The Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2021
Section-by-Section Summary

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

The section establishes a special partition program that authorizes the Pension Benefit Guaranty Corporation (PBGC) to require eligible plans to separate their liabilities into two plans: an Original Plan, and a Successor Plan, which has no assets but liabilities payable by PBGC. Upon application by a multiemployer plan, PBGC must review and order a partition of the plan within 150 days of the application's completion or filing. Participants must be notified by PBGC within 30 days of submitting the application, and PBGC must implement the transfer of liabilities within 60 days of making a determination.

Eligible plans include: (1) plans that became insolvent on or after December 16, 2014, but prior to the date of enactment (DOE) and have not terminated, (2) plans in critical and declining status under the most recent annual certification filed prior to DOE that have not terminated, (3) plans that implemented a suspension of benefits under the *Multiemployer Pension Reform Act of 2014* (MPRA), (4) critical status plans below 40 percent funded on a current liability basis, and have an active-to-inactive-participant ratio below 40 percent, and (5) plans that are in critical status, have an active-to-total-participant ratio that is below 20 percent, and have more than 100,000 participants. Because the United Mine Workers 1974 pension plan received relief in 2019 legislation, it is not eligible for this program.

Eligible plans are required to apply for partition, except that plans that have been previously approved for benefit suspensions under MPRA will have the option to apply for partition, provided they unwind the suspension and provide retroactive payments to participants.

The eligible plan must adjust the rate of future accruals to a monthly accrual rate that does not exceed the lesser of 1 percent of annual contributions or the accrual rate, determined as of the first day of the plan year following enactment. This limitation applies for 15 years. Plan sponsors also must eliminate early retirement subsidies not in pay status as of the date of the partition.

Subject to certain exceptions, PBGC will provide financial assistance needed to pay monthly benefits to participants and beneficiaries in the Successor Plan sufficient for the Original Plan to remain solvent indefinitely. Financial assistance provided to the Successor Plans will not be subject to repayment requirements, but conditions may be attached to the assistance to prevent abuse of the multiemployer plan program and prevent unreasonable risk of loss to PBGC. The Original Plan will generally pay the difference between the monthly benefit and the amount transferred to PBGC.

The partition order will provide for a transfer of liabilities from the Original Plan to the Successor Plan in the amount necessary for the Original Plan to be projected to remain solvent indefinitely. The amount of the transfer of liabilities must take into account all obligations of the Original Plan, including payment of benefits in excess of the amount transferred and payment of

PBGC premiums. The amount of transferred liabilities will be based on a projection of plan assets and liabilities as to the projected partition date, as specified in the partition application. PBGC must issue guidance within 180 days of enactment. If PBGC does not issue regulations within the timeframe, any applications filed after that date (and prior to the date guidance is issued) will be deemed to be approved. Regulations will address the actuarial assumptions to be used in determining the amount of the partition, including the rate of future investment returns, contribution base units, contribution increases, and other assumptions.

The partition application will be approved if the applying plan meets the eligibility requirements for a special partition. If PBGC determines the plan to be ineligible for a special partition, it must notify the plan sponsor in writing within 30 days. The plan will have at least 60 days to modify its application, which will then be subject to expedited review by PBGC. If PBGC determines the application by the plan sponsor to be incomplete, it must notify the plan sponsor within 30 days.

Every three years after the partition order and for 30 years, the PBGC will adjust the benefits transferred under the partition, subject to limitations, to ensure that the original plan is projected to remain solvent indefinitely, also subject to limitations. These adjustments will be based on changes in participant data, the market value of the original plan’s assets, and contribution experience, among other things. If the initial transfer under the partition was less than 100 percent of the guaranteed benefits under the plan, any future adjustment may not exceed 100 percent of the guaranteed benefits. If the initial transfer exceeded 100 percent of the guaranteed benefits, the adjustment shall not exceed the initial transfer amount. If the initial transfer was less than 5 percent of the guaranteed benefits, there will be no future adjustments. If the plan reports for three consecutive years that it is not projected to be solvent 30 years after the date of the partition or adjustment, the plan is terminated, and the successor plan’s liabilities are transferred back to the original plan.

Plan sponsors that have already successfully implemented a suspension of benefits under MPRA (including a plan that has received partition assistance) have the option to unwind the suspension (and, if applicable, the previously existing partition) and seek a special partition under the proposal. Within 180 days after the partition, such plans must begin repaying the benefits suspended under MPRA.

Withdrawal liability for partitioned plans is calculated without regard to the partition for 15 years after the effective date of the partition, unless the withdrawal is due to a decertification or change in bargaining representatives or a disclaimer of interest, or in the case of a partial withdrawal if there is only a 3-percent decline in the contribution base units. If an employer withdraws within 15 years of the partition, the employer’s payments are increased by 10 percent.

If the plan sponsor adopts a plan amendment that increases plan liabilities (because of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become non-forfeitable) that takes effect after the effective date of the partition, the Original Plan must make compensating payments to PBGC for each year during the 20-year period following the effective date of the benefit increase.

Subject to certain exceptions, the trustees of the Original Plan may not accept a collective bargaining agreement that reduces plan contributions.

Any accumulated funding deficiency shall be reduced to zero on the first day of the plan year in which the partition is effective.

Within 90 days of the beginning of each plan year after the effective date of a special partition, the plan sponsor of both the Original and Successor plan must electronically file a report with PBGC containing financial and actuarial information. PBGC and the Secretaries of the Treasury and Labor may promulgate regulations to reduce reporting and disclosure obligations for Successor Plans, including coordinating with reporting and disclosure by original plans.

SUBTITLE B – PBGC REFORMS

Sec. 111 – Guarantee rate increase for plans currently receiving financial assistance

The section increases the benefit guarantee amount to 100 percent of the first $15 of the monthly benefit rate, plus 75 percent of the next $54.67 of the monthly benefit rate, times the participant's years of service for plans that become insolvent after DOE, or for financial assistance provided pursuant to a special partition under sec. 101 above (new ERISA section 4233A).

Sec. 112 – Amendment to definition of insolvency

The section provides that a multiemployer plan is insolvent as of the first plan year for which a plan will be unable to pay benefits under the plan in any of the next five plan years.

Sec. 113 – Termination of multiemployer plans

The section provides that if PBGC successfully petitions a Federal district court for termination of a multiemployer plan, PBGC will determine the method of termination. The section also provides that a plan terminates by reason of insolvency.

Further, a plan projected to become insolvent within the next five years must be amended (1) to terminate (*i.e.*, to cease crediting service for any purpose under the plan) and (2) to reduce benefit payments to guaranteed-benefit levels (as modified by this legislation). An ongoing insolvent plan that is not eligible to receive partition relief is required to terminate effective as of the first day of the seventh full month following the DOE.

The section also provides that PBGC is authorized to consolidate or pool the assets of terminated or insolvent multiemployer plans with fewer than 5,000 participants to reduce administrative expenses or avoid risk of loss.

Sec. 114 – Benefits under certain terminated plans

The section provides that if a plan has been terminated, it must be amended to reduce benefits immediately to the guarantee level within 6 months of termination.

SUBTITLE C – PENSION INSURANCE MODELING

Sec. 121 – Pension insurance modeling
The section provides the required review of the PBGC's Pension Insurance Modeling System (PIMS) review must occur every five years.

TITLE II – FUNDING RULES, WITHDRAWAL LIABILITY, AND OTHER REFORMS

SUBTITLE A – MINIMUM FUNDING STANDARD FOR MULTIEMPLOYER PLANS

Sec. 201 – Valuation of plan liabilities
The section regulates the interest rate used by actuaries to project the past service liabilities of a multiemployer plan. The discount rate, set by the plan actuary to reflect the actuary's best estimate of future investment experience, is limited by a phased-in cap. Under the provision, the cap may not exceed 7.5 percent for plan years beginning after December 31, 2020, 7.25 percent for plan years beginning after December 31, 2023, 7.0 percent for plan years beginning after December 31, 2027, 6.75 percent for plan years beginning after December 31, 2031, and 6.5 percent for plan years beginning after December 31, 2035.

Additionally, the section regulates the discount rate used by actuaries to value the liability of a plan's "normal cost," the benefits accrued and expenses incurred during a given plan year. The normal cost interest rate is capped at the least of (1) the plan's discount rate for past service liability, (2) the 24-month average of the third segment rate used by single-employer plans plus 2 percent, or (3) 5.5 percent. In ensuing years, any actuarial gains the plan realizes when liabilities are valued at the rate for past service liability, rather than the normal cost discount rate, are kept separately in an investment risk subaccount of the funding standard account. These gains may only be used to offset plan losses attributable to the plan using a lower discount rate for past service liabilities. Plans that received a special partition under new ERISA section 4233A are required to use this lower rate for all past service liability.

SUBTITLE B – ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS

Part I- Plan Status Amendments

Sec. 211 & Sec. 212 – Amendments to Internal Revenue Code and ERISA

The sections prohibit plan amendments that increase plan liabilities arising from any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become non-forfeitable unless: (1) the plan is currently in unrestricted status; (2) for plans in endangered status, the plan actuary certifies that the benefit increase is paid out of additional contributions not contemplated in any current funding-improvement plan; (3) for stable plans, the change in benefits will be paid from additional contributions not currently required by an applicable collective bargaining agreement; or (4) the benefit increase is required by law or is a *de minimis* change. The sections also prohibit trustees from accepting a collective bargaining agreement providing for a reduction in contributions unless: (1) the plan is currently in unrestricted status; (2) the contribution reduction is accompanied by reductions in future benefit accruals; or (3) the plan trustees determine that accepting the agreement is in the best interests of the plan participants and that rejecting the agreement would financially harm the plan.

The sections create two new funding statuses: "stable" and "unrestricted" status. A plan is in stable status if it is not in unrestricted, endangered, critical, or declining status. A plan is in unrestricted status if the plan is not in endangered, critical, or declining status and the plan meets one of the following tests: (1) the plan's current liability funded percentage for the plan year is at least 80 percent; or (2) the plan's projected actuarial liability funded percentage as of the first day of the 15th succeeding plan year is at least 115 percent and the plan's current liability funded percentage for the plan year is at least 70 percent.

The sections update the "endangered" status rules. A plan is in endangered status if it is not in critical status or declining status, and the plan is described by at least one of the following tests: (1) the plan's funded percentage is less than 80 percent; (2) the plan is projected to have an accumulated funding deficiency in any of the next nine succeeding plan years, or (3) the plan's projected funded percentage as of the first day of the 15th succeeding plan year is less than 100 percent. The sections empower trustees to modify certain "adjustable benefits," as critical zone status plans can. The section also expands the definition of adjustable benefits to include benefit increases that took effect in the last 120 months, certain one-time bonus provisions, and credit for service prior to participation in the plan. The section permits a plan to elect endangered status if the plan is projected to be in endangered status in any of the five succeeding plan years.

The sections update the "critical" status rules. A plan is in critical status if it is not in declining status and is described by any of the following tests: (1) the plan's funded percentage is less than 65 percent; (2) the plan has a projected accumulated funding deficiency in the current or next six succeeding plan years; or (3) the plan's projected funded percentage as of the first day of the 15th succeeding plan year is less than 80 percent.

The sections rename the "critical and declining" status as "declining." A plan is in declining status if: (1) the plan is projected to become insolvent within the current or any of the 29 succeeding plan years; (2) the plan is in critical status for the plan year and the plan sponsor determines the plan cannot reasonably be expected to emerge from critical status within 30 years; or (3) the plan has a funded percentage for the plan year that 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 exceeds 100 percent and the projected funded percentage as of the first day of the 15th succeeding plan year is less than 100 percent. These sections also require that declining status plans adopt a plan to avoid or delay insolvency.

These sections also describe permissible actuarial assumptions. The sections require that the assumption for future investment returns not exceed the discount rate required for valuing past service liabilities. The sections require that assumptions regarding future contributions take into account recent experience regarding economic activity. The sections also require a number of new disclosures regarding the plan's financial status, contribution history, and ability to withstand certain negative plan experience.

The sections permit the plan sponsor of a plan in endangered, critical, or declining status, to amend prospectively the plan's 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.

Sec. 213 – Transition rules

The section provides transition rules for endangered, critical, and declining status plans. Under these rules, certain plans in endangered, critical, or declining status may remain in the status it is in on the date of enactment so long as the plan continues to make scheduled progress under its existing funding improvement plan or rehabilitation plan.

Sec. 221 – Provisions relating to plan mergers and consolidations

This section directs PBGC to issue regulations prescribing the conditions under which a plan in critical status may merge with a plan in stable or unrestricted status, including rules related to withdrawal liability.

Sec. 222 – Clarification of PBGC financial assistance for plan mergers and partitions

This section eliminates the requirement that financial assistance in a facilitated merger be necessary for a merged plan to remain solvent before PBGC may provide such assistance. The availability of financial assistance, however, will continue to be based on the expectation that it will reduce PBGC's expected long-term loss. The section also removes a certification requirement that approval of a facilitated merger or partition not "impair" PBGC's solvency.

Sec. 223 – Restoration not required for certain mergers

This section clarifies that there is no requirement that a merged plan that includes a plan that had suspended benefits prior to the merger restore those benefits.

Sec. 231 – Withdrawal liability reform

The section generally defines an employer's withdrawal liability obligation as the lesser of its allocated share of unfunded vested benefits or the present value of 20 years of withdrawal liability payments. These payments are defined as the average of the five consecutive years with the highest contribution base units in the previous 20 years, multiplied by the highest contribution rate in the previous 10 years. The section provides that the 20-year value of withdrawal liability is changed to 25 years in the case of mass withdrawal, or if a plan is in declining status or terminates. The mandatory *de minimis* credit against withdrawal liability is increased to $100,000 and the optional *de minimis* credit is increased to $250,000. These credits, as well as credits for prior partial withdrawal liability payments, are applied after calculation of the 20 years of payments. Additionally, the section removes a provision prohibiting construction industry plans from applying to PBGC for approval to use an alternate allocation method.

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

For plans approved for a special partition program under this legislation, the section permits PBGC to appoint a special master to the plan. The special master will be able to receive complaints about the plan's operations and review the plan's actuarial and financial information. The section also authorizes PBGC to remove trustees of original plans, if PBGC determines that actions taken by trustees unreasonably increased the risk of loss to plan participants or to PBGC, and appoint replacements. PBGC is permitted to petition a federal court to seek appointment of an independent trustee to a plan in critical or declining status to prevent abuse of the PBGC's insurance program or prevent an unreasonable increase in liability.

Sec. 302 – Investigatory authority

The section authorizes PBGC to investigate any facts, conditions, practices, or matters that it determines necessary to aid in enforcement, to prescribe rules and regulations, and to enable the agency to evaluate the corporation's liability or potential liability with respect to a plan. The provision protects certain information provided to PBGC from disclosure under the Freedom of Information Act. The section also requires PBGC to audit certain terminating plans to protect participants and beneficiaries.

Sec. 303 – Conditions on financial assistance

The section authorizes PBGC to impose conditions on financial assistance that it provides to multiemployer plans to prevent abuse of the multiemployer insurance program, such as offsets for benefits in excess of the PBGC guarantee provided by a separate defined benefit plan.

Sec. 304 – Excise tax on excess compensation of covered employees of partitioned multiemployer plans

For partitioned plans, the section imposes a 21-percent excise tax on any compensation in excess of $500,000 paid to the five highest compensated employees of the plan.

SUBTITLE B – REPORTABLE EVENTS FOR MULTIEMPLOYER PLANS

Sec. 311 – Reportable events

The section expands reportable event filings for multiemployer plans, including requiring advance notice of: (1) any amendment (or acceptance of collective-bargaining agreements) that would exclude newly hired employees from participation or any amendment that would substantially reduce the rate of future benefit accrual or the contribution rate for any participants; (2) the establishment of any new retirement plan that substantially overlaps with the active participants in a preexisting plan; (3) an event that materially jeopardizes the security of participant benefits, the financial health of the plan, or is likely to pose a material financial risk to PBGC; and (4) the plan only having one trustee or no trustees on its board.

SUBTITLE C – FUNDING NOTICES TO PARTICIPANTS IN MULTIEMPLOYER PLANS

Sec. 321 – Improved multiemployer plan disclosure

The section streamlines and targets disclosure requirements for both annual funding notices and zone status notices provided by financially troubled plans. The revised disclosures must be provided to participants and beneficiaries, the bargaining parties, and jointly in electronic format to the PBGC and the Secretaries of the Treasury and Labor.

Sec. 322 – Penalties for failure to provide notices

The section authorizes the Department of Labor to impose a civil penalty against the plan sponsor of up to $110 per day from the date of failure to provide disclosures to participants and beneficiaries, and up to $2,140 per day for failure to file the actuarial certification (including the new information required by this legislation) with the Secretary of Labor and PBGC.

SUBTITLE D – CONSISTENCY OF CRIMINAL PENALTIES

Sec. 331 – Consistency of criminal penalties

The section increases the penalty for false statements or concealment in ERISA-required documents and for theft or embezzlement from an employee benefit plan from five to 10 years in prison. Similarly, the section increases the penalty for the offer, acceptance, or solicitation to influence operations of an employee benefit plan from three to 10 years.

TITLE IV – OTHER MULTIEMPLOYER PLAN REFORMS

Sec. 401 – Clarification of fiduciary duty of retiree representative who is a trustee

The section clarifies that trustee duties remain subject to fiduciary standards, even if a trustee also serves as the retiree representative appointed by a plan seeking to suspend benefits.

Sec. 402 – Safe harbors

The section establishes a safe harbor for a flat-percentage, across-the-board suspension for purposes of the rules regarding the equitable distribution of benefit suspensions. The section also directs the Secretary of the Treasury to issue regulations regarding the actuarial assumptions that plans may use for suspension applications.

Sec. 403 – Clarification of notice and comment process

The section clarifies that the Department of the Treasury is not required to provide additional notice and comment through the Federal Register where changes to a suspension application have a *de minimis* effect on the suspension, such as a change of 5 percent or less of a participant's post-suspension benefits. These changes will not require new notice by the plan to participants. The section also permits the Department of the Treasury to extend the deadline for a decision if the only defect with respect to an application is a lack of notice and comments to participants.

<u>Sec. 404 – Protection of participants receiving disability benefits</u>
The section extends protection from suspension to benefits of participants who qualify for Social Security disability benefits, regardless of whether they are receiving disability benefits under the plan.

<u>Sec. 405 – Model notice</u>
The section directs the Department of the Treasury, in consultation with the Department of Labor and PBGC, to develop a plain language, single-page cover as part of its model suspension notice.

TITLE V – ALTERNATIVE PLAN STRUCTURES

<u>Sec. 501 – Composite plans</u>
The section establishes a "composite plan" as a new kind of multiemployer pension plan that has certain attributes of both a defined benefit plan and a defined contribution plan. Composite plans provide an annuity benefit to plan participants, but limit a participating employer's financial obligation to a fixed, negotiated contribution level. Benefit payments will only be available to the extent of plan assets.

Composite plans are required to maintain a projected funding ratio (*i.e.*, a projection of the funding ratio in 15 years) of 120 percent. If, in 15 years, the amount of the plan's assets are projected to be insufficient to pay 120 percent of the promised benefits, the plan would be required to take corrective action to restore the projected funding ratio to 120 percent.

A composite plan is permitted to be a stand-alone plan or a component of an existing multiemployer defined benefit plan, provided that the legacy plan is not, and will not be, certified as being in endangered or critical status in the current or any of the succeeding five years. For an existing multiemployer defined benefit plan to adopt a composite plan as a component, the composite plan must apply to all collective-bargaining agreements and participants.

Each year, a composite plan must provide to the Department of Labor and PBGC actuarial certification of the plan's current funded ratio and projected funded ratio. The projections may consider contribution increases beyond the terms of collective bargaining agreements, if reasonable, up to 2.5 percent per year, compounded annually. The section requires the composite plan trustees to take remedial action in a plan year if the projected funded ratio for the plan year is below 120 percent. Plans are required initially to propose contribution increases, future accrual reductions, or prospective adjustable benefit reductions. If these measures are insufficient, the plan must propose reducing accrued benefits not in pay status or adjustable benefits in pay status. As a last resort, additional accrual reductions and reduction of accrued benefits in pay status are permitted, subject to a number of conditions. Notice of actions must be provided to regulators, the bargaining parties, and plan participants.

Benefits may be increased by up to 3 percent if the plan meets the following criteria: (1) the plan's current funded ratio is at least 110 percent (not including increases); (2) the current funded ratio is at least 100 percent and projected funded ratio is at least 120 percent (including increases); and (3) expected contributions for the current plan year cover at least 120 percent of benefits earned that year. The 3-percent cap is lifted if, after taking benefit increases or new benefits into account, the current funded ratio is at least 140 percent and the projected funded ratio is at least 140 percent in the succeeding 15 years.

The section specifies that a multiemployer plan will be a legacy plan with respect to the composite plan under which employees who were eligible to accrue benefits under the legacy plan become eligible to accrue a benefit under the composite plan. An employee is eligible to accrue a benefit under a composite plan as of the first day on 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 to the legacy plan. Special rules apply to legacy plan participants who are no longer actively employed by a sponsoring employer.

Special transition rules apply to contributions to the legacy plan, and the participating employers are required to maintain contributions to the legacy plan through "transition contributions." These contributions are required to fund the normal cost of the legacy plan for the plan year, but permit the legacy plan to amortize the plan's initial unfunded liabilities in level installments over 25 years. Legacy plans are permitted to amortize over 15 years subsequent changes in the plan's unfunded liability due to experience gains or losses, changes in actuarial assumptions, changes in the legacy plan's benefits, or changes in funding method.

Composite plans are permitted to engage in mergers or transfers only with other composite plans, provided that accrued benefits are not lower immediately after the transaction than before and that, in the case of a transfer, the value of assets transferred reasonably reflects the value of amounts contributed with respect to benefits transferred.

The section also authorizes the Secretary of Labor, contributing employers, or the union to bring a civil action for an order compelling the trustees to comply if the trustees of the composite plan fail to adopt a realignment program or to update or comply with the program. The Secretary of Labor is authorized to assess a civil penalty of up to $2,140 per day against the trustees if the composite plan's actuary fails to certify in a timely manner the current or projected funded ratio or in the event the trustees fail to adopt a realignment program. The Secretary of Labor also may assess a civil penalty of up to $100 per day against the trustees for failing to comply with required notice provisions related to the composite plan's realignment program. Additionally, the Secretary of Labor is authorized to assess a civil penalty of up to $100 per day against the trustees for failing to comply with required notice provisions related to the intent to establish or adopt a composite plan or component, as applicable, or related to failures in collective-bargaining agreements.

Sec. 502 – Application of certain requirements to composite plans

The section extends annual funding notices, annual reports, and pension benefit statements disclosure requirements to composite plans.

Sec. 503 – Treatment of composite plans under title IV

The section generally exempts a composite plan from PBGC premium requirements and the PBGC guarantee. Additionally, contributions to the composite plan are not taken into account for purposes of withdrawal liability. A legacy plan will be deemed to have no unfunded vested benefits if the plan is fully funded, has had no unfunded vested benefits for at least three of the last five plan years, and is projected to be fully funded for the next four plan years.

<u>Sec. 504 & Sec. 505 – Conforming changes and effective date</u>
These sections make conforming changes and specify that the amendments made by this title apply to plan years beginning after the date of enactment.

TITLE VI – FINANCIAL PROVISIONS

<u>Sec. 601 – Additional premiums</u>
For plan years beginning in 2022, the section ties the multiemployer flat-rate premium to the premium charged to single-employer plans. For 2021, that rate is $86 per participant and is adjusted annually for inflation.

The section establishes a variable-rate premium (VRP) payable to PBGC beginning in 2022. Specifically, the per participant amount of the new variable-rate premium equals 1 percent of the current unfunded liability divided by the number of participants. The VRP is capped at 10 percent of the amount of the contributions to the plan (based on the contributions reported in the most recent Form 5500) divided by the number of participants. In no case will the cap be higher than $250 per participant. The cap is indexed in subsequent years for inflation.

The section requires that plans withhold premiums from retirees equal to a fixed percentage of benefit payments based on the plan's zone status. For endangered status plans, the premium is 3 percent. For critical status plans, the premium is 5 percent. For declining status plans, newly insolvent plans, or plans that have been terminated but are not insolvent, the premium is 7 percent. For plans partitioned under this legislation, the premium is 10 percent. Disabled retirees are not subject to the premium. Similarly, premiums for participants or beneficiaries phase out beginning at age 75, and those over the age of 79 are not subject to the premium.

The section requires a monthly $2.50 per employee fixed rate co-payment by each union and employer in endangered, critical, and declining status. This co-payment is reduced to $1.50 for plans in stable status and $1 for plans in unrestricted status.

Beginning in 2025, if PBGC reports that the multiemployer plan program will not remain solvent for at least 10 years after the report, PBGC shall include 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 602 of this legislation. If Congress does not act by the beginning of the next fiscal year, these recommendations will be automatically adopted.

<u>Sec. 602 – Funding</u>
The section authorizes PBGC to receive interest-free loans from the Department of the Treasury to pay financial assistance or expenses related to the multiemployer plan program if the fund for basic benefits is expected to have less than $500 million in assets for a year. PBGC must repay the loan beginning 20 years after the loan is issued, and must repay the loan within 20 years from the time repayment begins. If the outstanding balance of the loans provided to PBGC during the

previous year exceeds $2 billion, the section requires the multiemployer flat-rate premium to increase by 20 percent for the next year only.

Sec. 603 – Composite plan transition fee

Beginning in 2025, a composite plan must pay a $15 per participant fee to PBGC for participants who are not also participants in a legacy plan.