Mr. HASTINGS of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will now resume on the question of adopting House Resolution 602, which was previously postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will now resume under the resolution announced on page 2.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PENSION PROTECTION ACT OF 2005

Mr. BOEHNER. Madam Speaker, pursuant to House Resolution 602, I call up the bill (H.R. 2830) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 602, the bill is considered read.

The table of contents for this Act is as follows:

H. R. 2830

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

SECTION I. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Pension Protection Act of 2005".

(b) Table of Contents. The table of contents for this Act is as follows:

Title I—Reform of Funding Rules for Single-Employer Defined Benefit Pension Plans

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Title II—Funding Rules for Multiemployer Defined Benefit Pension Plans

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Subtitle B—Amendments to Internal Revenue Code of 1986

Title III—Other Provisions

Subtitle C—Other Provisions

 Sec. 1. Short title and table of contents.

 Sec. 2. Reform of funding rules for single-employer defined benefit pension plans.

 Sec. 3. Limitations on contributions and benefit accruals under single-employer plans.

 Sec. 4. Technical and conforming amendments.

 Sec. 5. Amendments to Internal Revenue Code of 1986.

 Sec. 6. Minimum funding standards.

 Sec. 7. Funding rules for single-employer defined benefit pension plans.

 Sec. 8. Limitations on contributions and benefit accruals under single-employer plans.

 Sec. 9. Technical and conforming amendments.

 Sec. 10. Other provisions.
Sec. 301. Interest rate assumption for deter-
mination of lump sum distributions.
Sec. 302. Interest rate assumption for applying
benefit limitations to lump sum distributions.

TITLE III—OTHER INTEREST-RELATED
FUNDING PROVISIONS
Sec. 301. Interest rate assumption for deter-
mination of lump sum distributions.
Sec. 302. Interest rate assumption for applying
benefit limitations to lump sum distributions.

TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS
Sec. 401. Increases in PBGC premiums.

TITLE V—DISCLOSURE
Sec. 501. Defined benefit plan funding noti-
ces.
Sec. 502. Additional disclosure require-
ments.
Sec. 503. Notice to participants and bene-
ficiaries of section 4010 filings with the PBGC.

TITLE VI—INVESTMENT ADVICE
Sec. 601. Amendments to Employee Retire-
mement Income Security Act of 1974 providing prohib-
ited transaction exemption for provision of investment advice.
Sec. 602. Amendments to Internal Revenue
Code of 1986 providing prohibited transaction exemption for provision of investment advice.

TITLE VII—REDUCTION LIMITATIONS
Sec. 701. Increase in deduction limits.
Sec. 702. Updating deduction rules for com-
bination of plans.

TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS
Subtitle A—Amendments to Employee Retirement Income Security Act of 1974
SEC. 101. MINIMUM FUNDING STANDARDS.
(a) Repeal of Existing Funding Rules.—
Sections 302 through 306 of the Employee Retire-
(b) New Minimum Funding Standards.—
Part 3 of subtitle B of title I of such Act (as amended by subsection (a)) is amended fur-
ther by inserting after section 301 the fol-
lowing new section:

"MINIMUM FUNDING STANDARDS

"Sec. 302. (a) Requirement to Meet Min-
imum Funding Standards.—
"(1) IN GENERAL.—A plan to which this part
applies shall satisfy the minimum funding standard applicable to the plan for any plan year.
"(2) MINIMUM FUNDING STANDARD.—For pur-
poses of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—
"(A) in the case of a defined benefit plan which is a single-employer plan, the em-
ployer makes contributions to or under the plan for the plan year which is attribu-
table to any amortization payment re-
quired to be made under section 303(k) with respect to any amortization disregard as described in subparagraph (B) of any waived portion of the minimum funding standard for any preceding plan year.
"(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.
"(3) WAIVED FUNDING DEFICIENCY.—For pur-
poses of this part, the term 'waived funding deficiency' means the portion of the min-
imum funding standard (including any required installments under the terms of the plan, and
"(C) the sales and profits of the industry concerned are depressed or declining;
"(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.
"(3) WAIVED FUNDING DEFICIENCY.—For pur-
poses of this part, the term 'waived funding deficiency' means the portion of the min-
imum funding standard (including any required installments under the terms of the plan, and
"(C) the sales and profits of the industry concerned are depressed or declining;
"(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.
"(C) the sales and profits of the industry concerned are depressed or declining;
"(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.
year unless an application therefor is submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year.

(1) RETIREMENT BENEFITS AVAILABLE TO EMPLOYEES OF A MEMBER OF A CONTROLLED GROUP.—In the case of a single-employer plan, if an employer is a member of a controlled group, the temporary subsidy requirements of paragraph (1) shall be treated as met only if such requirements are met—

(1) with respect to such employer, and

(2) in the case of the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary of the Treasury may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary of the Treasury determines such an analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

(6) NOTICE TO EMPLOYEE ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary of the Treasury shall, before granting a waiver under this subsection, require each applicant to provide satisfactory proof to the Secretary that the applicant has provided notice of the filing of the application for such waiver to each employee organization represented by the applicant which is covered by the applicant's plan, and each affected party (as defined in section 303(c)). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

(7) CROSS REFERENCES.—For corresponding duties of the Secretary of the Treasury with regard to implementation of the Internal Revenue Code of 1986, see section 412(c) of such Code.

(d) MISCELLANEOUS RULES.—

(1) CHANGE IN METHOD OR YEAR.—If the funding method, the valuation date, or a plan year for a plan is changed, the change shall be effective for each plan year beginning after the year of such adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant determined as of the beginning of the first plan year to which the amendment applies, and

(c) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

(d) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

(2) RETROACTIVE PLAN AMENDMENT.—(a) In general.—For purposes of this subsection, an amendment applying to a plan year which—

(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

(C) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

shall, in the case of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files with the Secretary of the Treasury notifying him of such amendment and such Secretary has approved such amendment, or within 90 days after the date on which the amended plan was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary of the Treasury unless such Secretary determines that such amendment is necessary because of a substantial business hardship (as determined under section (c)(2)) and that a waiver under subsection (c) (or, in the case of a multiemployer plan, any extension of the amortization period under section 304(d)) is unavailable or inadvisable in a precertified plan year.

(3) CONTROLLED GROUP.—For purposes of this section, the term ‘controlled group’ means any group treated as a single employer (as defined in section 414 of the Internal Revenue Code of 1986).

(4) CERIAL AMENDMENT.—The table of contents to section 101 of such Act is amended by inserting the items relating to sections 302 through 306 and inserting the following new section:

SEC. 302. Minimum funding standards.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2005.

SEC. 102. FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.

(a) IN GENERAL.—For purposes of section 302(a)(2)(A), except as otherwise provided in this subsection, the minimum required contribution with respect to a plan for a plan year is the sum of the minimum required contribution determined under subsection (h) for the plan year, the minimum required contribution determined for the plan year under subsection (g)(1), and the funding target attainment percentage determined under paragraph (4) for the plan year.

(b) FUNDING AMENDMENTS.—For purposes of this section, subject to subsection (g)(2), the term ‘target normal cost’ means, for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. If any part of the normal cost is attributable to a plan year, the contributions made in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase shall be treated as having accrued during the current plan year.

(c) FUNDING INSTALLMENTS.—

(1) IN GENERAL.—The short term amortization charge for a plan year for a single-employer plan with respect to the plan year is the aggregate total of the short term amortization installments for such plan year with respect to the short term amortization bases of the plan for the plan year and each of the 6 preceding plan years.

(2) SHORTTERM AMORTIZATION INSTALLMENTS.—

(A) IN GENERAL.—For purposes of paragraph (1), the plan sponsor shall determine, with respect to the short term amortization base of the plan for any plan year, the amounts necessary to amortize such short term amortization base, in level annual installments over a period of 7 plan years beginning with such plan year. The annual installment of such amount for such plan year in such 7-plan-year period is the short term amortization installment for such plan year with respect to such short term amortization base.

(B) COMPUTATION ASSUMPTIONS.—The determination of any annual installment under subparagraph (A) for any plan year shall be made as of the valuation date for such plan year, using the effective rate of interest for the plan for such plan year.

(2) SHORTTERM AMORTIZATION BASE.—The short term amortization base for a plan year is the excess (if any) of—

(A) the funding shortfall of such plan for such plan year, over

(B) the value of plan assets of the plan for the plan year which are held by the plan immediately before the valuation date for such plan year, or

(C) the aggregate total of the short term amortization installments for such plan year with respect to the short term amortization bases of the plan for each of the 6 plan years preceding such plan year.

(a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section, subject to subsection (g)(2), the term ‘target normal cost’ means, for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. If any part of the normal cost is attributable to a plan year, the contributions made in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase shall be treated as having accrued during the current plan year.

(c) SHORTTERM AMORTIZATION CHARGE.—

(1) IN GENERAL.—The short term amortization charge for a plan year for a single-employer plan with respect to the plan year is the aggregate total of the short term amortization installments for such plan year with respect to the short term amortization bases of the plan for the plan year and each of the 6 preceding plan years.

(2) SHORTTERM AMORTIZATION INSTALLMENTS.—

(A) IN GENERAL.—For purposes of paragraph (1), the plan sponsor shall determine, with respect to the short term amortization base of the plan for any plan year, the amounts necessary to amortize such short term amortization base, in level annual installments over a period of 7 plan years beginning with such plan year. The annual installment of such amount for such plan year in such 7-plan-year period is the short term amortization installment for such plan year with respect to such short term amortization base.

(B) COMPUTATION ASSUMPTIONS.—The determination of any annual installment under subparagraph (A) for any plan year shall be made as of the valuation date for such plan year, using the effective rate of interest for the plan for such plan year.

(3) SHORTTERM AMORTIZATION BASE.—The short term amortization base for a plan year is the excess (if any) of—

(A) the funding shortfall of such plan for such plan year, over

(B) the value of plan assets of the plan for the plan year which are held by the plan immediately before the valuation date for such plan year, or

(C) the aggregate total of the short term amortization installments for such plan year with respect to the short term amortization bases of the plan for each of the 6 plan years preceding such plan year.

(d) EFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2005.

(e) VALUATION OF PLAN ASSETS AND LIABILITIES.—
(1) VALUE OF PLAN ASSETS.—For purposes of this section (other than paragraph (4) and subsections (a)(2) and (h)(3)), the term ‘value of plan assets’ means the excess of the value of plan assets over any minimum funding standard established with regard to this paragraph over the sum of—

(A) the pre-funding balance of the plan maintained under subsection (h)(1), and

(B) the standard carryover balance of the plan maintained under subsection (h)(2).

(2) TIMING OF DETERMINATIONS.—Except as otherwise provided in this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan year.

(3) VALUATION DATE.—For purposes of this section—

(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 500 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year. For purposes of this paragraph, and for purposes of paragraph (3) of section 430, any benefit plan (other than multiemployer plans) maintained by the same employer (or any member of such employer’s controlled group) as a plan 1 plan shall be disregarded in determining the value of assets of a plan maintained under subsection (h)(1), and any such method may not result in a valuation date of a plan which is later than the first day of such plan year.

(4) ACCOUNTING FOR PLAN LIABILITIES. —For purposes of this section—

(A) LIABILITIES TAKEN INTO ACCOUNT FOR CURRENT PLAN YEAR.—In determining the value of liabilities under a plan for a plan year, liabilities shall be taken into account to the extent attributable to benefits (including pre-funding benefits) for plan years 2005 or later which are not allocable to amounts under a plan which were funded on or after the valuation date of the plan for such plan year.

(B) ACCURALS DURING CURRENT PLAN YEAR DISREGARDED.—For purposes of determining the value of liabilities under a plan for a plan year, liabilities shall be taken into account to the extent attributable to benefits (including pre-funding benefits) for plan years beginning before 2005 which were funded on or after the valuation date of the plan for such plan year.

(C) ACTUARIAL ASSUMPTIONS AND METHODS.—

(i) IN GENERAL.—Subject to this subsection, the determination of present value of any plan benefit shall be made by applying the assumptions and methods prescribed by the Secretary of the Treasury, or, if the assumptions and methods prescribed by the Secretary of the Treasury are not applicable, by applying the assumptions and methods reasonable under the circumstances.

(ii) APPLICABLE COMMISSION, DETERMINATION OF PRESENT VALUE.—For purposes of this section, the term ‘applicable commission’ means, with respect to any plan benefit for any plan year, the single rate of interest which, if used to determine the present value of any benefit, is consistent with the assumptions and methods prescribed by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing at the end of the period described in clause (i).

(iii) THIRD SEGMENT RATE.—The term ‘third segment rate’ means, with respect to any plan benefit for any plan year, the rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the period beginning after the period described in clause (i).

(D) CORPORATE BOND YIELD CURVE.—For purposes of this paragraph—

(i) IN GENERAL.—The term ‘corporate bond yield curve’ means, with respect to any plan for any plan year, a yield curve which is prescribed by the Secretary of the Treasury for such month and which reflects a 3-year weighted average of yields on investment grade corporate bonds with varying maturities.

(ii) 3-YEAR WEIGHTED AVERAGE.—The term ‘3-year weighted average’ means an average of, with respect to any plan year, the rates determined under subparagraph (A) for such plan year, weighted as follows: for each of the 3 months beginning on or after the first day of the plan year, the rate determined under subparagraph (A) for such plan year, weighed 33 1/3 percent each.

(E) APPLICABLE PERIOD.—For purposes of this paragraph, the term ‘applicable period’ means, with respect to any plan benefit for any plan year, the period beginning at the end of the period beginning on or after the first day of such plan year.

(F) PUBLICATION REQUIREMENTS.—The Secretary of the Treasury shall publish for each month a description of the methodology used to determine such corporate bond yield curve and a description of the yield curve prescribed by the Secretary of the Treasury for each such month.

(G) ALLIANCE.—The term ‘corporate bond yield curve’ means, with respect to any plan for any plan year, the rates determined under subparagraph (A) for such plan year, weighted as follows: for each of the 3 months beginning on or after the first day of the plan year, the rate determined under subparagraph (A) for such plan year, weighed 33 1/3 percent each.

(i) IN GENERAL.—Notwithstanding the provisions of the preceding sentence, the single rate of interest shall be determined by the Secretary of the Treasury for each plan year beginning in 2006 and 2007, the first, and second, and third segment rates for a plan with respect to any month shall be equal to the sum of—

(A) the product of such rate for such month determined without regard to this subparagraph, multiplied by the applicable percentage, and

(B) the product of the rate determined under the rules of section 302(b)(5)(B)(ii) (as in effect for plan years beginning in 2006), multiplied by a percentage equal to 100 percent minus the applicable percentage.

(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be 50 percent for plan years beginning in 2006 and 2007.

(iii) MORTALITY TABLE.—In general.—The mortality tables used in determining any present value or making any computation under this section shall be the RP-2000 Combined Mortality Table prepared by the Society of Actuaries, as in effect on the date of the enactment of the Pension Protection Act of 2005.
(B) PERIODIC REVISION.—The Secretary of the Treasury shall (at least every 10 years) make such periodic revisions as set forth in the mortality table described in section 302(d)(7)(C) (as in effect for plan years beginning after 2005) shall be phased in ratably over the first period of 5 plan years beginning in or after 2006 so as to be fully effective for the fifth plan year.

(1) no amount of BENEFT PAYMENTS in the FORM of LUMP SUM or OTHER OPTIONAL FORMS.—For purposes of determining any present value or making any computation under this section, there shall be taken into account—

(A) the probability that future benefit payments under the plan will be made in the form of lump-sum payments or in any other manner determined in accordance with section 101(l)

(B) any difference in the present value of such future benefit payments resulting from the use of different assumptions, in determining benefit payments in any such optional form, which are different from those specified in this subsection.

(5) APPROVAL OF LARGE CHANGES in ACTUARIAL ASSUMPTIONS.—

(A) IN GENERAL.—No actuarial assumption used to determine the funding target for a single-employer plan to which this paragraph applies may be changed without the approval of the Secretary of the Treasury.

(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

(i) the aggregate unfunded vested benefits of the plan for the plan year, determined under the actuarial assumptions used in determining benefit payments in any such optional form, are less than 5 percent of the funding target of the plan for the plan year, as determined by using, in addition to the actuarial assumptions described in subsection (f), the supplement to the actuarial assumptions described in subparagraph (B), plus

(ii) a loading factor determined under subparagraph (C).

(6) EXPERIMENTAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions used in determining the valuation of the funding target shall include, in addition to the actuarial assumptions described in subsection (f), an assumption that all participants will elect benefits at such times and in such forms as will result in the highest present value of liabilities under subparagraph (A)(i).

(7) LOADING FACTOR.—The loading factor applied with respect to a plan under this paragraph for any plan year is the sum of—

(i) $700, times the number of participants in the plan, plus

(ii) 4 percent of the funding target (determined under this paragraph) of the plan for the plan year.

(2) TARGET NORMAL COST OF AT-RISK PLANS.—

(A) IN GENERAL.—In any case in which a plan is in at-risk status for a plan year, the target normal cost of the plan for such plan year shall be the sum—

(i) the present value of all benefits which are expected to accrue under the plan during the plan year, determined under the actuarial assumptions used under paragraph (1), plus

(ii) the loading factor described in paragraph (1)(C), excluding the portion of the loading factor described in paragraph (1)(C)(i).

(B) MINIMUM AMOUNT.—In no event shall the target normal cost of a plan determined under this paragraph be less than the target normal cost determined without regard to this paragraph.

(3) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection, a plan is in at-risk status for a plan year if the funding target attainment percentage of the plan for the preceding plan year was less than 60 percent.

(4) TRANSITION BETWEEN APPLICABLE FUNDING TARGETS and BETWEEN APPLICABLE TARGET NORMAL COST.—

(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of fewer than 5 plan years, the applicable funding target and target normal cost of the plan shall be determined under this paragraph (D), and adjusted further as provided in paragraph (3).

(B) PLANS TO WHICH THIS PARAGRAPH APPLIES.—This paragraph applies to any plan which—

(i) is a single-employer plan subject to this part,

(ii) was in effect for a plan year beginning in 2005, and

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(i) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

BEGINNING BALANCE.—The beginning balance of the funding status account shall be the positive balance described in paragraph (B)(iii).

DECREASES.—As of the valuation date for each plan year after 2006, the funding status account of a plan shall be decreased (but not below zero) by the sum of—

(iii) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution under paragraph (D),

(ii) the amount credited under subsection (a)(4) in reducing the minimum required contribution under paragraph (D),

(iii) had a positive balance in the funding status account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.
date for the preceding plan year and ending with the date preceding the valuation date for the current plan year, properly taking into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

(4) Elections.—Except as otherwise provided in this subsection, any election made under this paragraph shall be made at such time and in such form and manner as the Secretary of the Treasury may provide.

(5) Coordination with waivers.—For purposes of this subsection, the term ‘minimum required contribution’ means for any plan year the minimum required contribution for such plan year determined without regard to this subsection and by taking into account any waiver under section 302(c) for any waiver amortization charge under subsection (j) for such plan year.

(6) Payment of Minimum Required Contributions.—

(1) In general.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8 months after the close of the plan year.

(2) Interest.—Any payment required under paragraph (1) for a plan year made after the valuation date for such plan year shall be increased by interest, for the period from the valuation date to the payment date, at an effective rate of interest for the plan for such plan year.

(3) Accelerated Quarterly Contribution Schedule for Underfunded Plans.—

(A) Interest penalty for failure to meet accelerated quarterly payment schedule.—In any case in which the plan has a funding shortfall for the preceding plan year, if the required installation is not paid in full on or before the due date for the payment required for the period of the underpayment, using an interest rate equal to the excess of—

(i) 175 percent of the Federal mid-term rate (as defined in section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), over

(ii) the effective rate of interest for the plan for the plan year.

(B) Amount of underpayment, period of underpayment.—For purposes of subparagraph (A)—

(i) Amount.—The amount of the underpayment shall be the excess of—

(I) the required installment, over

(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

(ii) Period of underpayment.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

(6) Order of crediting contributions.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

(C) Coordination with required installments; due dates.—For purposes of this paragraph—

(i) Payable in 4 installments.—There shall be 4 required installments for each plan year.

(ii) Time for payment of installments.—The due dates for required installments are set forth in the following table:

<table>
<thead>
<tr>
<th>DUE DATE</th>
<th>PAYMENT DATE</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>April 15</td>
</tr>
<tr>
<td>2nd</td>
<td>July 15</td>
</tr>
<tr>
<td>3rd</td>
<td>October 15</td>
</tr>
<tr>
<td>4th</td>
<td>January 15 of the following year</td>
</tr>
</tbody>
</table>

(7) Amount of required installment.—For purposes of this paragraph—

(1) In general.—Any amount of any required installment shall be 25 percent of the required annual payment.

(2) Required annual payment.—For purposes of clauses of paragraph (1) which do not apply to any plan year, the amount of required annual payment means the lesser of—

(I) 90 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the preceding plan year.

(II) in the case of a plan year beginning after 2006, 100 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year was a short plan year.

(3) Short plan year.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury.

(4) Liquidation requirement in connection with quarterly contributions.—

(A) In general.—A plan to which this paragraph applies, the plan year is the excess (if any) of—

(i) the required installment, over

(ii) the amount that the value of the liquid assets paid in such installment is less than the liquidity shortfall or (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph, the months which correspond thereto.

(3) Short plan year.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury.

(4) Fiscal years and short years.—

(i) Fiscal years.—In applying this paragraph to any plan year if, other than January 1, shall be substituted for the months specified in this paragraph, the months which correspond thereto.

(ii) Short plan year.—This paragraph applies to plan years of less than 12 months.

(5) Waiver amortization base.—

(A) In general.—The minimum required contribution for any plan year under sub- section (a) shall be increased by the amount of any waiver amortization charge (if any) for such plan year.

(B) Determination of waiver amortization charge.—The waiver amortization charge for a plan for any plan year is the aggregate total of the waiver amortization installments for such plan year with respect to the waiver amortization base for such plan year and each of the 4 preceding plan years.

(C) Waiver amortization installment.—For purposes of paragraph (2), the plan sponsor shall determine, with respect to the waiver amortization base, in level annual installments over a period of 5 plan years beginning with such plan year, the amount of any waiver amortization installment for each plan year in such 5-year plan period is the waiver amortization installment for such plan year with respect to such waiver amortization base.

(3) Computation assumptions.—The determination of any annual installment under paragraph (2) for any plan year made as of the valuation date for such plan year, using the effective rate of interest for the plan for the preceding plan year.

(E) Waiver amortization base.—The waiver amortization base of a plan for a plan year is the excess (if any) of—
“(A) the portion of the minimum required contribution of such plan waived under section 302(c) for such plan year, over

(B) the aggregate total of the waiver amortization payments, for such plan year and the 3 succeeding plan years, which have been determined with respect to the waiver amortization bases of the plan for each of the 4 years preceding such plan year;

“(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.

“(1) AGAINST A PERSON.—In the case of a plan covered under section 4021 of this Act and to which this subsection applies (as provided under paragraph (2)), if

(A) a notice of failure to make a contribution payment required by section 302 and this section before the due date for such payment, and

(B) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

“(2) PLANS TO WHICH SUBSECTION APPLIES.

This subsection shall apply to a defined benefit plan which has the effect of increasing liability for benefits under single-employer plans.

“(8) CONSEQUENTIAL LIABILITIES.

This subsection shall apply to a plan, a contribution payment required by section 302 for which payment is not made before the due date (including interest), exceeds $1,000,000,

(c) EFFECTIVE DATE.

The amendments made by this section shall apply with respect to plan years beginning after 2005.

106. LIMITATIONS ON DISTRIBUTIONS AND BENEFITS UNDER SINGLE-EMPLOYER PLANS.

(a) PROHIBITION OF SHUTDOWN BENEFITS AND OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.

Section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by inserting after the end of section 206 the following new subsections:

“(1) IN GENERAL.—No pension plan which is a single-employer plan may provide benefits which are payable upon the occurrence of—

(A) a plant shutdown, or

(B) any other unpredictable contingent event.

“(2) UNPREDICTABLE CONTINGENT EVENT.

For purposes of this subsection, the term ‘unpredictable contingent event’ means an event other than—

(A) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury);

(B) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury);

(C) a benefit limitation under paragraph (1) of any plan, or

(D) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury).

“(b) OTHER LIMITS ON BENEFITS AND BENEFIT ACCOUNTS.

(1) IN GENERAL.—Section 206 of such Act (as amended by subsection (a)) is amended further by adding at the end the following new subsection:

“(A) FI LING STATUS.

For purposes of this subsection, the term ‘ filing status’ means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of section 302, of a participant or enrollee.

“(B) DUE DATE; REQUIRED INSTALLMENT.

The terms ‘due date’ and ‘required installment’ have the meanings given such terms by subsection (i), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 302.

“(C) CONTROLLED GROUP.—The term ‘controlled group’ means any group treated as a single employer for purposes of paragraphs (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

“(d) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCURALS.

In the case of a qualified plan, the actuaries of a controlled group of which the plan is a member, if

(A) the portion of the minimum required contribution of such plan was waived under section 4021 of this Act and to which this subsection applies (as provided under paragraph (2)) of such plan is less than 100 percent of the aggregate of the minimum required contribution of such plan waived under section 4021 of this Act and to which this subsection applies (as provided under paragraph (2)), if

(i) less than 80 percent, or

(ii) would be less than 80 percent taking into account such amendment.

“(e) EXEMPTION.—Subparagraph (A) shall cease to have effect as of the first day of the plan year, effective as of the first day of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution equal to—

(i) in the case of subparagraph (A)(i), the amount of the increase in the funding target attainment percentage of the plan year attributable to the amendment, and

(ii) in the case of subparagraph (A)(ii), the amount sufficient to result in a funding target attainment percentage as of the valuation date of the plan for a plan year is less than 80 percent, the plan may not after such date pay any prohibited payments (as defined in section 4021)

“(f) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the funding target attainment percentage of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(g) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(h) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(i) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(j) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(k) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(l) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(m) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(n) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(o) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(p) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;

“(q) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.

A single-employer plan shall provide that, in any case in which the plan’s funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year;
10 percentage points less than the funding target attainment percentage of the plan as of the valuation date of the plan for such preceding plan year.

"(6) APPLICATION BY PLAN AMENDMENT OF BENEFITS OR BENEFIT ACCRUAL.—In any case in which a prohibition under paragraph (2) of the payment of lump sum distributions or benefit accelerations is continued under section 302(d) and an amended plan is made after the valuation date of the plan for such subsequent plan year. The preceding sentence shall not apply to a prohibition or cessation required by reason of paragraph (5)."

"(7) FUNDING TARGET ATTAINMENT PERCENTAGE.—For purposes of this subsection, the term "funding target attainment percentage" has the meaning provided such term under section 303(d)(2)."

"(8) NOTICE REQUIREMENT.—(A) In general.—Section 101 of such Act (29 U.S.C. 1021) is amended

(i) by redesignating subsection (j) as subsection (k); and

(ii) by inserting after subsection (i) the following new subsection:

"(j) NOTICE OF FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—The plan administrator of a single-employer plan shall provide a written notice to plan participants and beneficiaries within 30 days after the plan has become subject to the restrictions described in section 206(b)(2) or at such later time as may be determined by the Secretary."

(B) PENALTY.—Section 502(c)(1)(A) of such Act (29 U.S.C. 1132(c)(1)(A)) is amended by striking "section 502(c)(1)(A)" and inserting "section 502(c)(1)(A), and all that follows through "101(f)" and inserting "section 606, 101(e)(1), 101(f), and 101(j)."

(c) SPECIAL RULE FOR PLAN AMENDMENTS.—A plan shall not fail to meet the requirements of section 204(g) of the Employee Retirement Income Security Act of 1974 or section 411(d)(9) of the Internal Revenue Code of 1986 by reason of the adoption by the plan of an amendment necessary to meet the requirements of the amendments made by this subsection.

(d) EFFECTIVE DATE.—(1) SHUTDOWN BENEFITS.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply with respect to plan years beginning after December 15, 2005.

(2) OTHER BENEFITS.—Except as provided in paragraph (3), the amendments made by subsection (b) shall apply with respect to plan years beginning after December 15, 2005.

(3) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained in a collective bargaining form or a 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this subsection shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act), or

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply;

(B) January 1, 2009.

For purposes of clause (i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subsection shall not be treated as a termination of such collective bargaining agreement for purposes of any plan year.
under the plan is) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan); and

(ii) application of the standard would be adverse to the interests of plan participants in the aggregate.

The Secretary may, subject to subparagraphs (B) and (C) and the requirements of subparagraph (a) for such year with respect to any or all portion of the minimum funding standard. The Secretary shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (of any 15 in the case of a multiemployer plan) consecutive plan years.

(2) EFFECTS OF WAIVER.—If a waiver is granted under subparagraph (A) for any plan year—

(i) in the case of a single-employer plan, the minimum required contribution under section 430 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 430(b)(1); and

(ii) in the case of a multiemployer plan, the funding standard account shall be credited with an amount equal to the amount of the waived funding deficiency and such amount shall be amortized as required under section 430(b)(2).

(3) WAIVER OF AMORTIZED PORTION NOT ALLOWED.—The Secretary may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year with respect to any amortization payment required to be made for such plan year with respect to any amortization installment determined for succeeding plan years under section 430(c)(2).

(4) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this section, the Secretary may provide that an analysis under section 431(d) is unavailable or inadequate.

(5) WAIVED FUNDING DEFICIENCY.—For purposes of this section, the term ‘waived funding deficiency’ means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary and not satisfied by employer contributions.

(6) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2 1/2 MONTHS AFTER CLOSE OF YEAR.—In the case of a single-employer plan, no waiver under this subsection with respect to any plan year shall be granted unless the application is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year.

(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a single-employer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

(i) with respect to such employer, and

(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination of the trade or business or industry of the controlled group.

(7) NOTICE TO EMPLOYEE ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall, by notice to each participating organization, be deemed to have made on the first day of such plan year, if an amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect under the plan administrator files a notice with the Secretary notifying him of such amendment and the Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. Notice of amendment described in subparagraph (A) shall be approved by the Secretary unless the Secretary determines that such amendment is necessary because of a substantial business hardship (as determined under section 430(b)) and that a waiver under section (c)(2) or, in the case of a multiemployer plan, any extension of the amortization period under section 430(d) is unavailable or inadequate.

(C) CONTROLLED GROUP.—For purposes of this section, the term ‘controlled group’ means any group treated as a single employer under section (b), (c), (m), or (o) of section 414.

(9) CERTAIN INSURANCE CONTRACT PLANS.—

(A) IN GENERAL.—The Secretary shall, by notice to each participating organization, be deemed to have made on the first day of such plan year, if amendment described in this paragraph (B) has been paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual becomes a participant in the plan or, in the case of an increase in benefits, commencing at the time such increase becomes effective)

(B) PREMIUMS.—With respect to any such plan year, if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination of the trade or business or industry of the controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

(i) with respect to such employer, and

(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination of the trade or business or industry of the controlled group.

(10) NOTICE TO EMPLOYEE ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall, by notice to each participating organization, be deemed to have made on the first day of such plan year, if amendment described in this paragraph (B) has been paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual becomes a participant in the plan or, in the case of an increase in benefits, commencing at the time such increase becomes effective).

(B) PREMIUMS.—With respect to any such plan year, if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination of the trade or business or industry of the controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

(i) with respect to such employer, and

(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination of the trade or business or industry of the controlled group.

(11) NOTICE TO EMPLOYEE ORGANIZATIONS.—

(A) IN GENERAL.—The Secretary shall, by notice to each participating organization, be deemed to have made on the first day of such plan year, if amendment described in this paragraph (B) has been paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual becomes a participant in the plan or, in the case of an increase in benefits, commencing at the time such increase becomes effective)

(B) PREMIUMS.—With respect to any such plan year, if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination of the trade or business or industry of the controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

(i) with respect to such employer, and

(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination of the trade or business or industry of the controlled group.
A plan funded exclusively by the purchase of group insurance contracts which is determined under regulations prescribed by the Secretary to have the same characteristics as contracts described in the preceding sentence shall be treated as a plan described in this paragraph.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2005.

SEC. 112. FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.

(a) MINIMUM REQUIRED CONTRIBUTION.—

(1) IN GENERAL.—For purposes of sections 412(a)(2)(A), except as otherwise provided in this subsection, the minimum required contribution with respect to a plan for any plan year is the target normal cost of the plan for the plan year.

(2) SHORTFALL AMORTIZATION CHARGE.—In any case in which the value of plan assets (determined without regard to subsection (e)(1)(B)) for the plan for the plan year which are held by the plan immediately before the valuation date is less than the funding target of the plan for the plan year, the minimum required contribution with respect to the plan for the plan year is the sum of the amounts necessary to amortize such shortfall amortization base of the plan for any plan year, over a period beginning with such plan year and ending on the last day of the 5 succeeding plan years, in equal installments over a period of 7 plan years beginning with such plan year.

(3) CREDIT FOR EXCESS ASSETS.—In any case in which the value of plan assets of the plan for the plan year which are held by the plan immediately before the valuation date exceeds the funding target of the plan for the plan year, the minimum required contribution with respect to the plan for the plan year is the amount determined under paragraph (1), reduced by such excess.

(4) PRE-FUNDING BALANCE.—In the case of any plan year in which—

(A) the excess (if any) of the value of plan assets over the minimum required contribution for the plan year described in paragraph (1), determined without regard to subsection (e)(1)(B), is at least 80 percent, and

(B) the plan sponsor elects (in such form and manner as shall be prescribed in regulations prescribed by the Secretary) to credit against the minimum required contribution for the current plan year all or a portion of the funding standard carryover balance and the pre-funding balance (to the extent provided in subsection (g)(11)) for the plan year described in paragraph (1), the minimum required contribution for the plan year shall be reduced by the amount so credited by the plan sponsor.

(b) TARGET NORMAL COST.—For purposes of this section, subject to subsection (g)(2),—

(1) THE TERM.—The term ‘‘target normal cost’’ for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. If any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase shall be treated as having accrued during the current plan year.

(2) VALUE OF PLAN ASSETS.—For purposes of this section (other than paragraph (4) and subsections (a)(2) and (h)(3)), the term ‘‘value of plan assets’’ means the excess of the value of plan assets (determined without regard to this paragraph) over the sum of—

(A) the pre-funding balance of the plan maintained under subsection (h)(1), and

(B) the funding target of the plan for the plan year (determined without regard to subsection (g)(1)).

(c) SHORTFALL AMORTIZATION CHARGE.—

(1) IN GENERAL.—The shortfall amortization charge for a plan for any plan year is the aggregate total of the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

(2) SHORTFALL AMORTIZATION INSTALLMENT.—

(A) IN GENERAL.—For purposes of paragraph (1), the plan sponsor shall determine, with respect to each shortfall amortization base of the plan for any plan year, a shortfall amortization installment for such plan year and each of the 6 preceding plan years, using the effective rate of interest for the plan for such plan year.

(B) COMPUTATION ASSUMPTIONS.—The determination of any annual installment under subparagraph (A) for any plan year shall be made of the valuation date for such plan year, using the assumptions prescribed by the Secretary for purposes of this section, subject to subsection (g)(2).

(3) FUNDING TARGET ATTAINMENT PERCENTAGE.—In any case in which the funding shortfall of a plan for any plan year, bears to the target normal cost of the plan for the plan year, the 5 succeeding plan years, and

(A) the funding shortfall of such plan year, over

(B) the present value (determined using the effective interest rate of the plan for the plan year) of the aggregate total of the shortfall amortization installments, for such plan year and the 5 succeeding plan years, which have been determined with respect to the shortfall amortization bases of the plan for each of the 6 plan years preceding such plan year.

(d) RULES RELATING TO FUNDING TARGETS.—For purposes of this section—

(1) FUNDING TARGET.—Except as provided in subsection (g)(1), the funding target of a plan for a plan year is the present value of all liabilities to participants and their beneficiaries maintained under the plan for the plan year.

(2) FUNDING TARGET ATTAINMENT PERCENTAGE.—The ‘‘funding target attainment percentage’’ of a plan for a plan year is the ratio (expressed as a percentage) which—

(A) the value of plan assets for the plan year, bears to

(B) the funding target of the plan for the plan year (determined without regard to subsection (g)(1)).

(e) VALUATION OF PLAN ASSETS AND LIABILITIES.—

(1) VALUE OF PLAN ASSETS.—For purposes of this section (other than paragraph (4) and subsections (a)(2) and (h)(3)), the term ‘‘value of plan assets’’ means, for any plan year in which—

(A) the value of plan assets of the plan for the plan year which are held by the plan immediately before the valuation date is less than the funding target of the plan for the plan year, the amount necessary to amortize such shortfall amortization base of the plan for any plan year, a shortfall amortization installment for such plan year and each of the 6 preceding plan years.

(2) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year.

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(a) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

(b) EXCEPTION FOR SMALL PLANS.—If, on either the last day of the preceding plan year, a plan had 500 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year. For purposes of this subparagraph, a plan is an eligible small plan if—

(i) all of its plan years are eligible small plan years, and

(ii) the case in which the value of plan assets of the plan for the plan year which are held by the plan immediately before the valuation date is less than the funding target of the plan for the plan year, the amount necessary to amortize such shortfall amortization base of the plan for any plan year, a shortfall amortization installment for such plan year and each of the 6 preceding plan years.

(c) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this section—

(1) PLANS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to plan years beginning after 2006.

(2) PREDECESSORS.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

(d) AUTHORIZATION OF USE OF ACTUARIAL VALUE.—For purposes of this section, the value of plan assets (determined without regard to paragraph (1)) shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary, except that—

(A) any such method providing for averaging of fair market values may not provide for averaging of such values over more than the current plan year and the 2 preceding plan years, and

(B) any such method may not result in a determination of the value of plan assets which, at any time, is lower than 90 percent or greater than 110 percent of the fair market value of such assets at such time.

(e) ACCOUNTING FOR THIRD PARTY CONTRIBUTIONS.—For purposes of this section—

(A) CONTRIBUTIONS FOR PRIOR PLAN YEARS TAKEN INTO ACCOUNT.—For purposes of determining the value of plan assets for any current plan year, in any case in which a contribution properly allocable to amounts owed for a preceding plan year is made on or after the valuation date of the plan for such current plan year, such contribution shall be taken into account, except that any such contribution made during any such current plan year beginning after the plan year in which such contribution is taken into account, shall be taken into account only in an amount equal to its present value (determined using the effective interest rate for the plan for the preceding plan year) as of the valuation date of the plan for such current plan year.

(B) CONTRIBUTIONS FOR CURRENT PLAN YEAR DISREGARDED.—For purposes of determining the value of plan assets for any current plan year, contributions which are properly allocable to amounts owed for such plan year shall not be taken into account, and, in such case, if the present value of any such contribution made before the valuation date of the plan for such plan year, such value of plan assets shall be decreased by the amount that the Secretary determines is necessary to reflect the interest on such amount determined using the effective interest rate of the plan for the preceding plan year for the period beginning when such payment was
made and ending on the valuation date of the plan.

(6) ACCOUNTING FOR PLAN LIABILITIES.—For purposes of this section—

(A) FUNDING TARGET FOR CURRENT PLAN YEAR.—In determining the value of liabilities under a plan for a plan year, liabilities shall be taken into account to the extent attributable to benefits (including any early retirement or similar benefit) accrued as of the beginning of the plan year.

(B) ACCRUALS DURING CURRENT PLAN YEAR DISREGARDED.—For purposes of subparagraph (A), benefits accrued during such plan year (after those taken into account under subparagraph (A)) shall not be taken into account, irrespective of whether the valuation date of the plan for such plan year is later than such actual termination date.

(7) INTEREST RATES.—(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term ‘effective interest rate’ means, with respect to any plan for any plan year, the single rate of interest which, if applied to determine the present value of the plan’s liabilities referred to in subsection (d)(1) would result in an amount equal to the funding target of the plan for such plan year.

(B) APPLICATION TO FUNDING TARGET.—For purposes of determining the funding target of a plan for any plan year, the interest rate used in determining the present value of the liabilities of the plan shall be—

(i) the interest rate reasonably determined to be payable during the 15-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month;

(ii) the interest rate reasonably determined to be payable during the 15-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and

(iii) the interest rate reasonably determined to be payable during the 5-year period beginning with the first day of the plan year, the third segment rate with respect to the applicable month.

(C) SEGMENT RATES.—For purposes of this paragraph—

(i) FIRST SEGMENT RATE.—The term ‘first segment rate’ means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (i).

(ii) SECOND SEGMENT RATE.—The term ‘second segment rate’ means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 15-year period beginning with the first day of the month.

(iii) THIRD SEGMENT RATE.—The term ‘third segment rate’ means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period beginning with the first day of the month. A yield curve which is prescribed by the Secretary for such month and which reflects a 3-year weighted average of yields on investment grade corporate bonds with varying maturities.

(ii) 3-YEAR WEIGHTED AVERAGE.—The term ‘3-year weighted average’ means an averaging methodology under which the most recent year is weighted 50 percent, the year preceding such year is weighted 35 percent, and the second year preceding such year is weighted 15 percent.

(E) APPLICABLE MONTH.—For purposes of this paragraph, the term ‘applicable month’ means, with respect to any plan for any plan year, the month which includes the valuation date of such plan for such plan year or, at the election of the plan administrator, any other month of the plan year reasonably selected for the purposes of clause (i), the second segment rate determined for such month. Any election made under this subparagraph shall apply to the plan year for which made and all succeeding plan years unless revoked with the consent of the Secretary.

(F) PUBLICATION REQUIREMENTS.—The Secretary shall publish for each month the corporate bond yield curve (and the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is prescribed by the Secretary for such month and which reflects a 3-year weighted average of yields on investment grade corporate bonds with varying maturities).

(8) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—For purposes of subsection (f), the sum of—

(A) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4042(a)(3)(F)(i) of the Employee Retirement and Income Security Act of 1974) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(14) of such Act) and members of such sponsors’ controlled groups (as defined in section 4001(a)(14) of such Act) which are covered by the plan (disregarding with no unfunded vested benefits) exceed $50,000,000; and

(B) any difference in the present value of such future benefit payments resulting from the use of actuarial assumptions, in determining benefit payments in any such optional form of benefits, which are different from those specified in this subsection.

(9) APPROVAL OF LARGE CHANGES IN ACTUARIAL ASSUMPTIONS.—

(A) IN GENERAL.—No actuarial assumption used in determining the funding target for a single-employer plan to which this paragraph applies may be changed without the approval of the Secretary.

(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

(i) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4042(a)(3)(F)(i) of the Employee Retirement and Income Security Act of 1974) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(14) of such Act) and members of such sponsors’ controlled groups (as defined in section 4001(a)(14) of such Act) which are covered by the plan (disregarding with no unfunded vested benefits) exceed $50,000,000; and

(ii) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 1 percent or more of the funding target of the plan before such change.

(C) SPECIAL RULES FOR AT-RISK PLANS.—(1) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—

(A) IN GENERAL.—In any case in which a plan is in at-risk status for a plan year, the funding target of the plan for the plan year is adjusted to—

(i) the present value of all liabilities to participants and their beneficiaries under the plan for the plan year, as determined by using, in addition to the actuarial assumptions described in subsection (f), the supplemental actuarial assumptions described in subparagraph (B), plus

(ii) the loading factor determined under subparagraph (C).

(B) SUPPLEMENTAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions used in determining the funding target shall include, in addition to the actuarial assumptions described in subsection (f), an assumption that all participants will elect benefits at such times and in such forms as will result in the highest present value of liabilities under subparagraph (A)(i).

(C) LOADING FACTOR.—The loading factor applied with respect to the fund target for any plan year is the sum of—

(i) $700, times the number of participants in the plan, plus

(ii) 4 percent of the funding target (determined without regard to this paragraph) of the plan for the plan year.
(2) Target normal cost of at-risk plans.—

(A) IN GENERAL.—In any case in which a plan is in at-risk status for a plan year, the target normal cost of the plan for such plan year shall be the sum of—

(i) the present value of all benefits which are expected to accrue under the plan during the plan year, properly taking into account under the actuarial assumptions used under paragraph (1), plus

(ii) no election may be made under subparagraph (C)(i).

(3) Minimum of at-risk status.—

For purposes of this subsection, a plan is in ‘‘at-risk status’’ for a plan year if the funding target attainment percentage of the plan for the preceding plan year was less than 60 percent.

(4) Transition between applicable funding targets and between applicable target normal cost.—

(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of 3 plan years, the attributable amount of the funding target and of the target normal cost shall be, in lieu of the amount determined without regard to this paragraph, the sum of—

(i) the amount determined under this section without regard to this subsection, plus

(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined for purposes of this subsection without regard to this subsection.

(B) Transition percentage.—For purposes of this paragraph, the ‘‘transition percentage’’ for a plan year is the product derived by multiplying—

(i) 20 percent, by

(ii) the number of plan years during the period described in subparagraph (A).

(h) Pre-Funding and Funding Standard Carve-Out Balances.—

(1) Overview.—

(A) IN GENERAL.—The plan sponsor of a pension plan which is a single-employer plan shall maintain a pre-funding balance for purposes of the determination of the funding target and of the target normal cost.

The amount of the pre-funding balance of such plan may be credited under subsection (a)(4) in reducing the minimum required contribution, and

(ii) no election may be made under subparagraph (C)(i).

(2) Amount of the pre-funding balance of such plan may be credited under subsection (a)(4) in reducing the minimum required contribution if such plan is in at-risk status for a plan year, the plan sponsor shall ensure that—

(i) the amount credited under subsection (a)(4) (if any) in reducing the minimum required contribution remaining unpaid, at the effective rate of interest for the plan year of the excess of the amount determined under this subsection (without regard to this paragraph), the sum of—

(i) the amount determined under this section without regard to this subsection, plus

(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined for purposes of this subsection without regard to this subsection.

(3) Minimum Interest Rate.—

(A) IN GENERAL.—For purposes of this section, the ‘‘minimum interest rate’’ means for any plan year the minimum required contribution for such plan year determined without regard to this subsection and by taking into account any waiver under section 412(c) and any funded status amending charge under subsection (j) for such plan year.

(B) Payment of Minimum Required Contributions.—

(i) IN GENERAL.—For purposes of this subsection, the due date for any minimum required contribution for any plan year shall be 8¼ months after the close of the plan year.

(ii) Interest.—Any payment required under paragraph (1) for a plan year made after the valuation date for such plan year shall be increased by interest, for the period from the valuation date to the payment date, at the effective rate of interest for the plan for such plan year.

(2) Accelerated Quarterly Contribution Schedule for Underfunded Plans.—

(A) In General.—The plan sponsor of a pension plan which is a single-employer plan shall maintain a funding standard carve-out balance for purposes of this subsection. Such balance shall consist of a beginning balance determined under paragraph (c)(1)(ii), decreed to the extent provided in subparagraph (D), and adjusted further as provided in paragraph (3).

(B) Plans to Which This Paragraph Applies.—This paragraph applies to any plan which—

(i) is a single-employer plan subject to this part, or

(ii) was in effect for a plan year beginning in 2005, and

(iii) had a positive balance in the funding standard account under section 412(b) as of the end of such plan year.

(C) Beginning Balance.—The beginning balance of the funding standard carve-out balance shall be the positive balance described in subparagraph (B)(iii).

(D) Adjustments.—In determining the pre-funding balance or the funding standard carve-out balance of a plan as of the valuation date for such plan year, properly taking into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

(E) Elections.—In elections provided in this subsection, any election made under this subsection shall be made at such time and in such form and manner as the Secretary may provide.

(F) Coordination with waivers.—For purposes of this subsection, the term ‘‘minimum required contribution’’ means for any plan year the minimum required contribution for such plan year determined without regard to this subsection and by taking into account any waiver under section 412(c) and any funded status amending charge under subsection (j) for such plan year.

(G) Amount of Required Installments.—For purposes of this paragraph—

(i) AMOUNT.—The amount of the underpayment shall be the excess of—

(I) the amount required, over

(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

(ii) Number of Required Installments; Due Dates.—For purposes of this paragraph—

(I) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment, except that—

(II) Time for Payment of Installments.—The due dates for required installments are set forth in the following table:

<table>
<thead>
<tr>
<th>Due Date</th>
<th>Installment Number</th>
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<tbody>
<tr>
<td>1st December</td>
<td>1st of January</td>
</tr>
<tr>
<td>2nd December</td>
<td>1st of April</td>
</tr>
<tr>
<td>3rd December</td>
<td>1st of July</td>
</tr>
<tr>
<td>4th December</td>
<td>1st of October</td>
</tr>
</tbody>
</table>

For purposes of this paragraph—
"(1) In general.—The amount of any required installment shall be 25 percent of the required annual payment.

(ii) Required annual payment.—For purposes of this subparagraph, the term ‘required annual payment’ means the lesser of—

(I) 90 percent of the minimum required contribution (without regard to any waiver under subsection (f) of section 430) for the plan for the plan year under this section, or

(II) in the case of a plan year beginning after 2006, 100 percent of the minimum required contribution (without regard to any waiver under section 412(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year in which such installment was not a year of 12 months.

(E) Fiscal years and short years.—

(i) Fiscal years.—In applying this paragraph to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this paragraph, the months which correspond thereto.

(ii) Short plan year.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary.

(F) Liquidity requirement in connection with quarterly contributions.—

(A) Paragraph (2) to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the aggregate total of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid in any other installment described in subclause (I) of section 430) to the plan for the plan year.

(B) Plans to which paragraph applies.—This paragraph shall apply to a plan (other than a qualified plan described in subsection (e)(3)(B) if ‘100’ were substituted for ‘500’ therein) which—

(I) is required to pay installments under paragraph (3) for a plan year, and

(ii) has a liquidity shortfall for any quarter during such plan year.

(C) Period of underpayment.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as not paid until the due date for such installment.

(D) Limitation on increase.—If the amount required for the 5-plan year period is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefit accrual or earnings during the plan year) to 100 percent.

(E) Definitions.—For purposes of this subparagraph—

(1) Liquidity shortfall.—The term ‘liquidity shortfall’, means, with respect to any required installment, an amount equal to the excess of the applicable amount (for which such installment is made) over—

(I) the base amount with respect to such quarter, or

(II) the value (as of such last day of the plan’s liquid assets.

(2) Base amount.—

(I) In general.—The term ‘base amount’ means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

(ii) Special rule.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those circumstances.

(III) Disbursements from the plan.—The term ‘disbursements from the plan’ means all disbursements from the trust, including payments of single sums and other benefits, and administrative expenses.

(iv) Adjusted disbursements.—The term ‘adjusted disbursements’ means disbursements from the plan reduced by the product of—

(I) the plan’s funding target attainment percentage for the plan year, and

(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall provide in regulations.

(2) Liquid assets.—The term ‘liquid assets’ means cash, marketable securities, and such other assets specified by the Secretary in regulations.

(3) Quarter.—The term ‘quarter’ means, with respect to any required installment, the month in which the due date for such installment occurs.

(F) Regulations.—The Secretary may prescribe such regulations as are necessary to carry out this paragraph.

(1) Waiver amortization charge.—

(I) In general.—The minimum required contribution for any plan year under subsection (a) shall be increased by the amount of the waiver amortization charge (if any) on such plan year for the preceding plan year.

(ii) Waiver amortization installment.—For purposes of paragraph (2), the plan sponsor shall determine, with respect to the waiver amortization base of the plan for any plan year for which an amortization charge was imposed under paragraph (1), the amount of the lien shall be

(A) any person and any other person who is a member of the same controlled group of which such person is a member, and

(B) the aggregate total of the waiver amortization base of the plan for any plan year.

The term ‘waiver amortization base’ means cash, marketable securities, and such other assets specified by the Secretary, and includes any amount payable under subsection (f). The term ‘waiver amortization charge’ means the product of—

(i) the portion of the minimum required contribution of such plan waived under section 421(c) for such plan year, over

(ii) the aggregate total of the waiver amortization bases of the plan for each of the 4 plan years preceding such plan year.

(2) Computation assumptions.—The determination of any annual installment under paragraph (2) for any plan year shall be made on the valuation date for such plan year, using the effective rate of interest for the plan for the preceding plan year.

(3) Limitation on increase.—If the amount required for the 5-plan year period is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefit accrual or earnings during the plan year) to 100 percent.

(4) Definitions.—For purposes of this subparagraph—

(a) Defined benefit plan.—The term ‘defined benefit plan’ means a plan which—

(I) provides benefits under section 412 of the Employee Retirement and Income Security Act of 1974, and

(ii) to which this subsection applies (as provided under paragraph (2)), if—

(5) Notice of failure.—Lien.—

(A) Notice of failure.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

(B) Period of lien.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

(C) Certain rules to apply.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 6901 shall apply with respect to such lien.

(D) Enforcement.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

(E) Definitional.—For purposes of this subsection—

(1) Contribution payment.—The term ‘contribution payment’ means with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (a).

(2) Due date; required installment.—The terms ‘due date’ and ‘required installment’ have the meanings given such terms by subsection (a), except that in the case of a plan other than a required installment, the due date shall be the date such payment is required to be made under section 420.

(3) Controlled group.—The term ‘controlled group’ means any group treated as a single employer under subsections (b), (c), (d), and (e) of section 414 of the Internal Revenue Code of 1986 and the regulations thereunder.

(i) Qualified transfers to health benefit accounts.—In the case of a qualified
transfer (as defined in section 420), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.

(a) **Effective Date.**—The amendments made by this section shall apply with respect to plan years beginning after 2005.

### SEC. 113. LIMITATIONS ON DISTRIBUTIONS AND BENEFITS UNDER SINGLE-EMPLOYER PLANS.

**Section 436. Prohibition of shutdown benefits and other unpredictable contingent event benefits.**

(a) **Prohibition of Shutdown Benefits and Other Unpredictable Contingent Event Benefits Under Single-Employer Plans.**—Part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation) is amended—

(1) **by striking the heading and inserting the following:**

**‘‘PART III—RULES RELATING TO MINIMUM FUNDING STANDARDS AND BENEFIT LIMITATIONS’’**

(2) **by adding the following new subpart:***

**Subpart B—Benefit Limitations Under Single-Employer Plans**

(3) **by removing the part heading**

Subsection (a) of section 436 of the Internal Revenue Code of 1986 is amended by adding the following:—

**‘‘Sec. 436. Prohibition of shutdown benefits and other unpredictable contingent event benefits.**

(a) **In General.**—No pension plan which is a single-employer plan may provide benefits which are payable upon the occurrence of—

(1) a plant shutdown, or

(2) any other unpredictable contingent event.

(b) **Unpredictable Contingent Event.**—For purposes of this subsection, the term ‘‘unpredictable contingent event’’ means an event other than—

(1) attainment of any age, performance of any service, receipt or derivation of any compensation, or the occurrence of death or disability, or

(2) an event which is reasonably and reliably predictable (as determined by the Secretary).

(c) **Other Limits on Benefits and Benefit Accruals.**

(1) **In General.**—Subpart B of part III of subchapter D of chapter 1 of such Code is amended by adding at the end the following:

**‘‘Sec. 437. Benefit limitations on underfunded plans.**

(a) **Limitations on Plan Amendments Increasing Liability for Benefits.**—

(1) **In General.**—No amendment to a defined benefit plan (other than a multiemployer plan) which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable to the plan may take effect during any plan year if the funding target attainment percentage of the valuation date of the plan for such plan year is—

(A) less than 80 percent, or

(B) would be less than 80 percent taking into account the amendment.

(2) **Exemption.**—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first date of the plan year (or if later, the date of the amendment), upon payment by the plan sponsor of a contribution equal to—

(A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the amendment, and

(B) in the case of paragraph (1)(B), the amount sufficient to result in a funding target attainment percentage of 80 percent.

(b) **Funding-Based Limitation on Certain Forms of Deferral.**—If the funding plan (other than a multiemployer plan) shall provide that, in any case in which the plan’s funding target attainment percentage as of the valuation date of the plan for a plan year is less than 80 percent, the plan may not after such date pay any prohibited payment (as defined in section 401(e) of the Employee Retirement and Income Security Act of 1974).

(c) **Limitations on Benefit Accruals for Plans with Severe Funding Shortfalls.**—A defined benefit plan (other than a multiemployer plan) shall provide that, in any case in which the plan’s funding target attainment percentage as of the valuation date of the plan for a plan year is less than 60 percent, the plan may not after such date pay any prohibited payment (as defined in section 401(e) of the Employee Retirement and Income Security Act of 1974).

(d) **New Plans.**—Subsections (a) and (c) shall not apply to the first 5 plan years of the plan. For purposes of this subsection, the reference in this subsection to a subsection, the reference in this subsection to a plan shall include a reference to any predecessor plan.

(1) **Presumption of Benefit Limitations Based on Prior Year’s Funding Status.**—In any case in which a benefit limitation under subsections (a), (b), or (c) has been applied to a plan with respect to the preceding plan year, the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the preceding plan year until the enrolled actuary of the plan certifies that the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year.

(2) **Presumption of Underfunding After 4th Month for Nearly Underfunded Plans.**—In any case in which no such certification is made with respect to the plan before the first day of the 10th month of the current plan year, for purposes of subsections (a), (b), or (c), the plan’s funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of the first day of such 10th month, and the subsequent provisions of such paragraphs, to be the valuation date of the plan for the current plan year.

(3) **Presumption of Underfunding After 4th Month for Nearly Underfunded Plans.**—In any case in which—

(A) a benefit limitation under subsections (a), (b), or (c) did not apply to a plan with respect to the plan year preceding the current plan year, but the funding target attainment percentage of the plan for such preceding plan year was more than 10 percentage points greater than the percentage which would have caused such paragraph to apply to the plan with respect to such preceding plan year, and

(B) as of the first day of the 4th month of the current plan year, the enrolled actuary of the plan has certified the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year.

until the enrolled actuary so certifies, such first day shall be deemed, for purposes of such subsection, to be the valuation date of the plan for the current plan year and the funding target attainment percentage of the plan as of such first day shall be presumed to be equal to 10 percentage points less than the funding target attainment percentage of the plan as of such valuation date of the plan for such preceding plan year.

(5) **Restoration by Plan Amendment of Benefits or Benefit Accrual.**—In any case in which—

(A) a prohibition or cessation of such benefit payment or such benefit accrual only by means of the adoption of a plan amendment after the valuation date of the plan for such subsequence plan year. The preceding sentence shall not apply to a prohibition or cessation required by reason of subsection (e).

(6) **Benefit Limitation Percentage.**—For purposes of this section, the term ‘‘funding target attainment percentage’’ has the meaning provided such term under section 430(d)(2).

(2) **Clerical Amendment.**—The table of sections for such subpart is amended by adding at the end the following new item:

**‘‘Sec. 437. Benefit limitations on underfunded plans.***

(c) **Special Rule for Plan Amendments.**—A plan shall not fail to meet the requirements of section 204(g) of the Employee Retirement Income Security Act of 1974 solely by reason of the adoption by the plan of a rule necessary to meet the requirements of the amendments made by this section.

(d) **Effective Date.**—

(1) **Shutdown Benefits.**—Except as provided in paragraphs (3), the amendments made by subsection (a) shall apply with respect to plant shutdowns, or other unpredictable contingent events, occurring after 2006.

(2) **Other Benefits.**—Except as provided in paragraph (3), the amendments made by subsection (b) shall apply with respect to plan years beginning after 2006.

(e) **Collective Bargaining Exception.**—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this subsection shall not apply to plan years beginning before the earlier of—

(A) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to before the date of the enactment of this Act), or

(B) January 1, 2009.

For purposes of clause (i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subsection shall be treated as a termination of such collective bargaining agreement.

### SEC. 114. TECHNICAL AND CONFORMING AMENDMENTS.

(a) **Amendments Related to Qualification Requirements.**—

(1) **Section 401(a)(29) of the Internal Revenue Code of 1986 is amended to read as follows:**

‘‘(29) **Benefit Limitations on Plans in At-Risk Status.**—In the case of a defined benefit plan..."
plan (other than a multiemployer plan) to which the requirements of section 412 apply, the trust of which the plan is a part shall not constitute a qualified trust under this subchapter and shall be treated as the requirements of sections 436 and 437."

(2) Section 401(a)(32) of such Code is amended—

(A) in subparagraph (A), by striking "412(m)(5)" each place it appears and inserting "section 430(i)(1)"; and

(B) in subparagraph (C), by striking "section 431(c)(3), whichever are applicable, have been imposed on or before the due date (as determined under section 430(i)(1)) for the plan year."; and

(3) Section 4971(c) of such Code is amended—

(A) by striking the last two sentences of section 412(a) in paragraph (1) and inserting "section 431(c)(3); and

(B) by adding at the end the following new paragraph:

"(4) UNPAID MINIMUM REQUIRED CONTRIBUTIONS—

"(A) IN GENERAL.—The term "unpaid minimum required contributions" means, with respect to any plan year, any minimum required contribution which is paid on or before the due date (as determined under section 430(i)(1)) for the plan year:

"(B) ORDERING RULE.—Any payment to or under a plan for any amount required under subparagraph (A) is allocable first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.

"(C) RETIREE HEALTH ACCOUNTS—

(1) Section 420(e)(2) of such Code is amended to read as follows:

"(1) the amount determined under section 431(c)(6)(A)(i) in the case of a multiemployer plan to the extent that such contributions are allocable first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.

(2) Section 420(e)(4) of such Code is amended to read as follows:

"(4) COORDINATION WITH SECTION 430.—In the case of a qualified transfer, any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.

(3) IN GENERAL.—Subsections (a) and (b) of section 4971(e)(1) of such Code are amended to read as follows:

"(a) INITIAL TAX.—If at any time during any taxable year an employer maintains a plan to which section 412 applies, there is hereby imposed for the taxable year a tax equal to—

"(1) in the case of a single-employer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year, and

"(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year.

"(b) ADDITIONAL TAX.—If—

"(1) a tax is imposed under subsection (a)(1) on any unpaid required minimum contribution and such amount remains unpaid as of the close of the taxable year, and

"(2) a tax is imposed under subsection (a)(2) on any accumulated funding deficiency and the accumulated funding deficiency is not corrected by the plan sponsor, there is hereby imposed a tax equal to 100 percent of the unpaid minimum required contribution or accumulated funding deficiency, whichever is applicable, to the extent not so paid or corrected.

(2) Section 4971(c) of such Code is amended—

(A) by striking "section 412(c)(8)(A)" in clause (ii) of paragraph (1) and inserting "section 431(c)(3), whichever are applicable, have been imposed on or before the due date (as determined under section 430(i)(1)) for the plan year.

(B) by striking "section 430(i)(3) of the Internal Revenue Code of 1986" and inserting "section 430(i)(3) of the Internal Revenue Code of 1986 and section 430(i)(4) of the Employee Retirement Income Security Act of 1974, the plan shall be treated as not having a funding shortfall for any plan year.

(2) For purposes of—

(A) determining unfunded vested benefits under section 400(a)(3)(E)(ii) of such Act, and

(B) determining any present value or making any computation under section 412 of such Code or section 302 of such Act, the mortality table shall be the mortality table used by the plan.

(c) CONFORMING AMENDMENT.—

(1) Section 769 of the Retirement Protection Act of 1994 is amended by striking subsection (c).

(2) The amendment made by this subsection shall apply to plan years beginning after 2005.

SEC. 122. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION PLANS WHEN EMPLOYER DEFINED BENEFIT PLAN IN AT-RISK STATUS.

(a) IN GENERAL.—Subsection (b) of section 409A of the Internal Revenue Code of 1986 (providing rules relating to funding) is amended by inserting paragraphs (3) and (4) as paragraphs (3) and (4), respectively, and by inserting after paragraph (2) the following new paragraph:

"(2) EMPLOYER’S DEFINED BENEFIT PLAN IN AT-RISK STATUS.—In the case of a plan to which section 412 applies, if—

"(A) during any period in which any defined benefit plan of an employer is in an at-risk status (as defined in section 412(g)(5)), assets are set aside (directly or indirectly) in a trust or other arrangement determined by the Secretary, or transferred to such a trust or other arrangement, for purposes of paying deferred compensation under a nonqualified deferred compensation plan of the employer, or

"(B) a nonqualified deferred compensation plan of the employer provides that assets will become restricted to the provision of benefits under the plan in connection with such at-risk status (or other similar financial measure determined by the Secretary) of the defined benefit plan, or assets are so restricted, such assets shall for purposes of section 83 be treated as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors.

"(b) CONFORMING AMENDMENTS.—Paragraphs (4) and (5) of section 409A(b) of such Code, as redesignated by subsection (a) of this section, are each amended by striking "paragraph (1) or (2)" each place it appears and inserting "paragraph (1), (2), or (3)".

"(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2006.

TITLE II—FUNDING RULES FOR MULTIEmployER DEFINED BENEFIT PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

SEC. 201. FUNDING RULES FOR MULTIEmployER DEFINED BENEFIT PLANS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by section 103 of this Act) is amended further by inserting after section 302 the following new section:

"MINIMUM FUNDING STANDARDS FOR MULTIEmployER PLANS

"SEC. 303. (a) IN GENERAL.—For purposes of section 302, the accumulated funding deficiency of a multiemployer plan for any plan year is—
(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account for all plan years beginning after the first plan year for which this part applies to the plan over the total credits to such account for such years, and

(2) if the multiemployer plan is not in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4235.

(3) FUNDING STANDARD ACCOUNT.—(1) REQUIRED.—Each multiemployer plan to which this part applies shall establish and maintain a funding standard account. Such account shall be credited and charged in accordance with this section.

(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

(A) the normal cost of the plan for the plan year,

(B) the amounts necessary to amortize in equal annual installments (until fully amortized) over a period of 15 plan years,

(i) in the case of a plan in existence on January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 40 plan years,

(ii) in the case of a plan which comes into existence after January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 15 plan years,

(iii) separately, with respect to each plan year, the net increase (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

(iv) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

(v) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 302(c)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 302(b)(3)(D) (as in effect on the day before the date of the enactment of this section), and

(E) the amount necessary to amortize in equal annual installments (until fully amortized) over any period beginning with a plan year, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

(4) SPECIAL RULE FOR AMOUNTS FIRST AMORTIZED TO PLAN YEARS BEFORE 2006.—In the case of any amount amortized under section 302(b) (as in effect before the date of the enactment of Pension Protection Act of 2005) over any period beginning with a plan year beginning before 2006, in lieu of the amortization prescribed by paragraph (2), (3)(B) and (6)(B), such amount shall continue to be amortized under such section as so in effect.

(5) COMBINING AND OFFSETTING AMOUNTS TO REIMBURSEMENT ACCOUNTS.—(A) each amount described in paragraph (2)(B)(i), (2)(B)(ii), or (3)(B)(i) of this subsection, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 15 plan years,

(i) was adopted before such date, and

(ii) was effective for a participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

(6) INTEREST.—The funding standard account shall be credited with interest at the rate prescribed by the Secretary of the Treasury on all amounts in such account.

(7) CERTAIN AMORTIZATION CHARGES AND CREDITS.—In the case of a plan which, immediately before the effective date of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 302(c)(3)) for the plan year beginning before such date, and was in reorganization before the effective date of section 302(c)(3) for the plan year beginning after such date, any amounts described in paragraph (3)(A) of this section which arose in a plan year beginning before such date and were in reorganization before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

(A) any amount described in paragraph (2)(B)(i), (2)(B)(ii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date and was in reorganization before such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date and was in reorganization before such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose;

(C) any change in past service liability which arises during the period of any plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises and

(D) any change in past service liability which arises beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which—

(i) was adopted before such date, and

(ii) was effective for a participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

(8) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this part—

(A) Withdrawal liability.—Any amount received by a multiemployer plan in payment of withdrawal liability under title I of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan’s funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

(B) Adjustments when a multiemployer plan is not in reorganization or liquidation.—If a multiemployer plan is not in reorganization or liquidation, any adjustment to the funding standard account of a multiemployer plan shall be offset against amounts in the funding standard account of any other multiemployer plan.

(9) EXEMPTIONS.—In the case of any plan which, imme-

(10) FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 302(b)(7)(F) for a portion of the net experience loss provided for in section 4223 of this Act shall not apply to the amount so charged. The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) as of the end of the plan year that the plan was in reorganization.

(11) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of this Act or a fund exempt under section 1986 pursuant to section 4223 of this Act shall reduce the amount of contributions considered received by the plan for the plan year.

(12) CRISIS EXEMPTION.—Any amount paid by an employer under a final determination of the employer’s withdrawal liability under part I of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary of the Treasury.

(13) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 302(b)(7)(F) for a portion of the net experience loss provided for in section 4223 of this Act shall not apply to the amount so charged. The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) as of the end of the plan year that the plan was in reorganization.

(14) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this part in determining the funding standard account of such plan.
Notwithstanding clause (iv)—

(1) I N GENERAL.—In the case of plan years beginning before December 31, 1995, mortality tables to be used by insurance companies to satisfy the requirements of this section, unless otherwise prescribed by the Secretary, shall be based upon standard tables (described in section 807(d)(3) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on January 1, 1993.

(II) SECRETARIAL AUTHORITY.—The Secretary shall periodically (at least once every 5 years) review any tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary, annually update the tables to reflect the actual experience of pension plans and projected trends in such experience.

(V) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

(1) In general.—In the case of plan years beginning after December 31, 1995, the Secretary of the Treasury shall establish separate mortality tables which may be used (in lieu of the tables under subsection (b)(3)) to determine current liability under this section for purposes of this paragraph, if the Secretary determines that the use of such tables would be actuarially adjusted to reflect significant differences in participants.
“(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the assets of the plan are not less than 125 percent of the plan’s current liability (as defined in paragraph (ii)(iv) without regard to clause (i)(iv) thereof).

“(b) RETAIN CONTRIBUTIONS DERIVED FROM.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, in a multiemployer plan, may not be treated as contributions for a plan year if they are contributions for a plan year made by a person to whom notice was given under section 302(c) or an extension of time under subsection (d) in effect with respect to the plan, or if a plan amendment described in section 302(d)(2) has been made at any time in the preceding 24 months. If a plan is amended in violation of the preceding sentence, any such waiver or extension of time shall not apply to any plan year ending on or after the date on which such amendment is adopted.

“(c) EXCEPTION.—Paragraph (1) shall not apply to any plan amendment which—

“(A) the Secretary determines to be reasonable and which provides for only de minimis reductions in liabilities of the plan,

“(B) only repeals an amendment described in section 302(d)(2), or

“(C) is required as a condition of qualification under subchapter III of chapter 1, of the Internal Revenue Code of 1986.”

“(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEmployER PLANS.—In the case of a multiemployer plan—

“(1) AUTOMATIC EXTENSION.—The Secretary of the Treasury shall, upon application and subject to the requirements of paragraph (4), extend the period of years required to amortize any unfunded liability (described in any clause of subsection (b)(2)(B) of the plan for a period of time not in excess of 5 years.

“(2) EXTENSION FOR CAUSE.—The period of years required, any unfunded liability (described in any clause of subsection (b)(2)(B) of any multiemployer plan may be extended (in addition to any extension under paragraph (1)) by the Secretary of the Treasury for a period of time (not in excess of 5 years) if he determines that such extension will carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries and if he determines that the failure to permit such extension would—

“(A) result in—

“(i) a substantial risk to the voluntary continuation of the plan, or

“(ii) a substantial curtailment of pension benefit levels or employee compensation, and

“(B) be adverse to the interests of plan participants in that aggregate.

“(4) REQUIRED NOTICE.—(A) A notice of a proposed extension shall be given by the plan sponsor to the Secretary of the Treasury, the Pension Benefit Guaranty Corporation, and the plan participants. The notice shall certify to the Secretary of the Treasury whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year.

“(B) DETERMINATIONS OF FUTURE CONTRIBUTIONS FOR MULTIEmployER PLANS IN ENDANGERED OR CRITICAL STATUS.


“(2) THE TABLES OF CONTENTS IN SECTION 1 OF THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (AS AMENDED BY THE PRECEDING PROVISIONS OF THIS ACT) ARE AMENDED FURTHER BY INSERTING AFTER THE ITEM RELATING TO SECTION 303 THE FOLLOWING NEW ITEM:

“Sec. 304. Minimum funding standards for multiemployer plans.

“Sec. 302. Annual certification by plan actuary.

“(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2005.

“(d) ADDITIONAL FUNDING RULES FOR MULTIEmployER PLANS IN ENDANGERED OR CRITICAL STATUS.

“(A) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this Act) is amended further by inserting after section 304 the following new section:

“AThADDITIONAL FUNDING RULES FOR MULTIEmployER PLANS IN ENDANGERED OR CRITICAL STATUS

“Sec. 302. Annual certification by plan actuary.

“(1) IN GENERAL.—During the 90-day period beginning on the first day of each plan year of a multiemployer plan, the plan actuary of the plan shall certify to the Secretary of the Treasury whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year.

“(A) BENCHMARKS.

“(B) FUNDING IMPROVEMENT PERIOD.

“(A) IN GENERAL.—In making the determinations under paragraph (1), the plan actuary shall—

“(A) calculate, for current and succeeding plan years, the funding improvement plan for the plan, as described in section 302(c)(3)(B) of the Employee Retirement Income Security Act of 1974, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 304(d).

“(B) FUNDING IMPROVEMENT PLAN.

“(A) BENCHMARKS.—A funding improvement plan shall consist of amendments to the plan to provide, under reasonable actuarial assumptions, for the attainment, during the funding improvement period under the funding improvement plan, of the following benchmarks:

“(A) REDUCTION IN UNFunded CURRENT LIABILITY.—A percentage decrease in the plan’s accumulated current liability from the amount for the first plan year of the funding improvement period to the amount for the last plan year of the funding improvement period of at least 33 percent.

“(B) AVOIDANCE OF ACCUMULATED FUNDING DEFICIENCIES.—No accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 304(d).

“(B) FUNDING IMPROVEMENT PERIOD.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the earlier of—

“(1) the second anniversary of the date of the adoption of the funding improvement plan,

“(2) the first day of the first plan year of the multiemployer plan following the plan year in which occurs the first date after the day of the certification as of which collective bargaining agreements covering less than 75 percent of active participants in such multiemployer plan have expired.
(C) REPORTING.—A summary of any fund-

improvement plan or modification there-
	o adopted during any plan year shall be in-

cluded in the annual report for such plan year

described in section 104(a)(1) and in the annu-

al report annual report described in section

(4) DEVELOPMENT OF FUNDING IMPROVE-

MENT PLAN.—

(A) ACTIONS BY PLAN SPONSOR PENDING AP-

PROVAL.—Pending the approval of a funding

improvement plan under this paragraph, the

plan sponsor shall take all reasonable ac-

tions, consistent with the terms of the plan

and applicable law, necessary to secure—

(i) an increase in the plan’s funded per-

centage,

(ii) postponement of an accumulated

funding deficiency for at least 1 additional

plan year.

Such actions include applications for exten-
sions of amortization periods under section
304(d), use of the shortfall funding method in
making funding standard account computa-
tions, amendments to the plan’s benefit
structure, reductions in future benefit accru-
al, and other reasonable actions consistent
with the terms of the plan and applicable law.

(B) RECOMMENDATIONS BY PLAN SPONSOR.—

(I) IN GENERAL.—During the period of 90
days following the date on which a multiem-

ployer plan is certified to be in an endangered
status, the plan sponsor shall develop and

provide to the bargaining parties alternative
proposals for revised benefit structures, con-

tribution structures, or both, which, if
adopted as amendments to the plan, may be
reasonably expected to meet the benchmarks
described in paragraph (3)(A). Such proposals
shall—

(I) at least one proposal for reductions
in the amount of future benefit accruals nec-

essary to achieve the benchmarks, assuming
no additional contributions reduced under the
plan (other than amendments in-
creasing contributions necessary to achieve
the benchmarks after amendments have re-
duced future benefit accruals to the max-
imum extent permitted by law), and

(ii) at least one proposal for increases in

contributions under the plan necessary to
achieve the benchmarks, assuming
amendments reducing future benefit accruals
under the plan.

(ii) REQUESTS BY BARGAINING PARTIES.—

Upon the request of any bargaining party
who—

(I) employs at least 5 percent of the ac-
tive participants,

or

(ii) is not already as an employee organiza-
tion, for purposes of collective bargaining, at
least 5 percent of the active participants,

the plan sponsor shall provide all such par-
ties information as to other combinations of
increases in contributions and reductions in
future benefit accruals which would result in
achieving the benchmarks.

(5) MAINTENANCE OF CONTRIBUTIONS PEND-

ING APPROVAL OF FUNDING IMPROVEMENT

PLAN.—Pending approval of a funding im-

provement plan by the bargaining parties

with respect to a multiemployer plan, the

multiemployer plan may not be amended as
so to provide—

(A) a reduction in the level of contribu-
tions for participants who are not in pay sta-
tus,

or

(B) a suspension of contributions with re-
spect to any period of service, or

(C) any new direct or indirect exclusion of
younger or newly hired employees from plan
participation.

(6) BENEFIT RESTRICTIONS PENDING AP-

PROVAL OF FUNDING IMPROVEMENT PLAN.

Pending approval of a funding improvement
plan by the bargaining parties with respect to
a multiemployer plan—

(A) RESTRUCTURING LUMP SUM DISTRIBUT-

IONS AND SIMILAR DISTRIBUTIONS.—The mul-

tiemployer plan may not be amended so as to
provide additional forms of benefits.

(B) PROHIBITION ON INCREASES.—

(i) IN GENERAL.—No amendment of the
plan which increases the liabilities of the
plan by reason of any increase in benefits,
any change in the benefit formula, or an
increase in the rate at which benefits become
nonforfeitable under the plan may be adopt-

ed.

(ii) EXCEPTION.—Clause (i) shall not apply
to any plan amendment which—

(I) the Secretary of the Treasury deter-

mines to be reasonable and which provides
for only de minimis increases in the liabil-
ities of the plan.

(ii) only repeals an amendment described
in section 302(d)(2), or

(iii) is required as a condition of quali-

fication under part I of subchapter D of chap-
ter 1 of subtitle A of the Internal Revenue

(7) DEFAULT CRITICAL STATUS IF NO FUND-

ING IMPROVEMENT PLAN ADOPTED.—If no plan

amendment adopting a funding improvement
plan has been adopted by the end of the 210-

day period referred to in subsection (a)(1),
the plan shall be in critical status as of the
first day of the succeeding plan year.

(8) RESTRICTIONS UPON ADOPTION OF FUND-

ING IMPROVEMENT PLAN.—Upon adoption of
a funding improvement plan with respect to a

multiemployer plan, the plan may not be

amended as to provide—

(A) so as to be inconsistent with the fund-
improvement plan, or

(B) so as to increase future benefit accru-
al, unless the plan actuary certifies in ad-

vance that, after taking into account the
proposed increase, the plan is reasonably ex-
pected to meet the benchmarks described
in paragraph (3)(A).

(C) PROHIBITION RULES FOR MULTIEmployER

PLANS IN CRITICAL STATUS.—

(I) IN GENERAL.—In any case in which a
multiemployer plan is in critical status for a
plan year, the plan sponsor shall, in accord-
ance with this subsection, amend the plan to
include a rehabilitation plan under this sub-
section. The amendment shall be adopted not
later than 240 days after the date on which
the plan is certified to be in critical status
under subsection (a)(1) or is presumed to be
in critical status under subsection (a)(2), or
the first day of the plan year in the case of
a plan that is deemed to be in critical status
under subsection (b)(3).

(II) CRITICAL STATUS.—A multiemployer
plan is in critical status for a plan year if—

(A) the plan is in endangered status for
the plan year and the requirements of sub-
section (b)(3) are not met with respect to the
plan for such plan year,

or

(B) as determined by the plan actuary
under subsection (a), the plan is described in
paragraph (3).

Any multiemployer plan which is in critical
status under subparagraph (A) or (B) for a plan
year shall be treated as in critical status
also for the succeeding plan year.

(9) CRITICAL INCENTIVES.—For pur-

poses of paragraph (2)(B), a plan is described in
this paragraph if the plan is described in at
least one of the following subparagraphs:

(A) the plan is described in subpara-

graph if, as of the beginning of the current
plan year—

(i) the funded percentage of the plan is
less than 65 percent, and

(ii) the sum of—

(I) the market value of plan assets, plus

the present value of any reasonably
anticipated employer and employee con-

tributions for the current plan year and each of
the 6 succeeding plan years, assuming that
the plan is maintained for the current plan
year in effect for succeeding plan years,

is less than the present value of all non-
forfeitable benefits for all participants and

beneficiaries projected to be payable under
the plan during the current plan year and

each of the 6 succeeding plan years (plus ad-
miscipulative expenses for such plan years),

(B) a plan is described in this subpara-

graph if, as of the beginning of the current
plan year, the sum of—

(i) the market value of plan assets, plus

(ii) the present value of the reasonably
anticipated employer and employee con-

tributions for the current plan year and each of
the 4 succeeding plan years, assuming that
the plan is maintained for the current plan
year and each of the 4 succeeding plan years

(plus administrative expenses for such plan years)

(C) A plan is described in this subpara-

graph if—

(i) as of the beginning of the current
plan year, the funded percentage of the plan
is less than 65 percent, and

(ii) the plan has an accumulated fund-

deficiency for the current plan year or is pro-

jected to have an accumulated funding de-

ficiency for any of the 4 succeeding plan years,

taking into account any extension of amorti-

zation periods under section 304(e).

(D) A plan is described in this subpara-

graph if—

(i) the plan’s normal cost for the cur-

rent plan year, plus interest (determined at the
time the plan was certified for the current
plan year) plus administrative expenses for the
plan) for the current plan year on the
amount of unfunded benefit liabilities under
the plan as of the last date of the preceding
plan year, or

(ii) the present value, as of the beginning
of the current plan year, of nonforfeitable
benefits of inactive participants is greater than
the present value, as of the beginning of
the current plan year, of nonforfeitable ben-

efits of active participants, and

(iii) the plan is projected to have an accu-
mulated funding deficiency for the current
plan year or any of the 4 succeeding
plan years.

(E) A plan is described in this subpara-

graph if—

(i) the funded percentage of the plan is

greater than 65 percent for the current

plan year, and

(ii) the plan is projected to have an accu-
mulated funding deficiency during either of
the following 3 plan years.

(4) REHABILITATION PLAN.—

In general the rehabilitation plan shall consist of—

(i) amendments to the plan providing

(under reasonable actuarial assumptions) for

measures, agreed to by the bargaining par-

ticipants, to increase contributions, reduce plan

expenditures (including plan mergers and
A summary of any rehabilitation plan or modification thereto adopted during any plan year, together with annual updates regarding the funding ratio of the plan, shall be included in the annual report for such plan year under section 104(a) and in the summary annual report described in section 104(b)(3).

(b) Development of rehabilitation plan.—

(A) Proposals by plan sponsor.—

(i) In general.—Within 90 days after the date of adoption under subsection (a) that the plan is in critical status (or the date as of which the requirements of subsection (b)(1) are not met with respect to the plan), the plan sponsor shall propose to the bargaining parties a range of alternative schedules of increases in contributions and reductions in future benefit accruals that would serve to carry out a rehabilitation plan under this subsection.

(ii) Proposal assuming no contribution increases.—Such proposals shall include, as one of the schedules, a schedule of those reductions in future benefit accruals that would be necessary to cause the plan to cease to be in critical status if there were no further increases in rates of contribution to the plan.

(iii) Proposal where contributions are necessary.—If the plan sponsor determines that the plan is in critical status during the rehabilitation period unless the plan is amended to provide for an increase in contributions, the plan sponsor’s proposals shall include a schedule of those increases in contribution rates that would be necessary to cause the plan to cease to be in critical status if future benefit accruals were reduced to the maximum extent permitted by law and the rate of future benefit accruals did not exceed 1 percent per plan year.

(B) For additional schedules.—Upon the joint request of all bargaining parties, each of whom—

(i) employs at least 5 percent of the active participants; or

(ii) represents as an employee organization, for purposes of collective bargaining, at least 5 percent of the active participants, the plan sponsor shall include among the proposals schedules such schedules of increases in contributions and reductions in future benefit accruals as may be specified by the bargaining parties.

(C) Failure to propose additional schedules.—In any case in which the bargaining parties, as of 240 days after the later of the date of the certification under subsection (a) or the first day the plan is in critical status under subsection (a)(3) or (b)(7), have not agreed to at least one of the proposed schedules, the plan sponsor shall amend the plan to implement the schedule required by subparagraph (A)(ii).

(D) Subsequent amendments.—Upon the adoption of a schedule of increases in contributions or reductions in future benefit accruals as part of the rehabilitation plan, the plan sponsor may amend the plan thereafter to update the schedule to adjust for any experience of the plan contrary to past actuarial assumptions, except that such an amendment may be made not more than once in any 3-year period.

(E) Allocation of reductions in future benefit accruals.—Any schedule containing reductions in future benefit accruals forming a part of a rehabilitation plan shall be applicable with respect to any group of active participants who are employed by any bargaining party (as an employer obligated to contribute under the plan to make contributions or reductions in future benefit accruals that would serve to carry out a rehabilitation plan under this subsection.

(F) Maintenance of contributions and restrictions on benefits pending adoption of rehabilitation plan.—The rules of paragraphs (5) and (6) of subsection (b) shall apply for purposes of section 4205 if the plan is in critical status.

(G) Deemed withdrawal.—Upon the failure of any employer who has an obligation to contribute under the plan to make contributions in compliance with the schedule adopted under paragraph (6) as part of the rehabilitation plan, the failure of the employer may, at the discretion of the plan sponsor, be treated as a withdrawal by the employer from the plan under section 4205 if the partial withdrawal by the employer under section 4205.

(i) Definitions.—For purposes of this section—

(1) Bargaining party.—The term ‘bargaining party’ means, in connection with a multiemployer plan, a participant whose plan will not be insolvent in any of the next 5 plan years, the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.

(2) Active participant.—The term ‘active participant’ has the meaning provided such term in section 4205.

(3) Inactive participant.—The term ‘inactive participant’ has the meaning provided such term in section 4205.

(4) Obligation to contribute.—The term ‘obligation to contribute’ has the meaning provided such term under section 4202(a).

(b) Conforming amendment.—The table of contents in the Act (as amended by the preceding provisions of this Act) is amended further by inserting after the item relating to section 304 the following new item:

‘‘Sec. 305. Additional funding rules for multiemployer plans in endangered status or critical status.’’

(c) Effective date.—The amendment made by this section shall apply with respect to plan years beginning after 2005.

SEC. 303. Measures to forestall insolvency of multiemployer plans.

(a) Advance determination of impairing insolvency over 5 years.—Section 4245(d)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1399(c)(1)) is amended by striking ‘‘3 plan years’’ and inserting ‘‘5 plan years’’;

(b) by adding at the end the following new sentence: ‘‘If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor may, at the discretion of the plan sponsor, be treated as a withdrawal by the employer from the plan under section 4205 if the partial withdrawal by the employer under section 4205.

(i) Definitions.—For purposes of this section—

(1) Bargaining party.—The term ‘bargaining party’ means, in connection with a multiemployer plan, a participant whose plan will not be insolvent in any of the next 5 plan years, the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.

(2) Active participant.—The term ‘active participant’ has the meaning provided such term in section 4205.

(3) Inactive participant.—The term ‘inactive participant’ has the meaning provided such term in section 4205.

(iii) bargaining party.—The term ‘bargaining party’ means, in connection with a multiemployer plan, a participant whose plan will not be insolvent in any of the next 5 plan years, the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.

(b) Effective date.—The amendments made by this section shall apply with respect to plan years beginning after 2005.

SEC. 204. Withdrawal liability reforms.

(a) repeal of limitation on withdrawal liability in the event of substantial sales of employer's assets to unrelated parties.—

(1) In general.—Section 4225 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1399(c)) is amended by striking ‘‘3 plan years’’ and inserting ‘‘5 plan years’’;

(2) by adding at the end the following new sentence: ‘‘If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor may, at the discretion of the plan sponsor, be treated as a withdrawal by the employer from the plan under section 4205 if the partial withdrawal by the employer under section 4205.

(i) Definitions.—For purposes of this section—

(1) Bargaining party.—The term ‘bargaining party’ means, in connection with a multiemployer plan, a participant whose plan will not be insolvent in any of the next 5 plan years, the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.

(2) Active participant.—The term ‘active participant’ has the meaning provided such term in section 4205.

(3) Inactive participant.—The term ‘inactive participant’ has the meaning provided such term in section 4205.

(c) Effective date.—The amendments made by this section shall apply with respect to plan years beginning after 2005.

SEC. 205. Partial withdrawals by means of outsourcing.—

(a) repeals of limitation on withdrawal liability in the event of substantial sales of employer's assets to unrelated parties.—

(1) In general.—Section 4225(c)(1) of such Act (29 U.S.C. 1399(c)(1)) is amended by striking subparagraph (B).

(b) Effective date.—The amendments made by this section shall apply with respect to withdrawals occurring on or after January 1, 2006.
Revenue Code of 1986 (added by section 112 of this Act) is amended by adding at the end the following new section:

**SEC. 431. MINIMUM FUNDING STANDARDS FOR MULTIELMPlORER PENSION PLANS.**

(a) IN GENERAL.—For purposes of section 412, the accumulated funding deficiency of a multiemployer plan for any plan year is—

(1) except as provided in paragraph (2), the amount, at the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this section applies) over the total credits to such account for such years, and

(2) if the multiemployer plan is reorganized, the accumulated funding deficiency of the plan determined under section 418B.

(b) FUNDING STANDARD ACCOUNT.—

(1) ACCOUNT REQUIRED.—Each multiemployer plan to which this part applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

(A) 70 percent of the normal cost of the plan for the plan year,

(B) the amounts necessary to amortize in equal annual installments (until fully amortized) over a period of 40 plan years, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(C) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 412(b)(3)(B) (as in effect on the date of the enactment of this section),

(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 15 plan years any amount credited to the funding standard account for such years, and

(F) any change in past service liability

(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years, and

(iii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

(iv) the amount of accumulated funding deficiency (within the meaning of section 412(c)(3) for the plan year, and

(v) the case of any amount amortized under section 412(b) (as in effect before the date of the enactment of the Pension Protection Act of 2005), in the case of any amount amortized under section 412(b) (as in effect before the date of the enactment of this Act) is amended by adding at the end the following new section:

**SEC. 211. FUNDING RULES FOR MULTIELMPlORER PENSION PLANS.**

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 shall be treated as a single employer under subsection (b), in the case of a plan which comes into existence after January 1, 1974 (29 U.S.C. 1401(f)(1)) is amended—

(A) by striking paragraph (1); and

(B) such determination is based in whole or in part on a finding by the plan sponsor under section 4212(c) that a principal purpose of any transaction which occurred at least 5 years (2 years in the case of a small employer) before the date of the complete or partial withdrawal was to evade or avoid withdrawal liability under this subparagraph.

(b) SMALL EMPLOYER.—(Paragraph (2) of section 4212(1) of such Act is amended by adding at the end the following new subparagraph—

"(C) for purposes of paragraphs (1)(B) and (1)(C), the term ‘small employer’ means any employer who is (as of the date immediately before the date of the complete or partial withdrawal) a small employer under subpart A of part III of the Internal Revenue Code of 1986,”

(c) CREDIT TO ACCOUNT.—For a plan year, the funding standard account shall be credited with the sum of—

(A) the amount considered contributed by the employer to or under the plan for the plan year,

(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(ii) separately, with respect to each plan year, the net gain (if any) under the plan, over a period of 15 plan years, and

(iii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

(C) the amount of accumulated funding deficiency (within the meaning of section 412(c)(3) for the plan year, and

(D) in the case of a plan year for which the accumulated funding deficiency is determined under the alternative minimum funding standard, such amount shall continue to be amortized under such plan year for which such deficiency was determined under the alternative minimum funding standard under section 412(b) (as in effect on the day before the date of the enactment of this section), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

(E) the funding standard account shall be credited with the sum of—

(A) in the case of a plan which comes into existence after January 1, 1974 (29 U.S.C. 1401(f)(1) is amended—

(b) REMOVAL OF RESTRICTIONS WITH RESPECT TO WORK PERFORMED ON OR AFTER JANUARY 1, 1999, AND AT LEAST 5 YEARS PRIOR TO SUCH DATE.

(2) by striking subparagraphs (B) and (C) of subsection (b) of section 4203 of such Act (29 U.S.C. 1383(d)) is repealed.

(2) EFFECTIVE DATE.—The repeal under this subsection shall apply with respect to work performed on or after January 1, 2006.

(e) APPLICATION OF FORGIVENESS RULE TO PLANS PRIMARILY COVERING EMPLOYEES IN THE BUILDING AND CONSTRUCTION INDUSTRY. —

SEC. 205. REMOVAL OF RESTRICTIONS WITH RESPECT TO PLANS PRIMARILY COVERING EMPLOYEES IN THE BUILDING AND CONSTRUCTION INDUSTRY.

(4) SPECIAL RULE FOR AMOUNTS FIRST AMORTIZED TO PLAN YEAR ENDING BEFORE 2006. —In the case of any amount amortized under section 412(b) (as in effect before the date of the enactment of the Pension Protection Act of 2005), in the case of any amount amortized under section 412(b) (as in effect before the date of the enactment of this Act) is amended by adding at the end the following new section:

**SEC. 201. FUNDING RULES FOR MULTIELMPlORER PENSION PLANS.**

(a) IN GENERAL.—Section 4212(f)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1401(f)(1)) is amended—

(1) in subparagraph (A) by inserting “and” after “in the case of a plan which comes into existence after January 1, 1974, the unfunded past service liability under the plan on the first day of the plan year to which this section applies, over a period of 40 plan years,”

(2) in the case of a plan which comes into existence after January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 15 plan years,

(3) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(4) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(5) separately, with respect to each plan year, for any change in past service liability

(i) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(ii) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(iii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years, and

(iv) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

(C) separately, with respect to each plan year, the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 15 plan years any amount credited to the funding standard account for such years,

(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account for such years,

(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 15 plan years any amount credited to the funding standard account for such years,

(F) any change in past service liability

(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(ii) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(iii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(iv) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years, and

(v) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

(C) any change in past service liability

(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(ii) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(iii) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

(iv) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,
date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises; and

"(D) a plan year past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one plan (or plan segment) to another plan (or plan segment) at a level under a schedule of plan benefits which—

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date, shall be amortized in equal annual installments (until fully amortized) over 30 plan years, beginning with the plan year in which the change arises.

"(E) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this paragraph—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer’s withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan, which may be added to the plan’s funding standard account to the extent necessary to prevent withdrawal liability from being reflected as advance funding for plan liabilities.

"(B) ADJUSTMENTS WHEN A MULTIEmployER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the plan’s funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting charge or credit (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) as of the end of the last plan year that the plan was in reorganization.

"(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT ACCOUNT.—Any amount paid by a plan administrator to or under one plan year to the Pension Benefit Guaranty Corporation pursuant to section 4223 of the Employee Retirement Income Security Act of 1974 or to a funding exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer’s withdrawal liability under section 418B(b)(7) as (in effect on the day before the date of the enactment of this section) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(iv) shall not apply to such amount so charged).

"(E) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 412 in such manner as is determined by the Secretary.

"(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of amounts which are payable under the plan during a period that does not exceed 14 years, paragraph (2)(B)(iii) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for ‘‘15’’.

"(C) ADDITIONAL RULES.—

"(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

"(2) VALUATION OF ASSETS.—

"(A) IN GENERAL.—For purposes of this part, the value of the plan’s assets shall be determined on the basis of any reasonable actuarial methods which take into account fair market value and which is permitted under regulations prescribed by the Secretary.

"(B) ELECTION WITH RESPECT TO BONDS.—Any election under this subparagraph shall be made at such time and in such manner as the Secretary shall by regulations provide, which takes into account fair market value and which is permitted under regulations prescribed by the Secretary.

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods.

"(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under accrued liability law or

"(B) a change in the definition of the term ‘wages’ under section 3121, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5), results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

"(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation determined under subparagraph (A), any amount credited to the plan’s funding standard account shall be determined under the funding method used to determine costs under the plan.

"(G) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(i) the fair market value of the plan’s assets determined under paragraph (2), or

"(ii) the value of such assets determined under subparagraph (A) less than the excess (if any) of

"(1) the 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(2) the value of the plan’s assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) CURRENT LIABILITY.—For purposes of this paragraph—

"(1) IN GENERAL.—The current liability of the plan shall (for purposes of this paragraph) be the current liability under a plan, such increase or decrease in accrued liability due to benefits accruing during the plan year, over

"(2) the value of the plan’s assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) CURRENT LIABILITY.—For purposes of this paragraph—

"(1) IN GENERAL.—The current liability of the plan shall (for purposes of this paragraph) be the current liability under a plan, such increase or decrease in accrued liability due to benefits accruing during the plan year, over

"(2) the value of the plan’s assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) CURRENT LIABILITY.—For purposes of this paragraph—

"(1) IN GENERAL.—The current liability of the plan shall (for purposes of this paragraph) be the current liability under a plan, such increase or decrease in accrued liability due to benefits accruing during the plan year, over

"(2) the value of the plan’s assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) CURRENT LIABILITY.—For purposes of this paragraph—

"(1) IN GENERAL.—The current liability of the plan shall (for purposes of this paragraph) be the current liability under a plan, such increase or decrease in accrued liability due to benefits accruing during the plan year, over

"(2) the value of the plan’s assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) CURRENT LIABILITY.—For purposes of this paragraph—

"(1) IN GENERAL.—The current liability of the plan shall (for purposes of this paragraph) be the current liability under a plan, such increase or decrease in accrued liability due to benefits accruing during the plan year, over

"(2) the value of the plan’s assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) CURRENT LIABILITY.—For purposes of this paragraph—

"(1) IN GENERAL.—The current liability of the plan shall (for purposes of this paragraph) be the current liability under a plan, such increase or decrease in accrued liability due to benefits accruing during the plan year, over

"(2) the value of the plan’s assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) CURRENT LIABILITY.—For purposes of this paragraph—

"(1) IN GENERAL.—The current liability of the plan shall (for purposes of this paragraph) be the current liability under a plan, such increase or decrease in accrued liability due to benefits accruing during the plan year, over

"(2) the value of the plan’s assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.
(B) **APPROPRIATIONS.** —

(ii) The authorization for appropriations provided for in section 431(b)(3) of the Act, or in any amendment made to such section by section 411(b)(2)(B) of such Code, for the fiscal year ending on or after the first day of the period to which the valuation referred to in subparagraph (A) relates.

(2) **CONFORMING AMENDMENTS.** —

(i) **DURATION.** —

(A) **IN GENERAL.** —

The amendment made by subsection (a) of this section shall take effect on the date of such enactment.

(B) **APPLICATION TO MULTIEmployER PLANS.** —

The amendment made by subsection (a) of this section shall apply to multiemployer plans in the same manner as the amendments made by section 431(c) of the Act apply to single-employer plans.

(C) **INTERPRETATION.** —

The amendments made by subsection (a) of this section shall be interpreted consistent with the amendment made by section 431(c) of the Act.

**SEC. 432. ADDITIONAL FUNDING RULERS FOR MULTIEmployER PLANS IN ENDANGERED OR CRITICAL STATUS.**

(a) **IN GENERAL.** —

Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting in such subpart, after section 431, the following new section:

"SEC. 432. ADDITIONAL FUNDING RULERS FOR MULTIEmployER PLANS IN ENDANGERED OR CRITICAL STATUS.

"(a) **ANNUAL CERTIFICATION BY PLAN ACTUARY.** —

"(1) **IN GENERAL.** —

During the 90-day period beginning on the first day of each plan year of a multiemployer plan, the plan actuary of the plan shall certify to the Secretary that the plan is not an endangered plan for such plan year.

"(2) **Determination by Actuary.** —

The determination required by paragraph (1) shall be made by the actuary of the plan in accordance with regulations prescribed by the Secretary.

(b) **Determination of Status.** —

For purposes of this section, a plan shall be considered an endangered plan if the plan (1) has not been operated for the 24-month period ending on the day before the beginning of such plan year, (2) has not been in existence for at least 5 years, (3) has not been in good financial condition for at least 5 years, and (4) has not been in endangered status for any of the 5 years described in subparagraphs (1) through (3).

(c) **Conforming Amendments.** —

The amendments made by this section shall be applied as though they had been in effect for the period beginning on the first day of the plan year described in paragraph (1) of this section.
succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

(ii) employer and employee contributions projected for the current and succeeding plan years, taking into account any collective bargaining agreements (assuming the continued application of such terms indefinitely to such plan years), but only if the plan actuary determines that such collective bargaining agreements covering on the day of such certification at least 75 percent of active participants in such multiemployer plan have expired.

(c) Reporting.—A summary of any funding improvement plan or modification thereof that is adopted during calendar year 1974 and in the summary annual report described in section 106(b)(3) of such Act.

(d) Development of Funding Improvement Plan.—(A) Actions by Plan Sponsor Pending Approval.—Pending the approval of a funding improvement plan under this paragraph, the plan sponsor shall take all reasonable actions, consistent with the terms of the plan and applicable law, necessary to achieve—

(i) an increase in the plan’s funded percentage, and

(ii) postpayment of an accumulated funding deficiency for at least 1 additional plan year.

Such actions include applications for extensions of amortization periods under section 431(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan’s benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

(B) Recommendations by Plan Sponsor.—(1) In General.—During the period of 90 days following the date on which a multiemployer plan is certified to be in endangered status, the plan sponsor shall develop and provide to the bargaining parties alternative proposals for revised benefit structures, contribution structures, or both, which, if adopted as amendments to the plan, may be reasonably expected to achieve the benchmarks described in paragraph (3)(A). Such proposals shall include—

(i) at least one proposal for reductions in the amount of future benefit accruals necessary to achieve the benchmarks, assuming no amendments increasing contributions under the plan (other than amendments increasing contributions to the extent necessary to achieve the benchmarks after amendments have reduced future benefit accruals to the maximum extent permitted by law), and

(ii) at least one proposal for increases in contributions under the plan necessary to achieve the benchmarks, assuming no amendments reducing future benefit accruals under the plan.

(2) Requests by Bargaining Parties.—Upon the request of any bargaining party who—

(i) employs at least 5 percent of the active participants, or

(ii) represents as an employee organization, for purposes of collective bargaining, at least 5 percent of the active participants, the plan sponsor shall provide all such parties information as to other combinations of increases in contributions and reductions in future benefit accruals which would result in achieving the benchmarks.

(3) Other Information.—The plan sponsor may, as it deems appropriate, prepare and provide to the bargaining parties with additional information relating to contribution structures or benefit structures or other information relevant to the funding improvement plan.

(e) Maintenance of Contributions Pending Approval of Funding Improvement Plan.—Funding improvement plan by the bargaining parties with respect to a multiemployer plan, the multiemployer plan may not be amended so as to—

(A) a reduction in the level of contributions for participants who are not in pay status,

(B) a suspension of contributions with respect to any period of service, or

(C) any new direct or indirect exclusion of newly hired employees from plan participation.

(f) Benefit Restrictions Pending Approval of Funding Improvement Plan.—Funding improvement plan by the bargaining parties with respect to a multiemployer plan—

(A) Restrictions on Lump Sum Distributions and Similar Distributions.—The multiemployer plan may not be amended so as to provide additional forms of benefits.

(B) Prohibition on Benefit Increases.—(i) In General.—Any amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrued or nonforfeitable benefit under the plan may be adopted.

(ii) Exception.—Clause (i) shall not apply to any amendment which—

(1) the Secretary determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan.

(II) only repeals an amendment described in section 430(d)(2), or

(III) is required as a condition of qualification under part I of subchapter D of chapter 1 of title A.

(7) Default Critical Status if No Funding Improvement Plan Adopted.—If no plan amendment adopting a funding improvement plan has been adopted by the end of the 240-day period referred to in subsection (a)(1), the plan shall be in critical status as of the first day of the succeeding plan year.

(8) Restrictions Upon Approval of Funding Improvement Plan.—Upon adoption of a funding improvement plan with respect to a multiemployer plan, the plan may not be amended—

(A) so as to be inconsistent with the funding improvement plan, or

(B) to increase future benefit accruals, unless the plan actuary certifies in advance that, taking into account the proposed increase, the plan is reasonably expected to meet the requirements described in paragraph (3)(A).

(c) Funding Rules for Multiemployer Plans in Critical Status.—(1) In General.—In any case in which a multiemployer plan is in critical status for a plan year, the plan sponsor shall, in accordance with this subsection, amend the plan to achieve the benchmarks described in paragraph (3)(A).

(ii) as determined by the plan actuary

(B) as determined by the plan actuary

(II) as determined by the plan actuary

(1) the plan is in endangered status for a plan year under paragraph (1), is presumed to be in critical status for such plan year until such time as the actuary makes a contrary certification.

(4) Notice.—In any case in which a multiemployer plan is certified to be in endangered or critical status for a plan year under paragraph (1), is presumed to be in critical status under subsection (b)(7), the plan sponsor shall, not later than 30 days after the date of the certification, presumption, or deeming, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary of Labor.

(b) Funding Rules for Multiemployer Plans in Endangered Status.—(1) In General.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor shall, in accordance with this subsection, amend the plan to achieve the benchmarks described in paragraph (3)(A). Such proposals shall include—

(i) a reduction in unfunded current liability.

(ii) avoidance of accumulated funding deficiencies.

(iii) funding improvement period.

(2) Endangered Status.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary

(A) the plan’s funded percentage for such plan year is less than 80 percent, or

(B) the accumulated funded deficiency for such plan year under section 431 is to project such an accumulated funding deficiency for any of the 6 succeeding plan years taking into account any extension of amortization periods under section 431(d).

(3) Funding Improvement Plan.—(A) Benchmarks.—The funding improvement plan shall consist of amendments to the plan formulated to provide, under reasonable actuarial assumptions, for the attainment of the benchmarks agreed to by the parties during the funding improvement period under the funding improvement plan, of the following benchmarks:

(i) Reduction in Unfunded Current Liability.—A percentage decrease in the plan’s unfunded current liability from the amount for the first plan year of the funding improvement period to the amount for the last plan year of the funding improvement period, of at least 33 percent.

(ii) Avoidance of Accumulated Funding Deficiencies.—No accumulated funding deficiency shall exist during the funding improvement period (taking into account any extension of amortization periods under section 431(d)).

(iii) Funding Improvement Period.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the earlier of—

(i) the second anniversary of the date of the adoption of the funding improvement plan, or

(ii) the first day of the first plan year of the multiemployer plan following the plan year in which occurs the first date after the first day of the plan year in which the plan has been no significant demographic changes that would make continued application of such terms unreasonable.

(C) Presumed Status in Absence of Timely Actuarial Certification.—If certification under this subsection is not made before the end of the 90-day period specified in paragraph (1), the plan shall be presumed to be in critical status for such plan year until such time as the actuary makes a contrary certification.

(4) Notice.—In any case in which a multiemployer plan is certified to be in endangered or critical status for a plan year under paragraph (1), is presumed to be in critical status under subsection (b)(7), the plan sponsor shall, not later than 30 days after the date of the certification, presumption, or deeming, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary of Labor.
Any multiemployer plan which is in critical status under subparagraph (A) or (B) for a plan year shall be treated as in critical status for the succeeding plan year.

(2) REHABILITATION PLAN.

(A) IN GENERAL.—A rehabilitation plan shall consist of—

(i) amendments to the plan providing (under reasonable actuarial assumptions) for measures that may include reducing employer and employee contributions, to increase contributions, reduce plan expenditures (including plan mergers and consolidations), or reduce future benefit accruals as part of the rehabilitation plan, and

(ii) measures, agreed to by the bargaining parties, to provide funding relief, or

(iii) reasonable measures to forestall possible involvements (within the meaning of section 412(e) if the plan sponsor determines that, upon exhaustion of all reasonable measures, the plan would not cease during the rehabilitation period to be in critical status.

(B) REHABILITATION PERIOD.—The rehabilitation period for any rehabilitation plan adopted pursuant to subsection (a) is the 10-year period beginning on the earlier of—

(i) the first day of the plan year during which the plan has expired; or

(ii) the first day of the plan year following a date on which the plan sponsor proposes to reduce contributions or to reduce future benefit accruals under such schedule.

(C) REPORTING.—A summary of any rehabilitation plan or modification thereto adopted during any plan year, together with any annual updates regarding the funding ratio of the plan, shall be included in the annual report for such plan year under section 404(a) and in the summary annual report described in section 404(b)(3) of the Employee Retirement and Income Security Act of 1974.

(5) DEVELOPMENT OF REHABILITATION PLAN.

(A) PROPOSAL BY PLAN SPONSOR.—

(i) IN GENERAL.—Within 90 days after the date of the certification under subsection (a) that the plan is in critical status (or the date of withdrawal from the plan under subsection (b)(1) or the first day under subsection (b)(2) of the employee contributions required by law and the rate of future benefit accruals as part of the rehabilitation plan, the plan sponsor may amend the plan to implement the schedule required by subparagraph (A) for funding improvement plan.

(ii) MEASURES AGreed TO BY THE BARGAINING PARTIES.—Upon the failure of the employer who has an obligation to contribute under the plan to make contributions in compliance with the schedule adopted under paragraph (6) of the Rehabilitation Act, the plan sponsor may amend the plan to implement the schedule required by subparagraph (A) for funding improvement plan.

(B) CURRENT LIABILITY.—The term ‘current liability’ has the meaning provided such term in section 431(c)(6)(C).

(C) UNFUNDED CURRENT LIABILITY.—The term ‘unfunded current liability’ means the excess of—

(A) the current liability of the plan, over—

(B) the value of the plan’s assets determined under section 431(c)(2).

(D) FIXED Percentage.—The term ‘fixed percentage’ means the percentage expressed as a ratio of which—

(A) the numerator of which is the value of the plan’s assets, as determined under section 431(c)(2), and

(B) the denominator of which is the accrued liability of the plan.

(E) UNFUNDED VESTED BENEFITS.—The term ‘unfunded vested benefits’ has the meaning provided in section 418(b)(7).
December 15, 2005

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H11703

"6) ACCUMULATED FUNDING DEFICIENCY.—The term "accumulated funding deficiency" has the meaning provided such term in section 431(a).

"7) ACTIVE PARTICIPANT.—The term "active participant" means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

"8) DECEASED PARTICIPANT.—The term "deceased participant" means the mortality table specified for the plan year beginning after December 31, 1990, and before January 1, 2008, an amount equal to the sum of $1.00 in any other case.

"9) PAY STATUS.—A person is in "pay status" under a multiemployer plan if—

(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan or a death benefit under the plan related to a retirement benefit, or

(B) to the extent provided in regulations of the Secretary, such person is entitled to a benefit under the plan.

"10) SEGMENT RATES.—The term "segment rates" means the mortality table specified for the plan year beginning after December 31, 1990, and before January 1, 2008.

"11) Mortality table means the mortality table specified for the plan year beginning after December 31, 1990, and before January 1, 2008, an amount equal to the sum of $1.00 in any other case.

"12) In the case of plan years beginning in:

2006 ............................. 20 percent
2007 ............................. 40 percent
2008 ............................. 60 percent
2009 ............................. 80 percent.

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2005.

TITLE III—OTHER INTEREST-RELATED FUNDING PROVISIONS

SEC. 301. INTEREST RATE ASSUMPTION FOR DETERMINATION OF LUMP SUM DISTRIBUTIONS.

(a) AMENDMENTS TO EMPLOYER RETIREMENT INCOME SECURITY ACT OF 1974.—Subparagraph (B) of section 203(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(3)) is amended to read as follows:

"The amendment made by this section shall apply to plan years beginning after December 31, 1990, and before January 1, 2008, an amount equal to the sum of $1.00 in any other case.

"(b) AMENDMENTS TO CODE OF 1986.—Section 417(e)(3)(A) of the Internal Revenue Code of 1986 (29 U.S.C. 1305(e)(3)(A)) is amended by striking clause (ii) and inserting the following:

""(ii) The term "applicable mortality table" means the mortality table specified for the plan year beginning after December 31, 1990, and before January 1, 2008, an amount equal to the sum of $1.00 in any other case.

"(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 1990, and before January 1, 2008, an amount equal to the sum of $1.00 in any other case.

TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS

SEC. 401. INCREASES IN PBGC PREMIUMS.

(a) FLAT-RATE PREMIUMS.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended—

"(1) by striking clause (ii) of section 4006(a)(3)(E) of the Employee Retirement Income Security Act of 1986 and inserting "the greater of $9.00 or the adjusted amount determined under clause (ii)";

"(2) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

"(3) by inserting after clause (iv) the following new clause:

""(v) the adjusted amount determined under this clause is the product derived by multiplying $9.00 by the ratio of—

""(A) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which the plan year begins, to

""(B) the national average wage index (as defined for 2006, with such product, if not a multiple of $1, being rounded to the next higher multiple of $1, and the nearest multiple of $1 in any other case.

"(iv) For purposes of determining the annual premium rate payable to the corporation by a single-employer plan for basic benefits guaranteed under this title for any plan year beginning after 2007 and before 2012—

"(I) except as provided in subclause (II), the premium amount referred to in subparagraph (A)(ii) for such current plan year is the amount set forth in connection with such current plan year in the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>$22.67</td>
</tr>
<tr>
<td>2009</td>
<td>$26.33</td>
</tr>
<tr>
<td>2010</td>
<td>$35.60</td>
</tr>
<tr>
<td>2011</td>
<td>$37.80</td>
</tr>
</tbody>
</table>

"(v) For purposes of this subparagraph, the term "funding target attainment percentage" has the meaning provided such term in section 303(d)(2).

(b) RISK-BASED PREMIUMS.—

"(1) IN GENERAL.—Section 4006(a)(3)(E) of such Act (29 U.S.C. 1306(a)(3)(E)) is amended—

"(A) in clause (ii), by striking "$9.00" and inserting "the greater of $9.00 or the adjusted amount determined under clause (ii)";

"(B) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively; and

"(C) by inserting after clause (iv) the following new clause:

""(v) the adjusted amount determined under this clause is the product derived by multiplying $9.00 by the ratio of—

""(A) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which the plan year begins, to

""(B) the national average wage index (as defined for 2006, with such product, if not a multiple of $1, being rounded to the next higher multiple of $1, and the nearest multiple of $1 in any other case.

"(iv) For purposes of this subparagraph, the term "funding target attainment percentage" has the meaning provided such term in section 303(d)(2).
unfunded benefits' means, for a plan year, the amount which would be the plan's funding shortfall (as defined in section 303(c)(4)), if the value of plan assets of the plan were equal to the market value of such assets and determined without regard to section 303(e)(1), and only vested benefits were taken into account.

"(D) interest rate used in valuing vested benefits for purposes of subclause (1) shall be equal to the first, second, or third segment rate which would be determined under section 303(f)(2)(c) if section 303(f)(2)(D) were applied by substituting 'the yields' for 'the 3-year weighted average of yields', as applicable under rules similar to the rules under section 303(f)(2)(B)."

(3) EFFECTIVE DATES.—

(A) The amendments made by paragraph (1) shall apply with respect to premiums for plan years after 2007.

(B) The amendments made by paragraph (2) shall apply with respect to plan years beginning after 2005.

TITLE V—DISCLOSURE

SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICES.

(a) APPLICATION OF PLAN FUNDING NOTICE REQUIREMENTS TO ALL DEFINED BENEFIT PLANS.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is amended—

(1) in heading, by striking "MULTIEMPLOYER";

(2) in paragraph (1), by striking "which is a multiemployer plan"; and

(3) in paragraph (2)(B)(i), by inserting after "plan" the following: "; and, a summary of the rules governing termination of single-employer plans under subchapter C of title IV".

(b) INCLUSION OF STATEMENT OF THE RATIO OF INACTIVE PARTICIPANTS TO ACTIVE PARTICIPANTS.—Section 101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B)) is amended—

(1) in clause (iii)(II) (as added by subsection (a)(3) of this section), by striking "and" at the end;

(2) in clause (iv), by striking "apply." and inserting "apply;" and; and

(3) by adding at the end the following new clause:

"(v) a statement of the ratio, as of the end of the plan year to which the notice relates, of—

(I) the number of participants who are not in covered service under the plan, in whole or in part, of liabilities to such plan on whose behalf no employer contributes to the plan for at least 30 days; and

(II) the number of participants who are in covered service under the plan, to

"(C) NOTICE DUE 90 DAYS AFTER PLAN VALUATION DATE.—Section 101(f)(3) of such Act (29 U.S.C. 1021(f)(3)) is amended by striking "two months after the deadline (including extensions) for filing the annual report for the plan for the plan year ending 90 days after the end of the plan year", and inserting "two months after the deadline (including extensions) for filing the annual report for the plan year ending 90 days after the end of the plan year".

(b) ADDITIONAL INFORMATION IN ANNUAL ACTUARIAL STATEMENT REGARDING PLAN REQUIREMENTS OF Projects (i) of such Act (29 U.S.C. 1021(b)(1)) is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting after paragraph (11) the following new paragraph:

"(12) A statement explaining the actuarial assumptions and methods used in projecting future retirements and asset distributions under the plan."
30 days after the request in a form and manner prescribed in regulations of the Secretary, and

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the information is required to be provided.

"(3) LIMITATIONS.—In no case shall a participant, beneficiary, or employer be entitled under this subsection to receive more than one copy of any report described in paragraph (1) during any one 12-month period. The administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

"(4) REGULATIONS.—The Secretary shall prescribe regulations under section 101(j) of such Act (29 U.S.C. 1132(c)(4)) and amendments thereto (provisions relating to the furnishing of such notice pursuant to paragraph (1). The corporation may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

"(5) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SECT. 503. NOTICE TO PARTICIPANTS AND BENEFICIARIES UNDER MULTIEmployER PLANS.—

"(1) IN GENERAL.—Section 101 of such Act (as amended by section (e) of this section) is amended by inserting—"or (1)) after "101((d))".

"(2) REGULATIONS.—The Secretary shall prescribe regulations under section 101(j) of such Act (29 U.S.C. 1132(c)(4)) and amendments thereto (provisions relating to the furnishing of such notice pursuant to paragraph (1). The corporation may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

"(3) LIMITATIONS.—In no case shall a participant, beneficiary, or employer be entitled under this subsection to receive more than one copy of any report described in paragraph (1) during any one 12-month period. The administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

"(4) REGULATIONS.—The Secretary shall prescribe regulations under section 101(j) of such Act (29 U.S.C. 1132(c)(4)) and amendments thereto (provisions relating to the furnishing of such notice pursuant to paragraph (1). The corporation may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

"(5) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2006.

TITLE VI—INVESTMENT ADVICE

SECT. 601. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 PROVIDING PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE.—

"(a) EXCLUSION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(2) No transaction described in subsection (e) (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

"(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries;

"(ii) the advice is provided to the plan, participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets;

"(iv) the requirements of subsection (e) are met in connection with the provision of the advice.

"(b) REQUIREMENTS.—Section 408(b) of such Act is amended further by adding at the end the following new subsection:

"(2) REQUIREMENTS.—No transaction described in paragraph (1) may be provided in written, electronic, or other appropriate form to a participant, or beneficiary, in connection with any sale, acquisition, or holding of a security or other property by the fiduciary adviser to the plan, participant, or beneficiary of the plan for purposes of investment of plan assets; and

"(3) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISER.—

"(i) the provision of the advice to the plan, participant, or beneficiary; and

"(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any entity controlling, controlled by, or under common control with, the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property or interests in such property pursuant to the advice.

"(b) REQUIREMENTS.—Effective date.—The amendments made by this section shall apply to plan years beginning after 2006.
(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property.

(iii) of any limitation placed on the scope of the fiduciary adviser’s advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property.

(iv) the type of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser.

(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

(vi) that a recipient of the advice may separately arrange for the provision of investment advice by the fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property.

(D) the compensation received by the fiduciary adviser pursuant to an arrangement between the fiduciary adviser and affiliates thereof in connection with the provision of the advice.

(E) the terms of the arrangement include (i) of all fees or other compensation required to be provided to the fiduciary adviser in connection with such sale, acquisition, or holding.

(F) the notification required to be provided by the fiduciary adviser in connection with such sale, acquisition, or holding is provided in such a manner calculated to be understood by the participants or beneficiaries of the information required to be provided to participants or beneficiaries under paragraph (1)(A) shall be provided to participants and beneficiaries at least as favorable to the plan as an arm’s length transaction would be.

(2) STANDARDS FOR PRESENTATION OF INFORMATION.

(A) In General.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a manner calculated to be understandable by the average plan participant and shall be sufficiently comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

(B) Disclosure of Fees and Other Compensation.—The Secretary shall issue a model form for the disclosure of fees and other compensation required under paragraph (1)(A) which meets the requirements of subparagraph (A).

(C) Availability of Plan Assets for Payment for Advice.—Nothing in this paragraph shall be construed to preclude the use of plan assets for the reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

(D) Provisions Relating to Investment Advice Provided by Fiduciary Advisers.—The provisions described in this section shall apply with respect to the provision of investment advice by a fiduciary adviser in connection with the provision of investment advice by such fiduciary adviser.

(E) Effectiveness Date.—The amendments made by this section shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 provided on or after January 1, 2006.

SEC. 602. AMENDMENTS TO INTERNAL REVENUE CODE OF 1986 PROVIDING PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE.

(a) Exemption from prohibited transactions.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended—

(1) in paragraph (14), by striking “or” at the end and inserting “; or”;

(2) in paragraph (15), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following new paragraph:

“(A) any transaction described in subsection (f)(7)(A) in connection with the provision of investment advice described in subsection (e)(3)(B),inthecaseofanemployee,agent,orregisteredrepresentativeofapersondescribedinanyofclauses(i)through(iv)whoisamemberofoneormoreofanaffiliatedgroupofafiduciaryadviser,ifthefiduciaryadviserisnotacertifiedpublicaccountantwithinthemeaningofsection7701A(a)oftheInternalRevenueCodeof1986,isaDirectorofthePlan,anExecutiveOfficerofthePlan,oraheldisposableinterestinanyoftheassetsofthefiduciaryadviser.

(b) ALLOWED TRANSACTIONS AND REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

“(A) Transactions allowable in connection with investment advice provided by fiduciary advisers.—The transactions referred to in subsection (d)(16), in connection with the provision of investment advice by a fiduciary adviser, are the following:

(i) the provision of the advice to the plan, participant, or beneficiary;

(ii) any services provided on or after January 1, 2006, by a trust department of the bank or any financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities.
associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and
(iii) the direct or indirect receipt of fees or other compensation by a fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

(b) Requirements relating to provision of investment advice by fiduciary advisers—The requirements of this subparagraph (referred to in subsection (e)(3)(B), provided to a plan or a participant referred to in subsection (d)(16)(C)) are met if—

(i) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice (whether by notification or by means of electronic communication), notice by means of electronic communication consisting of notification by means of electronic communication,

(ii) the fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property),

(iii) any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

(iv) any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

(V) the fees of any other plan, or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as fees or other compensation by the fiduciary adviser for the provision of the advice, maintain any records required to be maintained in this paragraph and subsection (d)(4), or any other person who is a fiduciary (other than a fiduciary adviser) for the provision of the advice, or a person who is a fiduciary (other than a fiduciary adviser) for the provision of the advice, or a person with respect to the advice, and securities laws relating to the provision of investment advice referred to in subsection (d)(4) or a savings association which is subject to periodic examination and review by Federal or State banking authorities,

(VI) an insurance company qualified to do business under the laws of a State,

(VII) a person described in any of subparagraphs (I) through (IV), or

(VIII) an employee, agent, or registered representative of a person described in any of subparagraphs (I) through (VII) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of advice.

(ii) Affiliate.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3)).

(iii) Registered representative.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78a(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).

(e) Effective date.—The amendments made by this section shall apply with respect to advice referred to in section 4975(c)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2006.

Title VII—Deduction Limitations

SEC. 701. INCREASE IN DEDUCTION LIMITS.

(a) Increase in deduction limit for single-employer plans.—Section 404 of the Internal Revenue Code of 1986 (relating to deduction for contributions to an employee’s trust or annuity plan and compensation under a deferred payment plan) is amended—

(I) in subsection (a)(1)(A), by inserting “in the case of a defined benefit plan other than a multiemployer plan, in an amount determined under section 4043(b) of the Employee Retirement Income Security Act of 1974” after “any amount determined under paragraph (2)”;

(II) in subsection (a)(1)(B), by inserting “in the case of a defined benefit plan other than a multiemployer plan, in an amount determined under section 4043(b) of the Employee Retirement Income Security Act of 1974” after “any amount determined under paragraph (2)”;

(III) in subsection (a)(1)(C), by inserting “in the case of a defined benefit plan other than a multiemployer plan, in an amount determined under section 4043(b) of the Employee Retirement Income Security Act of 1974” after “any amount determined under paragraph (2)”;

(b) Effective date.—The amendments made by subsection (a) shall apply to plan years beginning after December 31, 2005.
"‘(i) in the case of a plan that is not in an at-risk status (as determined under section 430(g)), the sum of—

‘‘(1) the funding target which would be applicable to the plan shall be used to determine whether the plan was in an at-risk status, determined under section 430(e) (with regard to section 430(g)), plus

‘‘(2) the target normal cost which would be applicable to the plan shall be used to determine whether the plan was in an at-risk status, determined under section 430(b) (with regard to section 430(g)), over the plan year,".

"The value of the plan assets (determined under section 430(e) as of the valuation date of the plan) shall be less than the amount required to make the plan solvent (within the meaning of section 430(d) of such Act)."

"‘(4) DEFINITIONS.—Any term used in this subsection which is also used in section 430 shall have the same meaning given such term by section 430.".

"(b) INCREASE IN DEDUCTION LIMIT FOR MULTIPLE EMPLOYER DEFINED BENEFIT PLANS.—

"In the case of a defined benefit plan which is a multiemployer plan, except as provided in regulations, the maximum amount deductible under the limitations of this subparagraph shall not be less than the unfunded current liability of the plan."

"‘(ii) UNFUNDED CURRENT LIABILITY.—For purposes of clause (i), the term ‘unfunded current liability’ means the excess (if any) of—

‘‘(1) 140 percent of the current liability of the plan determined under section 431(c)(6)(C), over

‘‘(2) 10 percent of the value of the plan’s assets determined under section 431(c)(2).’’,

"(c) TECHNICAL AND CONFORMING AMENDMENTS.—

‘‘(1) The last sentence of section 404(a)(1)(A) of such Code is amended by striking “section 412” each place it appears and inserting “section 431”.’’

‘‘(2) Section 404(a)(1)(B) of such Code is amended by—

‘‘(A) by striking “In the case of a plan and inserting “In the case of a multiemployer plan”,

‘‘(B) by striking “thereafter” each place it appears and inserting “thereafter”.

‘‘(C) by striking “section 412(c)(7)” each place it appears and inserting “section 431(c)(6)”.

‘‘(D) by striking “section 412(c)(7)” and inserting “section 431(c)(6)(A)”,

‘‘(E) by striking “section 412” and inserting “section 431”.

‘‘(3) Section 404(a)(1) of such Code is amended by striking subparagraph (F).

‘‘(4) Section 404(a)(7) of such Code is amended—

‘‘(A) in subparagraph (A)(i), by striking “for the plan year” and all that follows and inserting “which are multiemployer plans for the plan year which ends with or within such taxable year (or for any prior plan year) and the maximum amount of employer contributions allowable under subsection (o) with respect to any such defined benefit plans which are not multiemployer plans for the plan year.”,

‘‘(B) by striking “section 412(1)” in the last sentence of subparagraph (A) and inserting “paragraph (1)(D)”, and

‘‘(C) by striking subparagraph (D) and inserting—

‘‘(D) INSURANCE CONTRACT PLANS.—For purposes of this paragraph, a plan described in section 412(d)(3) shall be treated as a defined benefit plan.’’

‘‘(5) Section 404(a)(3)(A) of such Code is amended by striking “paragraphs (3) and (7) of section 412(c)” and inserting “sections 431(d)(1) and 431(c)(3) (and 6)’."

‘‘(6) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after 2005."

"SECTION 702. UPDATING DEDUCTION RULES FOR COMBINATION OF PLANS.

‘‘(a) IN GENERAL.—Subparagraph (C) of section 404(a)(7) (relating to limitation on deductions where combination of defined contribution plan and defined benefit plan is amended by adding after clause (ii) the following new clause:

‘‘(iii) LIMITATION.—In the case of employer contributions to 1 or more defined contribution plans, this subparagraph shall only apply to the extent that such contributions exceed 6 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans. For purposes of this clause, amounts carried over from preceding taxable years under subparagraph (B) shall be treated as employer contributions to 1 or more defined contributions to the extent attributable to employer contributions to such plans in such preceding taxable years.

‘‘(b) CONFORMING AMENDMENTS.—Subparagraph (A) of section 4972(c)(6) of such Code (relating to non-deductible contributions) is amended to read as follows:

‘‘(A) so much of the contributions to 1 or more defined contribution plans which are not deductible when contributed solely because contributions do not exceed the amount of contributions described in section 4972(m)(4)(A), or’’,

‘‘(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 2005.”

"The SPEAKER pro tempore. In lieu of the amendments recommended by the Committee on Education and the Workforce and Ways and Means printed in the bill, the amendment in the nature of a substitute printed in part A of House Report 109-346 is adopted.

"The text of the amendment in the nature of a substitute printed as follows:

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

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Pension Protection Act of 2005”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Sec. 101. Minimum funding standards.

Sec. 102. Funding rules for single-employer defined benefit plans.

Sec. 111. Minimum funding standards.

Sec. 112. Benefit limitations under single-employer plans.

Sec. 114. Technical and conforming amendments.

Subtitle C—Other Provisions

Sec. 121. Modification of transition rule to pension funding requirements.

Sec. 122. Treatment of nonqualified deferred compensation plans when employer defined benefit plan in at-risk status.

TITLE II—FUNDING RULES FOR MULTIPLE EMPLOYER DEFINED BENEFIT PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Sec. 201. Funding rules for multiemployer defined benefit plans.

Sec. 202. Additional funding rules for multiemployer plans in endangered or critical status.

Sec. 203. Measures to forestall insolvency of multiemployer plans.

Sec. 204. Withdrawal liability reforms.

Sec. 205. Removal of restrictions with respect to procedures applicable to disputes involving withdrawal liability.

Subtitle B—Amendments to Internal Revenue Code

Sec. 211. Funding rules for multiemployer defined benefit plans.

Sec. 212. Additional funding rules for multiemployer plans in endangered or critical status.

Sec. 213. Measures to forestall insolvency of multiemployer plans.

TITLE III—OTHER PROVISIONS

Sec. 301. Interest rate for 2006 funding requirements.

Sec. 302. Interest rate assumption for determination of lump sum distributions.

Sec. 303. Interest rate assumption for applying benefit limitations to lump sum distributions.

Sec. 304. Distributions during working retirement.

Sec. 305. Other amendments relating to prohibited transactions.

Sec. 306. Correction period for certain transactions involving securities and commodities.

Sec. 307. Recovery by reimbursement or subrogation with respect to prohibited benefits.

Sec. 308. Exercise of control over plan assets in connection with qualified changes in investment options.

Sec. 309. Clarification of fiduciary rules.

Sec. 310. Government Accountability Office pension funding report.

TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS

Sec. 401. Increases in PBGC premiums.

Sec. 402. Additional funding rules for multiemployer plans.

Sec. 403. Defined benefit plan funding notices.

Sec. 405. Additional disclosure requirements.

Sec. 406. Section 4010 filings with the PBGC.

TITLE V—INVESTMENT ADVICE


Sec. 502. Amendments to Internal Revenue Code of 1986 providing prohibited transaction exemptions for provision of investment advice.

TITLE VII—BENEFIT ACCRUAL STANDARDS

Sec. 701. Benefit accrual standards.
TITLE VIII—DEDUCTION LIMITATIONS

Sec. 801. Increase in deduction limits.
Sec. 802. Updating deduction rules for combination of plans.

TITLE IX—ENHANCED RETIREMENTS SAVINGS AND DEFINED CONTRIBUTION PLANS

Sec. 901. Pensions and individual retirement arrangement provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 made permanent.
Sec. 902. Saver’s credit.
Sec. 903. Increasing participation through automatic contribution arrangements.
Sec. 904. Penalty-free withdrawals from retirement plans for individuals called to active duty for at least 179 days.
Sec. 905. Waiver of 10 percent early withdrawal penalty tax on certain distributions of pension plans for public safety employees.
Sec. 906. Combat zone compensation taken into account for purposes of determining limitation and deductibility of contributions to individual retirement plans.
Sec. 907. Direct payment of tax refunds to individual retirement plans.
Sec. 908. IRA rollovers for the disabled.
Sec. 909. Allow rollovers by nonspouse beneficiaries.
Sec. 910. Penalty-free withdrawals from retirement plans of individuals disabled during military service.

TITLe X—PROVISIONS TO ENHANCE HEALTH CARE AFFORDABILITY

Sec. 1001. Treatment of annuity and life insurance contracts with a long-term care insurance feature.
Sec. 1002. Disaggregated unused health and dependent care benefits in cafeteria plans and flexible spending arrangements.
Sec. 1003. Distributions from governmental retirement plans for health and long-term care insurance for public safety officers.

TITLe XI—GENERAL PROVISIONS

Sec. 1101. Provisions relating to plan amendments.

TITLe I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

SEC. 101. MINIMUM FUNDING STANDARDS.
(a) REPEAL OF EXISTING FUNDING RULES.—Sections 303 and 303B of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1062 through 1068) are repealed.
(b) NEW MINIMUM FUNDING STANDARDS.—

TITLe XII—PENSION BENEFIT GUARANTY CORPORATION

Subtitle A—Reinsurance Arrangements

Subtitle B—Reinsurance Income

Subtitle C—Reinsurance Liabilities

Subtitle D—Reinsurance Premiums and Assessments

Subtitle E—Reinsurance Agreements

Subtitle F—Reinsurance Agreements

Subtitle G—Reinsurance Agreements

Subtitle H—Reinsurance Agreements

Subtitle I—Reinsurance Agreements

Subtitle J—Reinsurance Agreements

Subtitle K—Reinsurance Agreements

Subtitle L—Reinsurance Agreements

Subtitle M—Reinsurance Agreements

Subtitle N—Reinsurance Agreements

Subtitle O—Reinsurance Agreements

Subtitle P—Reinsurance Agreements

Subtitle Q—Reinsurance Agreements

Subtitle R—Reinsurance Agreements

Subtitle S—Reinsurance Agreements

Subtitle T—Reinsurance Agreements

Subtitle U—Reinsurance Agreements

Subtitle V—Reinsurance Agreements

Subtitle W—Reinsurance Agreements

Subtitle X—Reinsurance Agreements

Subtitle Y—Reinsurance Agreements

Subtitle Z—Reinsurance Agreements

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(3) Ordering Rule.—For purposes of subclause (I), any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all plan years on a first-in, first-out basis and then to the minimum required contribution under section 303 for the plan year.

(5) Special rules for single-employer plans.—

(A) Application must be submitted before date 2 1/2 months after close of year. In the case of a single-employer plan, no waiver may be granted under this subsection with respect to any plan for any plan year for which an application therefore submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year.

(B) employer plan is a member of a controlled group.—In the case of a single-employer plan, if an employer is a member of a controlled group, the temporary subchapter B business hardships requirements of paragraph (1) shall be treated as met only if such requirements are met—

(i) with respect to such employer, and

(ii) with respect to each member of the controlled group of which such employer is a member (determined by treating all members of such group as a single employer plan).

The Secretary of the Treasury may provide that an analysis of a trade or business or industry of a member need not be conducted if such Secretary determines such analysis is not necessary to the taking into account of such member would not significantly affect the determination under this paragraph.

(6) Advance notice.—

(A) In general.—The Secretary of the Treasury shall, before granting a waiver under section 430(j) of the Employee Retirement Income Security Act of 1974 (as amended by section 1(a)(21)), request in writing from an applicant any information necessary for the administration of such a waiver.

(B) the Secretary has determined that such notice is necessary because of a substantial hardship (as determined under subsection (c)(2)) and that a waiver under subsection (j) (or, in the case of a multiemployer plan, any extension of the amortization period under section 303(d)) is unavailable or inadequate.

(C) Controlled group.—For purposes of this section, the term ‘‘controlled group’’ means an entity treated as a single employer under section 414(a), (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

(7) Restriction on plan amendments.—

(A) Amendment of plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in which benefits are nonforfeitable under the plan shall be adopted only if a waiver under this subsection or an extension of time under section 303(d) is in effect with respect to the plan, or if a plan amendment described in subsection (d)(2) has been made at any time in the preceding 12 months (24 months in the case of a multiemployer plan) after adoption of the preceding subsection, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

(B) Exception.—Paragraph (1) shall not apply to any plan amendment which—

(i) the Secretary of the Treasury determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

(ii) only repeals an amendment described in subsection (d)(2),

(iii) is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986,

(iv) is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986, and

(v) for corresponding duties of the Secretary of the Treasury with regard to implementation of the Internal Revenue Code of 1986, see section 412(c) of such Code.

(8) Miscellaneous rules.—

(1) Change in method of year.—If the funding method, the valuation date, or a plan year for a plan for a year is changed, the change shall take effect only if approved by the Secretary of the Treasury.

(2) Certain retroactive plan amendments.—For purposes of this section, any amendment applying to a plan which—

(A) is adopted after the close of such plan year but no later than 2 1/2 months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of the plan year), and

(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies,

(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year.

No amendment described in subparagraph (A) which reduces the accrued benefits of any participant shall take effect unless the plan administrator notifies the Secretary of the Treasury notifying him of such amendment and such Secretary has approved such amendment, or within 90 days after the date on which such amendment is adopted, fails to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary of the Treasury unless such Secretary determines that such amendment is necessary because of a substantial business hardship (as determined under subsection (c)(2)) and that a waiver under subsection (j) (or, in the case of a multiemployer plan, any extension of the amortization period under section 303(d)) is unavailable or inadequate.

(3) Controlled group.—For purposes of this section, the term ‘‘controlled group’’ means an entity treated as a single employer under section 414(a), (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.

(C) Clerical amendment.—The table of contents of this section is amended by striking the entries relating to sections 302 through 308 and inserting the following new item:

‘‘Sec. 302. Minimum funding standards.’’

(D) Effective date.—The amendments made by this section shall apply to plan years beginning after 2006.

SEC. 103. MISCELLANEOUS RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.

(A) In general.—Part III of subchapter B of title I of the Employee Retirement Income Security Act of 1974 (as amended by section 101 of this Act) is amended further by inserting after section 302 the following new section:

‘‘Sec. 303. Minimum funding standards for single-employer defined benefit pension plans.

‘‘(a) In general.—For purposes of this section and section 357(c)(2)(A), except as provided in subparagraph (b), the term ‘‘minimum required contribution’’ means, with respect to any plan year, an amount, determined under section 302(e), equal to the lesser of—

(i) the target normal cost of the plan for the plan year,

(ii) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (b), and

(iii) the present value of plan assets, determined under subsection (e), and

(iv) the present value of plan liabilities, determined under subsection (e), for the plan year as determined with respect to the waiver amortization installment bases of the plan for each of the 5 plan years preceding such plan year.

(B) Application of section.—For purposes of this section, the funding shortfall of a plan for any plan year is the excess (if any) of—

(A) the funding shortfall of such plan for such plan year, over

(B) the sum of—

(i) the present value (determined using the rates determined under subparagraph (b)) of the aggregate total of the waiver amortization installments for such plan year and the 5 succeeding plan years, which have been determined with respect to the waiver amortization installment bases of the plan for such plan year,

(ii) the present value (as so determined) of the aggregate total of the waiver amortization installments for such plan year.

(C) Exemption from new shortfall amortization base.—

‘‘In any plan year for which purposes of this section, the funding shortfall of a plan for any plan year is the excess (if any) of—

(A) the funding target of the plan for the plan year,

(B) the value of plan assets of the plan as determined under subsection (d)(4)(B) for the plan year which are held by the plan on the valuation date,
(A) IN GENERAL.—In any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(A)) is equal to or greater than the funding target of the plan for the plan year, the shortfall amortization base of the plan for such plan year shall be zero.

(B) TRANSITION RULE.—

(i) IN GENERAL.—In the case of a non-deficit plan the term ‘shortfall amortization plan’ shall be applied to plan years beginning after 2006 and before 2011 by substituting, for the funding target of the plan for the plan year, the applicable percentage of such funding target determined under the following table:

<table>
<thead>
<tr>
<th>Plan Year</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>92 percent</td>
</tr>
<tr>
<td>2008</td>
<td>94 percent</td>
</tr>
<tr>
<td>2009</td>
<td>96 percent</td>
</tr>
<tr>
<td>2010</td>
<td>98 percent</td>
</tr>
</tbody>
</table>

(ii) LIMITATION.—Clause (i) shall not apply with respect to any plan year after 2007 unless the ratio (expressed as a percentage) which:

(I) the value of plan assets for each preceding plan year after 2006 (as reduced under subsection (f)(4)(A)), bears to

(II) the funding target of the plan for such preceding plan year (determined without regard to subsection (i)(1)), is not less than the applicable percentage with respect to such preceding plan determined under clause (i). (iii) NON-DEFICIT REDUCTION PLAN.—For purposes of clause (i), the term ‘non-deficit reduction plan’ means any plan—

(I) to which this part (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006) applied for the plan year beginning in 2006, and

(II) to which section 302(d) (as so in effect) did not apply for such plan year.

(6) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the waiver amortization charge for such plan year and succeeding plan years, the waiver amortization base for all preceding plan years shall be reduced to zero.

(7) FUNDING TARGET ATTAINMENT PERCENTAGE.—

(A) IN GENERAL.—In the case of a single-employer plan described in clause (ii), the plan sponsor may elect to maintain a funding standard carryover balance, until such balance is reduced to zero.

(B) NON-DEFICIT REDUCTION PLAN.—For purposes of subsection (c)(6), the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance, but only if an election under paragraph (2) applying any portion of the pre-funding balance in reducing the minimum required contribution is in effect for the plan year.

(2) FUNDING STANDARD CARRYOVER BALANCE.—

(A) IN GENERAL.—The plan sponsor of a single-employer plan may elect to maintain a pre-funding balance.

(B) DETERMINATION OF EXCESS ASSETS, FUNDING STANDARD CARRYOVER BALANCE, AND FUNDING TARGET ATTAINMENT PERCENTAGE.—

(I) IN GENERAL.—For purposes of subsection (c)(4)(B), and (d)(2)(A), the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance and the funding standard carryover balance.

(II) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS WITH PBGC.—For purposes of subsection (c)(4)(B), the value of plan assets shall not be deemed to be reduced for a plan year by the amount of the specified balance if, with respect to such balance, there is in effect for a plan year a binding written agreement with the Pension Guaranty Corporation that provides that such balance is not available to reduce the minimum required contribution for the plan year. For purposes of the preceding sentence, the term ‘specified balance’ means the pre-funding balance or the funding standard carryover balance, as the case may be.

(3) ELECTION TO APPLY BALANCES AGAINST MINIMUM REQUIRED CONTRIBUTION.—

(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of any plan year in which the plan sponsor elects to credit against the minimum required contribution for the current plan year all or a portion of the pre-funding balance or the funding standard carryover balance for the current plan year (not in excess of such minimum required contribution), the minimum required contribution for the plan year shall be reduced by the amount so credited by the plan sponsor. For purposes of the preceding sentence, the minimum required contribution shall be determined after taking into account any waiver under section 302(c).

(B) COORDINATION WITH FUNDING STANDARD CARRYOVER BALANCE.—To the extent that any amount has a funding standard carryover balance greater than zero, no amount of the pre-funding balance of such plan may be credited under this paragraph in reducing the minimum required contribution.

(C) LIMITATION FOR UNDERFUNDED PLANS.—The preceding provisions of this paragraph shall not apply for any plan year if the ratio (expressed as a percentage) which:

(I) the value of plan assets for the preceding plan year (as reduced under paragraph (4)(C)), bears to

(II) the funding target of the plan for the preceding plan year (determined without regard to subsection (i)(1)), is less than 80 percent.

(4) EFFECT OF BALANCES ON AMOUNTS TREATED AS VALUE OF PLAN ASSETS.—In the case of any plan maintaining a pre-funding balance or a funding standard carryover balance pursuant to this subsection, the amount treated as the value of plan assets shall be deemed to be such amount, reduced as provided in the following subparagraphs.

(A) APPLICABILITY OF SHORTFALL AMORTIZATION BASE.—For purposes of subsection (c)(6), the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance, but only if an election under paragraph (2) applying any portion of the pre-funding balance in reducing the minimum required contribution is in effect for the plan year.

(B) DETERMINATION OF EXCESS ASSETS, FUNDING SHORTFALL, AND FUNDING TARGET ATTAINMENT PERCENTAGE.—

(I) IN GENERAL.—For purposes of subsections (a), (c)(4)(B), and (d)(2)(A), the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance and the funding standard carryover balance.

(II) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS WITH PBGC.—For purposes of subsection (c)(4)(B), the value of plan assets shall not be deemed to be reduced for a plan year by the amount of the specified balance if, with respect to such balance, there is in effect for a plan year a binding written agreement with the Pension Guaranty Corporation that provides that such balance is not available to reduce the minimum required contribution for the plan year. For purposes of the preceding sentence, the term ‘specified balance’ means the pre-funding balance or the funding standard carryover balance, as the case may be.
reducing the minimum required contribution for such plan for such plan year pursuant to an election under paragraph (2).

(2) COORDINATION BETWEEN PRE-FUNDING BALANCE AND STANDARD CARRYOVER BALANCE.—To the extent that any plan has a funding standard carryover balance greater than zero, no election may be made under subparagraph (A) with respect to the pre-funding balance.

(6) PRE-FUNDING BALANCE.—

(A) IN GENERAL.—A pre-funding balance maintained under paragraph (5) shall consist of a beginning balance of zero, increased and decreased to the extent provided in subparagraphs (B) and (C) as adjusted further as provided in paragraph (8).

(B) INCREASES.—As of the valuation date for each plan year beginning after 2007, the pre-funding balance of a plan shall be increased by the amount elected by the plan sponsor for the plan year. Such amount shall not exceed the excess (if any) of—

(i) the aggregate total of employer contributions to the plan for the preceding plan year, over

(ii) the minimum required contribution for such plan for such plan year (increased by interest on any portion of such minimum required contribution remaining unpaid as of the valuation date for the current plan year, at the applicable rate for the preceding plan year for the period beginning with the first day of such preceding plan year and ending on the date that payment was made)

(C) DECREASES.—As of the valuation date for each plan year after 2007, the pre-funding balance of a plan shall be decreased (but not below zero) by the sum of—

(i) the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

(ii) any reduction in such balance elected under paragraph (5).

(7) FUNDING STANDARD CARRYOVER BALANCE.—

(A) IN GENERAL.—A funding standard carryover balance maintained by a plan shall consist of a beginning balance determined under subparagraph (B), decreased to the extent provided in subparagraph (C), and adjusted further as provided in paragraph (8).

(B) INCREASES.—The beginning balance of the funding standard carryover balance shall be the positive balance described in subparagraph (B)(i)(I).

(C) DECREASES.—As of the valuation date for each plan year after 2007, the funding standard carryover balance of a plan shall be decreased (but not below zero) by the sum of—

(i) the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

(ii) any reduction in such balance elected under paragraph (5).

(8) TRANSITIONS TO BALANCES.—In determining the pre-funding balance or the funding standard carryover balance of a plan as of the valuation date (before applying any increase or decrease under paragraph (6) or (7)), the plan sponsor shall, in accordance with regulations which shall be prescribed by the Secretary of the Treasury, adjust such balance so as to reflect the rate of net gain or loss (determined, notwithstanding subsection (g)(3), on the basis of fair market value) experienced by all plan assets for the period beginning with the valuation date for the preceding plan year and ending with the date preceding the valuation date for the current plan year, properly taking into account all contributions, distributions, and other plan payments made during such period.

(9) ELECTIONS.—Elections under this subsection shall be made at such times, and in such form and manner, as shall be prescribed in regulations of the Secretary of the Treasury.

(10) VALUATION OF PLAN ASSETS AND LIABILITIES.—

(A) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year.

(B) VALUATION DATE.—For purposes of this section—

(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

(B) EXCEPTION FOR SMALL PLANS.—If, on any day during the preceding plan year, a plan had 500 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years.

(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this paragraph—

(i) PLANS IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan is reasonably expected to have on days during such first plan year.

(ii) PREEXISTING PLAN.—For reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

(D) AUTHORIZATION OF USE OF ACTUARIAL VALUE.—For purposes of this section, the value of plan assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary of the Treasury, except that—

(A) any such method providing for averaging of fair market values may not provide for averaging of such values over more than the 36-month period ending with the month which includes the valuation date; and

(B) any such method may not result in a determination of the value of plan assets which, at any time, is lower than 90 percent of the greater of the fair market value of such assets at such time.

(11) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of this paragraph—

(A) CONTRIBUTIONS FOR PLAN YEARS TAKEN INTO ACCOUNT.—For purposes of determining the value of plan assets for any current plan year, in any case in which a contribution which is owed for a preceding plan year is made on or after the valuation date of the plan for such current plan year, such contribution shall be taken into account, except that any such contribution made during any such current plan year beginning after 2007 shall be taken into account only in an amount equal to its present value (determined using the effective rate of interest for the plan for the preceding plan year) as of the valuation date of the plan for such current plan year.

(B) CONTRIBUTIONS FOR CURRENT PLAN YEAR DISREGARDED.—For purposes of determining the value of plan assets for any current plan year, contributions which are payable during the 5-year period beginning after 2007 on which such contribution is determined to be payable after the period described in clause (i), the second segment rate with respect to the applicable month.

(ii) in the case of liabilities reasonably determined to be payable after the period described in clause (i), the second segment rate with respect to the applicable month.

(12) INTEREST RATES.—

(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term ‘effective interest rate’ means, with respect to any plan year, the single rate of interest which, if used to determine the present value of plan’s liabilities referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

(B) INTEREST RATES FOR DETERMINING FUNDING TARGET.—For purposes of determining the funding target of a plan for any plan year, the interest rate used in determining the present value of the liabilities of the plan shall be—

(i) in the case of liabilities reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

(ii) in the case of liabilities reasonably determined to be payable during the 5-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month.

(13) SEGMENT RATES.—For purposes of this paragraph—

(A) FIRST SEGMENT RATE.—The term ‘first segment rate’ means, with respect to any year, the rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

(B) SECOND SEGMENT RATE.—The term ‘second segment rate’ means, with respect to any year, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of
such yield curve which is based on bonds maturing during the 15-year period beginning at the end of the period described in clause (i).

(iii) THIRD SEGMENT RATE.—The term ‘third segment rate’ means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (i).

(D) CORPORATE BOND YIELD CURVE.—For purposes of this paragraph—

(i) the term ‘corporate bond yield curve’ means, with respect to any month, a yield which is prescribed by the Secretary of the Treasury for such month which reflects a 3-year weighted average of yields on investment grade corporate bonds with varying maturities.

(ii) 3-YEAR WEIGHTED AVERAGE.—The term ‘3-year weighted average’ means an average determined by using a methodology under which the most recent year is weighted 50 percent, the year preceding such year is weighted 35 percent, and the second year preceding such year is weighted 15 percent.

(E) APPLICABLE MONTH.—For purposes of this paragraph, the term ‘applicable month’ means any plan year month which includes the valuation date of such plan for such plan year or, at the election of the plan sponsor, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to the plan year for which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary of the Treasury.

(F) PUBLICATION REQUIREMENTS.—The Secretary of the Treasury shall also publish a description of the methodology used to determine such yield curve and such rates which is sufficiently detailed to enable plans to make reasonable projections regarding the yield curve and such rates for future months based on the plan’s projection of future interest rates.

(G) TRANSITION RULE.—

(i) NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH, FOR PLAN YEARS BEGINNING IN 2007 OR 2008, THE FIRST, SECOND, OR THIRD SEGMENT RATE FOR A PLAN WITH RESPECT TO ANY MONTH SHALL BE THE APPROPRIATE SEGMENT RATE FOR THE PRECEDING MONTH.

(ii) THE PROBABILITY THAT FUTURE BENEFIT PAYMENTS UNDER THE PLAN WILL BE MADE IN THE FORM OF LUMP SUMS OR OTHER OPTIONAL FORMS.—For purposes of determining any present value or making any computation under this section, there shall be taken into account—

(A) the probability that future benefit payments under the plan will be made in the form of lump sums or other optional forms provided under the plan (including lump sum distributions, determined on the basis of the plan’s experience and other related assumptions), and

(B) any difference in the present value of such future benefit payments resulting from the use of actuarial assumptions, in determination of the funding target and of the present value of all benefits which are expected to accrue or be earned under the plan during the plan year, determined under the actuarial assumptions used under paragraph (1), plus $700 per participant in the plan supported by an aggregate unfunded vested benefits of $50,000,000, and

(C) THE FORM OF LUMP SUMS OR OTHER OPTIONAL FORMS.—For purposes of this subsection, a plan is in at-risk status for a plan year, determined by using, in addition to the actuarial assumptions described in subsection (h), the supplemental actuarial assumptions described in subparagraph (B).

(ii) A LOADING FACTOR DETERMINED UNDER PARAGRAPH (C).

(B) SUPPLEMENTAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions used in determining the funding target shall include, in addition to the actuarial assumptions described in subsection (h), an assumption that all participants will elect benefits at such times and in such forms as will result in the highest present value of liabilities under paragraph (A).
(I) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.

(1) IN GENERAL.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

(2) INTEREST.—Any payment required under paragraph (1) for a plan year that is made on a date other than the valuation date for such plan year shall be adjusted for interest accruing for the period between the valuation date and the payment date, at the effective rate of interest for the plan for such plan year.

(3) ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE FOR UNDERFUNDED PLANS.—

(A) INTEREST PENALTY FOR FAILURE TO MEET ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE.—If the plan has a funding shortfall for the preceding plan year, if the required installment is not paid in full, then the minimum required contribution for the plan year (as increased under paragraph (2)) shall be further increased by an amount equal to the interest on the amount of the underpayment for the period of the underpayment, using an interest rate equal to the excess of—

(i) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the last month of such plan year), over—

(ii) the effective rate of interest for the plan for the plan year.

(B) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subparagraph (A)—

(i) AMOUNT.—The amount of the underpayment shall be the excess of—

(I) the required installment, over

(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment,

(ii) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

(C) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

(D) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this paragraph—

(I) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

(II) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set forth in the following table:

<table>
<thead>
<tr>
<th>In the case of the following required installment:</th>
<th>The due date:</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st payment</td>
<td>April 15</td>
</tr>
<tr>
<td>2nd payment</td>
<td>July 15</td>
</tr>
<tr>
<td>3rd payment</td>
<td>October 15</td>
</tr>
<tr>
<td>4th payment</td>
<td>January 15 of the following year</td>
</tr>
</tbody>
</table>

(E) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this paragraph—

(I) IN GENERAL.—The amount of any required installment shall be 25 percent of the required annual payment.

(II) REQUIRED ANNUAL PAYMENT.—For purposes of clause (i), the term ‘required annual payment’ means the lesser of—

(I) the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the preceding plan year.

(II) DUE DATES.

(SCHEDULE.)

(1) DUE DATES.

<table>
<thead>
<tr>
<th>Subclause (II)</th>
<th>Due date is:</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. 4th payment</td>
<td>April 15</td>
</tr>
<tr>
<td>II. 3rd payment</td>
<td>July 15</td>
</tr>
<tr>
<td>III. 2nd payment</td>
<td>October 15</td>
</tr>
<tr>
<td>IV. 1st payment</td>
<td>January 15 of the following year</td>
</tr>
</tbody>
</table>

(F) LIQUIDITY REQUIREMENT IN CONNECTION WITH QUARTERLY INSTALLMENTS.—

(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to meet the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment) required to be paid if the plan fails to make any installment required to be paid under this paragraph.

(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to a plan (other than a plan that would be described in section (i)(2)(B) if ‘‘100’’ were substituted for ‘‘90’’ therein).

(C) DUE DATE FOR INSTALLMENT.—

(i) REQUIRED INSTALLMENT.

(II) the amount (if any) of the installment contributed to or under the plan for the plan year (taking into account any prior installments for the plan year).

(III) DISBURSEMENTS FROM THE PLAN.

(1) LIMITATION ON LIQUIDATION.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account any prior installments for the plan year).

(2) LIQUIDITY SHORTFALL.—The term ‘‘liquidity shortfall’’ means, with respect to any required installment, an amount equal to the excess (if any) of—

(I) the base amount with respect to such quarter,

(II) the value of the plan’s liquid assets,

over—

(i) 90 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the preceding plan year.

(3) LIQUIDITY REQUIREMENT IN CONNECTION WITH CREDITING CONTRIBUTIONS.—

(A) IN GENERAL.—For purposes of this paragraph—

(i) BASE AMOUNT.

(II) SPECIAL RULE.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter, the plan shall be treated as failing to meet the liquidity shortfall requirement for the plan year (as in effect under section 1274 for the last month of such plan year).

(B) PERIOD OF UNDERPAYMENT.

(I) DUE DATE FOR CONTRIBUTIONS.

(II) THE EFFECTIVE RATE OF INTEREST FOR THE PLAN FOR SUCH PLAN YEAR.

(III) DISBURSEMENTS FROM THE PLAN.

The term ‘‘disbursements from the plan’’ means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

(G) DISBURSEMENTS.—The term ‘‘disbursements’’ means disbursements from the plan reduced by the product of—

(1) the plan’s funding target attainment percentage for the plan year, and

(2) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary of the Treasury shall provide in regulations.

(H) LIQUID ASSETS.—The term ‘‘liquid assets’’ means cash, marketable securities, and other assets as specified by the Secretary of the Treasury in regulations.

(I) QUARTER.—The term ‘‘quarter’’ means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

(J) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as are necessary to carry out this paragraph.

(K) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS;

(A) IN GENERAL.—In the case of a plan to which this subsection applies (as provided under paragraph (2)), if—

(I) any person fails to make a contribution payment required under section 302 and this section before the due date for such payment, and

(II) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000, then there shall be a lien in favor of the Secretary of the Treasury against such person and any other person who is a member of the same controlled group of which such person is a member.

(B) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a single-employer plan for any plan year for which the funding target attainment percentage (as determined under subsection (b), except that such percentage is not less than 100 percent. This subsection shall not apply to any plan to which section 421 does not apply (as such section is in effect on the date of the enactment of the Pension Protection Act of 2005).

(C) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregated unpaid balance of the required annual payment payments required under this section and section 302 for which payment has not been made before the due date.

(D) NOTICE OF FAIR Lien.—For purposes of this section, a person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

(E) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

(F) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as an installment owing to the plan and rules similar to the rules of subsections (c), (d), and (e) of section 4028 shall apply with
respective to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

(A) CONTRIBUTION PAYMENT.—The term 'contribution payment' means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (i).

(B) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (j), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 303.

(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

"(1) VALUATION AND TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—In the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986), any assets so transferred (and any interest attributable to the assets transferred for purposes of this section, be treated as assets in the plan.)

(b) CLERICAL AMENDMENT.—The table of sections in section 1 of such Act (as amended by section 101) is amended by inserting after the item relating to section 302 the following new item:

'Sec. 303. Minimum funding standards for single-employer defined benefit pension plans.'

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2005.

SEC. 103. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

(a) PROHIBITION OF SHUTDOWN BENEFITS AND OTHER UNPREDICTABLE CONTEMPORARY EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.—Section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1986) is amended by adding at the end the following new subsection:

'(g) UNPREDICTABLE CONTEMPORARY EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.—

'(1) IN GENERAL.—Section 206 of such Act (as amended by subsection (a)) is amended further by adding at the end the following new section:

'Sec. 206A. Minimum funding standards for single-employer defined benefit pension plans.'

(b) ELECTION.—The amendments made by this section shall apply with respect to plan years beginning after 2005.

"(1) LIMITATIONS ON PLAN AMENDMENTS INCREASING LIABILITY FOR BENEFITS AND BENEFIT ACCRUALS.—'

(A) IN GENERAL.—No amendment to a defined benefit plan which is a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable to the plan may take effect during any plan year if the funding target attainment percentage as of the valuation date of the plan for such plan year is—

(i) less than 60 percent, or

(ii) would be less than 80 percent taking into account such amendment.

For purposes of this subparagraph, any increase in benefits under the plan by reason of an increase in the benefit rate provided under the plan or on the basis of an increase in compensation shall be treated as effective by plan amendment.

(B) EXCEPTION.—Subparagraph (A) shall cease to apply with respect to any plan year, effective as of the first day of the plan year, upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to—

(i) in the case of subparagraph (A)(i), the amount of the increase in the funding target of the plan (under section 303) for the plan year attributable to the amendment; and

(ii) in the case of subparagraph (A)(ii), the amount sufficient to result in a funding target attainment percentage of 80 percent.

(C) FUNDING LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—'

(A) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's funding target attainment percentage as of the valuation date of the plan for a plan year is less than 80 percent, the plan may not pay any prohibited payment (as defined in section 206(e)).

(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan for any plan year if the plan, in the case of a payment described in paragraph (2)(A) or a cessation of benefit accruals under paragraph (3) is applied to a plan with respect to any plan year and such prohibition or cessation of any group plan year preceding the plan year.

"(2) LIMITATIONS ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's funding target attainment percentage as of the valuation date of the plan for a plan year is less than 60 percent, all future benefit accruals under the plan shall cease as of such date.

"(3) NEW PLANS.—Paragraphs (1) and (3) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this subsection, the reference in this subsection to a plan shall include a reference to any predecessor plan.

"(5) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS BASED ON PRIOR YEAR'S FUNDING STATUS.—'

"(6) RESTORATION BY PLAN AMENDMENT OF BENEFITS OR BENEFIT ACCRUAL.—In any case in which a prohibition under paragraph (5) (A) is in effect for a plan year and such prohibition or cessation of any group plan year preceding the plan year.

until the enrolled actuary so certifies, such first day shall be deemed, for purposes of such subsection, to be the valuation date of the plan for the current plan year and the funding target attainment percentage of the plan as of such first day shall, for purposes of subsection (b), be deemed to be less than 60 percent points less than the funding target attainment percentage of the plan as of the valuation date of the plan for such preceding plan year.

"(7) FUNDING REQUIREMENTS FOR PLANS WITH PREVIOUSLY UNDERFUNDED STATUS.—In any case in which—

(A) a benefit limitation under paragraph (1), (2), or (3) did not apply to a plan with respect to the plan year preceding the current plan year, and

(ii) as of the first day of the current plan year, the enrolled actuary of the plan has not certified the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year.

"(8) RESTORATION BY PLAN AMENDMENT OF BENEFITS OR BENEFIT ACCRUAL.—In any case in which a prohibition under paragraph (2)(A) or (B) is in effect for a plan year and such prohibition or cessation of any group plan year preceding the plan year.

"(9) RESTORATION BY PLAN AMENDMENT OF BENEFITS OR BENEFIT ACCRUAL.—In any case in which—

(A) a benefit limitation under paragraph (1), (2), or (3) did not apply to a plan with respect to the plan year preceding the current plan year, such first day shall be deemed, for purposes of such subsection, to be the valuation date of the plan for the current plan year and the funding target attainment percentage of the plan as of such first day shall, for purposes of such paragraph, be deemed to be less than 60 percent points less than the funding target attainment percentage of the plan as of the valuation date of the plan for such preceding plan year.
(7) FUNDING TARGET ATTAINMENT PERCENTAGE.—

(A) IN GENERAL.—For purposes of this subsection, the term ‘funding target attainment percentage’ means, with respect to any plan for any plan year, the ratio (expressed as a percentage) which bears to—

(i) the value of plan assets for the plan year (as determined under section 303(g)) reduced by the pre-funding balance and the funding standard carryover balance (within the meaning of section 303(i), bears to—

(ii) the funding target of the plan for the plan year (as determined under section 303(i)(1), but without regard to section 303(i)(1)).

(B) APPLICATION TO PLANS WHICH ARE FULLY FUNDED WITHOUT REGARD TO REDUCTIONS FOR FUNDING BALANCES.—

(i) IN GENERAL.—In the case of a plan for any plan year, if the funding target attainment percentage is 100 percent or more (determined without regard to this subparagraph and without regard to the reduction under subparagraph (A)(i) for the pre-funding balance and the funding standard carryover balance), subparagraph (A) shall be applied without regard to such reduction.

(ii) TRANSITION RULE.—Clause (i) shall be applied to plan years beginning after 2006 and before 2011 by substituting for ‘100 percent’ the applicable percentage determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>92 percent</td>
</tr>
<tr>
<td>2008</td>
<td>94 percent</td>
</tr>
<tr>
<td>2009</td>
<td>96 percent</td>
</tr>
<tr>
<td>2010</td>
<td>98 percent</td>
</tr>
</tbody>
</table>

(iii) LIMITATION.—Clause (ii) shall not apply with respect to any plan year after 2007 unless the funding target attainment percentage (determined without regard to this subparagraph and without regard to the reduction under subparagraph (A)(i) for the pre-funding balance and the funding standard carryover balance) of the plan for each preceding plan year after 2006 was not less than the applicable percentage with respect to such preceding plan year determined under clause (ii).

(B) DRIED REDUCTION OF FUNDING BALANCES.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers—

(A) IN GENERAL.—In any case in which a benefit limitation under paragraph (1), (2), or (3) would (but for this paragraph and determined without regard to paragraph (1)(B)) apply to such plan for the plan year, the plan sponsor of such plan shall be treated for purposes of this Act as having made an election under section 303(f)(5) to reduce the balance of the pre-funding balance and the funding standard carryover balance for the plan year (in a manner consistent with the requirements of section 303(f)(5)(B)) by such amount as is necessary for such benefit limitation to not apply to the plan for such plan year.

(B) EXCEPTION FOR INSUFFICIENT FUNDING BALANCES.—Subparagraph (A) shall not apply with respect to a benefit limitation for any plan year if the application of subparagraph (A) would not result in the benefit limitation not applying for such plan year.

(2) NOTICE REQUIREMENT.—

(A) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1122) is amended—

(i) by redesignating subsection (j) as subsection (k); and

(ii) by inserting after subsection (i) the following new subsection:

‘‘(j) NOTICE OF FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—The plan administrator of a defined benefit plan which is a single-employer plan shall provide a written notice to plan participants and beneficiaries within 30 days after the plan has become subject to the restriction described in section 206(h)(2) or at such other time as may be determined by the Secretary.’’

(B) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking ‘‘section 206(b)(7)(F)(vii)’’ and inserting ‘‘sections 201(j) and 302(b)(7)(F)(vi)’’.

(c) EFFECTIVE DATE.—

(1) SHUTDOWN BENEFITS.—Except as provided in paragraph (3), the amendments made by this Act shall have effect only with respect to plan years beginning after 2006.

(2) COLLECTIVE BARGAINING EXCLUSION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers effective on the date of the enactment of this Act, the amendments made by this subsection shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply; or

(B) January 1, 2009.

For purposes of clause (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends any requirement of any paragraph of section 206(h) of such Act (as added by this section) to current plan years (within the meaning of such paragraph) beginning in 2007, the modified fund current liability percentage of the plan for the preceding year shall be substituted for the funding target attainment percentage of the plan for the preceding year.

(3) SPECIAL RULE FOR 2007.—For purposes of applying paragraph (5) of section 206(h) of such Act (as added by this section) to current plan years (in a manner consistent with the requirements of section 303(i)(5)(B)) by such amount as is necessary for such benefit limitation not to apply to the plan for such plan year.

(4) TRANSITION RULE FOR FUNDING BALANCES.—Subparagraph (A) shall not apply with respect to a benefit limitation for any plan year if the application of subparagraph (A) would not result in the benefit limitation not applying for such plan year.
(3) in section 402(g)(1) (29 U.S.C. 1351(b)(2)), by striking “302(c)(1)(A) and (B)” and inserting “302(c)(1)(A) and (B)”, and by striking “302(c)(1)(A) and (B)” and inserting “302(c)(1)(A) and (B)”.

(4) in section 401(b) (29 U.S.C. 1331(b)), by striking “to which” and all that follows and inserting “for any plan year for which the plan’s funding percentage (as defined in section 303(d)(2)) is at least 90 percent.”;

(5) in section 402(c)(1) (29 U.S.C. 1362(c)(1)), by striking “in the case of (1), (2), and (3)” and inserting “the following”;

“(1)(A) in the case of a single-employer plan, the sum of the shortfall amortization charge for the plan year (as defined in section 303(c)(1) of this Act and section 430(c)(1) of the Internal Revenue Code of 1986) with respect to the plan (if any) for the plan year in which the termination date occurs, plus the aggregate total of short-fall amortization installments (if any) determined for succeeding plan years under section 303(c)(2) of this Act and section 430(c)(2) of such Code (which, for purposes of this subparagraph, shall include any increase in such sum which would result if all applications for waivers of the minimum funding standard under section 303(c)(2) of this Act and section 430(c)(2) of such Code which with respect to such plan were denied and if no additional contributions (other than those that would be required if the termination date (as defined in section 303(d)(2)) were made for the plan year in which the termination date occurs or for any previous plan year), or

“(B) in the case of a multiemployer plan, the outstanding balance of the accumulated funding deficiencies (within the meaning of section 304(a)(2) of this Act and section 431(a) of the Internal Revenue Code of 1986) with respect to the plan, if any (which, for purposes of this subparagraph, shall include the amount of any increase in such accumulated funding deficiency which, for the plan which would result if all pending applications for waivers of the minimum funding standard under section 303(c) of this Act or section 431(c) of such Code and for extensions of the amortization period under section 304(d) of this Act or section 431(d) of such Code with respect to such plan were denied and if no additional contributions (other than those that would be required if the termination date (as defined in section 303(d)(2)) were made for the plan year in which the termination date occurs or for any previous plan year), or

“(2) in the case of a single-employer plan, the sum of the waiver amortization (within the meaning of section 303(c)(1) of this Act and section 430(c)(1) of the Internal Revenue Code of 1986) with respect to the plan (if any) which, for purposes of this subparagraph, shall include the amount of any increase in such sum which would result if all applications for waivers of the minimum funding standard under section 303(c)(2) of this Act or section 431(c) of such Code and for extensions of the amortization period under section 304(d) of this Act or section 431(d) of such Code with respect to such plan were denied and if no additional contributions (other than those that would be required if the termination date (as defined in section 303(d)(2)) were made for the plan year in which the termination date occurs or for any previous plan year), or

“(3) in the case of a multiemployer plan, the outstanding balance of the amount of waived funding deficiencies of the plan waived before such date under section 303(c) of this Act or section 431(c) of such Code (if any); or


(10) in section 4245(c) (29 U.S.C. 1423(c)), by striking “303(c)(3)” and inserting “303(c)(3)”; and

(c) AMENDMENTS TO REORGANIZATION PLAN NO. 4 OF 1978.—Section 106(b)(ii) of Reorganization Plan No. 4 of 1978 (ratified and affirmed by Act of Apr. 10, 1978 (Pub. L. 95–598, 92 Stat. 2705)) is amended by striking “302(c)(8)” and inserting “302(d)(2)”, by striking “304(a)(1) and (2)(B)” and inserting “304(d)(1), (d)(2), and (e)(2)(A)”, and by striking “(i)” and “(f)(2)(A)” and inserting “(i)” and “(f)(2)(A)”.

(d) REPEAL OF EXPIRED AUTHORITY FOR TEMPORARY VARIANCES.—

(1) IN GENERAL.—Section 307 of such Act (29 U.S.C. 1057) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents of this Act is amended by striking the item relating to section 307.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2006.

Subtitle B—Amendments to Internal Revenue Code of 1986

SEC. 111. MINIMUM FUNDING STANDARDS.

(a) NEW MINIMUM FUNDING STANDARDS.—Section 432 of such Code (relating to minimum funding standards) is amended to read as follows:

“§ 432. Minimum funding standards.

(a) Requirement to meet minimum funding standard.—

(1) IN GENERAL.—A plan to which this section applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

(2) Minimum funding standard.—For purposes of this section (including any required installment under a plan year), the amount of any contribution required by this section shall apply to plan years beginning after 2006.

(b) Liability for contributions.—Except as provided in paragraph (2), the amount of any contribution required by this section (including any required installment under paragraphs (3) and (4) of section 430(j)) shall be paid by the plan sponsor responsible for making contributions to or under the plan.

(c) Joint and several liability where employer member of controlled group.—

In the case of a defined benefit plan which is not a multiemployer plan, the employer members of a controlled group each member of such group shall be jointly and severally liable for payment of such contributions.

(d) Variance from minimum funding standard.—

(1) WAIVER IN CASE OF BUSINESS HARDSHIP.—

(A) IN GENERAL.—If an employer is (or in the case of a multiemployer plan, more than one of the number of employers contributing to or under the plan is) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

(i) application of any portion of the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years.

(B) Effects of waiver.—If a waiver is granted under paragraph (A) for any plan year—

(i) in the case of a defined benefit plan which is not a multiemployer plan, the minimum required contribution under section 430 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 490(e), and

(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 431(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 431(b)(2)(C).

(C) Waiver of amortized portion not allowed.—The Secretary may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

(C) Determination of business hardship.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

(B) there is substantial unemployment in the trade or business and in the industry concerned;

(C) the sales and profits of the industry concerned are depressed or declining;

(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.

(e) Waived funding deficiency.—For purposes of this section and part IV of this subchapter, the term ‘waived funding deficiency’ means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary and not satisfied by employer contributions.

(f) Security for waivers for single-employer plans, consultations.—

(A) Security may be required.—In general.—If a plan sponsor is provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1), and

(ii) special rules.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of the Employee Retirement Income Security Act of 1974) or a member of such sponsor’s controlled group (within the meaning of section 4001(a)(14) of such Act).
“(B) Consultation with the Pension Benefit Guaranty Corporation.—Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under subsection (b) with respect to a plan described in subparagraph (A)(i)—

(i) provide the Pension Benefit Guaranty Corporation with—

(1) notice of the completed application for any waiver or modification, and

(II) an opportunity to comment on such application within 30 days after receipt of such notice; and

(ii) consider—

(I) any comments of the Corporation under clause (i), and

(II) any views of any employee organization (within the meaning of section 3(4) of the Employee Retirement Income Security Act of 1974) with respect to whom the Corporation with
under this subsection with respect to a plan
section 6103(p).

(3) SUFFICIENT EVIDENCE.—The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

(3) RESTRICTION ON PLAN AMENDMENTS.—

(A) IN GENERAL.—No amendment of a plan which increases the value of the plan in any reasonable respect to such employer, and

(B) EXCEPTION.—(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan in which the sum of—

(I) the aggregate unpaid minimum required contribution (within the meaning of section 4971(c)(4)) for the plan year and all preceding plan years, and

(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 430(e)(2), is less than $1,000,000.

(ii) TREATMENT OF WAIVERS FOR WHICH APPLICATIONS ARE PENDING.—The amount described in clause (i) shall include any increases in that amount which would be included in such amount if all applications for waivers of the minimum funding standard under this subsection which are pending with respect to such plan were denied.

(5) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2 1/2 MONTHS AFTER CLOSE OF YEAR.—In the case of a defined benefit plan which is not a multiemployer plan, no waiver may be granted for this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year.

(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a defined benefit plan which is not a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardships requirements of paragraph (1) shall be treated as met only if such requirements are met—

(i) with respect to such employer, and

(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this subsection.

(6) ADVANCE NOTICE.—

(A) IN GENERAL.—The Secretary shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such waiver to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974). Such notice shall include a description of the plan to which the plan is funded for benefits which are guaranteed under title IV of the Employee Retirement Income Security Act of 1974 and for benefit liabilities.

(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

(7) RESTRICTION ON PLAN AMENDMENTS.—

(A) IN GENERAL.—No amendment of a plan which increases the value of the plan in any reasonable respect to such employer, and

(B) EXCEPTIONS.—This section shall not apply to—

(1) any profit-sharing or stock bonus plan,

(2) any insurance contract described in paragraph (3),

(3) any governmental plan (within the meaning of section 414(d)),

(4) any plan established and maintained by a society, order, or association described in section 501(c)(8) or (9), if no part of the contributions to or earnings of the plan are made by employers of participants in such plan.

No plan described in subparagraph (C), (D), or (F) shall be treated as a qualified plan for purposes of section 401(a) unless such plan meets the requirements of section 401(a)(7) as in effect on September 1, 1974.

(E) any plan which has not, at any time after September 2, 1974, provided for employer contributions, or

(F) any plan established and maintained by a society, order, or association described in section 501(c)(8) or (9), if no part of the contributions to or earnings of the plan are made by employers of participants in such plan.

The amount described in this paragraph which reduces the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances.

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefit of any participant shall take effect unless the plan administrator files a notice with the Secretary notifying the Secretary of such amendment and the Secretary has approved such amendment, or within 60 days after the date on which such notice was filed, failed to disapprove such amendment.

No amendment described in this subsection shall be approved by the Secretary unless the Secretary determines that such amendment is necessary because of a substantial business hardship (as determined under subsection (c)(2)) and that a waiver under subsection (c) would not significantly affect the determination under this paragraph.

(3) CONTROLLED GROUP.—For purposes of this section, the term ‘controlled group’ means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.
"PART III—MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS"

"SEC. 430. MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS."

"(a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section and section 412(a)(2)(A), except as provided in section (i), the "minimum required contribution" means, with respect to any plan year of a defined benefit plan which is not a multi-employer plan,—

"(1) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) is less than the funding target of the plan for the plan year, the sum of—

"(A) the target normal cost of the plan for the plan year,

"(B) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and

"(C) the waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e),

"(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) exceeds the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced by such excess; or

"(3) in any other case, the target normal cost of the plan for the plan year.

"(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term "target normal cost" means, for an annual installment for the plan year, the sum of—

"(1) DETERMINATION OF WAIVER AMORTIZATION BASE.—The plan sponsor shall determine, with respect to the waiver amortization bases for the plan year, the applicable percentage of such funding target determined under the following table:

<table>
<thead>
<tr>
<th>Plan Year Beginning in Calendar Year</th>
<th>Applicable Percentage</th>
</tr>
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<tbody>
<tr>
<td>2007</td>
<td>92 percent</td>
</tr>
<tr>
<td>2008</td>
<td>94 percent</td>
</tr>
<tr>
<td>2009</td>
<td>96 percent</td>
</tr>
<tr>
<td>2010</td>
<td>98 percent</td>
</tr>
</tbody>
</table>

"(ii) LIMITATION.—Clause (i) shall not apply with respect to any plan year after 2007 unless the ratio (expressed as a percentage) which—

"(1) the value of plan assets for each preceding plan year (determined without regard to subsection (i)(1)), is not less than the applicable percentage with respect to such preceding plan year determined under clause (i)(1),

"(2) the funding target of the plan for such preceding plan year (determined without regard to subsection (i)(1)), and

"(ii) the present value (as determined using the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2),) of the aggregate total of the shortfall amortization installments, for such plan year and the 5 succeeding plan years, which have been determined with respect to the waiver amortization bases of the plan for each of the 5 plan years preceding such plan year, and

"(3) the present value (as so determined) of the aggregate total of the waiver amortization bases of the plan for each of the 5 plan years preceding such plan year.

"(c) SHORTFALL AMORTIZATION CHARGE.—"(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year shall be the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. For purposes of this section, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

"(2) SHORTFALL AMORTIZATION INSTALLMENT.—The plan sponsor shall determine, with respect to the shortfall amortization bases for the plan year, the amount necessary to amortize such shortfall amortization base, in level annual installments over a period of 7 plan years beginning with such plan year. For purposes of paragraph (1), the annual installment of such amortization for each plan year in such 7-plan year period is the shortfall amortization installment for such plan year and succeeding plan years, the waiver amortization base for such plan year and succeeding plan years, the waiver amortization base for all preceding plan years shall be reduced to zero.

"(d) REDUCTION OF MINIMUM REQUIRED CONTRIBUTION BY PRE-FUNDING BALANCE AND FUNDING STANDARD CARRYOVER BALANCE.—"(1) ELECTION TO MAINTAIN BALANCES.—

"(A) PRE-FUNDING BALANCE.—The plan sponsor of a defined benefit plan which is not a multiemployer plan may elect to maintain a pre-funding balance.

"(B) STANDARD CARRYOVER BALANCE.—

"(1) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) described in clause (ii), the plan sponsor may elect to maintain a funding standard carryover balance, until such balance is reduced to zero.

"(ii) PLANS MAINTAINING FUNDING STANDARD ACCOUNT IN 2006.—A plan is described in this clause if the plan—
(1) was in effect for a plan year beginning in 2006, and
(2) had a positive balance in the funding standard account under section 412(b) as in effect for such plan year and determined as of the end of such plan year.

(2) Application of balances.—A pre-funding balance and a funding standard carryover balance maintained pursuant to this paragraph—

(A) shall be available for crediting against the minimum required contribution, pursuant to paragraph (3), and

(B) shall be applied as a reduction in the amount treated as the value of plan assets for purposes of the minimum required contribution for the current plan year (not in excess of such minimum required contribution), the minimum required contribution for the plan year shall be reduced by the amount so credited by the plan sponsor. For purposes of the preceding sentence, the minimum required contribution shall be determined after taking into account any balances maintained by a plan pursuant to subparagraph (B) or subparagraph (C). Any plan that had a positive balance in the funding standard carryover balance for any plan year (but not below zero) shall be effective prior to any determination of the value of plan assets for such plan year under this section and application of the balance in reducing the minimum required contribution for such plan for such plan year pursuant to an election under paragraph (2).

(C) Availability of balances in plan year ending with minimum required contribution.—For purposes of paragraph (3)(C)(ii) of this subsection, the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance.

(3) Election to reduce balance prior to determinations of value of plan assets and crediting against minimum required contribution.—

(A) In general.—The plan sponsor may elect to reduce by any amount the balance of the pre-funding balance and the funding standard carryover balance for any plan year (but not below zero). Such reduction shall be effective prior to any determination of the value of plan assets for such plan year under this section and application of the balance in reducing the minimum required contribution for such plan for such plan year pursuant to an election under paragraph (2).

(B) Coordination between pre-funding balance and funding standard carryover balance.—To the extent that any plan has a funding standard carryover balance greater than zero, no election may be made under subparagraph (A) with respect to the pre-funding balance.

(4) Pre-funding balance.—

(A) In general.—A pre-funding balance maintained by a plan shall consist of a beginning balance of zero, increased and decreased as provided in subparagraphs (B) and (C), and adjusted further as provided in paragraph (8).

(B) Increases.—As of the valuation date for each plan year beginning after 2007, the pre-funding balance of a plan shall be increased by the amount elected by the plan sponsor for the plan year. Such amount shall not exceed the excess (if any) of—

(i) the aggregate total of employer contributions to the plan for the preceding plan year, over

(ii) the minimum required contribution for such preceding plan year (increased by interest on any portion of such minimum required contribution remaining unpaid as of the valuation date for the plan year at the effective interest rate for the plan for the preceding plan year, for the period beginning with the first day of such preceding plan year and ending with the date preceding the valuation date for the current plan year).

(C) Decreases.—As of the valuation date for each plan year beginning after 2007, the pre-funding balance of a plan shall be decreased (but not below zero) by the sum of—

(i) the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

(ii) any reduction in such balance elected under paragraph (5),

(5) Determinations to balances.—In determining the pre-funding balance or the funding standard carryover balance of a plan as of the valuation date (before applying any averaging or decrease under paragraph (6) or (7)), the plan sponsor shall, in accordance with regulations which shall be prescribed by the Secretary, adjust such balance so as to reflect the rate of return determined, notwithstanding subsection (g)(3), on the basis of fair market value experienced by all plan assets for the period beginning with the valuation date for the preceding plan year and ending with the date preceding the valuation date for the current plan year, properly taking into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

(6) Elections.—Elections under this subsection shall be made at such times, and in such form and manner, as shall be prescribed in regulations of the Secretary.

(7) Valuation date.—For purposes of this section—

(A) In general.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

(B) Exception for small plans.—If, on each day during the preceding plan year, a plan had 500 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer’s controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account.

(C) Application of certain rules in determination of plan size.—For purposes of this paragraph—

(i) no plan shall be in existence in preceeding year.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan was expected to have on days during such first plan year.

(ii) Predecessors.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

(8) Any plan that is not in existence in preceding year—For purposes of this section, the value of plan assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary, except that—

(A) for purposes of averaging of such values over more than the 36-month period ending with the month which includes the valuation date, and

(B) for purposes of a determination of the value of plan assets which, at any time, is lower than 90 percent...
or greater than 110 percent of the fair market value of such assets at such time.

(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of this section—
(A) NEW PRIOR PLAN YEARS TAKEN INTO ACCOUNT.—For purposes of determining the value of plan assets for any current plan year, in any case in which a contribution allocable to amounts owed for a preceding plan year is made on or after the valuation date of the plan for such current plan year, such contribution shall be taken into account except that any such contribution made during any such current plan year beginning after 2007 shall be taken into account only in an amount equal to its present value (determined using the effective rate of interest for the plan for the preceding plan year) as of the valuation date of the plan for such current plan year.

(B) CONTRIBUTIONS FOR CURRENT PLAN YEAR DISREGARDED.—For purposes of determining the value of plan assets for any current plan year, contributions which are prop-erly allocable to amounts owed for such plan year shall not be taken into account, and, in the case of any such contribution made before the valuation date of the plan year, such value of plan assets shall be reduced for interest on such amount determined using the effective rate of interest of the plan for such plan year for the period beginning when such payment was made and ending on the valuation date of the plan.

(5) ACCOUNTING FOR PLAN LIABILITIES.—For purposes of (A) Liabilities taken into account for current plan year.—In determining the value of liabilities under a plan for a plan year, liabilities shall be taken into account to the extent attributable to benefits (including any early retirement or similar ben-efit) and earned as of the beginning of the plan year.

(B) ACCRUALS DURING CURRENT PLAN YEAR DISREGARDED.—For purposes of subparagraph (A), contributions allocable to amounts owed for a plan year not shall be taken into account, irrespective of whether the valuation date of the plan for such plan year is later than the first day of such plan year.

(h) ACTUARIAL ASSUMPTIONS AND METHOD- ODS.—
(1) IN GENERAL.—Subject to this sub-section, the determination of any present value or other computation under this section shall be made on the basis of actuarial assumptions (A) which the most recent year is weighted 50 percent, the year preceding such year is weighted 35 percent, and the second year preceding such year is weighted 15 percent.

(B) APPLICABLE MONTH.—For purposes of this paragraph, an ‘‘applicable month’’ means, with respect to any plan year, the month which includes the valuation date of such plan for plan year or at the election of the plan sponsor, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to all such months during which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary.

(1) INTEREST RATES.—
(1) FUTURE INTEREST RATE.—For purposes of this section, the term ‘‘future interest rate’’ means, with respect to any plan year, the rate of interest which, in combination, offer the actu-ary’s best estimate of anticipated experience under the plan.

(2) INTEREST RATES.—
(1) INTEREST RATES FOR DETERMINING FUNDING TARGET.—For purposes of determining the funding target of a plan for any plan year, the interest rate used in determining the present value of the liabilities of the plan shall be—
(i) the interest rate which, if used to determine the present value of the liabilities of the plan, shall be—
(A) the product of such rate for such plan year beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and
(B) the product of such rate for such plan year beginning at the end of the period described in clause (ii), the third segment rate with respect to the applicable month,
(ii) in the case of liabilities reasonably de-termined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

The term ‘‘interest rate’’ means the mean of the yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

(II) SECOND SEGMENT RATE.—The term ‘‘second segment rate’’ means, with respect to any plan year, the rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period beginning with such month.

(III) THIRD SEGMENT RATE.—The term ‘‘third segment rate’’ means, with respect to any plan year, the rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period beginning after the period described in clause (i).

(D) CORPORATE BOND YIELD CURVE.—For purposes of this paragraph—
(i) IN GENERAL.—The term ‘‘corporate bond yield curve’’ means, with respect to any month, the yield curve which is prescribed by the Secretary and which reflects a 3-year weighted average of yields on investment grade corporate bonds with varying maturities.

(ii) 3-YEAR WEIGHTED AVERAGE.—The term ‘‘3-year weighted average’’ means an average determined by using a methodology under which the most recent year is weighted 50 percent, the year preceding such year is weighted 35 percent, and the second year preceding such year is weighted 15 percent.

(E) APPLICABLE MONTH.—For purposes of this paragraph, an ‘‘applicable month’’ means, with respect to any plan year, the month which includes the valuation date of such plan for plan year or at the election of the plan sponsor, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to all such months during which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary.

(F) PUBLICATION REQUIREMENTS.—The Secretary shall publish for each month the corporate bond yield curve (and the corporate bond yield curve reflecting the modification described in subparagraph (B) for such month and each of the rates determined under subparagraph (B) for such month. The Secretary shall also publish a description of the methodology used to determine such yield curve and such rates which is suffi-ciently detailed to enable plans to make rea-sonable projections regarding the yield curve and such rates for future months based on the plan’s projection of future interest rates.

(G) TRANSITION RULE.—
(i) IN GENERAL.—Notwithstanding the pre-ceding provisions, for plan years beginning in 2007 or 2008, the first, second, or third segment rate for a plan with re-spect to any month shall be equal to the sum of—
(1) the product of such rate for such plan year as determined without regard to this subparagraph, multiplied by the applicable percentage, and
(2) the product of the rate determined under the rules of section 412(b)(5)(B)(ii)(II) for plan years beginning in 2006, multiplied by a percentage equal to 100 percent minus the applicable percentage.

(ii) APPLICABLE PERCENTAGE.—For pur-pose of clause (i), the applicable percentage is 33 percent for plan years beginning in 2007 and 66 percent for plan years beginning in 2008.

(iii) NEW PLANS INELIGIBLE.—Clause (i) shall not apply to any plan if the plan year of the plan begins after December 31, 2006.

(3) MORTALITY TABLE.—
(A) IN GENERAL.—Except as provided in subparagraph (B), the mortality table used in determining any present value or making any computation under this section shall be the mortality table described in subparagraph (A). The Secretary shall publish a description of the mortality table for each calendar year.

(B) SUBSTITUTE MORTALITY TABLE.—
(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary for a period of not less than 10 years, a mortality table which meets the requirements of clause (ii) shall be used in determining any present value or making any computation under this section. A mortality table described in this subsection shall be in effect if plan the actuary determines at any time that such table does not meet the re-quirements of subclauses (I) and (II) of clause (ii).

(ii) REQUIREMENTS.—A mortality table meets the requirements of this clause if the Secretary determines that such table reflects the actual experience of the pension plan and projected trends in such experience, and

(2) the table is significantly different from the table described in subparagraph (A).

(iii) DEADLINE FOR DISPOSITION OF APPLICA-TION.—Any mortality table submitted to the Secretary for approval under this sub-paragraph shall be effective period of 5 years beginning in or after 2007 so as to be effective for the fifth plan year. The preceding sentence shall not apply to any plan if the plan year of the plan begins after December 31, 2006.

(4) PROBABILITY OF BENEFIT PAYMENTS IN THE FORM OF LUMP SUMS OR OTHER OPTIONAL FORMS.—For purposes of determining any present value or making any computation under this section, there shall be taken into account—

(1) the probability that future benefit payments under the plan will be made in the form of optional forms of benefits provided under the plan (including lump sum distributions, determined on the basis of the plan’s experience and other related assumptions), and

(2) any difference in the present value of such future benefit payments resulting from
(B) The loading factor under paragraph (1)(C), excluding the portion of the loading factor described in paragraph (1)(C)(i).

(3) Determination of at-risk status.—For purposes of paragraph (1), a plan is at-risk status for a plan year if the funding target attainment percentage of the plan for the preceding plan year was less than 60 percent.

(4) Transition between applicable funding targets and between applicable target normal costs.—

(A) In general.—In any case in which a plan is in at-risk status for a plan year, the amount determined under this subsection (without regard to this paragraph) over the amount determined under this subsection with regard to this paragraph, the sum of—

(i) the amount determined under this subsection with regard to this subsection, plus

(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined under this subsection without regard to this subsection.

(B) Transition percentage.—For purposes of this paragraph, the ‘transition percentage’ for a plan year is determined by multiplying—

(i) 20 percent, by

(ii) the number of plan years during the period described in paragraph (A).

(5) Payment of minimum required contributions.—

(1) In general.—For purposes of this section, the amount of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

(2) Interest.—Any payment required under paragraph (1) for a plan year that is made on a date other than the valuation date for such plan year shall be adjusted for interest accruing for the period between the valuation date and the payment date, at the effective rate of interest for the plan for such plan year.

(3) Accelerated quarterly contribution schedule for underfunded plans.—

(A) Interest penalty for failure to meet accelerated quarterly payment schedule.—In any case in which a plan has a funding shortfall for the preceding plan year, if the required installment is not paid in full, then the minimum required contribution for the plan year (as increased under paragraph (2)) shall be further increased by an amount equal to the interest on the amount of the underpayment for the period of the underpayment, using an interest rate equal to the excess of—

(i) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), over

(ii) the effective rate of interest for the plan for such plan year.

(B) Amount of underpayment, period of underpayment.—

(i) Amount.—The amount of the underpayment shall be the excess of—

(I) the required installment, over

(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

(ii) Period of underpayment.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

(6) Order of crediting contributions.—For purposes of clause (i)(III), contributions shall be credited against unpaid required installments in the order in which such installments are required by paragraph (1).

(7) Number of required installments; due dates.—For purposes of this paragraph—

(i) Payable in 4 installments.—There shall be 4 required installments for each plan year.

(ii) Time for payment of installments.—The due dates for required installments are set forth in the following table:

<table>
<thead>
<tr>
<th>Plan Year</th>
<th>Due Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1st</td>
<td>April 15</td>
</tr>
<tr>
<td>2nd</td>
<td>July 15</td>
</tr>
<tr>
<td>3rd</td>
<td>October 15</td>
</tr>
<tr>
<td>4th</td>
<td>January 15 of the following year</td>
</tr>
</tbody>
</table>

(8) Amount of required installment.—For purposes of this paragraph—

(A) In general.—The amount of any required installment shall be 25 percent of the required annual payment.

(B) Required annual payment.—For purposes of clause (i), the term ‘required annual payment’ means the lesser of—

(i) 90 percent of the minimum required contribution (without regard to any waiver under section 412(c)) for the plan for the plan year under this section, or

(ii) in the case of a plan year beginning after 2007, 100 percent of the minimum required contribution (without regard to any waiver under section 412(c)) for the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year referred to in such clause was not a year of 12 months.

(E) Fiscal years and short years.—

(i) Fiscal years.—In applying this paragraph to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this paragraph, the months which correspond thereto.

(ii) Short plan year.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary.

(9) Liquidity requirement in connection with quarterly contributions.—

(A) In general.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceed the amount of such installment required to be paid but for this paragraph).

(B) Plans to which paragraph applies.—This paragraph shall apply to a plan (other than a plan that would be described in subparagraph (A) if ‘100’ were substituted for ‘90’ therein) which—

(i) is required to pay installments under paragraph (3) for a plan year, and

(ii) has a liquidity shortfall for any quarter during such plan year.
(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

(D) LIMITATION ON INCREASE.—If the amount needed to install the sums referred to in paragraph (A) is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefits purchased for or earned during the plan year) to 100 percent.

(E) DEFINITIONS.—For purposes of this subparagraph:

(1) LIQUIDITY SHORTFALL.—The term ‘liquidity shortfall’ means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of—

(I) the base amount with respect to such quarter, over

(ii) the value (as of such last day of the plan’s asset.

(2) BASE AMOUNT.—

(I) IN GENERAL.—The term ‘base amount’ means, with respect to any quarter, an amount equal to the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

(ii) SPECIAL RULE.—If the amount determined under subparagraph (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary that such excess is the result of nonrecurring circumstances, the base amount equal to such a quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

(iii) DISBURSEMENTS FROM THE PLAN.—The term ‘disbursements from the plan’ means all disbursements from the trust, including—

(A) the purchase of annuities, payments of single sums and other benefits, and administrative expenses.

(B) ADJUSTED DISBURSEMENTS.—The term ‘adjusted disbursements’ means disbursements from the plan reduced by the product of—

(I) the plan’s funding target attainment percentage for the plan year, and

(ii) the sum of the purchases of annuities, payments of single sums and other benefits, and such other disbursements as the Secretary shall provide in regulations.

(C) LIQUID ASSETS.—The term ‘liquid assets’ means—

(A) cash, marketable securities, and such other assets as specified by the Secretary in regulations.

(B) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out this paragraph.

(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

(1) IN GENERAL.—In the case of a plan to which this subsection applies, if—

(A) any person fails to make a contribution payment required by section 412, then such person shall be liable to the plan sponsor for the amount of such payment included in the aggregate amount required to be made under section 412 and this section before the due date for such payment, and

(B) the unpaid balance of such payment (including interest) added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000, then there shall be a lien in favor of the plan in the amount determined under paragraph (A) for such person and any other person who is a member of the same controlled group of which such person is a member.

(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a plan for the plan year (taking into account the expected increase in funding target due to benefits purchased for or earned during the plan year) to 100 percent.

(E) DEFINITIONS.—For purposes of this paragraph—

(A) N O TICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

(D) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the plan sponsor, the contributing sponsor (or any member of the controlled group of the contributing sponsor), or any trustee of the plan.

(6) DEFINITIONS.—For purposes of this subsection—

(A) CONTRIBUTION PAYMENT.—The term ‘contribution payment’ means, in connection with a plan, any payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (1).

(B) DUE DATE AND REQUIRED INSTALLMENT.—The terms ‘due date’ and ‘required installment’ have the meanings given such terms by subsection (j), except that in the case of a plan that is not a single-employer plan, the due date shall be the date such payment is required to be made under section 430.

(C) CONTROLLED GROUP.—The term ‘controlled group’ means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414.

(D) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—In the case of a qualified transfer (as defined in section 420), any assets added to the plan in such qualified transfer shall, for purposes of this section, be treated as assets in the plan.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2006.

SEC. 113. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

(a) PROHIBITION OF SHUTDOWN BENEFITS AND OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.

(1) IN GENERAL.—Part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation, etc.) is amended—

(A) by striking the heading and inserting the following:

PART III—RULES RELATING TO MINIMUM FUNDING STANDARDS AND BENEFIT LIMITATIONS

(1) Subpart A—Minimum Funding Standards for Pension Plans

(2) Subpart B—Benefit Limitations Under Single-Employer Plans

(b) Sec. 430. Minimum funding standards for single-employer defined benefit pension plans.

(c) Sec. 444. Funding-based limitation on shutdown benefits and other unpredictable contingent event benefits under single-employer plans.

(d) Sec. 453. Prohibition of unfunded accrued benefit liabilities under single-employer plans.

(1) In general.—No defined benefit plan (other than a multiemployer plan) may provide benefits to which participants are entitled solely by reason of the occurrence of a plant shutdown or any other unpredictable contingent event occurring during any plan year if the funding target attainment percentage as of the valuation date of the plan for such plan year—

(1) is less than 80 percent, or

(2) would be less than 80 percent taking into account such occurrence.

(B) EXEMPTION.—Subsection (a) shall cease to apply with respect to any plan year, effective as of the first date of the plan year, under any plan in which the funding target attainment percentage (in addition to any minimum required contribution under section 430) equal to—

(i) in the case of subsection (a)(1), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the occurrence referred to in subsection (a)(1),

(ii) in the case of subsection (a)(2), the amount sufficient to result in a funding target attainment percentage of 80 percent.

(d) NEW PLANS.—Subsection (a) shall not apply to a plan for the first 5 plan years of the plan year beginning after December 31, 2006.
“(e) Deemed Reduction of Funding Balances.—A rule similar to the rule of section 437(h) shall apply for purposes of this section.

(2) Clerical Amendment.—The table of parts for such chapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

“PART III_RULES RELATING TO MINIMUM FUNDING STANDARDS AND BENEFIT LIMITATIONS —

(b) Other Limits on Benefits and Benefit Accruals.—

(1) In General.—Subpart B of part III of subchapter D of chapter 1 of such Code is amended by adding at the end the following:

“SEC. 437. FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.

“(a) Limitations on Plan Amendments Increasing Liability for Benefits.—

“(1) In General.—No amendment to a defined benefit plan (other than a multiemployer plan) which has the effect of increasing liabilities of the plan by reason of increases in benefits or the establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable to the plan may take effect after the first day of the plan year if the funding target attainment percentage as of the valuation date of the plan for such plan year is—

“(A) less than 80 percent, or

“(B) would be less than 80 percent taking into account such amendment.

For purposes of this paragraph, any increase in benefits under the plan by reason of an increase in the benefit rate provided under the plan on the basis of an increase in compensation shall be treated as effective by plan amendment.

“(2) Exception.—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first date of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution in addition to any minimum required contribution under section 430(b) equal to—

“(A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan described in section 430(b) for the plan year attributable to the amendment, and

“(B) in the case of paragraph (1)(B), the amount sufficient to result in a funding target attainment percentage of 80 percent.

“(b) Limitation on Certain Forms of Distribution.—

“(1) In General.—A defined benefit plan (other than a multiemployer plan) shall provide that, in any case in which the plan’s funding target attainment percentage as of the valuation date of the plan for a plan year is less than 80 percent, the plan may not after such date pay any payment described in section 401(a)(32)(B).

“(2) Exception.—Paragraph (1) shall not apply to any plan for any plan year if the terms of such plan (as in effect for the period beginning on June 29, 2005, and ending with such plan year) provide for no benefit accruals with respect to any participant during such period.

“(c) Limitations on Benefit Accruals for Plans With Severe Funding Shortfalls.—A defined benefit plan (other than a multiemployer plan) shall provide that, in any case in which the plan’s funding target attainment percentage as of the valuation date of the plan for a plan year is less than 60 percent, all future benefit accruals under the plan shall cease as of such date.

“(d) New Plans.—Subsections (a) and (c) shall not apply to a plan for the first 5 plan years thereafter. For purposes of this subsection, the reference in this subsection to a plan shall include a reference to any predecessor plan.

“(e) Presumed Underfunding for Purpose of Benefit Limitations Based on Prior Year’s Funding Status.—

“(1) Presumption of Underfunding.—In any case in which a benefit limitation under subsection (b), (c), or (d) has been applied to a plan with respect to the plan year preceding the current plan year, the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the preceding plan year until the enrolled actuary certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year.

“(2) Application of Underfunding After 10th Month.—In any case in which no such certification is made with respect to the plan before the first day of the 10th month of the current plan year, the enrolled actuary shall make such determination under paragraph (1) and, if any such determination under paragraph (1) is made, such determination shall be deemed, for purposes of this subsection, to be the valuation date of the plan for the current plan year.

“(f) Presumption of Underfunding After 10th Month for Nearly Underfunded Plans.—In any case in which—

“(A) a benefit limitation under subsection (a), (b), or (c) did not apply to a plan with respect to the plan year preceding the current plan year, but the funding target attainment percentage of the plan for such preceding plan year was not more than 10 percentage points greater than the percentage which would have caused such subsection to apply to the plan with respect to such preceding plan year, and

“(B) as of the first day of the 4th month of the current plan year, the enrolled actuary of the plan has not certified the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year, until the enrolled actuary so certifies, such first day shall be deemed, for purposes of such subsection, to be the valuation date of the plan for the current plan year and the funding target attainment percentage of the plan as of such first day shall be presumed to be at least 10 percentage points less than the funding target attainment percentage of the plan as of the valuation date of the plan for such preceding plan year.

“(g) Restoration by Plan Amendment of Benefits or Benefit Accrual.—In any case in which a prohibition under subsection (b) of a payment described in subsection (b)(1) or a cessation of benefit accruals under subsection (c) is applied to a plan with respect to any payment or accrual by reason of such prohibition or cessation, as the case may be, ceases to apply to any subsequent plan year, the plan may provide for the resumption of such benefit payment or such benefit accrual only by means of a plan amendment after the valuation date of the plan for such subsequent plan year. The preceding sentence shall not apply to a prohibition or cessation required by reason of subsection (e).

“(h) Deemed Reduction of Funding Balances.—

“(1) In General.—For purposes of this section, the term ‘funding target attainment percentage’ means, with respect to any plan for any plan year, the ratio (expressed as a percentage) which—

“(A) the value of plan assets for the plan year (as determined under section 492(g)) reduced by the pre-funding balance and the funding standard carryover balance (within the meaning of section 492(g)) is

“(B) the funding target of the plan for the plan year (as determined under section 492(d), but without regard to section 492(d)(1)).

“(2) Application to Plans Which Are Fully Funded Without Regard to Reductions for Funding Balances.—

“(A) In General.—In the case of a plan for any plan year, if the funding target attainment percentage is 100 percent or more (determined without regard to this subparagraph and without regard to the reduction under section 492(d)(1)) and the plan has not elected (under section 492(f)(3)(B)) that section 492(d)(1) shall apply, paragraph (1) shall be applied without regard to such reduction.

“(B) Transition Rule.—No application of paragraph (A) shall be applied to plan years beginning after 2006 and before 2011 by substituting for ‘100 percent’ the applicable percentage determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Plan Year</th>
<th>The Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>92 percent</td>
</tr>
<tr>
<td>2008</td>
<td>94 percent</td>
</tr>
<tr>
<td>2009</td>
<td>96 percent</td>
</tr>
<tr>
<td>2010</td>
<td>98 percent</td>
</tr>
</tbody>
</table>

“(C) Limitation.—Subparagraph (B) shall not apply with respect to any plan year after 2007 unless the funding target attainment percentage (determined without regard to this paragraph and without regard to the reduction under paragraph (1)(A) for the pre-funding balance and the funding standard carryover balance) of the plan for each preceding plan year after 2006 was less than the applicable percentage with respect to such preceding plan year determined under subparagraph (B).

“(h) Deemed Reduction of Funding Balances.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers—

“(1) In General.—In any case in which a benefit limitation under subsection (a), (b), or (c) shall apply to such plan for the plan year, the plan sponsor of such plan shall be treated for purposes of this title as having made an election under section 432(f)(5) to reduce the balance of the pre-funding balance and the funding standard carryover balance for the plan year (in a manner consistent with the requirements of section 492(f)(5)(B)) by such amount as is necessary for such benefit limitation to not apply to the plan for such plan year.

“(2) Exception for Insufficient Funding Balances.—Paragraph (1) shall not apply with respect to a benefit limitation for any plan year if the application of paragraph (1)
would not result in the benefit limitation not applying for such plan year.”

(2) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by adding at the end the following item:

“Sec. 437. Funding-based limits on benefits and benefit accruals under single-employer plans.”

(c) EFFECTIVE DATE.—

(1) SHUTDOWN BENEFITS.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply with respect to plan years beginning after December 31, 2006.

(2) OTHER BENEFITS.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply with respect to plan years beginning after December 31, 2006.

(3) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of enactment of this Act, the amendments made by this subsection shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of enactment of this Act); or

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply, or

(B) January 1, 2009.

For purposes of clause (i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this subsection shall not be treated as a termination of such collective bargaining agreement.

(d) Specified Rule for 2007.—For purposes of applying subsection (e) of section 437 of such Code (as added by this section) to current plan years (within the meaning of such subsection) beginning in 2007, the modified funded current liability percentage of the plan for the preceding year shall be substituted for the modified target attainment percentage of the plan for the preceding year. For purposes of the preceding sentence, the term “modified funded current liability percentage” means—

(i) the fair market value of the plan’s assets (reduced by the pre-funding balance and the funding standard carryover balance, as determined under section 430(f)(1)), and

(ii) the value thereof as determined under section 430(g)(3) (reduced by the pre-funding balance and the funding standard carryover balance, as determined under section 430(f)), over

(B) 125 percent of the sum of the target liability amount and the target normal cost determined under section 430 for such plan year.

(2) Section 420(e)(2) of such Code is amended to read as follows:

“(2) EXCESS PENSION ASSETS.—The term ‘excess pension assets’ means the excess (if any) of—

(A) the lesser of—

(i) the fair market value of the plan’s assets (reduced by the pre-funding balance and the funding standard carryover balance, as determined under section 430(f)), or

(ii) the value thereof as determined under section 430(g)(3) (reduced by the pre-funding balance and the funding standard carryover balance, as determined under section 430(f)), over

(B) 125 percent of the sum of the target liability amount and the target normal cost determined under section 430 for such plan year.

(2) Section 420(e)(4) of such Code is amended to read as follows:

“(4) COORDINATION WITH SECTION 430.—In the case of any plan to which any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.”

(e) EXCISE TAXES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 4971 of such Code are amended to read as follows:

“(a) INITIAL TAX.—If at any time during any taxable year an employer maintains a plan to which section 4212 applies, there is hereby imposed for the taxable year a tax equal to—

(1) in the case of a defined benefit plan which is not a multiemployer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year, and

(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year.

“(b) ADDITIONAL TAX.—If—

(1) a tax is imposed under subsection (a) on any unpaid minimum required contribution and such amount remains unpaid as of the close of the taxable period, or

(2) a tax is imposed under subsection (a) on any accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period, there is hereby imposed a tax equal to 100 percent of such contribution or accumulated funding deficiency, whichever is applicable, to the extent not so paid or corrected.”

(2) Section 4971(c) of such Code is amended—

(A) by striking “the last two sentences of section 431(a)” in paragraph (1) and inserting “section 431”, and

(B) by adding at the end the following new paragraph:

“(4) UNPAID MINIMUM REQUIRED CONTRIBUTION.—

“(A) IN GENERAL.—The term ‘unpaid minimum required contribution’ means, with respect to any plan year, any minimum required contribution under the plan year which is not paid on or before the due date (as determined under section 430(b)(1)) for the plan year.

“(B) EFFECTIVE DATE.—Any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years in the order in which such contributions became due and then to the minimum required contribution under section 430 for the plan year.

(3) Section 4971(e)(1) of such Code is amended by striking “section 412(b)(3)(A)” and inserting “section 412(a)(2)”.

(4) Section 4971(f)(1) of such Code is amended—

(A) by striking “section 412(m)(5)” and inserting “section 412(j)(4)”, and

(B) by striking “section 412(m)” and inserting “section 430(j)(3)”.

(5) Section 4972(c)(7) of such Code is amended by striking “except to the extent that such contributions exceed the full-funding limitation” (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof) and inserting “except, in the case of a multiemployer plan, to the extent of such contribution beyond the full-funding limitation (as defined in section 431(c)(6))”.

(6) REPORTING REQUIREMENTS.—Section 6056(b) of such Code is amended—

(A) by striking “the accumulated funding deficiency (as defined in section 431(a))” in paragraph (2) and inserting “the minimum required contribution determined under section 430, or the accumulated funding deficiency determined under section 431,” and

(B) by striking paragraph (3)(B) and inserting—

“(B) the requirements for reasonable actuarial assumptions under section 430(h)(1) or 431(c)(3), whichever are applicable, have been complied with.”

(7) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2006.

Subtitle C—Other Provisions SEC. 121. MODIFICATION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS.

(a) IN GENERAL.—In the case of a plan that—

(1) was not required to pay a variable rate premium for the plan year beginning in 1996, and

(2) is not, in any plan year beginning after 1995, merged with another plan (other than a plan sponsored by an employer that
was in 1996 within the controlled group of the plan sponsor); and

(3) is sponsored by a company that is engaged primarily in the interurban or inter-state passenger railroad business.

The rules described in subsection (b) shall apply for any plan year beginning after December 31, 2006.

(b) IN GENERAL.—The rules described in this subsection are as follows:

(1) For purposes of section 430(i)(3) of the Internal Revenue Code of 1986 and section 303(j) of the Employee Retirement Income Security Act of 1974, the plan shall be treated as not having a funding shortfall for any plan year.

(2) For purposes of—

(A) determining unfunded vested benefits under section 4006(a)(3)(B) of such Act, and

(B) determining any present value or making any computation under section 412 of such Code or section 302 of such Act, the mortality table shall be the mortality table used by the plan.

(3) Section 430(c)(5)(B) of such Code and section 303(c)(5)(B) of such Act (relating to phase-in of funding target for exemption from section 412) shall each be applied by substituting “2012” for “2011” therein and by substituting for the table therein the following:

<table>
<thead>
<tr>
<th>Plan Year</th>
<th>Applicable Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>90 percent</td>
</tr>
<tr>
<td>2008</td>
<td>92 percent</td>
</tr>
<tr>
<td>2009</td>
<td>94 percent</td>
</tr>
<tr>
<td>2010</td>
<td>96 percent</td>
</tr>
<tr>
<td>2011</td>
<td>98 percent</td>
</tr>
</tbody>
</table>

(c) DEFINITIONS.—Any term used in this section which is used in section 430 of such Code or section 303 of such Act shall have the meaning provided such term in such section. If the same term has a different meaning in such Code and such Act, such term shall, for purposes of this section, have the meaning provided by such Code when applied with respect to such Code and the meaning provided by such Act when applied with respect to such Act.

(d) SPECIAL RULE FOR 2006.—

(1) IN GENERAL.—Section 769(c)(3) of the Retire- ment Protection Act of 1994, as added by section 201 of the Pension Funding Equity Act of 2004, is amended by striking “2005” and inserting “2006”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to plan years beginning after December 31, 2005.

SEC. 122. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION PLANS WHEN EMPLOYER DEFINED BENEFIT PLANS ARE IN AT-RISK STATUS.

(a) IN GENERAL.—Subsection (b) of section 409A of the Internal Revenue Code of 1986 (providing rules relating to funding) is amended—

(1) by striking paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(5) EMPLOYER'S DEFINED BENEFIT PLAN IN AT-RISK STATUS.—If—

(A) during any period in which a defined benefit plan to which section 412 applies is in an at-risk status (as defined in section 430(i)(3)), assets are set aside (directly or indirectly) in a trust (or other arrangement de-

"The amounts necessary to amortize in equal annual installations (until fully amortized) on the first day of the first plan year to which this part applies, over a period of 40 plan years.

"(vii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

"(D) the amount necessary to amortize in equal annual installations (until fully amortized) over a period of 20 years contributions which would be required to be made under this plan but for the enactment of section 302(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005), and

"(b) IN GENERAL.—For a plan year, the funding standard account shall be credited with the sum of—

(A) the amount considered contributed by the employer to or under the plan for the plan year, and

(B) the amount necessary to amortize in equal annual installations (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 302(c)(10)(A)(i) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005),

"(E) the amount necessary to amortize in equal annual installations (until fully amortized) over a period of 15 plan years,

"(D) the amount necessary to amortize in equal annual installations (until fully amortized) over a period of 20 years contributions which would be required to be made under this plan but for the enactment of section 302(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005), and

"(c) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 305 (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005), the excess (if any) of any debit balance in the funding standard account (determined without regard to this paragraph) over a period of 15 plan years in the alternative minimum funding standard account.

"(D) SPECIAL RULES FOR CERTAIN PRE-2007 AMELIORATIONS.—

(A) IN GENERAL.—In the case of any amount amortized under section 302(b) (as in

"(E) the amount necessary to amortize in equal annual instal-
(B) INTEREST.—For purposes of amortization prescribed by section 202(b) (as so in effect) on the day before the date of the enactment of the Pension Protection Act of 2005, in the case of any waiver under section 303 (as so in effect) with respect to which application has been made before June 30, 2005, the interest rate for subparagraph (2)(v) (as so in effect) or section 302(a) (as so in effect), as the case may be, shall apply.

(b) COMBINING AND OFFSETTING AMOUNTS TO BE AMORTIZED.—Under regulations prescribed by the Secretary of the Treasury, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

"(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into such combined amount, and

"(B) may be offset against amounts required to be amortized under the other such paragraph to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into such combined amount, and

"(C) may be offset against amounts required to be amortized under the other such paragraph to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into such combined amount."

(6) INTEREST.—Except as provided in subsection (c)(9), the funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the interest rate prescribed (in the absence of an election to substitute the number of years, beginning with the plan year in which such election was deferred with the amount so deferred (and paragraph (2)(B)(iv)) shall not be required to the amount so charged.

(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) an increase in benefits which by reason of an increase in benefits which

(2) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this section—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount consisting of an investment in the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's fund such amount to prevent withdrawal liability payments from being unduly reflected as advance funding for such amount."

(2) VALUATION OF ASSETS.—

"(A) IN GENERAL.—For purposes of this section, the value of the plan's assets shall be determined on the basis of any reasonable method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary of the Treasury.

(2) ADDITIONAL RULES.—

"(A) 4018 REMOVAL.—For purposes of the subsection (A) be less than the excess (if any) of—
‘(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), or

‘(II) the plan’s funding status of the plan’s assets determined under paragraph (2).

‘(f) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in an escrow or similar account established under section 301(k) of such Act (described in section 4975 of the Internal Revenue Code of 1986).

‘(D) CURRENT LIABILITY.—For purposes of this paragraph—

‘(I) IN GENERAL.—The term ‘current liability’ means all liabilities to employees and their beneficiaries under the plan.

‘(II) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

‘(A) age, service, compensation, death, or disability,

‘(B) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury).

‘shall not be taken into account until the event to which the benefit is contingent occurs.

‘(III) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

‘(IV) MORTALITY TABLES.—

‘(A) SEPARATE STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under clause (II) apply, the mortality tables to be used in determining current liability under this paragraph shall be the table prescribed by the Secretary of the Treasury which is based on the prevailing commissioned’s standard table (described in section 907(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on January 1, 1984.

‘(B) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

‘(I) IN GENERAL.—In the case of plan years beginning after December 31, 1984, the mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and project such experience for any such table. Such Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

‘(II) VARIOUS MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

‘(A) IN GENERAL.—In the case of plan years beginning after December 31, 1986, the Secretary of the Treasury shall establish mortality tables which may be used in lieu of the tables under clause (iv) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for disability, and the tables established under this subsection shall be used in determining current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning on or after such date.

‘(B) SEPARATE MORTALITY TABLES FOR MORTALITY TABLES FOR THE DISABLED AFTER 1986.—In the case of disabilities occurring in plan years beginning after December 31, 1984, the tables under clause (I) that are applicable to individuals described in such clause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

‘(VI) PERIODIC REVIEW.—The Secretary of the Treasury shall periodically (at least every 5 years) review the tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary, by regulation update the tables to reflect the current mortality experience of such individuals and projected trends in such experience.

‘(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan’s current liability for any plan year under this paragraph, in the determination of the permissible range, the plan shall establish a new rate of interest within the permissible range.

‘(I) PERMISSIBLE RANGE.—For purposes of this subparagraph—

‘(A) IN GENERAL.—Except as provided in subsection (G), the term ‘permissible range’ means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

‘(II) SECRETARIAL AUTHORITY.—If the Secretary of the Treasury finds that the lowest rate of interest determined under clause (I) is unreasonably low, such Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the applicable rate determined under such clause.

‘(III) ASSUMPTIONS.—Notwithstanding paragraph (3), the interest rate used under the plan shall be—

‘(A) determined without taking into account the experience of the plan and reasonable expectations, but

‘(B) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

‘(7) ANNUAL VALUATION.—

‘(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan’s liability shall be made not less than once every year, except that such determination shall be made more frequently to the extent required by regulations prescribed by the Secretary of the Treasury.

‘(B) VALUATION DATE.—

‘(A) CURRENT YEAR.—Except as provided in clause (i), the valuation referred to in subparagraph (A) shall be made as of a date between the last day of the plan year in which the valuation refers to or within one month prior to the beginning of such year.

‘(II) USE OF PRIOR YEAR VALUATION.—The valuation referred to in paragraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 90 percent of the plan’s current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

‘(III) ADJUSTMENTS.—Information under clause (i) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

‘(IV) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan’s current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

‘(B) TREATMENT OF CONTRIBUTIONS DEEMED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subsection and in connection with an extension granted under subsection (d) shall be the greater of—

‘(A) 150 percent of the Federal mid-term rate of interest (as determined under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or

‘(B) the rate of interest used under the plan for determining costs.

‘(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEmployER PLANS.—In the case of a multiemployer plan—

‘(1) EXTENSION.—The period of years required to amortize any unfunded liability (described in any clause of subsection (b)(2)(B)) of any multiemployer plan shall be extended by the Secretary of the Treasury for a period of time (not in excess of 5 years) if it is demonstrated to such Secretary that—

‘(A) the plan is projected to have sufficient assets to timely pay its expected benefit liabilities and other anticipated expenditures;

‘(B) the plan’s funding status is at least not less than 125 percent of the plan’s funding standard account.

‘(C) taking into account the extension, the plan is projected to have sufficient assets to timely pay its expected benefit liabilities and other anticipated expenditures;

‘(D) the plan meets the requirements for any multiemployer plan as may be extended (in addition to any extension under paragraph (1)) by the Secretary of the Treasury for a period of time (not in excess of 5 years) if such Secretary determines that such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries and the Secretary determines that the failure to permit such extension would—

‘(I) result in—

‘(i) a substantial risk to the voluntary continuation of the plan, or

‘(ii) a substantial curtailment of pension benefit levels or employee compensation, and

‘(ii) a substantial curtailment of the benefits otherwise provided for participants under the plan;

‘(B) ADVANCE NOTICE.—

‘(A) IN GENERAL.—The Secretary of the Treasury shall, before granting an extension under this section, require each applicant to provide evidence satisfactory to such Secretary that the application is in the best interests of the plan and the plan’s assets, and that the plan has the ability (described in any clause of subsection (b)(2)(B)) of any multiemployer plan may be extended.

‘(B) CONFORMING AMENDMENTS.—

‘(I) SECTION 301 OF SUCH ACT.—Section 301 of such Act (29 U.S.C. 1081) is amended by striking subsection (d) and—

‘(II) TABLE OF CONTENTS.—The table of contents in section 1 of such Act (as amended by section 102 of this Act) is amended further by inserting after—
the item relating to section 303 the following new item:

"Sec. 304. Minimum funding standards for multiemployer plans." (c) EFFECTIVE DATE—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

SEC. 202. ADDITIONAL FUNDING RULES FOR MULTIEmployee PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this Act) is amended further by inserting after section 304 the following new section:

"SEC. 305. (a) ANNUAL CERTIFICATION BY PLAN ACTUARY.

"(1) In general.—During the 90-day period beginning on first day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary of the Treasury whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year.

"(2) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—In making the determinations under paragraph (1), the plan actuary shall make projections under subsection (b) for the current and succeeding plan years, using reasonable actuarial assumptions and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year, as based on the actuarial statement prepared for the preceding plan year under section 103(d).

"(B) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any such actuarial projection of plan assets shall assume—

"(i) reasonably anticipated employer and employee contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

"(ii) that employer and employee contributions for the most recent plan year will continue in effect for succeeding plan years, assuming that the plan actuary determines there have been no significant demographic changes that would make continued application of such terms unreasonable.

"(3) PRESUMED STATUS IN ABSENCE OF TIMELY ACTUARIAL CERTIFICATION.—If certification under this subsection is not made before the end of the 90-day period specified in paragraph (1), the plan shall be presumed to be in critical status for such plan year until such time as the plan actuary makes a contrary certification.

"(4) NOTICE.—In any case in which a multiemployer plan is certified to be in endangered status under paragraph (1) or enters into collective bargaining with the plan sponsor, not later than 30 days after the date of the certification or entry, provide notification of the plan actuary's determination to the participating employers, the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary of Labor.

"(b) AMENDMENTS IN CONFORMITY WITH ADDITIONAL FUNDING RULES FOR MULTIEmployee PLANS IN ENDANGERED STATUS.—

"(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year, no funding improvement plan under this subsection with respect to such multiemployer plan is in effect for the plan year, the plan sponsor shall, in accordance with this subsection, amend the multiemployer plan to include a funding improvement plan upon approval thereof by the bargaining parties for the plan year.

"(2) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under subsection (a),—

"(A) the plan's funded percentage for such plan year is less than 80 percent, or

"(B) the plan's accumulated funding deficiency for such plan year under section 304 or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 304(d).

"(3) FUNDING IMPROVEMENT PLAN.—(A) BENCHMARKS.—A funding improvement plan shall consist of amendments to the plan formulated to provide, under reasonable actuarial assumptions, for the attainment and maintenance during a funding improvement period under the funding improvement plan, of the following benchmarks:

"(i) INCREASE IN FUNDED PERCENTAGE.—An increase in the plan's funded percentage such that—

"(I) the difference between 100 percent and the plan's funded percentage for the last year of the funding improvement period, is not more than

"(II) $ of the difference between 100 percent and the plan's funded percentage for the first year of the funding improvement period.

"(B) AVAIDANCE OF ACCUMULATED FUNDING DEFICIENCY.—An increase in the plan's funded percentage for the funding improvement period (taking into account any extension of amortization periods under section 304(d)).

"(4) NOTICE.—Upon the request of any bargaining party the plan sponsor may, as it deems appropriate, prepare a funding improvement plan upon approval thereof by the bargaining parties for the plan year.

"(B) REPORTING.—A summary of any funding improvement plan or modification thereunder—

"(i) submitted to the Secretary, and

"(ii) the plan sponsor shall submit all reasonable actions, consistent with the terms of the plan and applicable law, necessary to ensure—

"(I) an increase in the plan's funded percentage, and

"(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.

"Such actions include applications for extensions of amortization periods under section 304(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

"(C) SPECIAL RULES FOR CERTAIN SERIOUSLY UNDERFUNDED PLANS.—

"(1) In the case of a plan in which the funded percentage of a plan for the plan year is 70 percent or less, subparagraph (A)(i)(II) shall be applied by substituting $ for $ and subparagraph (B) shall be applied by substituting the 15-year period for the 10-year period.

"(2) In the case of a plan in which the funded percentage of a plan for the plan year is more than 70 percent but less than 80 percent, and—

"(I) the plan actuary certifies within 30 days after certification under subsection (a)(i) that the plan is not able to attain the increase described in subparagraph (A)(i) over the period described in subparagraph (B), and

"(II) the plan year is prior to the date described in subparagraph (B), subparagraph (A)(i)(II) shall be applied by substituting the 15-year period for the 10-year period.

"(C) ANNULMENT OR CANCELLATION OF FUNDING IMPROVEMENT PLAN.—

"(1) ACTIONS BY PLAN SPONSOR PENDING APPROVAL.—Pending the approval of a funding improvement plan under this section, the plan sponsor shall take all reasonable actions, consistent with the terms of the plan and applicable law, necessary to ensure—

"(i) an increase in the plan's funded percentage, and

"(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.

"Such actions include applications for extensions of amortization periods under section 304(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

"(2) RECOMMENDATIONS BY PLAN SPONSOR.—

"(I) IN GENERAL.—During the period of 90 days following the date on which a multiemployer plan is certified to be in endangered status, the plan sponsor shall develop and provide to the bargaining parties alternative proposals for revised benefit structures, contributions, assumptions, and other reasonable actions consistent with the terms of the plan and applicable law.

"(II) REQUESTS BY BARGAINING PARTIES.—Upon the request of any bargaining party with respect to a plan in which the plan actuary is determined to be in endangered status, the plan sponsor shall provide all such parties information as to other combinations of amendments to the plan's benefit structures, reductions in future benefit accruals and other reasonable actions consistent with the terms of the plan and applicable law.
structures or benefit structures or other information relevant to the funding improvement plan.

(5) MAINTENANCE OF CONTRIBUTIONS PENDING APPROVAL OF FUNDING IMPROVEMENT PLAN.—Pending approval of a funding improvement plan by the bargaining parties with respect to a multiemployer plan, the multiemployer plan may not be amended so as to provide—

(A) a reduction in the level of contributions for participants who are not in pay status;

(B) a suspension of contributions with respect to any period of service, or

(C) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

(6) BENEFIT RESTRICTIONS PENDING APPROVAL OF FUNDING IMPROVEMENT PLAN.—Pending approval of a funding improvement plan by the bargaining parties with respect to a multiemployer plan—

(A) RESTRICTIONS ON LUMP SUM AND SIMILAR DISTRIBUTIONS.—In any case in which the present value of a participant's accrued benefit under the plan exceeds $5,000, such benefit may not be distributed as an immediate distribution or in any other accelerated form.

(B) PROHIBITION ON BENEFIT INCREASES.—

(i) IN GENERAL.—No amendment of the plan which increases the liabilities of the plan with respect to the plan year, or any change in the benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted.

(ii) EXCEPTION.—Clause (i) shall not apply to any plan amendment which is required as a condition of qualification under part I of subchapter L of subtitle A of the Internal Revenue Code of 1986.

(7) DEFAULT CRITICAL STATUS IF NO FUNDING IMPROVEMENT PLAN ADOPTED.—If no plan amendment adopting a funding improvement plan has been adopted by the end of the 240-day period referred to in subsection (b)(1), the plan enters into critical status as of the first day of the succeeding plan year.

(8) RESTRICTIONS UPON APPROVAL OF FUNDING IMPROVEMENT PLAN.—Upon adoption of a funding improvement plan with respect to a multiemployer plan, the plan may not be amended—

(A) so as to be inconsistent with the funding improvement plan, or

(B) so as to increase future benefit accruals, unless the actuary certifies in advance that, after taking into account the proposed increase, the plan is reasonably expected to meet the the benchmarks described in paragraph (9)(A).

(9) FUNDING RULES FOR MULTIEmployER PLANS IN CRITICAL STATUS.—

(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year as described in paragraph (2) (or otherwise enters into critical status under this section) and no rehabilitation plan under this subsection with respect to such multiemployer plan is in effect for the plan year, the plan sponsor shall, in accordance with this subsection, amend the multiemployer plan to include a rehabilitation plan under this subsection. The amendment shall be adopted not later than 210 days after the date on which the plan enters into critical status.

(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if—

(A) the plan is in endangered status for the preceding plan year and the requirements of subsection (b)(1) were not met with respect to the plan for such preceding plan year, or

(B) as determined by the plan actuary under subsection (a), the plan is described in paragraph (3).

(3) CRITICALITY DESCRIPTION.—For purposes of subsection (a), a plan is described in this paragraph if the plan is described in at least one of the following subparagraphs:

(A) A plan is described in this subparagraph if, as of the beginning of the current plan year—

(i) the funded percentage of the plan is less than 65 percent, and

(ii) the sum of—

(I) the market value of plan assets, plus

(II) the present value of the reasonably anticipated employer and employee contributions for the current plan year and each of the 6 succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, is less than the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

(B) A plan is described in this subparagraph if, as of the beginning of the current plan year, the sum of—

(i) the market value of plan assets, plus

(ii) the present value of the reasonably anticipated employer and employee contributions for the current plan year and each of the 6 succeeding plan years, is less than the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

(C) A plan is described in this subparagraph if—

(i) as of the beginning of the current plan year, the funded percentage of the plan is less than 65 percent, and

(ii) the plan has an accumulated funding deficiency for the current plan year or is projected to have an accumulated funding deficiency for any plan year prior to the current plan year, not taking into account any extension of amortization periods under section 304(d).

(D) A plan is described in this subparagraph if—

(i) the plan's normal cost for the current plan year, plus interest (determined at the rate in effect for the plan year), is less than 65 percent, and

(ii) the plan is projected to have an accumulated funding deficiency for the current plan year or is projected to have an accumulated funding deficiency for any plan year prior to the current plan year, not taking into account any extension of amortization periods under section 304(d).

(E) A plan is described in this subparagraph if—

(i) as of the beginning of the current plan year, the plan is described in paragraph (2)(A), and

(ii) the plan sponsor shall, in accordance with this subsection, amend the multiemployer plan to include a rehabilitation plan under this subsection. The amendment shall be adopted not later than 210 days after the date on which the plan enters into critical status.

(F) A plan is described in this subparagraph if—

(i) the plan's normal cost for the current plan year, plus interest (determined at the rate in effect for the plan year), is less than 65 percent, and

(ii) the plan is projected to have an accumulated funding deficiency for the current plan year or is projected to have an accumulated funding deficiency for any plan year prior to the current plan year, not taking into account any extension of amortization periods under section 304(d).

(4) REHABILITATION PLAN.—

(1) IN GENERAL.—A rehabilitation plan shall consist of—

(i) amendments to the plan providing (under reasonable actuarial assumptions) for measures, agreed to by the bargaining parties, to increase contributions in plan expenditures (including plan mergers and consolidations), or reduce future benefit accruals, or to take any combination of such actions determined necessary to cause the plan to cease, during the rehabilitation period, to be in critical status, or

(ii) reasonable measures to forestall possible insolvency (within the meaning of section 4245) if the plan sponsor determines that, upon exhaustion of all reasonable measures, the plan would not cease during and in the summary annual period to be in critical status.

A rehabilitation must provide annual standards for measuring the requirements of such rehabilitation plan.

(2) REHABILITATION PERIOD.—The rehabilitation period for any rehabilitation plan adopted pursuant to this subsection is the 10-year period beginning with the date of entry into critical status.

(A) A plan described in paragraph (1) is in rehabilitation if—

(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

(ii) the first day of the first plan year of the multiemployer plan following the plan year in which the date of the plan's entry into critical status, as of which collective bargaining agreements covering at least 75 percent of active participants in such multiemployer plan (determined as of such date of entry) have expired.

(B) REPORTING.—A summary of any rehabilitation plan or modification thereto adopted during any plan year, together with annual updates regarding the funding ratio of the plan, shall be included in the annual report for such plan year under section 104(a) and in the summary annual report described in section 104(b)(3).

(3) DEVELOPMENT OF REHABILITATION PLAN.—

(A) PROPOSALS BY PLAN SPONSOR.—

(i) IN GENERAL.—Within 90 days after the date of entry into critical status (or the date as of which the requirements of subsection (b)(1) were not met with respect to the plan), the plan sponsor shall propose to all bargaining parties a range of alternative schedules of increases in contributions and reductions in benefit accruals, to increase contributions, reduce plan expenditures (including plan mergers and consolidations), or reduce future benefit accruals, or to take any combination of such actions determined necessary to cause the plan to cease, during the rehabilitation period, to be in critical status, or

(ii) reasonable measures to forestall possible insolvency (within the meaning of section 4245) if the plan sponsor determines that, upon exhaustion of all reasonable measures, the plan would not cease during and in the summary annual period to be in critical status.

Such proposals shall include, as one of the proposed schedules, a schedule of those reductions in future benefit accruals that would be necessary to cause the plan to cease to be in critical status if there were no further increases in rates of contribution to the plan.

(B) REQUESTS FOR ADDITIONAL SCHEDULES.—Upon the request of any bargaining party in good faith, the plan sponsor shall propose to all bargaining parties a range of alternative schedules of increases in contributions and reductions in benefit accruals, to increase contributions, reduce plan expenditures (including plan mergers and consolidations), or reduce future benefit accruals, or to take any combination of such actions determined necessary to cause the plan to cease, during the rehabilitation period, to be in critical status, or

(i) employs at least 5 percent of the active participants, or

(ii) is in critical status.
“(ii) represents as an employee organization, for purposes of collective bargaining, at least 5 percent of active participants, the plan sponsor shall include among the proposed schedule containing increases in contributions and reductions in future benefit accruals as may be specified by the bargaining parties.

“(C) SUBSEQUENT AMENDMENTS.—Upon the adoption of a schedule of increases in contributions or reductions in future benefit accruals, as part of the rehabilitation plan, the plan sponsor shall periodically update the schedule to adjust for any experience of the plan contrary to past actuarial assumption except that such an amendment may be made not more than once in any 3-year period.

“(D) ALLOCATION OF REDUCTIONS IN FUTURE BENEFIT ACCRUALS.—Any schedule containing reductions in future benefit accruals forming a part of a rehabilitation plan shall be applicable with respect to any group of active participants who are employed by any bargaining party (as an employer obligated to contribute under the plan) in proportion to the extent to which increases in contributions (or other agreement pursuant to which the employer contributes).”

“(E) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any schedule proposed under paragraph (2) shall not permit the rate of future accruals below the lower of—

“(i) a monthly benefit equal to 1 percent of the contributions required to be made with respect to the plan’s standard accrual rate or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the plan year in which the plan enters critical status, or

“(ii) if lower, the accrual rate under the plan on such date.

“The equivalent standard accrual rate shall be determined by the trustees based on the standard or average contribution base units that they determine to be representative for active participants and such other factors as they determine to be relevant.

“(F) PROTECTION OF RESTORED RATES OF ACCRUAL.—

“(i) IN GENERAL.—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below any restored accrual rate.

“(ii) RESTORED ACCRUAL RATE.—For purposes of clause (i), the term ‘restored accrual rate’ means the rate at which contributions were made and subsequently restored before entry of the plan into critical status.

“(G) MAINTENANCE OF CONTRIBUTIONS AND RESTORED BENEFITS PENDING IMPLEMENTATION OF REHABILITATION PLAN.—The rules of paragraphs (5) and (6) of subsection (b) shall apply for purposes of this subsection by substatute, to the rehabilitation plan for ‘funding improvement plan’.

“(H) SPECIAL RULES.—

“(A) AUTOMATIC EMPLOYER SURCHARGE.—

“(i) so as to increase future benefit accruals for the plan in an amount in advance that, after taking into account the proposed increase, the plan is reasonably expected to cease to be in critical status.

“(B) so as to increase future benefit accruals for the plan in an amount in advance that, after taking into account the proposed increase, the plan is reasonably expected to cease to be in critical status.

“(C) so as to be inconsistent with the rehabilitation plan, or

“(D) APPL Y TO ALL ACTIONS UNDER THIS PARAGRAPH.—The surcharge under this subsection shall cease to be effective with respect to any employers covered by a collective bargaining agreement on which the employer has been notified by the trustees that the plan is in critical status and that the surcharge is in effect.

“(IV) SURCHARGE NOT TO APPLY UNTIL EMPLOYEE RECEIVES 30-DAY NOTICE.—The surcharge under this subparagraph shall not apply to any employer until 30 days after the employer has been notified by the trustees that the plan is in critical status and that the surcharge is in effect.

“(V) SURCHARGE NOT TO GENERATE INCREASED BENEFIT ACCRUALS.—Notwithstanding any provision of a plan to the contrary, the amount of any surcharge shall not be the basis for any benefit accruals under the plan.

“(B) BENEFIT ADJUSTMENTS.—

“(i) IN GENERAL.—The trustees shall make such benefit adjustments, to the extent to which increases in contributions (or other agreement pursuant to which the employer contributes) in proportion to the extent to which contributions are not currently required to be made, and shall reduce their benefits to the extent permitted under this title and considered appropriate based on the results of the parties’ negotiations.

“(C) ADJUSTMENT DEFINED.—For purposes of this paragraph, the term ‘adjustable benefit’ means—

“(i) benefit accruals, and features, such as post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits,

“(ii) retirement benefits, and, for purposes of this subsection, values of early retirement benefits, and benefit payment options (other than the 50 percent qualified joint-and-survivor benefit and single life annuity),

“(iii) benefits increases that would not be eligible for a guarantee under section 4022A on the first day of the plan year in which the plan is in critical status, if the decreases were adopted, or if later, took effect less than 60 months before reorganization.

“(D) NORMAL RETIREMENT BENEFITS PROTECTED.—Nothing in this paragraph shall be construed to permit a plan to reduce the level of a participant’s accrued benefit payable at normal retirement age which is not an adjustable benefit.

“(E) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—

“(i) BENEFIT REDUCTIONS.—Any benefit reductions under this paragraph shall be disregarded in determining a plan’s unfunded vested benefits for purposes of determining an employer’s withdrawal liability under section 4202.5

“(ii) SURCHARGES.—Any surcharges under this subparagraph shall be disregarded in determining an employer’s withdrawal liability under section 4201.

“(F) IMPLEMENTATION OF DEFAULT SCHEDULE UPON FAILURE TO ADOPT REHABILITATION PLAN.—If the plan is not amended by the end of the 240-day period after entry into critical status to include a rehabilitation plan, the plan sponsor shall amend the plan to implement the schedule required by paragraph (3)(A)(ii).

“(A) so as to be inconsistent with the rehabilitation plan, or

“(B) so as to increase future benefit accruals for the plan in an amount in advance that, after taking into account the proposed increase, the plan is reasonably expected to cease to be in critical status.

“(C) so as to be inconsistent with the rehabilitation plan, or

“(D) so as to increase future benefit accruals for the plan in an amount in advance that, after taking into account the proposed increase, the plan is reasonably expected to cease to be in critical status.

“(E) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any schedule proposed under paragraph (D) shall not permit the rate of future accruals below the lower of—

“(i) a monthly benefit equal to 1 percent of the contributions required to be made with respect to the plan’s standard accrual rate or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the plan year in which the plan enters critical status, or

“(ii) if lower, the accrual rate under the plan on such date.

“The equivalent standard accrual rate shall be determined by the trustees based on the standard or average contribution base units that they determine to be representative for active participants and such other factors as they determine to be relevant.

“(F) PROTECTION OF RESTORED RATES OF ACCRUAL.—

“(i) IN GENERAL.—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below any restored accrual rate.

“(ii) RESTORED ACCRUAL RATE.—For purposes of clause (i), the term ‘restored accrual rate’ means the rate at which contributions were made and subsequently restored before entry of the plan into critical status.

“(G) MAINTENANCE OF CONTRIBUTIONS AND RESTORED BENEFITS PENDING IMPLEMENTATION OF REHABILITATION PLAN.—The rules of paragraphs (5) and (6) of subsection (b) shall apply for purposes of this subsection by statute, to the rehabilitation plan for ‘funding improvement plan’.

“(H) SPECIAL RULES.—

“(A) AUTOMATIC EMPLOYER SURCHARGE.—

“(i) so as to increase future benefit accruals for the plan in an amount in advance that, after taking into account the proposed increase, the plan is reasonably expected to cease to be in critical status.

“(B) so as to be inconsistent with the rehabilitation plan, or

“(C) so as to increase future benefit accruals for the plan in an amount in advance that, after taking into account the proposed increase, the plan is reasonably expected to cease to be in critical status.

“(D) NORMA L RETIREMENT BENEFITS PROTECTED.—Nothing in this paragraph shall be construed to permit a plan to reduce the level of a participant’s accrued benefit payable at normal retirement age which is not an adjustable benefit.

“(E) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—

“(i) BENEFIT REDUCTIONS.—Any benefit reductions under this paragraph shall be disregarded in determining a plan’s unfunded vested benefits for purposes of determining an employer’s withdrawal liability under section 4201.

“(ii) SURCHARGES.—Any surcharges under this subparagraph shall be disregarded in deter-
under the plan (or a death benefit under the plan related to a retirement benefit), or

(‘‘B’’ to the extent provided in regulations of the Secretary of the Treasury, such person is entitled to a benefit under the plan related to a retirement benefit)

(7) OBLIGATION TO CONTRIBUTE. —The term ‘‘obligation to contribute’’ has the meaning provided such term under section 4212(a).

(b) ENFORCEMENT. —Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended —

(1) in subsection (a)(6) by striking ‘‘(6), or’’ and inserting ‘‘(6), (7), or’’;

(2) by redesigning subsection (c)(8) as subsection (c)(9); and

(3) by inserting after subsection (c)(7) the following new paragraph:

‘‘(8) the Secretary may assess a civil penalty against—

(A) any person of not more than $1,100 per day for each violation by such person of subsection (a)(1), (b)(1), or (c)(1) of section 305, or

(B) any plan sponsor for failure by the plan sponsor to implement the terms of any funding improvement plan or rehabilitation plan adopted under section 306.’’.

(c) CONFORMING AMENDMENTS. —The table of contents in section 1 of such Act (as amended by section 306 of the Act) is amended to add the following new subdivision:

‘‘Sec. 305. Additional funding rules for multiemployer plans in endangered status or critical status.’’.

(d) EFFECTIVE DATE. —The amendments made by this section shall apply with respect to plan years beginning after January 1, 2006.

(e) SPECIAL RULE FOR 2006. —In the case of any plan year beginning in 2006, any reference in section 305 of the Employee Retirement Income Security Act of 1974 (as described by this section) to section 304 of such Act (as added by this Act) shall be treated as a reference to the corresponding provision of the Employee Retirement Income Security Act of 1974 as in effect for plan years beginning in such year.

SEC. 203. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.

(a) ADVANCE DETERMINATION OF IMPENDING INSOLVENCY OVER 5 YEARS. —Section 4225(d)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1390(d)(1)) is amended—

(1) by striking ‘‘3 plan years’’ the second place it appears and inserting ‘‘5 plan years’’; and

(2) by adding at the end the following new sentence: ‘‘If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor shall make the companion under this paragraph at least annually until the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.’’;

(b) EFFECTIVE DATE. —The amendments made by this section shall apply with respect to determinations made in plan years beginning after December 31, 2005.

SEC. 204. WITHDRAWAL LIABILITY REFORMS.

(a) REPEAL OF LIMITATION ON WITHDRAWAL LIABILITY IN THE EVENT OF CERTAIN SALES OF EMPLOYER ASSETS TO UNRELATED PARTIES. —

(1) IN GENERAL. —Section 4225 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1405) is repealed.

(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 4225.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to sales occurring on or after January 1, 2006.

(b) REPEAL OF LIMITATION ON WITHDRAWAL LIABILITY. —Section 4225(b)(3) of the Employee Retirement Income Security Act of 1974 is amended by striking subparagraph (A) and inserting the following new subparagraph (A):

‘‘(A) the normal cost of the plan for the plan year, over a period of 15 plan years, as determined at the end of the plan year, and inserting the following new subparagraph (B):

‘‘(B) the amount prepaid by the plan sponsor of the plan on the first day of the plan year, over a period of 40 plan years, as determined at the end of the plan year, and inserting the following new subparagraph (C):

‘‘(C) the amount necessary to amortize each unfunded liability deficiency (within the

SEC. 205. REMOVAL OF RESTRICTIONS WITH RESPECT TO PROCEDURES APPLICABLE TO DISPUTES INVOLVING WITHDRAWAL LIABILITY.

(a) IN GENERAL. —Section 4221(f)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1390(f)(1)) is amended by striking ‘‘in subsection (b) of such Act (as added by section 502 of the Act)’’ and inserting ‘‘in subsection (b) of such Act (as added by section 502 of the Act)’’.

(b) EFFECTIVE DATE. —The amendments made by this subsection shall apply with respect to plan withdrawals occurring on or after January 1, 2006.

SEC. 206. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) ACCOUNT REQUIRED. —Each multiemployer plan to which section 4212 applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in section 304(b)(6). 

(b) FUNDING STANDARD ACCOUNT. —

(1) ACCOUNT REQUIRED.—Each multiemployer plan to which section 4212 applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in section 304(b)(6). 

(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of

(A) the normal cost of the plan for the plan year,

(B) the amounts necessary to amortize in equal annual installments (until fully amortized) —

(i) in the case of a plan in existence on January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which section 4212 applies, over a period of 40 plan years,

(ii) in the case of a plan which comes into existence after January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which section 4212 applies, over a period of 15 plan years,

(iii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments in such year, over a period of 15 plan years,

(iv) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

(v) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

(C) the amount necessary to amortize each unfunded liability deficiency (within the

SEC. 211. FUNDING RULES FOR MULTIEMPLOYER PRIMARILY COVERING EMPLOYERS IN THE BUILDING AND CONSTRUCTION.
meaning of section 412(c)(3) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years.

(2) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account (determined without regard to this sub-section) on the day before the date of the enactment of the Pension Protection Act of 2005, and

(3) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 412(c)(7)(A)(i)(I) as in effect on the day before the date of the enactment of the Pension Protection Act of 2005.

(3) CREDITS TO ACCOUNT.—For a plan year, the funding standard account shall be credited with the sum of:

(A) the amount considered contributed by the employer to or under the plan for the plan year,

(B) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 15 plan years any amount:

(i) separately, with respect to each plan year, the net decrease (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

(ii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

(iii) separately, with respect to each plan year, the funded past service liability in the plan year, the multiemployer plan liability in the plan year, the single-employer plan liability in the plan year, the funded past service liability in the plan year, and the amounts recognized as funded past service liabilities in the plan year, and

(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, that shall be capitalized equal annual installments (until fully amortized) over 15 plan years, beginning with the plan year in which the change arises, and

(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which:

(i) was adopted before such date, and

(ii) is effective for any plan participant before the beginning of the first plan year beginning on or after such date, shall be capitalized equal annual installments (until fully amortized) over 15 plan years, beginning with the plan year in which the change arises.

(4) SPECIAL RULES FOR PRE-2007 AMORTIZATION.—

(A) IN GENERAL.—In the case of any amount described in paragraph (2)(B)(i), (2)(B)(iii), or (3)(B)(i) of this subsection which is so amortized, the amount so amortized is in addition to any amount required to be so amortized under the provisions of section 412(c)(3) for such plan year.

(B) IN GENERAL.—For purposes of this section, Paragraphs (4) and (5) of section 412(c)(3) shall be applied separately with respect to each plan year, beginning with the plan year in which the amount arose.

(C) IN GENERAL.—For purposes of this section, Paragraphs (4) and (5) of section 412(c)(3) shall apply to the amount so deferred (and paragraph (3) shall not apply to the amount so charged).

(5) FINANCIAL ASSISTANCE.—Any amount of financial assistance from the Pension Benefit Guaranty Corporation pursuant to section 4223 of the Employee Retirement Income Security Act of 1974 or to a fund exempt under section 403(b) of the Code pursuant to section 608(b)(1) of such Act which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which:

(i) was adopted before such date, and

(ii) is effective for any plan participant before the beginning of the first plan year beginning on or after such date, shall be capitalized equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the change arises.

(6) INTERIM AMORTIZATION CHARGES AND CREDITS.—In the case of any plan which, immediately before the effective date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 414(f) as in effect immediately before such date)—

(A) any amount described in paragraph (2)(B)(i), (2)(B)(iii), or (3)(B)(i) of this subsection which is so amortized over 40 plan years, beginning with the plan year in which the amount arose.

(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which is so amortized over 40 plan years, beginning with the plan year in which the amount arose.

(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, that shall be capitalized equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises, and

(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which:

(i) was adopted before such date, and

(ii) is effective for any plan participant before the beginning of the first plan year beginning on or after such date, shall be capitalized equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

(7) CERTAIN AMORTIZATION CHARGES AND CREDITS.—In the case of any plan which, immediately before the effective date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 414(f) as in effect immediately before such date)—

(A) any amount described in paragraph (2)(B)(i), (2)(B)(iii), or (3)(B)(i) of this subsection which is so amortized over 40 plan years, beginning with the plan year in which the amount arose.

(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which is so amortized over 40 plan years, beginning with the plan year in which the amount arose.

(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, that shall be capitalized equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises, and

(D) any change in past service liability which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which:

(i) was adopted before such date, and

(ii) is effective for any plan participant before the beginning of the first plan year beginning on or after such date, shall be capitalized equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

(8) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this section—

(A) WITHDRAWAL LIABILITY.—Any amount required to be contributed by a multiemployer plan in payment of all or part of an employer’s withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 or to a fund exempt under section 403(b) of the Code pursuant to section 4223 of such Act which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which:

(i) was adopted before such date, and

(ii) is effective for any plan participant before the beginning of the first plan year beginning on or after such date, shall be capitalized equal annual installments (until fully amortized) over 15 plan years, beginning with the plan year in which the change arises.

(B) ADJUSTMENTS WHEN A MULTIEmployER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization on January 1 of any immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year shall be determined on the basis of the re-

mainign amortization period for all items entering into such combined amount, and

(8)(B) may be offset against amounts re-

quired to be amortized under the other such subparagraphs of this paragraph. Any amount so offset shall be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts so determined is greater.

(9) SPECIAL RULES FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 412(b)(7)(F) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005) for any plan year, the funding standard account shall be credited with the amount so deferred (and paragraph (2)(B)(iv) shall not apply to the amount so charged).

(10) FINANCIAL ASSISTANCE.—Any amount of financial assistance from the Pension Benefit Guaranty Corporation pursuant to section 4223 of the Employee Retirement Income Security Act of 1974 or to a fund exempt under section 403(b) of the Code pursuant to section 4223 of such Act which arises during the period of 2 plan years beginning on or after such date, and results from the changing of a group of participants from one benefit level to another benefit level under a schedule of plan benefits which:

(i) was adopted before such date, and

(ii) is effective for any plan participant before the beginning of the first plan year beginning on or after such date, shall be capitalized equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the change arises.

(11) ADDITIONAL RULES.—

(A) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this section, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

(B) VALUATION OF ASSETS.—

(A) IN GENERAL.—For purposes of this section and the sections relating to funding standards, the value of a bond or other evidence of indebtedness may be taken into account for purposes of determining the value of any reasonable actuarial valuation method of valuation which takes into account market value and which is permitted under regulations prescribed by the Secretary.

(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness may be taken into account for purposes of determining the value of such method of valuation which takes into account market value and which is permitted under regulations prescribed by the Secretary.
"(3) Actuarial assumptions must be reasonable.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) each of which is reasonable (taking into account the experience of the plan and the reasonably determined assumptions), and

"(B) which, in combination, offer the actuary’s best estimate of anticipated experience under the plan.

(4) Treatment of certain changes as experience gain or loss.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) a change in the definition of the term ‘wages’ under section 321, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5), results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

(5) Full-funding.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation, (A) the funding standard account shall be credited with the amount of such excess, and (B) all amounts described in subparagraph (A) and in subsection (b)(2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

(6) Full-funding limitation.—

"(A) In general.—For purposes of paragraph (5), the term ‘full-funding limitation’ means the excess (if any) of—

"(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(II) the lesser of—

"(I) the fair market value of the plan’s assets, or

"(II) the value of such assets determined under paragraph (2).”

(7) Annual valuation.—

"(A) In general.—For purposes of this section, a valuation shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

"(B) Use of prior year valuation.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if the assets of the plan are not less than 100 percent of the plan’s current liability (as defined in paragraph (6)(D)) without regard to clause (iv) thereof.

"(C) Adjustments.—Information under clause (ii) shall, in accordance with regulations, be actuarial and reflect significant differences in participants. The information under clause (ii) shall be based on the most current information available upon which the valuation is based, but may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan’s current liability (as defined in paragraph (6)(D)) without regard to clause (iv) thereof.

"(D) Time when certain contributions deemed made.—For purposes of this section, contributions may be deemed made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary.

"(E) Interest rate for waivers and extensions.—The interest rate applicable for any plan year for purposes of computing the actuarial charge described in subsection (b)(3) and in connection with an extension granted under subsection (d) shall be the greater of—

"(i) 10 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(ii) the rate of interest used under the plan for determining costs.

"(F) Extension of amortization periods for multiemployer plans.—In the case of a plan terminated under the plan for determining costs, (A) a 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate of interest used under the plan for determining costs.

"I and the reason for requiring that such rate may not be less than 80 percent of the average of the rates of interest of 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(G) Secretarial authority.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonable high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average 

"(H) interest rate determined under subparagraph (A), the interest rate used under the plan shall be determined without taking into account the experience of the plan and reasonable expectations, but consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

"(I) Annual valuation.—

"(A) In general.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan’s liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.

"(B) Valuation date.—

"(i) Current year.—Except as provided in clause (ii), the valuation referred to in paragraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

"(ii) Use of prior year valuation.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if the assets of the plan are not less than 100 percent of the plan’s current liability (as defined in paragraph (6)(D)) without regard to clause (iv) thereof.

"(C) Adjustments.—Information under clause (ii) shall, in accordance with regulations, be actuarial and reflect significant differences in participants. The information under clause (ii) shall be based on the most current information available upon which the valuation is based, but may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan’s current liability (as defined in paragraph (6)(D)) without regard to clause (iv) thereof.

"(D) Time when certain contributions deemed made.—For purposes of this section, contributions may be deemed made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary.

"(E) Interest rate for waivers and extensions.—The interest rate applicable for any plan year for purposes of computing the actuarial charge described in subsection (b)(3) shall be the greater of—

"(i) 10 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(ii) the rate of interest used under the plan for determining costs.

"(F) Extension of amortization periods for multiemployer plans.—In the case of a plan terminated under the plan for determining costs, (A) a 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate of interest used under the plan for determining costs.
“(B) the plan sponsor has adopted a plan to improve the plan’s funding status, and
“(C) taking into account the extension, the plan is projected to have sufficient assets to timely meet its benefit liabilities and other anticipated expenditures.

(2) ADDITIONAL EXTENSION.—The period of years required to amortize any unfunded liability attributable to any clause of subsection (b)(2)(B) of any multiemployer plan may be extended (in addition to any extension under paragraph (1)) by the Secretary for a period of time (not in excess of 5 years) if the Secretary determines that such extension would carry out the purposes of the Employee Retirement Income Security Act of 1974 and would provide adequate protection for participants under the plan and their beneficiaries and if the Secretary determines that the failure to permit such extension would—

“(A) result in—

“(i) a substantial risk to the voluntary continuation of the plan, or

“(ii) a substantial curtailment of pension benefit levels or employee compensation, and

“(B) be adverse to the interests of plan participants in the aggregate.

(3) ADVANCE NOTICE.—

“(A) IN GENERAL.—The Secretary shall, before granting an extension under this section, require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974) with respect to the affected plan. Such notice shall include a description of the plan, the plan is funded for benefits which are guaranteed under title IV of such Act and for benefit liabilities.

“(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under paragraph (1).”

(b) CONFORMING AMENDMENTS.—

(1) Section 418(b)(2) of such Code is amended—

(A) by striking “section 412(b)(2)” in subparagraph (A) and inserting “section 431(b)(2)” and

(B) by striking “section 412(b)(3)” in subparagraph (B) and inserting “section 431(b)(3)”.

(2) Section 418B of such Code is amended—

(A) by striking “section 412(b)(2)(A) or (B)” in subsection (d)(1)(B) and inserting “section 431(b)(2)(A) or (B)”;

(B) by striking “section 412(c)(8)” in subsection (e) and inserting “section 431(d)(2)”;

and

(C) by striking “section 412(c)(3)” in subsection (g) and inserting “section 431(c)(3)”.

(3) Section 418B(a)(2) of such Code is amended—

(A) by striking “section 412(c)(8)” and inserting “section 431(d)(2)”;

and

(B) by striking “section 412(c)(10)” and inserting “section 431(c)(10)”.

(c) CEREBRAL AMENDMENT.—The table of sections for subpart A of part III of subchapter D of chapter 1 of such Code is amended to strike the item relating to section 430 and to insert the following new item:

“Sec. 431. Minimum funding standards for multiemployer plans.”

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

SEC. 432. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 431 the following new section:

“SEC. 432. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

“(1) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

“(i) IN GENERAL.—During the 90-day period beginning on first day of each plan year of a multiemployer plan, the plan actuary shall certify, directly or by the plan administrator, that the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year.

“(ii) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any such actuarial projection of plan assets shall assume—

“(A) reasonably anticipated employer and employee contributions for the current and succeeding plan years, using reasonable actuarial assumptions and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year, as based on the actuarial statement prepared for the preceding plan year under section 103(d) of the Employee Retirement Income Security Act of 1974;

“(B) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any such actuarial projection of plan assets shall assume—

“(A) reasonably anticipated employer and employee contributions for the current and succeeding plan years, using the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

“(B) that employer and employee contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines that there have been no significant demographic changes that would make continued application of such terms unreasonable.

“(3) PRESERVED STATUS IN ABSENCE OF TIMELY ACTUARIAL CERTIFICATION.—If certification under this subsection is not made before the end of the 90-day period specified in paragraph (1), the plan shall be presumed to be in critical status for such plan year and in endangered status for the period described in subparagraph (B), until such time as the plan actuary makes a contrary certification.

“(4) NOTICE.—In any case in which a multiemployer plan is certified to be endangered status under paragraph (1) or enters into critical status, the plan sponsor shall, not later than 30 days after the date of the certification or extension, provide notification of the endangered or critical status to the plan beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary of Labor.

“(b) FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.—

“(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year and no funding improvement plan under section 431(b) with respect to which such multiemployer plan is in effect for the plan year, the plan sponsor shall, in accordance with this subsection, amend the multiemployer plan to develop and submit a funding improvement plan upon approval thereof by the bargaining parties under this subsection. The amendment shall be adopted not later than 260 days after the date on which the plan is certified to be in endangered status under subsection (a)(1).

“(2) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under subsection (a)—

“(A) the plan’s funded percentage for such plan year is less than 80 percent, or

“(B) the plan has an accumulated funding deficiency for such plan year under section 431(b)(2) and the plan is not expected to accumulate a funded percentage for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 431(b)(4).

“(3) FUNDING IMPROVEMENT PLAN.—

“(A) BENCHMARKS.—A funding improvement plan shall consist of amendments to the plan to provide for, among other reasonable actuarial assumptions, the attainment, during the funding improvement period under the funding improvement plan, of the following benchmarks:

“(i) INCREASE IN FUNDED PERCENTAGE.—An increase in the plan’s funded percentage such that—

“(I) the difference between 100 percent and the plan’s funded percentage for the last year of the funding improvement period, is not more than

“(II) ½ of the difference between 100 percent and the plan’s funded percentage for the first year of the funding improvement period,

“(ii) the second anniversary of the date of the adoption of the funding improvement plan, or

“(iii) the first day of the first plan year of the multiemployer plan following the plan year in which occurs the first date after the day of the certification as of which collective bargaining agreements covering on the day of such certification at least 75 percent of active participants in such multiemployer plan have expired.

“(C) SPECIAL RULES FOR CERTAIN SERIOUSLY UNDERFUNDED PLANS.—

“(i) In the case of a plan in which the funded percentage of a plan for the plan year is 70 percent or less—

“(A) section 431(b)(1)(II) shall be applied by substituting ‘4½’ for ‘½’ and subparagraph (B) shall be applied by substituting ‘the 15-year period’ for the 10-year period; and

“(B) the plan year for purposes of section 431(b)(1)(II) shall be substituted by substituting ‘4½’ for ‘½’; and subparagraph (B) shall be applied by substituting ‘the 15-year period for the 10-year period.

“(ii) In the case of a plan in which the plan is more than 70 percent but less than 80 percent and—

“(A) the plan actuary certify within 30 days after certification under subsection (b)(1) that the plan is not able to attain the increase described in subparagraph (A)(i) over the period described in subparagraph (B), and

“(B) the plan actuary certify that the plan is able to attain the increase described in subparagraph (B)(ii), subparagraph (A)(i)(II) shall be applied by substituting ‘4½’ for ‘½’ and subparagraph (B) shall be applied by substituting ‘the 15-year period’ for the 10-year period.

“(iii) For any plan year following the year described in clause (ii), subparagraph (A)(i)(II) shall be applied by substituting ‘4½’ for ‘½’ and subparagraph (B) shall be applied by substituting ‘the 15-year period’ for the 10-year period.”
future benefit accruals which would result in increases in contributions and reductions in ties information as to other combinations of active participants, or
(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.
Such actions include applications for extensions of amortization periods under section 431(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan’s benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law, necessary to ensure—
(i) an increase in the plan’s funded percentage, and
(ii) the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

(c) A plan is described in this subparagraph if, as of the beginning of the current plan year, the sum of—
(i) the market value of plan assets, plus the present value of any unrealized employer and employee contributions for the current plan year and each of the 4 succeeding plan years, plus administrative expenses for such plan years.

(1) In general.—No amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted—

(i) as of the beginning of the current plan year, the funded percentage of the plan is less than 65 percent, and
(ii) the plan has an accumulated funding deficiency for the current plan year or is projected to have an accumulated funding deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

(2) Critical status.—A multiemployer plan is in critical status for a plan year if—

(A) the plan is in endangered status for the preceding plan year and the requirement of subsection (b)(1) was not met with respect to the plan for such preceding plan year, or
(B) as determined by the plan actuary under subsection (a), the plan is described in paragraph (3).

(3) Criticality description.—For purposes of paragraph (2)(B), a plan is described in this paragraph if the plan is described in at least one of the following subparagraphs:

(A) A plan is described in this subparagraph if, as of the beginning of the current plan year, the sum of—

(i) the funded percentage of the plan is less than 65 percent, and
(ii) the market value of plan assets, plus the present value of any unrealized employer and employee contributions for the current plan year and each of the 6 succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, is less than the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

(2) General Power of Plan Sponsor.—Pending approval of a funding improvement plan under this paragraph, the plan sponsor may take all reasonable actions, consistent with the terms of the plan and applicable law, necessary to ensure—

(A) ACTIONS BY PLAN SPONSOR PENDING APPROVAL.—Pending the approval of a funding improvement plan under this paragraph, the plan sponsor may take all reasonable actions, consistent with the terms of the plan and applicable law, necessary to ensure—

(i) an increase in the plan’s funded percentage, and
(ii) the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

(1) In general.—No amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted—

(i) as of the beginning of the current plan year, the funded percentage of the plan is less than 65 percent, and
(ii) the plan has an accumulated funding deficiency for the current plan year or is projected to have an accumulated funding deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

(2) Plan Description.—A multiemployer plan is in critical status for a plan year if—

(A) the plan is in endangered status for the preceding plan year and the requirement of subsection (b)(1) was not met with respect to the plan for such preceding plan year, or
(B) as determined by the plan actuary under subsection (a), the plan is described in paragraph (3).

(3) Criticality Description.—For purposes of paragraphs (2)(B), a plan is described in this subparagraph if the plan is described in at least one of the following subparagraphs:

(A) A plan is described in this subparagraph if, as of the beginning of the current plan year, the sum of—

(i) the funded percentage of the plan is less than 65 percent, and
(ii) the market value of plan assets, plus the present value of any unrealized employer and employee contributions for the current plan year and each of the 6 succeeding plan years, is less than the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

(1) In general.—No amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted—

(i) as of the beginning of the current plan year, the funded percentage of the plan is less than 65 percent, and
(ii) the plan has an accumulated funding deficiency for the current plan year or is projected to have an accumulated funding deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

(2) Plan Description.—A multiemployer plan is in critical status for a plan year if—

(A) the plan is in endangered status for the preceding plan year and the requirement of subsection (b)(1) was not met with respect to the plan for such preceding plan year, or
(B) as determined by the plan actuary under subsection (a), the plan is described in paragraph (3).

(3) Criticality Description.—For purposes of paragraphs (2)(B), a plan is described in this subparagraph if—

(i) the funded percentage of the plan is greater than 65 percent for the current plan year, and
(ii) the plan is projected to have an accumulated funding deficiency for the current plan year or any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

(2) Plan Description.—A multiemployer plan is in critical status for a plan year if—

(A) the plan is in endangered status for the preceding plan year and the requirement of subsection (b)(1) was not met with respect to the plan for such preceding plan year, or
(B) as determined by the plan actuary under subsection (a), the plan is described in paragraph (3).

(3) Criticality Description.—For purposes of paragraphs (2)(B), a plan is described in this subparagraph if—

(i) the funded percentage of the plan is greater than 65 percent for the current plan year, and
(ii) the plan is projected to have an accumulated funding deficiency for the current plan year or any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

(4) Rehabilitation Plan.—

(A) In general.—A rehabilitation plan shall consist of—

(i) amendments to the plan providing (under reasonable actuarial assumptions) for measures, agreed to by the bargaining parties, that decrease current plan expenditures (including plan mergers and consolidations), or reduce future benefit accruals, or to take any combination of such steps, that are determined necessary to cause the plan to cease, during the rehabilitation period, to be in critical status, or
(ii) reasonable measures to forestall possible insolvency (within the meaning of section 412E) if the plan sponsor determines that, upon exhaustion of all reasonable measures, insolvency would not cease during the rehabilitation period to be in critical status. A rehabilitation must provide annual standards for meeting the requirements of such rehabilitation plan.

(B) Rehabilitation Period.—The rehabilitation period for any rehabilitation plan adopted pursuant to this subsection is the 10-year period beginning on the later of—

(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

(ii) the first day of the first plan year of the multiemployer plan following the plan year in which the plan enters critical status.

(1) the plan sponsor determines that the plan will not cease to be in critical status if there were no further increases in rates of contribution to the plan.

(2) the plan sponsor determines that the plan will not cease to be in critical status during the rehabilitation period unless the plan is amended to provide for an increase in contributions, the plan sponsor’s proposals shall include a schedule of those increases in contribution rates that would be necessary to cease the plan to cease to be in critical status if there were no further increases in rates of contribution to the plan.

(3) PROPOSALS WHERE CONTRIBUTIONS ARE NEEDED.—If the plan sponsor determines that the plan will not cease to be in critical status during the rehabilitation period unless the plan is amended to provide for an increase in contributions, the plan sponsor’s proposals shall include a schedule of those increases in contribution rates that would be necessary to cease the plan to cease to be in critical status if there were no further increases in rates of contribution to the plan.

(ii) proposes as an employee organization, for purposes of collective bargaining, at least 5 percent of the active participants, or the plan sponsor shall include among the proposals in its report such increases in contributions and reductions in future benefit accruals as may be specified by the bargaining parties.

(iii) Amendments.—Upon the adoption of a schedule of increases in contributions or reductions in future benefit accruals as part of the rehabilitation plan, the plan sponsor and the plan participants shall update the schedule to adjust for any experience of the plan contrary to past actuarial assumptions, except that such an amendment may be made not more than once in any 3-year period.

(D) Allocation of Reductions in Future Benefit Accruals.—Any schedule containing reductions in future benefit accruals forming a part of a rehabilitation plan shall be applicable with respect to any group of active participants to whom it applies under an agreement with any bargaining party (as an employer obligated to contribute under the plan) in proportion to the extent to which increases in contributions under such schedule apply to such bargaining party.

(E) Limitation on Reduction in Rates of Future Accruals.—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below the lower of—

(1) a monthly benefit equal to 1 percent of the contributions required to be made with respect to a participant or the equivalent standard accrual rate for a group of participants under the collective bargaining agreements in effect as of the first day of the plan year in which the plan enters critical status.

(ii) the first day of the first plan year in which the plan enters critical status.

(3) Maintenance of Contributions and Reductions on Benefits Pending Adoption of Rehabilitation Plan.—The rules of paragraphs (5) and (6) of subsection (b) shall apply for purposes of this subsection by substituting the term ‘‘rehabilitation plan’’ for ‘‘funding improvement plan’’.

(F) Protection of Restored Rates of Accrual.—

(1) In General.—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below any restored accrual rate.

(2) Adjusted Accrual Rate.—For purposes of clause (i), the term ‘‘restored accrual rate’’ means a rate of future accruals which was reduced and subsequently restored before entry of the plan into critical status.

(4) Maintenance of Contributions and Reductions on Benefits Pending Adoption of Rehabilitation Plan.—The rules of paragraphs (5) and (6) of subsection (b) shall apply for purposes of this subsection by substituting the term ‘‘rehabilitation plan’’ for ‘‘funding improvement plan’’.

(7) Special Rules.—

(i) Automatic Employer Surcharge.—The plan sponsor shall establish a monthly surcharge equal to 5 percent of the contributions otherwise required under the respective collective bargaining agreement (or other agreement pursuant to which the plan operates) for each participant who is subject to the plan.

(ii) Enforcement of Surcharge.—Any participant who is subject to the plan under an agreement with any bargaining party under section 4211 of the Employee Retirement Income Security Act of 1974 on the first day of the plan year in which the plan enters into critical status shall be subject to a surcharge equal to 5 percent of the contributions otherwise required under the collective bargaining agreement (or other agreement pursuant to which the plan operates) for each participant who is subject to the plan under an agreement with any bargaining party.

(iii) Termination of Surcharge.—The plan sponsor shall be exempt from the requirements of subsection (b) if the maximum surcharge would no longer be applicable.

(iv) Surcharge Not to Apply Until Employer Receives 30-Day Notice.—If the plan sponsor shall not provide for a surcharge under the plan, the employer shall be exempt from the requirements of subsection (b) if the maximum surcharge would no longer be applicable.

(i) In General.—The plan sponsor shall provide for a surcharge to be effective with respect to any group of active participants to whom it applies under an agreement with any bargaining party (as an employer obligated to contribute under the plan) in proportion to the extent to which increases in contributions under such schedule apply to such bargaining party.

(ii) Limitation on Reduction in Rates of Future Accruals.—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below the lower of—

(1) a monthly benefit equal to 1 percent of the contributions required to be made with respect to a participant or the equivalent standard accrual rate for a group of participants under the collective bargaining agreements in effect as of the first day of the plan year in which the plan enters critical status.

(ii) the first day of the first plan year in which the plan enters critical status.

(iii) if lower, the accrual rate under the plan on such date.

(i) General.—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below any restored accrual rate.

(ii) Reasonable Measures.—Except as provided in subparagraph (C), the trustees of a plan in critical status may not reduce the benefit of any participant or beneficiary who is in plan status at any time during the plan year the plan enters into critical status.

(i) General.—The plan sponsor shall provide for a surcharge to be effective with respect to any group of active participants to whom it applies under an agreement with any bargaining party (as an employer obligated to contribute under the plan) in proportion to the extent to which increases in contributions under such schedule apply to such bargaining party.

(ii) Limitation on Reduction in Rates of Future Accruals.—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below the lower of—

(1) a monthly benefit equal to 1 percent of the contributions required to be made with respect to a participant or the equivalent standard accrual rate for a group of participants under the collective bargaining agreements in effect as of the first day of the plan year in which the plan enters critical status.

(ii) the first day of the first plan year in which the plan enters critical status.

(iii) Trustee Flexibility.—The trustees shall include in the schedules provided to the bargaining parties an allowance for funding the benefits of participants with respect to whom contributions are not currently required to be made, and shall reduce their benefits to the extent permitted under this title and considered appropriate based on the plan sponsor’s current overall funding status and its future prospects in light of the results of the parties’ negotiations.

(ii) Adjusted Benefit Defined.—For purposes of this paragraph, the term ‘‘adjusted benefit’’ means—

(i) benefits, rights, and features, such as post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits.

(ii) Retirement-type subsidies, early retirement benefits, and benefit payment options, other than any qualified joint-and-survivor benefit and single life annuity.

(iii) Benefit increases that would not be effective prior to the end of 10 years after the first day of the plan year in which the plan enters into critical status.

(D) Normal Retirement Benefits Provided.—Nothing in this paragraph shall be construed to permit a plan to reduce the level of a participant’s accrued benefit payable at normal retirement age which is not attributable benefit.

(E) Adjustments Disregarded in Withdrawal Liability Determination.—

(i) Benefit Reductions.—Any benefit reductions under this paragraph shall be disregarded in determining a plan’s unfunded vested benefits for purposes of determining an employer’s withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

(ii) Surcharges.—Any surcharges under this paragraph shall be disregarded in determining a plan’s unfunded vested benefits for purposes of determining an employer’s withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974, except for purposes of determining the unfunded vested benefits attributable to an employer if the employer has not been notified by the trustees that the plan is in critical status and that the surcharge is in effect.

(F) Surcharge No. to Generate Increased Benefit Accruals.—Notwithstanding any provision of a plan to the contrary, the amount of any surcharge shall not be the basis for any benefit accruals under the plan.
Guaranty Corporation under subsection (c)(5) of that section.

"(8) RESTRICTIONS UPON APPROVAL OF REHABILITATION PLAN.—Upon adoption of a rehabilitation plan that is subject to a multiemployer plan, the plan may not be amended—

"(A) so as to be inconsistent with the rehabilitation plan, or

"(B) so as to increase future benefit accruals, unless the plan actuary certifies in advance that, after taking into account the proposed increase, the plan is reasonably expected to meet its accumulated funding deficiency as of the date that such plan is certified or is presumed to be in critical status under subsection (a)(5), or enters into critical status under subsection (b)(7).

"(9) IMPLEMENTATION OF DEFAULT SCHEDULE UNDER PLAN.—A plan sponsor shall amend the plan to implement the schedule required by paragraph (5)(A)(ii).

"(10) DEEMED WITHDRAWAL.—Upon the failure of any employer, who has an obligation to contribute under the plan, to make contributions in compliance with the schedule adopted under paragraph (4) as part of the rehabilitation plan, the failure of the employer may, at the discretion of the plan sponsor, be treated as a withdrawal by the employer from the plan under section 4203 of the Employee Retirement Income Security Act of 1974 or from the withdrawal by the employer under section 4202 of such Act.

"(11) SPECIAL RULE FOR PLAN AMENDMENTS.—In the case of a multiemployer plan, the critical status shall be treated as failing to meet the requirements of section 204(g) of the Employee Retirement Income Security Act of 1974 if the plan auditor does not certify that the plan sponsor is in compliance with the schedule adopted by the plan of an amendment necessary to meet the requirements of this subsection.

"(d) DEFINITIONS.—For purposes of this section—

"(1) BARGAINING PARTY.—The term ‘bargaining party’ means, in connection with a multiemployer plan—

"(A) an employer who has an obligation to contribute under the plan, and

"(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(2) FUNDED PERCENTAGE.—The term ‘funded percentage’ means the percentage expressed as a ratio of which—

"(A) the numerator of which is the value of the plan’s assets, as determined under section 431(d)(6) solely by reason of the adoption by the plan of an amendment necessary to meet the requirements of this subsection, and

"(B) the denominator of which is the accrued liability of the plan.

"(3) ACCUMULATED FUNDING DEFICIENCY.—The term ‘accumulated funding deficiency’ means the meaning provided such term in section 431(a).

"(4) ACTIVE PARTICIPANT.—The term ‘active participant’ means, in connection with a multiemployer plan, a participant who—

"(A) is in covered service under the plan, and

"(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

"(5) PAY STATUS.—A person is in ‘pay status’ under a multiemployer plan if—

"(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

"(B) provided in regulations of the Secretary, such person is entitled to such a benefit under the plan.

"(7) OBLIGATION TO CONTRIBUTE.—The term ‘obligation to contribute’ has the meaning provided such term under section 422(a) of the Employee Retirement Income Security Act of 1974.

"(8) ENTRY INTO CRITICAL STATUS.—A plan shall be treated as entering into critical status as of the date that such plan is certified or is presumed to be in critical status under subsection (a)(5), or enters into critical status under subsection (b)(7).

"(9) EXCISE TAX ON FAILURES TO ADHERE TO REHABILITATION PLAN.—(A) In general.—In the case of a multiemployer plan to which section 432(c) applies for a period, subsections (a) and (b) shall not apply with respect to such period.

"(B) FAILURE TO ADOPT REHABILITATION PLAN.—(A) In general.—In the case of a multiemployer plan to which section 432(c) applies for a period, there is hereby imposed a tax on each plan sponsor, the amount equal to the excess of the amount of such required contribution over the amount contributed by the plan sponsor under the rehabilitation plan within the time required under such plan.

"(C) LIABILITY FOR TAX.—(1) IN GENERAL.—The tax imposed by subparagraph (A) shall be paid by each plan sponsor.

"(2) PLAN SPONSOR.—For purposes of clause (i), the term ‘plan sponsor’ in the case of a multiemployer plan means the association, committee, board of trustees or other group similar to the association, committee, board of trustees or other group of representatives of the parties who establish or maintain the plan.

"(III) FAILURE TO COMPLY WITH REHABILITATION PLAN.—(A) In general.—In the case of a multiemployer plan to which section 432(c) applies, there is hereby imposed a tax on each plan sponsor, the amount equal to the excess of the amount of such required contribution over the amount contributed by the plan sponsor under the rehabilitation plan within the time required under such plan.

"(C) LIABILITY FOR TAX.—The tax imposed by subparagraph (A) shall be paid by each plan sponsor.

"(D) SERVICE OF TAX.—The service of the tax imposed by subsection (b) shall be treated as a service of the tax imposed by such subsection. (c) CLEERICAL AMENDMENT.—The table of sections of chapter D of chapter 1 of such Code is amended by inserting after section 432(c) the following:

"(9) IMPLEMENTATION OF DEFAULT SCHEDULE UNDER PLAN.

"(A) SUBSTITUTION OF EXCISE TAX FOR INITIAL AND ADDITIONAL TAX.—In the case of a multiemployer plan to which section 432(c) applies for a period, subsections (a) and (b) shall not apply with respect to such period.

"(B) FAILURE TO ADOPT REHABILITATION PLAN.—(A) In general.—In the case of a multiemployer plan to which section 432(c) applies for a period, there is hereby imposed a tax on each plan sponsor, the amount equal to the excess of the amount of such required contribution over the amount contributed by the plan sponsor under the rehabilitation plan within the time required under such plan.

"(B) AMOUNT OF TAX.—The amount of the tax imposed under subparagraph (A) with respect to any plan sponsor shall be the greater of—

"(i) the amount of tax imposed under subsection (a) (determined without regard to this subsection), or

"(ii) the amount equal to $1,100 multiplied by the number of days in the period beginning on the calendar day on which the rehabilitation plan is adopted and ending on the calendar day on which the plan is treated as entering into critical status under subsection (a)(5), or

"(iii) the amount equal to $1,100 multiplied by the number of days in the period beginning on the calendar day on which the plan is treated as entering into critical status under subsection (a)(5), or

"(iv) the amount equal to $1,100 multiplied by the number of days in the period beginning on the calendar day on which the plan is treated as entering into critical status under subsection (a)(5), or

"(v) the amount equal to $1,100 multiplied by the number of days in the period beginning on the calendar day on which the plan is treated as entering into critical status under subsection (a)(5), or

"(VI) FAILURE TO ADOPT REHABILITATION PLAN.—(A) In general.—In the case of a multiemployer plan to which section 432(c) applies, there is hereby imposed a tax on each plan sponsor, the amount equal to the excess of the amount of such required contribution over the amount contributed by the plan sponsor under the rehabilitation plan within the time required under such plan.

"(B) AMOUNT OF TAX.—The amount of the tax imposed under subparagraph (A) shall be, with respect to each required contribution under the rehabilitation plan, the amount equal to the excess of the amount of such required contribution over the amount contributed by the plan sponsor under the rehabilitation plan within the time required under such plan.

"(C) LIABILITY FOR TAX.—The tax imposed by subparagraph (A) shall be paid by the plan sponsor.

"(IV) REHABILITATION PLAN.—For purposes of this subsection, the term ‘rehabilitation plan’ means the plan required to be adopted under section 432(c)."

"(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2005, and in the case of plan years beginning in 2006, apply to—

"(1) IN GENERAL.—Subsection (c)(9) of section 432 of the Internal Revenue Code of 1986 (as added by this section) shall be treated as a reference to the corresponding provision of such Code as in effect for plan years beginning in such year.

"(2) APPLICATION TO PLAN YEARS BEGINNING IN 2006—(A) IN GENERAL.—The amendments made by this section shall apply with respect to determinations made in plan years beginning after December 31, 2005.

"TITLE III—OTHER PROVISIONS

"SEC. 301. INTEREST RATE FOR 2006 FUNDING REQUIREMENTS.

"(a) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—


"(A) by striking ‘‘January 1, 2006’’ and inserting ‘‘January 1, 2007’’, and

"(B) by striking ‘‘2006’’ and inserting ‘‘2007’’, and

"(C) by striking ‘‘2007’’ and inserting ‘‘2008’’, and

"(D) by striking ‘‘2008’’ and inserting ‘‘2009’’. (b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made in plan years beginning after December 31, 2006.

"SEC. 302. INTEREST RATE ASSUMPTION FOR DETERMINATION OF LUMP SUM DISTRIBUTIONS.

"(a) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Paragraph (3) of section 205(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"‘‘(3)(A) For purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(B) For purposes of subparagraph (A)—
“(i) The term ‘applicable mortality table’ means a mortality table, modified as appropriate by the Secretary of the Treasury, based on the mortality table specified for the plan year under section 430(h)(3).

“(ii) The term ‘applicable interest rate’ means the adjusted first, second, and third segment rates applied under rules similar to the rules of section 430(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary of the Treasury may by regulations prescribe.

“(iii) In the case of purposes of clause (i), the adjusted first, second, and third segment rates which are the first, second, and third segment rates which would be determined under section 430(h)(2)(C) if—

“(1) section 430(h)(2)(D)(i) were applied by substituting ‘the yields’ for ‘a 3-year weight-

age of yields’;

“(2) section 430(h)(2)(G)(i)(II) were applied by substituting ‘section 205(g)(3)(A)(i)(II)’ for ‘section 302(b)(5)(B)(i)(II)’; and

“(3) the applicable percentage under section 430(h)(2)(C) were determined in accordance with the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>20 percent</td>
</tr>
<tr>
<td>2008</td>
<td>40 percent</td>
</tr>
<tr>
<td>2009</td>
<td>60 percent</td>
</tr>
<tr>
<td>2010</td>
<td>80 percent</td>
</tr>
</tbody>
</table>

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (3) of section 417(e) of the Internal Revenue Code of 1986 is amended to read as follows:

“(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2006.

SEC. 303. INTEREST RATE ASSUMPTION FOR APPLYING BENEFIT LIMITATIONS TO LUMP SUM DISTRIBUTIONS.

(a) In GENERAL.—Clause (ii) of section 415(h)(2)(E) of the Internal Revenue Code of 1986 is amended to read as follows:

“(ii) For purposes of adjusting any benefit under subparagraph (B) for any form of ben-

efit in a form other than a lump sum distribution, the interest rate assumption shall not be less than the greater of—

“(1) 5.5 percent.

“(2) The rate that provides a benefit of not more than 105 percent of the benefit that would be provided if the applicable interest rate (as defined in section 417(e)(3)) were the interest rate assumption.

“(III) The rate specified under the plan.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to dis-

tributions made in years beginning after De-

cember 31, 2005.

SEC. 304. DISTRIBUTIONS DURING WORKING RE-

TIREMENT.

(a) AMENDMENT TO THE EMPLOYEE RETIRE-

MENT INCOME SECURITY ACT OF 1974.—Sub-

paragraph (A) of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(c)(2)) is amended by inserting after the word ‘‘may’’ the following new sentence:

‘‘(ii) the applicable percentage under subparagraph (B) for any form of benefit in a form other than a lump sum distribution, the interest rate assumption shall not be less than the greater of—

“(1) 5.5 percent.

“(2) The rate that provides a benefit of not more than 105 percent of the benefit that would be provided if the applicable interest rate (as defined in section 417(e)(3)) were the interest rate assumption.

“(III) The rate specified under the plan.’’.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to dis-

tributions made in years beginning after De-

cember 31, 2005.

SEC. 305. OTHER AMENDMENTS RELATING TO PROHIBITED TRANSACTIONS.

(a) DEFINITION OF AMOUNT INVOLVED.—Section 502(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(i)) is amended by adding after the word ‘‘benefit’’ the following new sentence:

‘‘(d) EFFECTIVE DATE.—The amendments made by this section shall apply to distrib-

utions in plan years beginning after December 31, 2005.

(b) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Concealed within the Internal Revenue Code of 1986 (without regard to subparagraph (F)(i) and the last sentence thereof),

(ii) the term ‘commodity’ has the mean-

ing given such term by section 475(c)(2) of the In-


(C) In the case of principal transactions prohibited under section 406(a) involving se-

curities or commodities, the term ‘amount involved’ means only the amount received by the disqualified person in excess of the amount such person would have received in an arm’s length transaction with an unrelated party as of the same date.

(E) For the purposes of this paragraph—

‘‘(i) the term ‘security’ has the meaning given such term by section 475(c)(2) of the Internal Revenue Code of 1986 (without regard to subparagraph (F)(i) and the last sentence thereof),

(ii) the term ‘commodity’ has the mean-

ing given such term by section 475(c)(2) of the In-


(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 406(b) of such Act (29 U.S.C. 1108(b)), as amended by section 601, is further amended by adding at the end the following new paragraph:

‘‘(15)(A) Any transaction involving the pur-

chase or sale of securities between a plan and a part

ty (other than a fiduciary described in section 3(21)(A)(ii)) with respect to a plan if—

(i) the transaction involves a block trade,

(ii) at the time of the transaction, the in-

terest of the plan (together with the inter-

ests of any other plans maintained by the

same plan sponsor), does not exceed 10 per-

cent of the aggregate size of the block trade,

and

(iii) the terms of the transaction, includ-

ing the price, are at least as favorable to the

plan as an arm’s length transaction.

(B) For purposes of this paragraph, the term ‘block trade’ includes any trade which

involves two or more client accounts of a fiduciary.”.

(2) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Concealed within the Internal Revenue Code of 1986 (without regard to exemptions) is amended by striking ‘‘or’’ at the end of paragraph (15), by striking ‘‘and’’ at the end of paragraph (16) and inserting ‘‘, or’’, and by adding at the end the following new paragraph:

‘‘(17) any transaction involving the pur-

chase or sale of securities between a plan and a part

ty (other than a fiduciary described in section (e)(3)(B)) with respect to a plan if—

(i) the transaction involves a block trade,

(ii) at the time of the transaction, the in-

terest of the plan (together with the inter-

ests of any other plans maintained by the

same plan sponsor), does not exceed 10 per-

cent of the aggregate size of the block trade,

and

(iii) the terms of the transaction, includ-

ing the price, are at least as favorable to the

plan as an arm’s length transaction.

(D) For purposes of this paragraph, the
term ‘block trade’ means only the amount of excess computed for the disqualified person in excess of the amount such person would have received in an arm’s length transaction with an unrelated party as of the same date.”

(1) the amount of money and the fair mar-

ket value of the other property given, or

(2) the amount of money and the fair mar-

ket value of the other property received.

For purposes of paragraph (A), fair

market value shall be determined as of the date on which the prohibited transaction oc-

curs, except that in the case described in clause (i), fair market value shall be the highest fair market value during the period between the date of the transaction and the date of correction.

(2) In the case of services described in subsection (b)(2) or (c)(2) of section 408, the term ‘amount involved’ means only the amount of excess computed for the disqualified person in excess of the amount such person would have received in an arm’s length transaction with an unrelated party as of the same date.”
(B) SPECIAL RULE RELATING TO BLOCK TRADE.—Subsection (f) of section 4975 of such Code (relating to other definitions and special rules) is amended by adding at the end the following paragraph:

“(8) BLOCK TRADE.—For purposes of subsection (d)(17), the term ‘block trade’ includes any trade which will be allocated across two or more client accounts of a fiduciary.”.

(c) BONING RELIEF.—Section 412(a) of such Code (15 U.S.C. 80b-1 et seq.) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by striking “and” at the end of paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

“(2) no bond shall be required of an entity which is subject to regulation as a broker or a dealer under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 80b-1 et seq.) or an entity registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), including requirements imposed by a self-regulatory organization (within the meaning of section 3(a)(26) of such Act (15 U.S.C. 80b-1 et seq.)), or an affiliate with respect to which the broker or dealer agrees to be liable to the same extent as if they held the assets directly”.

(d) EXEMPTION FOR ELECTRONIC COMMUNICATION NETWORK.—

(1) IN GENERAL.—Section 406(b) of such Act (as amended by subsection (b)) is further amended by adding at the end the following:

“(16) Any transaction involving the purchase or sale of securities, or other property (as determined in regulations of the Secretary) between a plan and a fiduciary or a party in interest if—

(A) the transaction is executed through an electronic communication network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by—

(i) the applicable Federal regulating entity, or

(ii) such other applicable governmental regulating agency as the Secretary may determine appropriate in the case of any fiduciary or party in interest or class of fiduciaries or parties in interest or any transaction or class of transactions;

(B) the transaction system nor the parties to the transaction take into account the identity of the parties in the execution of trades;

(C) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the execution system.

(2) the price and compensation associated with the purchase and sale are not greater than an arm’s-length transaction with an unrelated party.

(E) DEFINITION OF PLAN ASSET.—Section 3 of such Act (29 U.S.C. 1002) is amended by—

(1) in the case of a transaction described in subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of such section (without regard to subparagraph (D)(iii) thereof), by amending the section to read—

“(B) for purposes of this paragraph—

(i) the term ‘security’ means—

(I) any share or beneficial interest in a partnership, corporation, or similar entity;

(II) any security for which there is a generally recognized market, the fair market value of the security as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary;

(II) if the security is not traded on such a nationally recognized market, the fair market value of the security as determined in good faith by the fiduciary or fiduciaries (as defined in section 407(d)(2)).

(ii) The term ‘regular execution system’ means—

(I) the national securities exchange on which the security is traded;

(II) the electronic communications network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by—

(A) the applicable Federal regulating entity, or

(B) such other applicable governmental regulating agency as the Secretary may determine appropriate in the case of any fiduciary or party in interest or class of fiduciaries or parties in interest or any transaction or class of transactions;

(III) if the transaction system nor the parties to the transaction take into account the identity of the parties in the execution of trades;

(IV) the transaction is executed through an electronic communication network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by—

(A) the applicable Federal regulating entity, or

(B) such other applicable governmental regulating agency as the Secretary may determine appropriate in the case of any fiduciary or party in interest or class of fiduciaries or parties in interest or any transaction or class of transactions;

(V) the transaction system or the parties to the transaction take into account the identity of the parties in the execution of trades.

(3) the price and compensation associated with the purchase and sale are not greater than an arm’s-length transaction with an unrelated party.

(F) not less than 30 days prior to the initial transaction described in this paragraph executed through any system or venue described in subparagraph (A), the plan administrator is provided written notice of the execution of such transaction through such system or venue.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 30 days after the date of the enactment of this Act.

(e) CONFORMING ERISA’S PROHIBITED TRANSACTION PROVISION TO FERSA.—Section 406(b) of such Act (15 U.S.C. 80b-1 et seq.) is amended—

(1) by striking “or” at the end of the section and the subsection and inserting “or”, and by adding at the end the following new paragraph:

“(18) except as provided in subsection (f)(9), a transaction described in subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of such section (without regard to subparagraph (D)(iii) thereof) constitutes a violation of section 406(a).”.

SEC. 306. CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.

(a) AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 406(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)), as amended by sections 304 and 601, is further amended by adding at the end the following new paragraph:

“(19) A transaction described in subsection (d) of this section is not a violation of section 406(a) in connection with the acquisition, holding, or disposition of any security or commodity, if the plan is corrected before the end of the correction period.

(b) Subparagraph (A) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition, holding, or disposition of such security or commodity, if the transaction is corrected before the end of the correction period.

(c) Subparagraph (B) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition, holding, or disposition of such security or commodity, if the transaction is corrected before the end of the correction period.

(d) For purposes of this paragraph, the term ‘correction period’ means, in connection with a fiduciary or party in interest (or any other person knowingly participating in such transaction), the 14-day period beginning on the date on which such fiduciary or party in interest (or other person) knew (or reasonably should have known) that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

(e) For purposes of this paragraph—

(i) the term ‘security’ has the meaning given such term by section 475(c)(2) of the Internal Revenue Code of 1986 (without regard to subparagraph (F)(iii) and the last sentence thereof);

(ii) the term ‘commodity’ has the meaning given such term by section 475(c)(2) of such Code (without regard to subparagraph (D)(iii) thereof);

(iii) the term ‘correct’ means, with respect to a transaction—

(I) to undo the transaction to the extent possible and in any case to make good to the plan or the plan sponsor any losses resulting from the transaction, or

(II) to restore to the plan or affected account any profits made through the use of assets of the plan.

(b) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subtitle D of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by this Act, is amended by striking “or” at the end of paragraph (16), by striking the period at the end of the paragraph (17) and inserting “, and by adding at the end the following new paragraph:

“(18) except as provided in subsection (f)(9), a transaction described in subparagraph (A), (B), or (C) of paragraph (1) of subsection (a) of such section (without regard to subparagraph (D)(iii) thereof) constitutes a violation of section 406(a).”.

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transaction is corrected before the end of the correction period.’’.

(2) SPECIAL RULES RELATING TO CORRECTION PERIOD.—Subsection (f) of section 4975 of such Act (relating to other definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

‘‘(g) EFFECTIVE DATE.—The amendment made by this subsection shall apply to any transaction with respect to which an election or deduction is made before the date of enactment of this Act.’’

SEC. 309. EXERCISE OF CONTROL OVER PLAN ASSETS NOT IN CONNECTION WITH QUALIFIED CHANGES IN INVESTMENT OPTIONS.

(1) AGENCY.—The Comptroller General of the United States shall issue final regulations under section 4975 of the Internal Revenue Code of 1986 to implement this section.

(a) IN GENERAL.—The fiduciary shall ensure that, with respect to any participant or beneficiary who is a participant in a plan as of the effective date of this Act:

(i) the fiduciary shall adopt a plan of correction for each correction period during which there was a prohibited transaction, and

(ii) the fiduciary shall maintain a record of each transaction that is a prohibited transaction.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on January 1, 2006.

SEC. 310. GOVERNMENT ACCOUNTABILITY OFFICE REPORT ON PENSION FUNDING REPORT.

(a) IN GENERAL.—The Comptroller General of the Government Accountability Office shall transmit to the Congress a pension funding report not later than one year after the date of the enactment of this Act.

(b) REPORT CONTENT.—The pension funding report prescribed by this section shall include the following information:

(i) An analysis of the feasibility, advantages, and disadvantages of—

(1) requiring an employee pension benefit plan to insur a portion of such plan’s total investments;

(2) requiring an employee pension benefit plan to adhere to uniform solvency standards set by the Pension Benefit Guaranty Corporation, which are similar to those applied on a State level in the insurance industry; and

(3) amortizing a single-employer defined benefit pension plan’s shortfall amortization base (referred to in section 4033(c)(3) of the Employee Retirement Income Security Act of 1974 (as amended by this Act)) over various periods of not more than 7 years.

SEC. 401. LIABILITY OR PROHIBITION RELATING TO MATERIAL MISSTATEMENTS.

(a) LIABILITY.—Section 401(a)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1101(a)(5)) is amended—

(1) by striking clause (1) of paragraph (5) and inserting the following:

‘‘(1) Foreign investments—Notwithstanding any other provision of this Act or any provision of law relating to the administration of the Internal Revenue Code of 1986, no tax shall be assessed with respect to any transaction between a plan and the United States, any agency, or instrumentality of the United States, the District of Columbia, the Territories of the United States, or any political subdivision thereof, for the acquisition of an asset of the United States, any agency, or instrumentality of the United States, the District of Columbia, the Territories of the United States, or any political subdivision thereof if—

(i) such transaction is entered into after the date of the enactment of this Act, and

(ii) the fiduciary does not have actual knowledge that such transaction is a prohibited transaction.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall take effect on January 1, 2006.
with such current plan year in the following table:

<table>
<thead>
<tr>
<th>Year</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2006</td>
<td>$221,67</td>
</tr>
<tr>
<td>2007</td>
<td>$233,33</td>
</tr>
</tbody>
</table>

If the plan year begins in

The amount provided under clause (i) shall not apply in connection with premiums determined under this paragraph.

'“(iv) For purposes of this subparagraph, the term ‘funding target attainment percentage’ has the meaning provided such term in section 303(c)(2).”

(b) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—Subsection (a) of section 4006 of such Act (29 U.S.C. 1306) is amended by adding at the end the following:

“(7) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

“(A) IN GENERAL.—If there is a termination of a single-employer plan under clause (1) or (iii) of section 4041(c)(2)(B) or section 4042, there shall be payable to the corporation, with respect to each applicable 12-month period, a premium at a rate equal to $1,250 multiplied by the number of individuals who were participants in the plan immediately before the termination date. Such premium shall be payable to any other premium under this section.

“(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—If the plan is terminated under 4041(c)(2)(B)(i) or under section 4042 and, as of the termination date, a person who is (as of such date) a contributing sponsor of the plan or a member of such sponsor’s controlled group has filed or has had filed against such person a petition seeking reorganization in a case under title 11 of the United States Code, or under any law of a State or a political subdivision of a State (or a case described in section 1123 of title 11, United States Code, or under any similar law of a State or political subdivision of a State after October 26, 2005), subsection (a) and (c)(1) shall apply to such plan years beginning after December 31, 2005, and shall apply to plan years beginning after such date.

TITLE V—DISCLOSURE

SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICES.

(a) APPLICATION OF PLAN FUNDING NOTICE REQUIREMENTS TO ALL DEFINED BENEFIT PLANS.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is amended—

(1) in the heading, by striking “MULTIEMPLOYER”; and

(2) in paragraph (1), by striking “which is a multiemployer plan”; and

(3) by inserting after paragraph (2) the following:

“(iii) in the case of a single-employer plan, a summary of the rules governing termination of single-employer plans under subtitle D of title IV, or

“(ii) in the case of a multiemployer plan, a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and

“(B) EFFECTIVE DATE.—The amendments made by subsection (a) are applicable under rules similar to the rules applicable under section 4031(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1031(c)).

(b) INCLUSION OF STATEMENT OF THE RATIO OF INACTIVE PARTICIPANTS TO ACTIVE PARTICIPANTS.—Section 101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B)) is amended—

(1) in the heading, by striking “MULTIEMPLOYER PLAN.”

(2) by inserting after clause (vi) the following new clause:

“(vii) a summary of any funding improvement plan, rehabilitation plan, or modification thereof adopted under section 404(c) during the plan year to which the notice relates.”

(c) NOTICE OF FUNDING IMPROVEMENT PLAN OR REHABILITATION PLAN.—Section 303(c)(4) of such Act (29 U.S.C. 1033(c)(4)) is amended by striking “and inserting “after 90 days after the end of the plan year”.外部链接


(1) in subsection (a)(1)(B), by striking "subparagraphs (d) and (e)" and inserting "subparagraphs (d), (e), and (f)"; and

(2) by adding at the end the following new subsection:

"(f) (1) With respect to any defined benefit plan, under this section for a plan year the Secretary shall provide for display of such information included in the annual report, within 90 days after the date of the filing of the annual report, as maintained by the Secretary on the Internet and other appropriate media. Such information shall also be displayed on any website maintained by the plan administrator on behalf of the plan sponsor on the Internet, in accordance with regulations which shall be prescribed by the Secretary.

(2) Summary annual report filed within 15 days after deadline for filing of annual report of such Act (29 U.S.C. 1024(b)(3)) is amended—

(1) by striking "Within 210 days after the close of the fiscal year of the plan," and inserting "Within 15 business days after the due date under subsection (a)(1) for the filing of the annual report for the fiscal year of the plan," and

(2) by striking "the latest" and inserting "such".

(3) Disclosure of plan assets and liabilities in summary annual report—

(1) In general—Section 104(b)(3) of such Act (as amended by subsection (a)) is amended—

(A) by inserting "(A)" after "(3);" and

(B) by adding at the end the following:

"(B) The material provided pursuant to subparagraph (A) to summarize the latest annual report shall be in a manner calculated to be understood by the average plan participant and shall set forth the total assets and liabilities of the plan for the plan year for which the latest annual report was filed for and for each of the 2 preceding plan years, as reported in the annual report for each such plan year under this section.

(c) Internet display of information to participants, beneficiaries, and employers with respect to multiemployer plans—

(1) In general—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) (as amended by section 103(b)(2)(A)) is further amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) Multiemployer plan information made available on request.—

"(1) In general.—Each administrator of a multiemployer plan shall furnish to any participant, beneficiary, employer, or individual having an obligation to contribute to the plan, who so requests in writing—

"(A) a copy of any actuarial report received by the plan for any plan year which has been in receipt of the plan for at least 30 days, and

"(B) a copy of any financial report prepared for the plan by any plan investment manager or advisor or other person who is a plan fiduciary which has been in receipt of the plan for at least 30 days.

(2) Complying employer required to be provided under paragraph (1)—

"(A) shall be provided to the requesting participant, beneficiary, or employer within 30 days after the request in a form and manner prescribed in regulations of the Secretary, and

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to employers to whom the information is required to be provided.

(3) Limitations.—In no case shall an employer be entitled under this subsection to receive more than one notice described in paragraph (1) during any one 12-month period. The person required to provide such notice may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

(d) Enforcement—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking subsections 302(b)(2)(B) and (C) and inserting "sections 101(j), 101(k), and 302(b)(7)(F)(iv)".

(7) Regulations.—The Secretary shall prescribe regulations under section 101(k) of the Employee Retirement Income Security Act of 1974 (add by paragraph (1) of this subsection) not later than 90 days after the date of the enactment of this Act.

(e) Notice of potential withdrawal liability to multiemployer plans—

(1) In general.—Section 101 of such Act (as amended by subsection (g) of this section) is further amended—

(A) by redesignating subsection (i) as subsection (m); and

(B) by inserting after subsection (k) the following new subsection:

"(i) Notice of potential withdrawal liability—

"(1) In general.—The plan sponsor or administrator of a multiemployer plan shall furnish to any employer who has an obligation to contribute to the plan and who so requests in writing notice of—

"(A) the amount which would be the amount of such employer's withdrawal liability under part I of subtitle E of title IV if such employer withdrew on the last day of the plan year preceding the date of the request, and

"(B) the average increase in plan withdrawal liability in each plan year, in accordance with liabilities under the plan as of the end of such plan year to participants under such plan on whose behalf no employer contributions are payable (for those beneficiaries, which would be attributable to such a withdrawal by such employer.

For purposes of subparagraph (B), the term 'employer contribution means, in connection with a participant, a contribution made by an employer as an employer of such participant.'
Retirement Income Security Act of 1974, as amended by this section.

(3) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years ending after December 31, 2005.

SEC. 503. SECTION 4010 FILLINGS WITH THE PBGC.

(a) CHANGE IN CRITERIA FOR PERSONS REQUIRED TO PROVIDE INFORMATION TO PBGC.—

Section 4010(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310(b)) is amended by striking paragraph (1), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting before paragraph (3) (so redesignated) the following new paragraphs:

"(1) funding target attainment percentage of the plan (as defined in subsection (d)(2)) is less than 60 percent;

"(2)(A) the aggregate funding target attainment percentage of each of such plans, as of the end of such plan year, which, pursuant to the provision of the advice, is

(i) the aggregate total of the values of plan assets, as of the end of such plan year, of such plans, is of

(ii) the aggregate total of the funding targets of such plans, as of the end of such plan year, taking into account only benefits to which participants and beneficiaries have a nonforfeitable right.

(E) AT-RISK STATUS.—The term "at-risk status" has the meaning provided in section 308(1)(E).

(B) COMPLIANCE.—

"(1) in general.—Any notice required to be provided under paragraph (1) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to individuals to whom the information is required to be provided.

"(2) LIMITATIONS.—In no case shall a participant or beneficiary be entitled under this subsection to receive more than one notice prescribed pursuant to sub-paragraph (1) during any 6-month period. The plan sponsor or participant, or beneficiary, if any, shall provide such notice with respect to any participant or beneficiary in connection with the provision of investment advice with regard to the security or other property to which the advice pertains.

"(3) COMPLIANCE.—The term "compliance" has the meaning provided in section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(b)).

"(d) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—Section 4010 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310) is amended by striking paragraph (2), as redesignated (so as to be redesignated paragraph (3) of this section), and inserting after such paragraph the following new paragraph:

"(3) COMPLIANCE.—The term "compliance" has the meaning provided in section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(b)).

"(e) NOTICE TO CONGRESS.—Concurrent with the provision of any notice required to be provided under paragraph (1), such plan shall provide such notice to the Committee on Education and Labor of the House of Representatives and the Committee on Finance of the Senate, which shall be treated as materials provided in executive session.

(f) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to plan years beginning after December 31, 2006.

TITLE VI—INVESTMENT ADVICE

SEC. 601. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 PROVIDING PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE.

(a) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 406(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056(b)) is amended by adding at the end of paragraph (1) the following new subsection:

"(3)(A) Any transaction described in subsection (3)(A) of section 408(b), provided to an employee benefit plan in connection with a sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

"(i) the plan sponsor is in an industry or underemployment and the sales and profits are depressed or declining;

"(ii) the aggregate total of the values of plan assets, as of the end of such plan year, which, pursuant to the provision of the advice, is

(i) the aggregate total of the values of plan assets, as of the end of such plan year, of such plans, is of

(ii) the aggregate total of the funding targets of such plans, as of the end of such plan year, taking into account only benefits to which participants and beneficiaries have a nonforfeitable right.

(E) AT-RISK STATUS.—The term "at-risk status" has the meaning provided in section 308(1)(E).

(B) COMPLIANCE.—

"(1) in general.—Any notice required to be provided under paragraph (1) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to individuals to whom the information is required to be provided.

"(2) LIMITATIONS.—In no case shall a participant or beneficiary be entitled under this subsection to receive more than one notice prescribed pursuant to sub-paragraph (1) during any 6-month period. The plan sponsor or participant, or beneficiary, if any, shall provide such notice with respect to any participant or beneficiary in connection with the provision of investment advice with regard to the security or other property to which the advice pertains.

"(3) COMPLIANCE.—The term "compliance" has the meaning provided in section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(b)).

"(d) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—Section 4010 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310) is amended by striking paragraph (2), as redesignated (so as to be redesignated paragraph (3) of this section), and inserting after such paragraph the following new paragraph:

"(3) COMPLIANCE.—The term "compliance" has the meaning provided in section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1052(b)).

"(e) NOTICE TO CONGRESS.—Concurrent with the provision of any notice required to be provided under paragraph (1), such plan shall provide such notice to the Committee on Education and Labor of the House of Representatives and the Committee on Finance of the Senate, which shall be treated as materials provided in executive session.

(f) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to plan years beginning after December 31, 2006.
and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

(2) Model form for disclosure of fees and other compensation.—The Secretary shall prescribe a form for the disclosure of fees and other compensation required in paragraph (1)(A)(i) which meets the requirements of subparagraph (A).

(3) Comptroller of currency on making required information available annually, on request, and in the event of material changes made of the information required to be provided in the notification.

(4) Maintenance of 6 years of evidence of compliance.—A fiduciary adviser referred to in such section shall maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

(5) Exemption for plan sponsor and certain other fiduciaries.—(A) A person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this paragraph or 3(b)(3)(E) or 3(b)(5)(C) by reason of the provision of investment advice referred to in subparagraph (A)(i) if—

(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser, or

(ii) the provision of investment advice referred to in such section.

(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

(B) Continued duty of prudent selection of fiduciary.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part with respect to the selection and review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the provision of investment advice given by the fiduciary adviser to any particular recipient of the advice.

(6) Definitions.—For purposes of this subsection and subsection (b)(14)—

(A) Fiduciary adviser.—The term ‘‘fiduciary adviser’’ with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), or

(ii) a bank or similar financial institution referred to in section 48(b)(4) or a savings association (as defined in section 1813(f) of the Federal Deposit Insurance Act (12 U.S.C. 1813(f))), but only if the advice is provided through a trust department of the bank or similar financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities;

(iii) an insurance company qualified to do business under the laws of a State, or

(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), or

(v) an affiliate of a person described in any of clauses (i) through (iv), or

(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

(B) Affiliate.—The term ‘‘affiliated with’’ another entity means affiliated with the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-3(a)(3))).

(C) Registered representative.—The term ‘‘registered representative’’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section for a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section)."

(C) Effective date.—The amendments made by this section shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 provided on or after January 1, 2006.

SEC. 902. AMENDMENTS TO INTERNAL REVENUE CODE OF 1986 PROVIDING PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE.

(a) Exemption from prohibited transactions.—Section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions), as amended by this Act, is amended—

(1) in paragraph (17), by striking ‘‘or’’ at the end;

(2) in paragraph (18), by striking the period at the end and adding at the end the following new paragraph:

(19) any transaction described in subsection (f)(10)(A) in connection with the provision of investment advice described in subsection (e)(3)(B)(i), in any case in which the plan is subject to the direction of plan participants or beneficiaries,

(3) by adding the end the following new paragraph:

(1) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets,

(4) by adding to the end the following new paragraph:

(1) the sale, acquisition, or holding of a security or other property (including any credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

(B) Requirements relating to provision of investment advice by fiduciary advisers.—The requirements of this subsection (referred to in subsection (d)(19)(C) are met in connection with the provision of investment advice referred to in subsection (e)(3)(B)(i), provided to a plan participant or beneficiary of a plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property by the fiduciary adviser in connection with the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

(i) the fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property),

(ii) any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

(iii) any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

(iv) the type of services provided by the fiduciary adviser in connection with the

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provision of investment advice by the fiduciary adviser.

“(V) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, or

“(VI) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material effect on such advice and receive compensation other than the advice.

“(ii) the fiduciary adviser provides appropriate disclosure in connection with the sale, acquisition, or holding of the security or other property, in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary, or failing to maintain any records necessary for determining whether the advice is in the plan, participant, or beneficiary’s best interest. In such case, the fiduciary adviser shall be deemed to be acting as a fiduciary of the plan in connection with the provision of advice; and

“(iii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice.

“(B) COMPENSATION RECEIVED BY THE FIDUCIARY ADVISER.—In the case of a provision of investment advice by the fiduciary adviser referred to in such section,

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser, and

“(ii) the fiduciary adviser of investment advice referred to in such section,

“(B) the terms of the arrangement require compliance with the fiduciary adviser with the requirements of this paragraph,

“(i) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the advice is provided by a fiduciary of the plan with respect to the provision of the advice, and

“(ii) the requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are met in connection with the provision of such advice.

“(C) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under paragraph (1)(B) shall be made in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

“(D) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE. The term ‘required information’ referred to in subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in an accurate form and in the manner required by subparagraph (C), or fails to

“(i) provide, without charge, such currently accurate information to the recipient of the advice,

“(II) maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

“(E) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE WITH THE REQUIREMENTS OF SUBPARAGRAPH (B)(I).—The records of evidence of compliance required under paragraph (1)(B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(19) have been met.

“(F) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—A plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this section solely by reason of the provision of investment advice referred to in subsection (e)(3)(B) (or solely by reason of contracting for or otherwise arranging for the provision of such advice), if

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser, and

“(ii) the fiduciary adviser of investment advice referred to in such section,

“(E) EFFECTIVE DATE.—The requirements of subparagraph (C) and subsection (d)(19)

“(i) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan,

“(I) a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary who is

“(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(II) a bank, insurance association which is subject to periodic examination and review by Federal or State banking authorities.

“(III) an insurance company qualified to do business under the laws of a State,

“(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(V) an affiliate of a person described in any of subparagraphs (I) through (IV), or

“(VI) an employee, agent, or registered representative of a person described in any of subparagraphs (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(II) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 3(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(III) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Investment Company Act of 1940 (15 U.S.C. 80a-4(a)(18)) (substituting the term ‘broker or dealer’ referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the term ‘investment adviser’ referred to in such section).

“(C) DEFINITIONS.—For purposes of this paragraph and subsection (d)(19)

“(i) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan,

“(I) a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary who is

“(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(II) a bank, insurance association which is subject to periodic examination and review by Federal or State banking authorities.

“(III) an insurance company qualified to do business under the laws of a State,

“(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(V) an affiliate of a person described in any of subparagraphs (I) through (IV), or

“(VI) an employee, agent, or registered representative of a person described in any of subparagraphs (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(II) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 3(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(III) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Investment Company Act of 1940 (15 U.S.C. 80a-4(a)(18)) (substituting the term ‘broker or dealer’ referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the term ‘investment adviser’ referred to in such section).

“(C) DEFINITIONS.—For purposes of this paragraph and subsection (d)(19)
“(f)(1) A defined benefit plan under which the accrued benefit payable under the plan upon distribution (or any portion thereof) is expressed as the balance of a hypothetical account established for the participant that is not deemed to be vested or not be treated as failing to meet the requirements of subsection (a)(2), section 204(c) (but only in the case of a plan which does not provide for employee contributions) or section 205(g) solely because of the amount actually made available for such distribution under the terms of the plan with respect to any period of the accumulated percentage of the employee’s account balance to normal retirement age is not greater than a market rate of return.

“(2) The Secretary of the Treasury may provide rules or regulations governing the calculation of a market rate of return for purposes of paragraph (1) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of paragraph (1).”

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986—

(1) RULES RELATING TO REDUCTION IN RATE OF BENEFIT ACCRUAL.—Subparagraph (H) of section 411(b)(1) of the Internal Revenue Code is amended by adding at the end the following new clause:

“(vi) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

“(1) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of clause (i) if a participant’s accrued benefit payable under the plan upon distribution (or any portion thereof) is expressed as the balance of a hypothetical account established for the participant that is not deemed to be vested or not be treated as failing to meet the requirements of this subparagraph solely because the plan provides for indexing of accrued benefits under the plan.

“(2) PROTECTION OF ECONOMIC VALUE.—Except in the case of any benefit provided in the form of a variable annuity, subclause (I) shall not apply with respect to any benefit which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

“(III) INDEXING.—For purposes of this clause, the term ‘indexing means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.’

“(4) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT.—

“(A) IN GENERAL.—A defined benefit plan under which the accrued benefit payable under the plan upon distribution (or any portion thereof) is expressed as the balance of a hypothetical account established for the participant that is not deemed to be vested or not be treated as failing to meet the requirements of subparagraph (A)(i), subsection (c) (but only in the case of a plan which does not provide for employee contributions), or section 411(e) solely because of the amount actually made available for such distribution under the terms of the plan, in any case in which the applicable interest rate would be equal to or greater than that of any similarly situated, younger individual.

“(B) REGULATIONS.—The Secretary may provide by regulation for rules governing the calculation of a market rate of return for purposes of subparagraph (A) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subparagraph (A).

“(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after June 29, 2005.

TITLE VIII—DEDUCTION LIMITATIONS

SEC. 801. INCREASE IN DEDUCTION LIMITS.

(a) INCREASE IN DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.—Section 401 of the Internal Revenue Code of 1986 (relating to deduction for contributions of an employer to an employee’s trust or annuity plan and compensation) is amended—

(1) in subsection (a)(1)(A), by inserting ‘‘(4)’’ after ‘‘(3)’’;

(2) in subsection (a)(1)(B), by inserting ‘‘(4)’’ after ‘‘(3)’’; and

(3) in subsection (a)(1)(C), by inserting ‘‘(4)’’ after ‘‘(3)’’.

(b) INCREASE IN DEDUCTION LIMIT FOR MULTIEmployer PLANS.—Section 401(a)(1)(D) of such Code is amended—

(1) by striking ‘‘$40,000’’ and inserting ‘‘$70,000’’; and

(2) by inserting ‘‘(5)’’ after ‘‘(4)’’.

TITLE IX—TECHNICAL AND CONFORMING AMENDMENTS

(1) The last sentence of section 404(a)(1)(A) of such Code is amended by striking ‘‘section 411’’ each place it appears and inserting ‘‘section 411’’.

(2) Section 404(a)(1)(B) of such Code is amended—

(A) by striking ‘‘In the case of a plan under which the employee’s accrued benefit in the plan was determined under section 412(c)(7) to be less than the market value of the plan assets’’; and

(B) by substituting ‘‘In the case of a defined benefit plan which is a multiemployer plan, except as described in paragraph (2), in any plan year in which the value of the plan assets is determined under section 430(g)’’ for the preceding sentence.

(2) page 6 of the Act is amended—

(a) in subparagraph (A), by striking ‘‘for the plan year ending with or within the taxable year of the plan year ending with or within the taxable year of any distribution’’.

(b) in subparagraph (B), by inserting ‘‘(or any portion thereof)’’ after ‘‘distribution’’ and ‘‘for the plan year ending with or within the taxable year of the plan year ending with or within the taxable year of any distribution’’.

(3) The amount determined under this paragraph for any taxable year shall be equal to the amount determined under paragraph (2) with respect to each plan year ending with or within the taxable year.

(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph for any taxable year shall be equal to the amount determined under paragraph (2) with respect to the plan year ending with or within the taxable year.

(3) SPECIAL RULE FOR TERMINATING PLANS.—In the case of a plan which, subject to section 4041 of the Employee Retirement Income Security Act of 1974, terminates during the plan year, the amount determined under paragraph (2) shall not be less than the amount required to make the plan sufficient for benefit liabilities (within the meaning of section 401(d) of such Act).

(4) SECURE Act.—(A) in the case of a plan which is a multiemployer plan, by inserting ‘‘or (in the case of a plan which is a multiemployer plan)’’ after ‘‘or’’; and

(B) by substituting ‘‘the plan’’ for ‘‘the plan year’’ wherever it appears.

(5) Indexing.—(A) in paragraph (1), by striking ‘‘each plan year ending with or within the taxable year of the plan year ending with or within the taxable year of any distribution’’.

(6) SECURE Act.—(A) in paragraph (1), by striking ‘‘each plan year ending with or within the taxable year of the plan year ending with or within the taxable year of any distribution’’.

(7) SECURE Act.—(A) in paragraph (1), by striking ‘‘each plan year ending with or within the taxable year of the plan year ending with or within the taxable year of any distribution’’.

(8) SECURE Act.—(A) in paragraph (1), by striking ‘‘each plan year ending with or within the taxable year of the plan year ending with or within the taxable year of any distribution’’.
for the plan year which ends with or within such taxable year (or for any prior plan year) and the maximum amount of employer contributions allowable under subsection (o) with respect to any such defined benefit plans which are not multiemployer plans for the plan year.

(b) By striking “section 412(i)” in the last sentence of subparagraph (A) and inserting “paragraph (1)(D)(ii)”.

(c) By striking subparagraph (D) and inserting—

“(D) INSURANCE CONTRACT PLANS.—For purposes of this paragraph, a plan described in section 412(c)(3) shall be treated as a defined benefit plan.”

SEC. 803. INCREASING PARTICIPATION THROUGH AUTOMATIC CONTRIBUTION ARRANGEMENTS.

(a) In General.—Section 401(k) of the Internal Revenue Code of 1986 (relating to cash or deferred arrangement) is amended by adding after clause (ii) the following new clause:

“(ii) AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this section, the term ‘automatic contribution arrangement’ means an arrangement which combines an automatic contribution arrangement (determined after clause (i)) and an employer contribution arrangement (determined uniform, does not exceed 10 percent, with respect to any employee who was eligible to participate in the arrangement in an amount equal to at least 2 percent of the employee’s compensation.

(b) Application of Rules for Matching Contributions.—The rules of clauses (i) and (ii) of section 401(k) shall apply for purposes of clause (1)(A).

(c) Amendments made by section 401(k) shall apply to taxable years beginning after December 31, 2006.

TITLE IX—ENHANCED RETIREMENTS SAVINGS AND DEFINED CONTRIBUTION PLANS

SEC. 901. PENSIONS AND INDIVIDUAL RETIREMENT ARRANGEMENT PROVISIONS OF THE ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 MADE PERMANENT.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the provisions of, and amendments made by, subsections (A) through (F) of title VI of such Act (relating to pension and individual retirement arrangement provisions).
"(ii) the employee has a reasonable period of time after receipt of the notice described in subsection (i) and before the plan year notice of the participant’s rights and obligations under the arrangement was provided under the plan to the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage), and

(iv) under which such contributions are invested in accordance with regulations prescribed by the Secretary.

(B) The regulations prescribed pursuant to subparagraph (A)(v) shall provide guidance on the appropriateness of certain investments for designation as default investments under the arrangement, which shall include guidance regarding the appropriate weightings and asset classes which the Secretary considers consistent with long-term capital appreciation.

(3)(A) For purposes of paragraph (2)(A), an arrangement meets the requirements of this paragraph for any plan year if, within a reasonable period before such plan year, the plan administrator gives to each participant to whom the arrangement applies for such plan year notice of the participant’s rights and obligations under the arrangement which:

(i) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

(ii) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

(III) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election specifically made by the participant.

(1) PREEMPTION OF CONFLICTING STATE REGULATION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1141) is amended by striking at the end the following new subsection:

(II) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

(I) the notice includes an explanation of the participant’s right to exercise control over the assets in the participant’s account.

(II) the employee has a reasonable period of time after receipt of the notice described in subclause (I) before the plan year notice of the participant’s rights and obligations under the arrangement was provided under the plan to the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage), and

(III) under which such contributions are invested in accordance with regulations prescribed by the Secretary.

(B) The regulations prescribed pursuant to subparagraph (A)(v) shall provide guidance on the appropriateness of certain investments for designation as default investments under the arrangement, which shall include guidance regarding the appropriate weightings and asset classes which the Secretary considers consistent with long-term capital appreciation.

(3)(A) For purposes of paragraph (2)(A), an arrangement meets the requirements of this paragraph for any plan year if, within a reasonable period before such plan year, the plan administrator gives to each participant to whom the arrangement applies for such plan year notice of the participant’s rights and obligations under the arrangement which:

(i) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

(ii) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

(III) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election specifically made by the participant.

(II) the employee has a reasonable period of time after receipt of the notice described in subclause (I) before the plan year notice of the participant’s rights and obligations under the arrangement was provided under the plan to the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage), and

(IV) under which such contributions are invested in accordance with regulations prescribed by the Secretary.

(B) The regulations prescribed pursuant to subparagraph (A)(v) shall provide guidance on the appropriateness of certain investments for designation as default investments under the arrangement, which shall include guidance regarding the appropriate weightings and asset classes which the Secretary considers consistent with long-term capital appreciation.

(3)(A) For purposes of paragraph (2)(A), an arrangement meets the requirements of this paragraph for any plan year if, within a reasonable period before such plan year, the plan administrator gives to each participant to whom the arrangement applies for such plan year notice of the participant’s rights and obligations under the arrangement which:

(i) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

(ii) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

(III) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election specifically made by the participant.

(II) the employee has a reasonable period of time after receipt of the notice described in subclause (I) before the plan year notice of the participant’s rights and obligations under the arrangement was provided under the plan to the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage), and

(IV) under which such contributions are invested in accordance with regulations prescribed by the Secretary.

(B) The regulations prescribed pursuant to subparagraph (A)(v) shall provide guidance on the appropriateness of certain investments for designation as default investments under the arrangement, which shall include guidance regarding the appropriate weightings and asset classes which the Secretary considers consistent with long-term capital appreciation.

(3)(A) For purposes of paragraph (2)(A), an arrangement meets the requirements of this paragraph for any plan year if, within a reasonable period before such plan year, the plan administrator gives to each participant to whom the arrangement applies for such plan year notice of the participant’s rights and obligations under the arrangement which:

(i) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

(ii) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

(III) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election specifically made by the participant.

(II) the employee has a reasonable period of time after receipt of the notice described in subclause (I) before the plan year notice of the participant’s rights and obligations under the arrangement was provided under the plan to the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage), and

(IV) under which such contributions are invested in accordance with regulations prescribed by the Secretary.
“(B) A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to a participant unless—

(i) the notice includes an explanation of the period during which the arrangement is to be maintained not to have elective contributions made on the participant’s behalf (or to elect to have such contributions made at a different percentage).

(ii) the participant has a reasonable period of time, after receipt of the notice described in clause (i) and before the first elective contribution is made, to make such election,

(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the participant.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to any plan years beginning after December 31, 2005.

SEC. 904. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR INDIVIDUALS CALLED TO ACTIVE DUTY FOR AT LEAST 179 DAYS.

(a) In General.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

“(i) Amount distributed may be repaid.—Any individual who receives a qualified reservist distribution may, at any time during the 2-year period beginning on the day after the end of the active duty period, make one or more contributions to an individual retirement plan of such individual in an aggregate amount not to exceed the amount of such distribution. The dollar limitations otherwise applicable to contributions to individual retirement plans shall not apply to any contribution made pursuant to the preceding sentence. No deduction shall be allowed for any contribution pursuant to this clause.

(ii) Qualified reservist distribution.—For purposes of this paragraph, the term ‘qualified reservist distribution’ means any distribution made under paragraph (1) that is attributable to a DROP distribution.

(iii) The term ‘qualified reservist distribution’ means a feature of a governmental plan which is a rollover to which an employee elects to receive credits that are attributable to a DROP distribution.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any plan years beginning after December 31, 2005.

SEC. 905. WAIVER OF EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR QUALIFIED PUBLIC SAFETY EMPLOYEES.

(a) In General.—Section 72(t)(2)(C) of the Internal Revenue Code of 1986 (relating to section 402(c) of the Internal Revenue Code of 1986) is amended by adding at the end the following new paragraph:

“(C) for distributions to which section 72(t)(2)(G) applies.”

(b) EFFECTIVE DATE: WAVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions made after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including regulations), such refund or credit shall not be made or allowed if claim therewith is filed before the close of such period.

SEC. 906. DIRECT PAYMENT OF TAX REFUNDS TO INDIVIDUAL RETIREMENT PLANS.

(a) In General.—Section 402(c) of the Internal Revenue Code of 1986 (relating to certain distributions from qualified retirement plans) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

“(8) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS.—(A) The term ‘qualified public safety employee’ means a member of a public safety agency who is not a member of the Armed Forces.

(B) The term ‘qualified public safety agency’ means a governmental unit that is a public agency and operates a law enforcement or fire department organized and operated for the purpose of providing police or fire protection services. A public agency within the jurisdiction of such State or political subdivision is a qualified public safety agency.

(C) The term ‘qualified public safety employee’ means an employee of a governmental unit that is a public agency and operates a law enforcement or fire department organized and operated for the purpose of providing police or fire protection services.

(D) The term ‘qualified public safety employee’ includes an employee of a governmental unit that is a public agency and operates a law enforcement or fire department organized and operated for the purpose of providing police or fire protection services.

(E) The term ‘qualified public safety employee’ includes an employee of a governmental unit that is a public agency and operates a law enforcement or fire department organized and operated for the purpose of providing police or fire protection services.

(F) The term ‘qualified public safety employee’ includes an employee of a governmental unit that is a public agency and operates a law enforcement or fire department organized and operated for the purpose of providing police or fire protection services.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 908. IRA ELIGIBILITY FOR THE DISABLED.

(a) In General.—Section 402(c) of the Internal Revenue Code of 1986 (relating to certain distributions from qualified retirement plans) is amended by redesignating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

“(8) DISTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT PLANS OF NONSPOUSE BENEFICIARIES.—In the case of an individual—

(A) if section 72(m)(7) is within the meaning of section 72(m)(7), and

(B) who has not attained the applicable age (as defined in section 408(a)(9)(B)) before the close of the taxable year, subparagraph (b)(1) shall not apply.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 909. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.

(a) In General.—Section 402(c) of the Internal Revenue Code of 1986 (relating to rollovers from exempt trusts) is amended by adding at the end the following new paragraph:

“(C) The term ‘qualified public safety agency’ means a governmental unit that is a public agency and operates a law enforcement or fire department organized and operated for the purpose of providing police or fire protection services.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after September 11, 2001.

SEC. 907. DIRECT PAYMENT OF TAX REFUNDS TO INDIVIDUAL RETIREMENT PLANS.

(a) In General.—The Secretary of the Treasury (or the Secretary’s delegate) shall make available a form (or modify existing forms) for use by individuals to direct that a part or all of any refund or credit of tax imposed by chapter 1 of the Internal Revenue Code of 1986 be paid directly to an individual retirement plan (as defined in section 7701(a)(37) of such Code) of such individual.

(b) EFFECTIVE DATE.—The form required by subsection (a) shall be made available for taxable years beginning after December 31, 2006.

SEC. 909. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.

(a) In General.—Section 402(c) of the Internal Revenue Code of 1986 (relating to rollovers from exempt trusts) is amended by adding at the end the following new paragraph:

“(C) The term ‘qualified public safety agency’ means a governmental unit that is a public agency and operates a law enforcement or fire department organized and operated for the purpose of providing police or fire protection services.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 906. COMBAT ZONE COMPENSATION TAX CREDIT ALLOWANCE ON ACCOUNT OF PURPOSES OF DEPARTMENT OF DEFENSE; LIMITATION ON DEDUCTIBILITY OF CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) In General.—Subsection (f) of section 219 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) SPECIAL RULE FOR COMPENSATION EARNED BY MEMBERS OF THE RESERVE COMPONENT OF THE ARMED FORCES.—For purposes of paragraphs (1), (2), and (5) with respect to any compensation earned by a member of the Reserve component of the Armed Forces who is not a member of the Armed Forces, the term ‘Member of the Armed Forces’ shall not be determined without regard to section 112.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.
(2) Section 403(a) Plans.—Subparagraph (B) of section 403(a)(4) of such Code (relating to rollover amounts) is amended by inserting “and (11)” after “(7)”.

(3) Section 403(b) Plans.—Subparagraph (B) of section 403(b)(8) of such Code (relating to rollover amounts) is amended by striking “and (9)” and inserting “, (9), and (11)”.

(4) Section 407 Plans.—Subparagraph (B) of section 407(e)(16) of such Code (relating to rollover amounts) is amended by striking “and (9)” and inserting “, (9), and (11)”.

(b) In the contract arrangements made by this section shall apply to distributions after December 31, 2005.

TITLe X—PROVISIONs TO ENHANCE HEALTH CARE AFFORDABILITY

SEC. 1001. THE EXPANSION OF TAX-FREE EXCHANGES OF LONG-TERM CARE INSURANCE CONTRACTS WITH A LONG-TERM CARE INSURANCE FEATURE.

(a) EXCLUSION FROM GROSS INCOME.—Subsection (e) of section 72 of the Internal Revenue Code of 1986 (relating to amounts not received as annuities) is amended by redesignating paragraph (11) as paragraph (12) and by inserting after paragraph (10) the following new paragraph:

“(11) SPECIAL RULES FOR CERTAIN COMBINATION CONTRACTS PROVIDING LONG-TERM CARE INSURANCE.—(A) In general.—Paragraph (10) and (11) of section 72(c) of the Code (relating to the classification of contracts) shall not apply to any long-term care insurance coverage which is attached to a life insurance contract or an annuity contract to the extent that such coverage is a separate contract.

“(B) In general.—In the case of any long-term care insurance coverage which is attached to a life insurance contract or an annuity contract, this title shall apply as if the portion of the contract providing such coverage is a separate contract.

“(2) Denial of deduction under section 213.—No deduction shall be allowed under section 213(a) for any payment made for coverage under a qualified long-term care insurance contract if such payment is made as a premium payment against the cash value of an annuity contract or annuity surrender value of a life insurance contract.

“(3) Application of section 7702.—Section 7702(b)(2) relating to the premium limitation shall be applied by increasing the premium limitation with respect to the life insurance contract, as of any date—

“(A) by the sum of any charges (but not premium payments) against the life insurance contract’s cash surrender value (within the meaning of section 7702(f)(1)(A)) for coverage under the qualified long-term care insurance contract to that date under the life insurance contract, less—

“(B) any charge against the cash value of an annuity contract or annuity surrender value of a life insurance contract which is part of or a rider on such annuity or life insurance contract.

“(4) Portion defined.—For purposes of this subsection, the term ‘portion’ means only the terms and benefits under a life insurance contract or annuity contract that are in addition to and under the contract without regard to long-term care insurance coverage.

“(5) Annuity contracts to which paragraph (4) applies.—Paragraph (4) applies to the extent that payment for a portion of a contract is in addition to and under the contract without regard to long-term care insurance coverage.

“(6) Treatment of certain qualified long-term care insurance contracts under combined arrangements.—Annuity or life insurance contracts which include a qualified long-term care insurance contract as a part of a rider on such annuity or life insurance contract shall be treated as a specified insurance contract not described in subparagraph (A) or (B) of subsection (c)(1).”

(b) Statements to be furnished to persons with respect to whom information is required.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

“(1) the name, address, and phone number of the information contact of the person making the payments, and

“(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

(2) Clerical Amendment.—The table of sections for part B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end the following new item:

“Sec. 6050U. Charges or payments for qualified long-term care insurance contracts under combined arrangements.”

(c) Treatment of policy acquisition expenses.—Subsection (e) of section 88B of such Code (relating to policy acquisition expenses) is amended by adding at the end the following new paragraph:

“(4) Treatment of certain qualified long-term care insurance contracts under combined arrangements.—Annuity or life insurance contracts which include a qualified long-term care insurance contract as a part of a rider on such annuity or life insurance contract shall be treated as a specified insurance contract not described in subparagraph (A) or (B) of subsection (c)(1).”

(d) Effective dates.—

(1) General.—Except as provided by paragraph (2), the amendments made by this section shall apply to contracts issued on or before, on, or after December 31, 2006, but only with respect to periods beginning after such date.

(2) Subsection (b).—The amendments made by subsection (b) shall apply with respect to exchanges occurring after December 31, 2006.
In general. Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (l) and (m), respectively, and by inserting after subsection (g) the following:

(h) Contributions of Certain Unused Health and Dependent Care Benefits.—

(1) In general.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because under such plan qualified benefits include—

(A) a health flexible spending arrangement under which not more than $500 of unused benefits under such arrangement may be—

(i) carried forward to the succeeding plan year of such health flexible spending arrangement, or

(ii) to the extent permitted by section 106(d), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee, and

(B) a dependent care flexible spending arrangement under which not more than $500 of unused benefits under such arrangement may be carried forward to the succeeding plan year of such dependent care flexible spending arrangement.

(2) Health Flexible Spending Arrangement.—For purposes of this subsection, the term ‘health flexible spending arrangement’ means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 223) if reimbursed for expenses for dependent care assistance which meets the requirements of section 129(d).

(3) Unused Benefits.—For purposes of this subsection, with respect to an employer, the term ‘unused benefits’ means the excess of—

(A) the maximum amount of reimbursement permitted for a plan year under a health flexible spending arrangement or the dependent care flexible spending arrangement, as the case may be, over

(B) the actual amount of reimbursement for such year under such arrangement.

(b) Effective date.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

1003. Distributions from Governmental Retirees for Health and Long-Term Care Insurance

(a) In general.—Section 402 of the Internal Revenue Code of 1986 (relating to taxability of beneficiary of employer’s trust) is amended by adding at the end the following new subsection:

‘‘(l) Distributions from Governmental Plans for Health and Long-Term Care Insurance.—

(1) In general.—In the case of an employee who is an eligible retired public safety officer who makes the election described in paragraph (6) with respect to any taxable year for a loss of income of such employee for such taxable year does not include any distribution from an eligible retirement plan to the extent that the aggregate amount of such distributions does not exceed the amount paid by such employee for qualified health insurance premiums of the eligible retired public safety officer, his spouse, and dependents, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the employer who maintains the eligible retirement plan from which distributions subject to paragraph (1) are made.

(C) Public Safety Officer.—The term ‘public safety officer’ shall have the same meaning as the term ‘public safety officer’ as defined in section 1204(b)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 1706(b)(A)).

(3) Qualified Health Insurance Premium.—The term ‘qualified health insurance premiums’ means premiums for coverage for the eligible retired public safety officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in section 7702B(b)).

(5) Special Rules.—For purposes of this subsection—

(A) Direct payment to insurer required.—Paragraph (1) shall not apply to a distribution if payment of the premiums is made directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan.

(B) Related Plans Treated as Single.—All eligible retirement plans of an employer that are made directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A) and, except as provided by the Secretary of the Treasury, such pension plan shall not fail to meet the requirements of section 41(d)(6) of the Internal Revenue Code of 1986 and section 901(c) of the Retirement Income Security Act of 1974 by reason of such amendment.

(b) Amendments to Which Section Applies.—

(1) In general.—This section shall apply to any amendment to any pension plan or contract amendment—

(A) pursuant to any amendment made by this Act or pursuant to any regulation issued by the Secretary of the Treasury, or the Secretary of Labor under subsection (a) of section 401, or

(B) on or before the last day of the first plan year beginning on or after January 1, 2008.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting “2010” for “2008”.

(b) Special Rule.—A plan shall not be treated as violating the requirements of section 401, or as engaging in a prohibited transaction for purposes of section 4975(b), merely because it provides for a distribution from amounts otherwise distributable under the plan or merely because of a distribution made pursuant to an election described in subparagraph (A).

(7) Coordination with Medical Expense Deduction.—The amounts excluded from gross income under paragraph (1) shall not be treated as not includible in gross income under section 72.

(8) Coordination with deduction for health insurance costs of self-employed individuals.—The amounts excluded from gross income under paragraph (1) shall not be treated as includible because under any such plan qualified benefits are made directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan.
While others call for relaxation of pension rules, our bill ensures that employ- ers and unions keep their promises to workers and retirees who are counting on their pension benefits. In short, our bill aims to shore up the tradi- tional defined benefit pension system that we and our parents have grown accustomed to. So our children and grandchildren might have a chance to be part of it as well.

The second major strength of the Pension Protection Act is inherently comprehensive in nature. You can see on the chart that is next to me, the measure would ensure that pensions are fully funded to restore worker and retiree confidence; it has enhanced disclo- sure requirements so that workers and retirees are no longer kept in the dark about the health of their pes- sions; it would improve the financial condition of the Federal agency charged with ensuring some 30,000 pri- vate pension plans; it would reform outdated laws that workers ac- cess to professional and secure invest- ment advice while providing even more workers with 401(k)-type plans; and it would end sweetheart deals like those we have seen at some airlines and other corporations that have termi- nated their plans in which executives enjoy a windfall of cash while workers and retirees are left wondering about their futures.

Incidentally, these five reforms are only the beginning. There is much more that this bill offers to workers and retirees, far more than this chart could ever tell us.

Finally, yet another strength of this measure is its benefit to American tax- payers. Each of us remembers all too well the savings & loan bailout of more than a decade ago. By enacting the Pension Protection Act, we can be more confident that history will not repeat itself with regard to our pension system.

As you can see on this second chart, the Pension Benefit Guaranty Corpora- tion, which ensures nearly 30,000 pri- vate worker pensions, is in dire finan- cial condition. With some $450 billion in pension plan underfunding among fi- nancially weak companies looming on the horizon, the PBGC’s debt could bal- loon even further than its current $23 billion.

Even though no taxpayer funds fund the benefit guarantee program, could American taxpayers be called upon to bail out the agency if its financial condition continues to deter- iorate? I think so. That is why the Pension Protection Act includes re- sponsible increase in employer-paid premiums for the first time since 1991, along with substantial reforms to place the defined benefit system on more solid ground. For taxpayers who may be left holding the bag otherwise, I think this is good news.

Madam Speaker, throughout this process I have made every effort to in- clude my colleagues on both sides of the aisle. And even after my Demo-
Now we have a bill before us where these pension plans would be a heck of a lot better if we did nothing, rather than do the harm that we are about to do to them. The demands that are going to be made on employers to reach somewhat the increase of 250 percent that do not make contributions to these plans will cause many of them to drop the plan and go into bankruptcy. The whole idea of how much revenue we are going to lose, some $70 billion, is not even an issue, if at the end of the day enough sweetheart nips and tacks were given to a handful of people so that we would be assured that the days of defined benefit pensions are just about over.

Some people will have to make political choices today in terms of support of this because there are some vested interest people that need short-gain satisfaction. But at the end of the day, the same way people regret their votes for the Gulf of Tonkin Resolution, they will never have to come back and ask did they do more damage than good on today. If you look at actuaries and people who have studied this, they realize that so few pensions are now protected by the PBGC, and in the future many less will be protected.

So, Madam Speaker, these bills are not brought up just to become law. Many of the bills that are coming to this floor are brought to see which people are going to vote against the title of the bill and pay a price for that at the polls, or whether some are secure enough to vote against the substance of the bill that in the long term is going to adversely affect our workers.

At this time with the House permission, I would like to turn the balance of my time over to Congressman SAM JOHNSON from Texas who has spent a lot of time on pensions and can share with the House the pitfalls that we have in this bill before the House today.

I yield the balance of my time to Congressman CARDIN.

The SPEAKER pro tempore. Without objection, the gentleman from Maryland will control the balance of the time.

There was no objection.

Mr. BOEHNER. Madam Speaker, I yield 4 minutes to the gentleman from Texas. Mr. SAM JOHNSON, the chairman of the Employer-Employee Subcommitteee of the Education and Workforce Committee.

Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend this time.

Mr. SAM JOHNSON of Texas. Madam Speaker, I have the honor of chairing a subcommittee that has jurisdiction over pension law and being an original sponsor of the Pension Protection Act. As a member of both the Committee on Education and the Workforce and Ways and Means Committee, we have been working for the last 2 years to get a pension bill to the House floor, and I am proud to rise in strong support of the bill.

The Pension Protection Act is good and it is tough. Our bill makes companies put their money behind their promises and keep employees well informed on the health of their pension plans.

While this bill is tough, it does not go overboard with more red tape that has almost killed traditional pension plans. Even the red tape that currently binds up these pension plans, there still are some loopholes in current law that have allowed companies to run away from their responsibilities and dump pension promises onto the Pension Benefit Guaranty Corporation.

The PBGC says it is $23 billion in the hole, and they say that, with expected terminations, they are close to $28 billion. Our bill will tighten up pension laws so that companies making promises to employees for their retirement security actually put the money behind their promises.

It is a shame our pension laws have allowed those most directly affected, and be unaware that there may be little money behind the promises of a secure retirement. United Airlines’ pilots’ pension plan was only 30 percent funded when it was dumped on the government. Those pilots and their families did not know how bad the situation was, and they are the ones that are now trying to figure out how to live on one-third of what they had planned to receive.

Our bill requires a company to tell their employees their pension plan’s funding status. If their plan is less than 80 percent funded, employees will now push their bosses to put money into the plans to match the promises being made. This is a really important reform and should not be minimized.

Also, not to be underestimated is a provision that will allow for a phased retirement of older workers. The provision would allow people to continue working but retire; to be their employer-based pension after the age of 62. Current rules prohibit working for the same employer while also collecting a pension today. This prohibi tion simply forces many people to change jobs or work for a competitor or stop working altogether. My constituents have been really happy to hear about this additional way to step lightly into retirement.

The bill also helps to modernize the pension law in balance pension plans. This type of pension plan represents the best chance we have at maintaining defined benefit plans in the future. Cash balance plans are a better fit than traditional plans with a mobile workforce where em ployees generally do not stay with one employer for their entire career. The bill clarifies that in the future these plans are not age discriminatory. We need to provide this certainty. In fact, we should go further in providing cer tainty for plans regardless of when they were created, but because of lit igation we cannot.

We need to get this bill through the House and on to conference with the Senate and quickly enacted early next year. The number of traditional pension plans has been declining rapidly. The companies dropping these plans are in two groups. The first group is companies that are going to go out of business and drop their liabilities over to the government. We have seen that in the steel and airline industries.

The second group is companies that are just a tick of the red tape and uncertainty of our laws so they decide to stop offering plans altogether, like Verizon announced last week.

In the many hearings on pension issues we have heard over and over again that companies need predictability and stability in their plans. We need to get this bill enacted so that companies put their money behind their promises so they can plan with certainty in the long term. Support this bill.

Mr. CARDIN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, the objective of this legislation should be to encourage the retention and expansion of traditional defined benefit pension plans. Traditional defined benefit plans generally offer a guaranteed benefit to the worker and, they are generally well managed and diversified. The passage of this bill, in my view, will set up a conference report that will come back to us that will accelerate the termination of well-funded and managed traditional defined benefit plans. And I say that for three reasons.

Three parts of this legislation will adversely affect well-funded and managed plans. First, the funding roles are more costly and more restrictive. That in and of itself will act as a disincentive for continuation of these plans.

Second, there is a failure to include relief for the airline industry, particularly putting pressure on well-funded and managed plans to pick up the costs for other industries, questioning whether they should stay and provide these plans.

Third, we continue to allow companies to go into bankruptcy in order to dump their costs onto the PBGC, once again affecting those well-funded plans that are going to be asked to pick up the tab. (Applause) these reasons this legislation is likely to accelerate the termination of plans that we would want to see continued. The termination of these plans will just adversely affect the funding of the PBGC, the guaranteed fund, complicating the situation and making it worse.

Madam Speaker, I want to point out that there are provisions in this legislation that are very good. The provisions dealing with the defined contribution provisions are needed and, as it was pointed out in the Ways and Means Committee, contain many of the provisions that were worked on through the Portman-Cardin process as
well as legislation presented by Mr. Emanuel and Mr. Pomero. It includes automatic enrollment, the split refunds where tax refunds can go partially into retirement savings, the extension of the savers' credit, the ability for individuals to roll over funds and keep them in retirement funds longer. All of those are positive aspects. However, when you look at this bill in balance, we do need to pass legislation; but on balance this legislation will cause more harm than good, and I urge my colleagues to reject the bill.

Madam Speaker, I reserve the balance of my time.

Mr. BOEHNER. Madam Speaker, I yield 2 minutes to the gentleman from California (Mr. MCKEON), the chairman of the 21st Century Competitiveness Subcommittee.

Mr. MCKEON. Madam Speaker, I rise in strong support of H.R. 2830, and I thank Chairmen Boehner and Thomas and Johnson for their great work in getting to the finish line.

This bill represents a responsible approach that will protect the retirement benefits of millions of American workers and help ensure that their pension benefits will be there when they retire. In these important years, our important retirement security system has come under strain from the increased aging of the workforce and from dishonest employers who made promises they could not keep. Many workers and retirees have been misled into believing that they will have a secure retirement only to see their pension plan terminated due to plan underfunding.

This bill includes reforms to ensure employers more accurately measure and fund their short-term and long-term pension promises. It includes tough new funding requirements to ensure plans are adequately and consistently funded, and it provides meaningful disclosure provisions about the finances of pension benefits.

In addition, this bill is important to protect taxpayers from a multibillion dollar bail-out of the Pension Benefit Guaranty Corporation. When the PBGC cannot pay benefits for plans where they have assumed planned liabilities, taxpayers are on the hook for the difference. In fact, in November the Pension Benefit Guaranty Corporation reported a long-term liability deficit of $22.8 billion. That is billion with a B. The Protection Act would reasonably increase employer-paid premiums to help shore up the PBGC and protect taxpayers from this potentially large liability.

This bill contains commonsense reforms that will help protect the pensions of millions of Americans; and this bill is supported by a broad array of unions, employers, and other organizations. Passage of the Pension Protection Act is important to the retirement security of millions of Americans, and it is important to help protect taxpayers from an expensive bail-out.

I strongly urge my colleagues to support this bill.

Mr. GEORGE MILLER of California. Madam Speaker, I yield myself 5 minutes.

Madam Speaker, when we are starting to deal with the pension plans that protect America's retirements, one of the things we need to make a decision to do any harm. But the fact of the matter is that this bill makes things worse in many ways for many pensioners in this country and many future pensioners.

First, we have created the Pension Benefit Guaranty Corporation to be there to protect some of the retiree benefits of people if pension plans went bust or the corporations went bust. We are now told that this legislation makes that problem worse.

The speaker who was just in the well said there was some $23 billion in deficit in that plan. And what we now see is a Pension Benefit Guaranty Corporation, the retirement arm of the Department of Labor. It tells us that this makes it at least $9 billion worse over the next decade. So while we narrow the deficit, in fact we see that we increase this agency's deficit problems.

This is an agency that can look out into the future and see can up to $100 billion of liabilities possibly coming their way. Maybe some of them will not come because of this bill, but many of them will come because of this bill, because this bill, in fact, makes it easier to terminate plans. It makes it easier to put plans into bankruptcy. It certainly does not make it any more difficult to put into bankruptcy. It certainly does not make it any more difficult to put into bankruptcy.

So what does that mean? That means that a plan that was designed, an insurance policy that was designed for when companies went out of business, now companies can take their pension funds, freeze their plans, and put them into bankruptcy, and the company can get a much lower liability.

What does that mean? That means that a plan that was designed, an insurance policy that was designed for when companies went out of business, now companies can take their pension funds, freeze their plans, and put them into bankruptcy, and the company can get a much lower liability.

It is interesting now that the corporation has decided to use it as a convenience to redesign themselves, to reconfigure themselves, to reconfigure themselves. If United Airlines is the model, the only losers will be the workers and the retirees in those corporations.

That is what this legislation does. It makes those kinds of decisions much easier, much easier for the companies to do that.

What does that mean? That means that America is going to end up with a poorer retired population than they had before. That means that these people are going to have less of the kind of retirement that they had anticipated because of the acceleration of benefits, because of the acceleration of terminations, because of the acceleration of the freezing of the plans and because of the ease which you can now go and apparently the acceptability in the business community of entering bankruptcy.

We changed the personal bankruptcy laws in this Congress because we said people were using it as a convenience. It is interesting now that the corporations have decided to use it as a convenience to redesign themselves, to reconfigure themselves, to reconfigure themselves. If United Airlines is the model, the only losers will be the workers and the retirees in those corporations.

That is what this legislation does not do. It does not really speak to trying to make sure that we could do all that we can to secure the retirement of current workers and of future retirees.

I would urge my colleagues to vote against this legislation when we get to that vote and understand that we should not be making the problems of America's pensioners even worse than they are today.

Mr. Speaker, we are facing a serious pension crisis that has already cost employees across the Nation billions of dollars in lost benefits—benefits they were told were ironclad. If you calculate just the losses employees suffered in the Nation's four largest pension terminations, it exceeds $8 billion in earned defined benefit promises.

Let's be clear what is happening to our retirement system—this Enron the sequel. This
is Enron 2 with a vengeance. This is a national disgrace.

This bill does absolutely nothing about companies who decide to use the Federal Government to dump and run on their promises to employees. Exploiting loopholes in our pension and bankruptcy laws, clever lawyers have turned a Federal law that was supposed to be a last resort for companies that were closing shop, into a dumping ground for companies to ditch unwanted promises to reward investors at the expense of employees and taxpayers. So powerful is this gaping hole in our pension plans, that companies freeze, downgrade or drop their pension plans to avoid them.

Folks, if you want help fast forward to the new Wal-Mart economy—this is your bill. If you want to further weaken employees’ hand in this turn of events, with no help in sight, this is your bill. If you want to stand by and watch as companies freeze, downgrade or drop their pension plans, this is your bill.

Last summer thousands of United Airline employees—mechanics, flight attendants, and pilots—lost billions in irreplaceable pension savings that changed their lives forever. These families—denied the courtesy of even a single hearing before the Education and Workforce Committee—participated in an online hearing Democrats sponsored. Over 1,000 participated in this virtual hearing and their powerful voices were heard.

They wrote to us about the personal and financial devastation resulting from the loss of promised benefits, and the lost opportunity to earn future benefits. Listen to Kenneth Schmidt, a former employee of United from Goodyear, AZ, who wrote:

Dear Congressmen,

I had worked for United for 38 years when I retired in February of 2003. My job as a mechanic was always a source of pride to me. I worked midnights for many years, with doing so I missed out on many family gatherings, holidays, etc. This was what I chose to do in life, and I did it with no complaints. But, now I am faced with large cuts to my retirement benefits. My retirement should be a time of taking it easy, traveling, and enjoying my retirement benefits. My retirement should not be a time of having to cut my medical insurance and have to live on $1000 per month. My retirement should be a time of enjoying my life, not having to listen to your bill.

Mr. Chairman, the sponsors of H.R. 2830 have referred to it as a “pension reform bill.” They say it will reform the Pension Benefits Guaranty Corporation that’s already $23 billion in the red and going up. And they say it will turn around $450 billion in underfunding reported by the Nation’s pension plans. In truth, this bill not only fails to tackle pension reform, it actually exacerbates the problems of the PBGC and defined benefit plans. Here is what the Congressional Budget Office says about this bill: “H.R. 2830 would actually increase the PBGC’s 10 year net costs by $9 billion, or by about 14 percent compared to what it would actually cost if Congress indexed the PBGC and defined benefit plans. This bill would not lift a finger for the Nation crumbling into a heap of broken promises like United and USAirways, this is your bill.

This bill does nothing for them. The Democratic substitute—denied by the Republican leadership—would have restored the United plan until the company showed it couldn’t afford it.

This bill does nothing for thousands of pilots whose benefits are cut by half or more by the Federal Government when a plan is terminated. When a plan is taken over by the PBGC after a closing by a sponsor, the PBGC is required by law to impose a heavy penalty of those who retire at 60—even airline pilots who are forced to retire at age 60 under Federal law. Our substitute fixes this injustice and allows pilots to get the same maximum PBGC benefit other workers receive.

H.R. 2830 also provides plans that provide urgent relief to companies like Delta and Northwest airlines so these companies don’t terminate their plans. Our Democratic substitute includes this urgently needed relief.

If you want to let the hard-earned pensions of airline employees across the Nation crumble into a heap of broken promises like United and USAirways, this is your bill.

Mr. Chairman, the sponsors of H.R. 2830 have referred to it as a “pension reform bill.” They say it will reform the Pension Benefits Guaranty Corporation that’s already $23 billion in the red and going up. And they say it will turn around $450 billion in underfunding reported by the Nation’s pension plans. In truth, this bill not only fails to tackle pension reform, it actually exacerbates the problems of the PBGC and defined benefit plans. Here is what the Congressional Budget Office says about this bill: “H.R. 2830 would actually increase the PBGC’s 10 year net costs by $9 billion, or by about 14 percent compared to what it would actually cost if Congress indexed the PBGC and defined benefit plans. This bill found the same—that H.R. 2830 would mean billions more red ink to its agency over current law.

How can a bill be reforming a system if it is increasing the PBGC’s red ink over current law? It can’t, and that’s why this bill is a sham.

This bill also repeals two long-standing, bedrock protections for employees that, if permitted to pass, will haunt employees for years to come.

First, this bill overridess discrimination laws against older, existing workers for cash balance plans without any transition protections. It means that older workers will face up to what the GAO calculated would be up to a 50 percent cut in their benefits. These angry constituents will be calling the offices of Members of Congress in droves—just like thousands of IBM employees who spent years seeking to rectify deep cuts in pension benefits from a cash balance conversion. They will ask why Congress permitted companies to slash their benefits with no transition protections, no options to stay in traditional plans, with no legal recourse. Tough luck to them, according to H.R. 2830. By contrast, the bipartisan Senate bill has significant protections for older workers, but this bill rejects them all.

This bill is also larded up with lots of special interest perks, but none as pernicious as the repeal of the longstanding prohibition on conflicted investment advice. Federal pension law always required investment advice to employees to be on the level—free from self-interested, tainted financial advice. No more. This bill gives a sweetheart deal to investment companies that provide urgent relief to companies like Delta and Northwest airlines so these companies don’t terminate their plans. Our Democratic substitute includes this urgently needed relief.

This bill gives a sweetheart deal to investment companies that provide urgent relief to companies like Delta and Northwest airlines so these companies don’t terminate their plans. Our Democratic substitute includes this urgently needed relief.

This bill does nothing to ensure fair treatment between workers and executives. Under current policy, an employer that funds its pension plan above 80 percent, then the workers get punished by benefit limits. What’s the penalty for the executives who ran the plan down between 60 percent and 80 percent? Zero! If an employer does not fund above 60 percent, the bill requires more benefits limits for workers. For executives, only a weak provision for new executive compensation, with loopholes that allow the companies to promise future golden parachutes.

This bill doesn’t reform our pensions; it actually worsens the pension crisis according to two independent Federal agencies. Rather than encouraging companies to keep their defied benefit plan in place, it encourages companies to freeze, downgrade or drop their pension plans altogether. It gives the green light to companies that want to dump and run, and opens new loopholes for mutual funds to steal employees into investments that feather their own nests at the expense of employees. It overrules age discrimination laws to slash the pensions of older workers and other existing employees. And it launches new, punishing benefit limits for employees in underfunded pension plans, while letting the very executives who ran the company and the pension plan into the ground off the hook. And it does nothing to address the urgent crisis of our airline companies and employees—where jobs and the hard-earned retirement benefits of hundreds of thousands of Americans hang in the balance.

I urge you to oppose this bill.

Madam Speaker, I reserve the balance of my time.

Mr. BOEHNER. Madam Speaker, I yield myself 3 minutes, and I yield to the gentleman from Georgia (Mr. PRICE).

Mr. PRICE of Georgia. Madam Speaker, would the chairman engage in a colloquy with me and my colleague, the gentleman from Minnesota (Mr. KLINE), concerning the difficulties facing the airline industry, particularly in terms of assisting airlines and that the airline industry fulfill their pension promises to their employees?

Mr. BOEHNER. I will be happy to do so.
Mr. PRICE of Georgia. As you and I are both aware, the airline industry continues to amass losses as the industry strives to become more dynamic, both externally and internally. Losses during the last 4 years have proven that the business model used by legacy carriers is outdated but unchanging due to high-fuel prices and post-9/11 repercussions.

A primary component playing into the equation of legacy carrier viability is the pension systems currently in place. The model of defined benefit pension plans and the rules associated with it have come under scrutiny as two legacy carriers, making up approximately 20 percent of the domestic airline market, recently terminated their employee pension plans.

There are no winners when airlines default on their pension plans. Employees now are planning for a retirement with a fraction of what they were originally promised, and further, the Pension Benefit Guaranty Corporation, the government agency and guarantor of all pension plans, is put more and more into the red, and taxpayers are exposed to greater risk. Eventually, the point will be reached when taxpayers have to bail out the PBGC if no action is taken.

With these concerns in mind, I would ask the chairman to agree to work with me and the gentleman from Minnesota (Mr. KLINE) to develop a process, as the Senate has done, to provide airlines with the flexibility needed to fund their defined benefit pension systems over a long amortization period. I believe it is critical that we join with the Senate in this effort and through the conference process to develop new legislation that contains industry-specific reform for the airlines.

Mr. BOEHNER. Madam Speaker, re-claiming my time, let me thank my colleague from Georgia for his work on this subject. For those many months, I know that my colleague from Minnesota (Mr. KLINE) has similar concerns, and I am happy to yield to him.

Mr. KLINE. Madam Speaker, I thank the chairman for yielding.

I would like to echo my colleague from Georgia’s comments on this important subject. I, too, come from a district full of hardworking airline employees that have genuine concerns about the future of their pension plan. Through this process, I have worked to ensure that we address this issue in a way that does two critical things: One, make sure airlines can continue to afford participation in their defined benefits system; two, support the policy priorities of our committee, the Education and the Workforce Committee, in our efforts to protect employees by making sure the promises they have been made are backed with well-funded pension plans.

Mr. MCDERMOTT. Madam Speaker, I am pleased to yield 11/2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Madam Speaker, this bill proves that the Republicans are not just after poor people. This pension bill boils down to one fundamental principle: The Republicans want all Americans, including flight attendants and everybody else out there, to be entirely alone, isolated from the strength and compassion of American values.

I am here to say that this pension bill forces elderly Americans into solitary confinement of abuse, irresponsible and morally bankrupt. This whole year has been about doing it to people. Get rid of Social Security, privatize it, put them on their own. Medicare: Privatize it, put them on their own. Now we have the pension bill: Privatize it, put them on their own.

Take away the union benefit, how will they do it? They are going to Boeing. They squeeze Boeing tight, and Boeing flips into 401(k), and there goes the pension down the drain.

Now this raises the question, what is wrong with you people? We decided a long time ago in this country that there was strength in numbers. We had to do things together. That is why Social Security was developed. That is why Medicare was developed.

The Republican vision articulated in this bill is that America is a sinking ship, and the shout is for every man and woman, you are on your own.

They call it an ownership society. You will still have a pension; it will be a 401(k). But it means you are on your own. If you can figure out the market, good luck, baby.

There are not enough lifeboats in the water, and we know that, and everybody is jumping off the ship. In 1980, 40 percent of Americans had a pension. Today, only 20 percent do. Now, that is a 50 percent reduction in 20 years, and the pensions that are pro- provided, fewer provide a guaranteed benefit than they used to get.

So what do we have left? The stark fact is that half of America’s retirees have less than $15,000 income. Imagine living in the United States on $15,000 after working for 45 years. Only 50 percent of Americans are guaranteed any retirement savings at all, but if they do not have a benefit from the pension and their Social Security, which has not been ripped away from them, they got nothing.

Half of the households who have savings have an average $385 a month. So they get their Social Security, $1,800 a month at the maximum, and $385, oh, they are living fat on $2,000 a month.

The people without any savings are disproportionately poor, have nothing except Social Security, and the Republicans, as I say, tried to take that away earlier in the year. We beat them on that, and we should beat them on this.

This is the definition of financial freedom that Republicans want for Americans: They want riskier pensions and no way for anybody to be sure of anything. I urge my colleagues to vote down this.

Mr. BOEHNER. Madam Speaker, I am pleased to yield 2 minutes to the gentleman from Louisiana (Mr. BOUSTANY), a member of our committee.

Mr. BOUSTANY. Madam Speaker, I rise in strong support of this bill.

This bill strengthens our Nation’s retirement system and comes at a critical time as economic conditions are requiring companies to confront new challenges.

This legislation provides steps to help employers plan and manage finances accurately, to determine pension liabilities and to ensure pensions are funded and benefits are paid.

I want to discuss an important section of the bill regarding multi-employer pension plans. Under current law, multi-employer pension plans are loosely regulated and have few requirements for timely disclosure of information.

For the first time ever, beneficiaries and contributing employers of these multi-employer pension plans will have transparent information to make accurate funding decisions. The legislation creates a system for identifying financially troubled plans and improving their funding status.

Furthermore, new notice and disclosure requirements will provide participants with clearer and more specific financial information. Workers and retirees must be provided with an annual update on the plan’s assets, liabilities, financial condition and funding policies. Underfunded plans are required to file financial information with the PBGC and provide notice to workers and retirees. Existing financial disclosures are updated to provide more information, particularly about plan mergers and actuarial assumptions.
Chairman, as I have told you before, my father worked in the manufacturing business as an employee for over 20 years. He was a member of the steelworkers, and one day when I was in high school, he came home and was out of a job, which is traumatic enough, but he was a part of a pension plan.

Today, employers and employer groups can work together to provide shutdown benefits to employees and to families, and my hope is that your commitment still stands, as it has, that we will work, particularly with the steel industry as we have done with the auto industry, to make sure that shutdown benefits remain a vital option for employers.

Mr. BOEHNER. Madam Speaker, reclaiming my time, I would say to my colleague that I agree with his comments regarding the importance of shutdown benefits to workers who may suddenly find that the plant for which they have worked, for 20 years in my father’s case, happens to be closed.

I think the gentleman knows that I am troubled by the fact that shutdown benefits are often paid from a company’s pension plan, despite the fact that they are not technically retirement benefits in the true sense of the word. These benefits resemble severance-type pay benefits, and more importantly, these benefits are not funded.

But I want to make clear, for the benefit of my colleagues, that our bill does not provide shutdown benefits, as some have suggested.

Instead, with further modifications that we have made over the last few days, it merely requires that shutdown benefits be paid from corporate assets and not pension plan assets, if the pension plan is funded at below 80 percent. I think this is an important change, and I believe it will help restore the financial integrity of this important benefit.

My colleague from Ohio correctly notes that we still work to do on this issue of shutdown benefits, specifically as it relates to the steel industry, and as such, I pledge to him and other Members who may have an interest in this as well that on this issue we will continue to work on this matter throughout this legislative process.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS asked and was given permission to revise and extend his remarks.

Mr. ANDREWS. Mr. Speaker, I am going to vote to send this bill along to the conference and vote “yes” for two reasons: first, I think the bill very wisely includes relief for multi-employer plans, an issue that many of us have worked very long period of time. These are plans run by small businesses who find large contributions to be very stifling to their ability to compete. I think this relief is long overdue, and it is the principle reason that I will vote to send the bill along to conference.

Second, I think the law ought to make it clear that there cannot be bias or favoritism in favor of highly compensated people at the expense of the rank and file. Mr. RANGEL and Mr. MILLER’s substitute accomplishes that.

The underlying bill does not pass, and some other issues, I believe, need to be worked out in the conference. I think, unfortunately, they should have been worked out on this House floor with a proper rule, but with those reservations I will vote to send the bill along to conference.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT. Mr. Speaker, I urge my colleagues to vote “yes” on this important piece of legislation for several reasons. Paramount, it will help an industry that badly needs our help at a very critical time, and the only way we can help the airline industry is to get it into conference. There are a lot of things that may be right with this bill, there are a lot of things that may be wrong with this bill, but the only answer and the logical and most responsible thing that we need to do is to vote “yes” and send this bill to conference, allow the process to work.

I appreciate Mr. MILLER who has worked very diligently with me and understands my concerns. I represent an area that has probably more airline employees than any other district. I represent Delta Airlines. We all know that Delta Airlines is in a bankruptcy fight, fighting for its very life; and the two most critical issues that they need help on is doing something to lower the high tax rates which we have problems with and how we can do it. There are all kinds of questions. But there is one thing we can do, and that is to help them with relief of their pension plans. So I urge my colleagues to vote “yes” on this important legislation.

Mr. Speaker, this is a comprehensive pension reform bill that will protect workers’ retirement incomes, give companies a longer window to make underfunded plans whole, and help protect U.S. taxpayers from taking on the liability associated with future plan terminations.

Now I’m asking your help to help my people in Georgia.
One area that remains to be addressed in conference are major airlines' pension plans. Delta Air Lines employs thousands of men and women in my district who rely now or plan to rely in whole or in part on retirement benefits provided by Delta.

Without a change in current law that allows Delta and other air carriers that have defined benefit plan obligations, like Northwest, Continental and American, to make their pension payments over a longer period of time—20 years—it's certainly a possibility that some or all of these plans will be terminated, benefits reduced and liabilities shifted to the taxpayer.

These carriers want to honor their obligations, but need to be equipped with the tools to have a fighting chance to do so. And getting this pension bill to conference is our only hope.

Although we are not addressing this specific need today, I strongly support continued pursuit in conference of an airline specific provision similar to that passed by the Senate, extending the payment period for these carriers to 20 years.

Help me get this bill to conference. Let's help Delta and all the airlines who need our help so much.

I want to thank Chairman BOEHNER for your hard work in making this reform bill a reality, and look forward to working with the conference.

Mr. BOEHNER. Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Vermont (Mr. SANDERS).

Mr. SANDERS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong opposition to H.R. 2830, the so-called Pension Protection Act. It should be pointed out that H.R. 2830 is opposed by AARP, by the Pension Rights Center, and pension advocates across the country. While I recognize that the Republican leadership included some modest provisions to attract some union support, H.R. 2830 still has a number of provisions that will jeopardize the retirement security of millions of American workers.

Among other harmful provisions, this bill would legalize age discrimination in cash balance pension conversions. Year after year, Congress has voted against cash balance pension conversions because of the harm they have caused older workers.

Mr. Speaker, we do not tolerate discrimination in this country based on race, gender, religion, or disability; and we must not tolerate discrimination based on age with regard to pensions.

Unfortunately, that is exactly what H.R. 2830 does. According to the GAO, cash balance conversions without protections slash the pension benefits of an average 50-year-old by $238 a month. Younger workers are also hurt. As the GAO reported, a typical 30-year-old would see his or her pension benefits slashed by 59% or $1,800 a year under a cash balance conversion. H.R. 2830 would legitimize these harmful pension cuts by legalizing cash balance conversions without requiring employers to protect older workers. That is wrong.

Mr. Speaker, let me read to you what the AARP and the Pension Rights Center have to say about this legislation. According to the AARP: "We cannot support legislation that would clarify the legality of cash balance pension plans without providing protections for older, long-service workers involved in cash balance plan conversions."

I urge a "no" vote.

Mr. CARDIN. Mr. Speaker, I am curious: Is the majority on the Ways and Means side going to use their time or not? Does the gentleman know?

Mr. BOEHNER. I assume so.

Mr. CARDIN. Can I inquire as to the amount of time that remains on all sides?

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Maryland has 13½ minutes remaining. The gentleman from Ohio has 3½ minutes remaining.

Mr. CARDIN. The time for the gentleman from Michigan?

Mr. BOEHNER. I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. TIERNLEY).

Mr. TIERNLEY. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise today to oppose H.R. 2830, the so-called Pension Protection Act, not because the system certainly does not need to be reformed, but because I think this particular vehicle, the way it was constructed, actually does damage to what used to be our three-legged stool of retirement security.

We used to rely on pensions; personal savings; and, of course, Social Security. We spent a great deal of this past year fighting any efforts to privatize Social Security and making sure that we had that leg in place. This bill does nothing to enhance personal savings, something this Congress ought to be taking up and making sure we do enhance.

With respect to pensions, we are in need of serious reform, but this moves us in the wrong direction. We have millions of Americans who have worked and tried to put their houses in order, tried to make sure when they retired they had a dignified and comfortable living, but this situation shows us over and over again that companies are now finding it better for themselves financially to go into bankruptcy, capsize their pension responsibilities, and then sometimes coming out more profitable for the shareholders and for some of the CEOs but not for the rank-and-file workers. This is not fair, it is not right, and it is not sound policy for this country.

In too many instances, these companies are defaulting without first having made every possible effort to finance these pension plans and making them work. Workers on the other hand have had decades of working for companies, providing loyal service, the bargain for which was that in the end they would have a guaranteed pension. Many of these workers have decades of service, 20, 25, 30 years of service. CEOs, however, are still getting golden parachutes. They are getting the chance to steer their businesses into court to dump the pension plans and come out and still get taken care of handsomely; yet workers do not.

The Congressional Budget Office and the Pension Benefit Guaranty Corporation both say that this bill will actually add to the Pension Benefit Guaranty Corporation's deficit; that the bill could actually chase companies out of the defined benefit system and leave workers with fewer choices and plans for retirement than they have now.

This bill does not seem to do anything to discourage the pension plan terminations that threaten workers' retirement security, and it does not stop companies from dumping plans in bankruptcy.

In committee, we offered an amendment that would allow the Pension Benefit Guaranty Corporation to intervene earlier, to work with companies in making sure they first exhausted all their options for making sure the plans survived before permitting them to terminate the plans and go into bankruptcy. A substitute for this bill would have allowed us to present that notion again.

Unfortunately, our colleagues on the Republican majority saw fit not to allow a substitute amendment so that we could not debate this proposal. And I suspect we do not see it here today because it would have carried. We would have gotten a majority of people in this Chamber to understand that everything should be done that is possible to prevent a plan from going into bankruptcy before the plan is actually terminated.

Companies should first have to exhaust every single avenue of creative financing in order to save and restore pensions before they allow bankruptcy filings. The Pension Benefit Guaranty Corporation does have expertise it can lend to companies before it gets to that situation. For those reasons and many others, Mr. Speaker, I urge we vote against this bill and hope we get a better vehicle in the future.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

As I listen to my colleagues on the other side of the aisle, I have to tell you that I am confused. Some of them say the rules that we are proposing here are too tough and are going to drive employers out of the pension business, while we have some of my colleagues on the other side of the aisle saying the rules are not tough enough and we are going to create more deficits at the Pension Benefit Guaranty...
Corporation. Ladies and gentlemen, I think the bill is just right.

Yes, these are better rules that will require companies to better fund their plans. They certainly are better than current law. But I do not believe they go to the point of driving companies out of the defined benefit system.

My good friend from California believes we are going to drive up the deficit. Now, if the rules were not strong enough, I would not have had virtually every employer in America who has a defined benefit plan beating on my office door complaining about the rules we were proposing. I would not have had every labor organization talking to me about how do we get this right.

The fact is, if you look at the chart that we have here, plans must meet a 100 percent funding target. That is not the law today. If they are in the 80-90 percent range, it is good enough. But then as soon as the market turns down or the industry has a bump in the road, it is too little too late. They are then in deep trouble. So requiring plans to be 100 percent funded, I think, is a very good idea.

Having an interest rate that is commensurate with their liabilities is something that we have not done ever. We have had one interest rate used to calculate the plan’s liabilities. Under this modified yield curve proposal, they will have three different interest rates to use based on the longevity of their workforce, 0–5 years, 5–20, and those who are over 20 years who will retire after 20 years. It will give us a more accurate reflection of the true cost of those plans.

Third, it requires funding shortfalls to be erased over 7 years. We want to give companies time to go from the current rules to these more responsible rules; and if we do not have a sufficient transition time, what is going to happen is that we are going to create real havoc in the marketplace.

Prior to this, unlimited use of credit balances. We all know that the current rules about credit balances are, frankly, some of the most irresponsible public policy that I have seen. Beginning to restrict the use of those credit balances will, in fact, strengthen these plans.

Fifth, it curves benefit increases for underfunded plans. We all know there are plans that were underfunded, severely underfunded, and yet increasing benefits at the same time. That is not fair to workers who are being given promises that someone has no intention of keeping.

Last, it shores up the finances of the Pension Benefit Guaranty Corporation. All of these will bring more funding to current pension plans, it will bring more funding to the Pension Benefit Guaranty Corporation, and put our pension system for American workers on a stronger foundation.

Why else do I think we are just right? I have a long list of business organizations that are supporting this bill and a long list of labor organizations that are supporting this bill. It is a balanced bill. I urge my colleagues to support it.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 3 minutes. United Airlines announced it was going into bankruptcy, the Democratic members of the Committee on Education and the Workforce planned an e-hearing so those people who were most affected by the plans that were going into bankruptcy of that company would have an opportunity to talk to their representatives in Congress. We were not going to have a hearing on this problem, and these people could not come to Washington and testify. So we opened up the Internet to them, and we received thousands of replies from people telling us their life stories. The amazing thing about it was how many of these people were using their retirement to care for another member of their family. It could be a relative who was ill, it could be a child, a grandchild, and all of a sudden, half of their pensions were evaporated into the bankruptcy of United Airlines.

Mr. Kennet Schmidt, a long-time employee of United from Goodyear, Arizona, wrote, ‘‘Dear Congressman, I had worked at United for 38 years when I retired in February of 2003. My job as a mechanic was always a source of pride to me. I worked midnights for many years, which allowed me to assist many of my family gatherings and holidays. This was what I chose to do in life, and I did it with no complaints. But now I am faced with large cuts in my retirement benefits. My retirement should be a time for taking it easy, traveling and enjoying my ‘golden years.’ If this cut happens, both my wife and I will be forced to reenter the work world, probably full time if our medical insurance is also affected. This is a sad time in the career of this country’s workers who are relying on a pension to ease their lives and make this time relaxing and enjoyable. The stress that is being created by the turn of events is not healthy for anyone. Please try and help all retirees and future retirees out of this most unfortunate set of troubles.’’

What the problem is that is this legislation does nothing for the Kenneth Schmidt of the world, he and his family. It does nothing to keep companies from simply making a decision that they can throw the company into bankruptcy, get rid of the retirement and health care obligations to retirees and move along. This is not some unusual practice to bring shame upon a company. The steel companies did it. The airlines have done it. The airlines have done it. The airlines have done it. There is a question of whether the automobile industry will go this way.

It is really not completely about their pensions. It is about a decision of a business plan. It is about competition and a change in the marketplace. But the fact of the matter is that, at the end of the day, there is no showing. United did not have to show that for these pension plans they would be a solvent company. In fact, the people from the PBGC wrote and said that they thought the flight attendant plan could be salvaged, and in fact, maybe the others could. But the decision was made to go into bankruptcy without a hearing on that issue.

Companies should have to exhaust all of their attempts to try to save the retirement plans of these Americas, these people who have worked hard. Remember, they worked hard, they traded pay. They traded health care benefits. They traded vacation days for this pension plan. That was the agreement and the guarantee. Now, unilaterally, the company gets up and walks away from it.

And to rub salt into their wounds, there were pilots required by the laws of this Nation to retire earlier. They take an additional hit on their pension because they are early retirees, not because they wanted to stop flying but because the law says they have to retire.

So we have pension plans that could have been salvaged and people who are being punished because of federal rules. We all know that these pension plans have been underfunded in terms of their early retirements, and this bill does nothing to fix that.

We do that in our motion to recommit. We address the concerns of the flight attendants. We address the concerns of the early retirees, and we address the concerns of the airlines, but it does not do that in the majority bill because they want to go off and use those people as trading chips, the retirement nest eggs of these hard-working Americans, in the conference committee. I urge Members to vote against this legislation.

Mr. CAMP of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2830, the Pension Protection Act of 2005 strengthens retirement security for millions of Americans. Current pension funding laws and structures are outdated and threaten the financial stability of the pension system. In fact, the Pension Benefit Guaranty Corporation, PBGC, the government insurer of pension plans, estimates that single employer plans are underfunded by up to $450 billion.

Furthermore, an increasing number of companies are using the bankruptcy system to dump massively underfunded pension plans on the PBGC. Since trading the pensions is the hard component of retirement security, it is essential to form law that modernizes and strengthens funding rules. H.R. 2830 ensures that companies fulfill their pension promises to working people. It requires employers to fully fund their pension plans and rectify funding shortfalls more quickly. It also ensures that employees receive up-to-date and accurate information about their pensions and prevents companies from making future promises when they cannot even meet current obligations.

The bill strikes the right balance in ensuring the plans will begin to be
Mr. LEVIN, the senior Democrat from Michigan, and the employee. There are few things more appropriately funded while not being so strict that the companies providing pension plans are in danger of having to terminate them. To that end, H.R. 2830 provides transition relief to employers, giving them time and flexibility to get their pension funding in order.

In addition, the Ways and Means Committee incorporated into this package a number of tax incentives to increase retirement savings for Americans. Included in H.R. 2830 are provisions to make permanent the saver’s credit and the increased contribution limits for IRAs and other 401(k) plans. The bill also increases savings opportunities for our men and women in combat and provides increased pension flexibility for public safety officers, including firefighters, policemen and emergency medical service employees.

Furthermore, this bill provides tax benefits to make health care and long-term care more affordable. H.R. 2830 makes permanent bipartisan pension improvements established in 2001. While pension reform is a difficult area to make adjustments, given the unique needs of each employer, this legislation is a fair and balanced package that will provide economic security for millions of Americans. It has broad support for both the employer and labor communities. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I ask unanimous consent to yield my time to the gentleman from Maryland (Mr. CARDIN) for his control in this debate.

The SPEAKER pro tempore (Mr. LATHAM). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CARDIN. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. LEVIN), the senior Democrat on the Subcommittee for Social Security and who understands retirement security.

(Mr. LEVIN asked and was given permission to revise and extend his remarks.)

Mr. LEVIN. Mr. Speaker, in a few words, what we need to do is to reform our pension system but not to undermine it.

There is a basic issue here, and I hope Members will pay attention to it. We have had in this country in the private sector a system of guaranteed monthly benefits under defined pension plans in the private sector for millions and millions of people. That has been meaningful.

What I think is going to happen if this bill becomes law and if it were to be combined in conference with provisions in the Senate is essentially to undermine defined benefit plans and move us towards what are called defined contribution plans, so more and more, everybody will rely on a 401(k) instead of the guaranteed benefit in the private sector. That shift was tried in Social Security by the majority. It failed for good reasons, and now I think there is another effort here regarding private pension plans to lead to the same result.

We asked the Bush administration when they testified before Ways and Means, tell us the impact on industry of your proposals. They could not tell us. If you look at the chief financial officers, 60 percent of them who deal with pension plans essentially say that this yield curve of the administration, and there is a modified version of it in this bill, would lead to benefit cuts and termination of defined benefit plans, and that would affect manufacturing as well as other industries.

I know there have been some efforts to moderate that. Various people have scrambled to try to reduce the potential undermining of defined benefit plans through this provision on credit balances, but I want everybody to know that we are working hard to work it out in the main because this Republican bill would discourage companies from doing the responsible and sensible thing, advance funding their pension plans to free up resources in years of low interest rates and when their expenses, like rolling out a big product line, and penalize those who would do it any way, who would advance funds.

Look, there are some transition rules, but they are not going to basically guarantee whether we are going to maintain, strengthen defined benefit plans.

Now, it is said, look to the conference committee. All I can say is, look at the history of conference committees in this institution in recent years. What is likely to come out is a bill that would make this bill even worse, and even if it did not, what we face with this bill is this basic question: Do we want to strengthen defined benefit plans and guard them from benefit cuts, and payments, or are we going to move to everybody on their own? I think this House should stand up and say, let us stand up for a defined benefit system in this country.

Mr. CAMP of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Speaker, I rise again in support of this important legislation. I wanted to get down to this, well, to kind of deal with some of the specifics as to how it is important that we move this bill over into conference.

First of all, this is a comprehensive pension reform bill that will protect workers’ retirement incomes. It will give companies a longer window to make underfunded plans whole, and it will help protect U.S. taxpayers from taking on the liability associated with future plan terminations.

As I mentioned before, Delta Airlines employs thousands of men and women in my district, and other airlines, in many of your districts throughout this country, rely now or plan to rely in whole or in part on retirement benefits provided by Delta. Without a change in current law, that will allow Delta and other airline carriers that have defined benefit plans and obligations, like Northwest, Continental and American, to make their pension payments over a longer period of time when it is a certainty that some or all of these plans will be terminated. Benefits will be reduced, and liabilities will be shifted to the taxpayer.

We have an opportunity with this vehicle today to make sure that does not happen. We do not need to extend this liability over to the taxpayers. These employers and airline carriers want to honor their obligations, their pensions, but they need our help. They need to be equipped with the tools just to have a fighting chance to do so.

Mr. Speaker, let us give our airlines this fighting chance. I know that is not the main item on the agenda, but this is the only vehicle we have that we can use to get a conference agreement. I urge Members to give us a chance so we can help a very important industry.

Mr. CARDIN. Mr. Speaker, first let me yield myself 30 seconds to point out that I wish we did have provisions in this bill to deal with the airline industry, because I think we should. The problem is that we do not, and we go to conference with a situation where those who have well-funded plans are now likely to be asked to pay because of the costs of the airline industry. And let me also point out from Mr. BORAH’s comment about making the PBGC better funded, if we have a lot of terminated plans, it is not going to be better funded. And the gentleman brags about a permanent yield curve which is unpredictable to business. It would be better to have a corporate bond rate, and I am sorry that is not in the legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. NEAL), a senior member of the Ways and Means Committee and one of the leading experts on retirement issues.

Mr. NEAL of Massachusetts. Mr. Speaker, as the consumer listens to this debate, one of the things I believe that they want to understand is that the advocates of this legislation, they are the ones that, just a year ago, were talking to privatize the Social Security system. They wanted to privatize the Social Security system. That should not be dismissed. So this bill is now shuttled to the floor, barely a word of consideration in the Ways and Means Committee, and the Republicans on the Rules Committee would not grant us the opportunity to offer an alternative.

Pensions, like Social Security, should be sacred between the employer and the employee. There are few things that matter more than long-term security and a guaranteed pension.

Now, let me give you the schedule of the Ways and Means Committee. We found days to discuss a free trade
agreement with Bahrain, days to hear testimony about Bahrain, a country with 700,000 people. And then we took months and months and months, as they attempted to privatize Social Security. We spent a disproportionate amount of time, after the American people voted and the Wall Street Journal poll today, by the way, indicates quite clearly how they felt about their privatization plan of Social Security. Boy, is that clear. I will bet you on the other side everybody has read that poll by now, and said it was a terrible idea, and this is a terrible idea.

So where do we find ourselves? This legislation will do more harm than it will do good. The Committee on Investment of Employee Benefit Assets, a group that represents chief investment officers from the larger corporations in the country, recently conducted their own survey and concluded that if this were to pass, 60 percent of those employers would either freeze or terminate their pension plans. And everybody knows the most robust debate in America next year is going to take place over retirement security. Reject this legislation.

Mr. CAMP of Michigan. Mr. Speaker, I yield myself 30 seconds just to say that we had several hearings on this pension bill in the Ways and Mean Committee, including the Select Revenue Subcommittee which I chair. Let me just say that the PBGC’s analysis shows that the unfunded actuarial obligation on this end up being lower only in the short term; but, actually, starting in 2010, contributions to pension plans will increase. And that is because the funding reforms in the bill are phased in over 5 years.

Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. English), a member of the Ways and Means Committee.

Mr. ENGLISH of Pennsylvania. Mr. Speaker, I fully want to commend the Chairs of the Ways and Mean Committee and the Workforce Committees for putting together a bill which could finally fix the antiquated laws that govern pension plans and protect, at the same time, the interests of workers, retirees, and taxpayers.

What comprehensive pension reform must do and what this bill does for the first time in a generation is to significantly shore up pension funds through tough funding rules, but without pushing employers into termination, bankruptcy, and a multimillion dollar taxpayer bail-out of the PBGC.

But this bill goes beyond reforming pension laws. It also embraces new tax policies to encourage savings for retirement. First, the bill provides for automatic enrollment into 401(k) plans. While defined contribution plans such as 401(k)s have seen increases in participation since their inception, our nation’s savings rate now is well below 1 percent.

A study by the Vanguard Group projected that enacting the automatic enrollment provisions in this bill would boost participation to create 5.5 million new participants in 401(k) plans.

The bill also provides for split tax refunds, where taxpayers may direct all or part of their tax refund to be deposited into a retirement account. I was aware of a pilot project that gave that monthly dependable income our seniors enjoy. Well, they failed on that one. Now they are after pensions, and without question this will dismantle pensions in the very same way they tried to dismantle Social Security.

Now, several groups are for this bill. Why? Well, airlines are so desperate for a fix they are arguing for this bill even though it has no provisions for airlines. I was stunned when the chairman announced in a colloquy his lines of communication are open. Well, Mr. Chairman, people have been calling. Airlines have been calling. Hello. Mr. Chairman, people have been calling. Airlines have been calling. Hello, Delta Airlines, calling. Hello, Delta Airlines, calling. Hello, Delta Airlines, calling. Hello. No answer. No answer from the majority. And so someone that supports an airline urged to vote for this bill when the provision is utterly left out, it makes no sense. You do not help airlines with this proposal. The Democrats had an alternative that had airline relief in it. It was not even allowed for consideration. I think you are treatment unfairly in conference committee. The administration opposes airline relief. The chairman has spoken out against airline relief. There is nothing in the bill for airline relief. They are hoping against hope that something will be done. They deserve so much more than that.

I believe that this bill is deeply flawed pension policy. It will hurt workers. Vote “no.”

Mr. CAMP of Michigan. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. Pomeroy), one of the leaders in the Ways and Mean Committee on pension issues, the former insurance commissioner from North Dakota.

Mr. POMEROY. Mr. Speaker, there are two major problems with this bill. The first is that it costs $70 billion and the costs are not paid for, not offset anywhere. It drives the deficit deeper.

Last week, this Chamber voted to deal with the AMT 1-year fix, $31 billion. The majority voted to pass a budget reconciliation that added another $56 billion in deficit. This adds an additional $70 billion in deficit. $177 billion in deeper deficits.

You know, it is Christmastime. People are thinking what to give their children. Well, the majority seems intent on giving them quite a present in deeper deficits.

The second aspect of this bill that I want to point out is that it is deeply flawed pension policy, and it will cause the cancellation, freezing of thousands of plans affecting millions of workers.

Do not take my word for it. This is the estimate of the chief investment officers in an organization known as CIVA. They estimate that if this bill passed 60 percent of the plans will freeze. Frozen plans mean frozen benefits. And we do not know, the rest may freeze as well. They conclude: “These proposals would have long-term consequences for current and future workers with the potential to damage the retirement security of millions of Americans.” Potential to damage the retirement security of millions of Americans.

We have seen this story before. This is a group that worked for months to privatize Social Security, take away that monthly dependable income our seniors enjoy. Well, they failed on that one. Now they are after pensions, and without question this will dismantle pensions in the very same way they tried to dismantle Social Security.

Next week, several groups are for this bill. Why? Well, airlines are so desperate for a fix they are arguing for this bill even though it has no provisions for airlines. No one wants to see another pension freeze as well. They conclude: “These proposals would have long-term consequences for current and future workers with the potential to damage the retirement security of millions of Americans.”
us pass this bill, get it to conference, address the airlines’ pension problems in conference, and get this bill to the President before we go home for the holidays.

Mr. CARDIN. Mr. Speaker, I reserve the balance of my time.

Mr. CAMP of Michigan. Mr. Speaker. I yield 2 minutes to the gentleman from Indiana (Mr. CHOCOLA), a distinguished member of the Ways and Means Committee.

Mr. CHOCOLA. Mr. Speaker, it is because of today’s outdated pension rules, workers, retirees and taxpayers all stand to lose unless we act now to reform our pension system. Under current law, employers have been allowed to underestimate their future pension liabilities and to make promises they simply cannot keep. The recent example of United Airlines underscores the need for reform. United Pilots Plan was severely underfunded, yet the company was not required to make cash contributions to the plan in 8 years prior to its termination.

The legislation before us today strikes a careful balance between preserving the defined benefit pension system for workers and ensuring that employers fund their plans. This bill provides workers with meaningful disclosure about the status of their pensions, and it protects taxpayers from a possible multibillion dollar bailout of the PBGC, which insures the pensions of some 44 million workers.

But H.R. 2830 contains other important provisions aimed at improving the economic security of retired Americans. For example, it provides retired firefighters and police officers, who often retire early without Medicare coverage, with a tax break on pension withdrawals to pay for health insurance premiums. This provision enjoys strong bipartisan support and offers a small measure to protect against exorbitant health care costs that follow a career spent responding to emergencies.

All together, Mr. Speaker, this bill represents a balanced approach to protecting the interest of workers, retirees and taxpayers, and I urge my colleagues to support its passage.

Mr. CAMP of Michigan. Mr. Speaker. I yield 2 minutes to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER. Mr. Speaker, I rise particularly to talk about the importance of this bill for the airlines. Our airlines are the hub for Northwest Airlines. But we obviously also have a huge number of auto workers because of the Big Three and the numerous suppliers to the auto industry that reside there.

Northwest Airlines supports this legislation, as does Continental Airlines, American Airlines, Delta Airlines. So you might think, well, it must be bad for the airline workers, then, right? But this bill is supported by the Airline Pilots Association and the Association of Flight Attendants. So both management and labor do support this bill.

This bill is also supported by General Motors and even the Delphi Corporation. So you might think it might be bad for auto workers, right? Well, it is actually also supported by the United Auto Workers Union. In fact, it is also supported by the Affiliated Unions of the Building and Construction Trades Department of the AFL-CIO, the Bricklayers and Allied Craft Workers, the Transport Workers Union, the United Brotherhood of Carpenters and Joiners, and the United Food and Commercial Workers Union.

Mr. CAMP of Michigan. Mr. Speaker. I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE).

Mr. CASTLE. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to offer my support also for the comprehensive pension reform legislation that we are now considering. I would also like to congratulate and thank Chairman BOEHNER and Chairman THOMAS for their hard work in getting us to a point where we can make meaningful and necessary reforms to our pension system.

It has become very clear to us that the laws governing pension plans are antiquated. This is evident from recent high-profile bankruptcies, pension plan terminations and the billion dollar bailout of the PBGC. It would be criminal if Congress were to ignore these instances and not do something to protect the interests of workers, retirees and taxpayers alike.

As we have all heard here this afternoon, H.R. 2830 will strengthen pension plan funding rules, provide workers with meaningful disclosure about the health of their pension plans and protect taxpayers from a possible multibillion dollar bailout of the PBGC.

First, many workers and retirees in recent years mistakenly believed that their pension plans were well funded only to receive a shock when the plan was terminated. Without basic information, workers and retirees are left without the most basic tool they need to hold their employers accountable:

I yield 2 minutes to the gentleman from Michigan (Mr. DOGGETT), a distinguished member of the Ways and Means Committee.

Mr. DOGGETT. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CASTLE), a distinguished member of the Ways and Means Committee.

Mr. CASTLE. Mr. Speaker, I thank the gentleman for offering his support.

It is also supported by the U.S. Chamber of Commerce and the Business Roundtable, which welcomes the support of business and labor must be doing something right in today’s economy and this climate.

I think we have crafted an excellent piece of legislation. It does what needs to be done. It protects workers pensions. Let us pass this legislation. Let us get it into conference with the Senate, and let us get on with the job of addressing the airlines and get this bill to conference, and get it to conference, and get this bill to the address the airlines...
such executive compensation arrangements if an employer has a severely underfunded plan. Moreover, it requires plans that become subject to these limitations to notify affected workers and retirees.

Mr. CARDIN of Maryland. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. RYAN), a distinguished member of the Ways and Means Committee.

Mr. RYAN of Wisconsin. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I cannot think of anything more scary, anything worse than working one’s lifetime, working hard every day and then seeing their pension go before them, seeing their pension get terminated. That is the worst possible thing that can happen to a worker and to a family.

We have a system that needs fixing, Mr. Speaker. We have a pension system that has some loopholes where companies can put money in their pension plan when they needed to, to make them funded, and then we have a system that disincentivizes companies from putting more money in their pension plan to prefund the workers and employees when they have one and they have the will to do so. That is wrong, and that needs to be fixed.

Yet, on the other hand, Mr. Speaker, as this legislation was being drafted, we want to make sure, go to a time where companies fully fund their workers’ pensions. Getting to that transition was difficult, and I want to thank the chairman of the Ways and Means Committee, Mr. THOMAS; the chairman of the Education and the Workforce Committee, Mr. THOMAS; Mr. CAMP and everyone else: Do not tell us we are going to fix it in writing. I want this legislation to work for Americans because people do deserve certainty. They deserve certainty regardless of what happens to the plan, they even paid up for their employees to deal with the issue of wear-away, and they cannot get clarity on the programs that they have in place right now. Help them. Fix it.

Mr. CAMP of Michigan. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I yield to the gentleman from Minnesota (Mr. KENNEDY) for the purpose of a colloquy.

Mr. KENNEDY of Minnesota. Mr. Speaker, I believe that section 122 of this bill is an important public policy statement that says corporate executives who are not properly funding the pension plans of their employees should not be feathering their own nests with overly generous retirement packages. Currently, the bill penalizes employers who fund executive compensation if the sponsor’s employee-defined plans are less than 60 percent funded. My concern is that by setting this threshold, we are not discouraging them enough from being irresponsible with the retirement security of their employees while they take care of their own retirement packages.

I ask the chairman to work with me in conference to increase the threshold to at least 80 percent so that we encourage executives to take their pension funding obligations more seriously, not leave their defined benefit plan beneficiaries and, indeed, the PBGC and taxpayers on the hook.

Mr. CAMP of Michigan. Mr. Speaker, reclaiming my time, I would just say to the gentleman, as chairman of the Select Revenue Measures Subcommittee of Ways and Means, I look forward to working with him on this and other issues as this legislation moves through the process and to conference.

Mr. KENNEDY of Minnesota. Mr. Speaker, I thank the gentleman for his response.

Mr. CAMP of Michigan. Mr. Speaker, I yield 2 minutes to the gentlewoman from Pennsylvania (Ms. HART), a distinguished member of the Ways and Means Committee.

Ms. HART of Pennsylvania. Mr. Speaker, I thank the gentleman for his leadership, and I urge my colleagues to address our concerns specifically on behalf of the auto sector, by the UAW, have fits and those things that were raised collectively on behalf of the auto sector. Be with us to address our concerns specifically on behalf of the auto sector.

Mr. THOMAS, the chairman of the Committee on Education and Workforce. Without their urging, this bill would not be on the floor today, and this bill is so extremely important, especially to constituents in my district.

Over the last year, I have met with employees, union members, covered by both multi-employer and single-employer plans, also with the employers to discuss their concerns regarding pensions. Pension protection continues to be their top issue. Many of my constituents have faced challenges to their pensions with companies like U.S. Airways filing for bankruptcy or others turning their plans over to the Pension Benefit Guaranty Corporation.

This bill would establish sensible funding rules, requiring employers to fund 100 percent of their pension liabilities in this bill, fair consideration is given to those plans which need to catch up, but funding shortfalls must be made up within 7 years. Also, employers are urged to increase their pension contributions during profitable years, which they cannot currently do freely under the present rules.

In addition, the bill encourages greater transparency so that employees know the status and financial health of their own company’s pension plan. Ultimately, it is their own retirement financing. They have a right to know. These requirements will create more stability and certainty in these pension plans.

This bill also prohibits employers from funding golden parachute executive compensation plans. Pension plans of the rank and file are underfunded. U.S. Airways executives walked away with $35 million in executive compensation after running the company nearly into the ground and dragging concessions out of their employees, including reductions in pension benefits for pilots and leaving other employees in the dark about the funding of their pension plans. This is unfair to the hardworking employees of these companies, and this bill would prevent such a travesty in the future.

Finally, this bill encourages additional retirement savings by extending and improving incentives to save. The bill makes permanent provisions...
passed in 2001 to increase annual contributions to IRAs and qualified pension plans and “catch-up” contributions for individuals over 50. I hope my colleagues will support this legislation because it finally gives employees what they need: stability in their retirement accounts.

Mr. EMANUEL. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. EMANUEL), whose provisions are in this bill concerning split refunds and automatic enrollment and other issues that relate to the issue on the table.

Mr. EMANUEL. Mr. Speaker, this legislation is a missed opportunity. As my colleague from Maryland just noted, I have sponsored legislation on automatic enrollment and 401(k) plans, direct deposit of tax savings into a savings plan, and the savers credit for people with moderate income, to start saving. Why? Because basically almost 80 percent of small business employees have no retirement plan outside of Social Security. For approximately 38 percent of the households in America, the only savings plan they have is Social Security.

By doing what is right, by helping people start up their personal savings through 401(k)s and other types of personal savings, we would actually encourage people to save for their retirement. So this legislation on the defined contribution level takes the right step. And it is so unfortunate because we can get an overwhelming vote for those provisions to help Americans save outside of Social Security. And I am glad we took this year to stop the privatization of Social Security. But in doing that, they have added the provisions on the defined benefit plans. On a stand-alone, none of that would pass. So what they are trying to do is get the goods through Customs using the defined contributions to get through what I think are some very dangerous provisions as it relates to the defined benefit plans. The strength of multi-employer pension plans is critical to the retirement security of many Americans. Approximately 1,600 multi-employer plans cover about 9.8 working people in the United States. Multi-employer plans, like single-employer plans, cannot simply be turned over to the PBGC. Therefore, it is even more important to those involved that these plans are properly funded.

This bill also protects shutdown benefits. Those are benefits that are paid to workers who are being laid off because of a plan’s failure. These benefits are critical to help older workers affected by corporate downsizing. It is imperative that well-funded plans be able to continue to provide their workers with shutdown double benefits, and I am glad this Pension Protection Act preserves this important pension security tool.

The strength of multi-employer pension plans is critical to the retirement security of many Americans. Approximately 1,600 multi-employer plans cover about 9.8 working people in the United States. Multi-employer plans, like single-employer plans, cannot simply be turned over to the PBGC. Therefore, it is even more important to those involved that these plans are properly funded.

This bill strengthens the solvency of multi-employer defined pension benefit plans by providing trustees with the tools they need to solve the problem of an industry going into bankruptcy in order to save their plans. One important provision of this bill, and perhaps one of the least mentioned, is regarding disclosure requirements. The bill would give retirees and employees better information on the financial condition of their plans. Now workers will be sent information from their plan’s trustees about the plan’s ratio of assets to liabilities, the plan’s funding and asset allocation policies and other critical information.

While protecting pensions is a focus of this legislation, the bill does much more. It includes new opportunities for people to prepare for their retirement and bolster their savings. The bill provides individuals with new insurance products that help Americans better afford long-term health care costs.

I applaud the work of Chairman THOMAS and Chairman BOEINER and urge support of this bill.

Mr. CARDIN. Mr. Speaker, I yield myself the balance of my time. Mr. Speaker, I am sure that people who are watching this debate are somewhat confused about some of the technical provisions that we have talked about on the floor of the guaranteed fund. Let me try to simplify it.

The bottom line is that the total changes that are being suggested make it more rigid and less predictable for those companies that have traditional pension plans to put in much money they have to put into the guaranteed fund. Understand that the guaranteed fund is funded by the companies making contributions to the guaranteed fund. It is not funded by the government.

So if you have a plan that is well-funded and you are now being told it is going to cost you more to stay in that plan, there is an incentive for you to freeze your plan or to leave. That is what is going to happen, and that is going to be very unfair to many people losing their traditional pension plans as a result of this legislation.

The second point, let me point out, is that many Members have been talking about the airline industry and to try to help the airline industry pointed out that I think we should do that. We should do that because, A, it will allow the guaranteed fund to concentrate on other plans, and companies will not arbitrarily cancel their plans because they are afraid they are going to be stuck with the costs of bailing out the airline industry. That makes sense. But we are told: We are going to do that in conference, trust us.

We are the legislative body. We should do it. How do we know what is going to come out of conference? It is our responsibility to make sure it is done. We made some changes for the auto industry. Why have we not brought those provisions? It is our responsibility to do that.

And I haven’t heard anyone talk about how we are going to correct the problem of an industry going into bankruptcy in order to save their costs. Is there any hope that that will come out of conference? I doubt it.

We can do better. I urge my colleagues to reject this bill.

Mr. CAMP of Michigan. Mr. Speaker, I yield the balance of my time to the distinguished chairman of the Education and Workforce Committee, the gentleman from Ohio (Mr. BOEINER).

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Ohio is recognized for 3 minutes.

Mr. BOEINER. Let me thank my colleague and my friend and classmate. Mr. CAMP, for yielding me time, and thank all of my colleagues for what I think has been a very healthy debate today about how we strengthen America’s pension system.

We have heard Members argue that the bill that is before us is too difficult, that we will force companies out of pension plans and leave their employees hanging; while others...
have argued that the rules are not tough enough, and we are keeping the door open to irresponsible practices.

I truly do believe that we have a bill that is balanced, that will not push employers who have these plans out of the system, and will protect American workers who have been promised these benefits.

If we do not act, we know exactly what is going to happen: Millions and millions more Americans are going to lose the opportunity for a defined benefit pension plan, and millions of Americans who already have one are going to be at risk that they will not have their plan. So Congress must act.

Not only did we deal with single-employer pension plans, but we have not talked much about multiple-employer pension plans that you find traditionally in the trucking industry, the food industry and others. And while they have not been talked about much today in this debate and the administration did not propose changes, there are serious changes to the multi-employer pension system in this plan that will help strengthen that system.

Those plans, by and large, are healthier than single-employer plans, and will also minimize its impact on both sides in the multi-employer sector come together to put rules in place so that their plans can never get into a very weakly funded position. I am glad they are in the bill.

Let me point out that there are large numbers of groups supporting this bill. Every major labor organization, with the exception of several, is supporting this bill. Many in the management sector in every large business organization is supporting this bill. Why would all of the labor organizations and the business organizations all be on board in support of this bill? Because they think it is balanced. They think it is the right thing to do, and they believe it is what the American worker needs to act.

Is everything perfect in the bill? No. As the gentleman pointed out, we have got airline relief that we will probably be talking about again soon. Our commitment is to deal with this in conference.

My colleague from Ohio talked about the need to go further on cash balance language. I certainly agree with her. There are 7 million Americans who have cash balance plans or other types of hybrid plans. We need to provide some greater certainty for those who have converted to a cash balance plan so that we do not put in jeopardy the 7 million Americans counting on benefits from those plans.

We have a good bill. I would urge my colleagues to support it.

Ms. MILLER-MCDONALD. Mr. Speaker, I rise in strong opposition to the Pension Protection Act of 2005. This Act does not protect the American worker. In fact, this bill places the future of today’s American worker in jeopardy.

Even worse, this bill places those who have put in the years and worked hard at the mercy of bad management decisions.

Furthermore, pensions are a financial safety net that many Americans and businesses pay into. Pension programs are an important factor when workers choose a job and it plays a large part in financial planning.

Many people go their entire career thinking they will have this money upon retirement and regulate how they could use the money to take their family on vacation or buy their children clothes. Instead, they place earnings into their pensions as much in the short run as they will need in the future.

Pension plans are as much about personal responsibility as they are about good financial planning.

The American worker’s pension should not be a pawn for businesses to navigate bankruptcy. I am especially concerned about the adverse affect this bill has on women.

As a Member on the Aviation subcommittee and a frequent flyer, I have worked for years with airlines and flight attendants.

Many, many airline employees are women. Many of those women are single mothers. Without a guaranteed source of retirement income, it is almost impossible for these women to stay in the employ of the airlines—and worse yet, many of these women have already put in years of hard work and have already lost upwards of 75 percent of their pensions.

Mr. Speaker, my office has received a town meeting filled with stories of women from people whose pensions have been lost.

How do we as Members of Congress tell these people that after all these years of paying into a pension—working toward a retirement—they have to make other plans for their golden years.

We have an opportunity to do some real good. We have an opportunity to strengthen the commitment between the employers and workers, however this bill further drives a wedge between the two.

Vote no against this bill today and let us pledge to come back during the second session of the 109th Congress and do this right. We owe it to the American people to take their financial future as seriously as they do. Vote no on the Pension Protection Act of 2005.

Mr. HOLT. Mr. Speaker, I rise to express my opposition to the pension reform legislation that we are considering today. I oppose this legislation because it will further erode an employer’s willingness to provide defined benefit plans and will close the loopholes that allow companies to dump their pension obligations on to taxpayers.

Throughout the 1990’s, in American workplaces a dramatic shift from traditional defined-benefit plans to defined-contribution plans has occurred. Legalizing this shift will allow employers to take a defined-benefit plan and convert to a cash balance plan so that we do not put in jeopardy the 7 million Americans counting on benefits from those plans.

We have a good bill. I would urge my colleagues to support it.

Mr. Speaker, I rise in strong opposition to the Pension Protection Act of 2005. This Act does not protect the American worker. In fact, this bill places the future of today’s American worker in jeopardy.

Even worse, this bill places those who have put in the years and worked hard at the mercy of bad management decisions.
Mr. MARKEY. Mr. Speaker, I rise in opposition to the so-called pension "reform" bill today on the House Floor. The bill before us today fails to address fundamental problems that have robbed millions of hard-working Americans of the retirement benefits they have earned. This Republican bill will not prevent companies from dumping their pension plans onto the Pension Benefit Guaranty Corporation (PBGC), which already is burdened with a $23 billion deficit and may have to be bailed out by taxpayers. This bill does nothing to protect older workers when their pension plan is converted to a "cash-balance" plan that could short-change them of the benefits they accrued. The bill also contains provisions that increase the costs and regulations for companies to maintain pension plans to the point that many companies will freeze or abandon their plans, accelerating the growing pension crisis.

Democrats were not permitted to offer amendments to improve this bill. While I cannot support this flawed, misguided Republican bill, I support the Democratic Substitute offered by Representative MILLER, Representative RANGEL and Representative CARDIN. The Democratic Substitute would stabilize and reinvigorate the defined benefit pension plans by extending for 2 years the corporate-bond-rate used to determine PBGC liabilities, encourage employers to maintain defined benefit plans without cuts in workers' pension benefits, and protect older workers during cash-balance transitions.

As the pensions of workers remain at risk, I am concerned about conflicts-of-interest, hidden financial arrangements and unlawful activities that may be causing or contributing to the poor financial health of pension plans at companies across the country. In May 2005, the Securities and Exchange Commission (SEC) released a report, "Examinations of Selected Pension Consultants", that revealed significant conflict-of-interest and non-disclosure issues within the pension plan consultant industry. Specifically, SEC found, among other conclusions, that:

[ ]

Pension consultants may steer clients to hire certain money managers and other vendors based on the pension consultant's (or affiliate's) relationship with the pension consultant or receipt of fees from these firms, rather than because the money manager is best-suited to the client's needs. Such a conflict can compromise the fiduciary duty that investment advisers owe their clients.

The findings included in the Commission's report are particularly disturbing for pension plan beneficiaries, whose benefit payments are dependent upon their plan management's diligence in fulfilling its fiduciary duty and for the Federal Government, which is faced with an enormous deficit at the Pension Benefit Guaranty Corporation (PBGC) as a result of a series of massive corporate bankruptcies that have resulted in PBGC assumption of severely underfunded pension plans terminated when the companies went bankrupt.

Representative MILLER and I have requested that the Government Accountability Office (GAO) investigate whether the Federal Government is aggressively regulating and enforcing statutes intended to protect pension plans and their beneficiaries from conflicts-of-interest and similar undisclosed relationships that can impair pension fund returns. We have urged GAO to examine whether any of the 3,500 terminated pension plans that are now the responsibility of the PBGC may have been adversely affected—prior to PBGC assumption of the plans' liabilities—by the types of conflicts and hidden financial arrangements uncovered by the SEC.

I am hopeful that the pension legislation considered today by the House will be greatly improved during the conference with the Senate, so that we can have a vote on pension reform legislation that actually addresses the real problems that exist in the current system. Additionally, I look forward to GAO's work in the important new area of pension consultants. The ongoing crisis in the pension fund marketplace requires a thorough, independent review to identify problems with government regulation and enforcement and recommend improvements. American workers have relied on the pension promises of their employers. It is unconscionable to abandon these workers. I urge a "no" vote on this Republican pension bill, and a "yes" vote on the Democratic Substitute.

Mr. GUTKNECHT. Mr. Speaker, I rise to speak on behalf of 7,000 current and former IBM employees who live in my district. While most of this bill is necessary and the legislation is appropriate, the weakness of the bill is that it fails to clarify the rules concerning the conversion of defined benefit pension plans into cash balances.

I understand the bill will not affect the IBM employees and their court case. It could, however, affect millions of Americans that are currently vested in defined benefit pension plans. Even though they may be working for a very profitable company, they could, under the terms of this bill, show up for work one day and learn that their promised benefits have been dramatically reduced with the sweep of a pen.

Under cash balance plans, older, long-serving employees do not have the same opportunities to build up retirement benefits that younger workers do. The bill before us today would allow conversions to take place but gives no protections to workers during these transitions. I offered an amendment last night at the Rules Committee for this purpose, but it was not adopted. Unfortunately, the Committee did not rule my amendment in order.

The Senate version of the bill contains more protections for workers. For those and other reasons AARP supports the Senatepassed bill and opposes the House bill. I would hope protections like the amendment I tried to offer will be incorporated in the final version.

While I am voting today to move the bill forward into conference with the Senate in the hopes more worker protections can be added, I reserve the right to reject a report that fails to correct this glaring omission.

Mr. LARSON of Connecticut. Mr. Speaker, I rise in opposition to the so-called Pension Protection Act and in support of the Democratic motion to recommit.

There is no question that our Nation is facing a pension crisis. Over 34 million American workers currently rely on the benefits they receive from a defined benefit pension plan to make ends meet. Yet, with the growing number of corporations cutting pension benefits or declaring bankruptcy, people are increasingly concerned with their retirement security. More and more, American workers are facing the prospect of seeing their employers use our Nation's bankruptcy laws to back out of their pension promises and turning their obligations over to the Pension Benefit Guaranty Corporation (PBGC)—which only partially funds promised benefits.

Unfortunately, the bill before us today is a missed opportunity to provide American workers with real pension protection.

H.R. 2830 makes significant changes to the rules for defined benefit pension plans, increases the premiums that companies pay into the PBGC, and does nothing to prevent companies from dumping their pension obligations on American taxpayers. According to the Chief Investment Officers of over sixty percent of our Nation's largest pension plans, these likely will lead to cuts or terminations of existing plans. According to the Congressional Budget Office, this legislation would add over $70 billion to the federal deficit and fails to improve the PBGC's financial condition by increasing the agency's financial shortfall by $2.5 billion.

Rather than allowing an open debate on this important issue, the majority leadership has jammed the pension security laws or even allow consideration of a Democratic substitute. The Miller/Cardin motion to recommit protects American pension benefits by making it harder for companies to declare bankruptcy and abandon workers pensions, protects workers by increasing the premiums employers with pension funding stability and gives the airlines the tools they need to shore up their employee pension plans. This alternative would provide American workers with real pension protection, rather than continued retirement insecurity.

Mr. Speaker, today's legislation is the latest in a series of attempts to privatize profits and socialize losses. It is my sincere hope that as we move into conference, we can produce legislation that will preserve the hard-earned pension benefits of our Nation's workers.

Mr. NORWOOD. Mr. Speaker, I rise in strong support of the Pension Protection Act (H.R. 2830), legislation that responds to the many challenges currently facing the financial health of the defined benefit pension system.

The defined benefit system provides millions of American retirees and current workers with retirement benefits earned over the course of a lifetime. Yet, the rules governing the structure of the defined benefit systems are geared towards the 20th century environment that no longer exists. The Pension Protection Act will bring these outdated rules into the 21st century and respond to the rapidly evolving American workforce that is more fluid, technologically advanced and diverse than ever before.

H.R. 2830 accomplishes this goal by implementing four commonsense reforms that hold employers to a higher standard and will ensure the fiscal future of the defined benefit system:

(1) The legislation will ensure employers properly and adequately fund employees' defined benefit pension plans; (2) provide meaningful new disclosure to workers about the status of their pension plan; (3) secure the financial future of the Pension Benefit Guaranty Corporation (PBGC) and grow it to a possible multi-billion dollar taxpayer-funded bailout; (4) encourage greater employee savings for retirement goals by reforming outdated defined contribution plan rules.

The legislation also protects executive compensation arrangements when a rank and file employee pension plan is severely under-funded. This important provision will prevent corporate chieftains from escaping via the golden
parachute when an employer carries a qualified pension plan that is 60 percent underfunded or more. After all, the average working man in rural Georgia deserves nothing less than a corporate executive in New York.

And while H.R. 2830 includes important reforms to ensure employers more accurately fund their pension obligations, it also holds union leaders to a higher standard as well. Over the years, union leaders have exerted tremendous pressure on employers in every commercial sector by negotiating benefit increases to defined benefit plans that are already underfunded. This is no less outrageous, and H.R. 2830 takes important steps to prevent union leaders and employers from negotiating unrealistic benefit increases knowing full well an employer's plan is already underfunded. I am not prepared to support legislation that would increase the chances of such outcomes, especially when its tax provisions would substantially increase future budget deficits and would primarily benefit taxpayers in the highest income groups.

According to the Joint Committee on Taxation, the revenue effects of the tax provisions primarily benefiting higher-income households would grow from $3.6 billion in 2012, the first full year affected, to $5.6 billion a year by 2015. By lowering the saver's credit, which is most important to lower-income households, would fall from $1.4 billion in 2008, the first full year affected by that provision, to $943 million by 2015. That means that by 2012, the saver's credit would account for one-fourth of the total benefits of all of these provisions, by 2015 it would account for only 14 percent of the total benefits. And after that the saver's credit would dwindle further, eventually fading away, while the upper-income pension tax changes would become still more robust.

As the Center on Budget and Policy Priorities says, "To allow the severe erosion over time of the principal tax incentive for modest-income families to save for retirement does not make sense as retirement policy. It makes sense only as a budget proposal. To do so while protecting very generous retirement tax-cut benefits that go overwhelmingly to higher-income taxpayers who generally are able to save adequately for retirement anyway, without these tax subsidies, is even less defensible. The only way to make the tax policy of this nature into a bill that swells budget deficits, and opens the door to still more deficit-increasing tax cuts in the future, stands sound policy on its head. I think they are wrong.

And, in addition to badly framed provisions, the bill's flaws also include some serious omissions. I am particularly disappointed there is nothing in the bill like the bipartisan Senate-passed provisions to protect the pensions of employees and retirees of airline companies. As Coloradans know all too well, the employees and retirees of United Airlines already have lost $3 billion in earned pension benefits. We should be working to help them, and we also should be working to make it less likely that their experience will be repeated.

In summary, Mr. Speaker, while I recognize that there are good aspects to this bill, and while I think Congress does need to act on this subject, I think that on balance the bill as it stands should be rejected so that a better-balanced measure can be brought forward.

Mr. BLUMENTHAUER. Mr. Speaker, the income security of Americans has been under constant attack by the administration and Congress this year, especially those families who have not had the good fortune to earn a living that places them in our highest income brackets.

The year started with efforts to dismantle Social Security, an efficient program that is the primary source of income for a majority of retirees. Next, a slanted bankruptcy bill that puts no burden of responsibility on unscrupulous lenders and credit card companies and all of it on the families that face hardships from large medical bills, family breakups, and job losses. Congress has been wringing its hands that the two-thirds of the country's major programs for America's most vulnerable should be cut so tax cuts can be extended years from now.

The latest attack on the security of American families is this pension bill. It is clear that the Pension Benefit Guaranty Corporation must be strengthened and that rules must be put in place to ensure companies adequately fund the promises they make to employees.

Instead, the Congressional Budget Office has reported that this bill would actually increase the PBGC's deficit by $9 billion over the next 10 years. The bill also legalizes cash balance plans without protections for long serving employees. It has been reported that without older worker protections over 90 percent of older workers would lose expected pension benefits if a defined benefit plan were converted to a cash balance plan. Additionally, this bill does nothing to help the struggling airline industry that has already seen United Airlines employees and retirees lose over $3 billion in earned pension benefits.

Taking every provision and providing security to all families should be a priority of Congress and can be achieved with fiscal responsibility and fair policy. This bill falls short on both accounts.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.R. 2830, which would be better titled the Republican Pension Destruction Act. American workers deserve much better than a bill that will reduce employee pensions and provide incentives for employers to break pension promises to employees.

Recent bankruptcies in the airline industry shed a bright light on exactly what big corporations are up to. A few months ago, United Airlines dumped its flight attendant pension program onto the Pension Benefit Guaranty Corporation (PBGC)—a government organization meant to serve as an insurance policy for corporations who can no longer afford to meet their pension obligations. The PBGC, however, does not fund pensions at 100 percent, instead making a reduced payment to retired employees.

As a result, tens of thousands of United employees, past and present, will receive smaller pension payments than they deserve. Unbelievably, in the same bankruptcy proceedings United Airlines’ CEO Glen Tilton was allowed to keep his $4.5 million pension. This is unacceptable, and the bill offered today does nothing to prevent CEOs from opening these golden parachutes while their employees are forced to take a reduction in their benefits.

I’ve heard from hundreds of constituents on this issue. I can’t say it any better than this former United employee from Hayward, CA who watched the following statement during an e-earthing I have been co-hosting regarding the United Airlines crisis.

I worked for United Airlines 35 years as a mechanic. Two years ago I retired with the promise that my pension was safe. If I lose that chunk of pension I will have to sell my house and take my almost blind wife to another state where it’s cheaper to live. Away from our doctors and family. I am not able to
work anymore—physically unable—can you help us? We could help United employees and the retirement security of millions of Americans by passing real pension reform, but Republicans would rather destroy pensions instead of protecting them. When Congress' legislation to fix the pension solvency issue by protecting retirees and forcing CEOs to be held accountable, the Republican Majority wouldn't bring it up for a vote because it could have passed. Sadly, this is just one more example of Republicans siding with corporate campaign donors over workers and Americans. The list of problems associated with this bill is seemingly endless. The PBGC itself says its own ability to cover pensions will decrease by $2.5 billion under this bill. The Republican bill does nothing to protect airline employees. And in a final slap in the face to hardworking taxpayers, the bill adds $71 billion to the deficit over the next 10 years, because Republicans refuse to be fiscally responsible and pay for their reforms. This Republican pension bill undermines retirement security and puts the once guaranteed pension benefits of millions of hard working Americans in jeopardy. I urge all my colleagues to vote "no" on this bill.

Ms. KILPATRICK of Michigan. Mr. Speaker, I rise in reluctant support of the Pension Protection Act of 2005, H.R. 2830. I commend the authors of this bill who worked with elements of the union movement to craft legislation designed to address some of the issues affecting the employer-provided pension system. Key stakeholders in Michigan’s 13th Congressional District where I am proud to represent today, Organizations like General Motors, Ford Motor Company, the United Auto Workers Union, building trade unions, Northwest Airlines, airline pilots, flight attendants, and more have contacted my office to express their support for the bill. The leadership of my party has pointed out that the bill has several major shortcomings. My leadership argues that H.R. 2830 does very little over the long-term to strengthen traditional, defined benefit plans. Had the majority party passed the Senate-passed airline pension language is one of the Nation’s busiest. It is home to Delta Air Lines’ second largest hub. Thousands of pilots and airlines in the Fourth District work for airlines. They depend on the retirement benefits provided by the airline industry. Without a change in current law that allows air carriers with Defined Benefit plan obligations to freeze their plan over a longer period of time—20 years—it is possible that some or all of these plans will be terminated, benefits reduced and liability shifted to the American taxpayer. The airlines want to keep their promises to their employees. They want to honor their obligations. They do NOT want to terminate their pension plans nor to reduce benefits. But, they need to be equipped with the tools necessary to have a fighting chance to keep those promises.

The Senate airline pension language is carefully crafted to meet the particular concerns of all the major carriers and provide them with a 20 year period to meet their obligations. Although we are not addressing this specific issue today, I strongly support continued pursuit in conference of the Senate-passed airline pension provision. Finally, I wish to thank my colleagues on the Ways and Means and Education and Workforce Committees and their staff for the hard work that has brought us to this point today. I urge all of my colleagues to vote in favor of final passage.

Mr. VISCLOSKY. Mr. Speaker, I rise today in opposition to H.R. 2830. I am old enough to remember a time when everyone on my block in the Glen Park section of Gary, Indiana had a pension. The defined benefit pension system today, which protects the retirement security of over 44 million workers, retirees, and their families, is at a critical juncture. The number of defined benefit plans has declined from 105,000 in 1985 to under 32,000 in 2004. While the number of active workers covered by such plans has dropped from over 40 million to under 20 million, an additional 20 million retirees depend on defined benefit plans for their retirement security.

Both the Congressional Budget Office and the Pension Benefit Guaranty Corporation have found that H.R. 2830 will add billions more to the PBGC’s already mounting deficit. According to the CBO, this legislation would increase the PBGC’s deficit by $9 billion dollars over the next ten years. The PBGC is already facing a deficit of $23 billion and could face additional liabilities of up to $100 billion in the near future. In the five years leading up to the closings of TVT, LTV and Bethlehem Steel, steel companies in North America were filing for bankruptcy in record numbers, using the bankruptcy courts to break their contractual obligations and impose cuts or outright elimination of jobs, benefits, pensions and wages of steelworkers. In 2002, LTV filed for Chapter 11 bankruptcy for protection from its creditors, including its obligations to its pension plan. In 2002, LTV filed Section 7 bankruptcy, which liquidated its assets. Today’s legislation would put additional pressure on an agency that is already picking up the slack because corporate America has used them as a dumping ground.

In addition, H.R. 2830 does not ensure fair treatment between workers and executives. The bill permits CEOs to receive executive golden parachutes at the same time employers are suffering dangerous declines in their retirement benefits. Under H.R. 2830, if an employer does not fund its pension plan above 80 percent, then workers cannot receive any increases in benefits or take a lump sum at retirement. No similar restriction is imposed on executives. If an employer does not fund above 60 percent, then the workers’ plan must be frozen with no new benefits allowed to accrue. Only at 60 percent are employers prohibited from transferring funds to executive compensation. However, employers can get greater incentives and opportunities to save out private pensions, and reduces the tax burden on executive stock options. I find this deplorable at a time when we are seeing companies like Delphi abuse the system. Under Chapter 11 reorganization, Delphi could award 500 of their executives cash bonuses of 30 percent to 250 percent of their base salary for exiting Chapter 11.

In closing Mr. Speaker, I urge my colleagues to oppose H.R. 2830. According to CBO, H.R. 2830 would increase the Federal deficit by over $70 billion from 2006—2015. It contains a variety of unoffset tax incentives for corporate America that will not secure the pension of the hardworking men and women who are making our steel, mining our coal, building our homes, and flying our airplanes. Congress owes working Americans more. Mr. PAUL. Mr. Speaker, while H.R. 2830, the Pension Protection Act of 2005, is not perfect, it does decrease the risk that employees will be deprived of pension benefits they were promised as part of their employment contracts. H.R. 2830 also decreases the likelihood that employers will be able to bail out private pensions, and reduces the tax burden on American workers to provide them with greater incentives and opportunities to save for their own retirements. Therefore, I will vote for this bill on final passage.

However, I oppose this rule, because I do not like the process under which this bill is being brought to the floor. The rule before us today does not allow any member to offer, or vote on, amendments that may improve this bill. In particular, I was hoping to vote on an amendment protecting United Airline retirees from having their pension benefits reduced or terminated even though United expects to make $1 billion in profit within 1 year of being discharged from bankruptcy. The Senate
version of the bill does address some problems of the airline industry. However it fails to protect United Airlines retirees. The Federal Government should not facilitate a large company getting out of its contractual obligations to their retired workers. I, therefore, urge my colleagues to support the pension plans of retired United Airline employees by rejecting this rule and voting for a rule that allows us to consider adding, language helping the United Airline retirees to the bill. If this rule does pass, I urge my colleagues to move the process forward by voting for the bill and working to add language helping United Airline pilots to the bill when it goes to conference with the Senate.

Mr. BRADY of Texas. Mr. Speaker, I rise today in strong support of H.R. 2830, the Pension Protection Act of 2005. I applaud the chairman of the Ways and Means Committee, the distinguished BILL THOMAS, as well as the chairman of the Education and Workforce Committee, JOHN BOEHNER, for their hard work and leadership on this issue. Protecting the pensions of millions of Americans is a top priority for this 109th Congress and H.R. 2830 is strong legislation designed to that end.

I rise today to also thank Chairman THOMAS for his inclusion in the Pension Protection Act of legislation I introduced related to the waiver of a 10 percent federal tax penalty for public safety employees. Our Nation’s firefighters, police officers and emergency medical personnel. People who put their lives on the line for us everyday deserve our full support and they are receiving that support here today thanks to Chairman THOMAS.

Many public safety personnel begin their careers at a young age. They will vest in their regular pension plans and, even if they participate in one of the new deferred plans and remain on the job longer, will be eligible for retirement before they reach age 55.

For example, in Houston the average firefighter begins his career at age 23. After 20 years of service, now age 43, the average firefighter is fully vested in the regular pension fund and can retire and begin receiving benefits immediately. Today, the firefighter can participate in the deferred plan for up to an additional 10 years. If the firefighter participates for the full 10 years and then elects to retire, he or she will be age 53 and, in general, we will not be able to take distributions prior to the age of 59½ without triggering the 10-percent penalty.

For distributions to public safety employees that are subject to the 10-percent penalty, section 905 of H.R. 2830 would waive the penalty. This provision has received considerable attention and support during this and previous Congresses. The effort began in 2002, when my Texas colleague, Congressman GENE GREEN, introduced H.R. 4796. Later that year, Senator Jim INHOFE introduced companion language, S. 3072.

Mr. Speaker, in closing, I want to applaud my House colleagues and, in particular, Ways and Means Chairman THOMAS, to whom I would like to express the deep gratitude of our Nation’s firefighters, police and emergency medical service employees for including section 905 in the House bill and moving the issue forward.

I strongly urge my colleagues to support passage of H.R. 2830, the Pension Protection Act.

The SPEAKER pro tempore. Time for debate has expired.
TITLE VII—REDUCTION IN BENEFIT OF RATE REDUCTION FOR FAMILIES WITH INCOMES OVER $1,000,000

Sec. 801. Reduction in benefit of rate reduction for families with incomes over $1,000,000.

TITLE I—INTEREST RATE FOR 2006 AND 2007 FUNDING REQUIREMENTS

SEC. 101. INTEREST RATE FOR 2006 AND 2007 FUNDING REQUIREMENTS.

(a) AMENDMENTS TO ERISA.—


(A) by striking “January 1, 2006” and inserting “January 1, 2008”, and

(B) by striking “and 2007” and inserting “2006, 2007, and 2008.”

(2) CURRENT LIABILITY.—Subclause (IV) of section 302(d)(7)(C)(i) of such Act (29 U.S.C. 1082(d)(7)(C)(i)(IV)) is amended—

(A) by striking “or 2005” and inserting “2006, 2005, or 2007”, and


(A) by striking “January 1, 2006” and inserting “January 1, 2008”, and

(B) by striking “and 2007” and inserting “2008, 2006, and 2007.”

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subclause (II) of section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended—

(A) by striking “January 1, 2006” and inserting “January 1, 2008”, and


(2) CURRENT LIABILITY.—Subclause (IV) of section 412(i)(7)(C)(i) of such Code is amended—

(A) by striking “or 2005” and inserting “2006, 2005, or 2007”, and


(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 102. GOVERNMENT ACCOUNTABILITY OFFICE—PENSION FUNDING REPORT.

(a) IN GENERAL.—The Comptroller General of the Government Accountability Office shall transmit to the Congress a pension funding report not later than one year after the date of enactment of this Act.

(b) REPORT CONTENT.—The pension funding report required under subsection (a) shall include—

(1) an analysis of the feasibility, advantages, and disadvantages of—

(i) requiring an employee pension benefit plan to insure a portion of such plan’s total investments,

(ii) requiring an employee pension benefit plan to adhere to uniform solvency standards set by the Pension Benefit Guaranty Corporation, which are similar to those applied on a State level in the insurance industry, and

(iii) amortizing a single-employer defined benefit pension plan’s short-term amortization base (referred to in section 303(c)(3) of the Employee Retirement Income Security Act of 1974 (as amended by this Act)) over varying periods of not more than 7 years.

(b) ADDITIONAL REQUIREMENTS FOR DISCONTINUATION OF PLAN TERMINATION.—Section 4041(c)(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)(B)) is amended—

(A) by striking the following paragraph:

“(4) ADDITIONAL REQUIREMENTS.—Notwithstanding any other provision of this section, unless the corporation or the court, in the case of a distress termination pursuant to clause (ii), has determined that reasonable efforts to consider available alternatives to termination not limited to, alternatives described in section 4042(c)(5) have been undertaken by such person (and, in the case of a plan maintained pursuant to a collective bargaining agreement, by the plan administrator agreeing to such termination, a contributing sponsor of the plan or a member of such a sponsor’s controlled group) would be unable to pay its debts when due and, if such proceedings in which reorganization of such sponsor or member is sought is in a case under title 11, United States Code, or under any similar law of a State, such sponsor or member could not be discharged in such proceedings, or

(ii) in any other case, such sponsor or member would be unable to continue in business, and

(4) all otherwise applicable requirements for termination under this section are met.

(b) Any party consisting of the plan sponsor, a plan participant, or (in the case of a plan maintained pursuant to a collective bargaining agreement) the employee organization representing plan participants for purposes of collective bargaining may intervene in the proceedings described in paragraph (1) to challenge whether all applicable requirements for termination under this section are met.

(2) NOTICE.—

(1) Section 4041(a) of such Act (29 U.S.C. 1341(a) is amended by adding at the end the following new paragraph:

“(4) NOTICE OF RIGHT TO CHALLENGE.—Together with the notice of intent to terminate a plan, the administrator shall provide to each participant and beneficiary a written notice of the right of participants and beneficiaries to challenge determinations under this section, written in a manner likely to be understood by the participant or beneficiary.

(2) Section 4042(a) of such Act (29 U.S.C. 1342(a) is amended by adding at the end the following new paragraph:

“(4) TRANSITIONAL RULE FOR INVOLUNTARY TERMINATIONS.—In any case in which, during the period beginning December 1, 2004, and ending with the date of the enactment of this Act, the Pension Benefit Guaranty Corporation has commenced termination proceedings under section 4042 of the Employee Retirement Income Security Act of 1974 which are pending on or after the date of the enactment of this Act,

(A) the Corporation or other entity surviving as trustee shall, effective as of the date of the enactment of this Act—

(i) cease any activities undertaken to terminate the plan, and

(ii) take such actions as may be necessary to restore the plan to its status immediately prior to the commencement of such proceedings or the execution of such agreement, and

(B) the procedures and requirements of section 4042 of the Employee Retirement Income Security Act of 1974 (as amended by this Act) shall apply to any further such proceedings undertaken after the date of the enactment of this Act.
(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan terminations with respect to which proceedings are instituted, or are pending, on or after November 20, 2005.

SEC. 203. DATE ON WHICH LIEN FOR MISSED CONTRIBUTIONS IS DEEMED PERFECTION.

(a) In General.—Section 4041 of the Employee Retirement Income Security Act of 1974 is amended by—

(i) by inserting "(a)" before "Whenever", and

(ii) by adding at the end the following new subsection:

"(b) Within 3 years after the date on which a plan sponsor of a plan terminated under section 4041(c)(2)(B)(ii) or under section 4042 with respect to a reorganization case under title 11 of the United States Code, or under any applicable law of a State or a political subdivision of a State, (or with respect to a case described in section 4041(c)(2)(B)(i) which has been converted to such a reorganization case), in the case of such plan sponsor (or the case is otherwise dismissed), the plan sponsor may elect to restore the plan to its pretermination status. Subject to the rules of subsection (a) shall apply with respect to any election made under this subsection.

SEC. 204. MINIMUM REQUIRED CONTRIBUTION.

(a) In General.—If an election is made to have this section apply to an eligible plan—

(1) in the case of any applicable plan year beginning on or after January 1, 2007, the plan shall not have an accumulated funding deficiency for purposes of section 4041 of the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 if contributions to the plan for the plan year are not less than the minimum required contribution determined under subsection (d) for the plan for the plan year, and

(2) in the case of any applicable plan year beginning on or after January 1, 2007, the minimum required contribution determined under sections 303 and 4041 of such Code shall, for purposes of sections 302 and 430 of such Code, be equal to the minimum required contribution determined under subsection (d) for the plan for the plan year.

(b) ELECTIONS AND RELATED TERMS. (1) GENERAL.—The term "eligible plan" means—

(A) any plan—

(i) which is a defined benefit plan (other than a multiemployer plan) to which section 4041 of such Code applies—

(A) which is sponsored by an employer—

(i) which is a commercial airline passenger airline, or

(ii) the principal business of which is providing services to a commercial passenger airline, and

(B) with respect to which the requirements of paragraphs (2) and (3) are met.

(2) ACCURACY RESTRICTIONS. (A) GENERAL.—The requirements of this section are met if, effective as of the first day of the first applicable plan year and at all times thereafter while an election under this section is in effect, the plan provides that—

(i) the accrued benefit, any death or disability benefit, or any other benefit that is not a supplemental benefit of a participant which has been converted to such a reorganization case, or any lien or other security of a plan in such plan sponsor for missed contributions to the plan shall be treated as being perfected as of the earlier of the date of the commencement of such case or the date such security or lien is filed.

(ii) all other benefits under the plan are eliminated.

(b) ELECTION BY EMPLOYER TO RESTORE ELIGIBILITY BENEFITS.

SEC. 205. DETERMINATION UNDER THIS PARAGRAPH.

SEC. 206. ELECTION BY EMPLOYER TO RESTORE ELIGIBILITY BENEFITS.

SEC. 207. EFFECTIVE DATE.

(c) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.

(b) PREMIUM RATE FOR TERMINATED SINGLE-EMPLOYER PLANS WHICH ARE NOT RESTORED.—Subsection (a) of section 4006 of the Employee Retirement Security Act of 1974 is amended by—

(i) the 12-month period beginning with the first day of the first applicable plan year.

(ii) any change in the accrual of benefits, and

(b) ELECTION BY EMPLOYER TO RESTORE ELIGIBILITY BENEFITS.

SEC. 301. SPECIAL FUNDING RULES FOR PLANS MAINTAINING CEASED FUTURE BENEFIT ACCRUALS.

(a) In General.—If an election is made to have this section apply to an eligible plan—

(1) in the case of any applicable plan year beginning on or after January 1, 2007, the plan shall not have an accumulated funding deficiency for purposes of section 4041 of the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 if contributions to the plan for the plan year are not less than the minimum required contribution determined under subsection (d) for the plan for the plan year, and

SEC. 302. ELECTION TO CEASE FUTURE BENEFIT ACCRUALS.

(d) IN GENERAL. (1) PREMIUM RATE FOR TERMINATED SINGLE-EMPLOYER PLANS WHICH ARE NOT RESTORED. (2) ACCRUAL RESTRICTIONS.

(A) IN GENERAL. (B) APPLICABLE 12-MONTH PERIOD. (C) COORDINATION WITH SECTION 4007.

SEC. 303. DATE ON WHICH LIEN FOR MISSED CONTRIBUTIONS IS DEEMED PERFECTION.

(b) EFFECTIVE DATE. (A) IN GENERAL. (B) APPLICABLE 12-MONTH PERIOD. (C) COORDINATION WITH SECTION 4007. (D) USE OF FUNDS.

SEC. 304. MINIMUM REQUIRED CONTRIBUTION.

(c) EFFECTIVE DATE. (A) IN GENERAL. (B) APPLICABLE 12-MONTH PERIOD. (C) COORDINATION WITH SECTION 4007. (D) USE OF FUNDS.
the minimum required contribution shall be the amount necessary to amortize the un- funded liability of the plan, determined as of the first day of the plan year in question, in equal annual installments (until fully amortized) over the remaining years of the actuarial period. Such amount shall be separately determined for each applicable plan year.

(2) YEARS AFTER AMORTIZATION PERIOD.—In the case of any plan year beginning after the end of the amortization period, section 302(c)(3)(A) of such Act and section 412(a)(1) of such Code shall apply to such plan, but any charge or credit in the funding standard account under section 302 of such Act and section 412 of such Code shall be zero.

(3) DEFINITIONS.—For purposes of this section—

(A) UNFUNDED LIABILITY.—The term “un- funded liability” means the unfunded ac- crued liability under the plan, determined under the unit credit funding method.

(B) AMORTIZATION PERIOD.—The term “am- ortization period” means the 30-plan year pe- riod beginning with the first applicable plan year.

(4) OTHER RULES.—In determining the minimum required contribution and amortization amount under this subsection—

(A) the provisions of section 302(c)(3) of such Act and section 412(c)(3) of such Code, as in effect before the date of enactment of this Act, shall apply,

(B) the rate of interest under section 302(b) of such Act and section 412(b) of such Code, as in effect before the date of enactment of this Act, shall be used for all calculations requiring an interest rate, and

(C) the value of plan assets shall be equal to their fair market value.

(e) SPECIAL RULES FOR CERTAIN PLAN SPIN- OFFS.—For purposes of subsection (a), if, with respect to any eligible plan to which this subsection applies—

(A) any applicable plan year includes the date of the enactment of this Act, and

(B) a plan was spun off from the eligible plan during the plan year but before such date of enactment, the minimum required contribution under subsection (a)(1) for the eligible plan for such applicable plan year shall be determined as if the plans were a single plan for that plan year (based on the full 12-month plan year in effect prior to the spin-off). The employer shall designate the allocation of the minimum required contribution for the applicable plan year and direct the appropriate reallocation between the plans of any contributions for the applicable plan year.

(f) FUNDING STANDARD ACCOUNT AND PREFUNDING BALANCE.—Any charge or credit in the funding standard account under section 302 of such Act or section 412 of such Code, and any prefunding balance under section 303 of such Act or section 430 of such Code, as of the day before the first day of the first applicable plan year, shall be reduced to zero.

(i) AMENDMENTS TO OTHER PROVISIONS.—

(1) QUALIFICATION REQUIREMENT.—Section 401(a)(36) of the Internal Revenue Code of 1986, as added by section 402 of this Act, is amended by adding at the end the following:

“This term shall apply to any plan year during any period during which an amortization schedule under section 403 of the Pension Security and Transparency Act of 2005 is in effect.”

(2) PBGC LIABILITY LIMITED.—Section 4022 of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following new sentence:

“This term shall apply to any plan year during any period in which an election by a plan under section 301 of the Pension Protection Act of 2005 is in effect, then this section and section 404(a)(3) shall be applied by treating the first day of the first applicable plan year as the termination date of the plan. This section and section 404(a)(3) shall not apply to any applicable plan year for which an election under section 403(b) of such Act is in effect.”

(3) LIMITATIONS ON REDUCTIONS UNDER CERTAIN PLANS.—Section 404(a)(7)(C)(ii) of the Internal Revenue Code of 1986, as added by this Act, is amended by adding at the end the following new sentence: “This clause shall apply to any plan year beginning after such election is made by the plan sponsor.”

(4) NOTICE.—In the case of a plan amend- ment adopted in order to comply with this section, any notice required under section 4044(a)(3) of such Code shall be provided within 15 days of the effective date of such plan amendment. This subsection shall not apply to any plan unless such plan is maintained pursuant to one or more collective bargaining agreements between employer representatives and 1 or more employers.

(g) SPECIAL RULES FOR TERMINATION OF ELIGIBLE PLANS.—During any period in which an election under section 4041(c)(4) or 4042(i) of the Employee Retirement Income Security Act of 1974 is in effect under this section with respect to any eligible plan to which this subsection applies, the amount necessary to amortize the un- funded liability under the plan, determined for each applicable plan year, shall be reduced to zero.
adding at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual who is a participant in the plan by reason of such service by substituting such age for age 65.".

(b) AGGREGATE LIMIT ON BENEFIT GUARANTEE.—Section 202B(a) of such Act (29 U.S.C. 1322(b)) is amended by adding at the end the following: "If, as of such date, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining a specified age which is less than age 65, the first sentence of this paragraph shall be applied to an individual who is a participant in the plan by any such plan by reason of such service by substituting such age for age 65.".

(c) EFFECTIVE DATE.—The amendments made by this Act shall apply to benefits payable on or after the date of the enactment of this Act.

TITLE IV—FAIRNESS FOR RANK AND FILE EMPLOYEES

SEC. 401. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION PLANS WITHIN EMPLOYER DEFINED BENEFIT PLAN IN AT-RISK STATUS.

(a) In General.—Subsection (b) of section 409A of the Internal Revenue Code of 1986 (providing rules relating to funding under a non-qualified deferred compensation plan) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) REDUCTION IN ALLOWABLE DEFERRED COMPENSATION UPON BANKRUPTCY.—

(A) Upon the occurrence of an act of bankruptcy with respect to a plan after paragraph (3) the following new paragraph:

"(1) during any period in which a defined benefit plan to which section 412 applies in an at-risk status, assets are set aside (directly or indirectly) in a trust (or other arrangement), or transferred to such a trust or other arrangement, for purposes of paying deferred compensation under a nonqualified deferred compensation plan of the employer maintaining the defined benefit plan, or

"(ii) a nonqualified deferred compensation plan of the employer provides that assets will become restricted to the provision of benefits under the plan in connection with such at-risk status (or other similar financial measure determined by the Secretary) of the defined benefit plan, or assets are so restricted,

the employer shall reduce the amount of benefit under the non-qualified plan by the applicable percentage of underfunding in the pension plan.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage under paragraph (4) of section 412 of the Code is increased by 100 percent of the amount of such reduction. Such amount shall not be treated as a tax for purposes of section 26(b)(2).

(c) CONFIRMING AMENDMENTS.—Paragraphs (5) and (6) of section 409A(b) of such Code, as redesignated by subsection (a) of this subsection, are each amended by striking "or (3)" each place it appears and inserting "(3), or (4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers or reservations of assets after December 31, 2005.

SEC. 402. NONQUALIFIED DEFERRED COMPENSATION PLAN IN CONNECTION WITH PENSION PLAN TERMINATION BASED ON BANKRUPTCY REORGANIZATION.

(a) In General.—Section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

"(i) TERMINATION FAIRNESS STANDARD FOR NONQUALIFIED DEFERRED COMPENSATION PLANS IN CONNECTION WITH PENSION PLAN TERMINATIONS BASED ON BANKRUPTCY REORGANIZATION.—

"(1) IN GENERAL.—In any case in which a corporation is a plan sponsor of a defined benefit plan with respect to which a plan amendment is adopted that has the effect of terminating such plan under section 401(c) based on bankruptcy reorganization, or a termination of the plan initiated by the Pension Benefit Guaranty Corporation under section 4042 based on bankruptcy reorganization, in any case in which the plan is not sufficient for guaranteed benefits (within the meaning of section 411(d) of the Internal Revenue Code), any covered deferred compensation plan established or maintained by such plan sponsor after the date of the adoption of such plan amendment shall meet the termination fairness standard of this subsection with respect to such plan amendment.

(b) TERMINATION FAIRNESS STANDARD.—A covered deferred compensation plan established or maintained by a plan sponsor described in paragraph (1) meets the termination fairness standard of this subsection with respect to a plan amendment described in paragraph (1) if, during the 5-year period beginning on the date of the adoption of such plan amendment,

"(A) no amount of deferred compensation accrues to a disqualified individual under the terms of such covered deferred compensation plan (irrespective of whether the accrual in deferred compensation is expressed in the form of a promise, a guarantee, or any other representation), and

"(B) in the case of a covered deferred compensation plan, any distribution of accrued deferred compensation (including any distribution of deferred compensation made before adoption of such plan amendment) is made under such plan (or such amendment) to a disqualified individual.

(c) DEFINITIONS.—For purposes of this subsection—

"(A) NOTICE DATE.—The term ‘notice date’ means, with respect to a plan amendment described in paragraph (1), the case in which the plan sponsor after the date of the amendment is adopted that has the effect of terminating such plan under section 401(d), the date of the advance notice of intent to terminate provided pursuant to section 404(a)(2), and

"(B) TERMINATION FAIRNESS STANDARD.—The amendments made by this section shall apply to transfers or reservations of assets after December 31, 2005.

SEC. 403. TERMINATION FAIRNESS STANDARD FOR NONQUALIFIED DEFERRED COMPENSATION PLANS IN CONNECTION WITH PENSION PLAN TERMINATION BASED ON BANKRUPTCY REORGANIZATION.

(b) AGGREGATE LIMIT ON BENEFIT GUARANTEE.—Section 1002(b)(6) of such Act (29 U.S.C. 1322(b)(6)) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

"(4) REDUCTION IN ALLOWABLE DEFERRED COMPENSATION UPON BANKRUPTCY.—

(A) Upon the occurrence of an act of bankruptcy with respect to a plan after paragraph (3) the following new paragraph:

"(1) during any period in which a defined benefit plan to which section 412 applies in an at-risk status, assets are set aside (directly or indirectly) in a trust (or other arrangement), or transferred to such a trust or other arrangement, for purposes of paying deferred compensation under a nonqualified deferred compensation plan of the employer maintaining the defined benefit plan, or

"(ii) a nonqualified deferred compensation plan of the employer provides that assets will become restricted to the provision of benefits under the plan in connection with such at-risk status (or other similar financial measure determined by the Secretary) of the defined benefit plan, or assets are so restricted,

the employer shall reduce the amount of benefit under the non-qualified plan by the applicable percentage of underfunding in the pension plan.

(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage under paragraph (4) of section 412 of the Code is increased by 100 percent of the amount of such reduction. Such amount shall not be treated as a tax for purposes of section 26(b)(2).

(c) CONFIRMING AMENDMENTS.—Paragraphs (5) and (6) of section 409A(b) of such Code, as redesignated by subsection (a) of this subsection, are each amended by striking "or (3)" each place it appears and inserting "(3), or (4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers or reservations of assets after December 31, 2005.

SEC. 403. TERMINATION FAIRNESS STANDARD FOR NONQUALIFIED DEFERRED COMPENSATION PLANS IN CONNECTION WITH PENSION PLAN TERMINATIONS BASED ON BANKRUPTCY REORGANIZATION.

(a) In General.—Subsection (b) of section 409A of the Internal Revenue Code of 1986 (providing rules relating to funding under a non-qualified deferred compensation plan) is amended by redesignating paragraphs (4) and (5) of such Code, as redesignated under subsection (a) of this subsection, as each amended by striking "or (3)" each place it appears and inserting "(3), or (4)".

(b) CONFORMING AMENDMENTS.—Paragraphs (4) and (5) of section 412 of the Code are each amended by striking "or (3)" each place it appears and inserting "(3), or (4)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers or reservations of assets after December 31, 2005.
(C) DISQUALIFIED INDIVIDUAL.—The term ‘disqualified individual’ means a director or executive officer of the plan sponsor.

(D) TERMINATION BASED ON BANKRUPTCY REORGANIZATION.—A termination of a plan which is a distress termination under section 4042(c) or a termination instituted by the Pension Benefit Guaranty Corporation under section 4042 is ‘based on bankruptcy reorganization’ if such termination is based in whole or in part on the filing, by or against any person who is a contributing sponsor of such plan or a member of such person’s controlled group, of a petition seeking reorganization in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State (or such a case in which liquidation is sought has been converted to a case in which reorganization is sought).

(E) TITLE IV TERMINOLOGY.—Any term used in this subsection which is defined in section 4001(a) shall have the meaning provided such term in section 4001(a).

(4) SPECIAL RULES.—

(A) COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of implementing a distress termination of the plan under section 4041(c) of the Employee Retirement Income Security Act of 1974 based on an objection to the application to the court under section 4042, such coordination shall be treated as having been converted to a case in which reorganization is sought.

(B) MULTIPLE AMENDMENTS.—The Secretary shall issue regulations to prevent the avoidance of the purposes of this subsection through the use of 2 or more plan amendments rather than a single amendment.

(C) CONTROVERSY GROUPS, ETC.—For purposes of this subsection, all persons treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as 1 employer.

(D) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income attributable to such compensation or such income.

(5) COORDINATION.—The Secretary and the Secretary of the Treasury shall ensure, through the execution of an interagency memorandum of understanding among such Secretaries, that regulations, rulings, and interpretations issued by such Secretaries relating to the same matter over which both such Secretaries have responsibility under this section, and regulations, rulings, and interpretations relating to the same matter over which both such Secretaries have responsibility under this section, are no greater than the rights of a general creditor of the plan sponsor.

SEC. 4980H. FUNDING NONQUALIFIED DEFERRED COMPENSATION PLANS.

(a) IMPOSITION OF TAX IN THE EVENT OF A PENSION PLAN TERMINATION BASED ON BANKRUPTCY REORGANIZATION.—

(1) IN GENERAL.—In any case in which a corporation is a plan sponsor of a defined benefit plan with respect to which an amendment having the effect of a termination of the plan under section 4041(c) of the Employee Retirement Income Security Act of 1974 based on an objection to the application to the court under section 4042 is filed in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State (or such a case in which liquidation is sought has been converted to a case in which reorganization is sought), the amounts referred to in clause (iii) are available to satisfy the claims of the plan sponsor’s general creditors at all times (not merely after bankruptcy or insolvency), and

(iii) all amounts set aside (directly or indirectly) for purposes of paying the deferred compensation, and all income attributable to such amounts, remain (until made available for payment pursuant to such amendment having the effect of a termi-

(b) EXCISE TAX ON FUNDING NONQUALIFIED DEFERRED COMPENSATION PLANS IN THE EVENT OF A PENSION PLAN TERMINATION BASED ON BANKRUPTCY REORGANIZATION.—

(1) IN GENERAL.—Chapter 45 of the Internal Revenue Code of 1986 relating to qualified pension, etc., plans is amended by adding at the end the following new section:

SEC. 4980H. FUNDING NONQUALIFIED DEFERRED COMPENSATION PLANS.

(a) IMPOSITION OF TAX IN THE EVENT OF A PENSION PLAN TERMINATION BASED ON BANKRUPTCY REORGANIZATION.—

(1) IN GENERAL.—In any case in which a corporation is a plan sponsor of a defined benefit plan with respect to which an amendment having the effect of a termination of the plan under section 4041(c) of the Employee Retirement Income Security Act of 1974 based on an objection to the application to the court under section 4042 is filed in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State (or such a case in which liquidation is sought has been converted to a case in which reorganization is sought), the amounts referred to in clause (iii) are available to satisfy the claims of the plan sponsor’s general creditors at all times (not merely after bankruptcy or insolvency), and

(iv) some or all of the compensation of the disqualified individual which is deferred under such a plan is guaranteed by an insurance company, insurance service, or other similar organization.

(b) EXCEPTION FOR QUALIFIED PLANS.—Such rules shall not apply if—

(i) described in section 219(a)(5)(A), or

(ii) an eligible deferred compensation plan (as defined in section 457(b)) of an eligible employer described in section 457(c)(1)(A).

(c) PLAN INCLUDES ARRANGEMENTS, ETC.—For purposes of this paragraph, the term ‘plan’ includes any agreement or arrangement.

(d) DISQUALIFIED INDIVIDUAL.—The term ‘disqualified individual’ means a director or executive officer of the plan sponsor.

(4) TERMINATION BASED ON BANKRUPTCY REORGANIZATION.—A termination of a plan which is a distress termination under section 4042 of the Employee Retirement Income Security Act of 1974 or a termination instituted by the Pension Benefit Guaranty Corporation under section 4042 is ‘based on bankruptcy reorganization’ if such termination is based in whole or in part on the filing, by or against any person who is a contributing sponsor of such plan or a member of such person’s controlled group, of a petition seeking reorganization in a case under title 11, United States Code, or under any similar law of a State or political subdivision of a State (or such a case in which liquidation is sought has been converted to a case in which reorganization is sought).

(E) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income attributable to such compensation or such income.

(6) EFFECT OF WAIVER GRANTED BY SECRETARY.—To the extent that any requirement of the termination fairness standard of section 4980H(a)(2) of the Internal Revenue Code of 1986 waived by the Secretary of the Treasury with respect to any disqualified individual which is deferred under such a plan is further waived by any Secretary, that waiver shall not in any manner be applied to any similar law of a State or political subdivision of a State (or such a case in which liquidation is sought has been converted to a case in which reorganization is sought).

(7) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income attributable to such compensation or such income.

(8) TREATMENT OF EARNINGS.—References to deferred compensation shall be treated as including references to income attributable to such compensation or such income.
and section 206(g) of the Employee Retirement Income Security Act of 1974 are administered so as to have the same effect at all times.

"(g) WAIVER.—

(1) IN GENERAL.—In the case of any plan amendment having the effect of a termination described in subsection (a)(1), the Secretary may grant the application of any requirement of the termination fairness standard of subsection (a)(2) with respect to any disqualified individual who first com-
mences service for the plan sponsor after the notice date with respect to such plan amend-
ment. The Secretary may grant any such waiver in the case of any such plan amend-
ment which would be not inconsistent with such requirements and is in the interest of plan participants and beneficiaries.

(2) REQUIREMENTS FOR WAIVER.—A waiver may be granted under paragraph (1) only—

(A) upon the filing with the Secretary by the plan sponsor of an application for such waiver, in such form and manner as shall be prescribed in regulations of the Secretary.

(B) upon a showing, to the satisfaction of the Secretary, that such waiver is a business necessity for the plan sponsor, as determined under such regulations, and is in the interest of plan participants and beneficiaries, as determined under such regulations, and

(C) after the participants, in such form and manner as shall be provided in such regulations, have been notified of the filing of the application for the waiver and have been provided a reasonable opportunity to provide in advance comments to the Secretary regarding the proposed waiver.

(2) Clerical Amendment.—The table of sections for chapter 43 of such Code is amended by adding at the end the following new item:

"Sec. 4900H. Funding nonqualified deferred compensation plans."

(c) Effective Date.—The amendments made by this section shall apply—

(1) plan amendments adopted on or after May 10, 2005, and

(2) plan amendments adopted before such date, but after May 29, 1980, which would be required to be made under such regulations if such section as so in effect.

Part IX.—Other Benefits

TITLE V—FUNDING AND DEDUCTION RULES FOR MULTIEmployer Defined Benefit Plans and Related ProviSions

Subtitle A—Funding Rules

PART I—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 501. FUNDING RULES FOR MULTIEmployer Defined Benefit Plans.

(a) In General.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by section 206(g) of the Employee Retirement Income Security Act of 1974 (as amended by section (a) or section 4900H(a)(2) of title IV of the Internal Revenue Code of 1986 (as added by subsection (b)) based on a bankruptcy reorganization in a case under title 11 of the United States Code (or under any State law (or a political sub-

division of a State) pending on such date.

"SEC. 501. FUNDING RULES FOR MULTIEmployer Defined Benefit Plans."

"Sec. 304. (a) IN GENERAL.—For purposes of section 302, the accumulated funding defi-

cency of a multiemployer plan for any plan year is—

(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard ac-
count of the plan for all plan years (begin-
ning with the first plan year for which this part applies to the plan) over the total cred-
its to such account for all plan years; and

(2) if the multiemployer plan is in reorga-
nization for any plan year, the accumulated funding deficiency of the plan determined under subsection (a)(1) of section 4205 of the Employee Retirement In-

come Security Act of 1974, as amended, in the case of any amount amortized under section 302(b) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005).

(3) SPECIAL RULES FOR AMOUNTS FROM PLAN AMENDMENTS AND FOR WAIVER.—In the case of any amount amortized under section 302(b) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005), any such amount shall continue to be amortized under such section as so in effect.

(5) COMBINING AND OFFSETTING AMOUNTS TO AMORTIZE.—Any amounts prescribed by the Secretary of the Treasury, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entered into such combined amount, and

(B) may be offset against amounts re-

quired to be amortized under the other such paragraphs, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entered into such combined amount of the two amounts being offset is the greater.

(6) Interest.—The funding standard ac-
count (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

(7) Special Rules Relating to Charges and Credits to Funding Standard Account.—For purposes of this part—

(A) Withdrawal Liability.—Any amount received by a multiemployer plan in payment of all or part of an employer’s withdrawal liability under part I of subtitle E of title IV shall be considered an amount con-

tributed by the employer to or under the plan, The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer fund-

ing standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance fund-

ing for plan liabilities.

(B) Adjustments When a Multiemployer Plan Leaves Reorganization.—If a multi-

employer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the end of such immediately preceding plan year—

(i) shall be eliminated by an offsetting credit or charge (as the case may be), but shall be taken into account in the sub-

sequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding defi-
cency under section 4243(a) as of the end of the last plan year that the plan was in reor-
ganization.

(C) Plan Payments to Supplemental Program or Withdrawal Liability Payment Fund.—Any amount paid by a plan during a plan year as a payment with the Pension Benefit Guaranty Corporation pursuant to section 4222 of this Act or to a fund exempt under section 501(c)(22) of the Internal Revenue Code of 1986, shall be considered an amount prescribed by the Secretary of the Treasury to reduce the amount of contributions consid-

ered received by the plan for the plan year.
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"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer’s withdrawal liability under part 1 of subtitle B of title I of the Internal Revenue Code of 1986, and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary of the Treasury.

"(E) ELECTION FOR DEFERRED OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 4023(b)(7)(F) (as in effect before the date of the enactment of the Pension Security and Transparency Act of 2005) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (2B)(II) shall not apply to the amount so charged.

"(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 412 of the Internal Revenue Code of 1986 in determining the value of the plan.

"(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded vested liability under this section by reason of an increase in benefits which are payable under the terms of the plan for a period that does not exceed 14 years from the effective date of the amendment, paragraph (2)(B)(I) shall be applied separately with respect to each increase in unfunded vested liability by substituting the number of years of the period during which such liabilities are payable for ‘15’.

"(H) ADDITIONAL RULES.—

(1) ELECTION TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

(2) VALUATION OF ASSETS.—

(A) IN GENERAL.—For purposes of this part, the value of the plan’s assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account market values and which is permitted under regulations prescribed by the Secretary of the Treasury.

(B) ELECTION WITH RESPECT TO BONDS.—The value of the plan’s indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized cost basis, which will be applied separately with respect to each increase in unfunded vested liability by substituting the number of years of the period during which such liabilities are payable for ‘15’.

"(I) ADDITIONAL RULES.—

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"(I) ADDITIONAL RULES.—

(1) ELECTION TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

(2) VALUATION OF ASSETS.—

(A) IN GENERAL.—For purposes of this part, the value of the plan’s assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account market values and which is permitted under regulations prescribed by the Secretary of the Treasury.

(B) ELECTION WITH RESPECT TO BONDS.—The value of the plan’s indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized cost basis, which will be applied separately with respect to each increase in unfunded vested liability by substituting the number of years of the period during which such liabilities are payable for ‘15’.

"(I) ADDITIONAL RULES.—

(1) ELECTION TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

(2) VALUATION OF ASSETS.—

(A) IN GENERAL.—For purposes of this part, the value of the plan’s assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account market values and which is permitted under regulations prescribed by the Secretary of the Treasury.

(B) ELECTION WITH RESPECT TO BONDS.—The value of the plan’s indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized cost basis, which will be applied separately with respect to each increase in unfunded vested liability by substituting the number of years of the period during which such liabilities are payable for ‘15’.

"(I) ADDITIONAL RULES.—

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(2) VALUATION OF ASSETS.—

(A) IN GENERAL.—For purposes of this part, the value of the plan’s assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account market values and which is permitted under regulations prescribed by the Secretary of the Treasury.

(B) ELECTION WITH RESPECT TO BONDS.—The value of the plan’s indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized cost basis, which will be applied separately with respect to each increase in unfunded vested liability by substituting the number of years of the period during which such liabilities are payable for ‘15’.

"(I) ADDITIONAL RULES.—

(1) ELECTION TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

(2) VALUATION OF ASSETS.—

(A) IN GENERAL.—For purposes of this part, the value of the plan’s assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account market values and which is permitted under regulations prescribed by the Secretary of the Treasury.

(B) ELECTION WITH RESPECT TO BONDS.—The value of the plan’s indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized cost basis, which will be applied separately with respect to each increase in unfunded vested liability by substituting the number of years of the period during which such liabilities are payable for ‘15’.
be used by insurance companies to satisfy the liabilities under the plan.

"(7) Annual valuation.—For purposes of this section, the valuation of experience gains and losses and a valuation of the plan’s liability shall be made not less frequently than once every year, except that such valuation shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary of the Treasury.

"(8) Valuation date.—

(1) Current year.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the plan refers or within one month prior to the beginning of such year.

(ii) Use of prior year valuation.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100 percent of the plan’s current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(9) Adjustments.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(10) Change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan’s current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(11) Certain contributions deemed made.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but within the two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury.

"(d) Extension of amortization periods for multiemployer plans.—

(1) Automatic extension upon application by certain plans.—

(A) In general.—If the plan sponsor of a multiemployer plan submits to the Secretary of the Treasury an application for an extension for the period of years required to amortize any unfunded liability described in clause (ii), the Secretary of the Treasury may extend the amortization period for a period of time not in excess of 5 years as the Secretary of the Treasury determines that the Secretary of the Treasury makes the determination described in subparagraph (B). Such extension shall be in addition to any extension under paragraph (a) if the Secretary determines that—

(i) such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries, and

(ii) the failure to permit such extension would—

(I) result in a substantial risk to the voluntariness of the plan, or a substantial curtailment of plan benefit levels or employee compensation, and

(II) be adverse to the interests of plan participants in the aggregate.

(B) Determination.—The Secretary makes grant an extension under subparagraph (A) if the Secretary determines that—

(i) such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries, and

(ii) the failure to permit such extension would—

(I) result in a substantial risk to the voluntariness of the plan, or a substantial curtailment of plan benefit levels or employee compensation, and

(II) be adverse to the interests of plan participants in the aggregate.

(C) Annual valuation.—The Secretary of the Treasury shall act upon any application for an extension under this paragraph within 180 days of the submission of such application. In the case of an application for an extension under this paragraph, the Secretary shall provide notice to the plan detailing the specific reasons for the rejection, including references to the criteria set forth above.

"(3) Advance notice.—

(A) In general.—The Secretary of the Treasury shall, before granting an extension under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 400(a)(2)(D)) with respect to the affected plan. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

(B) Conforming information.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).

"(b) Shortfall Funding Method.—

(1) In general.—A multiemployer plan meets the requirements of paragraph (2) if the plan sponsor adopts, use, or cease using the shortfall funding method and such adoption, use, or cessation of such method, shall be deemed approved by the Secretary of the Treasury under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986.

(2) Criteria.—A multiemployer pension plan meets the criteria of this clause if—

(A) the plan has not used the shortfall funding method during the 5-year period ending on the day before the date the plan is to use the method under paragraph (1); and

(B) the plan is not operating under an amortization period extension under section 302(d) of such Act and did not operate under such an extension during such 5-year period.

(3) Shortfall Funding Method Defined.—For purposes of section 302 of the Employee Retirement Income Security Act of 1974, the term ‘‘shortfall funding method’’ means the shortfall funding method described in Treasury Regulations section 1.412(c)-1(2) (26 C.F.R. 1.412(c)-1(2)).

"(4) Benefit restrictions to apply.—The benefit restrictions under section 302(c)(7) of such Act and section 412(d)(7) of such Code shall apply during any period a multiemployer plan is on the shortfall funding method pursuant to this subsection.

"(C) Special rule for certain amortization extensions.—If the Secretary of the Treasury grants an extension under section 412(c) of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasurer under section 302(d), the extension (and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act, including the use of the rate of interest determined under section 6221(b) of such Code.

"(D) Additional funding rules for multiemployer plans in endangered or critical status.—

(1) Annual valuation.—

(A) In general.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this Act) is amended by inserting after section 304 the following new section:

"Sec. 502. ADDITIONAL FUNDING RULES FOR MULTIEmployER PLANS IN ENANGERED OR CRITICAL STATUS.

(a) General Rule.—For purposes of this part, in the case of a multiemployer plan—

(1) if the plan is in endangered status—

(A) the plan sponsor shall adopt and implement a funding improvement plan in accordance with the requirements of subsection (c), and

(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and

(2) if the plan is in critical status—

(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (e), and

(B) the requirement of subsection (f) shall apply during the rehabilitation plan adoption period and the rehabilitation period.

(b) Determination of endangered and critical status.—For purposes of this section—

(1) Endangered status.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and either—

(A) the plan’s funded percentage for such plan year is less than 80 percent, or

(B) the plan has an accumulated funding deficiency for such plan year, it is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years,
taking into account any extension of amortization periods under section 304(d).

For purposes of this section, a plan described in subparagraph (B) shall be treated as in seriously endangered status.

(2) TECHNICAL GUARDIAN.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

"(A) A plan is described in this subparagraph if—

"(i) the funded percentage of the plan is less than 65 percent, and

"(ii) the sum of—

"(I) the market value of plan assets, plus

"(II) the present value of nonforfeitable benefits as of the beginning of the plan year, is less than the present value of all benefits of active participants in such multiemployer plan, the plan actuary to certify the Secretary of the Treasury—

"(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year, and

"(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is in seriously endangered status necessary to meet the applicable requirements if the plan sponsor assumes that there are no increases in contributions under the plan other than the increases necessary to meet the requirements after future benefit accruals have been reduced to the maximum extent permitted by law, and

"(B) Actuarial projections of assets and liabilities.—

"(i) In general.—In making the determinations and calculations under this subsection, the plan actuary shall make projections required for the current and succeeding plan years, using reasonable actuarial estimates, assumptions, and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The projected present value of liabilities as of the beginning of such year shall be determined based on the actuarial valuation for the preceding plan year.

"(ii) Determinations of future contributions.—Any actuarial projection of plan assets shall assume—

"(I) reasonably anticipated employer contributions for the current and succeeding plan years, plus administrative expenses for such plan years;

"(II) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year remain in effect for succeeding plan years;

"(III) reasonably anticipated contributions for the current and succeeding plan years, not taking into account any extension of amortization periods under section 304(d), or

"(D) A plan is described in this subparagraph if—

"(i) the plan has an accumulated funding deficiency for the current plan year, not taking into account any extension of amortization periods under section 304(d), or

"(ii) the plan is projected to have an accumulated funding deficiency for any of the 3 succeeding plan years (4 succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any extension of amortization periods under section 304(d).

(C) A plan is described in this subparagraph if—

"(i) the plan’s normal cost for the current plan year, plus interest (determined at the rate used for determining costs under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

"(ii) the present value of the reasonably anticipated employer contributions for the current plan year;

"(iii) the present value of the reasonably anticipated employer contributions for the current plan year, or is projected to have such a deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 304(d).

(D) A plan is described in this subparagraph if—

"(i) the market value of plan assets, plus

"(ii) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year remain in effect for succeeding plan years, is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

(S) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

(A) In general.—During the 90-day period beginning on the first day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary of the Treasury—

"(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year, and

"(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is in seriously endangered status necessary to meet the applicable requirements if the plan sponsor assumes that there are no increases in contributions under the plan other than the increases necessary to meet the requirements after future benefit accruals have been reduced to the maximum extent permitted by law, and

(B) Actuarial projections of assets and liabilities.—

"(i) In general.—In making the determinations and calculations under this subsection, the plan actuary shall make projections required for the current and succeeding plan years, using reasonable actuarial estimates, assumptions, and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The projected present value of liabilities as of the beginning of such year shall be determined based on the actuarial valuation for the preceding plan year.

"(ii) Determinations of future contributions.—Any actuarial projection of plan assets shall assume—

"(I) reasonably anticipated employer contributions for the current and succeeding plan years, plus administrative expenses for such plan years;

"(II) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year remain in effect for succeeding plan years, or

"(III) that employer contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines that there have been no significant demographic changes that would make such assumption unreasonable;

"(C) Penalty for failure to secure timely actuarial certification.—Any failure of the plan’s actuary to certify the plan’s status under this subsection by the date specified in subparagraph (A) shall be treated for purposes of section 602(c)(2) as a failure or refusal by the plan administrator to file the annual report, to file the annual report, to file the annual report required under section 101(b)(4).

"(D) Notice.—In any case in which a multiemployer plan is certified to be in endangered status under subparagraph (A), the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary of Labor.

"(E) Funding Improvement Plan Must Be Adopted for Multiemployer Plans in Endangered Status.—

"(1) In general.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor, in accordance with this subsection—

"(A) shall adopt a funding improvement plan not later than 240 days following the required date for the actuarial certification of endangered status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the funding improvement plan—

"(i) in the case of a plan in seriously endangered status, the plan sponsor determine, in consultation with the bargaining parties 1 or more schedules showing revised benefit structures, revised contributions, or both, which, if adopted and followed, may reasonably be expected to enable the multiemployer plan to meet the applicable requirements under paragraph (3) in accordance with the funding improvement plan, including a description of the reductions in future benefit accruals and increases in contributions that the plan sponsor determines reasonably necessary to meet the applicable requirements if the plan sponsor assumes that there are no increases in contributions under the plan other than the increases necessary to meet the requirements after future benefit accruals have been reduced to the maximum extent permitted by law, and

...(Continues)
(B) COORDINATION WITH CHANGES IN STATUS.—

(i) PLANS NO LONGER IN ENDANGERED STATUS.—If the plan’s actuary certifies under subsection (b)(3)(A) for a plan year that any funding plan adoption period or funding improvement period that the plan is no longer in endangered status and is not in critical status, the plan sponsor shall adopt a rehabilitation plan or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.  

(ii) PLANS IN CRITICAL STATUS.—If the plan’s actuary certifies under subsection (b)(3)(A) for a plan year that any funding plan adoption period or funding improvement period that the plan is in critical status, the plan shall end as of the close of the plan year preceding the first plan year in the rehabilitation period with respect to such status.

(C) PLANS IN ENDANGERED STATUS AT END OF PERIOD.—If the plan’s actuary certifies under subsection (b)(3)(A) for the first plan year following the close of the period described in subparagraph (A) that the plan is in endangered status, the provisions of this subsection shall apply as if such first plan year were an initial determination year, except that the plan may not be amended in a manner inconsistent with a funding improvement plan in effect for the preceding plan year until a new funding improvement plan is adopted.

5. SPECIAL RULES FOR CERTAIN UNDERFUNDING PLANS.

(A) IN GENERAL.—Except as provided in subparagraph (B), if the funded percentage of a plan in seriously endangered status was 70 percent or less as of the beginning of the initial determination year, the following rules shall apply in determining whether the requirements of paragraph (3)(C)(i) are met:

(i) the funded percentage as of the close of the funding improvement period must equal or exceed a percentage which is equal to the sum of:

(I) such percentage as of the beginning of such period, plus

(II) 20 percent of the difference between 100 percent and the percentage under subparagraph (D);

(B) SPECIAL RULES FOR PLANS WITH FUNDED PERCENTAGE OVER 70 PERCENT.—If the funded percentage described in subparagraph (A) was more than 70 percent but less than 80 percent as of the beginning of the initial determination year, the following rules shall apply:

(i) subparagraph (A) shall apply if the plan’s actuary certifies, within 30 days after the certification under subsection (b)(3)(A) for the initial determination year, that, based on the terms of the plan and the collective bargaining agreements in effect at the time of such certification, the plan is not projected to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, and

(ii) if there is a certification under clause (i), the plan may, in formulating its funding improvement plan, only take into account the rehabilitation plan (A) for plan years in the funding improvement period beginning on or before the date on which the last of the collective bargaining agreements described in paragraph (3)(C)(i) expires. Notwithstanding the clause (i), if for any plan year ending after the date described in clause (ii) the plan actuary certifies (at the time of the annual certification under subsection (b)(3)(A) for the plan year) that such plan year is expected based on the terms of the plan and collective bargaining agreements in effect at the time of such certification, the plan is not projected to be able to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, the plan may continue to adopt a rehabilitation plan or funding improvement period for the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.
(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to emerging from critical status in accordance with the rehabilitation plan. The schedule or schedules described in subparagraph (A) shall reflect reductions in future benefit accruals and increases in contributions that the plan sponsor determines are reasonably necessary to emerge from critical status. One schedule shall be designated as the default schedule and such schedule shall assume that there are no increases in contributions under the plan other than the increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under section 204(g)) have been reduced to the maximum extent permitted by law.

(2) Exception for years after process begins.—Paragraph (1) shall not apply to a plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

(3) Rehabilitation Plan.—For purposes of this section—

(A) in general.—A rehabilitation plan is a plan which consists of

(i) actions which will enable, under reasonable actuarial assumptions, the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures (including plan mergers and consolidations), reductions in future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245).

Such plan shall include the schedules required under subparagraph (1)(B)(i). If clause (ii) applies, such plan shall set forth the alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

(B) Updates to Rehabilitation Plan and Schedules.—

(1) Rehabilitation Plan.—The plan sponsor shall provide the rehabilitation plan and shall file the update with the plan’s annual report under section 104.

(ii) Schedules.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that the schedule or schedules described in paragraph (1)(B)(i) shall be updated at least once every 3 years.

(iii) Duration of Schedule.—A schedule of contribution rates provided by the plan sponsor by bargaining agreement or in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

(iv) Default Schedule.—If the collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered critical status expires and, after receiving a schedule from the plan sponsor under paragraph (2)(A), the plan has not adopted a collective bargaining agreement with terms consistent with such a schedule, the default schedule described in paragraph (1)(B)(i) shall to that extent be deemed to be in effect with respect to those bargaining parties.

(4) Rehabilitation Period.—For purposes of this section—

(A) in general.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multiemployer plan following the earlier of—

(i) the second anniversary of the adoption of the rehabilitation plan, or

(ii) the expiration of the collective bargaining agreements in effect on the date of the initial actuarial certification of final status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

If a plan emerges from critical status as provided in subparagraph (A), the rehabilitation period shall end with the plan year preceding the plan year for which the determination under subparagraph (A) is made.

(B) Emergence.—A plan in critical status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(5)(A), that the plan is not projected to have an accumulated funding deficiency for the plan year or any of the 9 succeeding plan years, without regard to any amortization or any extension of amortization periods under section 206(d).

(5) Penalty if No Rehabilitation Plan Adopted.—A failure of a plan sponsor to adopt a rehabilitation plan by the date specified in paragraph (1)(A) shall be treated for purposes of section 502(c)(2) as a failure or refusal to file the annual report required to be filed with the Secretary under section 101(b)(4).

(6) Rehabilitation Plan Adoption Period.—For purposes of this subsection, the term ‘rehabilitation plan adoption period’ means the period beginning on the date of the certification under paragraph (1)(B)(i) for the initial critical year and ending on the first day of the rehabilitation period.

(7) Limitation on Reduction in Rates of Future Accruals.—Any reduction in the rate of future accruals under any schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accruals below—

(A) a monthly benefit (payable as a single life annuity commencing at the participant’s normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the default schedule to the default schedule that established lower or higher accrual and contribution rates than the rates otherwise described in this paragraph.

(8) Employer Impact.—For the purposes of this section, the plan sponsor shall consider the impact of the rehabilitation plan and contribution schedules authorized by this section to bargaining parties with fewer than 500 employees and shall implement the plan and contribution schedules in a manner that encourages participation in the plan and minimizes financial harm to employers and their workers.

(9) Rules for Operation of Plan During Adoption and Rehabilitation Period.—

(A) Compliance with Rehabilitation Plan.—

(i) A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

(ii) Special Rules for Benefit Increases.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increases are paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the plan’s funding status, the plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

(B) Restriction on Lump Sums and Similar Benefits.—

(i) Lump Sums.—A plan in critical status may not provide for the payment of a lump sum or other similar payment in the form of a single premium payment or otherwise distributed, unless the amount of such payment is paid by the employer under a collective bargaining agreement.

(ii) Other Benefits Provided.—A plan in critical status may not provide for the payment of any annuity or any other benefit under a collective bargaining agreement.

(10) Default Schedule.—

(A) in general.—A rehabilitation plan is in critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 206(g), the plan shall not pay—

(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 206(b)(1)(G))

(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

(iii) any other payment specified by the Secretary of the Treasury by regulations.

(B) Exception.—Subparagraph (A) shall not apply to a benefit which under section 206(c)(2) is paid for out of a multiemployer plan.

(C) Amendments to Plan.—For purposes of subsection (b)(3)(D), an amendment is required as a condition of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, unless the plan actuary certifies that such increases are paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the plan’s funding status, the plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period the schedule contemplated in the rehabilitation plan.

(D) Amendments to Plan.—

(i) In General.—The rehabilitation plan for a plan in critical status is the 10-year plan adopted on the first day of the initial critical year, or

(ii) the expiration of the collective bargaining agreements in effect on the date of the initial actuarial certification of final status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

(11) Effect of Amendments.—

(A) In General.—For purposes of section 404(d).

(B) Mergers and Consolidations.—

(i) In General.—If the collective bargaining units which the plan sponsor determines to be the most significant units which the plan sponsor determines to be the most significant

(ii) In General.—Any reduction in the level of contributions, other than a reduction in the level of contributions, to which the plan sponsor determines to be appropriate for any period of service, or

(iii) any new direct or indirect exclusion of younger or newly hired employees from eligibility for any benefit increase

(iv) Suspensions of contributions with respect to any period of service, or

(v) any new direct or indirect exclusion of employees from eligibility for any benefit increase

(B) Special Rules for Benefit Increases.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increases are paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the plan’s funding status, the plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

(12) Restriction on Lump Sums and Similar Benefits.—

(A) In General.—Effective on the date the notice of certification of the plan’s critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 206(g), the plan shall not pay—

(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 206(b)(1)(G))

(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

(iii) any other payment specified by the Secretary of the Treasury by regulations.

(B) Exception.—Subparagraph (A) shall not apply to a benefit which under section 206(c)(2) is paid for out of a multiemployer plan.

(C) Amendments to Plan.—For purposes of subsection (b)(3)(D), an amendment is required as a condition of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, unless the plan actuary certifies that such increases are paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the plan’s funding status, the plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period.

(D) Amendments to Plan.—

(i) In General.—The rehabilitation plan for a plan in critical status is the 10-year plan adopted on the first day of the initial critical year, or

(ii) the expiration of the collective bargaining agreements in effect on the date of the initial actuarial certification of final status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

(13) Amendments Disregarded in Withdrawing Liability Determination.—Any benefit reductions under this subsection shall be disregarded in determining a plan’s unfunded vested benefits liability under section 4201.
qualification under part I of subsection D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

(5) FAILURE TO MEET REQUIREMENTS.—

(A) In the case of a plan described under section 304(c) of the Internal Revenue Code of 1986, or a continuation of such a plan, a plan shall be treated as having an accumulated funding deficiency for purposes of section 4971 of such Code for the last plan year in such period (and each succeeding plan year until such requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

(B) WAIVER.—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive any requirement of section 4971 of such Code to the extent that the payment of such tax would be excessive or otherwise inequitable in light of the failure involved.

(C) EXPEDITED RESOLUTION OF PLAN SPONSOR DISPUTES.—If, within 60 days of the due date for adoption of a funding improvement plan under subsection (c) or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not adopted a funding improvement plan or rehabilitation plan, then any members of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan.

(D) NONBARGAINED PARTICIPATION.—

(1) BOTH BARGAINED AND NONBARGAINED EMPLOYER-PARTICIPANTS.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are members of labor organizations and other employees who are not so covered, if the plan is in endangered status or in critical status, benefits of any kind and any modifications of the plan shall only be provided to those employees who are members of labor organizations, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the plan and the employer contributes active bargaining agreements in effect when the plan entered endangered or critical status.

(2) NONBARGAINED EMPLOYEES ONLY.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining parties, and its participation agreement with the plan was a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e).

(E) DETERMINATION BY A COLLECTIVE BARGAINING AGREEMENT.—The determination as to whether an employee covered by a collective bargaining agreement for purposes of this Act is covered under section 304(c)(3) of such Act shall be made without regard to the special rule in Treasury Regulation section 1.4971-6 of the Treasury Department.

(1) DEFINITIONS; ACTUARIAL METHOD.—For purposes of this section—

(1) BARGAINING PARTY.—The term ‘bargaining party’ means—

(A) (d) except as provided in clause (ii), an employer who has an obligation to contribute under the plan; or

(ii) in the case of a plan described under section 304(c) of the Internal Revenue Code of 1986, a continuation of such a plan, the association of employers that is the employer settlor of the plan; and

(B) an employer which, for purposes of collective bargaining, represents plan participants employed by an employer who has an obligation to contribute under the plan.

(2) FUNDED PERCENTAGE.—The term ‘funded percentage’ means the percentage equal to a fraction—

(A) the numerator of which is the value of the plan’s assets, as determined under section 304(c)(2), and

(B) the denominator of which is the accrued liability of the plan, determined using actuarial assumptions described in section 304(c)(3).

(3) ACCUMULATED FUNDING DEFICIENCY.—The term ‘accumulated funding deficiency’ has the meaning given such term in section 304(a).

(4) ACTIVE PARTICIPANT.—The term ‘active participant’ means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

(5) INACTIVE PARTICIPANT.—The term ‘inactive participant’ means, in connection with a multiemployer plan, a participant, or the beneficiary or alternate payee of a participant, who is not in covered service under the plan.

(6) PAY STATUS.—A person is in pay status under a multiemployer plan if, for the plan years beginning after 2005, such person is entitled to such a benefit under the plan.

(7) OBLIGATION TO CONTRIBUTE.—The term ‘obligation to contribute’ has the meaning given such term in section 304(c)(22)(A).

(8) ACTUARIAL METHOD.—Notwithstanding any other provision of this section, the actuary’s determinations with respect to a plan’s normal, vested, and accrued liabilities, and improvements in a plan’s funded percentage under this section shall be based upon the unit credit funding method (whether or not that method is used for the plan’s actuarial valuation).

(9) PLAN SPONSOR.—In the case of a plan described under section 4971 of such Code, the meaning of plan sponsor shall be determined with the meaning of collective bargaining agreements as if a plan was adopted by the plan sponsor.

(10) PLAN.—Any plan administered by a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e) if the plan sponsor has not adopted a funding improvement or rehabilitation plan under subsection (c) or (e) of that section by the deadline established in that section, with an obligation to contribute with respect to the multiemployer plan or an employee organization that represents active participants in the multiemployer plan, for an order compelling the plan sponsor to adopt a funding improvement or rehabilitation plan.

SEC. 503. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.

(1) IN GENERAL.—The amendment made by this section shall apply with respect to plan years beginning after December 31, 2005.

(2) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits, the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on any restoration or accrual of such benefits would otherwise apply by reason of any such amendments.
(42 U.S.C. 1324(d)(1)) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1324(d)(1)) is amended—(1) by striking “3 plan years” the second place it appears and inserting “3 plan years”; and
(2) by adding at the end the following new sentence: “If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor shall make the comparison under this paragraph at least annually until the plan sponsor determines that the plan will not be insolvent in any of the next 5 plan years.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made in plan years beginning after 2006.

SEC. 504. SPECIAL RULE FOR CERTAIN BENEFITS FUNDED UNDER AN AGREEMENT APPROVED BY THE PENSION BENEFIT GUARANTY CORPORATION.

In the case of a multiemployer plan that is a party to an agreement that was approved by the Pension Benefit Guaranty Corporation prior to June 30, 2006, and that—(1) was in effect on January 1, 2006; and
(2) provides for special withdrawal liability rules under section 4203(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1383), the amendments made by sections 201, 202, 211, and 212 of this Act shall not apply to the benefit increases under any plan amendment adopted prior to June 30, 2006, that are funded pursuant to such agreement if the plan is funded in compliance with such agreement (and any amendments thereto).

SEC. 505. WITHDRAWAL LIABILITY REFORMS.

(a) REPEAL OF LIMITATION ON WITHDRAWAL LIABILITY OF EMPLOYERS.—(1) IN GENERAL.—Subsections (b) and (d) of section 4225 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) are repealed.

(b) CONFORMING AMENDMENTS.—Subsections (c) and (e) of section 4225 of such Act are redesignated as subsections (b) and (c), respectively.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after January 1, 2006.

(d) WITHDRAWAL LIABILITY CONTINUES BY WORK CONTRACTED OUT.—(1) IN GENERAL.—Clause (i) of section 4225(b)(1) of such Act (29 U.S.C. 1362(b)(2)(A)) is amended by inserting “or to an entity or entities owned or controlled by the employer” after “to another location”.

SEC. 506. SPECIAL RULES FOR MULTIPLE EMPLOYER PLANS OF CERTAIN CO-OPERATIVES.

(a) GENERAL RULE.—Except as provided in this section, if a plan in existence on July 26, 2005, was an eligible cooperative plan for its plan year which includes such date, the amendment made by this subtitle shall not apply to plan years beginning before the earlier of—

SEC. 511. FUNDING RULES FOR MULTIEmployER PLANS.

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (as added by this Act) is amended by inserting after section 430 the following new section:

SEC. 431. MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS.

(a) IN GENERAL.—For purposes of section 412, the accumulated funding deficiency of a multiemployer plan for any plan year is—(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, of the difference (if any) between the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this plan applies to the plan) over the total credits to such account for such years, and
(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243 of the Employee Retirement Income Security Act of 1974.

(b) FUNDING ACCOUNT.—(1) ACCOUNT REQUIRED.—Each multiemployer plan to which this part applies shall establish and maintain a funding standard account (determined without regard to the meaning of section 412(d)(3)) for each prior plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years, the net experience gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years, and the amount necessary to amortize in equal annual installments any funding deficiency (within the meaning of section 412(d)(3)) for the plan year, and
(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

(1) the first plan year for which the plan ceases to be an eligible cooperative plan, or
(2) January 1, 2017.

(b) ELIGIBLE COOPERATIVE PLANS.—For purposes of section 412, a multiemployer plan is an eligible cooperative plan if—(1) the plan is an eligible cooperative plan under section 4210(b) of such Act (29 U.S.C. 1383); or
(2) the plan is a plan described in section 431(b)(4) of the Employee Retirement Income Security Act of 1974 which is not described in paragraph (1) of subsection (b) of section 4210(b), or
(3) organizations described in section 1381(a) of such Code more than 50 percent of the ownership or capital and profits interests of which are held—(A) by producers of agricultural products, or
(B) organized in section 1381(a) of such Code meeting the requirements of subparagraph (A) of section 431(b)(4) of the Employee Retirement Income Security Act of 1974.

(c) EFFECTIVE DATE.—Section 412(d)(3) shall not apply to plan years beginning before the earlier of—

(1) the first plan year for which the plan ceases to be an eligible cooperative plan, or
(2) January 1, 2017.

(d) LIABILITY OF INSOLVENT EMPLOYERS.

(1) IN GENERAL.—In the case of a multiemployer plan that is insolvent under section 4245(d)(1) of the Employee Retirement Income Security Act of 1974 which is not described in paragraph (1), or—(A) by producers of agricultural products, or
(B) organizations described in section 1381(a) of such Code meeting the requirements of subparagraph (A) of section 431(b)(4) of the Employee Retirement Income Security Act of 1974.

(e) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(f) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(g) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(h) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(i) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(j) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(k) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(l) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(m) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(n) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(o) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(p) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(q) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(r) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(s) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(t) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(u) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(v) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(w) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(x) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(y) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

(z) SEC. 511. FUNDING RULES FOR MULTIEMPLOYER PLANS.

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‘(7) Special rules relating to charges and credits to funding standard account.—For purposes of this part—

(A) Withdrawal liability.—Any amount received by the employer in satisfaction of its withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan’s funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

(B) Adjustments when a multiemployer plan leaves reorganization.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

‘(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

‘(ii) shall be taken into account in subsequent plan years to the extent of any accumulated funding deficiency over 30 plan years.

The preceding sentence shall not apply to the extent any accumulated funding deficiency under section 4243(a) of such Act as of the end of the last plan year that the plan was in reorganization.

(C) Penalties to supplement program or withdrawal liability payment fund.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

(D) Interim withdrawal liability payments.—Any amount paid by an employer pending a final determination of the employer’s withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan administrator pursuant to section 4202 of such Act or to a fund exempt under section 501(c)(22) pursuant to section 4203 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

‘(i) 1990 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over the lesser of the value of the plan’s assets determined under paragraph (2).

(ii) 1990 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over the lesser of the value of the plan’s assets determined under paragraph (2).

(E) Full-funding limitation.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include any benefits which are not required to be amortized under the plan after the termination of the plan (taking into consideration section 411(3)).

F. Current Liabilities or purposes of this paragraph—

(G) In general.—The term ‘current liability’ means all liabilities to employees and their beneficiaries under the plan.

(H) Treatment of unpredictable contingent event benefits.—For purposes of clause (i), any benefit contingent on an event other than—

(i) age, service, compensation, death, or disability, or

(ii) an event which is reasonably and reliably predictable (as determined by the Secretary), shall not be taken into account until the event on which the benefit is contingent occurs.

(I) Interest rate used.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

(J) Mortality tables.—Commissioners standard table.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary which is based on the prevailing commissioners’ standard table (described in section 807(d)(6)(A)) used to determine reserves for group annuity contracts issued on January 1, 1993.

(K) Secretarial authority.—The Secretary by regulation prescribed for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

(L) Separate mortality tables for the disabled.—Notwithstanding clause (iv)—

(i) In general.—The Secretary shall establish mortality tables which may be used in lieu of the tables under clause (iv) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1985, and for individuals whose disabilities occur in plan years beginning or after such date.

(ii) Special rule for disabilities occurring after 1984.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.
“(vi) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary by regulation, update the tables to reflect the actual experience of pension plans and projects in such experience.

(b) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan’s current liability for purposes of this paragraph—

“(I) IN GENERAL.—If any rate of interest used under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

“(II) PERMISSIBLE RANGE.—For purposes of this subparagraph—

“(i) In general.—Except as provided in subclause (II), the permissible range means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

“(II) SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonable, the Secretary may prescribe a lower rate, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

“(iii) ASSESSMENT.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

“(I) determined without taking into account the experience of the plan and reasonable expectations, but

“(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

“(7) ANNUAL VALUATION.—(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan’s liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.

“(B) VALUATION DATE.—(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within 30 days before which the valuation refers or within one month prior to the beginning of such year.

“(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are less than 100 percent of the plan’s current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

“(8) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

“(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan’s current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

“(9) CHARTERED CONTRIBUTIONS DERIVED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, the value of two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary.

“(d) EMERGENCY AMORTIZATION PERIODS FOR MULTIEmployER PLANS.—

“(1) AUTOMATIC EXTENSION UPON APPLICATION BY CERTAIN PLANS.—(A) IN GENERAL.—If the plan sponsor of a multiemployer plan—

“(i) submits to the Secretary an application for an extension of the period of time required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), and

“(ii) includes with the application a certification of the plan’s actuary described in subparagraph (B), the Secretary shall extend the amortization period for the period of time (not in excess of 5 years) specified in the application. Such extension shall be in addition to any extension under paragraph (2).

“(B) CRITERIA.—A certification with respect to a multiemployer plan is described in this subparagraph if the plan’s actuary certifies that, based on reasonable assumptions, the plan is not at risk and the extension is necessary, by regulation update the requirements prescribed by the Secretary.

“(C) ACTION BY SECRETARY.—The Secretary shall consider any relevant information from the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension (and any modification thereof) shall be applied and administered under the rules of such sections in effect before the enactment of this Act, including the use of the rate of interest determined under section 6621(b) of such Code.

“SEC. 512. ADDITIONAL FUNDING RULES FOR MULTIEmployER PLANS IN ENANGerED OR CRITICAL STATUS.

“(a) GENERAL RULE.—For purposes of this part, in the case of a multiemployer plan—

“(1) if the plan is in endangered status or critical status,

“(B) the requirements of subsection (f) shall apply during the funding plan adoption period and the funding improvement period.

“(2) if the plan is in critical status—

“(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (c), and

“(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and

“(C) ACTION BY SECRETARY.—The Secretary shall act upon any application under subsection (a) if the Secretary finds that such application is not in substantial compliance with the requirements of such subsection, and

“(I) EN�DERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and—

“(1) the plan’s funded percentage for such plan year is less than 80 percent, or

“(B) the plan has an accumulated funding deficiency for such plan year which is expected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 4331. For purposes of this section, a plan described in subparagraph (B) shall be treated as in seriously endangered status.

“(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

“(A) A plan is described in this subparagraph if—

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The funding improvement period, whichever is

is less than the present value of all benefits projected to have such a deficiency for any of the

projected to have such a deficiency for any of the current plan year, or is projected to have such a deficiency for any of the succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years (plus administrative expenses for such plan years).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, taking into account any extension of amortization periods under section 431(d).

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.

is less than the present value of all benefits projected to have such a deficiency for any of the succeeding plan years, or is projected to have such a deficiency for any of the succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years.
‘‘(i) PLANS IN CRITICAL STATUS.—If the plan’s actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period prior to the date on which the last of the collective bargaining agreements designated as the default schedule and such assumptions, to achieve a funding deficiency for purposes of section 4971 for the plan year ending after the date described in paragraph (1)(A) shall be treated for purposes of section 432(c)(2) of such Act as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary of Labor under section 101(b)(4) of such Act.

(c) DURATION OF SCHEDULE.—During the plan adoption period—

(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement to the multiemployer plan that provides for—

(i) an increase in the plan’s funded percentage, or

(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.

Actions under subparagraph (C) include applications for extensions of amortization periods under section 431(d), use of the short-term funding method in making funding standard account computations, amendments to the plan’s benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

(2) COMPLIANCE WITH FUNDING IMPROVEMENT PLAN.—

(A) IN GENERAL.—A plan may not be amended to adopt a funding improvement plan under subsection (c) so as to be inconsistent with the funding improvement plan.

(B) NO REDUCTION IN CONTRIBUTIONS.—A plan sponsor may not during any funding improvement period adopt a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

(i) a reduction in the level of contributions for any participants, or

(ii) a suspension of contributions with respect to any period of service, or

(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

(C) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to increase benefits, including future benefit accruals, unless—

(A) the case of a plan in seriously endangered status, the plan actuary certifies that, after taking into account the benefit increase, the plan is still reasonably expected to meet the requirements of subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan, and

(B) the case of a plan not in seriously endangered status, the actuary certifies that such increase is paid for out of contributions not required by the funding improvement plan to meet the requirements of subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan.

(2) EXCEPTION FOR YEARS AFTER PROCESSES BEGIN.—Paragraph (1) shall not apply to a
plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

(3) REHABILITATION PLAN.—For purposes of this section—

(A) IN GENERAL.—A rehabilitation plan is a plan which consists of—

(i) actions which will enable, under reasonable assumptions, the plan to cease to be in critical status by the end of the rehabilitation period, and may include reductions of benefits (including contributions) and contributions to future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures to emerge from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245 of the Employee Retirement Income Security Act of 1974).

(B) UPDATES TO REHABILITATION PLAN AND SCHEDULES.—

(i) REHABILITATION PLAN.—The plan sponsor shall annually update the rehabilitation plan and shall file the update with the plan’s annual report under section 104 of the Employee Retirement Income Security Act of 1974.

(ii) SCHEDULES.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that a plan may not be amended to adopt a contribution schedule different from the one described in paragraph (1)(B)(i) unless the plan is in rehabilitation plan adoption period and shall be updated at least once every 3 years.

(iii) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

(C) DEFAULT SCHEDULE.—If the collective bargaining agreement providing for contributions under a multipurpose plan that was in effect at the time the plan entered critical status expires and, after receiving a schedule from the plan sponsor under paragraph (3)(A), the bargaining parties have not adopted a collective bargaining agreement with terms consistent with such a schedule, the schedule described in the last sentence of paragraph (1)(A) shall go into effect with respect to those bargaining parties.

(4) REHABILITATION PERIOD.—For purposes of this section—

(A) IN GENERAL.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multipurpose plan following the earlier of—

(i) the second anniversary of the date of the plan’s qualification under part I of subchapter D of chapter 1 or

(ii) the expiration of the collective bargaining agreement in effect on the date of the due date for the actuarial certification of critical status for the initial critical year under section 431(d) and covering, as of such date at least 75 percent of the active participants in such plan.

If a plan emerges from critical status as provided under subparagraph (B) before the end of such 10-year period, the rehabilitation period shall end on the last day of the plan year for which the determination under subparagraph (B) is made.

(B) EMERGENCE.—A plan in critical status shall remain in critical status for the plan year for which the plan actuary certifies, in accordance with subsection (b)(3)(A), that the plan is not projected to have an accumulated funding deficiency of any of the 9 succeeding plan years, without regard to use of the shortfall method or any extension of amortization periods under section 431(d).

(5) PENALTY IF NO REHABILITATION PLAN ADOPTED.—A failure of a plan sponsor to adopt a rehabilitation plan by the date specified in paragraph 502(c)(2) of Employee Retirement Income Security Act of 1974 as a failure or refusal by the plan administrator to act in accordance with the requirements to be filed with the Secretary of Labor under section 101(b)(4) of such Act.

(6) REHABILITATION PLAN ADOPTION PERIOD.—For purposes of this section, the term ‘rehabilitation plan adoption period’ means the period beginning on the date of the certification under paragraph (1)(A) for the initial critical year and ending on the first day of the rehabilitation period.

(7) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any reduction in the rate of future accruals under any schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accrual below—

(A) a monthly benefit (payable as a single life annuity commencing at the participant’s normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units for the plan (or any other contribution base units) so as to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the bargaining parties with alternative schedules to the default schedule that establish higher accrual and contribution rates than the rates otherwise described in this paragraph.

(8) EMPLOYER IMPACT.—For the purposes of this section, the plan sponsor shall consider the impact of the rehabilitation plan and contribution schedules authorized by the plan on bargaining parties with fewer than 500 employees and shall implement the plan in a manner that encourages their continued participation in the plan and minimizes financial harm to employers and their workers.

(9) RULES FOR OPERATION OF PLAN DURING ADOPTION AND REHABILITATION PERIOD.—

(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase contributions for benefit accruals unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, and, after account is made for the benefit increase, the multipurpose plan is neither a multiemployer plan nor a plan that is expected to be inconsistent with the rehabilitation plan.

(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

(A) IN GENERAL.—Effective on the date the notice of certification of the plan’s critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 411(d)(6), the plan shall not pay—

(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(b)(1)(A)),

(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

(iii) any other payment specified by the Secretary by regulations.

(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period.

(3) ADJUSTMENTS DISBARRED IN WITHDRAWAL LIABILITY DETERMINATION.—Any benefit reductions under this subsection shall be disregarded in determining a plan’s unfunded vested benefits for purposes of determining an employer’s withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

(4) OFFICIAL RULES FOR PLAN ADOPTION PERIOD.—During the rehabilitation plan adoption period—

(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to any period of service, or

(i) any new direct or indirect exclusion of younger or newly hired employees from plan participation, and

(B) no amendment of the plan which increases the liabilities of the plan by reason of any increases in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with any other applicable law.

(5) FAILURE TO MEET REQUIREMENTS.—

(A) IN GENERAL.—Notwithstanding section 4971(g), if a plan—

(i) fails to meet the requirements of subsection (e) by the end of the rehabilitation period, or

(ii) has received a certification under subsection (b)(3)(A)(ii) for 3 consecutive plan years that the plan is not making the scheduled progress in meeting its requirements under the rehabilitation plan, the plan shall be treated as having an accumulated funding deficiency for purposes of section 411(d)(6) for the last plan year of each such period (and each succeeding plan year until such requirements are met) in an amount


equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this section.

"(B)瓦解。—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary or a plan administrator acting pursuant to section 4971 to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure and the prior payment of such tax to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure.

"(g) Expedited Resolution of Plan Sponsor Decisions.—If, within 60 days of the due date for adoption of a funding improvement plan under subsection (c) or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not agreed on a funding improvement plan or rehabilitation plan, then any member of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan.

"(h) Nonbargained Participation.—(1) Nonbargained and Nonbargained Employee-Participants.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are covered by collective bargaining agreements and to employees who are not so covered, if the plan is in endangered status or in critical status, benefits of and contributions for the nonbargained employees, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the fund of the employer’s collective bargaining agreements in effect when the plan entered endangered or critical status.

"(2) Nonbargained Employees Only.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining parties, and its participation agreement with the plan was a collective bargaining agreement. The term ‘bargaining party’ means the bargaining parties described in subsection (g)."
“(v) MULTIEmployer PLANS.—In applying this paragraph, any multiemployer plan shall not be taken into account.”.

(2) CONFORMING AMENDMENT.—Section 404(a)(7)(A) of such Code is amended by striking the last sentence.

(c) EFFECTIVE DATES.—

(1) DISCLOSURE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2006.

(2) EXCEPTION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 2005.

SEC. 522. TRANSFER OF EXCESS PENSION ASSETS TO MULTIEmployER HEALTH PLAN.

(a) IN GENERAL.—Section 25B of the Internal Revenue Code of 1986 (relating to pensions) is amended by striking the section title and the Employee Retirement Income Security Act of 1974 relating to this section.

(b) AMENDMENTS OF ERISA.—


(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking “American Jobs Creation Act of 2004” and inserting “Pension Security and Transparency Act of 2005.”


(c) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers made in taxable years beginning after December 31, 2004.

TITLE VI—ENHANCED RETIREMENT SAVINGS AND DEFINED CONTRIBUTION PLANS

SEC. 601. AMERISAVE MATCHING CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to refundable credits) is amended by redesignating section 36 as section 37 and by inserting after section 35 the following new section:

“SEC. 36. AMERISAVE MATCHING CREDIT.

“(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to 10 percent of so much of the qualified retirement savings contributions of the eligible individual for the taxable year as do not exceed the applicable limit.

“(b) APPLICABLE LIMIT.—For purposes of this section—

“(1) IN GENERAL.—The applicable limit is $1,000, reduced (but not below zero) by the reduction amount for each $1,000 (or fraction thereof) that the taxpayer’s adjusted gross income for the taxable year exceeds the threshold amount.

“(2) REDUCTION AMOUNT; THRESHOLD AMOUNT.—For purposes of paragraph (1), the reduction amount and the threshold amount shall be determined in accordance with the following table:

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<th>Threshold Amount</th>
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(b) AMENDMENTS OF ERISA.—


(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking “American Jobs Creation Act of 2004” and inserting “Pension Security and Transparency Act of 2005.”

SEC. 602. MANNER IN WHICH AMERISAVE MATCHING CREDIT ALLOWED.

(a) In General.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to rules of special application) is amended by adding the following new section—

"SEC. 6430. MANNER IN WHICH AMERISAVE MATCHING CREDIT ALLOWED.

"(a) General Rule.—The credit allowed under section 36 of such Code is amended by striking the item relating to section 36 and inserting the following:

"Sec. 36. AmeriSave matching credit."

"(b) Amount Paid Directly to Retirement Plan.—The credit allowed under section 36 for a taxable year shall be paid directly by the Secretary to a plan which qualified retirement savings contributions (as defined by section 36(d)) may be made, as provided by section 36 of such Code before the period at the end.

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.

SEC. 603. INCREASING PARTICIPATION THROUGH QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENTS.

(a) Amendments to the Internal Revenue Code of 1986.—

(1) Section 401(k) of the Internal Revenue Code of 1986 (relating to section 401(k) automatic contribution arrangements) is amended by adding at the end the following new paragraph:

"(11) the following new paragraph:

"(11) this subparagraph with respect to matching contributions if the plan administrator, employees described in subparagraph (C)(iv).

(2) First Plan Year.—An arrangement meets the requirements of this subparagraph with respect to the first plan year if the arrangement is a qualified automatic contribution arrangement (determined without regard to this subparagraph).

(B) Matching or Nonelective Contributions.—

(i) In General.—An arrangement meets the requirements of this subparagraph if it offers employees the option to make either elective or matching contributions. In any subsequent plan year, each employee eligible to participate in the arrangement in an amount equal to at least 2 percent of the employee's accrued benefit derived from such employer contributions, and

(ii) the requirements of paragraph (B) of paragraph (2) are met with respect to all such employer contributions.

(v) Application of Certain Other Rules.—The rules of subparts (E) and (F) of subchapter A of chapter 1 of such Code (relating to nonforfeitable rights and obligations) shall apply with respect to elective contributions (including matching contributions) taken into account in determining whether the requirements of clause (i) are satisfied.

(2) Rule of Construction.—For purposes of this section, in general, the requirements of paragraphs (i) and (ii) of clause (1) shall be treated as having been made under clause (i) of section 416(g)(4)(H) of such Code.

(c) Automatic Deferral.—

(i) In General.—The requirements of this subparagraph with respect to matching contributions if the plan administrator, employees described in subparagraph (C)(iv).

(d) Amount Not Treated as Credit or Refund.—Except as provided by subsection (b), the credit allowed under section 36 shall not be used as a credit under subtitle A or refunds, in whole or in part, under section 191 (relating to refunds). The Secretary shall prescribe regulations conforming with paragraph (1) for the purposes of this paragraph.

(e) Regulations.—The Secretary shall prescribe regulations conforming with paragraph (1) for the purposes of this paragraph.

(f) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006.
amended by inserting "or 401(m)(12)" after "section 401(m)(11)");
(4) CORRECTIVE DISTRIBUTIONS.—
(A) IN GENERAL.—Section 414 of such Code (relating to contributions and special rules) is amended by adding at the end the following new subsection:
(1w) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—
(1) IN GENERAL.—No tax shall be imposed under section 72(t) on a distribution from an applicable employer plan to the employee of an amount which such contribution relates if such distribution does not exceed the automatic contribution amount and is made not later than the 1st April following the taxable year in which such contribution was made.
(2) ERRONEOUS AUTOMATIC CONTRIBUTION AMOUNT.—For purposes of this subsection—
(A) IN GENERAL.—The term "erroneous automatic contribution amount" means the lesser of—
(i) the amount of automatic contributions made during the applicable period which the employee elects in a notice to the plan administrator to treat as an erroneous automatic contribution amount for purposes of this subsection, or
(ii) $500.
(B) AUTOMATIC CONTRIBUTION.—The term "automatic contribution" means contributions under the plan on behalf of the employee, or to the employee directly in cash, which, under the terms of the plan—
(i) the employee can elect to be made as contributions under the plan on behalf of the employee, or to the employee directly in cash, and
(ii) which are made on behalf of the employee under the plan pursuant to a provision treating the employee as having elected to have such employer make such contributions on behalf of the employee until the employee affirmatively elects not to have such contribution made or affirmatively elects to make a rollover contribution at a specified level.
(3) APPLICABLE EMPLOYER PLAN.—For purposes of this subsection, the term "applicable employer plan" means—
(A) an employee's trust described in section 401(a) which is exempt from tax under section 501(a), and
(B) a plan under which amounts are attributable to an individual's employer for an annuity contract described in section 403(b).
(4) APPLICABLE PERIOD.—For purposes of this subsection, the term "applicable period" means—
(A) the three-month period that begins on the first date that an automatic contribution described in paragraph (2)(B) is made with respect to such employee, or
(B) the period following the date an automatic contribution described in paragraph (2)(B) is made with respect to such employee.
(B) VESTING CONFORMING AMENDMENTS.—
(i) Section 411(a)(3)(G) of such Code is amended by inserting "an erroneous automatic contribution under section 414(e)," after "402(g)(2)(A)."
(ii) The heading of section 411(a)(3)(G) of such Code is amended by inserting "OR ERRONEOUS AUTOMATIC CONTRIBUTION" before the period.
(iii) Section 401(k)(8)(E) of such Code is amended by inserting "an erroneous automatic contribution under section 414(e)," after "402(g)(2)(A)."
(iv) The heading of section 401(k)(8)(E) of such Code is amended by inserting "OR ERRONEOUS AUTOMATIC CONTRIBUTION" before the period.
(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 2005.
SEC. 604. PREEMPTION OF STATE LAWS PREVENTING AUTOMATIC ENROLLMENT IN RETIREMENT ROLLERSTERS
(a) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144(b)) is amended—
(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following new subsection:
"(d) The heading of this title shall supersede any and all State laws insofar as they may preclude, or have the effect of precluding—
(1) the establishment or operation of, or making of contributions to, a pension plan under a qualified automatic enrollment arrangement (as defined in section 401(k)(13) of the Internal Revenue Code of 1986), or
(2) a distribution described in section 401(a)(31)(B) of the Internal Revenue Code of 1986 or the establishment of an individual retirement plan (as defined in section 7701(a)(37) of such Code) allowing receipt of such distributions."
(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to actions (described in paragraph (1) or (2) of section 514(d) of the Employee Retirement Income Security Act of 1974 (as added by this subsection)) taken before, on, or after the date of the enactment of this Act.
SEC. 605. FIDUCIARY STANDARDS RELATING TO AUTOMATIC OR DEFAULT INVESTMENTS.
(a) IN GENERAL.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following new subsection:
"(e)(1) A fiduciary with respect to an individual accrued benefit under the plan, to the extent those requirements pertain to asset allocation between equity instruments or investments and debt instruments or investments and to such further extent as may be specified by the Secretary in administrative guidance of general applicability, shall not be treated as failing to meet the requirements of paragraph (2) to the extent those requirements pertain to asset allocation between equity instruments or investments and debt instruments or investments and such further extent as may be specified by the Secretary in administrative guidance of general applicability.
(2) For purposes of this subsection, the term "qualifying automatic investment" means, in connection with a participant in a plan, an investment of assets constituting a plan, an investment of assets constituting an applicable employer plan to the employee directly in cash, and is made not later than the 1st April following the taxable year in which such contribution was made.
(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 2005.
(3) APPLICABLE EMPLOYER PLAN.—For purposes of this subsection, "applicable employer plan" means—
(A) an employee's trust described in section 401(a) which is exempt from tax under section 501(a), and
(B) a plan under which amounts are attributable to an individual's employer for an annuity contract described in section 403(b).
(4) APPLICABLE PERIOD.—For purposes of this subsection, the term "applicable period" means—
(A) the three-month period that begins on the first date that an automatic contribution described in paragraph (2)(B) is made with respect to such employee, or
(B) the period following the date an automatic contribution described in paragraph (2)(B) is made with respect to such employee.
(B) VESTING CONFORMING AMENDMENTS.—
(i) Section 411(a)(3)(G) of such Code is amended by inserting "an erroneous automatic contribution under section 414(e)," after "402(g)(2)(A)."
(ii) The heading of section 411(a)(3)(G) of such Code is amended by inserting "OR ERRONEOUS AUTOMATIC CONTRIBUTION" before the period.
(iii) Section 401(k)(8)(E) of such Code is amended by inserting "an erroneous automatic contribution under section 414(e)," after "402(g)(2)(A)."
(iv) The heading of section 401(k)(8)(E) of such Code is amended by inserting "OR ERRONEOUS AUTOMATIC CONTRIBUTION" before the period.
(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 2005.
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(1) by redesignating subsection (d) as subsection (e); and
(2) by inserting after subsection (c) the following new subsection:
"(d) The heading of this title shall supersede any and all State laws insofar as they may preclude, or have the effect of precluding—
(1) the establishment or operation of, or making of contributions to, a pension plan under a qualified automatic enrollment arrangement (as defined in section 401(k)(13) of the Internal Revenue Code of 1986), or
(2) a distribution described in section 401(a)(31)(B) of the Internal Revenue Code of 1986 or the establishment of an individual retirement plan (as defined in section 7701(a)(37) of such Code) allowing receipt of such distributions.
(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to actions (described in paragraph (1) or (2) of section 514(d) of the Employee Retirement Income Security Act of 1974 (as added by this subsection)) taken before, on, or after the date of the enactment of this Act.
Sec. 605. FIDUCIARY STANDARDS RELATING TO AUTOMATIC OR DEFAULT INVESTMENTS.
(a) IN GENERAL.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following new subsection:
"(e)(1) A fiduciary with respect to an individual accrued benefit under the plan, to the extent those requirements pertain to asset allocation between equity instruments or investments and debt instruments or investments and such further extent as may be specified by the Secretary in administrative guidance of general applicability, shall not be treated as failing to meet the requirements of paragraph (2) to the extent those requirements pertain to asset allocation between equity instruments or investments and debt instruments or investments and such further extent as may be specified by the Secretary in administrative guidance of general applicability.
(2) For purposes of this subsection, the term "qualifying automatic investment" means, in connection with a participant in a plan, an investment of assets constituting a plan, an investment of assets constituting an applicable employer plan to the employee directly in cash, and is made not later than the 1st April following the taxable year in which such contribution was made.
(b) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after December 31, 2005.
or other aspects of the constituent investments to the extent such change or variation is based on:

(i) automatic rebalancing or variable investment returns prior to periodic rebalancing,

(ii) the participant’s age, or

(iii) other factors relating to the participant’s work as your years under management, other retirement plan coverage, financial situation, or investment preferences expressed to the plan by the participant;

(2) dropping which such investment consists of interests in real estate or real-estate-based investments, if such interests are broadly diversified and do not comprise more than 50 percent of the total assets under management.

SEC. 606. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR INDIVIDUALS CALLED TO ACTIVE DUTY FOR AT LEAST 179 DAYS.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(G) Distributions from retirement plans to individuals called to active duty—"

(i) IN GENERAL.—Any qualified reservist distribution.

(1) AMOUNT DISTRIBUTED MAY BE KEPT.—Any individual who receives a qualified reservist distribution may, at any time during the 2-year period beginning on the day after the completion of the 1-year period, make one or more contributions to an individual retirement plan of such individual in an aggregate amount not to exceed the amount of such distribution, or any administrative guidance otherwise applicable to contributions to individual retirement plans shall not apply to any contribution made pursuant to the preceding clause.

(2) No deduction shall be allowed for any contribution pursuant to this clause.

(ii) QUALIFIED RESERVIST DISTRIBUTION.—For purposes of this subparagraph, the term ‘qualified reservist distribution’ means any distribution to an individual if:

(I) such distribution is from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 403(b)(11); and

(ii) such distribution is not elective under paragraph (A) or (C) of section 402(g)(3) or section 403(b)(11).

(iii) ELECTION OF CREDIT.—An individual who is a qualified public safety employee (as defined in section 1563(a) of the Internal Revenue Code of 1986, except that applicable percentage shall be substituted for 80 percent wherever the latter percentage appears in such section) of which person is a member.

For purposes of the preceding sentence, the term ‘applicable percentage’ means 50 percent, or such lower percentage as the Secretary may prescribe.

(iv) ELECTIONS.—An individual who is a qualified public safety employee (as defined in section 1563(a) of the Internal Revenue Code of 1986, except that applicable percentage shall be substituted for 80 percent wherever the latter percentage appears in such section) of which person is a member.

For purposes of the preceding sentence, the term ‘applicable percentage’ means 50 percent, or such lower percentage as the Secretary may prescribe.

(b) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to investments made on or after January 1, 2005 (irrespective of the extent to which the Secretary of Labor has issued regulations, guidelines, or other administrative guidance pursuant to section 404(e) of the Employee Retirement Income Security Act of 1974).

SEC. 607. WAIVER OF 10 PERCENT EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR PUBLIC SAFETY EMPLOYEES.

(a) IN GENERAL.—Section 72(t)(2) of the Internal Revenue Code of 1986 (relating to section not to apply to certain distributions) is amended by inserting at the end the following new subsection:

"(H) DROP DISTRIBUTIONS TO QUALIFIED PUBLIC SAFETY EMPLOYEES IN GOVERNMENTAL PLANS.—"

(i) IN GENERAL.—Distributions to an individual who is a qualified public safety employee from a governmental plan within the meaning of section 414(d). No limitation on such distributions are attributable to a DROP benefit.

(ii) DEFINITIONS.—For purposes of this subsection:

(I) DROP BENEFIT.—The term ‘DROP benefit’ means a feature of a governmental plan which is a defined benefit plan and under which an employee’s employment credits are paid to an account (including a notional account) in the plan which are not in excess of the plan benefits (payable in the form of an annuity) that would have been provided if the employee had retired under the plan at a specified earlier retirement date and which are in lieu of increases in the employee’s accrued pension benefit based on years of service after the effective date of the DROP election.

(II) QUALIFIED PUBLIC SAFETY EMPLOYEE.—The term ‘qualified public safety employee’ means any employee of any police department or fire department organization and operated by a State or political subdivision of a State for protecting life and property and providing for public safety and protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision and if the employee was eligible to retire on or before the date of such election and receive immediate retirement benefits.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 608. COMBAT ZONE COMPENSATION TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING LIMITATION AND DEFERRAL AMOUNTS TO INCOME FROM INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Section 72(t)(2)(G) of the Internal Revenue Code of 1986 is amended by redesigning paragraph (7) as paragraph (8) and by inserting after paragraph (7) the following new paragraph:

"(8) Distributions to an individual who is a qualified public safety employee (as defined in section 1563(a) of the Internal Revenue Code of 1986) and who is a member of the armed forces on active duty after the date of the enactment of this Act is based on:

the following new subparagraph:

"(C) for distributions to which section 72(t)(2)(G) applies."
(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 609. DIRECT PAYMENT OF TAX REFUNDS TO INDIVIDUALS receiving LIFE INSURANCE POLICIES.

(a) In General.—The Secretary of the Treasury (or the Secretary’s delegate) shall make available (or modify existing forms) for use by individuals to direct that a portion of any refund of overpayment of tax imposed by chapter I of the Internal Revenue Code of 1986 (or any amendment or modification made after December 31, 2005) be paid directly to an individual retirement account or trust maintained for the benefit of one or more designated beneficiaries.

(b) Effective Date.—The form required by subsection (a) shall be made available after the end of the taxable year beginning after December 31, 2006.

SEC. 610. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.

(a) In General.—(1) QUALIFIED PLANS.—Section 402(c) of the Internal Revenue Code of 1986 (relating to rollovers from exempt trusts) is amended by adding at the end the following new paragraph:

“(11) DISTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT ACCOUNT or ANNUITY CONTRACT.

“(B) Any such distribution shall be treated as a rollover distribution for purposes of subsection (a) of section 408A of such Code (relating to rollovers from inherited retirement plans).”

(b) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

TITLE VII—PROVISIONS TO ENHANCE HEALTH CARE AFFORDABILITY

SEC. 701. TAX-EXEMPT PLANS AND LIFE INSURANCE CONTRACTS WITH A LONG-TERM CARE INSURANCE FEATURE.

(a) EXCLUSION FROM GROSS INCOME.—Subsection (e) of section 7702(b) of the Internal Revenue Code of 1986 (relating to amounts received as annuities) is amended by redesignating paragraph (11) as paragraph (12) and by inserting after paragraph (11) the following new paragraph:

“(12) SPECIAL RULES FOR CERTAIN COMBINATION CONTRACTS PROVIDING LONG-TERM CARE INSURANCE.—

“(A) In general.—

“(i) if the portion of the contract providing such coverage under a qualified long-term care insurance contract which is part of or a rider on such life insurance contract or such annuity contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract—

“(B) such charge shall not be includable in gross income;

“(C) Annuity contracts can include qualified long-term care insurance riders.

“(D) a qualified long-term care insurance contract for a beneficiary (as defined by section 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee,

“(ii) the individual retirement plan shall be treated as a rollover distribution for purposes of any annuity contract or the cash surrender value of a life insurance contract made as payment for coverage under a qualified long-term care insurance contract which is part of or a rider on such life insurance contract or such annuity contract;

“(B) The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

(b) DEFINAL PAYMENT UNDER SECTION 213.—No deduction shall be allowed under section 213(a) for any payment made for coverage after December 31, 2005, of a qualified long-term care insurance contract if such payment is made as a charge against the cash value of an annuity contract or the cash surrender value of a life insurance contract.

(c) APPLICATION OF SECTION 7702—Subsection (e) of section 7702(b)(1)(A) (relating to the premium limitation) shall be applied by increasing the premium limitation with respect to the life insurance contract, as of any date—

“(A) by the sum of any charges (but not payments) against the life insurance contract’s cash surrender value (within the meaning of section 7702(f)(2)(A) for coverage under the qualified long-term care insurance contract made available after the enactment date under the life insurance contract, less

“(B) any such charges the imposition of which reduces the premiums paid for the life insurance contract (within the meaning of section 7702(f)(1)).

“(4) PORTION DEFINED.—For purposes of this paragraph, the portion of any charge which reduces the premiums paid for the life insurance contract which is exempt from tax under section 7702(f)(4)(A) for coverage under the qualified long-term care insurance contract made available after the enactment date under the life insurance contract, less

“(5) ANNUITY CONTRACTS TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of this subsection, none of the following shall be treated as an annuity contract:

“(A) A trust described in section 401(a) which is exempt from tax under section 403(b),

“(B) A contract—

“(i) purchased by a trust described in subparagraph (A),

“(ii) purchased as part of a plan described in section 403(b),

“(iii) described in section 403(b),

“(iv) provided for employees of a life insurance company under a plan described in section 403(b), or

“(v) from an individual retirement account or an individual retirement annuity.

“(C) A contract purchased by an employer for the benefit of the employee (or the employee’s spouse).

Any dividend described in section 404(k) which is received by a participant or beneficiary shall be treated as paid under a separate contract to which subparagraph (B)(ii) applies.”.

(4) INFORMATION REPORTING.—Section 6050U of the Internal Revenue Code of 1986 (relating to reports of charges or payments for qualified long-term care insurance contracts and combined arrangements) is amended by—

“(a) Requirement of Reporting.—Any person who makes a cash payment against the cash value of an annuity contract, or the cash surrender value of a life insurance contract, which is includible from gross income under section 7702B of such Code (which includes such amounts paid under a separate contract of a life insurance contract) is required to make the report to the taxpayer, according to the forms or regulations prescribed by the Secretary, setting forth—

“(1) the name of the insurance company to which the payment is made;

“(2) the name of the policy owner;
“(1) the amount of the aggregate of such charges against each such contract for the calendar year,
“(2) the amount of the reduction in the investment plan and such contract by reason of such charges, and
“(3) the name, address, and TIN of the individual who is the holder of each such contract.

“(b) Statements to be Furnished to Persons With Respect to Whom Information is Required. —Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing:
“(1) the name, address, and phone number of the information contact of the person making the payments, and
“(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.

SEC. 6050U. Charges or payments for qualified long-term care insurance contracts under combined arrangements.

e) Treatment of Policy Acquisition Expenses. —Subsection (e) of section 848 of such Code (relating to classification of contracts) is amended by adding at the end the following new item:
“Sec. 6050U. Charges or payments for qualified long-term care insurance contracts under combined arrangements.

(f) Treatment as Qualified Additional Benefit. —Subparagraph (A) of section 7702C of such Code (relating to qualified additional benefits) is amended by striking ‘‘or’’ at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:
“(v) qualified long-term care insurance contract which is a part of or a rider on the contract, or’’.

(g) Effective Dates. —

(1) In General. —Except as provided by paragraph (2), the amendments made by this section shall apply to contracts issued before, on, or after December 31, 2006, but only with respect to periods beginning after such date.

(2) Subsection (b). —The amendments made by subsection (b) shall apply with respect to exchanges occurring after December 31, 2006.
There are a number of issues that are not addressed in the legislation before us and to hopefully not do some of the things that the legislation before us does. We believe that we can do these things without driving employers out of the defined benefit system. The current bill before us provides a compilation of interest rates and premium fees and costs that we believe will drive employers to accelerate the termination and freezing of these plans. That is not because we say it; that is what the employers have told one another in their associations, the expectation that some 60 percent of the employers will freeze or terminate their plans.

We believe that our motion to recommit does not impose arbitrary benefit cuts and freezes on workers who do not control whether or not the employers fund the pension plans or not. The motion to recommit would require companies to seek alternatives to the termination and prove that a plan is in fact unaffordable before they can cast it away in bankruptcy, as we saw with Air Canada and the pilots do, that cost the employees billions of dollars in pension benefits.

Importantly, the motion to recommit would actually help the employees of American, Continental, Delta and Northwest with the subjective pension plans are in danger of being terminated. The bill before us does not do that. It talks about doing that in the future.

The motion to recommit would also protect 9 million workers who are covered by multi-employer pension plans in the construction, food service and transportation industries. We would ensure that workers and executives would be affected equally in pension plans. Again, the horrible demonstration out of United Airlines, as the executives walked away with $235 million in a new, debt-free company and the employees walked away with wage cuts and benefits cuts and the loss of retirement benefits.

Finally, the motion to recommit would help workers who do not have access to defined benefit plans through the automatic enrollment in 401(k) plans and the expanded savers credit. This legislation, if it is not corrected, is the greatest assault on the pension benefits and the retirement nest eggs of hardworking, middle class Americans in the history of this Congress. I say that because it is quite clear that this will expedite and will accelerate the termination of these plans that so many millions of Americans are relying on.

One thing this legislation will do, if you want to continue to debate Social Security, you will now prove with the passage of this legislation that Social Security is the most secure retirement system in this country, that it is the only one that people can count on, because these other plans are in jeopardy.

Mr. Speaker, I yield to my colleague, Mr. CARDIN from Maryland.

Mr. CARDIN. Let me thank Mr. Miller for offering this substitute. I am pleased to join him.
plan underfunding we see today. We know that the credit balance rules that are in place today are irresponsible public policy. They must be changed if we are going to strengthen the pension system. And to allow those rules to stay in place, again, does not pass the straight-Elek instinct test.

Fourth, they propose preserving the status quo by failing to incorporate the full package of multi-employer reforms that were agreed to by a broad coalition of organized labor and employer groups.

Lastly, they preserve the status quo by promoting uncertainty among employers if these pension benefits and workers who are relying on them maintain the current interest rate package for 2 years and then go back to the 30-year rate thereafter.

The modified yield curve in the underlying bill presents a more accurate picture of the liabilities that these plans have and should, in fact, stay in the current interest rate package for 2 years who are relying on them maintain their promises to working people.

The result of the vote was announced as above recorded.

Mr. BARRETT of South Carolina and Mr. SOUDER changed their vote from ‘yea’ to ‘nay.’

Messrs. MCDERMOTT, REYES and FARR changed their vote from ‘nay’ to ‘yea.’

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.}

**Recorded Vote**

Mr. BOEHNER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The Speaker pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—aye 294, noes 132, not voting 7, as follows:
Mr. COSTELLO and Mr. MEEEK of Florida changed their vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

[Roll No. 636]

YEAS—220

A. M. ALBRIGHT, of South Carolina, for himself and Mr. SMITH of New York, further offered the following AMENDMENT to the BILL:

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The Speaker pro tempore (Mr. LATHAM) took the chair.

Personal Explanation

Mr. PICKERING. Mr. Speaker, on rollcall Nos. 634 and 635, I was unavoidably detained. I would have voted "nay" on recommittal and "aye" on passage.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edward Thomas, one of his secretaries.

PROVIDING FOR CONSIDERATION OF H.R. 4437, BORDER PROTECTION, ANTITERRORISM, AND ILLEGAL IMMIGRATION CONTROL ACT OF 2005

The Speaker pro tempore. The pending business of the day is on adoption of House Resolution 610 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The Speaker pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 220, nays 206, not voting 7, as follows:

[Roll No. 635]