

117TH CONGRESS
1ST SESSION

S. 547

To provide relief for multiemployer and single employer pension plans, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 2 (legislative day, MARCH 1), 2021

Mr. BROWN (for himself, Ms. BALDWIN, Mr. BENNET, Mr. BLUMENTHAL, Mr. BOOKER, Ms. CANTWELL, Mr. CASEY, Mr. COONS, Ms. CORTEZ MASTO, Ms. DUCKWORTH, Mr. DURBIN, Mrs. GILLIBRAND, Ms. HASSAN, Mr. HEINRICH, Ms. HIRONO, Mr. KAINE, Mr. KING, Ms. KLOBUCHAR, Mr. LEAHY, Mr. LUJÁN, Mr. MANCHIN, Mr. MARKEY, Mr. MENENDEZ, Mr. MERKLEY, Mrs. MURRAY, Mr. PADILLA, Mr. PETERS, Mr. REED, Ms. ROSEN, Mr. SANDERS, Mr. SCHATZ, Mr. SCHUMER, Mrs. SHAHEEN, Ms. SMITH, Ms. STABENOW, Mr. TESTER, Mr. VAN HOLLEN, Mr. WARNER, Mr. WARNOCK, Ms. WARREN, Mr. WHITEHOUSE, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To provide relief for multiemployer and single employer
pension plans, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Butch Lewis Emer-
5 gency Pension Plan Relief Act of 2021”.

1 **SEC. 2. SPECIAL PARTITION RELIEF.**

2 (a) APPROPRIATION.—Section 4005 of the Employee
3 Retirement Income Security Act of 1974 (29 U.S.C. 1305)
4 is amended by adding at the end the following:

5 “(i)(1) An eighth fund shall be established for parti-
6 tion assistance to multiemployer pension plans, as pro-
7 vided under section 4233A, and to pay for necessary ad-
8 ministrative and operating expenses relating to such as-
9 sistance.

10 “(2) There is appropriated from the general fund
11 such amounts as necessary for the costs of providing parti-
12 tion assistance under section 4233A and necessary admin-
13 istrative and operating expenses. The eighth fund estab-
14 lished under this subsection shall be credited with such
15 amounts from time to time as the Secretary of the Treas-
16 ury determines appropriate, from the general fund of the
17 Treasury, and such amounts shall remain available until
18 expended.”.

19 (b) SPECIAL PARTITION AUTHORITY.—The Em-
20 ployee Retirement Income Security Act of 1974 (29
21 U.S.C. 1001 et seq.) is amended by inserting after section
22 4233 the following:

23 **“SEC. 4233A. SPECIAL PARTITION RELIEF.**

24 “(a) SPECIAL PARTITION AUTHORITY.—

25 “(1) IN GENERAL.—Upon the application of a
26 plan sponsor of an eligible multiemployer plan for

1 partition of the plan under this section, the corpora-
 2 tion shall order a partition of the plan in accordance
 3 with this section.

4 “(2) INAPPLICABILITY OF CERTAIN REPAYMENT
 5 OBLIGATION.—A plan receiving partition assistance
 6 pursuant to this section shall not be subject to re-
 7 payment obligations under section 4261(b)(2).

8 “(b) ELIGIBLE PLANS.—

9 “(1) IN GENERAL.—For purposes of this sec-
 10 tion, a multiemployer plan is an eligible multiem-
 11 ployer plan if—

12 “(A) the plan is in critical and declining
 13 status (within the meaning of section
 14 305(b)(6)) in any plan year beginning in 2020
 15 through 2024;

16 “(B) a suspension of benefits has been ap-
 17 proved with respect to the plan under section
 18 305(e)(9) as of the date of the enactment of
 19 this section;

20 “(C) in any plan year beginning in 2020
 21 through 2024, the plan is certified by the plan
 22 actuary to be in critical status (within the
 23 meaning of section 305(b)(2)), has a modified
 24 funded percentage of less than 40 percent, and

1 has a ratio of active to inactive participants
 2 which is less than 2 to 3; or

3 “(D) the plan is insolvent for purposes of
 4 section 418E of the Internal Revenue Code of
 5 1986 as of the date of enactment of this sec-
 6 tion, if the plan became insolvent after Decem-
 7 ber 16, 2014, and has not been terminated by
 8 such date of enactment.

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

17 “(c) APPLICATIONS FOR SPECIAL PARTITION.—

18 “(1) GUIDANCE.—The corporation shall issue
 19 guidance setting forth requirements for special parti-
 20 tion applications under this section not later than
 21 120 days after the date of the enactment of this sec-
 22 tion. In such guidance, the corporation shall—

23 “(A) limit the materials required for a spe-
 24 cial partition application to the minimum nec-

1 essary to make a determination on the applica-
 2 tion; and

3 “(B) provide for an alternate application
 4 for special partition under this section, which
 5 may be used by a plan that has been approved
 6 for a partition under section 4233 before the
 7 date of enactment of this section.

8 “(2) TEMPORARY PRIORITY CONSIDERATION OF
 9 APPLICATIONS.—

10 “(A) IN GENERAL.—The corporation may
 11 specify in guidance under paragraph (1) that,
 12 during the first 2 years following the date of
 13 enactment of this section, special partition ap-
 14 plications will be provided priority consider-
 15 ation, if—

16 “(i) the plan is likely to become insol-
 17 vent within 5 years of the date of enact-
 18 ment of this section;

19 “(ii) the corporation projects a plan to
 20 have a present value of financial assistance
 21 payments under section 4261 that exceeds
 22 \$1,000,000,000 if the special partition is
 23 not ordered;

24 “(iii) the plan has implemented ben-
 25 efit suspensions under section 305(e)(9) as

1 of the date of the enactment of this sec-
 2 tion; or

3 “(iv) the corporation determines it ap-
 4 propriate based on other circumstances.

5 “(B) NO EFFECT ON AMOUNT OF ASSIST-
 6 ANCE.—A plan that is approved for special par-
 7 tition assistance under this section shall not re-
 8 ceive reduced special partition assistance on ac-
 9 count of not receiving priority consideration
 10 under subparagraph (A).

11 “(3) ACTUARIAL ASSUMPTIONS AND OTHER IN-
 12 FORMATION.—The corporation shall accept assump-
 13 tions incorporated in a multiemployer plan’s deter-
 14 mination that it is in critical status or critical and
 15 declining status (within the meaning of section
 16 305(b)), or that the plan’s modified funded percent-
 17 age is less than 40 percent, unless such assumptions
 18 are clearly erroneous. The corporation may require
 19 such other information as the corporation deter-
 20 mines appropriate for making a determination of eli-
 21 gibility and the amount of special partition assist-
 22 ance necessary under this section.

23 “(4) APPLICATION DEADLINE.—Any application
 24 by a plan for special partition assistance under this
 25 section shall be submitted no later than December

1 31, 2026, and any revised application for special
2 partition assistance shall be submitted no later than
3 December 31, 2027.

4 “(5) NOTICE OF APPLICATION.—Not later than
5 120 days after the date of enactment of this section,
6 the corporation shall issue guidance requiring multi-
7 employer plans to notify participants and bene-
8 ficiaries that the plan has applied for partition
9 under this section, after the corporation has deter-
10 mined that the application is complete. Such notice
11 shall reference the special partition relief internet
12 website described in subsection (p).

13 “(d) DETERMINATIONS ON APPLICATIONS.—A plan’s
14 application for special partition under this section that is
15 timely filed in accordance with guidance issued under sub-
16 section (c)(1) shall be deemed approved and the corpora-
17 tion shall issue a special partition order unless the cor-
18 poration notifies the plan within 120 days of the filing
19 of the application that the application is incomplete or the
20 plan is not eligible under this section. Such notice shall
21 specify the reasons the plan is ineligible for a special parti-
22 tion or information needed to complete the application. If
23 a plan is denied partition under this subsection, the plan
24 may submit a revised application under this section. Any
25 revised application for special partition submitted by a

1 plan shall be deemed approved unless the corporation noti-
 2 fies the plan within 120 days of the filing of the revised
 3 application that the application is incomplete or the plan
 4 is not eligible under this section. A special partition order
 5 issued by the corporation shall be effective no later than
 6 120 days after a plan's special partition application is ap-
 7 proved by the corporation or deemed approved.

8 “(e) AMOUNT AND MANNER OF SPECIAL PARTITION
 9 ASSISTANCE.—

10 “(1) IN GENERAL.—The liabilities of an eligible
 11 multiemployer plan that the corporation assumes
 12 pursuant to a special partition order under this sec-
 13 tion shall be the amount necessary for the plan to
 14 meet its funding goals described in subsection (g).

15 “(2) NO CAP.—Liabilities assumed by the cor-
 16 poration pursuant to a special partition order under
 17 this section shall not be capped by the guarantee
 18 under section 4022A. The corporation shall have dis-
 19 cretion on how liabilities of the plan are partitioned.

20 “(f) SUCCESSOR PLAN.—

21 “(1) IN GENERAL.—The plan created by a spe-
 22 cial partition order under this section is a successor
 23 plan to which section 4022A applies.

24 “(2) PLAN SPONSOR AND ADMINISTRATOR.—

25 The plan sponsor of an eligible multiemployer plan

1 prior to the special partition and the administrator
2 of such plan shall be the plan sponsor and the ad-
3 ministrator, respectively, of the plan created by the
4 partition.

5 “(g) FUNDING GOALS.—

6 “(1) IN GENERAL.—The funding goals of a
7 multiemployer plan eligible for partition under this
8 section are both of the following:

9 “(A) The plan will remain solvent over 30
10 years with no reduction in a participant’s or
11 beneficiary’s accrued benefit (except to the ex-
12 tent of a reduction in accordance with section
13 305(e)(8) adopted prior to the plan’s applica-
14 tion for partition under this section).

15 “(B) The funded percentage of the plan
16 (disregarding partitioned benefits) at the end of
17 the 30-year period is projected to be 80 percent.

18 “(2) BASIS.—The funding projections under
19 paragraph (1) shall be performed on a deterministic
20 basis.

21 “(h) RESTORATION OF BENEFIT SUSPENSIONS.—An
22 eligible multiemployer plan that is partitioned under this
23 section shall—

24 “(1) reinstate any benefits that were suspended
25 under section 305(e)(9) or section 4245(a), effective

1 as of the first month the special partition order is
2 effective, for participants or beneficiaries as of the
3 effective date of the partition; and

4 “(2) provide payments equal to the amount of
5 benefits previously suspended to any participants or
6 beneficiaries in pay status as of the effective date of
7 the special partition, payable in the form of a lump
8 sum within 3 months of such effective date or in
9 equal monthly installments over a period of 5 years,
10 with no adjustment for interest.

11 “(i) ADJUSTMENT OF SPECIAL PARTITION ASSIST-
12 ANCE.—

13 “(1) IN GENERAL.—Every 5 years, the corpora-
14 tion shall adjust the special partition assistance de-
15 scribed in subsection (e) as necessary for the eligible
16 multiemployer plan to satisfy the funding goals de-
17 scribed in subsection (g). If the 30 year period de-
18 scribed in subsection (g) has lapsed, in applying this
19 paragraph, 5 years shall be substituted for 30 years.

20 “(2) SUBMISSION OF INFORMATION.—An eligi-
21 ble multiemployer plan that is the subject of a spe-
22 cial partition order under subsection (a) shall submit
23 such information as the corporation may require to
24 determine the amount of the adjustment under para-
25 graph (1).

1 “(3) CESSATION OF ADJUSTMENTS.—Adjust-
2 ments under this subsection with respect to special
3 partition assistance for an eligible multiemployer
4 plan shall cease and the corporation shall perma-
5 nently assume liability for payment of any benefits
6 transferred to the successor plan (subject to sub-
7 section (1)) beginning with the first plan year that
8 the funded percentage of the eligible multiemployer
9 plan (disregarding partitioned benefits) is at least
10 80 percent and the plan’s projected funded percent-
11 age for each of the next 10 years is at least 80 per-
12 cent. Any accumulated funding deficiency of the
13 plan (within the meaning of section 304(a)) shall be
14 reduced to zero as of the first day of the plan year
15 for which partition assistance is permanent under
16 this paragraph.

17 “(j) CONDITIONS ON PLANS DURING PARTITION.—

18 “(1) IN GENERAL.—The corporation may im-
19 pose, by regulation, reasonable conditions on an eli-
20 gible multiemployer plan that is partitioned under
21 section (a) relating to increases in future accrual
22 rates and any retroactive benefit improvements, allo-
23 cation of plan assets, reductions in employer con-
24 tribution rates, diversion of contributions to, and al-

1 location of, expenses to other retirement plans, and
 2 withdrawal liability.

3 “(2) LIMITATIONS.—The corporation shall not
 4 impose conditions on an eligible multiemployer plan
 5 as a condition of or following receipt of such parti-
 6 tion assistance under this section relating to—

7 “(A) any reduction in plan benefits (in-
 8 cluding benefits that may be adjusted pursuant
 9 to section 305(e)(8));

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

14 “(C) any funding rules relating to the plan
 15 that is partitioned under this section.

16 “(3) CONDITION.—An eligible multiemployer
 17 plan that is partitioned under subsection (a) shall
 18 continue to pay all premiums due under section
 19 4007 for participants and beneficiaries in the plan
 20 created by a special partition order until the plan
 21 year beginning after a cessation of adjustments ap-
 22 plies under subsection (i).

23 “(k) WITHDRAWAL LIABILITY.—An employer’s with-
 24 drawal liability for purposes of this title shall be calculated
 25 taking into account any plan liabilities that are partitioned

1 under subsection (a) until the plan year beginning after
 2 the expiration of 15 calendar years from the effective date
 3 of the partition.

4 “(l) CESSATION OF PARTITION ASSISTANCE.—If a
 5 plan that receives partition assistance under this section
 6 becomes insolvent for purposes of section 418E of the In-
 7 ternal Revenue Code of 1986, the plan shall no longer be
 8 eligible for assistance under this section and shall be eligi-
 9 ble for assistance under section 4261.

10 “(m) REPORTING.—An eligible multiemployer plan
 11 that receives partition assistance under this section shall
 12 file with the corporation a report, including the following
 13 information, in such manner (which may include electronic
 14 filing requirements) and at such time as the corporation
 15 requires:

16 “(1) The funded percentage (as defined in sec-
 17 tion 305(j)(2)) as of the first day of such plan year,
 18 and the underlying actuarial value of assets and li-
 19 abilities taken into account in determining such per-
 20 centage.

21 “(2) The market value of the assets of the plan
 22 (determined as provided in paragraph (1)) as of the
 23 last day of the plan year preceding such plan year.

1 “(3) The total value of all contributions made
2 by employers and employees during the plan year
3 preceding such plan year.

4 “(4) The total value of all benefits paid during
5 the plan year preceding such plan year.

6 “(5) Cash flow projections for such plan year
7 and the 9 succeeding plan years, and the assump-
8 tions used in making such projections.

9 “(6) Funding standard account projections for
10 such plan year and the 9 succeeding plan years, and
11 the assumptions relied upon in making such projec-
12 tions.

13 “(7) The total value of all investment gains or
14 losses during the plan year preceding such plan year.

15 “(8) Any significant reduction in the number of
16 active participants during the plan year preceding
17 such plan year, and the reason for such reduction.

18 “(9) A list of employers that withdrew from the
19 plan in the plan year preceding such plan year, the
20 payment schedule with respect to such withdrawal li-
21 ability, and the resulting reduction in contributions.

22 “(10) A list of employers that paid withdrawal
23 liability to the plan during the plan year preceding
24 such plan year and, for each employer, a total as-
25 sessment of the withdrawal liability paid, the annual

1 payment amount, and the number of years remain-
2 ing in the payment schedule with respect to such
3 withdrawal liability.

4 “(11) Any material changes to benefits, accrual
5 rates, or contribution rates during the plan year pre-
6 ceding such plan year, and whether such changes re-
7 late to the conditions of the partition assistance.

8 “(12) Details regarding any funding improve-
9 ment plan or rehabilitation plan and updates to such
10 plan.

11 “(13) The number of participants and bene-
12 ficiaries during the plan year preceding such plan
13 year who are active participants, the number of par-
14 ticipants and beneficiaries in pay status, and the
15 number of terminated vested participants and bene-
16 ficiaries.

17 “(14) The information contained on the most
18 recent annual funding notice submitted by the plan
19 under section 101(f).

20 “(15) The information contained on the most
21 recent annual return under section 6058 of the In-
22 ternal Revenue Code of 1986 and actuarial report
23 under section 6059 of such Code of the plan.

24 “(16) Copies of the plan document and amend-
25 ments, other retirement benefit or ancillary benefit

1 plans relating to the plan and contribution obliga-
 2 tions under such plans, a breakdown of administra-
 3 tive expenses of the plan, participant census data
 4 and distribution of benefits, the most recent actu-
 5 arial valuation report as of the plan year, financial
 6 reports, and copies of the portions of collective bar-
 7 gaining agreements relating to plan contributions,
 8 funding coverage, or benefits, and such other infor-
 9 mation as the corporation may reasonably require.

10 Any information disclosed by a plan to the corporation
 11 that could identify individual employers shall be confiden-
 12 tial and not subject to publication or disclosure.

13 “(n) REPORT TO CONGRESS.—

14 “(1) IN GENERAL.—Not later than 1 year after
 15 the date of enactment of this section and annually
 16 thereafter, the board of directors of the corporation
 17 shall submit to the Committee on Health, Edu-
 18 cation, Labor, and Pensions and the Committee on
 19 Finance of the Senate and the Committee on Edu-
 20 cation and Labor and the Committee on Ways and
 21 Means of the House of Representatives a detailed re-
 22 port on the implementation and administration of
 23 this section. Such report shall include—

1 “(A) information on the name and number
2 of multiemployer plans that have applied for
3 partition assistance under this section;

4 “(B) the name and number of such plans
5 that have been approved for partition assistance
6 under this section and the name and number of
7 the plans that have not been approved for spe-
8 cial partition assistance;

9 “(C) a detailed rationale for any decision
10 by the corporation to not approve an applica-
11 tion for special partition assistance;

12 “(D) the amount of special partition as-
13 sistance provided to eligible multiemployer
14 plans (including amounts provided on an indi-
15 vidual plan basis and in the aggregate);

16 “(E) the name and number of the multi-
17 employer plans that restored benefit suspen-
18 sions and provided lump sum or monthly in-
19 stallment payments to participants or bene-
20 ficiaries;

21 “(F) the amount of benefits that were re-
22 stored and lump sum or monthly installment
23 payments that were paid (including amounts
24 provided on an individual plan basis and in the
25 aggregate);

1 “(G) the name and number of the plans
2 that received adjustments to partition assist-
3 ance under subsection (i);

4 “(H) a list of, and rationale for, each rea-
5 sonable condition imposed by the corporation on
6 plans approved for special partition assistance
7 under this section;

8 “(I) the contracts that have been awarded
9 by the corporation to implement or administer
10 this section;

11 “(J) the number, purpose, and dollar
12 amounts of the contracts that have been award-
13 ed to implement or administer the section;

14 “(K) a detailed summary of the reports re-
15 quired under subsection (m); and

16 “(L) a detailed summary of the feedback
17 received on the pension relief internet website
18 established under subsection (p).

19 “(2) PBGC CERTIFICATION.—The board of di-
20 rectors of the corporation shall include with the re-
21 port under paragraph (1) a certification and affir-
22 mation that the amount of special partition assist-
23 ance provided to each plan under this section is the
24 amount necessary to meet its funding goals under
25 subsection (g), including, if applicable, any adjust-

1 ment of special partition assistance as determined
2 under subsection (i).

3 “(3) CONFIDENTIALITY.—Congress may pub-
4 licize the reports received under paragraph (1) only
5 after redacting all sensitive or proprietary informa-
6 tion.

7 “(o) GAO REPORT.—Not later than 1 year after the
8 first partition application is approved by the corporation
9 under this section, and biennially thereafter, the Comp-
10 troller General of the United States shall submit to the
11 Committee on Health, Education, Labor, and Pensions
12 and the Committee on Finance of the Senate and the
13 Committee on Education and Labor and the Committee
14 on Ways and Means of the House of Representatives a
15 detailed report on the actions of the corporation to imple-
16 ment and administer this section, including an examina-
17 tion of the contracts awarded by such corporation to carry
18 out this section and an analysis of such corporation’s com-
19 pliance with subsections (e) and (g).

20 “(p) SPECIAL PARTITION RELIEF WEBSITE.—

21 “(1) ESTABLISHMENT.—Not later than 120
22 days after the date of enactment of this section, the
23 corporation shall establish and maintain a user-
24 friendly, public-facing internet website to foster

1 greater accountability and transparency in the im-
2 plementation and administration of this section.

3 “(2) PURPOSE.—The internet website estab-
4 lished and maintained under paragraph (1) shall be
5 a portal to key information relating to this section
6 for multiemployer plan administrators and trustees,
7 plan participants, beneficiaries, participating em-
8 ployers, other stakeholders, and the public.

9 “(3) CONTENT AND FUNCTION.—The internet
10 website established under paragraph (1) shall—

11 “(A) describe the nature and scope of the
12 special partition authority and assistance under
13 this section in a manner calculated to be under-
14 stood by the average plan participant;

15 “(B) include published guidance, regula-
16 tions, and all other relevant information on the
17 implementation and administration of this sec-
18 tion;

19 “(C) include, with respect to plan applica-
20 tions for special partition assistance—

21 “(i) a general description of the proc-
22 ess by which eligible plans can apply for
23 special partition assistance, information on
24 how and when the corporation will process
25 and consider plan applications;

1 “(ii) information on how the corpora-
2 tion will address any incomplete applica-
3 tions as specified in under this section;

4 “(iii) a list of the plans that have ap-
5 plied for special partition assistance and,
6 for each application, the date of submis-
7 sion of a completed application;

8 “(iv) the text of each plan’s completed
9 application for special partition assistance
10 with appropriate redactions of personal,
11 proprietary, or sensitive information;

12 “(v) the estimated date that a deci-
13 sion will be made by the corporation on
14 each application;

15 “(vi) the actual date when such deci-
16 sion is made;

17 “(vii) the corporation’s decision on
18 each application; and

19 “(viii) as applicable, a detailed ration-
20 ale for any decision not to approve a plan’s
21 application for special partition assistance;

22 “(D) provide detailed information on each
23 contract solicited and awarded to implement or
24 administer this section;

“(E) include reports, audits, and other relevant oversight and accountability information on this section, including the annual reports submitted by the board of directors of the corporation to Congress required under subsection (n), the Office of the Inspector General audits, correspondence, and publications, and the Government Accountability Office reports under subsection (o);

“(F) provide a clear means for multiemployer plan administrators, plan participants, beneficiaries, other stakeholders, and the public to contact the corporation and provide feedback on the implementation and administration of this section; and

“(G) be regularly updated to carry out the purposes of this subsection.

“(q) OFFICE OF INSPECTOR GENERAL.—There is authorized to be appropriated to the corporation’s Office of Inspector General \$24,000,000 for fiscal year 2020, which shall remain available through September 30, 2028, for salaries and expenses necessary for conducting investigations and audits of the implementation and administration of this section.

1 “(r) APPLICATION OF EXCISE TAX.—During the pe-
 2 riod that a plan is subject to a partition order under this
 3 section and prior to a cessation of adjustments pursuant
 4 to subsection (i)(3), the plan shall not be subject to section
 5 4971 of the Internal Revenue Code of 1986.”.

6 **SEC. 3. REPEAL OF BENEFIT SUSPENSIONS FOR MULTIEM-**
 7 **PLOYER PLANS IN CRITICAL AND DECLINING**
 8 **STATUS.**

9 (a) AMENDMENT TO INTERNAL REVENUE CODE OF
 10 1986.—Paragraph (9) of section 432(e) of the Internal
 11 Revenue Code of 1986 is repealed.

12 (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-
 13 COME SECURITY ACT OF 1974.—Paragraph (9) of section
 14 305(e) of the Employee Retirement Income Security Act
 15 of 1974 (29 U.S.C. 1085(e)) is repealed.

16 (c) EFFECTIVE DATE.—The repeals made by this
 17 section shall not apply to plans that have been approved
 18 for a suspension of benefit under section 432(e)(9)(G) of
 19 the Internal Revenue Code of 1986 and section
 20 305(e)(9)(G) of the Employee Retirement Income Security
 21 Act of 1974 (29 U.S.C. 1085(e)(9)(G)) before the date
 22 of the enactment of this Act.

1 **SEC. 4. TEMPORARY DELAY OF DESIGNATION OF MULTIEMPLOYER PLANS AS IN ENDANGERED, CRITICAL, OR CRITICAL AND DECLINING STATUS.**

2
3
4 (a) IN GENERAL.—Notwithstanding the actuarial
5 certification under section 305(b)(3) of the Employee Retirement Income Security Act of 1974 and section
6 432(b)(3) of the Internal Revenue Code of 1986, if a plan
7 sponsor of a multiemployer plan elects the application of
8 this section, then, for purposes of section 305 of such Act
9 and section 432 of such Code—

11 (1) the status of the plan for its first plan year
12 beginning during the period beginning on March 1,
13 2020, and ending on February 28, 2021, or the next
14 succeeding plan year (as designated by the plan
15 sponsor in such election), shall be the same as the
16 status of such plan under such sections for the plan
17 year preceding such designated plan year, and

18 (2) in the case of a plan which was in endangered or critical status for the plan year preceding
19 the designated plan year described in paragraph (1),
20 the plan shall not be required to update its plan or
21 schedules under section 305(c)(6) of such Act and
22 section 432(c)(6) of such Code, or section
23 305(e)(3)(B) of such Act and section 432(e)(3)(B)
24 of such Code, whichever is applicable, until the plan
25

1 year following the designated plan year described in
2 paragraph (1).

3 If section 305 of the Employee Retirement Income Secu-
4 rity Act of 1974 and section 432 of the Internal Revenue
5 Code of 1986 did not apply to the plan year preceding
6 the designated plan year described in paragraph (1), the
7 plan actuary shall make a certification of the status of
8 the plan under section 305(b)(3) of such Act and section
9 432(b)(3) of such Code for the preceding plan year in the
10 same manner as if such sections had applied to such pre-
11 ceding plan year.

12 (b) EXCEPTION FOR PLANS BECOMING CRITICAL
13 DURING ELECTION.—If—

14 (1) an election was made under subsection (a)
15 with respect to a multiemployer plan, and

16 (2) such plan has, without regard to such elec-
17 tion, been certified by the plan actuary under section
18 305(b)(3) of the Employee Retirement Income Secu-
19 rity Act of 1974 and section 432(b)(3) of the Inter-
20 nal Revenue Code of 1986 to be in critical status for
21 the designated plan year described in subsection
22 (a)(1), then such plan shall be treated as a plan in
23 critical status for such plan year for purposes of ap-
24 plying section 4971(g)(1)(A) of such Code, section
25 302(b)(3) of such Act (without regard to the second

1 sentence thereof), and section 412(b)(3) of such
 2 Code (without regard to the second sentence there-
 3 of).

4 (c) ELECTION AND NOTICE.—

5 (1) ELECTION.—An election under subsection
 6 (a)—

7 (A) shall be made at such time and in such
 8 manner as the Secretary of the Treasury or the
 9 Secretary's delegate may prescribe and, once
 10 made, may be revoked only with the consent of
 11 the Secretary, and

12 (B) if made—

13 (i) before the date the annual certifi-
 14 cation is submitted to the Secretary or the
 15 Secretary's delegate under section
 16 305(b)(3) of such Act and section
 17 432(b)(3) of such Code, shall be included
 18 with such annual certification, and

19 (ii) after such date, shall be submitted
 20 to the Secretary or the Secretary's delegate
 21 not later than 30 days after the date of the
 22 election.

23 (2) NOTICE TO PARTICIPANTS.—

24 (A) IN GENERAL.—Notwithstanding sec-
 25 tion 305(b)(3)(D) of the Employee Retirement

1 Income Security Act of 1974 and section
2 432(b)(3)(D) of the Internal Revenue Code of
3 1986, if the plan is neither in endangered nor
4 critical status by reason of an election made
5 under subsection (a)—

6 (i) the plan sponsor of a multiem-
7 ployer plan shall not be required to provide
8 notice under such sections, and

9 (ii) the plan sponsor shall provide to
10 the participants and beneficiaries, the bar-
11 gaining parties, the Pension Benefit Guar-
12 anty Corporation, and the Secretary of
13 Labor a notice of the election under sub-
14 section (a) and such other information as
15 the Secretary of the Treasury (in consulta-
16 tion with the Secretary of Labor) may re-
17 quire—

18 (I) if the election is made before
19 the date the annual certification is
20 submitted to the Secretary or the Sec-
21 retary's delegate under section
22 305(b)(3) of such Act and section
23 432(b)(3) of such Code, not later than
24 30 days after the date of the certifi-
25 cation, and

1 (II) if the election is made after
 2 such date, not later than 30 days
 3 after the date of the election.

4 (B) NOTICE OF ENDANGERED STATUS.—
 5 Notwithstanding section 305(b)(3)(D) of such
 6 Act and section 432(b)(3)(D) of such Code, if
 7 the plan is certified to be in critical status for
 8 any plan year but is in endangered status by
 9 reason of an election made under subsection
 10 (a), the notice provided under such sections
 11 shall be the notice which would have been pro-
 12 vided if the plan had been certified to be in en-
 13 dangered status.

14 **SEC. 5. TEMPORARY EXTENSION OF THE FUNDING IM-**
 15 **PROVEMENT AND REHABILITATION PERIODS**
 16 **FOR MULTIEMPLOYER PENSION PLANS IN**
 17 **CRITICAL AND ENDANGERED STATUS FOR**
 18 **2020 OR 2021.**

19 (a) IN GENERAL.—If the plan sponsor of a multiem-
 20 ployer plan which is in endangered or critical status for
 21 a plan year beginning in 2020 or 2021 (determined after
 22 application of section 4) elects the application of this sec-
 23 tion, then, for purposes of section 305 of the Employee
 24 Retirement Income Security Act of 1974 and section 432
 25 of the Internal Revenue Code of 1986—

1 (1) except as provided in paragraph (2), the
 2 plan's funding improvement period or rehabilitation
 3 period, whichever is applicable, shall be 15 years
 4 rather than 10 years, and

5 (2) in the case of a plan in seriously endan-
 6 gered status, the plan's funding improvement period
 7 shall be 20 years rather than 15 years.

8 (b) DEFINITIONS AND SPECIAL RULES.—For pur-
 9 poses of this section—

10 (1) ELECTION.—An election under this section
 11 shall be made at such time, and in such manner and
 12 form, as (in consultation with the Secretary of
 13 Labor) the Secretary of the Treasury or the Sec-
 14 retary's delegate may prescribe.

15 (2) DEFINITIONS.—Any term which is used in
 16 this section which is also used in section 305 of the
 17 Employee Retirement Income Security Act of 1974
 18 and section 432 of the Internal Revenue Code of
 19 1986 shall have the same meaning as when used in
 20 such sections.

21 (c) EFFECTIVE DATE.—This section shall apply to
 22 plan years beginning after December 31, 2019.

23 **SEC. 6. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT**
 24 **RULES.**

25 (a) ADJUSTMENTS.—

(1) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 304(b)(8) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)) is amended by adding at the end the following new subparagraph:

“(F) RELIEF FOR 2020 AND 2021.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met as of February 29, 2020, may elect to apply this paragraph by substituting ‘February 29, 2020’ for ‘August 31, 2008’ each place it appears in subparagraphs (A)(i), (B)(i)(I), and (B)(i)(II) (without regard to whether such plan previously elected the application of this paragraph). The preceding sentence shall not apply to a plan with respect to which a partition order is in effect under section 4233A.”.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(b)(8) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(F) RELIEF FOR 2020 AND 2021.—A multiemployer plan with respect to which the solvency test under subparagraph (C) is met as of February 29, 2020, may elect to apply this

1 paragraph by substituting ‘February 29, 2020’
2 for ‘August 31, 2008’ each place it appears in
3 subparagraphs (A)(i), (B)(i)(I), and (B)(i)(II)
4 (without regard to whether such plan previously
5 elected the application of this paragraph). The
6 preceding sentence shall not apply to a plan
7 with respect to which a partition order is in ef-
8 fect under section 4233A of the Employee Re-
9 tirement Income Security Act of 1974.’’.

10 (b) EFFECTIVE DATES.—

11 (1) IN GENERAL.—The amendments made by
12 this section shall take effect as of the first day of
13 the first plan year ending on or after February 29,
14 2020, except that any election a plan makes pursu-
15 ant to this section that affects the plan’s funding
16 standard account for the first plan year beginning
17 after February 29, 2020, shall be disregarded for
18 purposes of applying the provisions of section 305 of
19 the Employee Retirement Income Security Act of
20 1974 and section 432 of the Internal Revenue Code
21 of 1986 to such plan year.

22 (2) RESTRICTIONS ON BENEFIT INCREASES.—

23 Notwithstanding paragraph (1), the restrictions on
24 plan amendments increasing benefits in sections
25 304(b)(8)(D) of such Act and 431(b)(8)(D) of such

1 Code, as applied by the amendments made by this
 2 section, shall take effect on the date of enactment of
 3 this Act.

4 **SEC. 7. PBGC GUARANTEE FOR PARTICIPANTS IN MULTI-**
 5 **EMPLOYER PLANS.**

6 Section 4022A(c)(1) of the Employee Retirement In-
 7 come Security Act of 1974 (29 U.S.C. 1322a(c)(1)) is
 8 amended by striking subparagraphs (A) and (B) and in-
 9 serting the following:

10 “(A) 100 percent of the accrual rate up to
 11 \$15, plus 75 percent of the lesser of—

12 “(i) \$70; or

13 “(ii) the accrual rate, if any, in excess
 14 of \$15; and

15 “(B) the number of the participant’s years
 16 of credited service.

17 For each calendar year after the first full calendar
 18 year following the date of the enactment of the
 19 Butch Lewis Emergency Pension Plan Relief Act of
 20 2021, the accrual rates in subparagraph (A) shall
 21 increase by the national average wage index (as de-
 22 fined in section 209(k)(1) of the Social Security
 23 Act). For purposes of this subsection, the rates ap-
 24 plicable for determining the guaranteed benefits of
 25 the participants of any plan shall be the rates in ef-

- 1 fect for the calendar year in which the plan becomes
- 2 insolvent under section 4245 or the calendar year in
- 3 which the plan is terminated, if earlier.”.

