To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to modify certain provisions relating to multiemployer pensions, and for other purposes.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Keeping America’s Pension Promises Act”.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SEC. 2. RESTORING ANTI-CUTBACK PROVISIONS.

Section 201 of the Multiemployer Pension Reform Act of 2014 (division O of Public Law 113–235) and the amendments made by such section are repealed, and the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 shall be applied as if such section and amendments had never been enacted.

SEC. 3. PARTITIONS OF ELIGIBLE MULTIEMPLOYER PLANS.

(a) In General.—Section 4233 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1413), as amended by section 122 of the Multiemployer Pension Reform Act of 2014 (division O of Public Law 113–235), is amended to read as follows:

"SEC. 4233. PARTITIONS OF ELIGIBLE MULTIEMPLOYER PLANS.

"(a)(1) Upon the application by the plan sponsor of an eligible multiemployer plan for a partition of the plan, the corporation may order a partition of the plan in accordance with this section. The corporation shall make a determination regarding the application, in accordance with regulations promulgated by the corporation, not later than 270 days after—

"(A) the date such application was filed; or

"(B) if later, the date such application was completed."
“(2) At least 14 days before submitting an application for partition of a plan under paragraph (1), the plan sponsor of the plan shall notify all participants and beneficiaries of such application, in the form and manner prescribed by regulations issued by the corporation.

“(b) For purposes of this section, a multiemployer plan is an eligible multiemployer plan if—

“(1) the plan is in critical status and is projected to become insolvent within the meaning of section 4245—

“(A) during the current plan year or any of the 14 succeeding plan years; or

“(B) during the current plan year or any of the 19 succeeding plan years, if the plan has a ratio of inactive participants to active participants that exceeds 2 to 1 and the funded percentage of the plan is less than 80 percent;

“(2) the corporation determines, after consultation with the Participant and Plan Sponsor Advocate selected under section 4004, that the plan sponsor has taken (or is taking concurrently with an application for partition) all reasonable measures described in section 432(e)(3)(A) of the Internal Revenue Code of 1986, and has made (or is making)
benefit adjustments under section 432(e)(8) of such Code to reduce the risk of insolvency;

“(3) 20 percent or more of the amount by which the liabilities of the plan exceed the value of plan assets is attributable to the service of participants whose employers—

“(A) withdrew from the plan prior to the date of enactment of the Keeping America’s Pension Promises Act; and

“(B) failed to pay (or are delinquent with respect to paying) the full amount of the employer’s withdrawal liability under section 4201(b)(1) or as otherwise determined under an agreement with the plan;

“(4) the corporation reasonably expects that—

“(A) a partition of the plan will reduce the corporation’s expected long-term loss with respect to the plan; and

“(B) a partition of the plan is necessary for the plan to remain or become solvent; and

“(5) the corporation certifies to Congress that after partition the corporation will continue to have the ability to meet existing financial assistance obligations to other plans (including any liabilities associated with multiemployer plans that are insolvent or
that are projected to become insolvent within 10
years).

“(c)(1) A partition under this section shall consist of
a transfer to the plan created by the partition order of
benefits to which eligible participants and beneficiaries
were entitled under the plan that was partitioned, in an
amount not to exceed the amount that would be guaran-
teed under section 4022A if the plan were insolvent as
of the date of the partition order.

“(2) The corporation’s partition order shall provide
for an annual transfer by the corporation to the plan cre-
ated by the partition order of an amount equal to the year-
ly benefits that would be guaranteed under section 4022A
to the eligible participants and beneficiaries if the plan
were insolvent as of the date of the partition order.

“(3)(A) Where practicable, the initial transfer in ac-
cordance with paragraph (2) shall be completed at least
60 days prior to the plan year that immediately follows
the partition start date. The partition order shall require
that the initial transfer be sufficient to satisfy the guaran-
teed benefits in the first plan year of the partitioned plan.

“(B) Subsequent transfers in accordance with para-
graph (2) shall be completed at least 60 days prior to the
first day of each succeeding plan year.
“(d)(1)(A) The plan created by the partition order is a successor plan to which section 4022A applies.

“(B) At the discretion of the plan sponsor, the plan created by the partition order may remain a part of the plan that was partitioned or be maintained as a separate plan.

“(2)(A) The plan sponsor and the administrator of an eligible multiemployer plan prior to the partition shall be the plan sponsor and the administrator, respectively, of the plan created by the partition order, and shall adopt reasonable procedures to reduce administrative expenses and to coordinate benefit payments and communications with the participants and beneficiaries in the plan created by the partition order.

“(B) Benefit payments equal to the amount of an eligible participant or beneficiary’s guaranteed benefits shall be paid to such participant or beneficiary and may be—

“(i) paid separately by the plan created by the partition order; or

“(ii) paid in a single, monthly payment by the plan that was partitioned.

“(3) In the event an employer withdraws from the plan that was partitioned, withdrawal liability shall be computed under section 4201 with respect to both the plan
that was partitioned and the plan created by the partition order.

“(e) In addition to the payment of guaranteed benefits under subsection (d)(2)(B), each eligible participant or beneficiary of the plan created by the partition order shall receive a monthly benefit for each month the benefit is in pay status in an amount that—

“(1) the corporation, in consultation with the Participant and Plan Sponsor Advocate, determines to be fair to the plan, the participant or beneficiary, the employers, and the corporation; and

“(2) is at least equal to the lesser of—

“(A) the monthly nonforfeitable benefit for such participant or beneficiary payable under the plan that was partitioned; or

“(B) 80 percent of the maximum benefit commencing at age 65 guaranteed under section 4022(a) for participants and beneficiaries in terminated single employer plans, unreduced for early retirement.

Such monthly benefit may be combined with the monthly payment under subsection (d)(2)(B)(ii).

“(f)(1) The corporation shall establish a legacy fund for the purposes of funding the administrative and benefit
costs to the corporation arising from partitions under this section, as described in paragraph (2).

“(2) Any administrative and benefit costs to the corporation arising from a partition ordered under this section in excess of amounts available in such legacy fund shall be paid from the fund for basic benefits guaranteed for multiemployer plans.

“(g) Only one partition order shall be issued with respect to each eligible multiemployer plan.

“(h) For purposes of this subsection, the term ‘eligible participant or beneficiary’ means a participant or beneficiary of an eligible multiemployer plan that is partitioned in accordance with a petition order under this section, and who is an employee or beneficiary of an employee of an employer that is described in subsection (b)(3).

“(i) Not later than 14 days after the issuance of a partition order under this section, the corporation shall provide notice of such order to the Committee on Finance of the Senate, the Committee on Health, Education, Labor, and Pensions of the Senate, the Committee on Education and the Workforce of the House of Representatives, the Committee on Ways and Means of the House of Representatives, and to all eligible participants or beneficiaries whose guaranteed benefits will be paid directly or indirectly by the plan created by the partition order.”.
(b) **Effective Date.**—The amendments made by subsection (a) shall apply with respect to plan years beginning after the date of enactment of this Act.

(c) **Transfers to Legacy Fund.**—The Secretary of the Treasury shall from time to time transfer from the general fund of the Treasury to the legacy fund established under section 4233(f)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1413(f)(1)) (as amended by subsection (a)) amounts equal to the increase in revenues to the Treasury by reason of the amendments made by sections 6 and 7 of this Act.

(d) **Transfers Between Funds of the PBGC.**—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) An eighth fund is established under section 4233(f) and credited with the amounts described in section 3(e) of the Keeping America’s Pension Promises Act.

“(2) Notwithstanding subsection (g), the corporation may transfer amounts into the legacy fund established under section 4233(f)(1) from other funds established under this section, as the corporation determines appropriate.”.
SEC. 4. EMPLOYER WITHDRAWALS RELATING TO MULTIEMPLOYER PLANS.

The matter preceding paragraph (1) of section 4225(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1405(b)) is amended by inserting “, including an employer undergoing liquidation under chapter 7 of title 11, United States Code, or similar provisions of State law,” after “dissolution,”.

SEC. 5. PRIORITIES OF CLAIMS IN BANKRUPTCY.

(a) IN GENERAL.—Section 507(a) of title 11, United States Code, is amended—

(1) by redesignating paragraphs (1) through 10 as paragraphs (2) through (11), respectively;

(2) by inserting before paragraph (2) (as redesignated) the following:

“(1) First, withdrawal liability determined under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381 et seq.).”;

(3) in the matter preceding subparagraph (A) of paragraph (2) (as redesignated), by striking “First:” and inserting “Second:”;
(6) in the matter preceding subparagraph (A) of paragraph (5) (as redesignated), by striking “Fourth,” and inserting “Fifth,”;

(7) in the matter preceding subparagraph (A) of paragraph (6) (as redesignated), by striking “Fifth,” and inserting “Sixth,”;

(8) in the matter preceding subparagraph (A) of paragraph (7) (as redesignated), by striking “Sixth,” and inserting “Seventh,”;

(9) in paragraph (8) (as redesignated), by striking “Seventh,” and inserting “Eighth,”;

(10) in the matter preceding subparagraph (A) of paragraph (9) (as redesignated), by striking “Eighth,” and inserting “Ninth,”;

(11) in paragraph (10) (as redesignated), by striking “Ninth,” and inserting “Tenth,”; and

(12) in paragraph (11) (as redesignated), by striking “Tenth,” and inserting “Eleventh,”.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 502(i) of title 11, United States Code, is amended by striking “section 507(a)(8)” and inserting “section 507(a)(9)”.

(2) Section 503(b)(1)(B)(i) of title 11, United States Code, is amended by striking “section 507(a)(8)” and inserting “section 507(a)(9)”.
(3) Section 507(d) of title 11, United States Code, is amended by striking “(a)(1), (a)(4), (a)(5), (a)(6), (a)(7), (a)(8), or (a)(9)” and inserting “(a)(2), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9), or (a)(10)”.

(4) Section 523(A) of title 11, United States Code, is amended by striking “section 507(a)(3) or 507(a)(8)” and inserting “section 507(a)(4) or 507(a)(9)”.

(5) Section 724 of title 11, United States Code, is amended—

(A) in subsection (b)(2), by striking “section 507(a)(1)(C) or 507(a)(2)” and inserting “section 507(a)(2)(C) or 507(a)(3)”;

(B) in subsection (f)—

(i) in paragraph (1), by striking “section 507(a)(4)” and inserting “section 507(a)(5)”;

(ii) in paragraph (2), by striking “section 507(a)(5)” and inserting “section 507(a)(6)”.

(6) Section 726(b) of title 11, United States Code, is amended by striking “paragraph (1), (2), (3), (4), (5), (6), (7), (8), (9), or (10) of section
507(a)” and inserting “paragraph (2), (3), (4), (5),
(6), (7), (8), (9), (10), or (11) of section 507(a)”.

(7) Section 752(a) of title 11, United States
Code, is amended by striking “section 507(a)(2)”
and inserting “section 507(a)(3)”.

(8) Section 766 of title 11, United States Code,
is amended—

(A) in subsection (h), by striking “section
507(a)(2)” and inserting “section 507(a)(3)”;
and

(B) in subsection (i)—

(i) in paragraph (1), by striking “sec-
tion 507(a)(2)” and inserting “section
507(a)(3)”;
and

(ii) in paragraph (2), by striking “sec-
tion 507(a)(2)” and inserting “section
507(a)(3)”.

(9) Section 901 of title 11, United States Code,
is amended by striking “507(a)(2)” and inserting
“507(a)(3)”.

(10) Section 943(b)(5) of title 11, United
States Code, is amended by striking “section
507(a)(2)” and inserting “section 507(a)(3)”.

(11) Section 1123(a)(1) of title 11, United
States Code, is amended by striking “section
507(a)(2), 507(a)(3), or 507(a)(8)” and inserting “section 507(a)(3), 507(a)(4), or 507(a)(9)”.

(12) Section 1129(a)(9) of title 11, United States Code, is amended—

(A) in subparagraph (A), by striking “section 507(a)(3) or 507(a)(4)” and inserting “section 507(a)(4) or 507(a)(5)”;

(B) in the matter preceding clause (i) of subparagraph (B), by striking “section 507(a)(1), 507(a)(4), 507(a)(5), 507(a)(6), or 507(a)(7)” and inserting “section 507(a)(2), 507(a)(5), 507(a)(6), 507(a)(7), or 507(a)(8)”;

(C) in the matter preceding clause (i) of subparagraph (C), by striking “section 507(a)(8)” and inserting “section 507(a)(9)”;

and

(D) in subparagraph (D), by striking “section 507(a)(8)” and inserting “section 507(a)(9)”.

(13) Section 1222(a)(4) of title 11, United States Code, is amended by striking “section 507(a)(1)(B)” and inserting “507(a)(2)(B)”.

(14) Section 1226(b)(1) of title 11, United States Code, is amended by striking “section 507(a)(2)” and inserting “section 507(a)(3)”.
(15) Section 1322(a)(4) of title 11, United States Code, is amended by striking “section 507(a)(1)(B)” and inserting “section 507(a)(2)(B)”.

(16) Section 1326(b)(1) of title 11, United States Code, is amended by striking “section 507(a)(2)” and inserting “section 507(a)(3)”.

(17) Section 1328(a)(2) of title 11, United States Code, is amended by striking “section 507(a)(8)(C)” and inserting “section 507(a)(9)(C)”.

SEC. 6. TRANSACTION TAX.

(a) IN GENERAL.—Chapter 36 of the Internal Revenue Code of 1986 is amended by inserting after subchapter B the following new subchapter:

“Subchapter C—Tax on Trading Transactions

“Sec. 4475. Tax on trading transactions.

“SEC. 4475. TAX ON TRADING TRANSACTIONS.

“(a) IMPOSITION OF TAX.—There is hereby imposed a tax on each covered transaction with respect to any security.

“(b) RATE OF TAX.—The tax imposed under subsection (a) with respect to any covered transaction shall be 0.03 percent of the specified base amount with respect to such covered transaction.

“(c) SPECIFIED BASE AMOUNT.—For purposes of this section, the term ‘specified base amount’ means—
“(1) except as provided in paragraph (2), the fair market value of the security (determined as of the time of the covered transaction), and

“(2) in the case of any payment described in subsection (h), the amount of such payment.

“(d) COVERED TRANSACTION.—For purposes of this section, the term ‘covered transaction’ means—

“(1) except as provided in paragraph (2), any purchase if—

“(A) such purchase occurs or is cleared on a facility located in the United States, or

“(B) the purchaser or seller is a United States person, and

“(2) any transaction with respect to a security described in subparagraph (D), (E), or (F) of subsection (e)(1), if—

“(A) such security is traded or cleared on a facility located in the United States, or

“(B) any party with rights under such security is a United States person.

“(e) SECURITY AND OTHER DEFINITIONS.—For purposes of this section—

“(1) IN GENERAL.—The term ‘security’ means—

“(A) any share of stock in a corporation,
“(B) any partnership or beneficial ownership interest in a partnership or trust,

“(C) any note, bond, debenture, or other evidence of indebtedness,

“(D) any evidence of an interest in, or a derivative financial instrument with respect to, any security or securities described in subparagraph (A), (B), or (C),

“(E) any derivative financial instrument with respect to any currency or commodity, and

“(F) any other derivative financial instrument any payment with respect to which is calculated by reference to any specified index.

“(2) DERIVATIVE FINANCIAL INSTRUMENT.— The term ‘derivative financial instrument’ includes any option, forward contract, futures contract, notional principal contract, or any similar financial instrument.

“(3) SPECIFIED INDEX.—The term ‘specified index’ means any one or more of any combination of—

“(A) a fixed rate, price, or amount, or

“(B) a variable rate, price, or amount, which is based on any current objectively determinable information which is not within the control
of any of the parties to the contract or instrument
and is not unique to any of the parties’ cir-
cumstances.

“(4) TREATMENT OF EXCHANGES.—

“(A) IN GENERAL.—An exchange shall be
treated as the sale of the property transferred
and a purchase of the property received by each
party to the exchange.

“(B) CERTAIN DEEMED EXCHANGES.—In
the case of a distribution treated as an ex-
change for stock under section 302 or 331, the
corporation making such distribution shall be
treated as having purchased such stock for pur-
poses of this section.

“(f) EXCEPTIONS.—

“(1) EXCEPTION FOR INITIAL ISSUES.—No tax
shall be imposed under subsection (a) on any cov-
ered transaction with respect to the initial issuance
of any security described in subparagraph (A), (B),
or (C) of subsection (e)(1).

“(2) EXCEPTION FOR CERTAIN TRADED SHORT-
term INDEBTEDNESS.—A note, bond, debenture, or
other evidence of indebtedness which—

“(A) is traded on a trading facility located
in the United States, and
“(B) has a fixed maturity of not more than 100 days,
shall not be treated as described in subsection (e)(1)(C).

“(3) Exception for securities lending arrangements.—No tax shall be imposed under subsection (a) on any covered transaction with respect to which gain or loss is not recognized by reason of section 1058.

“(g) By whom paid.—

“(1) In general.—The tax imposed by this section shall be paid by—

“(A) in the case of a transaction which occurs or is cleared on a facility located in the United States, such facility, and

“(B) in the case of a purchase not described in subparagraph (A) which is executed by a broker (as defined in section 6045(c)(1)) which is a United States person, such broker.

“(2) Special rules for direct, etc., transactions.—In the case of any transaction to which paragraph (1) does not apply, the tax imposed by this section shall be paid by—

“(A) in the case of a transaction described in subsection (d)(1)—
“(i) the purchaser if the purchaser is a United States person, and
“(ii) the seller if the purchaser is not a United States person, and
“(B) in the case of a transaction described in subsection (d)(2)—
“(i) the payor if the payor is a United States person, and
“(ii) the payee if the payor is not a United States person.
“(h) Certain Payments Treated as Separate Transactions.—Except as otherwise provided by the Secretary, any payment with respect to a security described in subparagraph (D), (E), or (F) of subsection (e)(1) shall be treated as a separate transaction for purposes of this section, including—
“(1) any net initial payment, net final or terminating payment, or net periodical payment with respect to a notional principal contract (or similar financial instrument),
“(2) any payment with respect to any forward contract (or similar financial instrument), and
“(3) any premium paid with respect to any option (or similar financial instrument).
“(i) ADMINISTRATION.—The Secretary shall carry out this section in consultation with the Securities and Exchange Commission and the Commodity Futures Trading Commission.

“(j) GUIDANCE; REGULATIONS.—The Secretary shall—

“(1) provide guidance regarding such information reporting concerning covered transactions as the Secretary deems appropriate, and

“(2) prescribe such regulations as are necessary or appropriate to prevent avoidance of the purposes of this section, including the use of non-United States persons in such transactions.”.

(b) CLERICAL AMENDMENT.—The table of subchapters for chapter 36 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to subchapter B the following new item:

“SUBCHAPTER C. TAX ON TRADING TRANSACTIONS”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions made after December 31, 2017.