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116TH CONGRESS
2D SESSION

H. R. 8385

To establish the Taxpayer Protection Program to provide forgivable loans to State, territory, Tribal, and local governments, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 24, 2020

Mr. LAHOOD introduced the following bill; which was referred to the Committee on Oversight and Reform

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A BILL

To establish the Taxpayer Protection Program to provide forgivable loans to State, territory, Tribal, and local governments, and for other purposes.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ‘‘Taxpayer Protection Act of 2020’’.

SEC. 2. TAXPAYER PROTECTION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of the Treasury shall establish the Taxpayer Protection Program to provide forgivable loans to State, territory, Tribal, and local governments, in accordance with this section.

(b) APPLICATION.—Any State, territory, Tribal, or local government that seeks to receive a loan under the Program shall submit an application in such form and manner, and containing such information, as the Secretary may require.

(c) APPROPRIATION; LOAN AMOUNTS.—

(1) APPROPRIATION.—Out of any money in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out the Program, $186,000,000,000.

(2) STATE LOAN AMOUNTS.—

(A) IN GENERAL.—Of amounts appropriated under paragraph (1), the Secretary shall use $100,000,000,000 to carry out the Program with respect to the States.

(B) RESERVED AMOUNT.—The Secretary shall reserve $835,000,000 of the amount described under subparagraph (A) for each State.

(C) REMAINDER.—The Secretary shall apportion the remaining $58,250,000,000 to the States based on a State's relative population proportion amount, calculated in the manner described under section 601(c)(3) of the Social Security Act.

(3) TERRITORIES.—Of amounts appropriated under paragraph (1), the Secretary shall use $3,000,000,000 to carry out the Program with respect to the District of Columbia and the territories of the United States, with each such District or territory receiving an amount based on the relative population proportion amount, calculated in the manner described under section 601(c)(6) of the Social Security Act.

(4) TRIBAL GOVERNMENTS.—Of amounts appropriated under paragraph (1), the Secretary shall use $8,000,000,000 to carry out the Program with respect to Tribal governments, with each Tribal government receiving an amount based on increased expenditures, calculated in the manner described under section 601(c)(7) of the Social Security Act.

(5) LOCAL GOVERNMENTS.—

(A) IN GENERAL.—Of amounts appropriated under paragraph (1), the Secretary shall use $75,000,000,000 to carry out the Program with respect to local governments of States.

(B) AGGREGATE RESERVATION FOR LOCAL GOVERNMENTS OF A STATE.—With respect to a particular State, the Secretary shall reserve a percentage of the amount of money described under subparagraph (A) for the local governments of the State, in the aggregate, equal to the percentage of the amount described under paragraph (2)(B) that is reserved for such State.

(C) RESERVATION FOR METROPOLITAN CITIES.—The Secretary shall reserve $26,250,000,000 of the amount described under subparagraph (A) for metropolitan cities.

(D) RESERVATION FOR NON-METROPOLITAN NON-COUNTY GENERAL PURPOSE LOCAL GOVERNMENTS.—The Secretary shall reserve $11,250,000,000 of the amount described under subparagraph (A) for local governments that are not metropolitan cities or counties.

(E) RESERVATION FOR COUNTIES.—

(i) IN GENERAL.—The Secretary shall reserve $37,500,000,000 of the amount described under subparagraph (A) for counties, with each county receiving an amount based on the relative population of the county compared to the aggregate population of counties described under this subparagraph with respect to the State in which the counties are located.

(ii) NON-INCLUSION OF METROPOLITAN CITY POPULATION.—In calculating the population of a county under clause (i), the population of the county shall not include any resident of the county that is also a resident of a metropolitan city.

(d) USE OF FUNDS.—Loan amounts received under this section—

(1) may be used—

(A) to cover revenue losses caused by business interruptions, unemployment, or other economic hardship directly caused by the COVID–19 pandemic; and

(B) for infrastructure or essential government service expenditures, including all general operating expenses; and

(2) may not be used for the service of any debt obligation or unfunded liability for employee retirement benefits.

(e) TRANSPARENCY.—Each recipient of a loan under the Program shall comply with the following:

(1) ACCOUNTING.—Loan funds shall be accounted for separately from all other revenue sources.

(2) WEBSITE.—

(A) IN GENERAL.—The recipient shall maintain a publicly available website that prominently displays, either on its homepage or on a page linked directly from the homepage, a record of the following:

(i) The dollar amount of each expenditure of funds received under the Program.

(ii) The vendor or recipient of each such expenditure of funds.

(iii) The purpose and date of each such expenditure of funds.

(B) TIMING.—The information described under subparagraph (A) shall be made available on the website within 30 days of the related expenditure.

(f) DISBURSEMENT; TERMS AND INTEREST RATES.—

(1) DISBURSEMENT.—

(A) IN GENERAL.—Loans under the Program shall be disbursed quarterly, in accordance with subparagraph (B), until the earlier of—

(i) the date on which the full loan disbursement has been made; or

(ii) June 30, 2022.

(B) LIMITATION ON QUARTERLY DISBURSEMENTS.—A recipient of a loan under the Program may not receive a disbursement with respect to a particular quarter that is more than the decrease in—

(i) the recipient's own-source revenue collections over the previous fiscal quarter, from

(ii) the recipient's own-source revenue collections for the same fiscal quarter in 2019.

(2) INTEREST RATE.—The Secretary shall set interest rates on loans under the Program based on the credit strength of the recipient, using the same calculation used by the Municipal Lending Facility of the Board of Governors of the Federal Reserve System.

(3) REPAYMENT.—With respect to a loan made under the Program that is not forgiven, the recipient

shall be required to repay the loan in quarterly payments beginning on June 30, 2022.

(g) LOAN FORGIVENESS.—

(1) IN GENERAL.—The Secretary shall forgive a loan made to a recipient under the Program if the recipient is—

(A) a local government other than a county—

(i) with a population of less than 250,000; or

(ii) with a population of 250,000 or more that has sound pension funds;

(B) a county—

(i) with a population of less than 500,000; or

(ii) with a population of 500,000 or more that has sound pension funds; or

(C) a State that, as of June 30, 2022—

(i) has sound pension funds;

(ii) has a truly balanced budget;

(iii) has rainy-day fund protections; and

(iv) does not use a fixed cost of living adjustment with respect to any pension system administered by the State.

(2) TREATMENT OF GOVERNMENTS ESTABLISHING SOUND PENSION FUNDS.—

(A) IN GENERAL.—With respect to a State, a local government described under paragraph (1)(A)(ii), or a county described under paragraph (1)(B)(ii) that does not have sound pension funds at the time of application for assistance under the Program, such State, local government, or county shall only be eligible to receive loan forgiveness under paragraph (1) if—

(i) the State, local government, or county has sound pension funds before such forgiveness; and

(ii) any changes made to employer contributions schedules to achieve sound pension funds do not result in a contribution schedule which increases estimated future actuarially determined employer contributions relative to the contribution schedule in place on July 1, 2020.

(B) ACTUARIALLY DETERMINED EMPLOYER CONTRIBUTIONS.—For purposes of subparagraph (A)(ii), actuarially determined employer contributions shall follow generally accepted actuarial principles, as defined by the Secretary.

(h) FINDINGS AND SENSE OF CONGRESS RELATED TO STATE BENEFIT PLANS.—

(1) FINDINGS.—The Congress finds the following:

(A) Securing the health, safety, welfare and property of, and the pursuit of happiness by, residents is each State's supreme obligation.

(B) State reported unfunded pension liabilities among the several States at the end of fiscal year 2018 totaled $1,237,791,372,000.

(C) The economic impact of the COVID–19 pandemic is likely to further increase the unfunded liabilities of employee benefit plans of the States and increase the annual cost of these systems, creating fiscal tension between funding essential government services and servicing unfunded liabilities.

(D) The COVID–19 pandemic has caused reductions in expected revenues of the States while at the same time increasing public demand for essential government services.

(2) SENSE OF CONGRESS.—It is the sense of the Congress that if and to the extent a State's leg-

islature determines that performance of its supreme obligation is impaired by funding otherwise required under any health, welfare, retirement, or other benefit plan offered to its employees, then that State's legislature, with its Governor's consent, may change the terms of any such benefit plan to the extent it was not contemporaneously funded in any manner it determines to be necessary and proper, notwithstanding the terms of any State law or constitution to the contrary.

(i) DEFINITIONS.—In this section:

(1) INDIAN TRIBE.—The term "Indian Tribe" has the meaning given that term in section 4(e) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304(e)).

(2) LOCAL GOVERNMENT.—With respect to a State, the term "local government" means a county, municipality, town, township, village, parish, borough, or other unit of general government below the State level.

(3) METROPOLITAN CITY.—The term "metropolitan city" has the meaning given that term under section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(4) PROGRAM.—The term ‘‘Program’’ means the Taxpayer Protection Program.

(5) RAINY-DAY FUND PROTECTIONS.—

(A) IN GENERAL.—With respect to a State, the term ‘‘rainy-day fund protections’’ means that the State—

(i) has a fund that—

(I) is intended to be used during emergency periods when revenues decrease, to offset such decrease; and

(II) is subject to safeguards to prevent use of amounts in the funds for nonemergency purposes, such as requiring a resolution approved by a legislative supermajority that an emergency or disaster has occurred before amounts may be appropriated from the fund; and

(ii) has enacted a State statute—

(I) setting a target for the fund of holding reserves of 5 to 10 percent of annual general revenues; and

(II) under which amounts are automatically deposited in the fund in order to meet such target, during any year in which the economy is not in a declared recession.

(B) ALTERNATE CERTIFICATION.—Notwithstanding subparagraph (A), a State has ‘‘rainy-day fund protections’’ if the State certifies to the Secretary that—

(i) the State has protections for the State’s rainy-day fund that are at least as effective as those described under subparagraph (A); and

(ii) the State’s rainy-day fund held an amount equal to more than 5 percent of the State’s 2019 annual operating budget in reserve as of January 1, 2020.

(6) SECRETARY.—The term ‘‘Secretary’’ means the Secretary of the Treasury.

(7) SOUND PENSION FUNDS.—With respect to a recipient under the Program, the recipient has ‘‘sound pension funds’’ if—

(A) all pension funds of the recipient are based on generally accepted actuarial principles, as defined by the Secretary, taking into account the Actuarial Standards of Practice promulgated by the Actuarial Standards Board; and

(B) the amortization or employer contribution schedules of such plans target a 100 percent pension funding ratio over no more than 25 years.

(8) TERRITORY.—The term ''territory'' means the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, and American Samoa.

(9) TRIBAL GOVERNMENT.—The term ''Tribal government'' means the recognized governing body of an Indian Tribe.

(10) TRULY BALANCED BUDGET.—With respect to a State, the term ''truly balanced budget'' means that—

(A) the State has a constitutional or statutory requirement that—

(i) operating budgets achieve end of year balance; and

(ii) deficits may not be carried year to year; and

(B) for purposes of calculating revenues to determine whether the State's operating budget has achieved an end of year balance, such revenues may only include actual monies received, and do not include transfers from other State funds or borrowing proceeds.

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