) that the plan's projected funded ratio is below 120 percent for the plan year, the plan sponsor shall adopt a realignment program under paragraph (2) not later than 210 days after the due date of the certification required under section 438(a). The plan sponsor shall adopt an updated realignment program for each succeeding plan year for which a certification described in the preceding sentence is made.

''(2) CONTENT OF REALIGNMENT PROGRAM.—

''(A) IN GENERAL.—A realignment program adopted under this paragraph is a written program which consists of reasonable measures, including options or a range of options to be undertaken by the plan sponsor or proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year.

''(B) INITIAL PROGRAM ELEMENTS.—Reasonable measures under a realignment program described in subparagraph (A) may include any of the following:

''(i) Proposed contribution increases.

''(ii) A reduction in the rate of future benefit accruals, so long as the resulting rate shall not be less than 1 percent of the contributions on which benefits are based as of the start of the plan year (or the equivalent standard accrual rate as described in section 432(f)(6)).

''(iii) A modification or elimination of adjustable benefits of participants that are not in pay status before the date of the notice required under subsection (b)(1).

''(iv) Any other legally available measures not specifically described in this subparagraph or subparagraph (C) or (D) that the plan sponsor determines are reasonable.

''(C) ADDITIONAL PROGRAM ELEMENTS.—If the plan sponsor has determined that all reasonable measures available under subparagraph (B) will not enable the plan to achieve a projected funded ratio of at least 120 percent the following plan year, such realignment program may also include—

''(i) a reduction of accrued benefits that are not in pay status by the date of the notice required under subsection (b)(1), or

''(ii) a reduction of any benefits of participants that are in pay status before the date of the notice required under subsection (b)(1) other than core benefits as defined in paragraph (4).

''(D) ADDITIONAL REDUCTIONS.—In the case of a composite plan for which the plan sponsor has determined that all reasonable measures available under subparagraphs (B) and (C) will not enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year, the realignment program may also include—

''(i) a further reduction in the rate of future benefit accruals without regard to the limitation applicable under subparagraph (B)(ii), or

''(ii) a reduction of core benefits,

provided that such reductions shall be equitably distributed across the participant and beneficiary population, taking into account factors, with respect to participants and beneficiaries and their benefits, that may include one or more of the factors listed in subclauses (I) through (X) of section 432(f)(9)(D)(vi), to the extent necessary to enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year.

''(3) ADJUSTABLE BENEFIT DEFINED.—For purposes of this part, the term 'adjustable benefit' means—

''(A) benefits, rights, and features under the plan, including post-retirement death benefits, disability benefits not yet in pay status, and similar benefits,

''(B) any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)) (including early reduction factors which are not provided on an actuarially equivalent basis) and any benefit payment option (other than the qualified joint and survivor annuity),

''(C) benefit increases which were adopted (or, if later, took effect) less than 120 months before the first day of the first plan year in which such realignment program took effect,

''(D) any one-time bonus payment or 'thirteenth check' provision, and

''(E) benefits granted for period of service prior to participation in the plan.

''(4) CORE BENEFIT DEFINED.—For purposes of this part, the term 'core benefit' means a participant's accrued benefit payable in the normal form of an annuity commencing at normal retirement age, determined without regard to—

''(A) any early retirement benefits, retirement-type subsidies, or other benefits, rights, or features that may be associated with that benefit, and

''(B) any cost-of-living adjustments or benefit increases effective after the date of retirement.

''(5) COORDINATION WITH CONTRIBUTION INCREASES.—

''(A) IN GENERAL.—A realignment program may provide that some or all of the benefit modifications described in the program will only take effect if the bargaining parties fail to agree to specified levels of increases in contributions to the plan, effective as of specified dates.

''(B) INDEPENDENT BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that are independent of potential contribution increases, such changes shall take effect not later than 180 days following the first day of the first plan year that begins following the adoption of the realignment program.

''(C) CONDITIONAL BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that take effect only if the bargaining parties fail to agree to contribution increases, such changes shall take effect not later than the first day of the first plan year beginning after the third anniversary of the date of adoption of the realignment program.

''(D) REVOCATION OF CERTAIN BENEFIT MODIFICATIONS.—Benefit modifications described in paragraph (3) may be revoked, in whole or in part, and retroactively or prospectively, when contributions to the plan are increased, as specified in the realignment program, including any amendments thereto. The preceding sentence shall not apply unless the contribution increases are to be effective not later than the fifth anniversary of the first day of the first plan year that begins after the adoption of the realignment program.

''(b) NOTICE.—

''(1) IN GENERAL.—In any case in which it is certified under section 438(a) that the projected funded ratio is less than 120 percent, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the current and projected funded ratios to the participants and beneficiaries, the bargaining parties, the Secretary of Labor, and the Secretary. Such notice shall include—

''(A) an explanation that contribution rate increases or benefit reductions may be necessary,

''(B) a description of the types of benefits that might be reduced, and

''(C) an estimate of the contribution increases and benefit reductions that may be necessary to achieve a projected funded ratio of 120 percent.

''(2) NOTICE OF BENEFIT MODIFICATIONS.—

''(A) IN GENERAL.—No modifications may be made that reduce the rate of future benefit accrual or that reduce core benefits or adjustable benefits unless notice of such reduction has been given at least 180 days before the general effective date of such reduction for all participants and beneficiaries to—

''(i) plan participants and beneficiaries,

''(ii) each employer who has an obligation to contribute to the composite plan, and

''(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such employers.

''(B) CONTENT OF NOTICE.—The notice under subparagraph (A) shall contain—

''(i) sufficient information to enable participants and beneficiaries to understand the effect of any reduction on their benefits, including an illustration of any affected benefit or subsidy, on an annual or monthly basis that a participant or beneficiary would otherwise have been eligible for as of the general effective date described in subparagraph (A), and

''(ii) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of the Treasury for further information and assistance, where appropriate.

''(C) FORM AND MANNER.—Any notice under subparagraph (A)—

''(i) shall be provided in a form and manner prescribed in regulations of the Secretary,

''(ii) shall be written in a manner so as to be understood by the average plan participant.

''(3) MODEL NOTICES.—The Secretary shall—

''(A) prescribe model notices that the plan sponsor of a composite plan may use to satisfy the notice requirements under this subsection, and

''(B) by regulation enumerate any details related to the elements listed in paragraph (1) that any notice under this subsection must include.

''(4) DELIVERY METHOD.—Any notice under this part shall be provided in writing and may be provided in electronic form to the extent that the form is reasonably accessible to persons to whom the notice is provided.

''SEC. 440. LIMITATION ON INCREASING BENEFITS.

''(a) LEVEL OF CURRENT FUNDED RATIOS.—Except as provided in subsections (c), (d), and (e), no plan amendment increasing benefits or establishing new benefits under a composite plan may be adopted for a plan year unless—

''(1) the plan's current funded ratio is at least 110 percent (without regard to the benefit increase or new benefits),

''(2) taking the benefit increase or new benefits into account, the current funded ratio is at least 100 percent and the projected funded ratio for the current plan year is at least 120 percent,

''(3) in any case in which, after taking the benefit increase or new benefits into account, the current funded ratio is less than 140 percent or the projected funded ratio is less than 140 percent, the benefit increase or new benefits are projected by the plan actuary to increase the present value of the plan's liabilities for the plan year by not more than 3 percent, and

''(4) expected contributions for the current plan year are at least 120 percent of normal cost for the plan year, determined using the unit credit funding method and treating the benefit increase or new benefits as in effect for the entire plan year.

''(b) ADDITIONAL REQUIREMENTS WHERE CORE BENEFITS REDUCED.—If a plan has been

amended to reduce core benefits pursuant to a realignment program under section 439(a)(2)(D), such plan may not be subsequently amended to increase core benefits unless the amendment—

''(1) increases the level of future benefit payments only, and

''(2) provides for an equitable distribution of benefit increases across the participant and beneficiary population, taking into account the extent to which the benefits of participants were previously reduced pursuant to such realignment program.

''(c) EXCEPTION TO COMPLY WITH APPLICABLE LAW.—Subsection (a) shall not apply in connection with a plan amendment if the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law.

''(d) EXCEPTION WHERE MAXIMUM DEDUCTIBLE LIMIT APPLIES.—Subsection (a) shall not apply in connection with a plan amendment if and to the extent that contributions to the composite plan would not be deductible for the plan year under section 404(a)(1)(E) if the plan amendment is not adopted. The Secretary of the Treasury shall issue regulations to implement this paragraph.

''(e) EXCEPTION FOR CERTAIN BENEFIT MODIFICATIONS.—Subsection (a) shall not apply in connection with a plan amendment under section 439(a)(5)(C), regarding conditional benefit modifications.

''(f) TREATMENT OF PLAN AMENDMENTS.—For purposes of this section—

''(1) if two or more plan amendments increasing benefits or establishing new benefits are adopted in a plan year, such amendments shall be treated as a single amendment adopted on the last day of the plan year,

''(2) all benefit increases and new benefits adopted in a single amendment are treated as a single benefit increase, irrespective of whether the increases and new benefits take effect in more than one plan year, and

''(3) increases in contributions or decreases in plan liabilities which are scheduled to take effect in future plan years may be taken into account in connection with a plan amendment if they have been agreed to in writing or otherwise formalized by the date the plan amendment is adopted.

''SEC. 440A. COMPOSITE PLAN RESTRICTIONS TO PRESERVE LEGACY PLAN FUNDING.

''(a) TREATMENT AS A LEGACY PLAN.—

''(1) IN GENERAL.—For purposes of this subchapter, a defined benefit plan shall be treated as a legacy plan with respect to the composite plan under which employees who were eligible to accrue a benefit under the defined benefit plan become eligible to accrue a benefit under such composite plan.

''(2) COMPONENT PLANS.—In any case in which a defined benefit plan is amended to add a composite plan component pursuant to section 437(b), paragraph (1) shall be applied by substituting 'defined benefit component' for 'defined benefit plan' and 'composite plan component' for 'composite plan'.

''(3) ELIGIBLE TO ACCRUE A BENEFIT.—For purposes of paragraph (1), an employee is considered eligible to accrue a benefit under a composite plan as of the first day in which the employee completes an hour of service under a collective bargaining agreement that provides for contributions to and accruals under the composite plan in lieu of accruals under the defined benefit plan.

''(4) COLLECTIVE BARGAINING AGREEMENT.—As used in this part, the term 'collective bargaining agreement' includes any agreement under which an employer has an obligation to contribute to a plan.

''(5) OTHER TERMS.—Any term used in this part which is not defined in this part and which is also used in section 432 shall have the same meaning provided such term in such section.

''(b) RESTRICTIONS ON ACCEPTANCE BY COMPOSITE PLAN OF AGREEMENTS AND CONTRIBUTIONS.—

''(1) IN GENERAL.—The plan sponsor of a composite plan shall not accept or recognize a collective bargaining agreement (or any modification to such agreement), and no contributions may be accepted and no benefits may be accrued or otherwise earned under the agreement—

''(A) in any case in which the plan actuary of any defined benefit plan that would be treated as a legacy plan with respect to such composite plan has certified under section 432(b)(4) that such defined benefit plan is or will be in endangered or critical status for the plan year in which such agreement would take effect or for any of the succeeding 5 plan years, and

''(B) unless the agreement requires each employer who is a party to such agreement, including employers whose employees are not participants in the legacy plan, to provide contributions to the legacy plan with respect to such composite plan in a manner that satisfies the transition contribution requirements of subsection (d).

''(2) NOTICE.—Not later than 30 days after a determination by a plan sponsor of a composite plan that an agreement fails to satisfy the requirements described in paragraph (1), the plan sponsor shall provide notification of such failure and the reasons for such determination to—

''(A) the parties to the agreement,

''(B) active participants of the composite plan who have ceased to accrue or otherwise earn benefits with respect to service with an employer pursuant to paragraph (1), and

''(C) the Secretary of Labor, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation.

''(3) LIMITATION ON RETROACTIVE EFFECT.—This subsection shall not apply to benefits accrued before the date on which notice is provided under paragraph (2).

''(c) RESTRICTION ON ACCRUAL OF BENEFITS UNDER A COMPOSITE PLAN.—

''(1) IN GENERAL.—In any case in which an employer, under a collective bargaining agreement entered into after the date of enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020, ceases to have an obligation to contribute to a multiemployer defined benefit plan, no employees employed by the employer may accrue or otherwise earn benefits under any composite plan, with respect to service with that employer, for a 60-month period beginning on the date on which the employer entered into such collective bargaining agreement.

''(2) NOTICE OF CESSATION OF OBLIGATION.—Within 30 days of determining that an employer has ceased to have an obligation to contribute to a legacy plan with respect to employees employed by an employer that is or will be contributing to a composite plan with respect to service of such employees, the plan sponsor of the legacy plan shall notify the plan sponsor of the composite plan of that cessation.

''(3) NOTICE OF CESSATION OF ACCRUALS.—Not later than 30 days after determining that an employer has ceased to have an obligation to contribute to a legacy plan, the plan sponsor of the composite plan shall notify the bargaining parties, the active participants affected by the cessation of accruals, the Secretary, the Secretary of Labor, and the Pension Benefit Guaranty Corporation of the cessation of accruals, the period during which such cessation is in effect, and the reasons therefor.

''(4) LIMITATION ON RETROACTIVE EFFECT.—This subsection shall not apply to benefits accrued before the date on which notice is provided under paragraph (3).

''(d) TRANSITION CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—A collective bargaining agreement satisfies the transition contribution requirements of this subsection if the agreement—

''(A) authorizes for payment of contributions to a legacy plan at a rate, or multiple rates, as described in paragraph (2)(B), equal to or greater than the transition contribution rate established under paragraph (2), and

''(B) does not provide for—

''(i) a suspension of contributions to the legacy plan with respect to any period of service, or

''(ii) any new direct or indirect exclusion of younger or newly hired employees of the employer from being taken into account in determining contributions owed to the legacy plan.

''(2) TRANSITION CONTRIBUTION RATE.—

''(A) IN GENERAL.—The transition contribution rate for a plan year is the contribution rate that, as certified by the actuary of the legacy plan in accordance with the principles in section 432(b)(4)(B), is reasonably expected to be adequate—

''(i) to fund the normal cost for the plan year,

''(ii) to amortize the plan's unfunded liabilities in level annual installments over 25 years, beginning with the plan year in which the transition contribution rate is first established, and

''(iii) to amortize any subsequent changes in the legacy plan's unfunded liability due to experience gains or losses (including investment gains or losses, gains or losses due to contributions greater or less than the contributions made under the prior transition contribution rate, and other actuarial gains or losses), changes in actuarial assumptions, changes to the legacy plan's benefits, or changes in funding method over a period of 15 plan years beginning with the plan year following the plan year in which such change in unfunded liability is incurred, unless otherwise prescribed.

The transition contribution rate for any plan year may not be less than the transition contribution rate for the plan year in which such rate is first established.

''(B) MULTIPLE RATES.—If different rates of contribution are payable to the legacy plan by different employers or for different classes of employees, the certification by the actuary of the legacy plan shall specify a transition contribution rate for each such employer or class of employees.

''(C) RATE APPLICABLE TO EMPLOYER.—

''(i) IN GENERAL.—Except as provided by clause (ii), the transition contribution rate applicable to an employer for a plan year is the rate in effect for the plan year of the legacy plan that commences on or after 180 days before the earlier of—

''(I) the effective date of the collective bargaining agreement pursuant to which the employer contributes to the legacy plan, or

''(II) 5 years after the last plan year for which the transition contribution rate applicable to the employer was established or updated.

''(ii) EXCEPTION.—The transition contribution rate applicable to an employer for the first plan year beginning on or after the commencement of the employer's obligation to contribute to the composite plan is the rate in effect for the plan year of the legacy plan that commences on or after 180 days before such first plan year.

''(D) EFFECT OF LEGACY PLAN FINANCIAL CIRCUMSTANCES.—If the plan actuary of the legacy plan has certified under section 432 that the plan is in endangered or critical status

for a plan year, the transition contribution rate for the following plan year is the rate determined with respect to the employer under the legacy plan's funding improvement or rehabilitation plan under section 432, if greater than the rate otherwise determined, but in no event shall the transition contribution rate be greater than 75 percent of the sum of the contribution rates applicable to the legacy plan and the composite plan for the plan year. Notwithstanding the preceding sentence, if the transition contribution rate in the prior year is more than 75 percent of the sum of the contribution rates applicable to the legacy plan and the composite plan for the prior plan year, the transition contribution rate applicable to the legacy plan shall not be subject to the 75-percent limitation, but shall be neither increased nor reduced as a percentage of the sum of the contribution rates applicable to the legacy plan and the composite plan for the plan year.

''(E) OTHER ACTUARIAL ASSUMPTIONS AND METHODS.—Except as provided in subparagraph (A), the determination of the transition contribution rate for a plan year shall be based on actuarial assumptions and methods consistent with the minimum funding determinations made under section 431 (or, if applicable, section 432) with respect to the legacy plan for the plan year.

''(F) ADJUSTMENTS IN RATE.—The plan sponsor of a legacy plan from time to time may adjust the transition contribution rate or rates applicable to an employer under this paragraph by increasing some rates and decreasing others if the actuary certifies that such adjusted rates in combination will produce projected contribution income for the plan year beginning on or after the date of certification that is not less than would be produced by the transition contribution rates in effect at the time of the certification.

''(G) NOTICE OF TRANSITION CONTRIBUTION RATE.—The plan sponsor of a legacy plan shall provide notice to the parties to collective bargaining agreements pursuant to which contributions are made to the legacy plan of changes to the transition contribution rate requirements at least 30 days before the beginning of the plan year for which the rate is effective.

''(H) NOTICE TO COMPOSITE PLAN SPONSOR.—Not later than 30 days after a determination by the plan sponsor of a legacy plan that a collective bargaining agreement provides for a rate of contributions that is below the transition contribution rate applicable to one or more employers that are parties to the collective bargaining agreement, the plan sponsor of the legacy plan shall notify the plan sponsor of any composite plan under which employees of such employer would otherwise be eligible to accrue a benefit.

''(3) CORRECTION PROCEDURES.—Pursuant to standards prescribed by the Secretary of Labor, the plan sponsor of a composite plan shall adopt rules and procedures that give the parties to the collective bargaining agreement notice of the failure of such agreement to satisfy the transition contribution requirements of this subsection, and a reasonable opportunity to correct such failure, not to exceed 180 days from the date of notice given under subsection (b)(2).

''(4) SUPPLEMENTAL CONTRIBUTIONS.—A collective bargaining agreement may provide for supplemental contributions to the legacy plan for a plan year in excess of the transition contribution rate determined under paragraph (2), regardless of whether the legacy plan is in endangered or critical status for such plan year.

''(e) NONAPPLICATION OF COMPOSITE PLAN RESTRICTIONS.—

''(1) IN GENERAL.—The provisions of subsections (a), (b), and (c) shall not apply with respect to a collective bargaining agreement, to the extent the agreement, or a predecessor agreement, provides or provided for contributions to a defined benefit plan that is a legacy plan, as of the first day of the first plan year following a plan year for which the plan actuary certifies that the plan is fully funded, has been fully funded for at least three out of the immediately preceding 5 plan years, and is projected to remain fully funded for at least the following 4 plan years.

''(2) DETERMINATION OF FULLY FUNDED.—A plan is fully funded for purposes of paragraph (1) if, as of the valuation date of the plan for a plan year, the value of the plan's assets equals or exceeds the present value of the plan's liabilities, determined in accordance with the rules prescribed by the Pension Benefit Guaranty Corporation under sections 4219(c)(1)(D) and 4281 of Employee Retirement Income and Security Act for multiemployer plans terminating by mass withdrawal, as in effect for the date of the determination, except the plan's reasonable assumption regarding the starting date of benefits may be used.

''(3) OTHER APPLICABLE RULES.—Except as provided in paragraph (2), actuarial determinations and projections under this section shall be based on the rules in section 438(b).

''SEC. 440B. MERGERS AND ASSET TRANSFERS OF COMPOSITE PLANS.

''(a) IN GENERAL.—Assets and liabilities of a composite plan may only be merged with, or transferred to, another plan if—

''(1) the other plan is a composite plan,

''(2) the plan or plans resulting from the merger or transfer is a composite plan,

''(3) no participant's accrued benefit or adjustable benefit is lower immediately after the transaction than it was immediately before the transaction, and

''(4) the value of the assets transferred in the case of a transfer reasonably reflects the value of the amounts contributed with respect to the participants whose benefits are being transferred, adjusted for allocable distributions, investment gains and losses, and administrative expenses.

A plan which is not a composite plan may not merge with or transfer assets and liabilities to a composite plan.

''(b) LEGACY PLAN.—

''(1) IN GENERAL.—After a merger or transfer involving a composite plan, the legacy plan with respect to an employer that is obligated to contribute to the resulting composite plan is the legacy plan that applied to that employer immediately before the merger or transfer.

''(2) MULTIPLE LEGACY PLANS.—If an employer is obligated to contribute to more than one legacy plan with respect to employees eligible to accrue benefits under more than one composite plan and there is a merger or transfer of such legacy plans, the transition contribution rate applicable to the legacy plan resulting from the merger or transfer with respect to that employer shall be determined in accordance with the provisions of section 440A(d)(2)(B).''.

(2) CLERICAL AMENDMENT.—The table of parts for subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

''PART IV—COMPOSITE PLANS AND LEGACY PLANS''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 502. APPLICATION OF CERTAIN REQUIREMENTS TO COMPOSITE PLANS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) TREATMENT FOR PURPOSES OF FUNDING NOTICES.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)), as amended by this Act, is further amended—

(A) in paragraph (1) by striking ''title IV applies'' and inserting ''title IV applies or which is a composite plan''; and

(B) by adding at the end the following:

''(5) APPLICATION TO COMPOSITE PLANS.—The provisions of this subsection shall apply to a composite plan only to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.''.

(2) TREATMENT FOR PURPOSES OF ANNUAL REPORT.—Section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) is amended—

(A) in subsection (d) by adding at the end the following sentence: ''The provisions of this subsection shall apply to a composite plan only to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.'';

(B) in subsection (f) by adding at the end the following:

''(3) ADDITIONAL INFORMATION FOR COMPOSITE PLANS.—With respect to any composite plan—

''(A) the provisions of paragraph (1)(A) shall apply by substituting 'current funded ratio and projected funded ratio (as such terms are defined in section 802(a)(2))' for 'funded percentage' each place it appears; and

''(B) the provisions of paragraph (2) shall apply only to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.''; and

(C) by adding at the end the following:

''(h) COMPOSITE PLANS.—A multiemployer plan that incorporates the features of a composite plan as provided in section 801(b) shall be treated as a single plan for purposes of the report required by this section, except that separate financial statements and actuarial statements shall be provided under paragraphs (3) and (4) of subsection (a) for the defined benefit plan component and for the composite plan component of the multiemployer plan.''.

(3) TREATMENT FOR PURPOSES OF PENSION BENEFIT STATEMENTS.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)) is amended by adding at the end the following:

''(4) COMPOSITE PLANS.—For purposes of this subsection, a composite plan shall be treated as a defined benefit plan to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.''.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—Section 6058 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

''(f) COMPOSITE PLANS.—A multiemployer plan that incorporates the features of a composite plan as provided in section 437(b) shall be treated as a single plan for purposes of the return required by this section, except that separate financial statements shall be provided for the defined benefit plan component and for the composite plan component of the multiemployer plan.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 503. TREATMENT OF COMPOSITE PLANS UNDER TITLE IV.

(a) DEFINITION.—Section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)) is amended by striking the period at the end of paragraph (21) and inserting a semicolon and by adding at the end the following:

''(22) COMPOSITE PLAN.—The term 'composite plan' has the meaning set forth in section 801.''.

(b) COMPOSITE PLANS DISREGARDED FOR CALCULATING PREMIUMS.—Section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)) is amended by adding at the end the following:

''(9) The composite plan component of a multiemployer plan shall be disregarded in determining the premiums due under this section from the multiemployer plan.''.

(c) COMPOSITE PLANS NOT COVERED.—Section 4021(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321(b)(1)) is amended by striking ''Act'' and inserting ''Act, or a composite plan, as defined in paragraph (43) of section 3 of this Act''.

(d) NO WITHDRAWAL LIABILITY.—Section 4201 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381) is amended by adding at the end the following:

''(c) Contributions by an employer to the composite plan component of a multiemployer plan shall not be taken into account for any purpose under this title.''.

(e) NO WITHDRAWAL LIABILITY FOR CERTAIN PLANS.—Section 4201 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381) is further amended by adding at the end the following:

''(d) Contributions by an employer to a multiemployer plan described in the except clause of section 3(35) of this Act pursuant to a collective bargaining agreement that specifically designates that such contributions shall be allocated to the separate defined contribution accounts of participants under the plan shall not be taken into account with respect to the defined benefit portion of the plan for any purpose under this title (including the determination of the employer's highest contribution rate under section 4219), even if, under the terms of the plan, participants have the option to transfer assets in their separate defined contribution accounts to the defined benefit portion of the plan in return for service credit under the defined benefit portion, at rates established by the plan sponsor.

''(e) A legacy plan created under section 805 shall be deemed to have no unfunded vested benefits for purposes of this part, for each plan year following a period of 5 consecutive plan years for which—

''(1) the plan was fully funded within the meaning of section 805 for at least 3 of the plan years during that period, ending with a plan year for which the plan is fully funded;

''(2) the plan had no unfunded vested benefits for at least 3 of the plan years during that period, ending with a plan year for which the plan is fully funded; and

''(3) the plan is projected to be fully funded and to have no unfunded vested benefits for the following four plan years.''.

(f) NO WITHDRAWAL LIABILITY FOR EMPLOYERS CONTRIBUTING TO CERTAIN FULLY FUNDED LEGACY PLANS.—Section 4211 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1382) is amended by adding at the end the following:

''(g) LEGACY PLANS.—No amount of unfunded vested benefits shall be allocated to an employer that has an obligation to contribute to a legacy plan described in subsection (e) of section 4201 for each plan year for which such subsection applies.''.

(g) NO OBLIGATION TO CONTRIBUTE.—Section 4212 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1392) is amended by adding at the end the following:

''(d) NO OBLIGATION TO CONTRIBUTE.—An employer shall not be treated as having an obligation to contribute to a multiemployer defined benefit plan within the meaning of subsection (a) solely because—

''(1) in the case of a multiemployer plan that includes a composite plan component, the employer has an obligation to contribute to the composite plan component of the plan;

''(2) the employer has an obligation to contribute to a composite plan that is maintained pursuant to one or more collective bargaining agreements under which the multiemployer defined benefit plan is or previously was maintained; or

''(3) the employer contributes or has contributed under section 805(d) to a legacy plan associated with a composite plan pursuant to a collective bargaining agreement but employees of that employer were not eligible to accrue benefits under the legacy plan with respect to service with that employer.''.

(h) NO INFERENCE.—Nothing in the amendment made by subsection (e) shall be construed to create an inference with respect to the treatment under title IV of the Employee Retirement Income Security Act of 1974, as in effect before such amendment, of contributions by an employer to a multiemployer plan described in the except clause of section 3(35) of such Act that are made before the effective date of subsection (e) specified in subsection (h)(2).

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in subparagraph (2), the amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

(2) SPECIAL RULE FOR SECTION 414(k) MULTIEMPLOYER PLANS.—The amendment made by subsection (e) shall apply only to required contributions payable for plan years beginning after the date of the enactment of this Act.

SEC. 504. CONFORMING CHANGES.

(a) DEFINITIONS.—

(1) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended—

(A) in paragraph (35), by inserting ''or a composite plan'' after ''other than an individual account plan''; and

(B) by adding at the end the following:

''(43) The term 'composite plan' has the meaning given the term in section 801(a).''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 414(j) of the Internal Revenue Code of 1986 is amended by inserting '', other than a composite plan (as defined in section 437(a)),'' after ''any plan''.

(b) SPECIAL FUNDING RULE FOR CERTAIN LEGACY PLANS.—

(1) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 304(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)), as amended by this Act, is amended by adding at the end the following:

''(10) SPECIAL FUNDING RULE FOR CERTAIN LEGACY PLANS.—In the case of a multiemployer defined benefit plan that has adopted an amendment under section 801(b), in accordance with which no further benefits shall accrue under the multiemployer defined benefit plan, the plan sponsor may combine the outstanding balance of all charge and credit bases and amortize that combined base in level annual installments (until fully amortized) over a period of 25 plan years beginning with the plan year following the date all benefit accruals ceased, but only if the plan is not in endangered or critical status under section 305.''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following:

''(10) SPECIAL FUNDING RULE FOR CERTAIN LEGACY PLANS.—In the case of a multiemployer defined benefit plan that has adopted an amendment under section 437(b), in accordance with which no further benefits shall accrue under the multiemployer defined benefit plan, the plan sponsor may combine the outstanding balance of all charge and credit bases and amortize that combined base in level annual installments (until fully amortized) over a period of 25 plan years beginning with the plan year following the date on which all benefit accruals ceased, but only if the plan is not in endangered or critical status under section 432.''.

(c) BENEFITS AFTER MERGER, CONSOLIDATION, OR TRANSFER OF ASSETS.—

(1) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 208 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1058) is amended—

(A) by striking so much of the first sentence as precedes ''may not merge'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), a pension plan may not merge, and''; and

(B) by striking the second sentence and adding at the end the following:

''(2) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Paragraph (1) shall not apply to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of this Act applies or a composite plan.''.

(2) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(A) QUALIFICATION REQUIREMENT.—Section 401(a)(12) of the Internal Revenue Code of 1986 is amended—

(i) by striking ''(12) A trust'' and inserting the following:

''(12) BENEFITS AFTER MERGER, CONSOLIDATION, OR TRANSFER OF ASSETS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a trust'';

(ii) by striking the second sentence; and

(iii) by adding at the end the following:

''(B) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Subparagraph (A) shall not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies or a composite plan.''.

(B) ADDITIONAL QUALIFICATION REQUIREMENT.—Paragraph (1) of section 414(l) of such Code is amended—

(i) by striking ''(1) IN GENERAL'' and all that follows through ''shall not constitute'' and inserting the following:

''(1) BENEFIT PROTECTIONS: MERGER, CONSOLIDATION, TRANSFER.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a trust which forms a part of a plan shall not constitute''; and

(ii) by striking the second sentence; and

(iii) by adding at the end the following:

''(B) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Subparagraph (A) does not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies or a composite plan.''.

(d) REQUIREMENTS FOR STATUS AS A QUALIFIED PLAN.—

(1) REQUIREMENT THAT ACTUARIAL ASSUMPTIONS BE SPECIFIED.—Section 401(a)(25) of the Internal Revenue Code of 1986 is amended by inserting ''(in the case of a composite plan,

benefits objectively calculated pursuant to a formula)'' after ''definitely determinable benefits''.

(2) MISSING PARTICIPANTS IN TERMINATING COMPOSITE PLAN.—Section 401(a)(34) of the Internal Revenue Code of 1986 is amended by striking '', a trust'' and inserting ''or a composite plan, a trust''.

(e) DEDUCTION FOR CONTRIBUTIONS TO A QUALIFIED PLAN.—Section 404(a)(1) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following:

''(E) COMPOSITE PLANS.—

''(i) IN GENERAL.—In the case of a composite plan, subparagraph (D) shall not apply and the maximum amount deductible for a plan year shall be the excess (if any) of—

''(I) 140 percent of the greater of—

''(aa) the current liability of the plan determined in accordance with the principles of section 431(c)(6)(D), or

''(bb) the present value of plan liabilities as determined under section 438, over

''(II) the fair market value of the plan's assets, projected to the end of the plan year.

''(ii) SPECIAL RULES FOR PREDECESSOR MULTIEMPLOYER PLAN TO COMPOSITE PLAN.—

''(I) IN GENERAL.—Except as provided in subclause (II), if an employer contributes to a composite plan with respect to its employees, contributions by that employer to a legacy plan with respect to some or all of the same group of employees shall be deductible under sections 162 and this section, subject to the limits in subparagraph (D).

''(II) TRANSITION CONTRIBUTION.—The full amount of a contribution to satisfy the transition contribution requirement (as defined in section 440A(d)) and allocated to the legacy defined benefit plan for the plan year shall be deductible for the employer's taxable year ending with or within the plan year.''.

(f) MINIMUM VESTING STANDARDS.—

(1) YEARS OF SERVICE UNDER COMPOSITE PLANS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 203 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053) is amended by inserting after subsection (f) the following:

''(g) SPECIAL RULES FOR COMPUTING YEARS OF SERVICE UNDER COMPOSITE PLANS.—

''(1) IN GENERAL.—In determining a qualified employee's years of service under a composite plan for purposes of this section, the employee's years of service under a legacy plan shall be treated as years of service earned under the composite plan. For purposes of such determination, a composite plan shall not be treated as a defined benefit plan pursuant to section 801(d).

''(2) QUALIFIED EMPLOYEE.—For purposes of this subsection, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this subsection) within the 12-month period immediately preceding or the 24-month period immediately following the date the employee ceased to accrue benefits under the legacy plan.

''(3) CERTIFICATION OF YEARS OF SERVICE.—For purposes of paragraph (1), the plan sponsor of the composite plan shall rely on a written certification by the plan sponsor of the legacy plan of the years of service the qualified employee completed under the defined benefit plan as of the date the employee satisfies the requirements of paragraph (2), disregarding any years of service that had been forfeited under the rules of the defined benefit plan before that date unless contrary to service records provided by the participant. In the case of a conflict, the plan sponsor shall evaluate the evidence and make a reasonable factual determination.

''(h) SPECIAL RULES FOR COMPUTING YEARS OF SERVICE UNDER LEGACY PLANS.—

''(1) IN GENERAL.—In determining a qualified employee's years of service under a legacy plan for purposes of this section, and in addition to any service under applicable regulations, the employee's years of service under a composite plan shall be treated as years of service earned under the legacy plan. For purposes of such determination, a composite plan shall not be treated as a defined benefit plan pursuant to section 801(d).

''(2) QUALIFIED EMPLOYEE.—For purposes of this subsection, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this subsection) within the 12-month period immediately preceding or the 24-month period immediately following the date the employee ceased to accrue benefits under the legacy plan.

''(3) CERTIFICATION OF YEARS OF SERVICE.—For purposes of paragraph (1), the plan sponsor of the legacy plan shall rely on a written certification by the plan sponsor of the composite plan of the years of service the qualified employee completed under the composite plan after the employee satisfies the requirements of paragraph (2), disregarding any years of service that has been forfeited under the rules of the composite plan unless contrary to service records provided by the participant. In the case of a conflict, the plan sponsor shall evaluate the evidence and make a reasonable factual determination.''.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(14) SPECIAL RULES FOR DETERMINING YEARS OF SERVICE UNDER COMPOSITE PLANS.—

''(A) IN GENERAL.—In determining a qualified employee's years of service under a composite plan for purposes of this subsection, the employee's years of service under a legacy plan shall be treated as years of service earned under the composite plan. For purposes of such determination, a composite plan shall not be treated as a defined benefit plan pursuant to section 437(d).

''(B) QUALIFIED EMPLOYEE.—For purposes of this paragraph, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this paragraph) within the 12-month period immediately preceding or the 24-month period immediately following the date the employee ceased to accrue benefits under the legacy plan.

''(C) CERTIFICATION OF YEARS OF SERVICE.—For purposes of subparagraph (A), the plan sponsor of the composite plan shall rely on a written certification by the plan sponsor of the legacy plan of the years of service the qualified employee completed under the legacy plan as of the date the employee satisfies the requirements of subparagraph (B), disregarding any years of service that had been forfeited under the rules of the defined benefit plan before that date unless contrary to service records provided by the participant. In the case of a conflict, the plan sponsor shall evaluate the evidence and make a reasonable factual determination.

''(15) SPECIAL RULES FOR COMPUTING YEARS OF SERVICE UNDER LEGACY PLANS.—

''(A) IN GENERAL.—In determining a qualified employee's years of service under a legacy plan for purposes of this section, and in addition to any service under applicable regulations, the employee's years of service under a composite plan shall be treated as years of service earned under the legacy plan. For purposes of such determination, a composite plan shall not be treated as a defined benefit plan pursuant to section 437(d).

''(B) QUALIFIED EMPLOYEE.—For purposes of this paragraph, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this paragraph) within the 12-month period immediately preceding or the 24-month period immediately following the date the employee ceased to accrue benefits under the legacy plan.

''(C) CERTIFICATION OF YEARS OF SERVICE.—For purposes of subparagraph (A), the plan sponsor of the legacy plan shall rely on a written certification by the plan sponsor of the composite plan of the years of service the qualified employee completed under the composite plan after the employee satisfies the requirements of subparagraph (B), disregarding any years of service that has been forfeited under the rules of the composite plan unless contrary to service records provided by the participant. In the case of a conflict, the plan sponsor shall evaluate the evidence and make a reasonable factual determination.''.

(2) REDUCTION OF BENEFITS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 203(a)(3)(E)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(E)(ii)) is amended—

(i) in subclause (I) by striking ''4244A'' and inserting ''305(f), 803,''; and

(ii) in subclause (II) by striking ''4245'' and inserting ''305(f), 4245,''.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(a)(3)(F) of the Internal Revenue Code of 1986 is amended—

(i) in clause (i) by striking ''section 418D or under section 4281 of the Employee Retirement Income Security Act of 1974'' and inserting ''section 432(f) or 439 or under section 4281 of the Employee Retirement Income Security Act of 1974''; and

(ii) in clause (ii) by inserting ''or 432(f)'' after ''section 418E''.

(3) ACCRUED BENEFIT REQUIREMENTS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204(b)(1)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)(1)(B)(i)) is amended by inserting '', including an amendment reducing or suspending benefits under section 305(f), 803, 4245 or 4281,'' after ''any amendment to the plan''.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(b)(1)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting '', including an amendment reducing or suspending benefits under section 418E, 432(f) or 439, or under section 4281 of the Employee Retirement Income Security Act of 1974,'' after ''any amendment to the plan''.

(4) ADDITIONAL ACCRUED BENEFIT REQUIREMENTS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204(b)(1)(H)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(b)(1)(H)(v)) is amended by inserting before the period at the end the following: '', or benefits are reduced or suspended under section 305(f), 803, 4245, or 4281''.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(b)(1)(H)(iv) of the Internal Revenue Code of 1986 is amended—

(i) in the heading by striking ''BENEFIT'' and inserting ''BENEFIT AND THE SUSPENSION AND REDUCTION OF CERTAIN BENEFITS''; and

(ii) in the text by inserting before the period at the end the following: '', or benefits are reduced or suspended under section 418E, 432(f), or 439, or under section 4281 of the Employee Retirement Income Security Act of 1974''.

(5) ACCRUED BENEFIT NOT TO BE DECREASED BY AMENDMENT.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204(g)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(g)(1)) is amended by inserting after ''302(d)(2)'' the following: '', 305(f), 803, 4245,''.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(d)(6)(A) of the Internal Revenue Code of 1986 is amended by inserting after ''412(d)(2),'' the following: ''418E, 432(f), or 439,''.

(g) CERTAIN FUNDING RULES NOT APPLICABLE.—

(1) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085), as amended by section 212(a) and as in effect before the amendments made by section 212 other than subsection (a) thereof, is further amended by adding at the end the following:

''(l) LEGACY PLANS.—This section and sections 302 and 304 shall not apply to an employer that has an obligation to contribute to a plan that is a legacy plan within the meaning of section 805(a) solely because the employer has an obligation to contribute to a composite plan described in section 801 that is associated with that legacy plan.''.

(2) INTERNAL REVENUE CODE OF 1986.—Section 432 of the Internal Revenue Code of 1986, as amended by section 211(a) and as in effect before the amendments made by section 211 other than subsection (a) thereof, is further amended by adding at the end the following:

''(l) LEGACY PLANS.—This section and sections 412 and 431 shall not apply to an employer that has an obligation to contribute to a plan that is a legacy plan within the meaning of section 440A(a) solely because the employer has an obligation to contribute to a composite plan described in section 437 that is associated with that legacy plan.''.

(h) TERMINATION OF COMPOSITE PLAN.—Section 403(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(d) is amended—

(1) in paragraph (1), by striking ''regulations of the Secretary.'' and inserting ''regulations of the Secretary, or as provided in paragraph (3).''; and

(2) by adding at the end the following:

''(3) Section 4044(a) of this Act shall be applied in the case of the termination of a composite plan by—

''(A) limiting the benefits subject to paragraph (3) thereof to benefits as defined in section 802(b)(3)(B); and

''(B) including in the benefits subject to paragraph (4) all other benefits (if any) of individuals under the plan that would be guaranteed under section 4022A if the plan were subject to title IV.''.

(i) GOOD FAITH COMPLIANCE PRIOR TO GUIDANCE.—Where the implementation of any provision of law added or amended by this Act is subject to issuance of regulations by the Secretary of Labor, the Secretary of the Treasury, or the Pension Benefit Guaranty Corporation, a multiemployer plan shall not be treated as failing to meet the requirements of any such provision prior to the issuance of final regulations or other guidance to carry out such provision if such plan is operated in accordance with a reasonable, good faith interpretation of such provision.

SEC. 505. EFFECTIVE DATE.

Unless otherwise specified, the amendments made by this title shall apply to plan years beginning after the date of the enactment of this title.

TITLE VI—FINANCIAL PROVISIONS

SEC. 601. ADDITIONAL PREMIUMS.

(a) INCREASE IN FLAT DOLLAR PREMIUM BEGINNING IN 2021.—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, 2021,'' after ''2014,''; and

(ii) by striking ''or'' at the end;

(B) by moving the margins of clause (vii) 2 ems to the left;

(C) by redesignating clause (vii) as clause (ix); and

(D) by inserting after clause (vi) the following:

''(vii) in the case of a multiemployer plan, for plan years beginning in calendar year 2021, for each individual who is a participant in such plan during the plan year, the dollar amount in effect under clause (i) for plan years beginning in 2021,''.

(b) FLAT AND VARIABLE RATE PREMIUM FOR YEARS AFTER 2021.—Section 4006(a)(3)) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)), as amended by subsection (a), is further amended—

(1) by inserting after clause (vii) of subparagraph (A) the following:

''(viii) in the case of a multiemployer plan, for any plan year beginning after December 31, 2021, an amount for each individual who is a participant in such plan during the plan year equal to the sum of—

''(I) the premium rate applicable under clause (i)(VIII), plus

''(II) the additional premium (if any) determined under subparagraph (N) for the plan year, or''; and

(2) by adding at the end the following:

''(N)(i) The additional premium determined under this subparagraph with respect to any multiemployer plan for any plan year shall be an amount equal to the least of—

''(I) the amount determined under clause (ii) for the plan year divided by the number of participants in such plan as of the close of the preceding plan year;

''(II) 10 percent of the historic base contributions divided by the number of participants in such plan as of the close of the preceding plan year; or

''(III) $250.

''(ii) The amount determined under this clause for any plan year shall be an amount equal to $10 for each $1,000 (or fraction thereof) of the multiemployer unfunded vested benefits under the plan as of the close of the preceding plan year. For purposes of this clause, the term 'multiemployer unfunded vested benefits' means, for a plan year, the excess (if any) of—

''(I) the current liability of the plan as determined under section 304(c)(6)(D) by taking into account only vested benefits, over

''(II) the fair market value (as determined under section 304(c)(6)(A)(ii)(I)) of the plan assets for the plan year which are held by the plan as of the valuation date.

''(iii) For purposes of clause (i)(II), the term 'historic base contributions' means the average amount of the contributions, excluding any payments of withdrawal liability, to the plan required to be reported by the plan on Schedule MB of the 3 most recent Forms 5500 required to be filed before the date of enactment of this subparagraph.

''(iv) For each plan year beginning after December 31, 2022, there shall be substituted for the dollar amount of historic base contributions under clause (i)(II) and the dollar amount specified in clause (i)(III) an amount equal to the greater of—

''(I) the product derived by multiplying such dollar amount for plan years beginning in that calendar year by the ratio of—

''(aa) 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

''(bb) the national average wage index (as so defined) for 2020, or

''(II) such dollar amount in effect for plan years beginning in the preceding calendar year.

If any amount determined under this clause is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.''.

(c) ADDITIONAL PREMIUMS.—Section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), as amended by this Act, is further amended by adding at the end the following:

''(10) ADDITIONAL PREMIUMS PAYABLE BY PARTICIPANTS AND BENEFICIARIES.—

''(A) IN GENERAL.—In addition to the amounts payable under paragraph (3), for plan years beginning after December 31, 2021, with respect to multiemployer plans, premiums shall be payable to the corporation with respect to participants and beneficiaries who are in pay status in accordance with this paragraph.

''(B) AMOUNTS PAYABLE.—Subject to subparagraphs (C), (D), and (E), the monthly amount payable by each participant or beneficiary who is in pay status is—

''(i) an amount equal to 3 percent of the participant's or beneficiary's aggregate monthly benefit, in the case of a plan in endangered status, as described in section 305(b)(2);

''(ii) an amount equal to 5 percent of the participant's or beneficiary's aggregate monthly benefit, in the case of a plan in critical status, as described in section 305(b)(3);

''(iii) an amount equal to 7 percent of the participant's or beneficiary's aggregate monthly benefit, in the case of a plan in critical and declining status (as described in section 305(b)(7)), a plan that became an insolvent plan after the date of enactment of this paragraph, or a plan that has been terminated under section 4041A or 4042 but is not insolvent, unless that plan is (or was) an original or successor plan pursuant to a special partition order under section 4233A; or

''(iv) notwithstanding clauses (i), (ii), or (iii), an amount equal to 10 percent of the participant's or beneficiary's aggregate monthly benefit, in the case of a plan which is (or was) an original or successor plan pursuant to a special partition order under section 4233A, regardless of the status of the original or successor plan.

''(C) COORDINATION WITH SUSPENSION OF BENEFITS.—In the case of any participant or beneficiary whose benefits are suspended under section 305(f)(9), the percentage of benefits payable under the applicable clause of subparagraph (B) with respect to the participant or beneficiary shall be reduced (but not below zero) by the percentage of benefits which were so suspended.

''(D) TREATMENT OF BENEFITS BASED ON DISABILITY.—No benefits—

''(i) based on disability (as defined by the plan), or

''(ii) of a participant or beneficiary who is entitled to a benefit under title II of the Social Security Act on the basis of a disability (as defined in section 223(d)(2) of such Act),

shall be included in the calculation of the participant's or beneficiary's aggregate monthly benefit for purposes of determining the payment due under subparagraph (B).

''(E) PHASEOUT OF PREMIUM FOR THOSE AGED 75 AND OLDER.—

''(i) IN GENERAL.—In the case of a participant or beneficiary who has attained or will attain at least 75 years of age in a plan year, the monthly amount payable by such participant or beneficiary for months during such plan year under this paragraph (determined without regard to this subparagraph) shall be reduced by the applicable percentage of such amount.

''(ii) APPLICABLE PERCENTAGE.— For purposes of clause (i), the applicable percentage for any month shall be determined in accordance with the following table:

"If the individual is, or will attain during the plan year, age:	The applicable percentage is:
75	20 percent
76	40 percent
77	60 percent
78	80 percent
79 or older	100 percent

''(F) METHODS OF COLLECTION.—The premiums payable under subparagraph (B) shall be collected by the plan from participants who are receiving benefits under the plan by deducting the amount of the premium from the benefits as and when paid, and holding such amounts in a separate account to be remitted to the corporation annually, as prescribed by regulations of the corporation. Amounts held in a separate account under this subparagraph shall not accrue interest, shall not be treated as assets of the plan, and shall not be commingled with any other assets of the plan.

''(G) PLAN AMENDMENTS.—The administrator of each multiemployer plan shall amend the plan documents to allow for deductions from benefits pursuant to this paragraph.

''(H) PREEMPTION.—This paragraph shall supersede any law of a State which would directly or indirectly prohibit or restrict an employer, plan, or labor organization from withholding or remitting premium amounts in accordance with this paragraph.

''(I) DETERMINATION OF PLAN STATUS.—

''(i) IN GENERAL.—Except as otherwise provided by the regulations issued pursuant to clause (ii), for purposes of determining premiums due under this paragraph, the plan's status shall be the status certified under section 305 for the first plan year beginning on or after January 1, 2021.

''(ii) SUBSEQUENT CHANGES IN STATUS.—The corporation shall issue regulations regarding the timing required for reflecting, in the amounts withheld, a revised plan status certified at a later date. In no event shall such regulations allow a delay of more than 90 days.

''(11) ADDITIONAL PREMIUMS PAYABLE BY EMPLOYERS AND LABOR ORGANIZATIONS.—

''(A) IN GENERAL.—In addition to the amounts payable under paragraph (3), for plan years beginning after December 31, 2021, with respect to multiemployer plans, premiums shall be payable to the corporation with respect to employers and labor organizations in accordance with this paragraph.

''(B) EMPLOYERS.—The monthly amount payable by employers, for each employee participating in the plan (as determined under subparagraph (D)) during that month is—

''(i) $1 in the case of a plan in unrestricted status pursuant to section 305(b)(1)(B), or $1.50 in the case of a plan in stable status pursuant to section 305(b)(1)(A), but only if the plan is not an original plan or a successor plan within the meaning of section 4233A; and

''(ii) $2.50 in any other case.

''(C) LABOR ORGANIZATIONS.—The monthly amount payable by labor organizations, for each member paying dues and participating in the plan (as determined under subparagraph (D)) during that month is—

''(i) $1 in the case of a plan in unrestricted status pursuant to section 305(b)(1)(B), or $1.50 in the case of a plan in stable status pursuant to section 305(b)(1)(A), but only if the plan is not an original plan or a successor plan within the meaning of section 4233A; and

''(ii) $2.50 in any other case.

''(D) PERSONS PARTICIPATING IN THE PLAN.—For purposes of subparagraphs (B) and (C), an employee or member participating in the plan during any month is a person with respect to whom the employer had an obligation to contribute to the plan under the terms of a collective bargaining agreement or other participation agreement for that month.

''(E) REMITTANCE.—Premiums required under subparagraph (B) or (C) shall be remitted to the plan monthly and held in a separate account until remittance, as prescribed in subparagraph (F). In the case of a participant or beneficiary on whose behalf more than one employer contributed during a month, the plan may elect to apportion the monthly amount to the employers on a proportional basis. Amounts held in a separate account under this subparagraph shall not accrue interest, shall not be treated as assets of the plan, and shall not be commingled with any other assets of the plan.

''(F) SUBMISSION TO THE CORPORATION.—Each plan shall submit the premiums under subparagraph (E) to the corporation, on an annual basis, as prescribed by regulations of the corporation.

''(G) DETERMINATION OF PLAN STATUS.—

''(i) IN GENERAL.—Except as otherwise provided by the regulations issued pursuant to clause (ii), for purposes of determining premiums due under this paragraph, the plan's status shall be the status certified under section 305 for the first plan year beginning on or after January 1, 2021.

''(ii) SUBSEQUENT CHANGES IN STATUS.—The corporation shall issue regulations regarding the timing required for reflecting, in the amounts due, a revised plan status certified at a later date. In no event shall such regulations allow a delay of more than 90 days.''.

(d) PAYMENT OF PREMIUMS.—

(1) APPLICABILITY OF PREMIUMS.—Section 4007(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)) is amended by adding at the end the following:

''(3)(A)(i) The following plans shall not owe a variable rate premium determined under section 4006(a)(3)(N):

''(I) An insolvent plan that has commenced receiving financial assistance.

''(II) A plan which is certified by the plan actuary under section 305 as being in unrestricted status pursuant to section 305(b)(1)(B), and which is not an original plan within the meaning of section 4233A.

''(III) With respect to plan years beginning before January 1, 2025, a plan which is certified by the plan actuary under section 305 as being in stable status pursuant to section 305(b)(1)(A), and which is not an original plan within the meaning of section 4233A.

''(ii) An insolvent plan that has commenced receiving financial assistance shall not owe the flat rate premium under section 4006(a)(3)(A)(viii)(I).

''(B) In the case of a special partition under section 4233A, the original plan shall calculate and remit premiums under section 4006 as if the original plan and successor plan were one plan and the successor plan shall not be required to remit any such premiums.

''(4) Paragraph (1) shall apply to the additional premiums required by section 4006(a)(10) and (11).''.

(2) AUTHORIZED CIVIL ACTIONS.—Section 4007(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307(c)) is amended by inserting after the first sentence the following: ''The corporation is authorized to bring a civil action to prevent or correct any action by a designated payor, if a principal purpose of the action by the designated payor is to evade or avoid the payment of premiums, and the corporation shall be authorized to recover the amount of premium that should have been paid by such payor, plus a late payment penalty and interest.''.

(e) REPORTING ON PREMIUM INCREASES AND GUARANTEE REDUCTIONS.—Section 4008 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1308) is amended by adding at the end the following:

''(c) Beginning with the report for fiscal year 2025, if the corporation projects in its reporting under this section that the corporation's multiemployer plan program will not remain solvent for at least 10 years after the date of the report, the corporation shall include in the report a recommendation for a balanced combination of premium increases and guarantee reductions needed to ensure solvency for the next 20 years without respect to any loans under section 4005. Such recommendations shall be automatically adopted at the beginning of the next fiscal year unless Congress takes other action.''.

(f) DELINQUENT CONTRIBUTIONS.—

(1) IN GENERAL.—Section 515 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1145) is amended—

(A) by striking ''**CONTRIBUTIONS**.—Every'', and inserting ''**CONTRIBUTIONS AND PREMIUMS**.—

''(a) IN GENERAL.—Every'', and

(B) by adding at the end the following new subsection:

''(b) PREMIUMS.—Every employer or labor organization which is obligated to remit premiums with respect to a multiemployer plan under section 4006 shall remit such premiums to the plan in accordance with the terms of the plan and regulations issued by the corporation.''.

(2) CIVIL ENFORCEMENT.—Section 502(g)(2)(A) of such Act (29 U.S.C. 1132(g)(2)(A)) is amended by striking ''contributions,'' and inserting ''contributions or premiums,''.

SEC. 602. FUNDING.

(a) LOANS TO THE CORPORATION FOR THE FUND TO PAY BASIC BENEFITS.—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)(1) The corporation may borrow from the Secretary of the Treasury such funds as are necessary to pay basic benefits guaranteed under section 4022A or expenses related to the corporation's multiemployer plan program if the balance of assets in the revolving fund established under subsection (a) for purposes of paying such benefits is $500,000,000 or less within that year. The corporation may invest amounts so borrowed in accordance with subsection (b)(3)(A).

''(2) Amounts borrowed under this subsection shall be—

''(A) issued at an annual interest rate of 0 percent; and

''(B) repaid by the corporation—

''(i) beginning 20 years after the date on which the loan is issued;

''(ii) over a period of not more than 20 years from commencement of repayment; and

''(iii) out of the fund established under subsection (a) to pay basic benefits guaranteed under section 4022A.

''(3) The corporation shall notify the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Education and Labor and the Committee on Ways and Means of the House of Representatives within 14 days of requesting a loan under this subsection.

''(4) Beginning on January 1, 2021, if, as of the close of any calendar year the outstanding balance of the loans provided to the corporation during the previous year under this subsection exceeded $2,000,000,000, the multiemployer flat-rate premium rates applicable under section 4006(a) solely for plan

years beginning in the immediately succeeding calendar year shall be increased by 20 percent.''.

(b) STUDY ON FUNDING FOR BASIC BENEFIT GUARANTEE.—Section 4022A(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322a(f)) is amended—

(1) by striking ''Committee on Labor and Human Resources'' each place such term appears and inserting ''Committee on Health, Education, Labor, and Pensions'';

(2) in paragraph (1)(A)—

(A) in clause (i), by striking '', and'' and inserting a semicolon; and

(B) by inserting after clause (ii) the following:

''(iii) whether the Corporation projects that the loans issued under section 4005(i) will be repaid in accordance with the schedule set forth in paragraph (2)(B) of such section; and'';

(3) in paragraph (2)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting ''and repayment of loans under section 4005(i)'' after ''multiemployer plans''; and

(ii) in clause (ii), by inserting '', and repayment of any loans issued under section 4005(i)'' before the comma at the end; and

(B) in subparagraph (C), by striking ''second''; and

(4) in paragraph (3)(A)(ii), by inserting ''and repayment of loans issued under section 4005(i)'' before the period.

SEC. 603. COMPOSITE PLAN TRANSITION FEE.

(a) IN GENERAL.—Section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), as amended by this Act, is further is amended by adding at the end the following:

''(12) COMPOSITE PLAN TRANSITION FEE.—Notwithstanding paragraph (9), in any year after 2024, a composite plan (as defined in section 801(a)) shall remit to the legacy plan (within the meaning of section 805) $15 per participant that is not also a participant in the legacy plan. The legacy plan shall remit such amount to the corporation in addition to its premiums otherwise required under this section.''.

(b) CONFORMING AMENDMENT.—Section 4007(b)(4) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)(4)), as added by section 601, is amended by inserting '', and the transition fees required by section 4006(a)(12)'' before the period.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 804—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED STATES SHOULD INITIATE NEGOTIATIONS TO ENTER INTO A FREE TRADE AGREEMENT WITH TAIWAN

Mr. TOOMEY (for himself, Mr. COTTON, Mr. LANKFORD, Mr. CRAMER, Mr. HOEVEN, Mr. YOUNG, Mrs. HYDE-SMITH, Mr. SASSE, Mr. CORNYN, Mrs. BLACKBURN, Mr. BOOZMAN, Mr. WICKER, Mr. RUBIO, Mr. TILLIS, Mr. JOHNSON, Mr. CRUZ, Mr. INHOFE, Mr. KENNEDY, Mrs. FISCHER, Mr. BRAUN, Mr. SCOTT of South Carolina, Mr. ROUNDS, Mr. DAINES, Mr. BARRASSO, Mrs. CAPITO, and Mr. LEE) submitted the following resolution; which was referred to the Committee on Finance:

S. RES. 804

Whereas, pursuant to section 2(b)(1) of the Taiwan Relations Act (22 U.S.C. 3301(b)(1)), it is the policy of the United States to ''promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan'';

Whereas the friendship between the United States and Taiwan is based on a shared commitment to individual and economic freedom, shared values, and an appreciation for the blessings of liberty and democracy;

Whereas the United States and Taiwan enjoy a robust trade partnership, marked by the exchange of goods and services and international travel;

Whereas Taiwan has shown an interest in strengthening its economic relationship with the United States by investing in technology manufacturing facilities located within the United States and agreeing to lift restrictions on the importation of certain United States agricultural products;

Whereas Taiwan has demonstrated a commitment to protecting intellectual property and individual freedom by serving as a leader in the responsible development of technology, as evidenced through a Joint Declaration on 5G Security announced between the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in August 2020;

Whereas Taiwan has played an integral role in the global supply chain during the coronavirus disease 2019 (commonly known as ''COVID–19'') pandemic, producing mass amounts of masks at the time when masks were most scarce and ensuring that this critical tool was available to individuals around the world;

Whereas the United States has consistently supported peaceful relations between Taiwan and the People's Republic of China, and respected the provisions of both the Taiwan Relations Act (22 U.S.C. 3301 et seq.) and the Six Assurances offered by President Ronald Reagan to Taiwan in 1982;

Whereas the People's Republic of China has shown a hostility to Taiwan, aggressively asserting its military power, using coercive economic measures to keep Taiwan economically dependent on the People's Republic of China, and seeking to isolate Taiwan from the rest of the world;

Whereas the policy of the United States is to advance a free and open Indo-Pacific region, and achieving that vision must include working with like-minded countries in the region to liberalize trade;

Whereas the United States is currently Taiwan's 2nd largest trading partner, and Taiwan is the 10th largest trading partner of the United States in goods and 11th largest trading partner overall;

Whereas Taiwan has been a member of the World Trade Organization since 2002;

Whereas bilateral trade in goods between Taiwan and the United States increased from $62,000,000,000 in 2010 to $86,000,000,000 in 2019, according to the United States Census Bureau;

Whereas Taiwan's foreign direct investment stock in the United States was $11,100,000,000 as of 2019;

Whereas trade with Taiwan supports an estimated 208,000 United States jobs according to estimates of the United States Department of Commerce as of 2015;

Whereas closer engagement with Taiwan through trade negotiations would encourage even greater access to Taiwan's market and would benefit both security and economic growth for the United States, Taiwan, and the Indo-Pacific region;

Whereas it is essential that a free trade agreement negotiated between the United States and Taiwan lower tariff and nontariff barriers to trade, including meaningfully expanded access to agricultural markets and ensuring that science-based standards govern international trade in animals and animal products;

Whereas the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (19 U.S.C. 4201 et seq.) enables the President to negotiate reciprocal reductions of nontariff barriers while preserving the authority of Congress over foreign trade as required by section 8 of article I of the Constitution of the United States;

Whereas the procedures laid out in the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 were designed by Congress to maintain the sovereignty of Congress over trade; and

Whereas, for legislation implementing a trade agreement to qualify for trade authorities procedures under the Bipartisan Congressional Trade Priorities and Accountability Act of 2015, the trade agreement is required to make progress toward achieving the applicable objectives, policies, and priorities set forth by Congress in that Act, and failure by the administration of a President to adhere to the trade negotiating objectives and notification and consultation requirements established by Congress renders a trade agreement ineligible for fast-track consideration: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States should initiate negotiations to enter into a free trade agreement with Taiwan.

SENATE RESOLUTION 805—PROVIDING FOR STAFF TRANSITION FOR A SENATOR IF THE RESULTS OF THE ELECTION FOR AN ADDITIONAL TERM OF OFFICE OF THE SENATOR HAVE NOT BEEN CERTIFIED

Mr. BLUNT submitted the following resolution; which was considered and agreed to:

S. RES. 805

Resolved,

SECTION 1. STAFF TRANSITION IF ELECTION RESULTS NOT CERTIFIED.

Section 6 of Senate Resolution 458 (98th Congress), agreed to October 4, 1984, is amended—

(1) in subsection (a)—

(A) in paragraph (3)(A)—

(i) in clause (i), by striking ''or'' at the end;

(ii) in clause (ii)—

(I) by striking ''but only''; and

(II) by adding ''or'' at the end; and

(iii) by adding at the end the following:

''(iii) in an office of a Senator on the expiration of the term of office of such Senator as a Senator, if the Senator was a candidate in the general election for the next term of office and the office is not filled at the commencement of that next term,''; and

(B) in paragraph (4)—

(i) in subparagraph (A)(ii), by striking ''paragraph (3)(A)(ii)'' and inserting ''clause (ii) or (iii) of paragraph (3)(A)''; and

(ii) in subparagraph (B), by striking ''not later than 60 days after the date of the change or expiration of term of office, whichever is applicable,'' and inserting ''not later than 60 days after the date of the change for an eligible staff member described in clause (i) of paragraph (3)(A), or after the expiration of the term of office of the supervising Senator for an eligible staff member described in clause (ii) or (iii) of paragraph (3)(A),'';

(2) in subsection (c)(1)—

(A) by striking ''not to exceed 60 days'' and inserting the following: ''not to exceed—

''(A) in the case of a displaced staff member described in clause (i) or (ii) of subsection (a)(3)(A), 60 days'';

(B) by striking the period at the end and inserting '', and''; and

(C) by adding at the end the following:

''(B) in the case of a displaced staff member described in clause (iii) of subsection (a)(3)(A), the earliest of—

''(i) 60 days following the staff member's date of termination;

''(ii) the date the staff member becomes otherwise gainfully employed; or

''(iii) if the supervising Senator qualifies for the next term of office as a Senator not later than 60 days after the staff member's date of termination, the date of such qualification.'';

(3) by redesignating subsection (d) as subsection (e); and

(4) by inserting after subsection (c) the following:

''(d)(1) Each displaced staff member described in clause (iii) of subsection (a)(3)(A) may, with the approval, direction, and supervision of the Secretary of the Senate, perform limited duties such as archiving and transferring case files.

''(2) With respect to a Senator who was a candidate in the general election for the next term of office and for which the office is not filled at the commencement of that next term, during the 60-day period beginning on the first day of that next term of office, the official office and State office expenses relating to—

''(A) archiving and transferring case files of the Senator, with prior approval by and upon vouchers approved and obligated by the Secretary of the Senate; and

''(B) rent for office space upon vouchers approved and obligated by the Sergeant at Arms and Doorkeeper of the Senate,

shall be paid from the account for Miscellaneous Items within the contingent fund of the Senate.''.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2712. Mr. HEINRICH proposed an amendment to the bill S. 2165, to enhance protections of Native American tangible cultural heritage, and for other purposes.

SA 2713. Mr. BRAUN (for Mr. WICKER) proposed an amendment to the bill H.R. 2610, to establish an office within the Federal Trade Commission and an outside advisory group to prevent fraud targeting seniors and to direct the Commission to study and submit a report to Congress on scams targeting seniors and Indian tribes, and for other purposes.

SA 2714. Mr. BRAUN (for Ms. KLOBUCHAR) proposed an amendment to the bill S. 481, to encourage States to require the installation of residential carbon monoxide detectors in homes, and for other purposes.

SA 2715. Mr. BRAUN (for Mr. MORAN) proposed an amendment to the bill S. 3248, to reauthorize the United States Anti-Doping Agency, and for other purposes.

SA 2716. Mr. BRAUN (for Mr. ALEXANDER) proposed an amendment to the bill S. 1681, to educate health care providers and the public on biosimilar biological products, and for other purposes.

SA 2717. Mr. BRAUN (for Ms. CORTEZ MASTO (for herself and Mrs. FISCHER)) proposed an amendment to the bill H.R. 1923, to amend title 31, United States Code, to require the Secretary of the Treasury to mint and issue certain circulating collectible coins, and for other purposes.

TEXT OF AMENDMENTS

SA 2712. Mr. HEINRICH proposed an amendment to the bill S. 2165, to enhance protections of Native American tangible cultural heritage, and for other purposes; as follows:

On page 28, strike lines 15 through 23 and insert the following:

SEC. 4. ENHANCED NAGPRA PENALTIES.

Section 1170 of title 18, United States Code, is amended—

(1) by striking ''5 years'' each place it appears and inserting ''10 years''; and

(2) in subsection (a), by striking ''12 months'' and inserting ''1 year and 1 day''.

SA 2713. Mr. BRAUN (for Mr. WICKER) proposed an amendment to the bill H.R. 2610, to establish an office within the Federal Trade Commission and an outside advisory group to prevent fraud targeting seniors and to direct the Commission to study and submit a report to Congress on scams targeting seniors and Indian tribes, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Fraud and Scam Reduction Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—PREVENTING CONSUMER SCAMS DIRECTED AT SENIORS

SEC. 101. SHORT TITLE.

This title may be cited as the ''Stop Senior Scams Act''.

SEC. 102. SENIOR SCAMS PREVENTION ADVISORY GROUP.

(a) ESTABLISHMENT.—There is established a Senior Scams Prevention Advisory Group (referred to in this title as the ''Advisory Group'').

(b) MEMBERS.—The Advisory Group shall be composed of stakeholders such as the following individuals or the designees of those individuals:

(1) The Chairman of the Federal Trade Commission.

(2) The Secretary of the Treasury.

(3) The Attorney General.

(4) The Director of the Bureau of Consumer Financial Protection.

(5) Representatives from each of the following sectors, including trade associations, to be selected by Federal Trade Commission:

(A) Retail.

(B) Gift cards.

(C) Telecommunications.

(D) Wire-transfer services.

(E) Senior peer advocates.

(F) Consumer advocacy organizations with efforts focused on preventing seniors from becoming the victims of scams.

(G) Financial services, including institutions that engage in digital currency.

(H) Prepaid cards.

(6) A member of the Board of Governors of the Federal Reserve System.

(7) A prudential regulator, as defined in section 1002 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481).

(8) The Director of the Financial Crimes Enforcement Network.

(9) Any other Federal, State, or local agency, industry representative, consumer advocate, or entity, as determined by the Federal Trade Commission.

(c) NO COMPENSATION FOR MEMBERS.—A member of the Advisory Group shall serve without compensation in addition to any compensation received for the service of the member as an officer or employee of the United States, if applicable.

(d) DUTIES.—

(1) IN GENERAL.—The Advisory Group shall—

(A) collect information on the existence, use, and success of educational materials and programs for retailers, financial services, and wire-transfer companies, which—

(i) may be used as a guide to educate employees on how to identify and prevent scams that affect seniors; and

(ii) include—

(I) useful information for retailers, financial services, and wire transfer companies for the purpose described in clause (i);

(II) training for employees on ways to identify and prevent senior scams;

(III) best practices for keeping employees up to date on current scams;

(IV) the most effective signage and placement in retail locations to warn seniors about scammers' use of gift cards, prepaid cards, and wire transfer services;

(V) suggestions on effective collaborative community education campaigns;

(VI) available technology to assist in identifying possible scams at the point of sale; and

(VII) other information that would be helpful to retailers, wire transfer companies, financial institutions, and their employees as they work to prevent fraud affecting seniors; and

(B) based on the findings in subparagraph (A)—

(i) identify inadequacies, omissions, or deficiencies in those educational materials and programs for the categories listed in subparagraph (A) and their execution in reaching employees to protect older adults; and

(ii) create model materials, best practices guidance, or recommendations to fill those inadequacies, omissions, or deficiencies that may be used by industry and others to help protect older adults from scams.

(2) ENCOURAGED USE.—The Chairman of the Federal Trade Commission shall—

(A) make the materials or guidance created by the Federal Trade Commission described in paragraph (1) publicly available; and

(B) encourage the use and distribution of the materials created under this subsection to prevent scams affecting seniors by governmental agencies and the private sector.

(e) REPORTS.—Section 101(c)(2) of the Elder Abuse Prevention and Prosecution Act (34 U.S.C. 21711(c)(2)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(E) for the Federal Trade Commission, in relevant years, information on—

''(i) the newly created materials, guidance, or recommendations of the Senior Scams Prevention Advisory Group established under section 102 of the Stop Senior Scams Act, and any relevant views or considerations made by members of the Advisory Group that were not included in the Advisory Group's model materials or considered an official recommendation by the Advisory Group;

''(ii) the Senior Scams Prevention Advisory Group's findings about senior scams and

industry educational materials and programs; and

''(iii) any recommendations on ways stakeholders can continue to work together to reduce scams affecting seniors.''.

(f) TERMINATION.—This title, and the amendments made by this title, ceases to be effective on the date that is 5 years after the date of enactment of this Act.

TITLE II—SENIOR FRAUD ADVISORY OFFICE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Seniors Fraud Prevention Act of 2020''.

SEC. 202. OFFICE FOR THE PREVENTION OF FRAUD TARGETING SENIORS.

(a) ESTABLISHMENT OF ADVISORY OFFICE.—The Federal Trade Commission shall establish an office within the Bureau of Consumer Protection for the purpose of advising the Commission on the prevention of fraud targeting seniors and to assist the Commission with the following:

(1) OVERSIGHT.—The advisory office shall monitor the market for mail, television, internet, telemarketing, and recorded message telephone call (hereinafter referred to as ''robocall'') fraud targeting seniors and shall coordinate with other relevant agencies regarding the requirements of this section.

(2) CONSUMER EDUCATION.—The Commission through the advisory office shall, in consultation with the Attorney General, the Secretary of Health and Human Services, the Postmaster General, the Chief Postal Inspector for the United States Postal Inspection Service, and other relevant agencies—

(A) disseminate to seniors and families and caregivers of seniors general information on mail, television, internet, telemarketing, and robocall fraud targeting seniors, including descriptions of the most common fraud schemes;

(B) disseminate to seniors and families and caregivers of seniors information on reporting complaints of fraud targeting seniors either to the national toll-free telephone number established by the Commission for reporting such complaints, or to the Consumer Sentinel Network, operated by the Commission, where such complaints will become immediately available to appropriate law enforcement agencies, including the Federal Bureau of Investigation and the attorneys general of the States;

(C) in response to a specific request about a particular entity or individual, provide publically available information of enforcement action taken by the Commission for mail, television, internet, telemarketing, and robocall fraud against such entity; and

(D) maintain a website to serve as a resource for information for seniors and families and caregivers of seniors regarding mail, television, internet, telemarketing, robocall, and other identified fraud targeting seniors.

(3) COMPLAINTS.—The Commission through the advisory office shall, in consultation with the Attorney General, establish procedures to—

(A) log and acknowledge the receipt of complaints by individuals who believe they have been a victim of mail, television, internet, telemarketing, and robocall fraud in the Consumer Sentinel Network, and shall make those complaints immediately available to Federal, State, and local law enforcement authorities; and

(B) provide to individuals described in subparagraph (A), and to any other persons, specific and general information on mail, television, internet, telemarketing, and robocall fraud, including descriptions of the most common schemes using such methods of communication.

(b) COMMENCEMENT.—The Commission shall commence carrying out the requirements of this section not later than one year after the date of the enactment of this Act.

SA 2714. Mr. BRAUN (for Ms. KLOBUCHAR) proposed an amendment to the bill S. 481, to encourage States to require the installation of residential carbon monoxide detectors in homes, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2019''.

SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) Carbon monoxide is a colorless, odorless gas produced by burning any fuel. Exposure to unhealthy levels of carbon monoxide can lead to carbon monoxide poisoning, a serious health condition that could result in death.

(2) Unintentional carbon monoxide poisoning from motor vehicles and improper operation of fuel-burning appliances, such as furnaces, water heaters, portable generators, and stoves, annually kills more than 400 individuals and sends approximately 15,000 individuals to hospital emergency rooms for treatment.

(3) Research shows that installing carbon monoxide alarms close to the sleeping areas in residential homes and other dwelling units can help avoid fatalities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should promote the installation of carbon monoxide alarms in residential homes and dwelling units across the United States in order to promote the health and public safety of citizens throughout the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) CARBON MONOXIDE ALARM.—The term ''carbon monoxide alarm'' means a device or system that—

(A) detects carbon monoxide; and

(B) is intended to sound an alarm at a carbon monoxide concentration below a concentration that could cause a loss of the ability to react to the dangers of carbon monoxide exposure.

(2) COMMISSION.—The term ''Commission'' means the Consumer Product Safety Commission.

(3) COMPLIANT CARBON MONOXIDE ALARM.—The term ''compliant carbon monoxide alarm'' means a carbon monoxide alarm that complies with the most current version of—

(A) the Standard for Single and Multiple Station Carbon Monoxide Alarms of the American National Standards Institute and UL (ANSI/UL 2034), or any successor standard; and

(B) the Standard for Gas and Vapor Detectors and Sensors of the American National Standards Institute and UL (ANSI/UL 2075), or any successor standard.

(4) DWELLING UNIT.—The term ''dwelling unit''—

(A) means a room or suite of rooms used for human habitation; and

(B) includes—

(i) a single family residence;

(ii) each living unit of a multiple family residence, including an apartment building; and

(iii) each living unit in a mixed use building.

(5) FIRE CODE ENFORCEMENT OFFICIALS.—The term ''fire code enforcement officials'' means officials of the fire safety code enforcement agency of a State or local government or a Tribal organization.

(6) INTERNATIONAL FIRE CODE.—The term ''IFC'' means—

(A) the 2015 or 2018 edition of the International Fire Code published by the International Code Council; or

(B) any amended or similar successor code pertaining to the proper installation of carbon monoxide alarms in dwelling units.

(7) INTERNATIONAL RESIDENTIAL CODE.—The term ''IRC'' means—

(A) the 2015 or 2018 edition of the International Residential Code published by the International Code Council; or

(B) any amended or similar successor code pertaining to the proper installation of carbon monoxide alarms in dwelling units.

(8) NFPA 720.—The term ''NFPA 720'' means—

(A) the Standard for the Installation of Carbon Monoxide Detection and Warning Equipment issued by the National Fire Protection Association in 2012; and

(B) any amended or similar successor standard relating to the proper installation of carbon monoxide alarms in dwelling units.

(9) STATE.—The term ''State''—

(A) has the meaning given the term in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)); and

(B) includes—

(i) the Commonwealth of the Northern Mariana Islands; and

(ii) any political subdivision of a State.

(10) TRIBAL ORGANIZATION.—The term ''Tribal organization'' has the meaning given the term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(l)).

SEC. 4. GRANT PROGRAM FOR CARBON MONOXIDE POISONING PREVENTION.

(a) IN GENERAL.—Subject to the availability of appropriations authorized under subsection (f), the Commission shall establish a grant program to provide assistance to States and Tribal organizations that are eligible under subsection (b) to carry out the carbon monoxide poisoning prevention activities described in subsection (e).

(b) ELIGIBILITY.—For the purposes of this section, an eligible State or Tribal organization is any State or Tribal organization that—

(1) demonstrates to the satisfaction of the Commission that the State or Tribal organization has adopted a statute or a rule, regulation, or similar measure with the force and effect of law, requiring compliant carbon monoxide alarms to be installed in dwelling units in accordance with NFPA 72, the IFC, or the IRC; and

(2) submits an application—

(A) to the Commission at such time, in such form, and containing such additional information as the Commission may require; and

(B) that may be filed on behalf of the State or Tribal organization by the fire safety code enforcement agency of that State or Tribal organization.

(c) GRANT AMOUNT.—The Commission shall determine the amount of each grant awarded under this section.

(d) SELECTION OF GRANT RECIPIENTS.—In selecting eligible States and Tribal organizations for the award of grants under this section, the Commission shall give favorable consideration to an eligible State or Tribal organization that demonstrates a reasonable need for funding under this section and that—

(1) requires the installation of a one or more compliant carbon monoxide alarms in a new or existing educational facility, childcare facility, health care facility, adult dependent care facility, government building, restaurant, theater, lodging establishment, or dwelling unit—

(A) within which a fuel-burning appliance, including a furnace, boiler, water heater,

fireplace, or any other apparatus, appliance, or device that burns fuel, is installed; or

(B) that has an attached garage; and

(2) has developed a strategy to protect vulnerable populations, such as children, the elderly, or low-income households, from exposure to unhealthy levels of carbon monoxide.

(e) USE OF GRANT FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), an eligible State or Tribal organization to which a grant is awarded under this section may use the grant—

(A) to purchase and install compliant carbon monoxide alarms in the dwelling units of low-income families or elderly individuals, facilities that commonly serve children or the elderly (including childcare facilities, public schools, and senior centers);

(B) for the development and dissemination of training materials, instructors, and any other costs relating to the training sessions authorized under this subsection; or

(C) to educate the public about—

(i) the risk associated with carbon monoxide as a poison; and

(ii) the importance of proper carbon monoxide alarm use.

(2) LIMITATIONS.—

(A) ADMINISTRATIVE COSTS.—An eligible State or Tribal organization to which a grant is awarded under this section may use not more than 5 percent of the grant amount to cover administrative costs that are not directly related to training described in paragraph (1)(B).

(B) PUBLIC OUTREACH.—An eligible State or Tribal organization to which a grant is awarded under this section may use not more than 25 percent of the grant amount to cover the costs of activities described in paragraph (1)(D).

(C) STATE CONTRIBUTIONS.—An eligible State to which a grant is awarded under this section shall, with respect to the costs incurred by the State in carrying out activities under the grant, provide non-Federal contributions in an amount equal to not less than 25 percent of amount of Federal funds provided under the grant to administer the program. This subparagraph shall not apply to Tribal organizations.

(f) FUNDING.—

(1) IN GENERAL.—The Commission shall carry out this Act using amounts appropriated to the Commission for each of fiscal years 2020 through 2024, to extent such funds are available.

(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—In a fiscal year, not more than 10 percent of the amounts appropriated or otherwise made available to carry out this Act may be used for administrative expenses.

(g) REPORT.—Not later than 1 year after the last day of each fiscal year in which grants are awarded under this section, the Commission shall submit to Congress a report that evaluates the implementation of the grant program required under this section.

SA 2715. Mr. BRAUN (for Mr. MORAN) proposed an amendment to the bill S. 3248, to reauthorize the United States Anti-Doping Agency, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''United States Anti-Doping Agency Reauthorization Act of 2020''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States Anti-Doping Agency—

(A) is the independent national anti-doping organization of the United States; and

(B) manages the anti-doping program, results management processes, drug reference resources, and athlete education for all United States Olympic Committee-recognized national governing bodies and the athletes and events of such national governing bodies.

(2) The United States Anti-Doping Agency contributes to the advancement of clean sport through scientific research, anti-doping education, and outreach programs, and the mission of the United States Anti-Doping Agency is to preserve the integrity of competition and protect the rights of athletes.

(3) Participation in youth sports has the potential to equip young athletes with important skills and values necessary for success in life, and it is essential that the culture of youth sports emphasizes such skills and values.

(4) The TrueSport program of the United States Anti-Doping Agency partners with youth sport organizations across the United States to promote sportsmanship, character building, and healthy performance through the use of targeted educational materials designed to promote a positive youth sport experience.

(5) In modifying the authority of the United States Anti-Doping Agency to include the promotion of the positive values of youth sport, Congress sends a strong signal that the goals of youth sport should include instilling in young athletes the values of integrity, respect, teamwork, courage, and responsibility.

(6) Due to the unique leadership position of the United States in the global community, adequate funding of the anti-doping and clean sport programs of the United States Anti-Doping Agency is imperative to the preparation for the 2028 Summer Olympic Games, which will be held in Los Angeles, California.

(7) Increased appropriations for fiscal years 2021 through 2029 would enable the United States Anti-Doping Agency to directly affect the integrity and well-being of sport, both domestically and internationally.

SEC. 3. MODIFICATIONS OF AUTHORITY.

Section 701 of the Office of National Drug Control Policy Reauthorization Act of 2006 (21 U.S.C. 2001) is amended—

(1) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

''(1)(A) serve as the independent anti-doping organization for the amateur athletic competitions recognized by the United States Olympic and Paralympic Committee;

''(B) be responsible for certifying in advance any testing conducted by international organizations under the World Anti-Doping Code for international amateur athletes and athletic competitions occurring within the jurisdiction of the United States; and

''(C) be recognized worldwide as the independent national anti-doping organization for the United States;'';

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) promote a positive youth sport experience by using a portion of the funding of the United States Anti-Doping Agency to provide educational materials on sportsmanship, character building, and healthy performance for the athletes, parents, and coaches who participate in youth sports.''; and

(2) by adding at the end the following:

''(c) DUE PROCESS IN ARBITRATION PROCEEDINGS.—Any action taken by the United States Anti-Doping Agency to enforce a policy, procedure, or requirement of the United States Anti-Doping Agency against a person with respect to a violation of Federal law, including an investigation, a disciplinary action, a sanction, or any other administrative action, shall be carried out in a manner that provides due process protection to the person.''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 703 of the Office of National Drug Control Policy Reauthorization Act of 2006 (21 U.S.C. 2003) is amended to read as follows:

''SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the United States Anti-Doping Agency—

''(1) for fiscal year 2021, $15,500,000;

''(2) for fiscal year 2022, $16,200,000;

''(3) for fiscal year 2023, $16,900,000;

''(4) for fiscal year 2024, $17,700,000;

''(5) for fiscal year 2025, $18,500,000;

''(6) for fiscal year 2026, $19,800,000;

''(7) for fiscal year 2027, $22,100,000;

''(8) for fiscal year 2028, $24,900,000; and

''(9) for fiscal year 2029, $23,700,000.''.

SEC. 5. INFORMATION SHARING.

Except as otherwise prohibited by law and except in cases in which the integrity of a criminal investigation would be affected, pursuant to the obligation of the United States under Article 7 of the United Nations Educational, Scientific, and Cultural Organization International Convention Against Doping in Sport done at Paris October 19, 2005, and ratified by the United States in 2008, the Attorney General, the Secretary of Homeland Security, and the Commissioner of Food and Drugs shall provide to the United States Anti-Doping Agency any relevant information relating to the prevention of the use of performance-enhancing drugs or the prohibition of performance-enhancing methods.

SA 2716. Mr. BRAUN (for Mr. ALEXANDER) proposed an amendment to the bill S. 1681, to educate health care providers and the public on biosimilar biological products, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Advancing Education on Biosimilars Act of 2020''.

SEC. 2. EDUCATION ON BIOLOGICAL PRODUCTS.

Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by adding at the end the following:

''SEC. 352A. EDUCATION ON BIOLOGICAL PRODUCTS.

''(a) INTERNET WEBSITE.—

''(1) IN GENERAL.—The Secretary may maintain and operate an internet website to provide educational materials for health care providers, patients, and caregivers, regarding the meaning of the terms, and the standards for review and licensing of, biological products, including biosimilar biological products and interchangeable biosimilar biological products.

''(2) CONTENT.—Educational materials provided under paragraph (1) may include—

''(A) explanations of key statutory and regulatory terms, including 'biosimilar' and 'interchangeable', and clarification regarding the use of interchangeable biosimilar biological products;

''(B) information related to development programs for biological products, including biosimilar biological products and interchangeable biosimilar biological products and relevant clinical considerations for prescribers, which may include, as appropriate and applicable, information related to the comparability of such biological products;

''(C) an explanation of the process for reporting adverse events for biological products, including biosimilar biological products and interchangeable biosimilar biological products; and

''(D) an explanation of the relationship between biosimilar biological products and interchangeable biosimilar biological products licensed under section 351(k) and reference products (as defined in section 351(i)), including the standards for review and licensing of each such type of biological product.

''(3) FORMAT.—The educational materials provided under paragraph (1) may be—

''(A) in formats such as webinars, continuing education modules, videos, fact sheets, infographics, stakeholder toolkits, or other formats as appropriate and applicable; and

''(B) tailored for the unique needs of health care providers, patients, caregivers, and other audiences, as the Secretary determines appropriate.

''(4) OTHER INFORMATION.—In addition to the information described in paragraph (2), the Secretary shall continue to publish—

''(A) the action package of each biological product licensed under subsection (a) or (k) of section 351; or

''(B) the summary review of each biological product licensed under subsection (a) or (k) of section 351.

''(5) CONFIDENTIAL AND TRADE SECRET INFORMATION.—This subsection does not authorize the disclosure of any trade secret, confidential commercial or financial information, or other matter described in section 552(b) of title 5.

''(b) CONTINUING EDUCATION.—The Secretary shall advance education and awareness among health care providers regarding biological products, including biosimilar biological products and interchangeable biosimilar biological products, as appropriate, including by developing or improving continuing education programs that advance the education of such providers on the prescribing of, and relevant clinical considerations with respect to, biological products, including biosimilar biological products and interchangeable biosimilar biological products.''.

SA 2717. Mr. BRAUN (for Ms. CORTEZ MASTO (for herself and Mrs. FISCHER)) proposed an amendment to the bill H.R. 1923, to amend title 31, United States Code, to require the Secretary of the Treasury to mint and issue certain circulating collectible coins, and for other purposes; as follows:

At the end, add the following:

SEC. 8. COST.

No coin or medal minted and issued under this Act, or an amendment made by this Act, may be sold at a price such that would result in a net cost to the Federal Government.

FRAUD AND SCAM REDUCTION ACT

Mr. BRAUN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of H.R. 2610 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 2610) to establish an office within the Federal Trade Commission and an outside advisory group to prevent fraud targeting seniors and to direct the Commission to study and submit a report to Congress on scams targeting seniors and Indian tribes, and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. BRAUN. I ask unanimous consent that the Wicker substitute amendment at the desk be agreed to and that the bill, as amended, be considered read a third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2713), in the nature of a substitute, was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Fraud and Scam Reduction Act''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

TITLE I—PREVENTING CONSUMER SCAMS DIRECTED AT SENIORS

SEC. 101. SHORT TITLE.

This title may be cited as the ''Stop Senior Scams Act''.

SEC. 102. SENIOR SCAMS PREVENTION ADVISORY GROUP.

(a) ESTABLISHMENT.—There is established a Senior Scams Prevention Advisory Group (referred to in this title as the ''Advisory Group'').

(b) MEMBERS.—The Advisory Group shall be composed of stakeholders such as the following individuals or the designees of those individuals:

(1) The Chairman of the Federal Trade Commission.

(2) The Secretary of the Treasury.

(3) The Attorney General.

(4) The Director of the Bureau of Consumer Financial Protection.

(5) Representatives from each of the following sectors, including trade associations, to be selected by Federal Trade Commission:

(A) Retail.

(B) Gift cards.

(C) Telecommunications.

(D) Wire-transfer services.

(E) Senior peer advocates.

(F) Consumer advocacy organizations with efforts focused on preventing seniors from becoming the victims of scams.

(G) Financial services, including institutions that engage in digital currency.

(H) Prepaid cards.

(6) A member of the Board of Governors of the Federal Reserve System.

(7) A prudential regulator, as defined in section 1002 of the Consumer Financial Protection Act of 2010 (12 U.S.C. 5481).

(8) The Director of the Financial Crimes Enforcement Network.

(9) Any other Federal, State, or local agency, industry representative, consumer advocate, or entity, as determined by the Federal Trade Commission.

(c) NO COMPENSATION FOR MEMBERS.—A member of the Advisory Group shall serve without compensation in addition to any compensation received for the service of the member as an officer or employee of the United States, if applicable.

(d) DUTIES.—

(1) IN GENERAL.—The Advisory Group shall—

(A) collect information on the existence, use, and success of educational materials and programs for retailers, financial services, and wire-transfer companies, which—

(i) may be used as a guide to educate employees on how to identify and prevent scams that affect seniors; and

(ii) include—

(I) useful information for retailers, financial services, and wire transfer companies for the purpose described in clause (i);

(II) training for employees on ways to identify and prevent senior scams;

(III) best practices for keeping employees up to date on current scams;

(IV) the most effective signage and placement in retail locations to warn seniors about scammers' use of gift cards, prepaid cards, and wire transfer services;

(V) suggestions on effective collaborative community education campaigns;

(VI) available technology to assist in identifying possible scams at the point of sale; and

(VII) other information that would be helpful to retailers, wire transfer companies, financial institutions, and their employees as they work to prevent fraud affecting seniors; and

(B) based on the findings in subparagraph (A)—

(i) identify inadequacies, omissions, or deficiencies in those educational materials and programs for the categories listed in subparagraph (A) and their execution in reaching employees to protect older adults; and

(ii) create model materials, best practices guidance, or recommendations to fill those inadequacies, omissions, or deficiencies that may be used by industry and others to help protect older adults from scams.

(2) ENCOURAGED USE.—The Chairman of the Federal Trade Commission shall—

(A) make the materials or guidance created by the Federal Trade Commission described in paragraph (1) publicly available; and

(B) encourage the use and distribution of the materials created under this subsection to prevent scams affecting seniors by governmental agencies and the private sector.

(e) REPORTS.—Section 101(c)(2) of the Elder Abuse Prevention and Prosecution Act (34 U.S.C. 21711(c)(2)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(E) for the Federal Trade Commission, in relevant years, information on—

''(i) the newly created materials, guidance, or recommendations of the Senior Scams Prevention Advisory Group established under section 102 of the Stop Senior Scams Act, and any relevant views or considerations made by members of the Advisory Group that were not included in the Advisory Group's model materials or considered an official recommendation by the Advisory Group;

''(ii) the Senior Scams Prevention Advisory Group's findings about senior scams and industry educational materials and programs; and

''(iii) any recommendations on ways stakeholders can continue to work together to reduce scams affecting seniors.''.

(f) TERMINATION.—This title, and the amendments made by this title, ceases to be effective on the date that is 5 years after the date of enactment of this Act.

TITLE II—SENIOR FRAUD ADVISORY OFFICE

SEC. 201. SHORT TITLE.

This title may be cited as the ''Seniors Fraud Prevention Act of 2020''.

SEC. 202. OFFICE FOR THE PREVENTION OF FRAUD TARGETING SENIORS.

(a) ESTABLISHMENT OF ADVISORY OFFICE.—The Federal Trade Commission shall establish an office within the Bureau of Consumer Protection for the purpose of advising the Commission on the prevention of fraud targeting seniors and to assist the Commission with the following:

(1) OVERSIGHT.—The advisory office shall monitor the market for mail, television, internet, telemarketing, and recorded message telephone call (hereinafter referred to as ''robocall'') fraud targeting seniors and shall coordinate with other relevant agencies regarding the requirements of this section.

(2) CONSUMER EDUCATION.—The Commission through the advisory office shall, in consultation with the Attorney General, the Secretary of Health and Human Services, the Postmaster General, the Chief Postal Inspector for the United States Postal Inspection Service, and other relevant agencies—

(A) disseminate to seniors and families and caregivers of seniors general information on mail, television, internet, telemarketing, and robocall fraud targeting seniors, including descriptions of the most common fraud schemes;

(B) disseminate to seniors and families and caregivers of seniors information on reporting complaints of fraud targeting seniors either to the national toll-free telephone number established by the Commission for reporting such complaints, or to the Consumer Sentinel Network, operated by the Commission, where such complaints will become immediately available to appropriate law enforcement agencies, including the Federal Bureau of Investigation and the attorneys general of the States;

(C) in response to a specific request about a particular entity or individual, provide publically available information of enforcement action taken by the Commission for mail, television, internet, telemarketing, and robocall fraud against such entity; and

(D) maintain a website to serve as a resource for information for seniors and families and caregivers of seniors regarding mail, television, internet, telemarketing, robocall, and other identified fraud targeting seniors.

(3) COMPLAINTS.—The Commission through the advisory office shall, in consultation with the Attorney General, establish procedures to—

(A) log and acknowledge the receipt of complaints by individuals who believe they have been a victim of mail, television, internet, telemarketing, and robocall fraud in the Consumer Sentinel Network, and shall make those complaints immediately available to Federal, State, and local law enforcement authorities; and

(B) provide to individuals described in subparagraph (A), and to any other persons, specific and general information on mail, television, internet, telemarketing, and robocall fraud, including descriptions of the most common schemes using such methods of communication.

(b) COMMENCEMENT.—The Commission shall commence carrying out the requirements of this section not later than one year after the date of the enactment of this Act.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

Mr. BRAUN. I know of no further debate on the bill as amended.

The PRESIDING OFFICER. Is there further debate?

Hearing none, the bill having been read the third time, the question is, Shall the bill pass, as amended?

The bill (H.R. 2610), as amended, was passed.

Mr. BRAUN. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

NICHOLAS AND ZACHARY BURT MEMORIAL CARBON MONOXIDE POISONING PREVENTION ACT OF 2019

Mr. BRAUN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 524, S. 481.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 481) to encourage States to require the installation of residential carbon monoxide detectors in homes, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2019''.

SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) Carbon monoxide is a colorless, odorless gas produced by burning any fuel. Exposure to unhealthy levels of carbon monoxide can lead to carbon monoxide poisoning, a serious health condition that could result in death.

(2) Unintentional carbon monoxide poisoning from motor vehicles and improper operation of fuel-burning appliances, such as furnaces, water heaters, portable generators, and stoves, annually kills more than 400 individuals and sends approximately 15,000 individuals to hospital emergency rooms for treatment.

(3) Research shows that installing carbon monoxide alarms close to the sleeping areas in residential homes and other dwelling units can help avoid fatalities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should promote the installation of carbon monoxide alarms in residential homes and dwelling units across the United States in order to promote the health and public safety of citizens throughout the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) CARBON MONOXIDE ALARM.—The term ''carbon monoxide alarm'' means a device or system that—

(A) detects carbon monoxide; and

(B) is intended to sound an alarm at a carbon monoxide concentration below a concentration that could cause a loss of the ability to react to the dangers of carbon monoxide exposure.

(2) COMMISSION.—The term ''Commission'' means the Consumer Product Safety Commission.

(3) COMPLIANT CARBON MONOXIDE ALARM.—The term ''compliant carbon monoxide alarm'' means a carbon monoxide alarm that complies with the most current version of—

(A) the Standard for Single and Multiple Station Carbon Monoxide Alarms of the American National Standards Institute and UL (ANSI/UL 2034), or any successor standard; and

(B) the Standard for Gas and Vapor Detectors and Sensors of the American National Standards Institute and UL (ANSI/UL 2075), or any successor standard.

(4) DWELLING UNIT.—The term ''dwelling unit''—

(A) means a room or suite of rooms used for human habitation; and

(B) includes—

(i) a single family residence;

(ii) each living unit of a multiple family residence, including an apartment building; and

(iii) each living unit in a mixed use building.

(5) FIRE CODE ENFORCEMENT OFFICIALS.—The term ''fire code enforcement officials'' means officials of the fire safety code enforcement agency of a State or local government or a Tribal organization.

(6) INTERNATIONAL FIRE CODE.—The term ''IFC'' means—

(A) the 2015 or 2018 edition of the International Fire Code published by the International Code Council; or

(B) any amended or similar successor code pertaining to the proper installation of carbon monoxide alarms in dwelling units.

(7) INTERNATIONAL RESIDENTIAL CODE.—The term ''IRC'' means—

(A) the 2015 or 2018 edition of the International Residential Code published by the International Code Council; or

(B) any amended or similar successor code pertaining to the proper installation of carbon monoxide alarms in dwelling units.

(8) NFPA 720.—The term ''NFPA 720'' means—

(A) the Standard for the Installation of Carbon Monoxide Detection and Warning Equipment issued by the National Fire Protection Association in 2012; and

(B) any amended or similar successor standard relating to the proper installation of carbon monoxide alarms in dwelling units.

(9) STATE.—The term ''State''—

(A) has the meaning given the term in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)); and

(B) includes—

(i) the Commonwealth of the Northern Mariana Islands; and

(ii) any political subdivision of a State.

(10) TRIBAL ORGANIZATION.—The term ''Tribal organization'' has the meaning given the term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(l)).

SEC. 4. GRANT PROGRAM FOR CARBON MONOXIDE POISONING PREVENTION.

(a) IN GENERAL.—Subject to the availability of appropriations authorized under subsection (f), the Commission shall establish a grant program to provide assistance to States and Tribal organizations that are eligible under subsection (b) to carry out the carbon monoxide poisoning prevention activities described in subsection (e).

(b) ELIGIBILITY.—For the purposes of this section, an eligible State or Tribal organization is any State or Tribal organization that—

(1) demonstrates to the satisfaction of the Commission that the State or Tribal organization has adopted a statute or a rule, regulation, or similar measure with the force and effect of law, requiring compliant carbon monoxide alarms to be installed in dwelling units in accordance with NFPA 72, the IFC, or the IRC; and

(2) submits an application—

(A) to the Commission at such time, in such form, and containing such additional information as the Commission may require; and

(B) that may be filed on behalf of the State or Tribal organization by the fire safety code enforcement agency of that State or Tribal organization.

(c) GRANT AMOUNT.—The Commission shall determine the amount of each grant awarded under this section.

(d) SELECTION OF GRANT RECIPIENTS.—In selecting eligible States and Tribal organizations for the award of grants under this section, the Commission shall give favorable consideration to an eligible State or Tribal organization that—

(1) requires the installation of a compliant carbon monoxide alarm in a new or existing educational facility, childcare facility, health care facility, adult dependent care facility, government building, restaurant, theater, lodging establishment, or dwelling unit—

(A) within which a fuel-burning appliance, including a furnace, boiler, water heater, fireplace, or any other apparatus, appliance, or device that burns fuel, is installed; or

(B) that has an attached garage; and

(2) has developed a strategy to protect vulnerable populations, such as children, the elderly, or low-income households, from exposure to unhealthy levels of carbon monoxide.

(e) USE OF GRANT FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), an eligible State or Tribal organization to which a grant is awarded under this section may use the grant—

(A) to purchase and install compliant carbon monoxide alarms in the dwelling units of low-income families or elderly individuals, facilities that commonly serve children or the elderly (including childcare facilities, public schools, and senior centers), or student dwelling units owned by public universities;

(B) to train State, Tribal organization, or local fire code enforcement officials in the proper enforcement of State, Tribal, or local laws regarding compliant carbon monoxide alarms and the installation of those alarms in accordance with NFPA 720, the IFC, or the IRC;

(C) for the development and dissemination of training materials, instructors, and any other costs relating to the training sessions authorized under this subsection; or

(D) to educate the public about—

(i) the risk associated with carbon monoxide as a poison; and

(ii) the importance of proper carbon monoxide alarm use.

(2) LIMITATIONS.—

(A) ADMINISTRATIVE COSTS.—An eligible State or Tribal organization to which a grant is awarded under this section may use not more than 5 percent of the grant amount to cover administrative costs that are not directly related to training described in paragraph (1)(B).

(B) PUBLIC OUTREACH.—An eligible State or Tribal organization to which a grant is awarded under this section may use not more than 25 percent of the grant amount to cover the costs of activities described in paragraph (1)(D).

(C) STATE CONTRIBUTIONS.—An eligible State to which a grant is awarded under this section shall, with respect to the costs incurred by the State in carrying out activities under the grant, provide non-Federal contributions in an amount equal to not less than 20 percent of amount of Federal funds provided under the grant to administer the program. This subparagraph shall not apply to Tribal organizations.

(f) FUNDING.—

(1) IN GENERAL.—The Commission shall carry out this Act using amounts appropriated to the Commission for each of fiscal years 2020 through 2024, to extent such funds are available.

(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—In a fiscal year, not more than 10 percent of the amounts appropriated or otherwise made available to carry out this Act may be used for administrative expenses.

(g) REPORT.—Not later than 1 year after the last day of each fiscal year in which grants are awarded under this section, the Commission shall submit to Congress a report that evaluates the implementation of the grant program required under this section.

Mr. BRAUN. Mr. President, I ask unanimous consent that the committee-reported amendment be withdrawn; that the Klobuchar amendment at the desk be agreed to; that the bill, as amended, be considered read a third time and passed; and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendment in the nature of a substitute was withdrawn.

The amendment (No. 2714) in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Act of 2019''.

SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) Carbon monoxide is a colorless, odorless gas produced by burning any fuel. Exposure to unhealthy levels of carbon monoxide can lead to carbon monoxide poisoning, a serious health condition that could result in death.

(2) Unintentional carbon monoxide poisoning from motor vehicles and improper operation of fuel-burning appliances, such as furnaces, water heaters, portable generators, and stoves, annually kills more than 400 individuals and sends approximately 15,000 individuals to hospital emergency rooms for treatment.

(3) Research shows that installing carbon monoxide alarms close to the sleeping areas in residential homes and other dwelling units can help avoid fatalities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that Congress should promote the installation of carbon monoxide alarms in residential homes and dwelling units across the United States in order to promote the health and public safety of citizens throughout the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) CARBON MONOXIDE ALARM.—The term ''carbon monoxide alarm'' means a device or system that—

(A) detects carbon monoxide; and

(B) is intended to sound an alarm at a carbon monoxide concentration below a concentration that could cause a loss of the ability to react to the dangers of carbon monoxide exposure.

(2) COMMISSION.—The term ''Commission'' means the Consumer Product Safety Commission.

(3) COMPLIANT CARBON MONOXIDE ALARM.—The term ''compliant carbon monoxide alarm'' means a carbon monoxide alarm that complies with the most current version of—

(A) the Standard for Single and Multiple Station Carbon Monoxide Alarms of the American National Standards Institute and UL (ANSI/UL 2034), or any successor standard; and

(B) the Standard for Gas and Vapor Detectors and Sensors of the American National Standards Institute and UL (ANSI/UL 2075), or any successor standard.

(4) DWELLING UNIT.—The term ''dwelling unit''—

(A) means a room or suite of rooms used for human habitation; and

(B) includes—

(i) a single family residence;

(ii) each living unit of a multiple family residence, including an apartment building; and

(iii) each living unit in a mixed use building.

(5) FIRE CODE ENFORCEMENT OFFICIALS.—The term ''fire code enforcement officials'' means officials of the fire safety code enforcement agency of a State or local government or a Tribal organization.

(6) INTERNATIONAL FIRE CODE.—The term ''IFC'' means—

(A) the 2015 or 2018 edition of the International Fire Code published by the International Code Council; or

(B) any amended or similar successor code pertaining to the proper installation of carbon monoxide alarms in dwelling units.

(7) INTERNATIONAL RESIDENTIAL CODE.—The term ''IRC'' means—

(A) the 2015 or 2018 edition of the International Residential Code published by the International Code Council; or

(B) any amended or similar successor code pertaining to the proper installation of carbon monoxide alarms in dwelling units.

(8) NFPA 720.—The term ''NFPA 720'' means—

(A) the Standard for the Installation of Carbon Monoxide Detection and Warning Equipment issued by the National Fire Protection Association in 2012; and

(B) any amended or similar successor standard relating to the proper installation of carbon monoxide alarms in dwelling units.

(9) STATE.—The term ''State''—

(A) has the meaning given the term in section 3(a) of the Consumer Product Safety Act (15 U.S.C. 2052(a)); and

(B) includes—

(i) the Commonwealth of the Northern Mariana Islands; and

(ii) any political subdivision of a State.

(10) TRIBAL ORGANIZATION.—The term ''Tribal organization'' has the meaning given the term in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(l)).

SEC. 4. GRANT PROGRAM FOR CARBON MONOXIDE POISONING PREVENTION.

(a) IN GENERAL.—Subject to the availability of appropriations authorized under subsection (f), the Commission shall establish a grant program to provide assistance to States and Tribal organizations that are eligible under subsection (b) to carry out the carbon monoxide poisoning prevention activities described in subsection (e).

(b) ELIGIBILITY.—For the purposes of this section, an eligible State or Tribal organization is any State or Tribal organization that—

(1) demonstrates to the satisfaction of the Commission that the State or Tribal organization has adopted a statute or a rule, regulation, or similar measure with the force and effect of law, requiring compliant carbon monoxide alarms to be installed in dwelling units in accordance with NFPA 72, the IFC, or the IRC; and

(2) submits an application—

(A) to the Commission at such time, in such form, and containing such additional information as the Commission may require; and

(B) that may be filed on behalf of the State or Tribal organization by the fire safety code enforcement agency of that State or Tribal organization.

(c) GRANT AMOUNT.—The Commission shall determine the amount of each grant awarded under this section.

(d) SELECTION OF GRANT RECIPIENTS.—In selecting eligible States and Tribal organizations for the award of grants under this section, the Commission shall give favorable

consideration to an eligible State or Tribal organization that demonstrates a reasonable need for funding under this section and that—

(1) requires the installation of a one or more compliant carbon monoxide alarms in a new or existing educational facility, childcare facility, health care facility, adult dependent care facility, government building, restaurant, theater, lodging establishment, or dwelling unit—

(A) within which a fuel-burning appliance, including a furnace, boiler, water heater, fireplace, or any other apparatus, appliance, or device that burns fuel, is installed; or

(B) that has an attached garage; and

(2) has developed a strategy to protect vulnerable populations, such as children, the elderly, or low-income households, from exposure to unhealthy levels of carbon monoxide.

(e) USE OF GRANT FUNDS.—

(1) IN GENERAL.—Subject to paragraph (2), an eligible State or Tribal organization to which a grant is awarded under this section may use the grant—

(A) to purchase and install compliant carbon monoxide alarms in the dwelling units of low-income families or elderly individuals, facilities that commonly serve children or the elderly (including childcare facilities, public schools, and senior centers);

(B) for the development and dissemination of training materials, instructors, and any other costs relating to the training sessions authorized under this subsection; or

(C) to educate the public about—

(i) the risk associated with carbon monoxide as a poison; and

(ii) the importance of proper carbon monoxide alarm use.

(2) LIMITATIONS.—

(A) ADMINISTRATIVE COSTS.—An eligible State or Tribal organization to which a grant is awarded under this section may use not more than 5 percent of the grant amount to cover administrative costs that are not directly related to training described in paragraph (1)(B).

(B) PUBLIC OUTREACH.—An eligible State or Tribal organization to which a grant is awarded under this section may use not more than 25 percent of the grant amount to cover the costs of activities described in paragraph (1)(D).

(C) STATE CONTRIBUTIONS.—An eligible State to which a grant is awarded under this section shall, with respect to the costs incurred by the State in carrying out activities under the grant, provide non-Federal contributions in an amount equal to not less than 25 percent of amount of Federal funds provided under the grant to administer the program. This subparagraph shall not apply to Tribal organizations.

(f) FUNDING.—

(1) IN GENERAL.—The Commission shall carry out this Act using amounts appropriated to the Commission for each of fiscal years 2020 through 2024, to extent such funds are available.

(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—In a fiscal year, not more than 10 percent of the amounts appropriated or otherwise made available to carry out this Act may be used for administrative expenses.

(g) REPORT.—Not later than 1 year after the last day of each fiscal year in which grants are awarded under this section, the Commission shall submit to Congress a report that evaluates the implementation of the grant program required under this section.

The bill (S. 481), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

UNITED STATES ANTI-DOPING AGENCY REAUTHORIZATION ACT OF 2020

Mr. BRAUN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 594, S. 3248.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 3248) to reauthorize the United States Anti-Doping Agency, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italics.)

S. 3248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''United States Anti-Doping Agency Reauthorization Act of 2020''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States Anti-Doping Agency—

(A) is the independent national anti-doping organization of the United States; and

(B) manages the anti-doping program, results management processes, drug reference resources, and athlete education for all United States Olympic Committee-recognized national governing bodies and the athletes and events of such national governing bodies.

(2) The United States Anti-Doping Agency contributes to the advancement of clean sport through scientific research, anti-doping education, and outreach programs, and the mission of the United States Anti-Doping Agency is to preserve the integrity of competition and protect the rights of athletes.

(3) Participation in youth sports has the potential to equip young athletes with important skills and values necessary for success in life, and it is essential that the culture of youth sports emphasizes such skills and values.

(4) The TrueSport program of the United States Anti-Doping Agency partners with youth sport organizations across the United States to promote sportsmanship, character building, and healthy performance through the use of targeted educational materials designed to promote a positive youth sport experience.

(5) In modifying the authority of the United States Anti-Doping Agency to include the promotion of the positive values of youth sport, Congress sends a strong signal that the goals of youth sport should include instilling in young athletes the values of integrity, respect, teamwork, courage, and responsibility.

(6) Due to the unique leadership position of the United States in the global community, adequate funding of the anti-doping and clean sport programs of the United States Anti-Doping Agency is imperative to the preparation for the 2028 Summer Olympic Games, which will be held in Los Angeles, California.

[(7) Increased appropriations for fiscal years 2021 through 2029 would enable the United States Anti-Doping Agency to directly affect the integrity and well-being of sport, both domestically and internationally.**]**

SEC. 3. PROMOTION OF YOUTH SPORTS.

Section 701(b) of the Office of National Drug Control Policy Reauthorization Act of 2006 (21 U.S.C. 2001(b)) is amended—

(1) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(2) by adding at the end the following:

''(5) promote a positive youth sport experience **[**1by using a portion of the funding of the United States Anti-Doping Agency to provide educational**]** *by providing educational* materials on sportsmanship, character building, and healthy performance for the athletes, parents, and coaches who participate in youth sports.''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 703 of the Office of National Drug Control Policy Reauthorization Act of 2006 (21 U.S.C. 2003) is amended to read as follows:

''SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the United States Anti-Doping Agency—

''(1) for fiscal year 2021, $15,500,000;

''(2) for fiscal year 2022, $16,200,000;

''(3) for fiscal year 2023, $16,900,000;

''(4) for fiscal year 2024, $17,700,000;

''(5) for fiscal year 2025, $18,500,000;

''(6) for fiscal year 2026, $19,800,000;

''(7) for fiscal year 2027, $22,100,000;

''(8) for fiscal year 2028, $24,900,000; and

''(9) for fiscal year 2029, $23,700,000.''.

SEC. 5. INFORMATION SHARING.

Except as otherwise prohibited by law and except in cases in which the integrity of a criminal investigation would be affected, pursuant to the obligation of the United States under Article 7 of the United Nations Educational, Scientific, and Cultural Organization International Convention Against Doping in Sport done at Paris October 19, 2005, and ratified by the United States in 2008, the Attorney General, the Secretary of Homeland Security, and the Commissioner of Food and Drugs shall provide to the United States Anti-Doping Agency any relevant information relating to the prevention of the use of performance-enhancing drugs or the prohibition of performance-enhancing methods.

SEC. 6. REPORT ON CAPACITY TO IMPLEMENT EQUINE ANTI-DOPING AND MEDICATION CONTROL PROGRAM.

Not later than 180 days after the date of the enactment of this Act, the United States Anti-Doping Agency shall submit to Congress a report that—

(1) assesses the capacity of the United States Anti-Doping Agency to implement an equine anti-doping and medication control program; and

(2) includes—

(A) recommendations with respect to best practices for design, resources, and any other consideration necessary for the successful implementation of such a program in the United States; and

(B) recommendations developed in consultation with the National Veterinary Services Laboratories with respect to the appropriate technical standards and best practices for such a program.

Mr. BRAUN. I ask unanimous consent that the committee-reported amendments be withdrawn; that the Moran substitute amendment at the desk be agreed to; that the bill, as amended, be considered read a third time and passed; and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee-reported amendments were withdrawn.

The amendment (No. 2715) in the nature of a substitute was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''United States Anti-Doping Agency Reauthorization Act of 2020''.

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States Anti-Doping Agency—

(A) is the independent national anti-doping organization of the United States; and

(B) manages the anti-doping program, results management processes, drug reference resources, and athlete education for all United States Olympic Committee-recognized national governing bodies and the athletes and events of such national governing bodies.

(2) The United States Anti-Doping Agency contributes to the advancement of clean sport through scientific research, anti-doping education, and outreach programs, and the mission of the United States Anti-Doping Agency is to preserve the integrity of competition and protect the rights of athletes.

(3) Participation in youth sports has the potential to equip young athletes with important skills and values necessary for success in life, and it is essential that the culture of youth sports emphasizes such skills and values.

(4) The TrueSport program of the United States Anti-Doping Agency partners with youth sport organizations across the United States to promote sportsmanship, character building, and healthy performance through the use of targeted educational materials designed to promote a positive youth sport experience.

(5) In modifying the authority of the United States Anti-Doping Agency to include the promotion of the positive values of youth sport, Congress sends a strong signal that the goals of youth sport should include instilling in young athletes the values of integrity, respect, teamwork, courage, and responsibility.

(6) Due to the unique leadership position of the United States in the global community, adequate funding of the anti-doping and clean sport programs of the United States Anti-Doping Agency is imperative to the preparation for the 2028 Summer Olympic Games, which will be held in Los Angeles, California.

(7) Increased appropriations for fiscal years 2021 through 2029 would enable the United States Anti-Doping Agency to directly affect the integrity and well-being of sport, both domestically and internationally.

SEC. 3. MODIFICATIONS OF AUTHORITY.

Section 701 of the Office of National Drug Control Policy Reauthorization Act of 2006 (21 U.S.C. 2001) is amended—

(1) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

''(1)(A) serve as the independent anti-doping organization for the amateur athletic competitions recognized by the United States Olympic and Paralympic Committee;

''(B) be responsible for certifying in advance any testing conducted by international organizations under the World Anti-Doping Code for international amateur athletes and athletic competitions occurring within the jurisdiction of the United States; and

''(C) be recognized worldwide as the independent national anti-doping organization for the United States;'';

(B) in paragraph (4), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(5) promote a positive youth sport experience by using a portion of the funding of the United States Anti-Doping Agency to provide educational materials on sportsmanship, character building, and healthy performance for the athletes, parents, and coaches who participate in youth sports.''; and

(2) by adding at the end the following:

''(c) DUE PROCESS IN ARBITRATION PROCEEDINGS.—Any action taken by the United States Anti-Doping Agency to enforce a policy, procedure, or requirement of the United States Anti-Doping Agency against a person with respect to a violation of Federal law, including an investigation, a disciplinary action, a sanction, or any other administrative action, shall be carried out in a manner that provides due process protection to the person.''.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Section 703 of the Office of National Drug Control Policy Reauthorization Act of 2006 (21 U.S.C. 2003) is amended to read as follows:

''SEC. 703. AUTHORIZATION OF APPROPRIATIONS.

''There are authorized to be appropriated to the United States Anti-Doping Agency—

''(1) for fiscal year 2021, $15,500,000;

''(2) for fiscal year 2022, $16,200,000;

''(3) for fiscal year 2023, $16,900,000;

''(4) for fiscal year 2024, $17,700,000;

''(5) for fiscal year 2025, $18,500,000;

''(6) for fiscal year 2026, $19,800,000;

''(7) for fiscal year 2027, $22,100,000;

''(8) for fiscal year 2028, $24,900,000; and

''(9) for fiscal year 2029, $23,700,000.''.

SEC. 5. INFORMATION SHARING.

Except as otherwise prohibited by law and except in cases in which the integrity of a criminal investigation would be affected, pursuant to the obligation of the United States under Article 7 of the United Nations Educational, Scientific, and Cultural Organization International Convention Against Doping in Sport done at Paris October 19, 2005, and ratified by the United States in 2008, the Attorney General, the Secretary of Homeland Security, and the Commissioner of Food and Drugs shall provide to the United States Anti-Doping Agency any relevant information relating to the prevention of the use of performance-enhancing drugs or the prohibition of performance-enhancing methods.

The bill (S. 3248), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

COMBATING PANDEMIC SCAMS ACT OF 2020

Mr. BRAUN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be discharged from further consideration of H.R. 6435 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 6435) to direct the Federal Trade Commission to develop and disseminate information to the public about scams related to COVID–19, and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. BRAUN. I ask unanimous consent that the bill be considered read a third time and passed and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6435) was ordered to a third reading, was read the third time, and passed.

SCHOOL-BASED ALLERGIES AND ASTHMA MANAGEMENT PROGRAM ACT

Mr. BRAUN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of H.R. 2468 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 2468) to amend the Public Health Service Act to increase the preference given, in awarding certain allergies and asthma-related grants, to States that require certain public schools to have allergies and asthma management programs, and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. BRAUN. I ask unanimous consent that the bill be considered read a third time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to a third reading and was read the third time.

Mr. BRAUN. I know of no further debate on the bill.

The PRESIDING OFFICER. If there is no further debate on the bill, the bill having been read the third time, the question is, Shall the bill pass?

The bill (H.R. 2468) was passed.

Mr. BRAUN. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADVANCING EDUCATION ON BIOSIMILARS ACT OF 2019

Mr. BRAUN. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be discharged from further consideration of S. 1681 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 1681) to educate health care providers and the public on biosimilar biological products, and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. BRAUN. I ask unanimous consent that the Alexander substitute amendment at the desk be agreed to that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2716) in the nature of a substitute was agreed to, as follows

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Advancing Education on Biosimilars Act of 2020''.

SEC. 2. EDUCATION ON BIOLOGICAL PRODUCTS.

Subpart 1 of part F of title III of the Public Health Service Act (42 U.S.C. 262 et seq.) is amended by adding at the end the following:

''SEC. 352A. EDUCATION ON BIOLOGICAL PRODUCTS.

''(a) INTERNET WEBSITE.—

''(1) IN GENERAL.—The Secretary may maintain and operate an internet website to provide educational materials for health care providers, patients, and caregivers, regarding the meaning of the terms, and the standards for review and licensing of, biological products, including biosimilar biological products and interchangeable biosimilar biological products.

''(2) CONTENT.—Educational materials provided under paragraph (1) may include—

''(A) explanations of key statutory and regulatory terms, including 'biosimilar' and 'interchangeable', and clarification regarding the use of interchangeable biosimilar biological products;

''(B) information related to development programs for biological products, including biosimilar biological products and interchangeable biosimilar biological products and relevant clinical considerations for prescribers, which may include, as appropriate and applicable, information related to the comparability of such biological products;

''(C) an explanation of the process for reporting adverse events for biological products, including biosimilar biological products and interchangeable biosimilar biological products; and

''(D) an explanation of the relationship between biosimilar biological products and interchangeable biosimilar biological products licensed under section 351(k) and reference products (as defined in section 351(i)), including the standards for review and licensing of each such type of biological product.

''(3) FORMAT.—The educational materials provided under paragraph (1) may be—

''(A) in formats such as webinars, continuing education modules, videos, fact sheets, infographics, stakeholder toolkits, or other formats as appropriate and applicable; and

''(B) tailored for the unique needs of health care providers, patients, caregivers, and other audiences, as the Secretary determines appropriate.

''(4) OTHER INFORMATION.—In addition to the information described in paragraph (2), the Secretary shall continue to publish—

''(A) the action package of each biological product licensed under subsection (a) or (k) of section 351; or

''(B) the summary review of each biological product licensed under subsection (a) or (k) of section 351.

''(5) CONFIDENTIAL AND TRADE SECRET INFORMATION.—This subsection does not authorize the disclosure of any trade secret, confidential commercial or financial information, or other matter described in section 552(b) of title 5.

''(b) CONTINUING EDUCATION.—The Secretary shall advance education and awareness among health care providers regarding biological products, including biosimilar biological products and interchangeable biosimilar biological products, as appropriate, including by developing or improving continuing education programs that advance the education of such providers on the prescribing of, and relevant clinical considerations with respect to, biological products, including biosimilar biological products and interchangeable biosimilar biological products.''.

The bill (S. 1681), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed.

PROVIDING FOR STAFF TRANSITION FOR A SENATOR IF THE RESULTS OF THE ELECTION FOR AN ADDITIONAL TERM OF OFFICE OF THE SENATOR HAVE NOT BEEN CERTIFIED

Mr. BRAUN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 805, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 805) providing for staff transition for a Senator if the results of the election for an additional term of office of the Senator have not been certified.

There being no objection, the Senate proceeded to consider the resolution.

Mr. BRAUN. I ask unanimous consent that the resolution be agreed to and that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 805) was agreed to.

(The resolution is printed in today's RECORD under ''Submitted Resolutions.'')

1921 SILVER DOLLAR COIN ANNIVERSARY ACT

Mr. BRAUN. Mr. President, I ask unanimous consent that the committee on Banking, Housing, and Urban Affairs be discharged from further consideration of H.R. 6192 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 6192) to require the Secretary of the Treasury to honor the 100th anniversary of completion of coinage of the ''Morgan Dollar'' and the 100th anniversary of commencement of coinage of the ''Peace Dollar'', and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. BRAUN. I ask unanimous consent that the bill be considered read a third time and passed and the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6192) was ordered to a third reading, was read the third time, and passed.

CIRCULATING COLLECTIBLE COIN REDESIGN ACT OF 2020

Mr. BRAUN. Mr. President, I ask unanimous consent that the committee on Banking, Housing, and Urban Affairs be discharged from further consideration of H.R. 1923 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 1923) to amend title 31, United States Code, to require the Secretary of the Treasury to mint and issue certain circulating collectible coins, and for other purposes.

There being no objection, the committee was discharged, and the Senate proceeded to consider the bill.

Mr. BRAUN. I ask unanimous consent that the Cortez Masto amendment, which is at the desk, be considered and agreed to; that the bill, as amended, be considered read a third time and passed; and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2717) was agreed to, as follows

(Purpose: To improve the bill)

At the end, add the following:

SEC. 8. COST.

No coin or medal minted and issued under this Act, or an amendment made by this Act, may be sold at a price such that would result in a net cost to the Federal Government.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The bill (H.R. 1923), as amended, was passed.

THE CALENDAR

Mr. BRAUN. Mr. President, I ask unanimous consent that the applicable committees be discharged and the Senate proceed to the immediate consideration of the following bills en bloc: H.R. 3976, H.R. 5597, H.R. 7810, H.R. 5972, H.R. 4988, H.R. 5123, H.R. 5451, H.R. 5983, H.R. 6418, H.R. 7088, H.R. 7502, H.R. 8611, H.R. 6161, S. 4971, and S. 4857.

There being no objection, the committees, where applicable, were discharged, and the Senate proceeded to consider the bills en bloc.

Mr. BRAUN. I ask unanimous consent that the bills, en bloc, be considered read a third time and passed and that the motions to reconsider be considered made and laid upon the table, all en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

ARETHA FRANKLIN POST OFFICE BUILDING

A bill (H.R. 3976) to designate the facility of the United States Postal Service located at 12711 East Jefferson Avenue in Detroit, Michigan, as the ''Aretha Franklin Post Office Building'' was ordered to a third reading, was read the third time, and passed.

CLARA LUPER POST OFFICE BUILDING

A bill (H.R. 5597) to designate the facility of the United States Postal Service located at 305 Northwest 5th Street in Oklahoma City, Oklahoma, as the ''Clara Luper Post Office Building'' was ordered to a third reading, was read the third time, and passed.

TOM REID POST OFFICE BUILDING

A bill (H.R. 7810) to designate the facility of the United States Postal Service located at 3519 East Walnut Street in Pearland, Texas, as the ''Tom Reid Post Office Building'' was ordered to a third reading, was read the third time, and passed.

MARY ANN SHADD CARY POST OFFICE

A bill (H.R. 5972) to designate the facility of the United States Postal Service located at 500 Delaware Avenue, Suite 1, in Wilmington, Delaware, as the ''Mary Ann Shadd Cary Post Office'' was ordered to a third reading, was read the third time, and passed.

CLARA BARTON POST OFFICE BUILDING

A bill (H.R. 4988) to designate the facility of the United States Postal Service located at 14 Walnut Street in Bordentown, New Jersey, as the ''Clara Barton Post Office Building'' was ordered to a third reading, was read the third time, and passed.

SENIOR AIRMAN DANIEL MILLER POST OFFICE BUILDING

A bill (H.R. 5123) to designate the facility of the United States Postal Service located at 476 East Main Street in Galesburg, Illinois, as the ''Senior Airman Daniel Miller Post Office Building'' was ordered to a third reading, was read the third time, and passed.

GEORGE H. BACEL POST OFFICE BUILDING

A bill (H.R. 5451) to designate the facility of the United States Postal Service located at 599 East Genesse Street in Fayetteville, New York, as the ''George H. Bacel Post Office Building'' was ordered to a third reading, was read the third time, and passed.

WOODIE RUCKER-HUGHES POST OFFICE BUILDING

A bill (H.R. 5983) to designate the facility of the United States Postal Service located at 4150 Chicago Avenue in Riverside, California, as the ''Woodie Rucker-Hughes Post Office Building'' was ordered to a third reading, was read the third time, and passed.

WILLIAM 'JACK' JACKSON EDWARDS III POST OFFICE BUILDING

A bill (H.R. 6418) to designate the facility of the United States Postal Service located at 509 Fairhope Avenue in Fairhope, Alabama, as the ''William 'Jack' Jackson Edwards III Post Office Building'' was ordered to a third reading, was read the third time, and passed.

SENATOR JACK HILL POST OFFICE BUILDING

A bill (H.R. 7088) to designate the facility of the United States Postal Service located at 111 James Street in Reidsville, Georgia, as the ''Senator Jack Hill Post Office Building'' was ordered to a third reading, was read the third time, and passed.

JESSIE FIELD SHAMBAUGH POST OFFICE BUILDING

A bill (H.R. 7502) to designate the facility of the United States Postal Service located at 101 South 16th Street in Clarinda, Iowa, as the ''Jessie Field Shambaugh Post Office Building'' was ordered to a third reading, was read the third time, and passed.

JOSEPH BULLOCK POST OFFICE BUILDING

A bill (H.R. 8611) to designate the facility of the United States Postal Service located at 4755 Southeast Dixie Highway in Port Salerno, Florida, as the ''Joseph Bullock Post Office Building'' was ordered to a third reading, was read the third time, and passed.

J. HOWARD COBLE POST OFFICE BUILDING

A bill (H.R. 6161) to designate the facility of the United States Postal Service located at 1585 Yanceyville Street, Greensboro, North Carolina, as the ''J. Howard Coble Post Office Building'' was ordered to a third reading, was read the third time, and passed.

JIM RAMSTAD POST OFFICE

A bill (S. 4971) to designate the facility of the United States Postal Service located at 229 Minnetonka Avenue South in Wayzata, Minnesota, as the ''Jim Ramstad Post Office'' was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JIM RAMSTAD POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 229 Minnetonka Avenue South in Wayzata, Minnesota, shall be known and designated as the ''Jim Ramstad Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Jim Ramstad Post Office''.

HOWARD ARTHUR TIBBS POST OFFICE

A bill (S. 4857) to designate the facility of the United States Postal Service located at 275 Penn Avenue in Salem, Ohio, as the ''Howard Arthur Tibbs Post Office'' was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 4857

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOWARD ARTHUR TIBBS POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 275 Penn Avenue in Salem, Ohio, shall be known and designated as the ''Howard Arthur Tibbs Post Office''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the ''Howard Arthur Tibbs Post Office''.

MARC LEE MEMORIAL POST OFFICE BUILDING

Mr. BRAUN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 6016, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 6016) to designate the facility of the United States Postal Service located at 14955 West Bell Road in Surprise, Arizona, as the ''Marc Lee Memorial Post Office Building''.

There being no objection, the Senate proceeded to consider the bill.

Mr. BRAUN. Mr. President, I ask unanimous consent that the bill be considered read a third time and passed and that the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 6016) was ordered to a third reading, was read the third time, and passed.

ORDERS FOR FRIDAY, DECEMBER 18, 2020

Mr. BRAUN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m., Friday, December 18; further, that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; further, that following leader remarks, the Senate proceed to executive session and resume consideration of the Aenlle-Rocha nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADJOURNMENT UNTIL 10 A.M. TOMORROW

Mr. BRAUN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand adjourned under the previous order.

There being no objection, the Senate, at 7:02 p.m., adjourned until Friday, December 18, 2020, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate:

UNITED STATES POSTAL SERVICE

ROMOLO A. BERNARDI, OF NEW YORK, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2023, VICE CAROLYN L. GALLAGHER, TERM EXPIRED.

THE JUDICIARY

TERRENCE M. ANDREWS, OF CALIFORNIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS, VICE EDWARD J. DAMICH, TERM EXPIRED.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

DANIEL Z. EPSTEIN, OF TEXAS, TO BE CHAIRMAN OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES FOR THE TERM OF FIVE YEARS, VICE PAUL R. VERKUIL, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate December 17, 2020:

THE JUDICIARY

CHARLES EDWARD ATCHLEY, JR., OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE.

ZACHARY N. SOMERS, OF THE DISTRICT OF COLUMBIA, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS.

WITHDRAWAL

Executive Message transmitted by the President to the Senate on December 17, 2020 withdrawing from further Senate consideration the following nomination:

DANIEL Z. EPSTEIN, OF TEXAS, TO BE A JUDGE OF THE UNITED STATES COURT OF FEDERAL CLAIMS FOR A TERM OF FIFTEEN YEARS, VICE EDWARD J. DAMICH, TERM EXPIRED, WHICH WAS SENT TO THE SENATE ON FEBRUARY 4, 2020.