

115TH CONGRESS
2D SESSION

H. R. 4997

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to authorize a new composite multiemployer pension plan design, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 13, 2018

Mr. ROE of Tennessee (for himself and Mr. NORCROSS) introduced the following bill; which was referred to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to authorize a new composite multiemployer pension plan design, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Giving Retirement Op-
5 tions to Workers Act of 2018” or the “GROW Act”.

1 **SEC. 2. COMPOSITE PLANS.**

2 (a) AMENDMENT TO THE EMPLOYEE RETIREMENT
3 INCOME SECURITY ACT OF 1974.—

4 (1) IN GENERAL.—Title I of the Employee Re-
5 tirement Income Security Act of 1974 (29 U.S.C.
6 1001 et seq.) is amended by adding at the end the
7 following:

8 **“PART 8—COMPOSITE PLANS AND LEGACY**
9 **PLANS**

10 **“SEC. 801. COMPOSITE PLAN DEFINED.**

11 “(a) IN GENERAL.—For purposes of this Act, the
12 term ‘composite plan’ means a pension plan—

13 “(1) which is a multiemployer plan that is nei-
14 ther a defined benefit plan nor a defined contribu-
15 tion plan;

16 “(2) the terms of which provide that the plan
17 is a composite plan for purposes of this title with re-
18 spect to which not more than one multiemployer de-
19 fined benefit plan is treated as a legacy plan within
20 the meaning of section 805, unless there is more
21 than one legacy plan following a merger of composite
22 plans under section 806;

23 “(3) which provides systematically for the pay-
24 ment of benefits—

25 “(A) objectively calculated pursuant to a
26 formula enumerated in the plan document with

1 respect to plan participants after retirement,
2 for life; and

3 “(B) in the form of life annuities, except
4 for benefits which under section 203(e) may be
5 immediately distributed without the consent of
6 the participant;

7 “(4) for which the plan contributions for the
8 first plan year are at least 120 percent of the nor-
9 mal cost for the plan year;

10 “(5) which requires—

11 “(A) an annual valuation of the liability of
12 the plan as of a date within the plan year to
13 which the valuation refers or within one month
14 prior to the beginning of such year;

15 “(B) an annual actuarial determination of
16 the plan’s current funded ratio and projected
17 funded ratio under section 802(a);

18 “(C) corrective action through a realign-
19 ment program pursuant to section 803 when-
20 ever the plan’s projected funded ratio is below
21 120 percent for the plan year; and

22 “(D) an annual notification to each partici-
23 pant describing the participant’s benefits under
24 the plan and explaining that such benefits may
25 be subject to reduction under a realignment

1 program pursuant to section 803 based on the
2 plan's funded status in future plan years; and
3 “(6) the board of trustees of which includes at
4 least one retiree or beneficiary in pay status during
5 each plan year following the first plan year in which
6 at least 5 percent of the participants in the plan are
7 retirees or beneficiaries in pay status.

8 “(b) TRANSITION FROM A MULTIEMPLOYER DE-
9 FINED BENEFIT PLAN.—

10 “(1) IN GENERAL.—The plan sponsor of a de-
11 fined benefit plan that is a multiemployer plan may,
12 subject to paragraph (2), amend the plan to incor-
13 porate the features of a composite plan as a compo-
14 nent of the multiemployer plan separate from the
15 defined benefit plan component, except in the case of
16 a defined benefit plan for which the plan actuary has
17 certified under section 305(b)(3) that the plan is or
18 will be in critical status for the plan year in which
19 such amendment would become effective or for any
20 of the succeeding 5 plan years.

21 “(2) REQUIREMENTS.—Any amendment pursu-
22 ant to paragraph (1) to incorporate the features of
23 a composite plan as a component of a multiemployer
24 plan shall—

1 “(A) apply with respect to all collective
2 bargaining agreements providing for contribu-
3 tions to the multiemployer plan on or after the
4 effective date of the amendment;

5 “(B) apply with respect to all participants
6 in the multiemployer plan for whom contribu-
7 tions are made to the multiemployer plan on or
8 after the effective date of the amendment;

9 “(C) specify that the effective date of the
10 amendment is—

11 “(i) the first day of a specified plan
12 year following the date of the adoption of
13 the amendment, except that the plan spon-
14 sor may alternatively provide for a sepa-
15 rate effective date with respect to each col-
16 lective bargaining agreement under which
17 contributions to the multiemployer plan
18 are required, which shall occur on the first
19 day of the first plan year beginning after
20 the termination, or if earlier, the re-open-
21 ing, of each such agreement, or such ear-
22 lier date as the parties to the agreement
23 and the plan sponsor of the multiemployer
24 plan shall agree to; and

1 “(ii) not later than the first day of the
2 fifth plan year beginning on or after the
3 date of the adoption of the amendment;

4 “(D) specify that, as of the amendment’s
5 effective date, no further benefits shall accrue
6 under the defined benefit component of the
7 multiemployer plan; and

8 “(E) specify that, as of the amendment’s
9 effective date, the plan sponsor of the multiem-
10 ployer plan shall be the plan sponsor of both
11 the composite plan component and the defined
12 benefit plan component of the plan.

13 “(3) SPECIAL RULES.—If a multiemployer plan
14 is amended pursuant to paragraph (1)—

15 “(A) the requirements of this title and title
16 IV shall be applied to the composite plan com-
17 ponent and the defined benefit plan component
18 of the multiemployer plan as if each such com-
19 ponent were maintained as a separate plan; and

20 “(B) the assets of the composite plan com-
21 ponent and the defined benefit plan component
22 of the plan shall be held in a single trust form-
23 ing part of the plan under which the trust in-
24 strument expressly provides—

1 “(i) for separate accounts (and appro-
2 priate records) to be maintained to reflect
3 the interest which each of the plan compo-
4 nents has in the trust, including separate
5 accounting for additions to the trust for
6 the benefit of each plan component, dis-
7 bursements made from each plan compo-
8 nent’s account in the trust, investment ex-
9 perience of the trust allocable to that ac-
10 count, and administrative expenses (wheth-
11 er direct expenses or shared expenses allo-
12 cated proportionally), and permits, but
13 does not require, the pooling of some or all
14 of the assets of the two plan components
15 for investment purposes; and

16 “(ii) that the assets of each of the two
17 plan components shall be held, invested,
18 reinvested, managed, administered and dis-
19 tributed for the exclusive benefit of the
20 participants and beneficiaries of each such
21 plan component, and in no event shall the
22 assets of one of the plan components be
23 available to pay benefits due under the
24 other plan component.

1 “(4) NOT A TERMINATION EVENT.—Notwith-
2 standing section 4041A, an amendment pursuant to
3 paragraph (1) to incorporate the features of a com-
4 posite plan as a component of a multiemployer plan
5 does not constitute termination of the multiemployer
6 plan.

7 “(5) NOTICE TO THE SECRETARY.—

8 “(A) NOTICE.—The plan sponsor of a
9 composite plan shall provide notice to the Sec-
10 retary of the intent to establish the composite
11 plan (or, in the case of a composite plan incor-
12 porated as a component of a multiemployer
13 plan as described in paragraph (1), the intent
14 to amend the multiemployer plan to incorporate
15 such composite plan) at least 30 days prior to
16 the effective date of such establishment or
17 amendment.

18 “(B) CERTIFICATION.—In the case of a
19 composite plan incorporated as a component of
20 a multiemployer plan as described in paragraph
21 (1), such notice shall include a certification by
22 the plan actuary under section 305(b)(3) that
23 the effective date of the amendment occurs in
24 a plan year for which the multiemployer plan is

1 not in critical status for that plan year and any
2 of the succeeding 5 plan years.

3 “(6) REFERENCES TO COMPOSITE PLAN COM-
4 PONENT.—As used in this part, the term ‘composite
5 plan’ includes a composite plan component added to
6 a defined benefit plan pursuant to paragraph (1).

7 “(7) RULE OF CONSTRUCTION.—Paragraph
8 (2)(A) shall not be construed as preventing the plan
9 sponsor of a multiemployer plan from adopting an
10 amendment pursuant to paragraph (1) because some
11 collective bargaining agreements are amended to
12 cease any covered employer’s obligation to contribute
13 to the multiemployer plan before or after the plan
14 amendment is effective. Paragraph (2)(B) shall not
15 be construed as preventing the plan sponsor of a
16 multiemployer plan from adopting an amendment
17 pursuant to paragraph (1) because some partici-
18 pants cease to have contributions made to the multi-
19 employer plan on their behalf before or after the
20 plan amendment is effective.

21 “(c) COORDINATION WITH FUNDING RULES.—Ex-
22 cept as otherwise provided in this title, sections 302, 304,
23 and 305 shall not apply to a composite plan.

24 “(d) TREATMENT OF A COMPOSITE PLAN.—For pur-
25 poses of this Act (other than sections 302 and 4245), a

1 composite plan shall be treated as if it were a defined ben-
 2 efit plan unless a different treatment is provided for under
 3 applicable law.

4 **“SEC. 802. FUNDED RATIOS; ACTUARIAL ASSUMPTIONS.**

5 “(a) CERTIFICATION OF FUNDED RATIOS.—

6 “(1) IN GENERAL.—Not later than the one-
 7 hundred twentieth day of each plan year of a com-
 8 posite plan, the plan actuary of the composite plan
 9 shall certify to the Secretary, the Secretary of the
 10 Treasury, and the plan sponsor the plan’s current
 11 funded ratio and projected funded ratio for the plan
 12 year.

13 “(2) DETERMINATION OF CURRENT FUNDED
 14 RATIO AND PROJECTED FUNDED RATIO.—For pur-
 15 poses of this section:

16 “(A) CURRENT FUNDED RATIO.—The cur-
 17 rent funded ratio is the ratio (expressed as a
 18 percentage) of—

19 “(i) the value of the plan’s assets as
 20 of the first day of the plan year; to

21 “(ii) the plan actuary’s best estimate
 22 of the present value of the plan liabilities
 23 as of the first day of the plan year.

24 “(B) PROJECTED FUNDED RATIO.—The
 25 projected funded ratio is the current funded

1 ratio projected to the first day of the fifteenth
2 plan year following the plan year for which the
3 determination is being made.

4 “(3) CONSIDERATION OF CONTRIBUTION RATE
5 INCREASES.—For purposes of projections under this
6 subsection, the plan sponsor may anticipate con-
7 tribution rate increases beyond the term of the cur-
8 rent collective bargaining agreement and any agreed-
9 to supplements, up to a maximum of 2.5 percent per
10 year, compounded annually, unless it would be un-
11 reasonable under the circumstances to assume that
12 contributions would increase by that amount.

13 “(b) ACTUARIAL ASSUMPTIONS AND METHODS.—
14 For purposes of this part:

15 “(1) IN GENERAL.—All costs, liabilities, rates
16 of interest and other factors under the plan shall be
17 determined for a plan year on the basis of actuarial
18 assumptions and methods—

19 “(A) each of which is reasonable (taking
20 into account the experience of the plan and rea-
21 sonable expectations);

22 “(B) which, in combination, offer the actu-
23 ary’s best estimate of anticipated experience
24 under the plan; and

1 “(C) with respect to which any change
2 from the actuarial assumptions and methods
3 used in the previous plan year shall be certified
4 by the plan actuary and the actuarial rationale
5 for such change provided in the annual report
6 required by section 103.

7 “(2) FAIR MARKET VALUE OF ASSETS.—The
8 value of the plan’s assets shall be taken into account
9 on the basis of their fair market value.

10 “(3) DETERMINATION OF NORMAL COST AND
11 PLAN LIABILITIES.—A plan’s normal cost and liabil-
12 ities shall be based on the most recent actuarial
13 valuation required under section 801(a)(5)(A) and
14 the unit credit funding method.

15 “(4) TIME WHEN CERTAIN CONTRIBUTIONS
16 DEEMED MADE.—Any contributions for a plan year
17 made by an employer after the last day of such plan
18 year, but not later than two and one-half months
19 after such day, shall be deemed to have been made
20 on such last day. For purposes of this paragraph,
21 such two and one-half month period may be ex-
22 tended for not more than six months under regula-
23 tions prescribed by the Secretary of the Treasury.

24 “(5) ADDITIONAL ACTUARIAL ASSUMPTIONS.—
25 Except where otherwise provided in this part, the

1 provisions of section 305(b)(3)(B) shall apply to any
2 determination or projection under this part.

3 **“SEC. 803. REALIGNMENT PROGRAM.**

4 “(a) REALIGNMENT PROGRAM.—

5 “(1) ADOPTION.—In any case in which the plan
6 actuary certifies under section 802(a) that the plan’s
7 projected funded ratio is below 120 percent for the
8 plan year, the plan sponsor shall adopt a realign-
9 ment program under paragraph (2) not later than
10 210 days after the due date of the certification re-
11 quired under such section 802(a). The plan sponsor
12 shall adopt an updated realignment program for
13 each succeeding plan year for which a certification
14 described in the preceding sentence is made.

15 “(2) CONTENT OF REALIGNMENT PROGRAM.—

16 “(A) IN GENERAL.—A realignment pro-
17 gram adopted under this paragraph is a written
18 program which consists of all reasonable meas-
19 ures, including options or a range of options to
20 be undertaken by the plan sponsor or proposed
21 to the bargaining parties, formulated, based on
22 reasonably anticipated experience and reason-
23 able actuarial assumptions, to enable the plan
24 to achieve a projected funded ratio of at least
25 120 percent for the following plan year.

1 “(B) INITIAL PROGRAM ELEMENTS.—Rea-
2 sonable measures under a realignment program
3 described in subparagraph (A) may include any
4 of the following:

5 “(i) Proposed contribution increases.

6 “(ii) A reduction in the rate of future
7 benefit accruals, so long as the resulting
8 rate is not less than 1 percent of the con-
9 tributions on which benefits are based as
10 of the start of the plan year (or the equiva-
11 lent standard accrual rate as described in
12 section 305(e)(6)).

13 “(iii) A modification or elimination of
14 adjustable benefits of participants that are
15 not in pay status before the date of the no-
16 tice required under subsection (b)(1).

17 “(iv) Any other lawfully available
18 measures not specifically described in this
19 subparagraph or subparagraph (C) or (D)
20 that the plan sponsor determines are rea-
21 sonable.

22 “(C) ADDITIONAL PROGRAM ELEMENTS.—
23 If the plan sponsor has determined that all rea-
24 sonable measures available under subparagraph
25 (B) will not enable the plan to achieve a pro-

1 jected funded ratio of at least 120 percent for
2 the following plan year, such reasonable meas-
3 ures may also include—

4 “(i) a reduction of accrued benefits
5 that are not in pay status by the date of
6 the notice required under subsection
7 (b)(1); or

8 “(ii) a reduction of any benefits of
9 participants that are in pay status before
10 the date of the notice required under sub-
11 section (b)(1) other than core benefits as
12 defined in paragraph (4).

13 “(D) ADDITIONAL REDUCTIONS.—In the
14 case of a composite plan for which the plan
15 sponsor has determined that all reasonable
16 measures available under subparagraphs (B)
17 and (C) will not enable the plan to achieve a
18 projected funded ratio of at least 120 percent
19 for the following plan year, such reasonable
20 measures may also include—

21 “(i) a further reduction in the rate of
22 future benefit accruals without regard to
23 the limitation applicable under subpara-
24 graph (B)(ii); or

25 “(ii) a reduction of core benefits;

1 provided that such reductions shall be equitably
2 distributed across the participant and bene-
3 ficiary population, taking into account factors,
4 with respect to participants and beneficiaries
5 and their benefits, that may include one or
6 more of the factors listed in subclauses (I)
7 through (X) of section 305(e)(9)(D)(vi), to the
8 extent necessary to enable the plan to achieve
9 a projected funded ratio of at least 120 percent
10 for the following plan year, or at the election of
11 the plan sponsor, a projected funded ratio of at
12 least 100 percent for the following plan year
13 and a current funded ratio of at least 90 per-
14 cent.

15 “(3) ADJUSTABLE BENEFIT DEFINED.—For
16 purposes of this part, the term ‘adjustable benefit’
17 means—

18 “(A) benefits, rights, and features under
19 the plan, including post-retirement death bene-
20 fits, 60-month guarantees, disability benefits
21 not yet in pay status, and similar benefits;

22 “(B) any early retirement benefit or retire-
23 ment-type subsidy (within the meaning of sec-
24 tion 204(g)(2)(A)) and any benefit payment op-

1 tion (other than the qualified joint and survivor
2 annuity); and

3 “(C) benefit increases that were adopted
4 (or, if later, took effect) less than 60 months
5 before the first day such realignment program
6 took effect.

7 “(4) CORE BENEFIT DEFINED.—For purposes
8 of this part, the term ‘core benefit’ means a partici-
9 pant’s accrued benefit payable in the normal form of
10 an annuity commencing at normal retirement age,
11 determined without regard to—

12 “(A) any early retirement benefits, retire-
13 ment-type subsidies, or other benefits, rights, or
14 features that may be associated with that ben-
15 efit; and

16 “(B) any cost-of-living adjustments or ben-
17 efit increases effective after the date of retire-
18 ment.

19 “(5) COORDINATION WITH CONTRIBUTION IN-
20 CREASES.—

21 “(A) IN GENERAL.—A realignment pro-
22 gram may provide that some or all of the ben-
23 efit modifications described in the program will
24 only take effect if the bargaining parties fail to

1 agree to specified levels of increases in contribu-
2 tions to the plan, effective as of specified dates.

3 “(B) INDEPENDENT BENEFIT MODIFICA-
4 TIONS.—If a realignment program adopts any
5 changes to the benefit formula that are inde-
6 pendent of potential contribution increases,
7 such changes shall take effect not later than
8 180 days after the first day of the first plan
9 year that begins following the adoption of the
10 realignment program.

11 “(C) CONDITIONAL BENEFIT MODIFICA-
12 TIONS.—If a realignment program adopts any
13 changes to the benefit formula that take effect
14 only if the bargaining parties fail to agree to
15 contribution increases, such changes shall take
16 effect not later than the first day of the first
17 plan year beginning after the third anniversary
18 of the date of adoption of the realignment pro-
19 gram.

20 “(D) REVOCATION OF CERTAIN BENEFIT
21 MODIFICATIONS.—Benefit modifications de-
22 scribed in subparagraph (C) may be revoked, in
23 whole or in part, and retroactively or prospec-
24 tively, when contributions to the plan are in-
25 creased, as specified in the realignment pro-

1 gram, including any amendments thereto. The
2 preceding sentence shall not apply unless the
3 contribution increases are to be effective not
4 later than the fifth anniversary of the first day
5 of the first plan year that begins after the
6 adoption of the realignment program.

7 “(b) NOTICE.—

8 “(1) IN GENERAL.—In any case in which it is
9 certified under section 802(a) that the projected
10 funded ratio is less than 120 percent, the plan spon-
11 sor shall, not later than 30 days after the date of
12 the certification, provide notification of the current
13 and projected funded ratios to the participants and
14 beneficiaries, the bargaining parties, and the Sec-
15 retary. Such notice shall include—

16 “(A) an explanation that contribution rate
17 increases or benefit reductions may be nec-
18 essary;

19 “(B) a description of the types of benefits
20 that might be reduced; and

21 “(C) an estimate of the contribution in-
22 creases and benefit reductions that may be nec-
23 essary to achieve a projected funded ratio of
24 120 percent.

25 “(2) NOTICE OF BENEFIT MODIFICATIONS.—

1 “(A) IN GENERAL.—No modifications may
2 be made that reduce the rate of future benefit
3 accrual or that reduce core benefits or adjust-
4 able benefits unless notice of such reduction has
5 been given at least 180 days before the general
6 effective date of such reduction for all partici-
7 pants and beneficiaries to—

8 “(i) plan participants and bene-
9 ficiaries;

10 “(ii) each employer who has an obliga-
11 tion to contribute to the composite plan;
12 and

13 “(iii) each employee organization
14 which, for purposes of collective bar-
15 gaining, represents plan participants em-
16 ployed by such employers.

17 “(B) CONTENT OF NOTICE.—The notice
18 under subparagraph (A) shall contain—

19 “(i) sufficient information to enable
20 participants and beneficiaries to under-
21 stand the effect of any reduction on their
22 benefits, including an illustration of any
23 affected benefit or subsidy, on an annual
24 or monthly basis that a participant or ben-
25 eficiary would otherwise have been eligible

1 for as of the general effective date de-
2 scribed in subparagraph (A); and

3 “(ii) information as to the rights and
4 remedies of plan participants and bene-
5 ficiaries as well as how to contact the De-
6 partment of Labor for further information
7 and assistance, where appropriate.

8 “(C) FORM AND MANNER.—Any notice
9 under subparagraph (A)—

10 “(i) shall be provided in a form and
11 manner prescribed in regulations of the
12 Secretary of Labor;

13 “(ii) shall be written in a manner so
14 as to be understood by the average plan
15 participant.

16 “(3) MODEL NOTICES.—The Secretary shall—

17 “(A) prescribe model notices that the plan
18 sponsor of a composite plan may use to satisfy
19 the notice requirements under this subsection;
20 and

21 “(B) by regulation enumerate any details
22 related to the elements listed in paragraph (1)
23 that any notice under this subsection must in-
24 clude.

1 “(4) DELIVERY METHOD.—Any notice under
2 this part shall be provided in writing and may also
3 be provided in electronic form to the extent that the
4 form is reasonably accessible to persons to whom the
5 notice is provided.

6 **“SEC. 804. LIMITATION ON INCREASING BENEFITS.**

7 “(a) LEVEL OF CURRENT FUNDED RATIOS.—Except
8 as provided in subsections (c), (d), and (e), no plan
9 amendment increasing benefits or establishing new bene-
10 fits under a composite plan may be adopted for a plan
11 year unless—

12 “(1) the plan’s current funded ratio is at least
13 110 percent (without regard to the benefit increase
14 or new benefits);

15 “(2) taking the benefit increase or new benefits
16 into account, the current funded ratio is at least 100
17 percent and the projected funded ratio for the cur-
18 rent plan year is at least 120 percent;

19 “(3) in any case in which, after taking the ben-
20 efit increase or new benefits into account, the cur-
21 rent funded ratio is less than 140 percent and the
22 projected funded ratio is less than 140 percent, the
23 benefit increase or new benefits are projected by the
24 plan actuary to increase the present value of the

1 plan's liabilities for the plan year by not more than
2 3 percent; and

3 “(4) expected contributions for the current plan
4 year are at least 120 percent of normal cost for the
5 plan year, determined using the unit credit funding
6 method and treating the benefit increase or new ben-
7 efits as in effect for the entire plan year.

8 “(b) ADDITIONAL REQUIREMENTS WHERE CORE
9 BENEFITS REDUCED.—If a plan has been amended to re-
10 duce core benefits pursuant to a realignment program
11 under section 803(a)(2)(D), such plan may not be subse-
12 quently amended to increase core benefits unless the
13 amendment—

14 “(1) increases the level of future benefit pay-
15 ments only; and

16 “(2) provides for an equitable distribution of
17 benefit increases across the participant and bene-
18 ficiary population, taking into account the extent to
19 which the benefits of participants were previously re-
20 duced pursuant to such realignment program.

21 “(c) EXCEPTION TO COMPLY WITH APPLICABLE
22 LAW.—Subsection (a) shall not apply in connection with
23 a plan amendment if the amendment is required as a con-
24 dition of qualification under part I of subchapter D of

1 chapter 1 of the Internal Revenue Code of 1986 or to com-
2 ply with other applicable law.

3 “(d) EXCEPTION WHERE MAXIMUM DEDUCTIBLE
4 LIMIT APPLIES.—Subsection (a) shall not apply in con-
5 nection with a plan amendment if and to the extent that
6 contributions to the composite plan would not be deduct-
7 ible for the plan year under section 404(a)(1)(E) of the
8 Internal Revenue Code of 1986 if the plan amendment is
9 not adopted.

10 “(e) EXCEPTION FOR CERTAIN BENEFIT MODIFICA-
11 TIONS.—Subsection (a) shall not apply in connection with
12 a plan amendment under section 803(a)(5)(C), regarding
13 conditional benefit modifications.

14 “(f) TREATMENT OF PLAN AMENDMENTS.—For pur-
15 poses of this section—

16 “(1) if two or more plan amendments increas-
17 ing benefits or establishing new benefits are adopted
18 in a plan year, such amendments shall be treated as
19 a single amendment adopted on the last day of the
20 plan year;

21 “(2) all benefit increases and new benefits
22 adopted in a single amendment are treated as a sin-
23 gle benefit increase, irrespective of whether the in-
24 creases and new benefits take effect in more than
25 one plan year; and

1 “(3) increases in contributions or decreases in
2 plan liabilities which are scheduled to take effect in
3 future plan years may be taken into account in con-
4 nection with a plan amendment if they have been
5 agreed to in writing or otherwise formalized by the
6 date the plan amendment is adopted.

7 **“SEC. 805. COMPOSITE PLAN RESTRICTIONS TO PRESERVE**
8 **LEGACY PLAN FUNDING.**

9 “(a) TREATMENT AS A LEGACY PLAN.—

10 “(1) IN GENERAL.—For purposes of this part
11 and parts 2 and 3, a defined benefit plan shall be
12 treated as a legacy plan with respect to the com-
13 posite plan under which the employees who were eli-
14 gible to accrue a benefit under the defined benefit
15 plan become eligible to accrue a benefit under such
16 composite plan.

17 “(2) COMPONENT PLANS.—In any case in
18 which a defined benefit plan is amended to add a
19 composite plan component pursuant to section
20 801(b), paragraph (1) shall be applied by sub-
21 stituting ‘defined benefit component’ for ‘defined
22 benefit plan’ and ‘composite plan component’ for
23 ‘composite plan’.

24 “(3) ELIGIBLE TO ACCRUE A BENEFIT.—For
25 purposes of paragraph (1), an employee is consid-

1 ered eligible to accrue a benefit under a composite
 2 plan as of the first day in which the employee com-
 3 pletes an hour of service under a collective bar-
 4 gaining agreement that provides for contributions to
 5 and accruals under the composite plan in lieu of ac-
 6 cruals under the legacy plan.

7 “(4) COLLECTIVE BARGAINING AGREEMENT.—
 8 As used in this part, the term ‘collective bargaining
 9 agreement’ includes any agreement under which an
 10 employer has an obligation to contribute to a plan.

11 “(5) OTHER TERMS.—Any term used in this
 12 part which is not defined in this part and which is
 13 also used in section 305 shall have the same mean-
 14 ing provided such term in such section.

15 “(b) RESTRICTIONS ON ACCEPTANCE BY COMPOSITE
 16 PLAN OF AGREEMENTS AND CONTRIBUTIONS.—

17 “(1) IN GENERAL.—The plan sponsor of a com-
 18 posite plan shall not accept or recognize a collective
 19 bargaining agreement (or any modification to such
 20 agreement), and no contributions may be accepted
 21 and no benefits may be accrued or otherwise earned
 22 under the agreement—

23 “(A) in any case in which the plan actuary
 24 of any defined benefit plan that would be treat-
 25 ed as a legacy plan with respect to such com-

1 posite plan has certified under section
2 305(b)(3) that such defined benefit plan is or
3 will be in critical status for the plan year in
4 which such agreement would take effect or for
5 any of the succeeding 5 plan years; and

6 “(B) unless the agreement requires each
7 employer who is a party to such agreement, in-
8 cluding employers whose employees are not par-
9 ticipants in the legacy plan, to provide contribu-
10 tions to the legacy plan with respect to such
11 composite plan in a manner that satisfies the
12 transition contribution requirements of sub-
13 section (d).

14 “(2) NOTICE.—Not later than 30 days after a
15 determination by a plan sponsor of a composite plan
16 that an agreement fails to satisfy the requirements
17 described in paragraph (1), the plan sponsor shall
18 provide notification of such failure and the reasons
19 for such determination—

20 “(A) to the parties to the agreement;

21 “(B) to active participants of the com-
22 posite plan who have ceased to accrue or other-
23 wise earn benefits with respect to service with
24 an employer pursuant to paragraph (1); and

1 “(C) to the Secretary, the Secretary of the
2 Treasury, and the Pension Benefit Guaranty
3 Corporation.

4 “(3) LIMITATION ON RETROACTIVE EFFECT.—
5 This subsection shall not apply to benefits accrued
6 before the date on which notice is provided under
7 paragraph (2).

8 “(c) RESTRICTION ON ACCRUAL OF BENEFITS
9 UNDER A COMPOSITE PLAN.—

10 “(1) IN GENERAL.—In any case in which an
11 employer, under a collective bargaining agreement
12 entered into after February 5, 2018, ceases to have
13 an obligation to contribute to a multiemployer de-
14 fined benefit plan, no employees employed by the
15 employer may accrue or otherwise earn benefits
16 under any composite plan, with respect to service
17 with that employer, for a 60-month period beginning
18 on the date on which the employer entered into such
19 collective bargaining agreement.

20 “(2) NOTICE OF CESSATION OF OBLIGATION.—
21 Within 30 days of determining that an employer has
22 ceased to have an obligation to contribute to a leg-
23 acy plan with respect to employees employed by an
24 employer that is or will be contributing to a com-
25 posite plan with respect to service of such employees,

1 the plan sponsor of the legacy plan shall notify the
2 plan sponsor of the composite plan of that cessation.

3 “(3) NOTICE OF CESSATION OF ACCRUALS.—

4 Not later than 30 days after determining that an
5 employer has ceased to have an obligation to con-
6 tribute to a legacy plan, the plan sponsor of the
7 composite plan shall notify the bargaining parties,
8 the active participants affected by the cessation of
9 accruals, the Secretary, the Secretary of the Treas-
10 ury, and the Pension Benefit Guaranty Corporation
11 of the cessation of accruals, the period during which
12 such cessation is in effect, and the reasons therefor.

13 “(4) LIMITATION ON RETROACTIVE EFFECT.—

14 This subsection shall not apply to benefits accrued
15 before the date on which notice is provided under
16 paragraph (3).

17 “(d) TRANSITION CONTRIBUTION REQUIREMENTS.—

18 “(1) IN GENERAL.—A collective bargaining
19 agreement satisfies the transition contribution re-
20 quirements of this subsection if the agreement—

21 “(A) authorizes payment of contributions
22 to a legacy plan at a rate or rates equal to or
23 greater than the transition contribution rate es-
24 tablished by the legacy plan under paragraph
25 (2); and

1 “(B) does not provide for—

2 “(i) a suspension of contributions to
3 the legacy plan with respect to any period
4 of service; or

5 “(ii) any new direct or indirect exclu-
6 sion of younger or newly hired employees
7 of the employer from being taken into ac-
8 count in determining contributions owed to
9 the legacy plan.

10 “(2) TRANSITION CONTRIBUTION RATE.—

11 “(A) IN GENERAL.—The transition con-
12 tribution rate for a plan year is the contribution
13 rate that, as certified by the actuary of the leg-
14 acy plan in accordance with the principles in
15 section 305(b)(3)(B), is reasonably expected to
16 be adequate—

17 “(i) to fund the normal cost for the
18 plan year;

19 “(ii) to amortize the plan’s unfunded
20 liabilities in level annual installments over
21 25 years, beginning with the plan year in
22 which the transition contribution rate is
23 first established; and

24 “(iii) to amortize any subsequent
25 changes in the legacy plan’s unfunded li-

1 ability due to experience gains or losses
2 (including investment gains or losses, gains
3 or losses due to contributions greater or
4 less than the contributions made under the
5 prior transition contribution rate, and
6 other actuarial gains or losses), changes in
7 actuarial assumptions, changes to the leg-
8 acy plan’s benefits, or changes in funding
9 method over a period of 15 plan years be-
10 ginning with the plan year in which such
11 change in unfunded liability is incurred.

12 The transition contribution rate for any plan
13 year may not be less than the transition con-
14 tribution rate for the plan year in which such
15 rate is first established.

16 “(B) MULTIPLE RATES.—If different rates
17 of contribution are payable to the legacy plan
18 by different employers or for different classes of
19 employees, the certification shall specify a tran-
20 sition contribution rate for each such employer.

21 “(C) RATE APPLICABLE TO EMPLOYER.—

22 “(i) IN GENERAL.—Except as pro-
23 vided by clause (ii), the transition con-
24 tribution rate applicable to an employer for
25 a plan year is the rate in effect for the

1 plan year of the legacy plan that com-
2 mences on or after 180 days before the
3 earlier of—

4 “(I) the effective date of the col-
5 lective bargaining agreement pursuant
6 to which the employer contributes to
7 the legacy plan; or

8 “(II) 5 years after the last plan
9 year for which the transition contribu-
10 tion rate applicable to the employer
11 was established or updated.

12 “(ii) EXCEPTION.—The transition
13 contribution rate applicable to an employer
14 for the first plan year beginning on or
15 after the commencement of the employer’s
16 obligation to contribute to the composite
17 plan is the rate in effect for the plan year
18 of the legacy plan that commences on or
19 after 180 days before such first plan year.

20 “(D) EFFECT OF LEGACY PLAN FINANCIAL
21 CIRCUMSTANCES.—If the plan actuary of the
22 legacy plan has certified under section 305 that
23 the plan is in endangered or critical status for
24 a plan year, the transition contribution rate for
25 the following plan year is the rate determined

1 with respect to the employer under the legacy
2 plan's funding improvement or rehabilitation
3 plan under section 305, if greater than the rate
4 otherwise determined, but in no event greater
5 than 75 percent of the sum of the contribution
6 rates applicable to the legacy plan and the com-
7 posite plan for the plan year.

8 “(E) OTHER ACTUARIAL ASSUMPTIONS
9 AND METHODS.—Except as provided in sub-
10 paragraph (A), the determination of the transi-
11 tion contribution rate for a plan year shall be
12 based on actuarial assumptions and methods
13 consistent with the minimum funding deter-
14 minations made under section 304 (or, if appli-
15 cable, section 305) with respect to the legacy
16 plan for the plan year.

17 “(F) ADJUSTMENTS IN RATE.—The plan
18 sponsor of a legacy plan from time to time may
19 adjust the transition contribution rate or rates
20 applicable to an employer under this paragraph
21 by increasing some rates and decreasing others
22 if the actuary certifies that such adjusted rates
23 in combination will produce projected contribu-
24 tion income for the plan year beginning on or
25 after the date of certification that is not less

1 than would be produced by the transition con-
2 tribution rates in effect at the time of the cer-
3 tification.

4 “(G) NOTICE OF TRANSITION CONTRIBU-
5 TION RATE.—The plan sponsor of a legacy plan
6 shall provide notice to the parties to collective
7 bargaining agreements pursuant to which con-
8 tributions are made to the legacy plan of
9 changes to the transition contribution rate re-
10 quirements at least 30 days before the begin-
11 ning of the plan year for which the rate is effec-
12 tive.

13 “(H) NOTICE TO COMPOSITE PLAN SPON-
14 SOR.—Not later than 30 days after a deter-
15 mination by the plan sponsor of a legacy plan
16 that a collective bargaining agreement provides
17 for a rate of contributions that is below the
18 transition contribution rate applicable to one or
19 more employers that are parties to the collective
20 bargaining agreement, the plan sponsor of the
21 legacy plan shall notify the plan sponsor of any
22 composite plan under which employees of such
23 employer would otherwise be eligible to accrue
24 a benefit.

1 “(3) CORRECTION PROCEDURES.—Pursuant to
2 standards prescribed by the Secretary, the plan
3 sponsor of a composite plan shall adopt rules and
4 procedures that give the parties to the collective bar-
5 gaining agreement notice of the failure of such
6 agreement to satisfy the transition contribution re-
7 quirements of this subsection, and a reasonable op-
8 portunity to correct such failure, not to exceed 180
9 days from the date of notice given under subsection
10 (b)(2).

11 “(4) SUPPLEMENTAL CONTRIBUTIONS.—A col-
12 lective bargaining agreement may provide for supple-
13 mental contributions to the legacy plan for a plan
14 year in excess of the transition contribution rate de-
15 termined under paragraph (2), regardless of whether
16 the legacy plan is in endangered or critical status for
17 such plan year.

18 “(e) NONAPPLICATION OF COMPOSITE PLAN RE-
19 STRICTIONS.—

20 “(1) IN GENERAL.—The provisions of sub-
21 sections (a), (b), and (c) shall not apply with respect
22 to a collective bargaining agreement, to the extent
23 the agreement, or a predecessor agreement, provides
24 or provided for contributions to a defined benefit
25 plan that is a legacy plan, as of the first day of the

1 first plan year following a plan year for which the
2 plan actuary certifies that the plan is fully funded,
3 has been fully funded for at least three out of the
4 immediately preceding 5 plan years, and is projected
5 to remain fully funded for at least the following 4
6 plan years.

7 “(2) DETERMINATION OF FULLY FUNDED.—A
8 plan is fully funded for purposes of paragraph (1)
9 if, as of the valuation date of the plan for a plan
10 year, the value of the plan’s assets equals or exceeds
11 the present value of the plan’s liabilities, determined
12 in accordance with the rules prescribed by the Pen-
13 sion Benefit Guaranty Corporation under sections
14 4219(c)(1)(D) and 4281 for multiemployer plans
15 terminating by mass withdrawal, as in effect for the
16 date of the determination, except the plan’s reason-
17 able assumption regarding the starting date of bene-
18 fits may be used.

19 “(3) OTHER APPLICABLE RULES.—Except as
20 provided in paragraph (2), actuarial determinations
21 and projections under this section shall be based on
22 the rules in section 305(b)(3) and section 802(b).

1 **“SEC. 806. MERGERS AND ASSET TRANSFERS OF COM-**
2 **POSITE PLANS.**

3 “(a) IN GENERAL.—Assets and liabilities of a com-
4 posite plan may only be merged with, or transferred to,
5 another plan if—

6 “(1) the other plan is a composite plan;

7 “(2) the plan or plans resulting from the merg-
8 er or transfer is a composite plan;

9 “(3) no participant’s accrued benefit or adjust-
10 able benefit is lower immediately after the trans-
11 action than it was immediately before the trans-
12 action; and

13 “(4) the value of the assets transferred in the
14 case of a transfer reasonably reflects the value of the
15 amounts contributed with respect to the participants
16 whose benefits are being transferred, adjusted for al-
17 locable distributions, investment gains and losses,
18 and administrative expenses.

19 “(b) LEGACY PLAN.—

20 “(1) IN GENERAL.—After a merger or transfer
21 involving a composite plan, the legacy plan with re-
22 spect to an employer that is obligated to contribute
23 to the resulting composite plan is the legacy plan
24 that applied to that employer immediately before the
25 merger or transfer.

1 “(2) MULTIPLE LEGACY PLANS.—If an em-
 2 ployer is obligated to contribute to more than one
 3 legacy plan with respect to employees eligible to ac-
 4 crue benefits under more than one composite plan
 5 and there is a merger or transfer of such legacy
 6 plans, the transition contribution rate applicable to
 7 the legacy plan resulting from the merger or trans-
 8 fer with respect to that employer shall be determined
 9 in accordance with the provisions of section
 10 805(d)(2)(B).”.

11 (2) PENALTIES.—

12 (A) CIVIL ENFORCEMENT OF FAILURE TO
 13 COMPLY WITH REALIGNMENT PROGRAM.—Sec-
 14 tion 502(a) of such Act (29 U.S.C. 1132(a)) is
 15 amended—

16 (i) in paragraph (10), by striking “or”
 17 at the end;

18 (ii) in paragraph (11), by striking the
 19 period at the end and inserting “; or”; and

20 (iii) by adding at the end the fol-
 21 lowing:

22 “(12) in the case of a composite plan required
 23 to adopt a realignment program under section 803,
 24 if the plan sponsor—

1 “(A) has not adopted a realignment pro-
2 gram under that section by the deadline estab-
3 lished in such section; or

4 “(B) fails to update or comply with the
5 terms of the realignment program in accordance
6 with the requirements of such section,
7 by the Secretary, by an employer that has an obliga-
8 tion to contribute with respect to the composite plan,
9 or by an employee organization that represents ac-
10 tive participants in the composite plan, for an order
11 compelling the plan sponsor to adopt a realignment
12 program, or to update or comply with the terms of
13 the realignment program, in accordance with the re-
14 quirements of such section and the realignment pro-
15 gram.”.

16 (B) CIVIL PENALTIES.—Section 502(c) of
17 such Act (29 U.S.C. 1132(c)) is amended—

18 (i) by moving paragraphs (8), (10),
19 and (12) each 2 ems to the left;

20 (ii) by redesignating paragraphs (9)
21 through (12) as paragraphs (12) through
22 (15), respectively; and

23 (iii) by inserting after paragraph (8)
24 the following:

1 “(9) The Secretary may assess against any plan
2 sponsor of a composite plan a civil penalty of not
3 more than \$1,100 per day for each violation by such
4 sponsor—

5 “(A) of the requirement under section
6 802(a) on the plan actuary to certify the plan’s
7 current or projected funded ratio by the date
8 specified in such subsection; or

9 “(B) of the requirement under section 803
10 to adopt a realignment program by the deadline
11 established in that section and to comply with
12 its terms.

13 “(10)(A) The Secretary may assess against any
14 plan sponsor of a composite plan a civil penalty of
15 not more than \$100 per day for each violation by
16 such sponsor of the requirement under section
17 803(b) to provide notice as described in such section,
18 except that no penalty may be assessed in any case
19 in which the plan sponsor exercised reasonable dili-
20 gence to meet the requirements of such section
21 and—

22 “(i) the plan sponsor did not know that the
23 violation existed; or

24 “(ii) the plan sponsor provided such notice
25 during the 30-day period beginning on the first

1 date on which the plan sponsor knew, or in ex-
 2 ercising reasonable due diligence should have
 3 known, that such violation existed.

4 “(B) In any case in which the plan sponsor ex-
 5 ercised reasonable diligence to meet the require-
 6 ments of section 803(b)—

7 “(i) the total penalty assessed under this
 8 paragraph against such sponsor for a plan year
 9 may not exceed \$500,000; and

10 “(ii) the Secretary may waive part or all of
 11 such penalty to the extent that the payment of
 12 such penalty would be excessive or otherwise in-
 13 equitable relative to the violation involved.

14 “(11) The Secretary may assess against any
 15 plan sponsor of a composite plan a civil penalty of
 16 not more than \$100 per day for each violation by
 17 such sponsor of the notice requirements under sec-
 18 tions 801(b)(5) and 805(b)(2).”.

19 (3) CONFORMING AMENDMENT.—The table of
 20 contents in section 1 of such Act (29 U.S.C. 1001
 21 note) is amended by inserting after the item relating
 22 to section 734 the following:

“PART 8—COMPOSITE PLANS AND LEGACY PLANS

“Sec. 801. Composite plan defined.

“Sec. 802. Funded ratios; actuarial assumptions.

“Sec. 803. Realignment program.

“Sec. 804. Limitation on increasing benefits.

“Sec. 805. Composite plan restrictions to preserve legacy plan funding.

“Sec. 806. Mergers and asset transfers of composite plans.”.

1 (b) AMENDMENT TO THE INTERNAL REVENUE CODE
 2 OF 1986.—

3 (1) IN GENERAL.—Part III of subchapter D of
 4 chapter 1 of the Internal Revenue Code of 1986 is
 5 amended by adding at the end the following:

6 **“Subpart C—Composite Plans and Legacy Plans**

“Sec. 437. Composite plan defined.

“Sec. 438. Funded ratios; actuarial assumptions.

“Sec. 439. Realignment program.

“Sec. 440. Limitation on increasing benefits.

“Sec. 440A. Composite plan restrictions to preserve legacy plan funding.

“Sec. 440B. Mergers and asset transfers of composite plans.

7 **“SEC. 437. COMPOSITE PLAN DEFINED.**

8 “(a) IN GENERAL.—For purposes of this title, the
 9 term ‘composite plan’ means a pension plan—

10 “(1) which is a multiemployer plan that is nei-
 11 ther a defined benefit plan nor a defined contribu-
 12 tion plan,

13 “(2) the terms of which provide that the plan
 14 is a composite plan for purposes of this title with re-
 15 spect to which not more than one multiemployer de-
 16 fined benefit plan is treated as a legacy plan within
 17 the meaning of section 440A, unless there is more
 18 than one legacy plan following a merger of composite
 19 plans under section 440B,

20 “(3) which provides systematically for the pay-
 21 ment of benefits—

1 “(A) objectively calculated pursuant to a
2 formula enumerated in the plan document with
3 respect to plan participants after retirement,
4 for life, and

5 “(B) in the form of life annuities, except
6 for benefits which under section 411(a)(11)
7 may be immediately distributed without the
8 consent of the participant,

9 “(4) for which the plan contributions for the
10 first plan year are at least 120 percent of the nor-
11 mal cost for the plan year,

12 “(5) which requires—

13 “(A) an annual valuation of the liability of
14 the plan as of a date within the plan year to
15 which the valuation refers or within one month
16 prior to the beginning of such year,

17 “(B) an annual actuarial determination of
18 the plan’s current funded ratio and projected
19 funded ratio under section 438(a),

20 “(C) corrective action through a realign-
21 ment program pursuant to section 439 when-
22 ever the plan’s projected funded ratio is below
23 120 percent for the plan year, and

24 “(D) an annual notification to each partici-
25 pant describing the participant’s benefits under

1 the plan and explaining that such benefits may
2 be subject to reduction under a realignment
3 program pursuant to section 439 based on the
4 plan's funded status in future plan years, and
5 “(6) the board of trustees of which includes at
6 least one retiree or beneficiary in pay status during
7 each plan year following the first plan year in which
8 at least 5 percent of the participants in the plan are
9 retirees or beneficiaries in pay status.

10 “(b) TRANSITION FROM A MULTIEMPLOYER DE-
11 FINED BENEFIT PLAN.—

12 “(1) IN GENERAL.—The plan sponsor of a de-
13 fined benefit plan that is a multiemployer plan may,
14 subject to paragraph (2), amend the plan to incor-
15 porate the features of a composite plan as a compo-
16 nent of the multiemployer plan separate from the
17 defined benefit plan component, except in the case of
18 a defined benefit plan for which the plan actuary has
19 certified under section 432(b)(3) that the plan is or
20 will be in critical status for the plan year in which
21 such amendment would become effective or for any
22 of the succeeding 5 plan years.

23 “(2) REQUIREMENTS.—Any amendment pursu-
24 ant to paragraph (1) to incorporate the features of

1 a composite plan as a component of a multiemployer
2 plan shall—

3 “(A) apply with respect to all collective
4 bargaining agreements providing for contribu-
5 tions to the multiemployer plan on or after the
6 effective date of the amendment,

7 “(B) apply with respect to all participants
8 in the multiemployer plan for whom contribu-
9 tions are made to the multiemployer plan on or
10 after the effective date of the amendment,

11 “(C) specify that the effective date of the
12 amendment is—

13 “(i) the first day of a specified plan
14 year following the date of the adoption of
15 the amendment, except that the plan spon-
16 sor may alternatively provide for a sepa-
17 rate effective date with respect to each col-
18 lective bargaining agreement under which
19 contributions to the multiemployer plan
20 are required, which shall occur on the first
21 day of the first plan year beginning after
22 the termination, or if earlier, the re-open-
23 ing, of each such agreement, or such ear-
24 lier date as the parties to the agreement

1 and the plan sponsor of the multiemployer
2 plan shall agree to, and

3 “(ii) not later than the first day of the
4 fifth plan year beginning on or after the
5 date of the adoption of the amendment,

6 “(D) specify that, as of the amendment’s
7 effective date, no further benefits shall accrue
8 under the defined benefit component of the
9 multiemployer plan, and

10 “(E) specify that, as of the amendment’s
11 effective date, the plan sponsor of the multiem-
12 ployer plan shall be the plan sponsor of both
13 the composite plan component and the defined
14 benefit plan component of the plan.

15 “(3) SPECIAL RULES.—If a multiemployer plan
16 is amended pursuant to paragraph (1)—

17 “(A) the requirements of this title shall be
18 applied to the composite plan component and
19 the defined benefit plan component of the mul-
20 tiemployer plan as if each such component were
21 maintained as a separate plan, and

22 “(B) the assets of the composite plan com-
23 ponent and the defined benefit plan component
24 of the plan shall be held in a single trust form-

1 ing part of the plan under which the trust in-
2 strument expressly provides—

3 “(i) for separate accounts (and appro-
4 priate records) to be maintained to reflect
5 the interest which each of the plan compo-
6 nents has in the trust, including separate
7 accounting for additions to the trust for
8 the benefit of each plan component, dis-
9 bursements made from each plan compo-
10 nent’s account in the trust, investment ex-
11 perience of the trust allocable to that ac-
12 count, and administrative expenses (wheth-
13 er direct expenses or shared expenses allo-
14 cated proportionally), and permits, but
15 does not require, the pooling of some or all
16 of the assets of the two plan components
17 for investment purposes, and

18 “(ii) that the assets of each of the two
19 plan components shall be held, invested,
20 reinvested, managed, administered and dis-
21 tributed for the exclusive benefit of the
22 participants and beneficiaries of each such
23 plan component, and in no event shall the
24 assets of one of the plan components be

1 available to pay benefits due under the
2 other plan component.

3 “(4) NOT A TERMINATION EVENT.—Notwith-
4 standing section 4041A of the Employee Retirement
5 Income Security Act of 1974, an amendment pursu-
6 ant to paragraph (1) to incorporate the features of
7 a composite plan as a component of a multiemployer
8 plan does not constitute termination of the multiem-
9 ployer plan.

10 “(5) NOTICE TO THE SECRETARY.—

11 “(A) NOTICE.—The plan sponsor of a
12 composite plan shall provide notice to the Sec-
13 retary of the intent to establish the composite
14 plan (or, in the case of a composite plan incor-
15 porated as a component of a multiemployer
16 plan as described in paragraph (1), the intent
17 to amend the multiemployer plan to incorporate
18 such composite plan) at least 30 days prior to
19 the effective date of such establishment or
20 amendment.

21 “(B) CERTIFICATION.—In the case of a
22 composite plan incorporated as a component of
23 a multiemployer plan as described in paragraph
24 (1), such notice shall include a certification by
25 the plan actuary under section 432(b)(3) that

1 the effective date of the amendment occurs in
2 a plan year for which the multiemployer plan is
3 not in critical status for that plan year and any
4 of the succeeding 5 plan years.

5 “(6) REFERENCES TO COMPOSITE PLAN COM-
6 PONENT.—As used in this subpart, the term ‘com-
7 posite plan’ includes a composite plan component
8 added to a defined benefit plan pursuant to para-
9 graph (1).

10 “(7) RULE OF CONSTRUCTION.—Paragraph
11 (2)(A) shall not be construed as preventing the plan
12 sponsor of a multiemployer plan from adopting an
13 amendment pursuant to paragraph (1) because some
14 collective bargaining agreements are amended to
15 cease any covered employer’s obligation to contribute
16 to the multiemployer plan before or after the plan
17 amendment is effective. Paragraph (2)(B) shall not
18 be construed as preventing the plan sponsor of a
19 multiemployer plan from adopting an amendment
20 pursuant to paragraph (1) because some partici-
21 pants cease to have contributions made to the multi-
22 employer plan on their behalf before or after the
23 plan amendment is effective.

1 “(c) COORDINATION WITH FUNDING RULES.—Ex-
 2 cept as otherwise provided in this title, sections 412, 431,
 3 and 432 shall not apply to a composite plan.

4 “(d) TREATMENT OF A COMPOSITE PLAN.—For pur-
 5 poses of this title (other than sections 412 and 418E),
 6 a composite plan shall be treated as if it were a defined
 7 benefit plan unless a different treatment is provided for
 8 under applicable law.

9 **“SEC. 438. FUNDED RATIOS; ACTUARIAL ASSUMPTIONS.**

10 “(a) CERTIFICATION OF FUNDED RATIOS.—

11 “(1) IN GENERAL.—Not later than the one-
 12 hundred twentieth day of each plan year of a com-
 13 posite plan, the plan actuary of the composite plan
 14 shall certify to the Secretary, the Secretary of
 15 Labor, and the plan sponsor the plan’s current fund-
 16 ed ratio and projected funded ratio for the plan
 17 year.

18 “(2) DETERMINATION OF CURRENT FUNDED
 19 RATIO AND PROJECTED FUNDED RATIO.—For pur-
 20 poses of this section—

21 “(A) CURRENT FUNDED RATIO.—The cur-
 22 rent funded ratio is the ratio (expressed as a
 23 percentage) of—

24 “(i) the value of the plan’s assets as
 25 of the first day of the plan year, to

1 “(ii) the plan actuary’s best estimate
2 of the present value of the plan liabilities
3 as of the first day of the plan year.

4 “(B) PROJECTED FUNDED RATIO.—The
5 projected funded ratio is the current funded
6 ratio projected to the first day of the fifteenth
7 plan year following the plan year for which the
8 determination is being made.

9 “(3) CONSIDERATION OF CONTRIBUTION RATE
10 INCREASES.—For purposes of projections under this
11 subsection, the plan sponsor may anticipate con-
12 tribution rate increases beyond the term of the cur-
13 rent collective bargaining agreement and any agreed-
14 to supplements, up to a maximum of 2.5 percent per
15 year, compounded annually, unless it would be un-
16 reasonable under the circumstances to assume that
17 contributions would increase by that amount.

18 “(b) ACTUARIAL ASSUMPTIONS AND METHODS.—
19 For purposes of this part—

20 “(1) IN GENERAL.—All costs, liabilities, rates
21 of interest, and other factors under the plan shall be
22 determined for a plan year on the basis of actuarial
23 assumptions and methods—

1 “(A) each of which is reasonable (taking
2 into account the experience of the plan and rea-
3 sonable expectations),

4 “(B) which, in combination, offer the actu-
5 ary’s best estimate of anticipated experience
6 under the plan, and

7 “(C) with respect to which any change
8 from the actuarial assumptions and methods
9 used in the previous plan year shall be certified
10 by the plan actuary and the actuarial rationale
11 for such change provided in the annual report
12 required by section 6058.

13 “(2) FAIR MARKET VALUE OF ASSETS.—The
14 value of the plan’s assets shall be taken into account
15 on the basis of their fair market value.

16 “(3) DETERMINATION OF NORMAL COST AND
17 PLAN LIABILITIES.—A plan’s normal cost and liabil-
18 ities shall be based on the most recent actuarial
19 valuation required under section 437(a)(5)(A) and
20 the unit credit funding method.

21 “(4) TIME WHEN CERTAIN CONTRIBUTIONS
22 DEEMED MADE.—Any contributions for a plan year
23 made by an employer after the last day of such plan
24 year, but not later than two and one-half months
25 after such day, shall be deemed to have been made

1 on such last day. For purposes of this paragraph,
2 such two and one-half month period may be ex-
3 tended for not more than six months under regula-
4 tions prescribed by the Secretary.

5 “(5) ADDITIONAL ACTUARIAL ASSUMPTIONS.—
6 Except where otherwise provided in this subpart, the
7 provisions of section 432(b)(3)(B) shall apply to any
8 determination or projection under this subpart.

9 **“SEC. 439. REALIGNMENT PROGRAM.**

10 “(a) REALIGNMENT PROGRAM.—

11 “(1) ADOPTION.—In any case in which the plan
12 actuary certifies under section 438(a) that the plan’s
13 projected funded ratio is below 120 percent for the
14 plan year, the plan sponsor shall adopt a realign-
15 ment program under paragraph (2) not later than
16 210 days after the due date of the certification re-
17 quired under section 438(a). The plan sponsor shall
18 adopt an updated realignment program for each suc-
19 ceeding plan year for which a certification described
20 in the preceding sentence is made.

21 “(2) CONTENT OF REALIGNMENT PROGRAM.—

22 “(A) IN GENERAL.—A realignment pro-
23 gram adopted under this paragraph is a written
24 program which consists of all reasonable meas-
25 ures, including options or a range of options to

1 be undertaken by the plan sponsor or proposed
2 to the bargaining parties, formulated, based on
3 reasonably anticipated experience and reason-
4 able actuarial assumptions, to enable the plan
5 to achieve a projected funded ratio of at least
6 120 percent for the following plan year.

7 “(B) INITIAL PROGRAM ELEMENTS.—Rea-
8 sonable measures under a realignment program
9 described in subparagraph (A) may include any
10 of the following:

11 “(i) Proposed contribution increases.

12 “(ii) A reduction in the rate of future
13 benefit accruals, so long as the resulting
14 rate shall not be less than 1 percent of the
15 contributions on which benefits are based
16 as of the start of the plan year (or the
17 equivalent standard accrual rate as de-
18 scribed in section 432(e)(6)).

19 “(iii) A modification or elimination of
20 adjustable benefits of participants that are
21 not in pay status before the date of the no-
22 tice required under subsection (b)(1).

23 “(iv) Any other legally available meas-
24 ures not specifically described in this sub-
25 paragraph or subparagraph (C) or (D)

1 that the plan sponsor determines are rea-
2 sonable.

3 “(C) ADDITIONAL PROGRAM ELEMENTS.—

4 If the plan sponsor has determined that all rea-
5 sonable measures available under subparagraph
6 (B) will not enable the plan to achieve a pro-
7 jected funded ratio of at least 120 percent the
8 following plan year, such reasonable measures
9 may also include—

10 “(i) a reduction of accrued benefits
11 that are not in pay status by the date of
12 the notice required under subsection
13 (b)(1), or

14 “(ii) a reduction of any benefits of
15 participants that are in pay status before
16 the date of the notice required under sub-
17 section (b)(1) other than core benefits as
18 defined in paragraph (4).

19 “(D) ADDITIONAL REDUCTIONS.—In the
20 case of a composite plan for which the plan
21 sponsor has determined that all reasonable
22 measures available under subparagraphs (B)
23 and (C) will not enable the plan to achieve a
24 projected funded ratio of at least 120 percent

1 for the following plan year, such reasonable
2 measures may also include—

3 “(i) a further reduction in the rate of
4 future benefit accruals without regard to
5 the limitation applicable under subpara-
6 graph (B)(ii), or

7 “(ii) a reduction of core benefits,
8 provided that such reductions shall be equitably
9 distributed across the participant and bene-
10 ficiary population, taking into account factors,
11 with respect to participants and beneficiaries
12 and their benefits, that may include one or
13 more of the factors listed in subclauses (I)
14 through (X) of section 432(e)(9)(D)(vi), to the
15 extent necessary to enable the plan to achieve
16 a projected funded ratio of at least 120 percent
17 for the following plan year, or at the election of
18 the plan sponsor, a projected funded ratio of at
19 least 100 percent for the following plan year
20 and a current funded ratio of at least 90 per-
21 cent.

22 “(3) ADJUSTABLE BENEFIT DEFINED.—For
23 purposes of this subpart, the term ‘adjustable ben-
24 efit’ means—

1 “(A) benefits, rights, and features under
2 the plan, including post-retirement death bene-
3 fits, 60-month guarantees, disability benefits
4 not yet in pay status, and similar benefits,

5 “(B) any early retirement benefit or retire-
6 ment-type subsidy (within the meaning of sec-
7 tion 411(d)(6)(B)(i)) and any benefit payment
8 option (other than the qualified joint and sur-
9 vivor annuity), and

10 “(C) benefit increases that were adopted
11 (or, if later, took effect) less than 60 months
12 before the first day such realignment program
13 took effect.

14 “(4) CORE BENEFIT DEFINED.—For purposes
15 of this subpart, the term ‘core benefit’ means a par-
16 ticipant’s accrued benefit payable in the normal form
17 of an annuity commencing at normal retirement age,
18 determined without regard to—

19 “(A) any early retirement benefits, retire-
20 ment-type subsidies, or other benefits, rights, or
21 features that may be associated with that ben-
22 efit, and

23 “(B) any cost-of-living adjustments or ben-
24 efit increases effective after the date of retire-
25 ment.

1 “(5) COORDINATION WITH CONTRIBUTION IN-
2 CREASES.—

3 “(A) IN GENERAL.—A realignment pro-
4 gram may provide that some or all of the ben-
5 efit modifications described in the program will
6 only take effect if the bargaining parties fail to
7 agree to specified levels of increases in contribu-
8 tions to the plan, effective as of specified dates.

9 “(B) INDEPENDENT BENEFIT MODIFICA-
10 TIONS.—If a realignment program adopts any
11 changes to the benefit formula that are inde-
12 pendent of potential contribution increases,
13 such changes shall take effect not later than
14 180 days following the first day of the first
15 plan year that begins following the adoption of
16 the realignment program.

17 “(C) CONDITIONAL BENEFIT MODIFICA-
18 TIONS.—If a realignment program adopts any
19 changes to the benefit formula that take effect
20 only if the bargaining parties fail to agree to
21 contribution increases, such changes shall take
22 effect not later than the first day of the first
23 plan year beginning after the third anniversary
24 of the date of adoption of the realignment pro-
25 gram.

1 “(D) REVOCATION OF CERTAIN BENEFIT
2 MODIFICATIONS.—Benefit modifications de-
3 scribed in paragraph (3) may be revoked, in
4 whole or in part, and retroactively or prospec-
5 tively, when contributions to the plan are in-
6 creased, as specified in the realignment pro-
7 gram, including any amendments thereto. The
8 preceding sentence shall not apply unless the
9 contribution increases are to be effective not
10 later than the fifth anniversary of the first day
11 of the first plan year that begins after the
12 adoption of the realignment program.

13 “(b) NOTICE.—

14 “(1) IN GENERAL.—In any case in which it is
15 certified under section 438(a) that the projected
16 funded ratio is less than 120 percent, the plan spon-
17 sor shall, not later than 30 days after the date of
18 the certification, provide notification of the current
19 and projected funded ratios to the participants and
20 beneficiaries, the bargaining parties, and the Sec-
21 retary. Such notice shall include—

22 “(A) an explanation that contribution rate
23 increases or benefit reductions may be nec-
24 essary,

1 “(B) a description of the types of benefits
2 that might be reduced, and

3 “(C) an estimate of the contribution in-
4 creases and benefit reductions that may be nec-
5 essary to achieve a projected funded ratio of
6 120 percent.

7 “(2) NOTICE OF BENEFIT MODIFICATIONS.—

8 “(A) IN GENERAL.—No modifications may
9 be made that reduce the rate of future benefit
10 accrual or that reduce core benefits or adjust-
11 able benefits unless notice of such reduction has
12 been given at least 180 days before the general
13 effective date of such reduction for all partici-
14 pants and beneficiaries to—

15 “(i) plan participants and bene-
16 ficiaries,

17 “(ii) each employer who has an obliga-
18 tion to contribute to the composite plan,
19 and

20 “(iii) each employee organization
21 which, for purposes of collective bar-
22 gaining, represents plan participants em-
23 ployed by such employers.

24 “(B) CONTENT OF NOTICE.—The notice
25 under subparagraph (A) shall contain—

1 “(i) sufficient information to enable
2 participants and beneficiaries to under-
3 stand the effect of any reduction on their
4 benefits, including an illustration of any
5 affected benefit or subsidy, on an annual
6 or monthly basis that a participant or ben-
7 eficiary would otherwise have been eligible
8 for as of the general effective date de-
9 scribed in subparagraph (A), and

10 “(ii) information as to the rights and
11 remedies of plan participants and bene-
12 ficiaries as well as how to contact the De-
13 partment of Labor for further information
14 and assistance, where appropriate.

15 “(C) FORM AND MANNER.—Any notice
16 under subparagraph (A)—

17 “(i) shall be provided in a form and
18 manner prescribed in regulations of the
19 Secretary of Labor,

20 “(ii) shall be written in a manner so
21 as to be understood by the average plan
22 participant.

23 “(3) MODEL NOTICES.—The Secretary shall—

24 “(A) prescribe model notices that the plan
25 sponsor of a composite plan may use to satisfy

1 the notice requirements under this subsection,
2 and

3 “(B) by regulation enumerate any details
4 related to the elements listed in paragraph (1)
5 that any notice under this subsection must in-
6 clude.

7 “(4) DELIVERY METHOD.—Any notice under
8 this part shall be provided in writing and may also
9 be provided in electronic form to the extent that the
10 form is reasonably accessible to persons to whom the
11 notice is provided.

12 **“SEC. 440. LIMITATION ON INCREASING BENEFITS.**

13 “(a) LEVEL OF CURRENT FUNDED RATIOS.—Except
14 as provided in subsections (c), (d), and (e), no plan
15 amendment increasing benefits or establishing new bene-
16 fits under a composite plan may be adopted for a plan
17 year unless—

18 “(1) the plan’s current funded ratio is at least
19 110 percent (without regard to the benefit increase
20 or new benefits),

21 “(2) taking the benefit increase or new benefits
22 into account, the current funded ratio is at least 100
23 percent and the projected funded ratio for the cur-
24 rent plan year is at least 120 percent,

1 “(3) in any case in which, after taking the ben-
2 efit increase or new benefits into account, the cur-
3 rent funded ratio is less than 140 percent or the
4 projected funded ratio is less than 140 percent, the
5 benefit increase or new benefits are projected by the
6 plan actuary to increase the present value of the
7 plan’s liabilities for the plan year by not more than
8 3 percent, and

9 “(4) expected contributions for the current plan
10 year are at least 120 percent of normal cost for the
11 plan year, determined using the unit credit funding
12 method and treating the benefit increase or new ben-
13 efits as in effect for the entire plan year.

14 “(b) ADDITIONAL REQUIREMENTS WHERE CORE
15 BENEFITS REDUCED.—If a plan has been amended to re-
16 duce core benefits pursuant to a realignment program
17 under section 439(a)(2)(D), such plan may not be subse-
18 quently amended to increase core benefits unless the
19 amendment—

20 “(1) increases the level of future benefit pay-
21 ments only, and

22 “(2) provides for an equitable distribution of
23 benefit increases across the participant and bene-
24 ficiary population, taking into account the extent to

1 which the benefits of participants were previously re-
2 duced pursuant to such realignment program.

3 “(c) EXCEPTION TO COMPLY WITH APPLICABLE
4 LAW.—Subsection (a) shall not apply in connection with
5 a plan amendment if the amendment is required as a con-
6 dition of qualification under part I of subchapter D of
7 chapter 1 or to comply with other applicable law.

8 “(d) EXCEPTION WHERE MAXIMUM DEDUCTIBLE
9 LIMIT APPLIES.—Subsection (a) shall not apply in con-
10 nection with a plan amendment if and to the extent that
11 contributions to the composite plan would not be deduct-
12 ible for the plan year under section 404(a)(1)(E) if the
13 plan amendment is not adopted. The Secretary of the
14 Treasury shall issue regulations to implement this para-
15 graph.

16 “(e) EXCEPTION FOR CERTAIN BENEFIT MODIFICA-
17 TIONS.—Subsection (a) shall not apply in connection with
18 a plan amendment under section 439(a)(5)(C), regarding
19 conditional benefit modifications.

20 “(f) TREATMENT OF PLAN AMENDMENTS.—For pur-
21 poses of this section—

22 “(1) if two or more plan amendments increas-
23 ing benefits or establishing new benefits are adopted
24 in a plan year, such amendments shall be treated as

1 a single amendment adopted on the last day of the
2 plan year,

3 “(2) all benefit increases and new benefits
4 adopted in a single amendment are treated as a sin-
5 gle benefit increase, irrespective of whether the in-
6 creases and new benefits take effect in more than
7 one plan year, and

8 “(3) increases in contributions or decreases in
9 plan liabilities which are scheduled to take effect in
10 future plan years may be taken into account in con-
11 nection with a plan amendment if they have been
12 agreed to in writing or otherwise formalized by the
13 date the plan amendment is adopted.

14 **“SEC. 440A. COMPOSITE PLAN RESTRICTIONS TO PRE-**
15 **SERVE LEGACY PLAN FUNDING.**

16 “(a) TREATMENT AS A LEGACY PLAN.—

17 “(1) IN GENERAL.—For purposes of this sub-
18 chapter, a defined benefit plan shall be treated as a
19 legacy plan with respect to the composite plan under
20 which the employees who were eligible to accrue a
21 benefit under the defined benefit plan become eligi-
22 ble to accrue a benefit under such composite plan.

23 “(2) COMPONENT PLANS.—In any case in
24 which a defined benefit plan is amended to add a
25 composite plan component pursuant to section

1 437(b), paragraph (1) shall be applied by sub-
2 stituting ‘defined benefit component’ for ‘defined
3 benefit plan’ and ‘composite plan component’ for
4 ‘composite plan’.

5 “(3) ELIGIBLE TO ACCRUE A BENEFIT.—For
6 purposes of paragraph (1), an employee is consid-
7 ered eligible to accrue a benefit under a composite
8 plan as of the first day in which the employee com-
9 pletes an hour of service under a collective bar-
10 gaining agreement that provides for contributions to
11 and accruals under the composite plan in lieu of ac-
12 cruals under the legacy plan.

13 “(4) COLLECTIVE BARGAINING AGREEMENT.—
14 As used in this subpart, the term ‘collective bar-
15 gaining agreement’ includes any agreement under
16 which an employer has an obligation to contribute to
17 a plan.

18 “(5) OTHER TERMS.—Any term used in this
19 subpart which is not defined in this part and which
20 is also used in section 432 shall have the same
21 meaning provided such term in such section.

22 “(b) RESTRICTIONS ON ACCEPTANCE BY COMPOSITE
23 PLAN OF AGREEMENTS AND CONTRIBUTIONS.—

24 “(1) IN GENERAL.—The plan sponsor of a com-
25 posite plan shall not accept or recognize a collective

1 bargaining agreement (or any modification to such
2 agreement), and no contributions may be accepted
3 and no benefits may be accrued or otherwise earned
4 under the agreement—

5 “(A) in any case in which the plan actuary
6 of any defined benefit plan that would be treat-
7 ed as a legacy plan with respect to such com-
8 posite plan has certified under section
9 432(b)(3) that such defined benefit plan is or
10 will be in critical status for the plan year in
11 which such agreement would take effect or for
12 any of the succeeding 5 plan years, and

13 “(B) unless the agreement requires each
14 employer who is a party to such agreement, in-
15 cluding employers whose employees are not par-
16 ticipants in the legacy plan, to provide contribu-
17 tions to the legacy plan with respect to such
18 composite plan in a manner that satisfies the
19 transition contribution requirements of sub-
20 section (d).

21 “(2) NOTICE.—Not later than 30 days after a
22 determination by a plan sponsor of a composite plan
23 that an agreement fails to satisfy the requirements
24 described in paragraph (1), the plan sponsor shall

1 provide notification of such failure and the reasons
2 for such determination to—

3 “(A) the parties to the agreement,

4 “(B) active participants of the composite
5 plan who have ceased to accrue or otherwise
6 earn benefits with respect to service with an
7 employer pursuant to paragraph (1), and

8 “(C) the Secretary of Labor, the Secretary
9 of the Treasury, and the Pension Benefit Guar-
10 anty Corporation.

11 “(3) LIMITATION ON RETROACTIVE EFFECT.—

12 This subsection shall not apply to benefits accrued
13 before the date on which notice is provided under
14 paragraph (2).

15 “(c) RESTRICTION ON ACCRUAL OF BENEFITS
16 UNDER A COMPOSITE PLAN.—

17 “(1) IN GENERAL.—In any case in which an
18 employer, under a collective bargaining agreement
19 entered into after February 5, 2018, ceases to have
20 an obligation to contribute to a multiemployer de-
21 fined benefit plan, no employees employed by the
22 employer may accrue or otherwise earn benefits
23 under any composite plan, with respect to service
24 with that employer, for a 60-month period beginning

1 on the date on which the employer entered into such
2 collective bargaining agreement.

3 “(2) NOTICE OF CESSATION OF OBLIGATION.—

4 Within 30 days of determining that an employer has
5 ceased to have an obligation to contribute to a leg-
6 acy plan with respect to employees employed by an
7 employer that is or will be contributing to a com-
8 posite plan with respect to service of such employees,
9 the plan sponsor of the legacy plan shall notify the
10 plan sponsor of the composite plan of that cessation.

11 “(3) NOTICE OF CESSATION OF ACCRUALS.—

12 Not later than 30 days after determining that an
13 employer has ceased to have an obligation to con-
14 tribute to a legacy plan, the plan sponsor of the
15 composite plan shall notify the bargaining parties,
16 the active participants affected by the cessation of
17 accruals, the Secretary, the Secretary of Labor, and
18 the Pension Benefit Guaranty Corporation of the
19 cessation of accruals, the period during which such
20 cessation is in effect, and the reasons therefor.

21 “(4) LIMITATION ON RETROACTIVE EFFECT.—

22 This subsection shall not apply to benefits accrued
23 before the date on which notice is provided under
24 paragraph (3).

25 “(d) TRANSITION CONTRIBUTION REQUIREMENTS.—

1 “(1) IN GENERAL.—A collective bargaining
2 agreement satisfies the transition contribution re-
3 quirements of this subsection if the agreement—

4 “(A) authorizes for payment of contribu-
5 tions to a legacy plan at a rate or rates equal
6 to or greater than the transition contribution
7 rate established under paragraph (2), and

8 “(B) does not provide for—

9 “(i) a suspension of contributions to
10 the legacy plan with respect to any period
11 of service, or

12 “(ii) any new direct or indirect exclu-
13 sion of younger or newly hired employees
14 of the employer from being taken into ac-
15 count in determining contributions owed to
16 the legacy plan.

17 “(2) TRANSITION CONTRIBUTION RATE.—

18 “(A) IN GENERAL.—The transition con-
19 tribution rate for a plan year is the contribution
20 rate that, as certified by the actuary of the leg-
21 acy plan in accordance with the principles in
22 section 432(b)(3)(B), is reasonably expected to
23 be adequate—

24 “(i) to fund the normal cost for the
25 plan year,

1 “(ii) to amortize the plan’s unfunded
2 liabilities in level annual installments over
3 25 years, beginning with the plan year in
4 which the transition contribution rate is
5 first established, and

6 “(iii) to amortize any subsequent
7 changes in the legacy plan’s unfunded li-
8 ability due to experience gains or losses
9 (including investment gains or losses, gains
10 or losses due to contributions greater or
11 less than the contributions made under the
12 prior transition contribution rate, and
13 other actuarial gains or losses), changes in
14 actuarial assumptions, changes to the leg-
15 acy plan’s benefits, or changes in funding
16 method over a period of 15 plan years be-
17 ginning with the plan year in which such
18 change in unfunded liability is incurred.

19 The transition contribution rate for any plan
20 year may not be less than the transition con-
21 tribution rate for the plan year in which such
22 rate is first established.

23 “(B) MULTIPLE RATES.—If different rates
24 of contribution are payable to the legacy plan
25 by different employers or for different classes of

1 employees, the certification shall specify a tran-
2 sition contribution rate for each such employer.

3 “(C) RATE APPLICABLE TO EMPLOYER.—

4 “(i) IN GENERAL.—Except as pro-
5 vided by clause (ii), the transition con-
6 tribution rate applicable to an employer for
7 a plan year is the rate in effect for the
8 plan year of the legacy plan that com-
9 mences on or after 180 days before the
10 earlier of—

11 “(I) the effective date of the col-
12 lective bargaining agreement pursuant
13 to which the employer contributes to
14 the legacy plan, or

15 “(II) 5 years after the last plan
16 year for which the transition contribu-
17 tion rate applicable to the employer
18 was established or updated.

19 “(ii) EXCEPTION.—The transition
20 contribution rate applicable to an employer
21 for the first plan year beginning on or
22 after the commencement of the employer’s
23 obligation to contribute to the composite
24 plan is the rate in effect for the plan year

1 of the legacy plan that commences on or
2 after 180 days before such first plan year.

3 “(D) EFFECT OF LEGACY PLAN FINANCIAL
4 CIRCUMSTANCES.—If the plan actuary of the
5 legacy plan has certified under section 432 that
6 the plan is in endangered or critical status for
7 a plan year, the transition contribution rate for
8 the following plan year is the rate determined
9 with respect to the employer under the legacy
10 plan’s funding improvement or rehabilitation
11 plan under section 432, if greater than the rate
12 otherwise determined, but in no event greater
13 than 75 percent of the sum of the contribution
14 rates applicable to the legacy plan and the com-
15 posite plan for the plan year.

16 “(E) OTHER ACTUARIAL ASSUMPTIONS
17 AND METHODS.—Except as provided in sub-
18 paragraph (A), the determination of the transi-
19 tion contribution rate for a plan year shall be
20 based on actuarial assumptions and methods
21 consistent with the minimum funding deter-
22 minations made under section 431 (or, if appli-
23 cable, section 432) with respect to the legacy
24 plan for the plan year.

1 “(F) ADJUSTMENTS IN RATE.—The plan
2 sponsor of a legacy plan from time to time may
3 adjust the transition contribution rate or rates
4 applicable to an employer under this paragraph
5 by increasing some rates and decreasing others
6 if the actuary certifies that such adjusted rates
7 in combination will produce projected contribu-
8 tion income for the plan year beginning on or
9 after the date of certification that is not less
10 than would be produced by the transition con-
11 tribution rates in effect at the time of the cer-
12 tification.

13 “(G) NOTICE OF TRANSITION CONTRIBU-
14 TION RATE.—The plan sponsor of a legacy plan
15 shall provide notice to the parties to collective
16 bargaining agreements pursuant to which con-
17 tributions are made to the legacy plan of
18 changes to the transition contribution rate re-
19 quirements at least 30 days before the begin-
20 ning of the plan year for which the rate is effec-
21 tive.

22 “(H) NOTICE TO COMPOSITE PLAN SPON-
23 SOR.—Not later than 30 days after a deter-
24 mination by the plan sponsor of a legacy plan
25 that a collective bargaining agreement provides

1 for a rate of contributions that is below the
2 transition contribution rate applicable to one or
3 more employers that are parties to the collective
4 bargaining agreement, the plan sponsor of the
5 legacy plan shall notify the plan sponsor of any
6 composite plan under which employees of such
7 employer would otherwise be eligible to accrue
8 a benefit.

9 “(3) CORRECTION PROCEDURES.—Pursuant to
10 standards prescribed by the Secretary of Labor, the
11 plan sponsor of a composite plan shall adopt rules
12 and procedures that give the parties to the collective
13 bargaining agreement notice of the failure of such
14 agreement to satisfy the transition contribution re-
15 quirements of this subsection, and a reasonable op-
16 portunity to correct such failure, not to exceed 180
17 days from the date of notice given under subsection
18 (b)(2).

19 “(4) SUPPLEMENTAL CONTRIBUTIONS.—A col-
20 lective bargaining agreement may provide for supple-
21 mental contributions to the legacy plan for a plan
22 year in excess of the transition contribution rate de-
23 termined under paragraph (2), regardless of whether
24 the legacy plan is in endangered or critical status for
25 such plan year.

1 “(e) NONAPPLICATION OF COMPOSITE PLAN RE-
2 STRICTIONS.—

3 “(1) IN GENERAL.—The provisions of sub-
4 sections (a), (b), and (c) shall not apply with respect
5 to a collective bargaining agreement, to the extent
6 the agreement, or a predecessor agreement, provides
7 or provided for contributions to a defined benefit
8 plan that is a legacy plan, as of the first day of the
9 first plan year following a plan year for which the
10 plan actuary certifies that the plan is fully funded,
11 has been fully funded for at least three out of the
12 immediately preceding 5 plan years, and is projected
13 to remain fully funded for at least the following 4
14 plan years.

15 “(2) DETERMINATION OF FULLY FUNDED.—A
16 plan is fully funded for purposes of paragraph (1)
17 if, as of the valuation date of the plan for a plan
18 year, the value of the plan’s assets equals or exceeds
19 the present value of the plan’s liabilities, determined
20 in accordance with the rules prescribed by the Pen-
21 sion Benefit Guaranty Corporation under sections
22 4219(c)(1)(D) and 4281 of Employee Retirement
23 Income and Security Act for multiemployer plans
24 terminating by mass withdrawal, as in effect for the
25 date of the determination, except the plan’s reason-

1 able assumption regarding the starting date of bene-
2 fits may be used.

3 “(3) OTHER APPLICABLE RULES.—Except as
4 provided in paragraph (2), actuarial determinations
5 and projections under this section shall be based on
6 the rules in section 432(b)(3) and section 438(b).

7 **“SEC. 440B. MERGERS AND ASSET TRANSFERS OF COM-**
8 **POSITE PLANS.**

9 “(a) IN GENERAL.—Assets and liabilities of a com-
10 posite plan may only be merged with, or transferred to,
11 another plan if—

12 “(1) the other plan is a composite plan,

13 “(2) the plan or plans resulting from the merg-
14 er or transfer is a composite plan,

15 “(3) no participant’s accrued benefit or adjust-
16 able benefit is lower immediately after the trans-
17 action than it was immediately before the trans-
18 action, and

19 “(4) the value of the assets transferred in the
20 case of a transfer reasonably reflects the value of the
21 amounts contributed with respect to the participants
22 whose benefits are being transferred, adjusted for al-
23 locable distributions, investment gains and losses,
24 and administrative expenses.

25 “(b) LEGACY PLAN.—

1 “(1) IN GENERAL.—After a merger or transfer
 2 involving a composite plan, the legacy plan with re-
 3 spect to an employer that is obligated to contribute
 4 to the resulting composite plan is the legacy plan
 5 that applied to that employer immediately before the
 6 merger or transfer.

7 “(2) MULTIPLE LEGACY PLANS.—If an em-
 8 ployer is obligated to contribute to more than one
 9 legacy plan with respect to employees eligible to ac-
 10 cruce benefits under more than one composite plan
 11 and there is a merger or transfer of such legacy
 12 plans, the transition contribution rate applicable to
 13 the legacy plan resulting from the merger or trans-
 14 fer with respect to that employer shall be determined
 15 in accordance with the provisions of section
 16 440A(d)(2)(B).”.

17 (2) CLERICAL AMENDMENT.—The table of sub-
 18 parts for part III of subchapter D of chapter 1 of
 19 the Internal Revenue Code of 1986 is amended by
 20 adding at the end the following new item:

“SUBPART C. COMPOSITE PLANS AND LEGACY PLANS”.

21 (c) EFFECTIVE DATE.—The amendments made by
 22 this section shall apply to plan years beginning after the
 23 date of the enactment of this Act.

1 **SEC. 3. APPLICATION OF CERTAIN REQUIREMENTS TO**
2 **COMPOSITE PLANS.**

3 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
4 INCOME SECURITY ACT OF 1974.—

5 (1) TREATMENT FOR PURPOSES OF FUNDING
6 NOTICES.—Section 101(f) of the Employee Retirement
7 Income Security Act of 1974 (29 U.S.C.
8 1021(f)) is amended—

9 (A) in paragraph (1) by striking “title IV
10 applies” and inserting “title IV applies or which
11 is a composite plan”; and

12 (B) by adding at the end the following:

13 “(5) APPLICATION TO COMPOSITE PLANS.—The
14 provisions of this subsection shall apply to a com-
15 posite plan only to the extent prescribed by the Sec-
16 retary in regulations that take into account the dif-
17 ferences between a composite plan and a defined
18 benefit plan that is a multiemployer plan.”.

19 (2) TREATMENT FOR PURPOSES OF ANNUAL
20 REPORT.—Section 103 of the Employee Retirement
21 Income Security Act of 1974 (29 U.S.C. 1023) is
22 amended—

23 (A) in subsection (d) by adding at the end
24 the following sentence: “The provisions of this
25 subsection shall apply to a composite plan only
26 to the extent prescribed by the Secretary in reg-

1 ulations that take into account the differences
 2 between a composite plan and a defined benefit
 3 plan that is a multiemployer plan.”;

4 (B) in subsection (f) by adding at the end
 5 the following:

6 “(3) ADDITIONAL INFORMATION FOR COM-
 7 POSITE PLANS.—With respect to any composite
 8 plan—

9 “(A) the provisions of paragraph (1)(A)
 10 shall apply by substituting ‘current funded ratio
 11 and projected funded ratio (as such terms are
 12 defined in section 802(a)(2))’ for ‘funded per-
 13 centage’ each place it appears; and

14 “(B) the provisions of paragraph (2) shall
 15 apply only to the extent prescribed by the Sec-
 16 retary in regulations that take into account the
 17 differences between a composite plan and a de-
 18 fined benefit plan that is a multiemployer
 19 plan.”; and

20 (C) by adding at the end the following:

21 “(h) COMPOSITE PLANS.—A multiemployer plan that
 22 incorporates the features of a composite plan as provided
 23 in section 801(b) shall be treated as a single plan for pur-
 24 poses of the report required by this section, except that
 25 separate financial statements and actuarial statements

1 shall be provided under paragraphs (3) and (4) of sub-
2 section (a) for the defined benefit plan component and for
3 the composite plan component of the multiemployer
4 plan.”.

5 (3) TREATMENT FOR PURPOSES OF PENSION
6 BENEFIT STATEMENTS.—Section 105(a) of the Em-
7 ployee Retirement Income Security Act of 1974 (29
8 U.S.C. 1025(a)) is amended by adding at the end
9 the following:

10 “(4) COMPOSITE PLANS.—For purposes of this
11 subsection, a composite plan shall be treated as a
12 defined benefit plan to the extent prescribed by the
13 Secretary in regulations that take into account the
14 differences between a composite plan and a defined
15 benefit plan that is a multiemployer plan.”.

16 (b) AMENDMENTS TO THE INTERNAL REVENUE
17 CODE OF 1986.—Section 6058 of the Internal Revenue
18 Code of 1986 is amended by redesignating subsection (f)
19 as subsection (g) and by inserting after subsection (e) the
20 following:

21 “(f) COMPOSITE PLANS.—A multiemployer plan that
22 incorporates the features of a composite plan as provided
23 in section 437(b) shall be treated as a single plan for pur-
24 poses of the return required by this section, except that
25 separate financial statements shall be provided for the de-

1 fined benefit plan component and for the composite plan
 2 component of the multiemployer plan.”.

3 (c) EFFECTIVE DATE.—The amendments made by
 4 this section shall apply to plan years beginning after the
 5 date of the enactment of this Act.

6 **SEC. 4. TREATMENT OF COMPOSITE PLANS UNDER TITLE**

7 **IV.**

8 (a) DEFINITION.—Section 4001(a) of the Employee
 9 Retirement Income Security Act of 1974 (29 U.S.C.
 10 1301(a)) is amended by striking the period at the end of
 11 paragraph (21) and inserting a semicolon and by adding
 12 at the end the following:

13 “(22) COMPOSITE PLAN.—The term ‘composite
 14 plan’ has the meaning set forth in section 801.”.

15 (b) COMPOSITE PLANS DISREGARDED FOR CALCU-
 16 LATING PREMIUMS.—Section 4006(a) of such Act (29
 17 U.S.C. 1306(a)) is amended by adding at the end the fol-
 18 lowing:

19 “(9) The composite plan component of a multi-
 20 employer plan shall be disregarded in determining
 21 the premiums due under this section from the multi-
 22 employer plan.”.

23 (c) COMPOSITE PLANS NOT COVERED.—Section
 24 4021(b)(1) of such Act (29 U.S.C. 1321(b)(1)) is amend-
 25 ed by striking “Act” and inserting “Act, or a composite

1 plan, as defined in paragraph (43) of section 3 of this
2 Act”.

3 (d) NO WITHDRAWAL LIABILITY.—Section 4201 of
4 such Act (29 U.S.C. 1381) is amended by adding at the
5 end the following:

6 “(c) Contributions by an employer to the composite
7 plan component of a multiemployer plan shall not be taken
8 into account for any purpose under this title.”.

9 (e) NO WITHDRAWAL LIABILITY FOR CERTAIN
10 PLANS.—Section 4201 of such Act (29 U.S.C. 1381) is
11 further amended by adding at the end the following:

12 “(d) Contributions by an employer to a multiem-
13 ployer plan described in the except clause of section 3(35)
14 of this Act pursuant to a collective bargaining agreement
15 that specifically designates that such contributions shall
16 be allocated to the separate defined contribution accounts
17 of participants under the plan shall not be taken into ac-
18 count with respect to the defined benefit portion of the
19 plan for any purpose under this title (including the deter-
20 mination of the employer’s highest contribution rate under
21 section 4219), even if, under the terms of the plan, partici-
22 pants have the option to transfer assets in their separate
23 defined contribution accounts to the defined benefit por-
24 tion of the plan in return for service credit under the de-

1 fined benefit portion, at rates established by the plan
2 sponsor.

3 “(e) A legacy plan created under section 805 shall
4 be deemed to have no unfunded vested benefits for pur-
5 poses of this part, for each plan year following a period
6 of 5 consecutive plan years for which—

7 “(1) the plan was fully funded within the mean-
8 ing of section 805 for at least 3 of the plan years
9 during that period, ending with a plan year for
10 which the plan is fully funded;

11 “(2) the plan had no unfunded vested benefits
12 for at least 3 of the plan years during that period,
13 ending with a plan year for which the plan is fully
14 funded; and

15 “(3) the plan is projected to be fully funded
16 and to have no unfunded vested benefits for the fol-
17 lowing four plan years.”.

18 (f) NO WITHDRAWAL LIABILITY FOR EMPLOYERS
19 CONTRIBUTING TO CERTAIN FULLY FUNDED LEGACY
20 PLANS.—Section 4211 of such Act (29 U.S.C. 1382) is
21 amended by adding at the end the following:

22 “(g) No amount of unfunded vested benefits shall be
23 allocated to an employer that has an obligation to con-
24 tribute to a legacy plan described in subsection (e) of sec-

1 tion 4201 for each plan year for which such subsection
2 applies.”.

3 (g) NO OBLIGATION TO CONTRIBUTE.—Section
4 4212 of such Act (29 U.S.C. 1392) is amended by adding
5 at the end the following:

6 “(d) NO OBLIGATION TO CONTRIBUTE.—An em-
7 ployer shall not be treated as having an obligation to con-
8 tribute to a multiemployer defined benefit plan within the
9 meaning of subsection (a) solely because—

10 “(1) in the case of a multiemployer plan that
11 includes a composite plan component, the employer
12 has an obligation to contribute to the composite plan
13 component of the plan;

14 “(2) the employer has an obligation to con-
15 tribute to a composite plan that is maintained pur-
16 suant to one or more collective bargaining agree-
17 ments under which the multiemployer defined ben-
18 efit plan is or previously was maintained; or

19 “(3) the employer contributes or has contrib-
20 uted under section 805(d) to a legacy plan associ-
21 ated with a composite plan pursuant to a collective
22 bargaining agreement but employees of that em-
23 ployer were not eligible to accrue benefits under the
24 legacy plan with respect to service with that em-
25 ployer.”.

1 (h) NO INFERENCE.—Nothing in the amendment
2 made by subsection (e) shall be construed to create an in-
3 ference with respect to the treatment under title IV of the
4 Employee Retirement Income Security Act of 1974, as in
5 effect before such amendment, of contributions by an em-
6 ployer to a multiemployer plan described in the except
7 clause of section 3(35) of such Act that are made before
8 the effective date of subsection (e) specified in subsection
9 (h)(2).

10 (i) EFFECTIVE DATE.—

11 (1) IN GENERAL.—Except as provided in sub-
12 paragraph (2), the amendments made by this section
13 shall apply to plan years beginning after the date of
14 the enactment of this Act.

15 (2) SPECIAL RULE FOR SECTION 414(k) MULTI-
16 EMPLOYER PLANS.—The amendment made by sub-
17 section (e) shall apply only to required contributions
18 payable for plan years beginning after the date of
19 the enactment of this Act.

20 **SEC. 5. CONFORMING CHANGES.**

21 (a) DEFINITIONS.—Section 3 of the Employee Re-
22 tirement Income Security Act of 1974 (29 U.S.C. 1002)
23 is amended—

1 (1) in paragraph (35), by inserting “or a com-
2 posite plan” after “other than an individual account
3 plan”; and

4 (2) by adding at the end the following:

5 “(43) The term ‘composite plan’ has the mean-
6 ing given the term in section 801(a).”.

7 (b) SPECIAL FUNDING RULE FOR CERTAIN LEGACY
8 PLANS.—

9 (1) AMENDMENT TO EMPLOYEE RETIREMENT
10 INCOME SECURITY ACT OF 1974.—Section 304(b) of
11 the Employee Retirement Income Security Act of
12 1974 (29 U.S.C. 1084(b)) is amended by adding at
13 the end the following:

14 “(9) SPECIAL FUNDING RULE FOR CERTAIN
15 LEGACY PLANS.—In the case of a multiemployer de-
16 fined benefit plan that has adopted an amendment
17 under section 801(b), in accordance with which no
18 further benefits shall accrue under the multiem-
19 ployer defined benefit plan, the plan sponsor may
20 combine the outstanding balance of all charge and
21 credit bases and amortize that combined base in
22 level annual installments (until fully amortized) over
23 a period of 25 plan years beginning with the plan
24 year following the date all benefit accruals ceased.”.

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

5 “(9) SPECIAL FUNDING RULE FOR CERTAIN
 6 LEGACY PLANS.—In the case of a multiemployer de-
 7 fined benefit plan that has adopted an amendment
 8 under section 437(b), in accordance with which no
 9 further benefits shall accrue under the multiem-
 10 ployer defined benefit plan, the plan sponsor may
 11 combine the outstanding balance of all charge and
 12 credit bases and amortize that combined base in
 13 level annual installments (until fully amortized) over
 14 a period of 25 plan years beginning with the plan
 15 year following the date on which all benefit accruals
 16 ceased.”.

17 (c) BENEFITS AFTER MERGER, CONSOLIDATION, OR
 18 TRANSFER OF ASSETS.—

19 (1) AMENDMENT TO EMPLOYEE RETIREMENT
 20 INCOME SECURITY ACT OF 1974.—Section 208 of the
 21 Employee Retirement Income Security Act of 1974
 22 (29 U.S.C. 1058) is amended—

23 (A) by striking so much of the first sen-
 24 tence as precedes “may not merge” and insert-
 25 ing the following:

1 “(1) IN GENERAL.—Except as provided in para-
 2 graph (2), a pension plan may not merge, and”;

3 (B) by striking the second sentence and
 4 adding at the end the following:

5 “(2) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Paragraph (1) shall not apply to
 6 any transaction to the extent that participants either
 7 before or after the transaction are covered under a
 8 multiemployer plan to which title IV of this Act ap-
 9 plies or a composite plan.”.

11 (2) AMENDMENTS TO INTERNAL REVENUE
 12 CODE OF 1986.—

13 (A) QUALIFICATION REQUIREMENT.—Sec-
 14 tion 401(a)(12) of the Internal Revenue Code
 15 of 1986 is amended—

16 (i) by striking “(12) A trust” and in-
 17 serting the following:

18 “(12) BENEFITS AFTER MERGER, CONSOLIDA-
 19 TION, OR TRANSFER OF ASSETS.—

20 “(A) IN GENERAL.—Except as provided in
 21 subparagraph (B), a trust”;

22 (ii) by striking the second sentence;
 23 and

24 (iii) by adding at the end the fol-
 25 lowing:

1 “(B) SPECIAL REQUIREMENTS FOR MULTI-
2 EMPLOYER PLANS.—Subparagraph (A) shall
3 not apply to any multiemployer plan with re-
4 spect to any transaction to the extent that par-
5 ticipants either before or after the transaction
6 are covered under a multiemployer plan to
7 which title IV of the Employee Retirement In-
8 come Security Act of 1974 applies or a com-
9 posite plan.”.

10 (B) ADDITIONAL QUALIFICATION REQUIRE-
11 MENT.—Paragraph (1) of section 414(l) of such
12 Code is amended—

13 (i) by striking “(1) IN GENERAL” and
14 all that follows through “shall not con-
15 stitute” and inserting the following:

16 “(1) BENEFIT PROTECTIONS: MERGER, CON-
17 SOLIDATION, TRANSFER.—

18 “(A) IN GENERAL.—Except as provided in
19 subparagraph (B), a trust which forms a part
20 of a plan shall not constitute”; and

21 (ii) by striking the second sentence;
22 and

23 (iii) by adding at the end the fol-
24 lowing:

1 “(B) SPECIAL REQUIREMENTS FOR MULTI-
2 EMPLOYER PLANS.—Subparagraph (A) does not
3 apply to any multiemployer plan with respect to
4 any transaction to the extent that participants
5 either before or after the transaction are cov-
6 ered under a multiemployer plan to which title
7 IV of the Employee Retirement Income Secu-
8 rity Act of 1974 applies or a composite plan.”.

9 (d) REQUIREMENTS FOR STATUS AS A QUALIFIED
10 PLAN.—

11 (1) REQUIREMENT THAT ACTUARIAL ASSUMP-
12 TIONS BE SPECIFIED.—Section 401(a)(25) of the In-
13 ternal Revenue Code of 1986 is amended by insert-
14 ing “(in the case of a composite plan, benefits objec-
15 tively calculated pursuant to a formula)” after “defi-
16 nitely determinable benefits”.

17 (2) MISSING PARTICIPANTS IN TERMINATING
18 COMPOSITE PLAN.—Section 401(a)(34) of the Inter-
19 nal Revenue Code of 1986 is amended by striking “,
20 a trust” and inserting “or a composite plan, a
21 trust”.

22 (e) DEDUCTION FOR CONTRIBUTIONS TO A QUALI-
23 FIED PLAN.—Section 404(a)(1) of the Internal Revenue
24 Code of 1986 is amended by redesignating subparagraph

1 (E) as subparagraph (F) and by inserting after subpara-
 2 graph (D) the following:

3 “(E) COMPOSITE PLANS.—

4 “(i) IN GENERAL.—In the case of a
 5 composite plan, subparagraph (D) shall
 6 not apply and the maximum amount de-
 7 ductible for a plan year shall be the excess
 8 (if any) of—

9 “(I) 160 percent of the greater
 10 of—

11 “(aa) the current liability of
 12 the plan determined in accord-
 13 ance with the principles of sec-
 14 tion 431(c)(6)(D), or

15 “(bb) the present value of
 16 plan liabilities as determined
 17 under section 438, over

18 “(II) the fair market value of the
 19 plan’s assets, projected to the end of
 20 the plan year.

21 “(ii) SPECIAL RULES FOR PREDE-
 22 CESSOR MULTIEMPLOYER PLAN TO COM-
 23 POSITE PLAN.—

24 “(I) IN GENERAL.—Except as
 25 provided in subclause (II), if an em-

1 employer contributes to a composite plan
 2 with respect to its employees, con-
 3 tributions by that employer to a mul-
 4 tiemployer defined benefit plan with
 5 respect to some or all of the same
 6 group of employees shall be deductible
 7 under sections 162 and this section,
 8 subject to the limits in subparagraph
 9 (D).

10 “(II) TRANSITION CONTRIBU-
 11 TION.—The full amount of a contribu-
 12 tion to satisfy the transition contribu-
 13 tion requirement (as defined in sec-
 14 tion 440A(d)) and allocated to the
 15 legacy defined benefit plan for the
 16 plan year shall be deductible for the
 17 employer’s taxable year ending with or
 18 within the plan year.”.

19 (f) MINIMUM VESTING STANDARDS.—

20 (1) YEARS OF SERVICE UNDER COMPOSITE
 21 PLANS.—

22 (A) EMPLOYEE RETIREMENT INCOME SE-
 23 CURITY ACT OF 1974.—Section 203 of the Em-
 24 ployee Retirement Income Security Act of 1974

1 (29 U.S.C. 1053) is amended by inserting after
2 subsection (f) the following:

3 “(g) SPECIAL RULES FOR COMPUTING YEARS OF
4 SERVICE UNDER COMPOSITE PLANS.—

5 “(1) IN GENERAL.—In determining a qualified
6 employee’s years of service under a composite plan
7 for purposes of this section, the employee’s years of
8 service under a legacy plan shall be treated as years
9 of service earned under the composite plan. For pur-
10 poses of such determination, a composite plan shall
11 not be treated as a defined benefit plan pursuant to
12 section 801(d).

13 “(2) QUALIFIED EMPLOYEE.—For purposes of
14 this subsection, an employee is a qualified employee
15 if the employee first completes an hour of service
16 under the composite plan (determined without re-
17 gard to the provisions of this subsection) within the
18 12-month period immediately preceding or the 24-
19 month period immediately following the date the em-
20 ployee ceased to accrue benefits under the legacy
21 plan.

22 “(3) CERTIFICATION OF YEARS OF SERVICE.—
23 For purposes of paragraph (1), the plan sponsor of
24 the composite plan shall rely on a written certifi-
25 cation by the plan sponsor of the legacy plan of the

1 years of service the qualified employee completed
2 under the defined benefit plan as of the date the em-
3 ployee satisfies the requirements of paragraph (2),
4 disregarding any years of service that had been for-
5 feited under the rules of the defined benefit plan be-
6 fore that date.

7 “(h) SPECIAL RULES FOR COMPUTING YEARS OF
8 SERVICE UNDER LEGACY PLANS.—

9 “(1) IN GENERAL.—In determining a qualified
10 employee’s years of service under a legacy plan for
11 purposes of this section, and in addition to any serv-
12 ice under applicable regulations, the employee’s
13 years of service under a composite plan shall be
14 treated as years of service earned under the legacy
15 plan. For purposes of such determination, a com-
16 posite plan shall not be treated as a defined benefit
17 plan pursuant to section 801(d).

18 “(2) QUALIFIED EMPLOYEE.—For purposes of
19 this subsection, an employee is a qualified employee
20 if the employee first completes an hour of service
21 under the composite plan (determined without re-
22 gard to the provisions of this subsection) within the
23 12-month period immediately preceding or the 24-
24 month period immediately following the date the em-

1 ployee ceased to accrue benefits under the legacy
2 plan.

3 “(3) CERTIFICATION OF YEARS OF SERVICE.—
4 For purposes of paragraph (1), the plan sponsor of
5 the legacy plan shall rely on a written certification
6 by the plan sponsor of the composite plan of the
7 years of service the qualified employee completed
8 under the composite plan after the employee satisfies
9 the requirements of paragraph (2), disregarding any
10 years of service that has been forfeited under the
11 rules of the composite plan.”.

12 (B) INTERNAL REVENUE CODE OF 1986.—
13 Section 411(a) of the Internal Revenue Code of
14 1986 is amended by adding at the end the fol-
15 lowing:

16 “(14) SPECIAL RULES FOR DETERMINING
17 YEARS OF SERVICE UNDER COMPOSITE PLANS.—

18 “(A) IN GENERAL.—In determining a
19 qualified employee’s years of service under a
20 composite plan for purposes of this subsection,
21 the employee’s years of service under a legacy
22 plan shall be treated as years of service earned
23 under the composite plan. For purposes of such
24 determination, a composite plan shall not be

1 treated as a defined benefit plan pursuant to
2 section 437(d).

3 “(B) QUALIFIED EMPLOYEE.—For pur-
4 poses of this paragraph, an employee is a quali-
5 fied employee if the employee first completes an
6 hour of service under the composite plan (deter-
7 mined without regard to the provisions of this
8 paragraph) within the 12-month period imme-
9 diately preceding or the 24-month period imme-
10 diately following the date the employee ceased
11 to accrue benefits under the legacy plan.

12 “(C) CERTIFICATION OF YEARS OF SERV-
13 ICE.—For purposes of subparagraph (A), the
14 plan sponsor of the composite plan shall rely on
15 a written certification by the plan sponsor of
16 the legacy plan of the years of service the quali-
17 fied employee completed under the legacy plan
18 as of the date the employee satisfies the re-
19 quirements of subparagraph (B), disregarding
20 any years of service that had been forfeited
21 under the rules of the defined benefit plan be-
22 fore that date.

23 “(15) SPECIAL RULES FOR COMPUTING YEARS
24 OF SERVICE UNDER LEGACY PLANS.—

1 “(A) IN GENERAL.—In determining a
2 qualified employee’s years of service under a
3 legacy plan for purposes of this section, and in
4 addition to any service under applicable regula-
5 tions, the employee’s years of service under a
6 composite plan shall be treated as years of serv-
7 ice earned under the legacy plan. For purposes
8 of such determination, a composite plan shall
9 not be treated as a defined benefit plan pursu-
10 ant to section 437(d).

11 “(B) QUALIFIED EMPLOYEE.—For pur-
12 poses of this paragraph, an employee is a quali-
13 fied employee if the employee first completes an
14 hour of service under the composite plan (deter-
15 mined without regard to the provisions of this
16 paragraph) within the 12-month period imme-
17 diately preceding or the 24-month period imme-
18 diately following the date the employee ceased
19 to accrue benefits under the legacy plan.

20 “(C) CERTIFICATION OF YEARS OF SERV-
21 ICE.—For purposes of subparagraph (A), the
22 plan sponsor of the legacy plan shall rely on a
23 written certification by the plan sponsor of the
24 composite plan of the years of service the quali-
25 fied employee completed under the composite

plan after the employee satisfies the requirements of subparagraph (B), disregarding any years of service that has been forfeited under the rules of the composite plan.”.

(2) REDUCTION OF BENEFITS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 203(a)(3)(E)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(E)(ii)) is amended—

(i) in subclause (I) by striking “4244A” and inserting “305(e), 803,”; and

(ii) in subclause (II) by striking “4245” and inserting “305(e), 4245,”.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(a)(3)(F) of the Internal Revenue Code of 1986 is amended—

(i) in clause (i) by striking “section 418D or under section 4281 of the Employee Retirement Income Security Act of 1974” and inserting “section 432(e) or 439 or under section 4281 of the Employee Retirement Income Security Act of 1974”; and

1 (ii) in clause (ii) by inserting “or
2 432(e)” after “section 418E”.

3 (3) ACCRUED BENEFIT REQUIREMENTS.—

4 (A) EMPLOYEE RETIREMENT INCOME SE-
5 CURITY ACT OF 1974.—Section 204(b)(1)(B)(i)
6 of the Employee Retirement Income Security
7 Act of 1974 (29 U.S.C. 1054(b)(1)(B)(i)) is
8 amended by inserting “, including an amend-
9 ment reducing or suspending benefits under
10 section 305(e), 803, 4245 or 4281,” after “any
11 amendment to the plan”.

12 (B) INTERNAL REVENUE CODE OF 1986.—
13 Section 411(b)(1)(B)(i) of the Internal Revenue
14 Code of 1986 is amended by inserting “, includ-
15 ing an amendment reducing or suspending ben-
16 efits under section 418E, 432(e) or 439, or
17 under section 4281 of the Employee Retirement
18 Income Security Act of 1974,” after “any
19 amendment to the plan”.

20 (4) ADDITIONAL ACCRUED BENEFIT REQUIRE-
21 MENTS.—

22 (A) EMPLOYEE RETIREMENT INCOME SE-
23 CURITY ACT OF 1974.—Section 204(b)(1)(H)(v)
24 of the Employee Retirement Income Security
25 Act of 1974 (29 U.S.C. 1053(b)(1)(H)(v)) is

1 amended by inserting before the period at the
 2 end the following: “, or benefits are reduced or
 3 suspended under section 305(e), 803, 4245, or
 4 4281”.

5 (B) INTERNAL REVENUE CODE OF 1986.—
 6 Section 411(b)(1)(H)(iv) of the Internal Rev-
 7 enue Code of 1986 is amended—

8 (i) in the heading by striking “BEN-
 9 EFIT” and inserting “BENEFIT AND THE
 10 SUSPENSION AND REDUCTION OF CERTAIN
 11 BENEFITS”; and

12 (ii) in the text by inserting before the
 13 period at the end the following: “, or bene-
 14 fits are reduced or suspended under sec-
 15 tion 418E, 432(e), or 439, or under sec-
 16 tion 4281 of the Employee Retirement In-
 17 come Security Act of 1974”.

18 (5) ACCRUED BENEFIT NOT TO BE DECREASED
 19 BY AMENDMENT.—

20 (A) EMPLOYEE RETIREMENT INCOME SE-
 21 CURITY ACT OF 1974.—Section 204(g)(1) of the
 22 Employee Retirement Income Security Act of
 23 1974 (29 U.S.C. 1053(g)(1)) is amended by in-
 24 serting after “302(d)(2)” the following: “,
 25 305(e), 803, 4245,”.

1 (B) INTERNAL REVENUE CODE OF 1986.—

2 Section 411(d)(6)(A) of the Internal Revenue
3 Code of 1986 is amended by inserting after
4 “412(d)(2),” the following: “418E, 432(e), or
5 439,”.

6 (g) CERTAIN FUNDING RULES NOT APPLICABLE.—

7 (1) EMPLOYEE RETIREMENT INCOME SECURITY
8 ACT OF 1974.—Section 305 of the Employee Retirement
9 Income Security Act of 1974 (29 U.S.C. 1085)
10 is amended by adding at the end the following:

11 “(k) LEGACY PLANS.—Sections 302, 304, and 305
12 shall not apply to an employer that has an obligation to
13 contribute to a plan that is a legacy plan within the mean-
14 ing of section 805(a) solely because the employer has an
15 obligation to contribute to a composite plan described in
16 section 801 that is associated with that legacy plan.”.

17 (2) INTERNAL REVENUE CODE OF 1986.—Sec-
18 tion 432 of the Internal Revenue Code of 1986 is
19 amended by adding at the end the following:

20 “(k) LEGACY PLANS.—Sections 412, 431, and 432
21 shall not apply to an employer that has an obligation to
22 contribute to a plan that is a legacy plan within the mean-
23 ing of section 440A(a) solely because the employer has an
24 obligation to contribute to a composite plan described in
25 section 437 that is associated with that legacy plan.”.

1 (h) TERMINATION OF COMPOSITE PLAN.—Section
2 403(d) of the Employee Retirement Income Security Act
3 of 1974 (29 U.S.C. 1103(d) is amended—

4 (1) in paragraph (1), by striking “regulations
5 of the Secretary.” and inserting “regulations of the
6 Secretary, or as provided in paragraph (3).”; and

7 (2) by adding at the end the following:

8 “(3) Section 4044(a) of this Act shall be ap-
9 plied in the case of the termination of a composite
10 plan by—

11 “(A) limiting the benefits subject to para-
12 graph (3) thereof to benefits as defined in sec-
13 tion 802(b)(3)(B); and

14 “(B) including in the benefits subject to
15 paragraph (4) all other benefits (if any) of indi-
16 viduals under the plan that would be guaran-
17 teed under section 4022A if the plan were sub-
18 ject to title IV.”.

19 (i) GOOD FAITH COMPLIANCE PRIOR TO GUID-
20 ANCE.—Where the implementation of any provision of law
21 added or amended by this Act is subject to issuance of
22 regulations by the Secretary of Labor, the Secretary of
23 the Treasury, or the Pension Benefit Guaranty Corpora-
24 tion, a multiemployer plan shall not be treated as failing
25 to meet the requirements of any such provision prior to

1 the issuance of final regulations or other guidance to carry
2 out such provision if such plan is operated in accordance
3 with a reasonable, good faith interpretation of such provi-
4 sion.

5 **SEC. 6. EFFECTIVE DATE.**

6 Unless otherwise specified, the amendments made by
7 this Act shall apply to plan years beginning after the date
8 of the enactment of this Act.

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