I

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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Giving Retirement Options to Workers Act of 2018'' or the ''GROW Act''.

SEC. 2. COMPOSITE PLANS.

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

(1) IN GENERAL.—Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended by adding at the end the following:

"PART 8—COMPOSITE PLANS AND LEGACY PLANS

"SEC. 801. COMPOSITE PLAN DEFINED.

''(a) IN GENERAL.—For purposes of this Act, the term 'composite plan' means a pension plan—

''(1) which is a multiemployer plan that is neither a defined benefit plan nor a defined contribution plan;

''(2) the terms of which provide that the plan is a composite plan for purposes of this title with respect to which not more than one multiemployer defined benefit plan is treated as a legacy plan within the meaning of section 805, unless there is more than one legacy plan following a merger of composite plans under section 806;

''(3) which provides systematically for the payment of benefits—

''(A) objectively calculated pursuant to a formula enumerated in the plan document with

respect to plan participants after retirement, for life; and

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

''(4) for which the plan contributions for the first plan year are at least 120 percent of the normal cost for the plan year;

''(5) which requires—

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

''(B) an annual actuarial determination of the plan's current funded ratio and projected funded ratio under section 802(a);

''(C) corrective action through a realignment program pursuant to section 803 whenever the plan's projected funded ratio is below 120 percent for the plan year; and

''(D) an annual notification to each participant describing the participant's benefits under the plan and explaining that such benefits may be subject to reduction under a realignment

program pursuant to section 803 based on the plan's funded status in future plan years; and

"(6) the board of trustees of which includes at least one retiree or beneficiary in pay status during each plan year following the first plan year in which at least 5 percent of the participants in the plan are retirees or beneficiaries in pay status.

"(b) TRANSITION FROM A MULTIEMPLOYER DEFINED BENEFIT PLAN.—

"(1) IN GENERAL.—The plan sponsor of a defined benefit plan that is a multiemployer plan may, subject to paragraph (2), amend the plan to incorporate the features of a composite plan as a component of the multiemployer plan separate from the defined benefit plan component, except in the case of a defined benefit plan for which the plan actuary has certified under section 305(b)(3) that the plan is or will be in critical status for the plan year in which such amendment would become effective or for any of the succeeding 5 plan years.

"(2) REQUIREMENTS.—Any amendment pursuant to paragraph (1) to incorporate the features of a composite plan as a component of a multiemployer plan shall—

''(A) apply with respect to all collective bargaining agreements providing for contributions to the multiemployer plan on or after the effective date of the amendment;

''(B) apply with respect to all participants in the multiemployer plan for whom contributions are made to the multiemployer plan on or after the effective date of the amendment;

''(C) specify that the effective date of the amendment is—

''(i) the first day of a specified plan year following the date of the adoption of the amendment, except that the plan sponsor may alternatively provide for a separate effective date with respect to each collective bargaining agreement under which contributions to the multiemployer plan are required, which shall occur on the first day of the first plan year beginning after the termination, or if earlier, the re-opening, of each such agreement, or such earlier date as the parties to the agreement and the plan sponsor of the multiemployer plan shall agree to; and

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

"(D) specify that, as of the amendment's effective date, no further benefits shall accrue under the defined benefit component of the multiemployer plan; and

"(E) specify that, as of the amendment's effective date, the plan sponsor of the multiemployer plan shall be the plan sponsor of both the composite plan component and the defined benefit plan component of the plan.

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

"(A) the requirements of this title and title IV shall be applied to the composite plan component and the defined benefit plan component of the multiemployer plan as if each such component were maintained as a separate plan; and

"(B) the assets of the composite plan component and the defined benefit plan component of the plan shall be held in a single trust forming part of the plan under which the trust instrument expressly provides—

''(i) for separate accounts (and appropriate records) to be maintained to reflect the interest which each of the plan components has in the trust, including separate accounting for additions to the trust for the benefit of each plan component, disbursements made from each plan component's account in the trust, investment experience of the trust allocable to that account, and administrative expenses (whether direct expenses or shared expenses allocated proportionally), and permits, but does not require, the pooling of some or all of the assets of the two plan components for investment purposes; and

''(ii) that the assets of each of the two plan components shall be held, invested, reinvested, managed, administered and distributed for the exclusive benefit of the participants and beneficiaries of each such plan component, and in no event shall the assets of one of the plan components be available to pay benefits due under the other plan component.

''(4) NOT A TERMINATION EVENT.—Notwithstanding section 4041A, an amendment pursuant to paragraph (1) to incorporate the features of a composite plan as a component of a multiemployer plan does not constitute termination of the multiemployer plan.

''(5) NOTICE TO THE SECRETARY.—

''(A) NOTICE.—The plan sponsor of a composite plan shall provide notice to the Secretary of the intent to establish the composite plan (or, in the case of a composite plan incorporated as a component of a multiemployer plan as described in paragraph (1), the intent to amend the multiemployer plan to incorporate such composite plan) at least 30 days prior to the effective date of such establishment or amendment.

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

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

''(6) REFERENCES TO COMPOSITE PLAN COMPONENT.—As used in this part, the term 'composite plan' includes a composite plan component added to a defined benefit plan pursuant to paragraph (1).

''(7) RULE OF CONSTRUCTION.—Paragraph (2)(A) shall not be construed as preventing the plan sponsor of a multiemployer plan from adopting an amendment pursuant to paragraph (1) because some collective bargaining agreements are amended to cease any covered employer's obligation to contribute to the multiemployer plan before or after the plan amendment is effective. Paragraph (2)(B) shall not be construed as preventing the plan sponsor of a multiemployer plan from adopting an amendment pursuant to paragraph (1) because some participants cease to have contributions made to the multiemployer plan on their behalf before or after the plan amendment is effective.

''(c) COORDINATION WITH FUNDING RULES.—Except as otherwise provided in this title, sections 302, 304, and 305 shall not apply to a composite plan.

''(d) TREATMENT OF A COMPOSITE PLAN.—For purposes of this Act (other than sections 302 and 4245), a

composite plan shall be treated as if it were a defined benefit plan unless a different treatment is provided for under applicable law.

"SEC. 802. FUNDED RATIOS; ACTUARIAL ASSUMPTIONS.

"(a) CERTIFICATION OF FUNDED RATIOS.—

"(1) IN GENERAL.—Not later than the one-hundred twentieth day of each plan year of a composite plan, the plan actuary of the composite plan shall certify to the Secretary, the Secretary of the Treasury, and the plan sponsor the plan's current funded ratio and projected funded ratio for the plan year.

"(2) DETERMINATION OF CURRENT FUNDED RATIO AND PROJECTED FUNDED RATIO.—For purposes of this section:

"(A) CURRENT FUNDED RATIO.—The current funded ratio is the ratio (expressed as a percentage) of—

"(i) the value of the plan's assets as of the first day of the plan year; to

"(ii) the plan actuary's best estimate of the present value of the plan liabilities as of the first day of the plan year.

"(B) PROJECTED FUNDED RATIO.—The projected funded ratio is the current funded

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

''(3) CONSIDERATION OF CONTRIBUTION RATE INCREASES.—For purposes of projections under this subsection, the plan sponsor may anticipate contribution rate increases beyond the term of the current collective bargaining agreement and any agreed-to supplements, up to a maximum of 2.5 percent per year, compounded annually, unless it would be unreasonable under the circumstances to assume that contributions would increase by that amount.

''(b) ACTUARIAL ASSUMPTIONS AND METHODS.—For purposes of this part:

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

''(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations);

''(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan; and

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

"(2) FAIR MARKET VALUE OF ASSETS.—The value of the plan's assets shall be taken into account on the basis of their fair market value.

"(3) DETERMINATION OF NORMAL COST AND PLAN LIABILITIES.—A plan's normal cost and liabilities shall be based on the most recent actuarial valuation required under section 801(a)(5)(A) and the unit credit funding method.

"(4) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—Any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this paragraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury.

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

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

"SEC. 803. REALIGNMENT PROGRAM.

"(a) REALIGNMENT PROGRAM.—

"(1) ADOPTION.—In any case in which the plan actuary certifies under section 802(a) that the plan's projected funded ratio is below 120 percent for the plan year, the plan sponsor shall adopt a realignment program under paragraph (2) not later than 210 days after the due date of the certification required under such section 802(a). The plan sponsor shall adopt an updated realignment program for each succeeding plan year for which a certification described in the preceding sentence is made.

"(2) CONTENT OF REALIGNMENT PROGRAM.—

"(A) IN GENERAL.—A realignment program adopted under this paragraph is a written program which consists of all reasonable measures, including options or a range of options to be undertaken by the plan sponsor or proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year.

''(B) INITIAL PROGRAM ELEMENTS.—Reasonable measures under a realignment program described in subparagraph (A) may include any of the following:

''(i) Proposed contribution increases.

''(ii) A reduction in the rate of future benefit accruals, so long as the resulting rate is not less than 1 percent of the contributions on which benefits are based as of the start of the plan year (or the equivalent standard accrual rate as described in section 305(e)(6)).

''(iii) A modification or elimination of adjustable benefits of participants that are not in pay status before the date of the notice required under subsection (b)(1).

''(iv) Any other lawfully available measures not specifically described in this subparagraph or subparagraph (C) or (D) that the plan sponsor determines are reasonable.

''(C) ADDITIONAL PROGRAM ELEMENTS.—If the plan sponsor has determined that all reasonable measures available under subparagraph (B) will not enable the plan to achieve a pro-

jected funded ratio of at least 120 percent for the following plan year, such reasonable measures may also include—

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

"(ii) a reduction of any benefits of participants that are in pay status before the date of the notice required under subsection (b)(1) other than core benefits as defined in paragraph (4).

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

"(i) a further reduction in the rate of future benefit accruals without regard to the limitation applicable under subparagraph (B)(ii); or

"(ii) a reduction of core benefits;

provided that such reductions shall be equitably distributed across the participant and beneficiary population, taking into account factors, with respect to participants and beneficiaries and their benefits, that may include one or more of the factors listed in subclauses (I) through (X) of section 305(e)(9)(D)(vi), to the extent necessary to enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year, or at the election of the plan sponsor, a projected funded ratio of at least 100 percent for the following plan year and a current funded ratio of at least 90 percent.

''(3) ADJUSTABLE BENEFIT DEFINED.—For purposes of this part, the term 'adjustable benefit' means—

''(A) benefits, rights, and features under the plan, including post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits;

''(B) any early retirement benefit or retirement-type subsidy (within the meaning of section 204(g)(2)(A)) and any benefit payment op-

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

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

''(4) CORE BENEFIT DEFINED.—For purposes of this part, the term 'core benefit' means a participant's accrued benefit payable in the normal form of an annuity commencing at normal retirement age, determined without regard to—

''(A) any early retirement benefits, retirement-type subsidies, or other benefits, rights, or features that may be associated with that benefit; and

''(B) any cost-of-living adjustments or benefit increases effective after the date of retirement.

''(5) COORDINATION WITH CONTRIBUTION INCREASES.—

''(A) IN GENERAL.—A realignment program may provide that some or all of the benefit modifications described in the program will only take effect if the bargaining parties fail to

agree to specified levels of increases in contributions to the plan, effective as of specified dates.

''(B) INDEPENDENT BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that are independent of potential contribution increases, such changes shall take effect not later than 180 days after the first day of the first plan year that begins following the adoption of the realignment program.

''(C) CONDITIONAL BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that take effect only if the bargaining parties fail to agree to contribution increases, such changes shall take effect not later than the first day of the first plan year beginning after the third anniversary of the date of adoption of the realignment program.

''(D) REVOCATION OF CERTAIN BENEFIT MODIFICATIONS.—Benefit modifications described in subparagraph (C) may be revoked, in whole or in part, and retroactively or prospectively, when contributions to the plan are increased, as specified in the realignment pro-

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

''(b) NOTICE.—

''(1) IN GENERAL.—In any case in which it is certified under section 802(a) that the projected funded ratio is less than 120 percent, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the current and projected funded ratios to the participants and beneficiaries, the bargaining parties, and the Secretary. Such notice shall include—

''(A) an explanation that contribution rate increases or benefit reductions may be necessary;

''(B) a description of the types of benefits that might be reduced; and

''(C) an estimate of the contribution increases and benefit reductions that may be necessary to achieve a projected funded ratio of 120 percent.

''(2) NOTICE OF BENEFIT MODIFICATIONS.—

''(A) IN GENERAL.—No modifications may be made that reduce the rate of future benefit accrual or that reduce core benefits or adjustable benefits unless notice of such reduction has been given at least 180 days before the general effective date of such reduction for all participants and beneficiaries to—

''(i) plan participants and beneficiaries;

''(ii) each employer who has an obligation to contribute to the composite plan; and

''(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such employers.

''(B) CONTENT OF NOTICE.—The notice under subparagraph (A) shall contain—

''(i) sufficient information to enable participants and beneficiaries to understand the effect of any reduction on their benefits, including an illustration of any affected benefit or subsidy, on an annual or monthly basis that a participant or beneficiary would otherwise have been eligible

for as of the general effective date described in subparagraph (A); and

''(ii) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance, where appropriate.

''(C) FORM AND MANNER.—Any notice under subparagraph (A)—

''(i) shall be provided in a form and manner prescribed in regulations of the Secretary of Labor;

''(ii) shall be written in a manner so as to be understood by the average plan participant.

''(3) MODEL NOTICES.—The Secretary shall—

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

''(B) by regulation enumerate any details related to the elements listed in paragraph (1) that any notice under this subsection must include.

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

''SEC. 804. LIMITATION ON INCREASING BENEFITS.

''(a) LEVEL OF CURRENT FUNDED RATIOS.—Except as provided in subsections (c), (d), and (e), no plan amendment increasing benefits or establishing new benefits under a composite plan may be adopted for a plan year unless—

''(1) the plan's current funded ratio is at least 110 percent (without regard to the benefit increase or new benefits);

''(2) taking the benefit increase or new benefits into account, the current funded ratio is at least 100 percent and the projected funded ratio for the current plan year is at least 120 percent;

''(3) in any case in which, after taking the benefit increase or new benefits into account, the current funded ratio is less than 140 percent and the projected funded ratio is less than 140 percent, the benefit increase or new benefits are projected by the plan actuary to increase the present value of the

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

''(4) expected contributions for the current plan year are at least 120 percent of normal cost for the plan year, determined using the unit credit funding method and treating the benefit increase or new benefits as in effect for the entire plan year.

''(b) ADDITIONAL REQUIREMENTS WHERE CORE BENEFITS REDUCED.—If a plan has been amended to reduce core benefits pursuant to a realignment program under section 803(a)(2)(D), such plan may not be subsequently amended to increase core benefits unless the amendment—

''(1) increases the level of future benefit payments only; and

''(2) provides for an equitable distribution of benefit increases across the participant and beneficiary population, taking into account the extent to which the benefits of participants were previously reduced pursuant to such realignment program.

''(c) EXCEPTION TO COMPLY WITH APPLICABLE LAW.—Subsection (a) shall not apply in connection with a plan amendment if the amendment is required as a condition of qualification under part I of subchapter D of

chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

''(d) EXCEPTION WHERE MAXIMUM DEDUCTIBLE LIMIT APPLIES.—Subsection (a) shall not apply in connection with a plan amendment if and to the extent that contributions to the composite plan would not be deductible for the plan year under section 404(a)(1)(E) of the Internal Revenue Code of 1986 if the plan amendment is not adopted.

''(e) EXCEPTION FOR CERTAIN BENEFIT MODIFICATIONS.—Subsection (a) shall not apply in connection with a plan amendment under section 803(a)(5)(C), regarding conditional benefit modifications.

''(f) TREATMENT OF PLAN AMENDMENTS.—For purposes of this section—

''(1) if two or more plan amendments increasing benefits or establishing new benefits are adopted in a plan year, such amendments shall be treated as a single amendment adopted on the last day of the plan year;

''(2) all benefit increases and new benefits adopted in a single amendment are treated as a single benefit increase, irrespective of whether the increases and new benefits take effect in more than one plan year; and

''(3) increases in contributions or decreases in plan liabilities which are scheduled to take effect in future plan years may be taken into account in connection with a plan amendment if they have been agreed to in writing or otherwise formalized by the date the plan amendment is adopted.

''SEC. 805. COMPOSITE PLAN RESTRICTIONS TO PRESERVE LEGACY PLAN FUNDING.

''(a) TREATMENT AS A LEGACY PLAN.—

''(1) IN GENERAL.—For purposes of this part and parts 2 and 3, a defined benefit plan shall be treated as a legacy plan with respect to the composite plan under which the employees who were eligible to accrue a benefit under the defined benefit plan become eligible to accrue a benefit under such composite plan.

''(2) COMPONENT PLANS.—In any case in which a defined benefit plan is amended to add a composite plan component pursuant to section 801(b), paragraph (1) shall be applied by substituting 'defined benefit component' for 'defined benefit plan' and 'composite plan component' for 'composite plan'.

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

ered eligible to accrue a benefit under a composite plan as of the first day in which the employee completes an hour of service under a collective bargaining agreement that provides for contributions to and accruals under the composite plan in lieu of accruals under the legacy plan.

''(4) COLLECTIVE BARGAINING AGREEMENT.—As used in this part, the term 'collective bargaining agreement' includes any agreement under which an employer has an obligation to contribute to a plan.

''(5) OTHER TERMS.—Any term used in this part which is not defined in this part and which is also used in section 305 shall have the same meaning provided such term in such section.

''(b) RESTRICTIONS ON ACCEPTANCE BY COMPOSITE PLAN OF AGREEMENTS AND CONTRIBUTIONS.—

''(1) IN GENERAL.—The plan sponsor of a composite plan shall not accept or recognize a collective bargaining agreement (or any modification to such agreement), and no contributions may be accepted and no benefits may be accrued or otherwise earned under the agreement—

''(A) in any case in which the plan actuary of any defined benefit plan that would be treated as a legacy plan with respect to such com-

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

''(B) unless the agreement requires each employer who is a party to such agreement, including employers whose employees are not participants in the legacy plan, to provide contributions to the legacy plan with respect to such composite plan in a manner that satisfies the transition contribution requirements of subsection (d).

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

''(A) to the parties to the agreement;

''(B) to active participants of the composite plan who have ceased to accrue or otherwise earn benefits with respect to service with an employer pursuant to paragraph (1); and

"(C) to the Secretary, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation.

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

"(c) RESTRICTION ON ACCRUAL OF BENEFITS UNDER A COMPOSITE PLAN.—

"(1) IN GENERAL.—In any case in which an employer, under a collective bargaining agreement entered into after February 5, 2018, ceases to have an obligation to contribute to a multiemployer defined benefit plan, no employees employed by the employer may accrue or otherwise earn benefits under any composite plan, with respect to service with that employer, for a 60-month period beginning on the date on which the employer entered into such collective bargaining agreement.

"(2) NOTICE OF CESSATION OF OBLIGATION.—Within 30 days of determining that an employer has ceased to have an obligation to contribute to a legacy plan with respect to employees employed by an employer that is or will be contributing to a composite plan with respect to service of such employees,

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

''(3) NOTICE OF CESSATION OF ACCRUALS.—Not later than 30 days after determining that an employer has ceased to have an obligation to contribute to a legacy plan, the plan sponsor of the composite plan shall notify the bargaining parties, the active participants affected by the cessation of accruals, the Secretary, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation of the cessation of accruals, the period during which such cessation is in effect, and the reasons therefor.

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

''(d) TRANSITION CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—A collective bargaining agreement satisfies the transition contribution requirements of this subsection if the agreement—

''(A) authorizes payment of contributions to a legacy plan at a rate or rates equal to or greater than the transition contribution rate established by the legacy plan under paragraph (2); and

''(B) does not provide for—

''(i) a suspension of contributions to the legacy plan with respect to any period of service; or

''(ii) any new direct or indirect exclusion of younger or newly hired employees of the employer from being taken into account in determining contributions owed to the legacy plan.

''(2) TRANSITION CONTRIBUTION RATE.—

''(A) IN GENERAL.—The transition contribution rate for a plan year is the contribution rate that, as certified by the actuary of the legacy plan in accordance with the principles in section 305(b)(3)(B), is reasonably expected to be adequate—

''(i) to fund the normal cost for the plan year;

''(ii) to amortize the plan's unfunded liabilities in level annual installments over 25 years, beginning with the plan year in which the transition contribution rate is first established; and

''(iii) to amortize any subsequent changes in the legacy plan's unfunded li-

ability due to experience gains or losses (including investment gains or losses, gains or losses due to contributions greater or less than the contributions made under the prior transition contribution rate, and other actuarial gains or losses), changes in actuarial assumptions, changes to the legacy plan's benefits, or changes in funding method over a period of 15 plan years beginning with the plan year in which such change in unfunded liability is incurred.

The transition contribution rate for any plan year may not be less than the transition contribution rate for the plan year in which such rate is first established.

''(B) MULTIPLE RATES.—If different rates of contribution are payable to the legacy plan by different employers or for different classes of employees, the certification shall specify a transition contribution rate for each such employer.

''(C) RATE APPLICABLE TO EMPLOYER.—

''(i) IN GENERAL.—Except as provided by clause (ii), the transition contribution rate applicable to an employer for a plan year is the rate in effect for the

plan year of the legacy plan that commences on or after 180 days before the earlier of—

''(I) the effective date of the collective bargaining agreement pursuant to which the employer contributes to the legacy plan; or

''(II) 5 years after the last plan year for which the transition contribution rate applicable to the employer was established or updated.

''(ii) EXCEPTION.—The transition contribution rate applicable to an employer for the first plan year beginning on or after the commencement of the employer's obligation to contribute to the composite plan is the rate in effect for the plan year of the legacy plan that commences on or after 180 days before such first plan year.

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

with respect to the employer under the legacy plan's funding improvement or rehabilitation plan under section 305, if greater than the rate otherwise determined, but in no event greater than 75 percent of the sum of the contribution rates applicable to the legacy plan and the composite plan for the plan year.

''(E) OTHER ACTUARIAL ASSUMPTIONS AND METHODS.—Except as provided in subparagraph (A), the determination of the transition contribution rate for a plan year shall be based on actuarial assumptions and methods consistent with the minimum funding determinations made under section 304 (or, if applicable, section 305) with respect to the legacy plan for the plan year.

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

than would be produced by the transition contribution rates in effect at the time of the certification.

"(G) NOTICE OF TRANSITION CONTRIBUTION RATE.—The plan sponsor of a legacy plan shall provide notice to the parties to collective bargaining agreements pursuant to which contributions are made to the legacy plan of changes to the transition contribution rate requirements at least 30 days before the beginning of the plan year for which the rate is effective.

"(H) NOTICE TO COMPOSITE PLAN SPONSOR.—Not later than 30 days after a determination by the plan sponsor of a legacy plan that a collective bargaining agreement provides for a rate of contributions that is below the transition contribution rate applicable to one or more employers that are parties to the collective bargaining agreement, the plan sponsor of the legacy plan shall notify the plan sponsor of any composite plan under which employees of such employer would otherwise be eligible to accrue a benefit.

''(3) CORRECTION PROCEDURES.—Pursuant to standards prescribed by the Secretary, the plan sponsor of a composite plan shall adopt rules and procedures that give the parties to the collective bargaining agreement notice of the failure of such agreement to satisfy the transition contribution requirements of this subsection, and a reasonable opportunity to correct such failure, not to exceed 180 days from the date of notice given under subsection (b)(2).

''(4) SUPPLEMENTAL CONTRIBUTIONS.—A collective bargaining agreement may provide for supplemental contributions to the legacy plan for a plan year in excess of the transition contribution rate determined under paragraph (2), regardless of whether the legacy plan is in endangered or critical status for such plan year.

''(e) NONAPPLICATION OF COMPOSITE PLAN RESTRICTIONS.—

''(1) IN GENERAL.—The provisions of subsections (a), (b), and (c) shall not apply with respect to a collective bargaining agreement, to the extent the agreement, or a predecessor agreement, provides or provided for contributions to a defined benefit plan that is a legacy plan, as of the first day of the

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

''(2) DETERMINATION OF FULLY FUNDED.—A plan is fully funded for purposes of paragraph (1) if, as of the valuation date of the plan for a plan year, the value of the plan's assets equals or exceeds the present value of the plan's liabilities, determined in accordance with the rules prescribed by the Pension Benefit Guaranty Corporation under sections 4219(c)(1)(D) and 4281 for multiemployer plans terminating by mass withdrawal, as in effect for the date of the determination, except the plan's reasonable assumption regarding the starting date of benefits may be used.

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

"SEC. 806. MERGERS AND ASSET TRANSFERS OF COMPOSITE PLANS.

"(a) IN GENERAL.—Assets and liabilities of a composite plan may only be merged with, or transferred to, another plan if—

"(1) the other plan is a composite plan;

"(2) the plan or plans resulting from the merger or transfer is a composite plan;

"(3) no participant's accrued benefit or adjustable benefit is lower immediately after the transaction than it was immediately before the transaction; and

"(4) the value of the assets transferred in the case of a transfer reasonably reflects the value of the amounts contributed with respect to the participants whose benefits are being transferred, adjusted for allocable distributions, investment gains and losses, and administrative expenses.

"(b) LEGACY PLAN.—

"(1) IN GENERAL.—After a merger or transfer involving a composite plan, the legacy plan with respect to an employer that is obligated to contribute to the resulting composite plan is the legacy plan that applied to that employer immediately before the merger or transfer.

''(2) MULTIPLE LEGACY PLANS.—If an employer is obligated to contribute to more than one legacy plan with respect to employees eligible to accrue benefits under more than one composite plan and there is a merger or transfer of such legacy plans, the transition contribution rate applicable to the legacy plan resulting from the merger or transfer with respect to that employer shall be determined in accordance with the provisions of section 805(d)(2)(B).''.

(2) PENALTIES.—

(A) CIVIL ENFORCEMENT OF FAILURE TO COMPLY WITH REALIGNMENT PROGRAM.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended—

(i) in paragraph (10), by striking ''or'' at the end;

(ii) in paragraph (11), by striking the period at the end and inserting ''; or''; and

(iii) by adding at the end the following:

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

"(A) has not adopted a realignment program under that section by the deadline established in such section; or

"(B) fails to update or comply with the terms of the realignment program in accordance with the requirements of such section,

by the Secretary, by an employer that has an obligation to contribute with respect to the composite plan, or by an employee organization that represents active participants in the composite plan, for an order compelling the plan sponsor to adopt a realignment program, or to update or comply with the terms of the realignment program, in accordance with the requirements of such section and the realignment program.".

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

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

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

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

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

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

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

''(10)(A) The Secretary may assess against any plan sponsor of a composite plan a civil penalty of not more than $100 per day for each violation by such sponsor of the requirement under section 803(b) to provide notice as described in such section, except that no penalty may be assessed in any case in which the plan sponsor exercised reasonable diligence to meet the requirements of such section and—

''(i) the plan sponsor did not know that the violation existed; or

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

date on which the plan sponsor knew, or in exercising reasonable due diligence should have known, that such violation existed.

''(B) In any case in which the plan sponsor exercised reasonable diligence to meet the requirements of section 803(b)—

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

''(ii) the Secretary may waive part or all of such penalty to the extent that the payment of such penalty would be excessive or otherwise inequitable relative to the violation involved.

''(11) The Secretary may assess against any plan sponsor of a composite plan a civil penalty of not more than $100 per day for each violation by such sponsor of the notice requirements under sections 801(b)(5) and 805(b)(2).''.

(3) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act (29 U.S.C. 1001 note) is amended by inserting after the item relating 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.''.

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

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

"Subpart C—Composite Plans and Legacy Plans

"SEC. 437. COMPOSITE PLAN DEFINED.

"(a) IN GENERAL.—For purposes of this title, the term 'composite plan' means a pension plan—

"(1) which is a multiemployer plan that is neither a defined benefit plan nor a defined contribution plan,

"(2) the terms of which provide that the plan is a composite plan for purposes of this title with respect to which not more than one multiemployer defined benefit plan is treated as a legacy plan within the meaning of section 440A, unless there is more than one legacy plan following a merger of composite plans under section 440B,

"(3) which provides systematically for the payment of benefits—

''(A) objectively calculated pursuant to a formula enumerated in the plan document with respect to plan participants after retirement, for life, and

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

''(4) for which the plan contributions for the first plan year are at least 120 percent of the normal cost for the plan year,

''(5) which requires—

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

''(B) an annual actuarial determination of the plan's current funded ratio and projected funded ratio under section 438(a),

''(C) corrective action through a realignment program pursuant to section 439 whenever the plan's projected funded ratio is below 120 percent for the plan year, and

''(D) an annual notification to each participant describing the participant's benefits under

the plan and explaining that such benefits may be subject to reduction under a realignment program pursuant to section 439 based on the plan's funded status in future plan years, and

''(6) the board of trustees of which includes at least one retiree or beneficiary in pay status during each plan year following the first plan year in which at least 5 percent of the participants in the plan are retirees or beneficiaries in pay status.

''(b) TRANSITION FROM A MULTIEMPLOYER DEFINED BENEFIT PLAN.—

''(1) IN GENERAL.—The plan sponsor of a defined benefit plan that is a multiemployer plan may, subject to paragraph (2), amend the plan to incorporate the features of a composite plan as a component of the multiemployer plan separate from the defined benefit plan component, except in the case of a defined benefit plan for which the plan actuary has certified under section 432(b)(3) that the plan is or will be in critical status for the plan year in which such amendment would become effective or for any of the succeeding 5 plan years.

''(2) REQUIREMENTS.—Any amendment pursuant to paragraph (1) to incorporate the features of

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

''(A) apply with respect to all collective bargaining agreements providing for contributions to the multiemployer plan on or after the effective date of the amendment,

''(B) apply with respect to all participants in the multiemployer plan for whom contributions are made to the multiemployer plan on or after the effective date of the amendment,

''(C) specify that the effective date of the amendment is—

''(i) the first day of a specified plan year following the date of the adoption of the amendment, except that the plan sponsor may alternatively provide for a separate effective date with respect to each collective bargaining agreement under which contributions to the multiemployer plan are required, which shall occur on the first day of the first plan year beginning after the termination, or if earlier, the re-opening, of each such agreement, or such earlier date as the parties to the agreement

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

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

''(D) specify that, as of the amendment's effective date, no further benefits shall accrue under the defined benefit component of the multiemployer plan, and

''(E) specify that, as of the amendment's effective date, the plan sponsor of the multiemployer plan shall be the plan sponsor of both the composite plan component and the defined benefit plan component of the plan.

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

''(A) the requirements of this title shall be applied to the composite plan component and the defined benefit plan component of the multiemployer plan as if each such component were maintained as a separate plan, and

''(B) the assets of the composite plan component and the defined benefit plan component of the plan shall be held in a single trust form-

ing part of the plan under which the trust instrument expressly provides—

"(i) for separate accounts (and appropriate records) to be maintained to reflect the interest which each of the plan components has in the trust, including separate accounting for additions to the trust for the benefit of each plan component, disbursements made from each plan component's account in the trust, investment experience of the trust allocable to that account, and administrative expenses (whether direct expenses or shared expenses allocated proportionally), and permits, but does not require, the pooling of some or all of the assets of the two plan components for investment purposes, and

"(ii) that the assets of each of the two plan components shall be held, invested, reinvested, managed, administered and distributed for the exclusive benefit of the participants and beneficiaries of each such plan component, and in no event shall the assets of one of the plan components be

available to pay benefits due under the other plan component.

''(4) NOT A TERMINATION EVENT.—Notwithstanding section 4041A of the Employee Retirement Income Security Act of 1974, an amendment pursuant to paragraph (1) to incorporate the features of a composite plan as a component of a multiemployer plan does not constitute termination of the multiemployer plan.

''(5) NOTICE TO THE SECRETARY.—

''(A) NOTICE.—The plan sponsor of a composite plan shall provide notice to the Secretary of the intent to establish the composite plan (or, in the case of a composite plan incorporated as a component of a multiemployer plan as described in paragraph (1), the intent to amend the multiemployer plan to incorporate such composite plan) at least 30 days prior to the effective date of such establishment or amendment.

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

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

''(6) REFERENCES TO COMPOSITE PLAN COMPONENT.—As used in this subpart, the term 'composite plan' includes a composite plan component added to a defined benefit plan pursuant to paragraph (1).

''(7) RULE OF CONSTRUCTION.—Paragraph (2)(A) shall not be construed as preventing the plan sponsor of a multiemployer plan from adopting an amendment pursuant to paragraph (1) because some collective bargaining agreements are amended to cease any covered employer's obligation to contribute to the multiemployer plan before or after the plan amendment is effective. Paragraph (2)(B) shall not be construed as preventing the plan sponsor of a multiemployer plan from adopting an amendment pursuant to paragraph (1) because some participants cease to have contributions made to the multiemployer plan on their behalf before or after the plan amendment is effective.

''(c) COORDINATION WITH FUNDING RULES.—Except as otherwise provided in this title, sections 412, 431, and 432 shall not apply to a composite plan.

''(d) TREATMENT OF A COMPOSITE PLAN.—For purposes of this title (other than sections 412 and 418E), a composite plan shall be treated as if it were a defined benefit plan unless a different treatment is provided for under applicable law.

''SEC. 438. FUNDED RATIOS; ACTUARIAL ASSUMPTIONS.

''(a) CERTIFICATION OF FUNDED RATIOS.—

''(1) IN GENERAL.—Not later than the one-hundred twentieth day of each plan year of a composite plan, the plan actuary of the composite plan shall certify to the Secretary, the Secretary of Labor, and the plan sponsor the plan's current funded ratio and projected funded ratio for the plan year.

''(2) DETERMINATION OF CURRENT FUNDED RATIO AND PROJECTED FUNDED RATIO.—For purposes of this section—

''(A) CURRENT FUNDED RATIO.—The current funded ratio is the ratio (expressed as a percentage) of—

''(i) the value of the plan's assets as of the first day of the plan year, to

"(ii) the plan actuary's best estimate of the present value of the plan liabilities as of the first day of the plan year.

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

"(3) CONSIDERATION OF CONTRIBUTION RATE INCREASES.—For purposes of projections under this subsection, the plan sponsor may anticipate contribution rate increases beyond the term of the current collective bargaining agreement and any agreed-to supplements, up to a maximum of 2.5 percent per year, compounded annually, unless it would be unreasonable under the circumstances to assume that contributions would increase by that amount.

"(b) ACTUARIAL ASSUMPTIONS AND METHODS.—For purposes of this part—

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

"(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations),

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan, and

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

"(2) FAIR MARKET VALUE OF ASSETS.—The value of the plan's assets shall be taken into account on the basis of their fair market value.

"(3) DETERMINATION OF NORMAL COST AND PLAN LIABILITIES.—A plan's normal cost and liabilities shall be based on the most recent actuarial valuation required under section 437(a)(5)(A) and the unit credit funding method.

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

on such last day. For purposes of this paragraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary.

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

"SEC. 439. REALIGNMENT PROGRAM.

''(a) REALIGNMENT PROGRAM.—

''(1) ADOPTION.—In any case in which the plan actuary certifies under section 438(a) that the plan's projected funded ratio is below 120 percent for the plan year, the plan sponsor shall adopt a realignment program under paragraph (2) not later than 210 days after the due date of the certification required under section 438(a). The plan sponsor shall adopt an updated realignment program for each succeeding plan year for which a certification described in the preceding sentence is made.

''(2) CONTENT OF REALIGNMENT PROGRAM.—

''(A) IN GENERAL.—A realignment program adopted under this paragraph is a written program which consists of all reasonable measures, including options or a range of options to

be undertaken by the plan sponsor or proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year.

''(B) INITIAL PROGRAM ELEMENTS.—Reasonable measures under a realignment program described in subparagraph (A) may include any of the following:

''(i) Proposed contribution increases.

''(ii) A reduction in the rate of future benefit accruals, so long as the resulting rate shall not be less than 1 percent of the contributions on which benefits are based as of the start of the plan year (or the equivalent standard accrual rate as described in section 432(e)(6)).

''(iii) A modification or elimination of adjustable benefits of participants that are not in pay status before the date of the notice required under subsection (b)(1).

''(iv) Any other legally available measures not specifically described in this subparagraph or subparagraph (C) or (D)

that the plan sponsor determines are reasonable.

"(C) ADDITIONAL PROGRAM ELEMENTS.—If the plan sponsor has determined that all reasonable measures available under subparagraph (B) will not enable the plan to achieve a projected funded ratio of at least 120 percent the following plan year, such reasonable measures may also include—

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

"(ii) a reduction of any benefits of participants that are in pay status before the date of the notice required under subsection (b)(1) other than core benefits as defined in paragraph (4).

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

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

"(i) a further reduction in the rate of future benefit accruals without regard to the limitation applicable under subparagraph (B)(ii), or

"(ii) a reduction of core benefits,

provided that such reductions shall be equitably distributed across the participant and beneficiary population, taking into account factors, with respect to participants and beneficiaries and their benefits, that may include one or more of the factors listed in subclauses (I) through (X) of section 432(e)(9)(D)(vi), to the extent necessary to enable the plan to achieve a projected funded ratio of at least 120 percent for the following plan year, or at the election of the plan sponsor, a projected funded ratio of at least 100 percent for the following plan year and a current funded ratio of at least 90 percent.

"(3) ADJUSTABLE BENEFIT DEFINED.—For purposes of this subpart, the term 'adjustable benefit' means—

"(A) benefits, rights, and features under the plan, including post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits,

"(B) any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)) and any benefit payment option (other than the qualified joint and survivor annuity), and

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

"(4) CORE BENEFIT DEFINED.—For purposes of this subpart, the term 'core benefit' means a participant's accrued benefit payable in the normal form of an annuity commencing at normal retirement age, determined without regard to—

"(A) any early retirement benefits, retirement-type subsidies, or other benefits, rights, or features that may be associated with that benefit, and

"(B) any cost-of-living adjustments or benefit increases effective after the date of retirement.

''(5) COORDINATION WITH CONTRIBUTION INCREASES.—

''(A) IN GENERAL.—A realignment program may provide that some or all of the benefit modifications described in the program will only take effect if the bargaining parties fail to agree to specified levels of increases in contributions to the plan, effective as of specified dates.

''(B) INDEPENDENT BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that are independent of potential contribution increases, such changes shall take effect not later than 180 days following the first day of the first plan year that begins following the adoption of the realignment program.

''(C) CONDITIONAL BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that take effect only if the bargaining parties fail to agree to contribution increases, such changes shall take effect not later than the first day of the first plan year beginning after the third anniversary of the date of adoption of the realignment program.

''(D) REVOCATION OF CERTAIN BENEFIT MODIFICATIONS.—Benefit modifications described in paragraph (3) may be revoked, in whole or in part, and retroactively or prospectively, when contributions to the plan are increased, as specified in the realignment program, including any amendments thereto. The preceding sentence shall not apply unless the contribution increases are to be effective not later than the fifth anniversary of the first day of the first plan year that begins after the adoption of the realignment program.

''(b) NOTICE.—

''(1) IN GENERAL.—In any case in which it is certified under section 438(a) that the projected funded ratio is less than 120 percent, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the current and projected funded ratios to the participants and beneficiaries, the bargaining parties, and the Secretary. Such notice shall include—

''(A) an explanation that contribution rate increases or benefit reductions may be necessary,

''(B) a description of the types of benefits that might be reduced, and

''(C) an estimate of the contribution increases and benefit reductions that may be necessary to achieve a projected funded ratio of 120 percent.

''(2) NOTICE OF BENEFIT MODIFICATIONS.—

''(A) IN GENERAL.—No modifications may be made that reduce the rate of future benefit accrual or that reduce core benefits or adjustable benefits unless notice of such reduction has been given at least 180 days before the general effective date of such reduction for all participants and beneficiaries to—

''(i) plan participants and beneficiaries,

''(ii) each employer who has an obligation to contribute to the composite plan, and

''(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such employers.

''(B) CONTENT OF NOTICE.—The notice under subparagraph (A) shall contain—

''(i) sufficient information to enable participants and beneficiaries to understand the effect of any reduction on their benefits, including an illustration of any affected benefit or subsidy, on an annual or monthly basis that a participant or beneficiary would otherwise have been eligible for as of the general effective date described in subparagraph (A), and

''(ii) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance, where appropriate.

''(C) FORM AND MANNER.—Any notice under subparagraph (A)—

''(i) shall be provided in a form and manner prescribed in regulations of the Secretary of Labor,

''(ii) shall be written in a manner so as to be understood by the average plan participant.

''(3) MODEL NOTICES.—The Secretary shall—

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

the notice requirements under this subsection, and

''(B) by regulation enumerate any details related to the elements listed in paragraph (1) that any notice under this subsection must include.

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

''SEC. 440. LIMITATION ON INCREASING BENEFITS.

''(a) LEVEL OF CURRENT FUNDED RATIOS.—Except as provided in subsections (c), (d), and (e), no plan amendment increasing benefits or establishing new benefits under a composite plan may be adopted for a plan year unless—

''(1) the plan's current funded ratio is at least 110 percent (without regard to the benefit increase or new benefits),

''(2) taking the benefit increase or new benefits into account, the current funded ratio is at least 100 percent and the projected funded ratio for the current plan year is at least 120 percent,

''(3) in any case in which, after taking the benefit increase or new benefits into account, the current funded ratio is less than 140 percent or the projected funded ratio is less than 140 percent, the benefit increase or new benefits are projected by the plan actuary to increase the present value of the plan's liabilities for the plan year by not more than 3 percent, and

''(4) expected contributions for the current plan year are at least 120 percent of normal cost for the plan year, determined using the unit credit funding method and treating the benefit increase or new benefits as in effect for the entire plan year.

''(b) ADDITIONAL REQUIREMENTS WHERE CORE BENEFITS REDUCED.—If a plan has been amended to reduce core benefits pursuant to a realignment program under section 439(a)(2)(D), such plan may not be subsequently amended to increase core benefits unless the amendment—

''(1) increases the level of future benefit payments only, and

''(2) provides for an equitable distribution of benefit increases across the participant and beneficiary population, taking into account the extent to

which the benefits of participants were previously reduced pursuant to such realignment program.

''(c) EXCEPTION TO COMPLY WITH APPLICABLE LAW.—Subsection (a) shall not apply in connection with a plan amendment if the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law.

''(d) EXCEPTION WHERE MAXIMUM DEDUCTIBLE LIMIT APPLIES.—Subsection (a) shall not apply in connection with a plan amendment if and to the extent that contributions to the composite plan would not be deductible for the plan year under section 404(a)(1)(E) if the plan amendment is not adopted. The Secretary of the Treasury shall issue regulations to implement this paragraph.

''(e) EXCEPTION FOR CERTAIN BENEFIT MODIFICATIONS.—Subsection (a) shall not apply in connection with a plan amendment under section 439(a)(5)(C), regarding conditional benefit modifications.

''(f) TREATMENT OF PLAN AMENDMENTS.—For purposes of this section—

''(1) if two or more plan amendments increasing benefits or establishing new benefits are adopted in a plan year, such amendments shall be treated as

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

''(2) all benefit increases and new benefits adopted in a single amendment are treated as a single benefit increase, irrespective of whether the increases and new benefits take effect in more than one plan year, and

''(3) increases in contributions or decreases in plan liabilities which are scheduled to take effect in future plan years may be taken into account in connection with a plan amendment if they have been agreed to in writing or otherwise formalized by the date the plan amendment is adopted.

''SEC. 440A. COMPOSITE PLAN RESTRICTIONS TO PRESERVE LEGACY PLAN FUNDING.

''(a) TREATMENT AS A LEGACY PLAN.—

''(1) IN GENERAL.—For purposes of this subchapter, a defined benefit plan shall be treated as a legacy plan with respect to the composite plan under which the employees who were eligible to accrue a benefit under the defined benefit plan become eligible to accrue a benefit under such composite plan.

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

437(b), paragraph (1) shall be applied by substituting 'defined benefit component' for 'defined benefit plan' and 'composite plan component' for 'composite plan'.

''(3) ELIGIBLE TO ACCRUE A BENEFIT.—For purposes of paragraph (1), an employee is considered eligible to accrue a benefit under a composite plan as of the first day in which the employee completes an hour of service under a collective bargaining agreement that provides for contributions to and accruals under the composite plan in lieu of accruals under the legacy plan.

''(4) COLLECTIVE BARGAINING AGREEMENT.—As used in this subpart, the term 'collective bargaining agreement' includes any agreement under which an employer has an obligation to contribute to a plan.

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

''(b) RESTRICTIONS ON ACCEPTANCE BY COMPOSITE PLAN OF AGREEMENTS AND CONTRIBUTIONS.—

''(1) IN GENERAL.—The plan sponsor of a composite plan shall not accept or recognize a collective

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

"(A) in any case in which the plan actuary of any defined benefit plan that would be treated as a legacy plan with respect to such composite plan has certified under section 432(b)(3) that such defined benefit plan is or will be in critical status for the plan year in which such agreement would take effect or for any of the succeeding 5 plan years, and

"(B) unless the agreement requires each employer who is a party to such agreement, including employers whose employees are not participants in the legacy plan, to provide contributions to the legacy plan with respect to such composite plan in a manner that satisfies the transition contribution requirements of subsection (d).

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

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

"(A) the parties to the agreement,

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

"(C) the Secretary of Labor, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation.

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

"(c) RESTRICTION ON ACCRUAL OF BENEFITS UNDER A COMPOSITE PLAN.—

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

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

''(2) NOTICE OF CESSATION OF OBLIGATION.—Within 30 days of determining that an employer has ceased to have an obligation to contribute to a legacy plan with respect to employees employed by an employer that is or will be contributing to a composite plan with respect to service of such employees, the plan sponsor of the legacy plan shall notify the plan sponsor of the composite plan of that cessation.

''(3) NOTICE OF CESSATION OF ACCRUALS.—Not later than 30 days after determining that an employer has ceased to have an obligation to contribute to a legacy plan, the plan sponsor of the composite plan shall notify the bargaining parties, the active participants affected by the cessation of accruals, the Secretary, the Secretary of Labor, and the Pension Benefit Guaranty Corporation of the cessation of accruals, the period during which such cessation is in effect, and the reasons therefor.

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

''(d) TRANSITION CONTRIBUTION REQUIREMENTS.—

''(1) IN GENERAL.—A collective bargaining agreement satisfies the transition contribution requirements of this subsection if the agreement—

''(A) authorizes for payment of contributions to a legacy plan at a rate or rates equal to or greater than the transition contribution rate established under paragraph (2), and

''(B) does not provide for—

''(i) a suspension of contributions to the legacy plan with respect to any period of service, or

''(ii) any new direct or indirect exclusion of younger or newly hired employees of the employer from being taken into account in determining contributions owed to the legacy plan.

''(2) TRANSITION CONTRIBUTION RATE.—

''(A) IN GENERAL.—The transition contribution rate for a plan year is the contribution rate that, as certified by the actuary of the legacy plan in accordance with the principles in section 432(b)(3)(B), is reasonably expected to be adequate—

''(i) to fund the normal cost for the plan year,

"(ii) to amortize the plan's unfunded liabilities in level annual installments over 25 years, beginning with the plan year in which the transition contribution rate is first established, and

"(iii) to amortize any subsequent changes in the legacy plan's unfunded liability due to experience gains or losses (including investment gains or losses, gains or losses due to contributions greater or less than the contributions made under the prior transition contribution rate, and other actuarial gains or losses), changes in actuarial assumptions, changes to the legacy plan's benefits, or changes in funding method over a period of 15 plan years beginning with the plan year in which such change in unfunded liability is incurred.

The transition contribution rate for any plan year may not be less than the transition contribution rate for the plan year in which such rate is first established.

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

employees, the certification shall specify a transition contribution rate for each such employer.

"(C) RATE APPLICABLE TO EMPLOYER.—

"(i) IN GENERAL.—Except as provided by clause (ii), the transition contribution rate applicable to an employer for a plan year is the rate in effect for the plan year of the legacy plan that commences on or after 180 days before the earlier of—

"(I) the effective date of the collective bargaining agreement pursuant to which the employer contributes to the legacy plan, or

"(II) 5 years after the last plan year for which the transition contribution rate applicable to the employer was established or updated.

"(ii) EXCEPTION.—The transition contribution rate applicable to an employer for the first plan year beginning on or after the commencement of the employer's obligation to contribute to the composite plan is the rate in effect for the plan year

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

''(D) EFFECT OF LEGACY PLAN FINANCIAL CIRCUMSTANCES.—If the plan actuary of the legacy plan has certified under section 432 that the plan is in endangered or critical status for a plan year, the transition contribution rate for the following plan year is the rate determined with respect to the employer under the legacy plan's funding improvement or rehabilitation plan under section 432, if greater than the rate otherwise determined, but in no event greater than 75 percent of the sum of the contribution rates applicable to the legacy plan and the composite plan for the plan year.

''(E) OTHER ACTUARIAL ASSUMPTIONS AND METHODS.—Except as provided in subparagraph (A), the determination of the transition contribution rate for a plan year shall be based on actuarial assumptions and methods consistent with the minimum funding determinations made under section 431 (or, if applicable, section 432) with respect to the legacy plan for the plan year.

"(F) ADJUSTMENTS IN RATE.—The plan sponsor of a legacy plan from time to time may adjust the transition contribution rate or rates applicable to an employer under this paragraph by increasing some rates and decreasing others if the actuary certifies that such adjusted rates in combination will produce projected contribution income for the plan year beginning on or after the date of certification that is not less than would be produced by the transition contribution rates in effect at the time of the certification.

"(G) NOTICE OF TRANSITION CONTRIBUTION RATE.—The plan sponsor of a legacy plan shall provide notice to the parties to collective bargaining agreements pursuant to which contributions are made to the legacy plan of changes to the transition contribution rate requirements at least 30 days before the beginning of the plan year for which the rate is effective.

"(H) NOTICE TO COMPOSITE PLAN SPONSOR.—Not later than 30 days after a determination by the plan sponsor of a legacy plan that a collective bargaining agreement provides

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

''(3) CORRECTION PROCEDURES.—Pursuant to standards prescribed by the Secretary of Labor, the plan sponsor of a composite plan shall adopt rules and procedures that give the parties to the collective bargaining agreement notice of the failure of such agreement to satisfy the transition contribution requirements of this subsection, and a reasonable opportunity to correct such failure, not to exceed 180 days from the date of notice given under subsection (b)(2).

''(4) SUPPLEMENTAL CONTRIBUTIONS.—A collective bargaining agreement may provide for supplemental contributions to the legacy plan for a plan year in excess of the transition contribution rate determined under paragraph (2), regardless of whether the legacy plan is in endangered or critical status for such plan year.

''(e) NONAPPLICATION OF COMPOSITE PLAN RESTRICTIONS.—

''(1) IN GENERAL.—The provisions of subsections (a), (b), and (c) shall not apply with respect to a collective bargaining agreement, to the extent the agreement, or a predecessor agreement, provides or provided for contributions to a defined benefit plan that is a legacy plan, as of the first day of the first plan year following a plan year for which the plan actuary certifies that the plan is fully funded, has been fully funded for at least three out of the immediately preceding 5 plan years, and is projected to remain fully funded for at least the following 4 plan years.

''(2) DETERMINATION OF FULLY FUNDED.—A plan is fully funded for purposes of paragraph (1) if, as of the valuation date of the plan for a plan year, the value of the plan's assets equals or exceeds the present value of the plan's liabilities, determined in accordance with the rules prescribed by the Pension Benefit Guaranty Corporation under sections 4219(c)(1)(D) and 4281 of Employee Retirement Income and Security Act for multiemployer plans terminating by mass withdrawal, as in effect for the date of the determination, except the plan's reason-

able assumption regarding the starting date of benefits may be used.

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

''SEC. 440B. MERGERS AND ASSET TRANSFERS OF COMPOSITE PLANS.

''(a) IN GENERAL.—Assets and liabilities of a composite plan may only be merged with, or transferred to, another plan if—

''(1) the other plan is a composite plan,

''(2) the plan or plans resulting from the merger or transfer is a composite plan,

''(3) no participant's accrued benefit or adjustable benefit is lower immediately after the transaction than it was immediately before the transaction, and

''(4) the value of the assets transferred in the case of a transfer reasonably reflects the value of the amounts contributed with respect to the participants whose benefits are being transferred, adjusted for allocable distributions, investment gains and losses, and administrative expenses.

''(b) LEGACY PLAN.—

''(1) IN GENERAL.—After a merger or transfer involving a composite plan, the legacy plan with respect to an employer that is obligated to contribute to the resulting composite plan is the legacy plan that applied to that employer immediately before the merger or transfer.

''(2) MULTIPLE LEGACY PLANS.—If an employer is obligated to contribute to more than one legacy plan with respect to employees eligible to accrue benefits under more than one composite plan and there is a merger or transfer of such legacy plans, the transition contribution rate applicable to the legacy plan resulting from the merger or transfer with respect to that employer shall be determined in accordance with the provisions of section 440A(d)(2)(B).''.

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

''SUBPART C. COMPOSITE PLANS AND LEGACY PLANS''.

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

SEC. 3. APPLICATION OF CERTAIN REQUIREMENTS TO COMPOSITE PLANS.

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

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

(A) in paragraph (1) by striking ''title IV applies'' and inserting ''title IV applies or which is a composite plan''; and

(B) by adding at the end the following:

''(5) APPLICATION TO COMPOSITE PLANS.—The provisions of this subsection shall apply to a composite plan only to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.''.

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

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

ulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.'';

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

''(3) ADDITIONAL INFORMATION FOR COMPOSITE PLANS.—With respect to any composite plan—

''(A) the provisions of paragraph (1)(A) shall apply by substituting 'current funded ratio and projected funded ratio (as such terms are defined in section 802(a)(2))' for 'funded percentage' each place it appears; and

''(B) the provisions of paragraph (2) shall apply only to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.''; and

(C) by adding at the end the following:

''(h) COMPOSITE PLANS.—A multiemployer plan that incorporates the features of a composite plan as provided in section 801(b) shall be treated as a single plan for purposes of the report required by this section, except that separate financial statements and actuarial statements

shall be provided under paragraphs (3) and (4) of subsection (a) for the defined benefit plan component and for the composite plan component of the multiemployer plan.''.

(3) TREATMENT FOR PURPOSES OF PENSION BENEFIT STATEMENTS.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)) is amended by adding at the end the following:

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

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

''(f) COMPOSITE PLANS.—A multiemployer plan that incorporates the features of a composite plan as provided in section 437(b) shall be treated as a single plan for purposes of the return required by this section, except that separate financial statements shall be provided for the de-

fined benefit plan component and for the composite plan component of the multiemployer plan.''.

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

SEC. 4. TREATMENT OF COMPOSITE PLANS UNDER TITLE IV.

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

''(22) COMPOSITE PLAN.—The term 'composite plan' has the meaning set forth in section 801.''.

(b) COMPOSITE PLANS DISREGARDED FOR CALCULATING PREMIUMS.—Section 4006(a) of such Act (29 U.S.C. 1306(a)) is amended by adding at the end the following:

''(9) The composite plan component of a multiemployer plan shall be disregarded in determining the premiums due under this section from the multiemployer plan.''.

(c) COMPOSITE PLANS NOT COVERED.—Section 4021(b)(1) of such Act (29 U.S.C. 1321(b)(1)) is amended by striking ''Act'' and inserting ''Act, or a composite

plan, as defined in paragraph (43) of section 3 of this Act''.

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

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

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

''(d) Contributions by an employer to a multiemployer plan described in the except clause of section 3(35) of this Act pursuant to a collective bargaining agreement that specifically designates that such contributions shall be allocated to the separate defined contribution accounts of participants under the plan shall not be taken into account with respect to the defined benefit portion of the plan for any purpose under this title (including the determination of the employer's highest contribution rate under section 4219), even if, under the terms of the plan, participants have the option to transfer assets in their separate defined contribution accounts to the defined benefit portion of the plan in return for service credit under the de-

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

''(e) A legacy plan created under section 805 shall be deemed to have no unfunded vested benefits for purposes of this part, for each plan year following a period of 5 consecutive plan years for which—

''(1) the plan was fully funded within the meaning of section 805 for at least 3 of the plan years during that period, ending with a plan year for which the plan is fully funded;

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

''(3) the plan is projected to be fully funded and to have no unfunded vested benefits for the following four plan years.''.

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

''(g) No amount of unfunded vested benefits shall be allocated to an employer that has an obligation to contribute to a legacy plan described in subsection (e) of sec-

tion 4201 for each plan year for which such subsection applies.''.

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

''(d) NO OBLIGATION TO CONTRIBUTE.—An employer shall not be treated as having an obligation to contribute to a multiemployer defined benefit plan within the meaning of subsection (a) solely because—

''(1) in the case of a multiemployer plan that includes a composite plan component, the employer has an obligation to contribute to the composite plan component of the plan;

''(2) the employer has an obligation to contribute to a composite plan that is maintained pursuant to one or more collective bargaining agreements under which the multiemployer defined benefit plan is or previously was maintained; or

''(3) the employer contributes or has contributed under section 805(d) to a legacy plan associated with a composite plan pursuant to a collective bargaining agreement but employees of that employer were not eligible to accrue benefits under the legacy plan with respect to service with that employer.''.

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

(i) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in subparagraph (2), the amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

(2) SPECIAL RULE FOR SECTION 414(k) MULTIEMPLOYER PLANS.—The amendment made by subsection (e) shall apply only to required contributions payable for plan years beginning after the date of the enactment of this Act.

SEC. 5. CONFORMING CHANGES.

(a) DEFINITIONS.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended—

(1) in paragraph (35), by inserting ''or a composite plan'' after ''other than an individual account plan''; and

(2) by adding at the end the following:

''(43) The term 'composite plan' has the meaning given the term in section 801(a).''.

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

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

''(9) SPECIAL FUNDING RULE FOR CERTAIN LEGACY PLANS.—In the case of a multiemployer defined benefit plan that has adopted an amendment under section 801(b), in accordance with which no further benefits shall accrue under the multiemployer defined benefit plan, the plan sponsor may combine the outstanding balance of all charge and credit bases and amortize that combined base in level annual installments (until fully amortized) over a period of 25 plan years beginning with the plan year following the date all benefit accruals ceased.''.

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

''(9) SPECIAL FUNDING RULE FOR CERTAIN LEGACY PLANS.—In the case of a multiemployer defined benefit plan that has adopted an amendment under section 437(b), in accordance with which no further benefits shall accrue under the multiemployer defined benefit plan, the plan sponsor may combine the outstanding balance of all charge and credit bases and amortize that combined base in level annual installments (until fully amortized) over a period of 25 plan years beginning with the plan year following the date on which all benefit accruals ceased.''.

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

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

(A) by striking so much of the first sentence as precedes ''may not merge'' and inserting the following:

''(1) IN GENERAL.—Except as provided in paragraph (2), a pension plan may not merge, and''; and

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

''(2) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Paragraph (1) shall not apply to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of this Act applies or a composite plan.''.

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

(A) QUALIFICATION REQUIREMENT.—Section 401(a)(12) of the Internal Revenue Code of 1986 is amended—

(i) by striking ''(12) A trust'' and inserting the following:

''(12) BENEFITS AFTER MERGER, CONSOLIDATION, OR TRANSFER OF ASSETS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a trust'';

(ii) by striking the second sentence; and

(iii) by adding at the end the following:

''(B) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Subparagraph (A) shall not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies or a composite plan.''.

(B) ADDITIONAL QUALIFICATION REQUIREMENT.—Paragraph (1) of section 414(l) of such Code is amended—

(i) by striking ''(1) IN GENERAL'' and all that follows through ''shall not constitute'' and inserting the following:

''(1) BENEFIT PROTECTIONS: MERGER, CONSOLIDATION, TRANSFER.—

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

(ii) by striking the second sentence; and

(iii) by adding at the end the following:

''(B) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Subparagraph (A) does not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies or a composite plan.''.

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

(1) REQUIREMENT THAT ACTUARIAL ASSUMPTIONS BE SPECIFIED.—Section 401(a)(25) of the Internal Revenue Code of 1986 is amended by inserting ''(in the case of a composite plan, benefits objectively calculated pursuant to a formula)'' after ''definitely determinable benefits''.

(2) MISSING PARTICIPANTS IN TERMINATING COMPOSITE PLAN.—Section 401(a)(34) of the Internal Revenue Code of 1986 is amended by striking '', a trust'' and inserting ''or a composite plan, a trust''.

(e) DEDUCTION FOR CONTRIBUTIONS TO A QUALIFIED PLAN.—Section 404(a)(1) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph

(E) as subparagraph (F) and by inserting after subparagraph (D) the following:

''(E) COMPOSITE PLANS.—

''(i) IN GENERAL.—In the case of a composite plan, subparagraph (D) shall not apply and the maximum amount deductible for a plan year shall be the excess (if any) of—

''(I) 160 percent of the greater of—

''(aa) the current liability of the plan determined in accordance with the principles of section 431(c)(6)(D), or

''(bb) the present value of plan liabilities as determined under section 438, over

''(II) the fair market value of the plan's assets, projected to the end of the plan year.

''(ii) SPECIAL RULES FOR PREDECESSOR MULTIEMPLOYER PLAN TO COMPOSITE PLAN.—

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

ployer contributes to a composite plan with respect to its employees, contributions by that employer to a multiemployer defined benefit plan with respect to some or all of the same group of employees shall be deductible under sections 162 and this section, subject to the limits in subparagraph (D).

''(II) TRANSITION CONTRIBUTION.—The full amount of a contribution to satisfy the transition contribution requirement (as defined in section 440A(d)) and allocated to the legacy defined benefit plan for the plan year shall be deductible for the employer's taxable year ending with or within the plan year.''.

(f) MINIMUM VESTING STANDARDS.—

(1) YEARS OF SERVICE UNDER COMPOSITE PLANS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 203 of the Employee Retirement Income Security Act of 1974

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

''(g) SPECIAL RULES FOR COMPUTING YEARS OF SERVICE UNDER COMPOSITE PLANS.—

''(1) IN GENERAL.—In determining a qualified employee's years of service under a composite plan for purposes of this section, the employee's years of service under a legacy plan shall be treated as years of service earned under the composite plan. For purposes of such determination, a composite plan shall not be treated as a defined benefit plan pursuant to section 801(d).

''(2) QUALIFIED EMPLOYEE.—For purposes of this subsection, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this subsection) within the 12-month period immediately preceding or the 24-month period immediately following the date the employee ceased to accrue benefits under the legacy plan.

''(3) CERTIFICATION OF YEARS OF SERVICE.—For purposes of paragraph (1), the plan sponsor of the composite plan shall rely on a written certification by the plan sponsor of the legacy plan of the

years of service the qualified employee completed under the defined benefit plan as of the date the employee satisfies the requirements of paragraph (2), disregarding any years of service that had been forfeited under the rules of the defined benefit plan before that date.

''(h) SPECIAL RULES FOR COMPUTING YEARS OF SERVICE UNDER LEGACY PLANS.—

''(1) IN GENERAL.—In determining a qualified employee's years of service under a legacy plan for purposes of this section, and in addition to any service under applicable regulations, the employee's years of service under a composite plan shall be treated as years of service earned under the legacy plan. For purposes of such determination, a composite plan shall not be treated as a defined benefit plan pursuant to section 801(d).

''(2) QUALIFIED EMPLOYEE.—For purposes of this subsection, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this subsection) within the 12-month period immediately preceding or the 24-month period immediately following the date the em-

ployee ceased to accrue benefits under the legacy plan.

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

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(14) SPECIAL RULES FOR DETERMINING YEARS OF SERVICE UNDER COMPOSITE PLANS.—

''(A) IN GENERAL.—In determining a qualified employee's years of service under a composite plan for purposes of this subsection, the employee's years of service under a legacy plan shall be treated as years of service earned under the composite plan. For purposes of such determination, a composite plan shall not be

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

''(B) QUALIFIED EMPLOYEE.—For purposes of this paragraph, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this paragraph) within the 12-month period immediately preceding or the 24-month period immediately following the date the employee ceased to accrue benefits under the legacy plan.

''(C) CERTIFICATION OF YEARS OF SERVICE.—For purposes of subparagraph (A), the plan sponsor of the composite plan shall rely on a written certification by the plan sponsor of the legacy plan of the years of service the qualified employee completed under the legacy plan as of the date the employee satisfies the requirements of subparagraph (B), disregarding any years of service that had been forfeited under the rules of the defined benefit plan before that date.

''(15) SPECIAL RULES FOR COMPUTING YEARS OF SERVICE UNDER LEGACY PLANS.—

"(A) IN GENERAL.—In determining a qualified employee's years of service under a legacy plan for purposes of this section, and in addition to any service under applicable regulations, the employee's years of service under a composite plan shall be treated as years of service earned under the legacy plan. For purposes of such determination, a composite plan shall not be treated as a defined benefit plan pursuant to section 437(d).

"(B) QUALIFIED EMPLOYEE.—For purposes of this paragraph, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this paragraph) within the 12-month period immediately preceding or the 24-month period immediately following the date the employee ceased to accrue benefits under the legacy plan.

"(C) CERTIFICATION OF YEARS OF SERVICE.—For purposes of subparagraph (A), the plan sponsor of the legacy plan shall rely on a written certification by the plan sponsor of the composite plan of the years of service the qualified 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

(ii) in clause (ii) by inserting ''or 432(e)'' after ''section 418E''.

(3) ACCRUED BENEFIT REQUIREMENTS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204(b)(1)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)(1)(B)(i)) is amended by inserting '', including an amendment reducing or suspending benefits under section 305(e), 803, 4245 or 4281,'' after ''any amendment to the plan''.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(b)(1)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting '', including an amendment reducing or suspending benefits under section 418E, 432(e) or 439, or under section 4281 of the Employee Retirement Income Security Act of 1974,'' after ''any amendment to the plan''.

(4) ADDITIONAL ACCRUED BENEFIT REQUIREMENTS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204(b)(1)(H)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(b)(1)(H)(v)) is

amended by inserting before the period at the end the following: ", or benefits are reduced or suspended under section 305(e), 803, 4245, or 4281".

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(b)(1)(H)(iv) of the Internal Revenue Code of 1986 is amended—

(i) in the heading by striking "BENEFIT" and inserting "BENEFIT AND THE SUSPENSION AND REDUCTION OF CERTAIN BENEFITS"; and

(ii) in the text by inserting before the period at the end the following: ", or benefits are reduced or suspended under section 418E, 432(e), or 439, or under section 4281 of the Employee Retirement Income Security Act of 1974".

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

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204(g)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(g)(1)) is amended by inserting after "302(d)(2)" the following: ", 305(e), 803, 4245,".

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(d)(6)(A) of the Internal Revenue Code of 1986 is amended by inserting after ''412(d)(2),'' the following: ''418E, 432(e), or 439,''.

(g) CERTAIN FUNDING RULES NOT APPLICABLE.—

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

''(k) LEGACY PLANS.—Sections 302, 304, and 305 shall not apply to an employer that has an obligation to contribute to a plan that is a legacy plan within the meaning of section 805(a) solely because the employer has an obligation to contribute to a composite plan described in section 801 that is associated with that legacy plan.''.

(2) INTERNAL REVENUE CODE OF 1986.—Section 432 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

''(k) LEGACY PLANS.—Sections 412, 431, and 432 shall not apply to an employer that has an obligation to contribute to a plan that is a legacy plan within the meaning of section 440A(a) solely because the employer has an obligation to contribute to a composite plan described in section 437 that is associated with that legacy plan.''.

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

(1) in paragraph (1), by striking ''regulations of the Secretary.'' and inserting ''regulations of the Secretary, or as provided in paragraph (3).''; and

(2) by adding at the end the following:

''(3) Section 4044(a) of this Act shall be applied in the case of the termination of a composite plan by—

''(A) limiting the benefits subject to paragraph (3) thereof to benefits as defined in section 802(b)(3)(B); and

''(B) including in the benefits subject to paragraph (4) all other benefits (if any) of individuals under the plan that would be guaranteed under section 4022A if the plan were subject to title IV.''.

(i) GOOD FAITH COMPLIANCE PRIOR TO GUIDANCE.—Where the implementation of any provision of law added or amended by this Act is subject to issuance of regulations by the Secretary of Labor, the Secretary of the Treasury, or the Pension Benefit Guaranty Corporation, a multiemployer plan shall not be treated as failing to meet the requirements of any such provision prior to

the issuance of final regulations or other guidance to carry out such provision if such plan is operated in accordance with a reasonable, good faith interpretation of such provision.

SEC. 6. EFFECTIVE DATE.

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

○