

116TH CONGRESS  
2D SESSION

# S. 5045

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to reform the treatment of multiemployer plans, to ensure the ability of the Pension Benefit Guaranty Corporation to provide guaranteed benefits of retirees, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 17, 2020

Mr. GRASSLEY (for himself and Mr. ALEXANDER) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to reform the treatment of multiemployer plans, to ensure the ability of the Pension Benefit Guaranty Corporation to provide guaranteed benefits of retirees, and for other purposes.

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

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “Chris Allen Multiemployer Pension Recapitalization and  
6       Reform Act of 2020”.

- 1 (b) TABLE OF CONTENTS.—The table of contents for  
 2 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RESTRUCTURING PENSION INSURANCE FOR  
MULTIEMPLOYER DEFINED BENEFIT PENSION PLANS

Subtitle A—Special Partitions of Eligible Multiemployer Plans

Sec. 101. Special partitions of eligible multiemployer plans.

Subtitle B—PBGC Reforms

- Sec. 111. Guarantee rate increase for plans receiving financial assistance.  
 Sec. 112. Amendment to definition of insolvency.  
 Sec. 113. Termination of multiemployer plans.  
 Sec. 114. Benefits under certain terminated plans.

Subtitle C—Pension Insurance Modeling

Sec. 121. Pension insurance modeling.

TITLE II—FUNDING RULES, WITHDRAWAL LIABILITY, AND  
OTHER REFORMS

Subtitle A—Minimum Funding Standard for Multiemployer Plans

Sec. 201. Valuation of plan liabilities.

Subtitle B—Additional Funding Rules for Multiemployer Plans

PART I—PLAN STATUS AMENDMENTS

- Sec. 211. Amendments to Internal Revenue Code of 1986.  
 Sec. 212. Amendments to Employee Retirement Income Security Act of 1974.  
 Sec. 213. Transition rules.

PART II—PROVISIONS RELATING TO PLAN MERGERS

- Sec. 221. Provisions relating to plan mergers and consolidations.  
 Sec. 222. Clarification of PBGC financial assistance for plan mergers and partitions.  
 Sec. 223. Restoration not required for certain mergers.

PART III—WITHDRAWAL LIABILITY REFORM

Sec. 231. Withdrawal liability reform.

TITLE III—PLAN GOVERNANCE, DISCLOSURE, AND OTHER RE-  
FORMS FOR MULTIEMPLOYER DEFINED BENEFIT PENSION  
PLANS

Subtitle A—Plan Governance and Operations for Multiemployer Plans

- Sec. 301. Independent trustees.  
 Sec. 302. Investigatory authority.  
 Sec. 303. Conditions on financial assistance.

Sec. 304. Excise tax on excess compensation of covered employees of partitioned multiemployer plans.

Subtitle B—Reportable Events for Multiemployer Plans

Sec. 311. Reportable events.

Subtitle C—Funding Notices to Participants in Multiemployer Plans

Sec. 321. Improved multiemployer plan disclosure.

Sec. 322. Penalties for failure to provide notices.

Subtitle D—Consistency of Criminal Penalties

Sec. 331. Consistency of criminal penalties.

TITLE IV—OTHER MULTIEMPLOYER PLAN REFORMS

Sec. 401. Clarification of fiduciary duty of retiree representative who is a trustee.

Sec. 402. Safe harbors.

Sec. 403. Clarification of notice and comment process.

Sec. 404. Protection of participants receiving disability benefits.

Sec. 405. Model notice.

TITLE V—ALTERNATIVE PLAN STRUCTURES

Sec. 501. Composite plans.

Sec. 502. Application of certain requirements to composite plans.

Sec. 503. Treatment of composite plans under title IV.

Sec. 504. Conforming changes.

Sec. 505. Effective date.

TITLE VI—FINANCIAL PROVISIONS

Sec. 601. Additional premiums.

Sec. 602. Funding.

Sec. 603. Composite plan transition fee.

1 **TITLE I—RESTRUCTURING PEN-**  
 2 **SION INSURANCE FOR MULTI-**  
 3 **EMPLOYER DEFINED BEN-**  
 4 **EFIT PENSION PLANS**

5 **Subtitle A—Special Partitions of**  
 6 **Eligible Multiemployer Plans**

7 **SEC. 101. SPECIAL PARTITIONS OF ELIGIBLE MULTIEM-**  
 8 **PLOYER PLANS.**

9 (a) IN GENERAL.—Title IV of the Employee Retirement  
 10 Income Security Act of 1974 (29 U.S.C. 1301 et  
 11 seq.) is amended by inserting after section 4233 the fol-  
 12 lowing:

13 **“SEC. 4233A. SPECIAL PARTITIONS OF ELIGIBLE MULTIEM-**  
 14 **PLOYER PLANS.**

15 “(a) IN GENERAL.—

16 “(1) REQUIREMENT TO ORDER PARTITION.—

17 Upon the application by the plan sponsor of an eligi-  
 18 ble multiemployer plan described in subsection (b)  
 19 for a partition of the plan, the corporation shall  
 20 order a partition of the plan in accordance with this  
 21 section, provided the other requirements in this sec-  
 22 tion are met. The corporation shall make a deter-  
 23 mination regarding the application not later than  
 24 150 days after the date such application was filed  
 25 (or, if later, the date such application was com-

1       pleted) in accordance with regulations that shall be  
2       issued by the corporation under subsection (h).

3           “(2) NOTIFICATION OF PARTICIPANTS.—Not  
4       later than 30 days after submitting an application  
5       for partition of a plan under paragraph (1), the plan  
6       sponsor of the plan shall notify the participants and  
7       beneficiaries of such application, in the form and  
8       manner prescribed by the corporation.

9           “(3) IMPLEMENTATION OF TRANSFER.—The  
10      corporation shall implement the partition order  
11      issued under this section not later than 60 days  
12      after the completion of the corporation’s determina-  
13      tion under paragraph (1).

14          “(4) FILING DATE OF APPLICATION.—Parti-  
15      tions under this section shall apply only with respect  
16      to any eligible multiemployer plan whose plan spon-  
17      sor files an application that is determined by the  
18      corporation to be complete pursuant to regulations  
19      issued by the corporation under subsection (h)(1)  
20      and that is filed by the later of the time specified  
21      in such regulations or 1 year after the corporation  
22      issues such regulations.

23          “(b) ELIGIBLE MULTIEMPLOYER PLAN.—For pur-  
24      poses of this section—

1           “(1) IN GENERAL.—The term ‘eligible multiem-  
2           ployer plan’ means a multiemployer plan that meets  
3           any of the following conditions:

4                   “(A) The plan became insolvent (as de-  
5                   scribed in section 4245(b), as in effect the day  
6                   before the date of enactment of this section) on  
7                   or after December 16, 2014, and prior to the  
8                   date of enactment of this section and has not  
9                   terminated.

10                  “(B) The plan—

11                           “(i)(I) was certified, in the most re-  
12                           cent annual certification filed pursuant to  
13                           section 305(b)(3) (as in effect on the day  
14                           before the date of enactment of this sec-  
15                           tion) before the date of enactment of this  
16                           section, to be in critical and declining sta-  
17                           tus (as defined in section 305(b)(6), as so  
18                           in effect), and has not terminated as of  
19                           such date;

20                           “(II) implemented a suspension of  
21                           benefits under section 305(e)(9) (as in ef-  
22                           fect on the day before the date of enact-  
23                           ment of this section) prior to the date of  
24                           enactment of this section;

1 “(III)(aa) was certified, in the most  
2 recent annual certification filed pursuant  
3 to section 305(b)(3) (as so in effect) before  
4 the date of enactment of this section, to be  
5 in critical status (as defined in section  
6 305(b)(2), as so in effect), and has not ter-  
7 minated as of such date;

8 “(bb) has a funded percentage that is  
9 less than 40 percent on a current liability  
10 basis, based on the most recent Form  
11 5500, Schedule MB, line 1b(1) for current  
12 value of assets and line 1d(2)(a) for cur-  
13 rent liability, filed before the date of enact-  
14 ment of this section; and

15 “(cc) has an active to inactive partici-  
16 pant ratio that is below 40 percent as of  
17 the most recent Form 5500 filed before the  
18 date of enactment of this section; or

19 “(IV)(aa) was certified, in the most  
20 recent annual certification filed pursuant  
21 to section 305(b)(3) (as so in effect) before  
22 the date of enactment of this section, to be  
23 in critical status (as defined in section  
24 305(b)(2), as so in effect) and has not ter-  
25 minated before such date,

1 “(bb) has an active to total partici-  
 2 pant ratio that is below 20 percent as of  
 3 the most recent Form 5500 filed before the  
 4 date of enactment of the section; and

5 “(cc) has more than 100,000 partici-  
 6 pants as of the most recent Form 5500  
 7 filed before the date of enactment of the  
 8 section; and

9 “(ii) is not the plan described in sec-  
 10 tion 9701(a)(3) of the Internal Revenue  
 11 Code of 1986, determined without regard  
 12 to the limitation on participation to indi-  
 13 viduals who retired in 1976 and thereafter.

14 “(2) ELIGIBLE PLANS REQUIRED TO FILE FOR  
 15 PARTITION.—

16 “(A) IN GENERAL.—An eligible multiem-  
 17 ployer plan (other than a plan eligible under  
 18 paragraph (1)(B)(i)(II)) shall file with the cor-  
 19 poration for partition under this section. If an  
 20 eligible plan required under the preceding sen-  
 21 tence to file for partition does not so file in a  
 22 timely manner, the plan is subject to termi-  
 23 nation under section 4042.

1           “(B) EXCEPTION.—If a plan is reasonably  
 2           determined to be ineligible for future adjust-  
 3           ments under subsection (j)(3)(C)(iii)—

4                   “(i) subparagraph (A) shall not apply  
 5                   to such plan, and

6                   “(ii) such plan may withdraw the par-  
 7                   tition application (or, as provided by the  
 8                   corporation in regulations, not submit such  
 9                   application at all).

10          “(c) CONDITIONS FOR PARTITION.—

11               “(1) RATE OF ACCRUALS.—

12                   “(A) IN GENERAL.—As a condition of any  
 13                   partition under this section, the rate of future  
 14                   accruals, during the period beginning on the  
 15                   date of the partition order and ending 15 years  
 16                   after the effective date of the partition, shall  
 17                   not exceed the lesser of—

18                           “(i) a monthly benefit (payable as a  
 19                           single life annuity commencing at the par-  
 20                           ticipant’s normal retirement age) equal or  
 21                           equivalent to 1 percent of the annual con-  
 22                           tributions required to be made with respect  
 23                           to a participant as of the first day of the  
 24                           first plan year that begins after the date of  
 25                           enactment of this section; or

1                   “(ii) the accrual rate under the plan  
2                   on such first day.

3                   “(B) DETERMINATION OF EQUIVALENT  
4                   RATE.—The plan sponsor may determine the  
5                   equivalent rate of future accruals based on the  
6                   standard or average contribution base units  
7                   which the plan sponsor determines to be rep-  
8                   resentative for active participants and such  
9                   other factors as the plan sponsor determines to  
10                  be relevant. Such determinations by the plan  
11                  sponsor may be made on the basis of individual  
12                  active participants, groups of active partici-  
13                  pants, or all active participants in total.

14                  “(C) SPECIAL RULE FOR FUTURE ACCRU-  
15                  ALS.—To the extent that the rate of future ac-  
16                  cruals exceeds the limitation determined under  
17                  this paragraph, the plan sponsor shall adjust  
18                  the rate of future accruals in accordance with  
19                  this paragraph effective as of the date of the  
20                  partition order.

21                  “(2) ELIMINATION OF ADJUSTABLE BENE-  
22                  FITS.—As a condition of any partition under this  
23                  section, the plan sponsor of an eligible multiem-  
24                  ployer plan shall eliminate all adjustable benefits in  
25                  the nature of an early retirement subsidy (including

1 a subsidized early retirement actuarial reduction fac-  
2 tor) for all participants not in pay status as of the  
3 date of the partition application. Nothing in this  
4 paragraph shall affect the right of a participant to  
5 receive an unsubsidized early retirement benefit.

6 “(d) SUCCESSOR PLANS AND ORIGINAL PLANS.—

7 “(1) IN GENERAL.—The plan created by the  
8 partition order is a successor plan to which section  
9 4022A applies.

10 “(2) PLAN SPONSOR AND PLAN ADMINIS-  
11 TRATOR.—The plan sponsor of an eligible multiem-  
12 ployer plan prior to partition and the administrator  
13 of such plan shall be the plan sponsor and the ad-  
14 ministrator, respectively, of the original plan and the  
15 successor plan created by the partition order.

16 “(3) ORIGINAL PLAN.—The remaining plan  
17 after benefits have been transferred to the successor  
18 plan pursuant to the partition order is the original  
19 plan. Benefit payments made by the successor plan  
20 shall not constitute a reduction in benefits with re-  
21 spect to the original plan.

22 “(e) FINANCIAL ASSISTANCE TO SUCCESSOR PLANS  
23 FROM THE CORPORATION.—

24 “(1) IN GENERAL.—Upon approval of an appli-  
25 cation filed pursuant to subsection (i), the corpora-

1       tion shall provide financial assistance to each suc-  
2       cessor plan of an eligible multiemployer plan.

3               “(2)   NONAPPLICABILITY   OF   REPAYMENT  
4       RULE.—Financial assistance provided to a successor  
5       plan pursuant to this subsection shall not be subject  
6       to the requirements of section 4261(b)(2), except  
7       that the corporation may condition receipt of finan-  
8       cial assistance under this subsection on reasonable  
9       terms consistent with regulations prescribed by the  
10      corporation to prevent abuse of the multiemployer  
11      plan program or prevent unreasonable risk of loss to  
12      the corporation.

13          “(f)   PAYMENT   REQUIREMENTS   OF   ORIGINAL  
14      PLAN.—For each participant or beneficiary of the plan  
15      whose benefit or portion thereof was transferred to the  
16      successor plan, the original plan shall pay a monthly ben-  
17      efit to such participant or beneficiary for each month in  
18      which such benefit is in pay status following the effective  
19      date of such partition in an amount equal to the excess  
20      of—

21               “(1) the monthly benefit that would be paid to  
22      the participant or beneficiary under the terms of the  
23      original plan had the transfer of benefits not oc-  
24      curred (taking into account any applicable benefit

1 reductions or plan amendments following the effective date of the partition); over

3 “(2) the monthly benefit for such participant or  
4 beneficiary that is paid by the successor plan.

5 “(g) TRANSFER OF BENEFITS.—

6 “(1) IN GENERAL.—A partition order under  
7 subsection (a) shall provide for a transfer of benefits  
8 from the original plan to the successor plan in the  
9 amount necessary for the original plan to be projected to remain solvent indefinitely, as defined in  
10 section 1.432(e)(9)–1(d)(5)(ii) of title 26, Code of  
11 Federal Regulations (excluding subparagraph  
12 (A)(2)), as in effect on the date on which such regulations were issued, using actuarial and other assumptions to be promulgated by the corporation in  
13 the regulations described in subsection (h)(4). Such  
14 transfer amounts shall be determined without respect to the amount guaranteed under section  
15 4022A.

16 “(2) CONSIDERATIONS.—

17 “(A) IN GENERAL.—In determining the  
18 transfer amount under paragraph (1), the corporation shall take into account all obligations  
19 of the original plan, including the payment of  
20 benefits required under subsection (f) in excess

1 of the amount paid by the successor plan and  
2 all plan expenses and premium amounts.

3 “(B) PROJECTION OF ASSETS AND LIABIL-  
4 ITIES.—The amount of the transfer of benefits  
5 shall be based on a projection of plan assets  
6 and liabilities to the projected partition date, as  
7 specified in the partition application, and—

8 “(i) the projection of plan assets shall  
9 be based on the fair market value of plan  
10 assets as of the end of the last plan year  
11 preceding the date of the application, with  
12 appropriate adjustments for actual or an-  
13 ticipated plan experience through the pro-  
14 jected partition date; and

15 “(ii) the projection of plan liabilities  
16 shall be based on the participant data used  
17 in the most recently completed actuarial  
18 valuation.

19 “(3) SPECIAL RULE FOR INSOLVENT PLANS.—  
20 With respect to an insolvent plan described in sub-  
21 section (b)(1)(A), the corporation shall provide fi-  
22 nancial assistance to the original plan, as needed for  
23 the plan to pay to each participant and beneficiary  
24 in the successor plan the excess, if any, of—

1           “(A) the monthly benefit that would be  
2           paid to the participant or beneficiary under the  
3           terms of the original plan, prior to insolvency,  
4           had the transfer of benefits not occurred (tak-  
5           ing into account any applicable benefit reduc-  
6           tions or plan amendments following the effec-  
7           tive date of the partition); over

8           “(B) the monthly benefit for such partici-  
9           pant or beneficiary that is paid by the successor  
10          plan.

11       “(h) REGULATIONS.—

12           “(1) IN GENERAL.—The corporation shall issue  
13           regulations on the requirements for partition appli-  
14           cations not later than 180 days after the date of en-  
15           actment of this section. By regulation, the corpora-  
16           tion may assign eligible multiemployer plans into  
17           groups, based on plan size (prioritizing larger plans),  
18           projected date of plan insolvency (prioritizing plans  
19           expected to become insolvent within 5 years), or  
20           such other factors as the corporation deems appro-  
21           priate, for determining when an application for par-  
22           tition under this section may be filed. Any regula-  
23           tions issued under this section shall be interim final  
24           or final regulations.

1           “(2) EFFECT OF NO REGULATION.—If the cor-  
2           poration does not issue regulations within 180 days  
3           after the date of enactment of this section, any ap-  
4           plications for partition under this section filed after  
5           the date that is 180 days after such date of enact-  
6           ment (and prior to the date regulations are issued)  
7           shall be deemed to be approved.

8           “(3) RULES FOR DETERMINING PARTICIPANTS  
9           AND BENEFICIARIES.—The regulations under this  
10          subsection shall include rules for determining which  
11          participants and beneficiaries are included in the  
12          transfer of benefits.

13          “(4) ACTUARIAL ASSUMPTIONS.—The regula-  
14          tions under this subsection shall prescribe acceptable  
15          actuarial assumptions, for purposes of an applica-  
16          tion, relating to the following:

17                 “(A) Future investment returns which  
18                 must be consistent with the applicable discount  
19                 rate under section 304, except that—

20                         “(i) in no case shall the assumption  
21                         for future returns be less than 5.5 percent  
22                         for purposes of determining the initial par-  
23                         tition amount; and

24                         “(ii) in no case, while the partition  
25                         amount is being determined or while the

partition is in effect, shall the assumption used for determining adjustments under subsection (j) be less than the lesser of—

“(I) the rate equal to the 24-month average of the third segment rate (as defined in section 303(h)(2)(C)(iii)), as of the date the determination is made, without regard to section 303(h)(2)(C)(iv), increased by 2 percent; or

“(II) 5.5 percent.

“(B) Future contribution base units.

“(C) Future contribution rate increases, taking into account the adopted rehabilitation plan.

“(D) Future withdrawal liability payments.

“(E) Future administrative expenses.

“(F) Mortality.

“(G) Any other assumptions deemed by the corporation to be material.

“(5) RULES RELATING TO ASSUMPTIONS.—

“(A) INFORMATION REQUIRED.—For purposes of paragraph (4), when prescribing acceptable actuarial assumptions, the corporation shall not require a plan sponsor to obtain data

1 or other information that a plan sponsor should  
2 not reasonably be expected to have in its pos-  
3 session, unless it can be obtained with reason-  
4 able effort and expense.

5 “(B) ECONOMIC ACTIVITY ASSUMPTION.—

6 For purposes of paragraph (4)(B), an assump-  
7 tion related to future contribution base units  
8 shall be considered reasonable and appropriate  
9 for purposes of the application under this sec-  
10 tion, provided that—

11 “(i) if the recent experience of the  
12 plan has been declining contribution base  
13 units, the plan actuary may assume future  
14 contribution base units will continue to de-  
15 cline at the same annualized trend as over  
16 the 5 immediately preceding plan years un-  
17 less such assumption is unreasonable based  
18 on criteria which may be prescribed by the  
19 corporation by regulation, and

20 “(ii) if the recent experience of the  
21 plan has been increasing, or neither in-  
22 creasing nor decreasing, contribution base  
23 units, the plan actuary may assume future  
24 contribution base units will remain un-  
25 changed indefinitely, unless such assump-

1                   tion is unreasonable based on criteria the  
2                   corporation may prescribe.

3                   “(6) DETERMINATION OF BENEFITS GUARAN-  
4                   TEES.—The regulations under this subsection shall  
5                   include rules for determining the amounts of bene-  
6                   fits guaranteed under section 4022A, including ac-  
7                   ceptable methods to approximate credited service for  
8                   participants and beneficiaries in pay status where  
9                   records cannot reasonably be obtained by the plan  
10                  administrator.

11               “(i) PARTITION APPLICATIONS.—

12               “(1) IN GENERAL.—An application for partition  
13               under this section submitted by a plan sponsor shall  
14               be filed electronically and contain the required infor-  
15               mation set forth in regulations promulgated by the  
16               corporation.

17               “(2) APPROVAL STANDARDS.—The corporation  
18               shall approve a partition application if the applying  
19               plan meets the requirements for a partition under  
20               this section.

21               “(3) EVALUATION OF INITIAL TRANSFER.—In  
22               reviewing an application under this section, the plan  
23               shall propose the initial amount of the transfer of  
24               benefits under the partition order that is required  
25               under subsection (g)(1) and the corporation shall re-

1 view and modify the amount, if applicable, pursuant  
2 to its regulations.

3 “(4) DETERMINATIONS BY THE CORPORA-  
4 TION.—

5 “(A) DETERMINATION OF INELIGI-  
6 BILITY.—If the corporation determines the plan  
7 to be ineligible under subsection (b) for a parti-  
8 tion under this section, the corporation shall  
9 notify the plan sponsor in writing of such deter-  
10 mination not later than 30 days after the appli-  
11 cation is filed. Such notice shall specify the rea-  
12 sons the plan is ineligible for a special partition.  
13 The applicant plan will have a period of at least  
14 60 days, or longer if specified by the Corpora-  
15 tion through regulations, to modify its applica-  
16 tion, which shall be subject to expedited review  
17 by the corporation and, for purposes of satis-  
18 fying the 1-year filing requirement for special  
19 partition, will relate back to the date the appli-  
20 cation was initially filed.

21 “(B) INCOMPLETE APPLICATIONS.—If the  
22 corporation determines the application by the  
23 plan sponsor lacks information necessary for  
24 the corporation to approve or deny the applica-  
25 tion, the corporation shall notify the plan spon-

1           sor in writing, detailing which components are  
 2           missing, not later than 30 days after the appli-  
 3           cation is filed. Nothing in the preceding sen-  
 4           tence shall prevent the corporation from asking  
 5           the plan sponsor at a later date for additional  
 6           information necessary to determine the parti-  
 7           tion amount.

8           “(C) FACTUAL SUBMISSIONS BY PLAN  
 9           SPONSOR.—The factual submissions made by a  
 10          plan sponsor in a partition application, includ-  
 11          ing participant data and benefit calculations,  
 12          shall be presumed to be correct, unless clearly  
 13          erroneous.

14       “(j) POST-PARTITION ADJUSTMENTS.—

15       “(1) PROCESS FOR ADJUSTMENTS.—

16       “(A) IN GENERAL.—After benefits have  
 17       been transferred under the partition order, the  
 18       corporation shall, at least every third year  
 19       thereafter, adjust the transfer of benefits, as  
 20       necessary to enable the original plan to be pro-  
 21       jected to remain solvent indefinitely, consistent  
 22       with limitations on guaranteed benefits (if ap-  
 23       plicable under paragraph (3)(C)). The adjust-  
 24       ments shall be made based on such procedures  
 25       as the corporation shall prescribe by regulation.

1                   “(B) PLANS PROJECTED TO BE INSOL-  
2                   VENT.—If the original plan is not projected to  
3                   be solvent 30 years after any adjustment review  
4                   date (without regard to whether or not an ad-  
5                   justment takes place in connection with such  
6                   date), taking into account the adjustments per-  
7                   mitted by this paragraph, such plan shall elec-  
8                   tronically file a report with the corporation, as  
9                   the corporation shall require by regulation. If  
10                  the plan subsequently reports for 3 consecutive  
11                  years for which an adjustment review is con-  
12                  ducted that the plan is not projected to be sol-  
13                  vent 30 years after the date of each such ad-  
14                  justment review, the plan shall be terminated.

15               “(2) BASIS FOR ADJUSTMENT.—The adjust-  
16               ment shall be based solely on, as applicable, updated  
17               participant data, calculations of guaranteed benefits  
18               for participants and beneficiaries covered under the  
19               successor plan, contribution experience, current ac-  
20               tual assumptions (if changed since the initial  
21               transfer of benefits), and changes in the market  
22               value of the original plan’s assets.

23               “(3) LIMITATIONS ON ADJUSTMENT.—

24                   “(A) IN GENERAL.—The corporation shall  
25                   not adjust under paragraph (1) the transfer of

benefits to provide additional financial assistance if the corporation determines that the original plan or the bargaining parties committed an abuse of the multiemployer program with respect to the original plan or otherwise unreasonably took actions (or avoided taking actions) with the result that there is an increased risk of loss to the corporation with respect to the successor plan or the original plan.

“(B) END OF ADJUSTMENT AUTHORITY.—

No adjustments under paragraph (1) to the transfer of benefits shall be allowed with respect to any plan year beginning 30 or more years after the date of the partition.

“(C) AGGREGATE LIMITS.—If the initial transfer of benefits from the plan under subsection (g)—

“(i) was less than 100 percent of the amount of benefits under the plan guaranteed under section 4022A for each participant, any adjustment under paragraph (1) shall not result in a benefit for any participant in the successor plan in excess of 100 percent of the participant’s guaranteed

benefit, determined as of the date of the initial transfer;

“(ii) was equal to or greater than 100 percent of the amount of benefits so guaranteed, any adjustment under paragraph (1) shall not result in a benefit for any participant in the successor plan in excess of the amount of the participant’s benefit subject to the initial transfer; and

“(iii) was less than 5 percent of the amount of benefits so guaranteed, there shall be no adjustment under paragraph (1).

“(4) TERMINATED AND INSOLVENT PLANS.—

With respect to an original plan partitioned under this section that subsequently is terminated or becomes insolvent, the benefits transferred under the partition order shall revert to the original plan, the partition shall be reversed, and financial assistance provided pursuant to the partition order shall cease.

“(5) REGULATIONS.—The corporation shall promulgate regulations describing the process and requirements for reporting and the circumstances under which plans will be terminated in accordance

1 with the provisions of section 4041A pursuant to  
2 this subsection.

3 “(k) PLANS THAT IMPLEMENTED SUSPENSION OF  
4 BENEFITS.—

5 “(1) IN GENERAL.—An eligible multiemployer  
6 plan described in subsection (b)(1)(B)(i)(II) may be  
7 approved for a partition under this section only if it  
8 unwinds the suspension, and, if applicable, the pre-  
9 vious partition described in such subsection in ac-  
10 cordance with regulations to be issued by the cor-  
11 poration, in consultation with the Secretary of the  
12 Treasury. The unwinding of a suspension or parti-  
13 tion described in such subsection must be contingent  
14 upon the corporation’s approval of the application  
15 for partition under this section.

16 “(2) TIMING OF UNWINDING OF SUSPENSION  
17 OF BENEFITS.—In the case of a partition described  
18 in paragraph (1), the suspension of benefits shall be  
19 unwound retroactively. Benefits shall be restored to  
20 pre-suspension levels as of the effective date of the  
21 partition under this section and participants who are  
22 receiving benefits on the date of enactment of this  
23 section shall, beginning not later than 180 days  
24 after the approval of a partition order under this  
25 section, receive a special payment, payable over a pe-

1        riod not to exceed 2 years, equal to the amount of  
 2        benefits previously suspended as prescribed in regu-  
 3        lations. Such plans are subject to the requirements  
 4        of subsection (c).

5        “(l) FIDUCIARY PROTECTION.—Plan participants  
 6        and beneficiaries shall not have a claim under section 409  
 7        or section 502 of this Act against plan fiduciaries with  
 8        respect to an application for partition assistance made in  
 9        good faith or the allocation of benefit liabilities between  
 10       the successor plan and the original plan.

11       “(m) EFFECT OF PARTITION ON WITHDRAWAL LI-  
 12       ABILITY.—

13           “(1) IN GENERAL.—A partition order under  
 14       this section is taken into account in determining  
 15       withdrawal liability under section 4201 of an em-  
 16       ployer that contributes to the original plan, provided  
 17       that the employer remains a contributing employer  
 18       to the original plan (and in compliance with any ap-  
 19       plicable funding improvement or rehabilitation plan)  
 20       for a period of 15 years following the effective date  
 21       of the liability transfer.

22           “(2) WITHDRAWALS AFTER LESS THAN 15  
 23       YEARS.—

24           “(A) IN GENERAL.—If an employer com-  
 25       pletely withdraws or partially withdraws from a

1 plan that was partitioned under this section at  
 2 any time within the 15-year period described in  
 3 paragraph (1), the transfer of benefits under  
 4 subsection (g) shall not be taken into account  
 5 in computing the employer's complete or partial  
 6 withdrawal liability, and the amount of the an-  
 7 nual withdrawal liability payment amount oth-  
 8 erwise determined shall be increased by 10 per-  
 9 cent.

10 “(B) EXCEPTION.—Subparagraph (A)  
 11 shall not apply—

12 “(i) if the complete or partial with-  
 13 drawal is due to a decertification, a change  
 14 in bargaining representatives, disclaimer of  
 15 interest, or because of an event described  
 16 in section 4218; or

17 “(ii) in the case of a partial with-  
 18 drawal due to a bargaining unit or facility  
 19 take-out if the contribution base units for  
 20 the plan year immediately following the  
 21 year of the partial withdrawal are at least  
 22 97 percent of the contribution base units  
 23 for the plan year immediately preceding  
 24 the year of the partial withdrawal.

1           “(3) EXCEPTION.—Paragraphs (1) and (2)  
 2           shall not apply to an employer that first had an obli-  
 3           gation to contribute to the plan partitioned under  
 4           this section after the date of enactment of this sec-  
 5           tion.

6           “(n) RESTRICTIONS ON BENEFIT IMPROVEMENTS.—

7           “(1) INCREASE IN PLAN LIABILITIES.—

8           “(A) IN GENERAL.—If the plan sponsor  
 9           adopts a plan amendment that increases plan li-  
 10          abilities (due to any increase in benefits, any  
 11          change in the accrual of benefits, or any change  
 12          in the rate at which benefits become nonforfeit-  
 13          able) that takes effect after the effective date of  
 14          the partition, the original plan shall make pay-  
 15          ments to the corporation for each year during  
 16          the 20-year period following the effective date  
 17          of the benefit increase. For purposes of this  
 18          paragraph, an increase in benefits due to an in-  
 19          crease in the contribution rate or compensation  
 20          shall be considered a prohibited increase in ben-  
 21          efits.

22          “(B) EXCEPTION FOR CERTAIN ACCRU-  
 23          ALS.—Subparagraph (A) shall not apply to any  
 24          change in future accruals after the end of the

1           15-year period during which such accruals are  
2           limited under subsection (c).

3           “(2) AMOUNT PAYABLE TO CORPORATION.—

4           The amount paid by the original plan to the cor-  
5           poration under paragraph (1) each year shall be  
6           equal to the lesser of—

7                   “(A) the total value of the increase in ben-  
8                   efit payments for the year that is attributable  
9                   to the benefit improvement; or

10                   “(B) the total benefit payments from the  
11                   successor plan for such year.

12           “(3) TIMING OF PAYMENT.—Payments under  
13           paragraph (2) shall be made by the original plan at  
14           the time of, and in addition to, any premium im-  
15           posed by the corporation on the plan.

16           “(4) PBGC AUTHORITY.—The corporation is  
17           authorized to bring an action against the original  
18           plan to prevent or correct any and all actions by  
19           plan sponsors, a principal purpose of which is to  
20           evade or avoid payments due to the corporation  
21           under paragraph (2), or that may have the effect of  
22           evading or avoiding such payments. Payments under  
23           paragraph (2) shall be determined without regard to  
24           such actions by plan sponsors.

1           “(5) EXCEPTION FOR CERTAIN CHANGES.—The  
2           requirements of this subsection do not apply to an  
3           increase or change in benefits that is required by law  
4           or that is a de minimis change, as determined by the  
5           corporation.

6           “(o) POST-PARTITION DISCLOSURES.—Not later  
7           than 90 days after the first day of each plan year begin-  
8           ning after the effective date of a partition under this sec-  
9           tion, the plan sponsor of the original plan shall electroni-  
10          cally file with the corporation a report including the fol-  
11          lowing information:

12           “(1) The estimated funded percentage (as de-  
13           fined in section 305(k)(2)) as of the first day of  
14           such plan year, and the underlying actuarial value of  
15           assets and liabilities taken into account in deter-  
16           mining such percentage.

17           “(2) The estimated amount of all investment  
18           returns for the original plan during the preceding  
19           plan year.

20           “(3) The market value of the assets of the plan  
21           (determined as provided in paragraph (1)) as of the  
22           last day of the plan year preceding such plan year.

23           “(4) The total value of all contributions made  
24           by employers and employees during the plan year  
25           preceding such plan year.

1           “(5) The total value of all benefits paid during  
2           the plan year preceding such plan year.

3           “(6) Cash flow projections for such plan year  
4           and the 29 succeeding plan years, and the assump-  
5           tions used in making such projections.

6           “(7) Funding standard account projections for  
7           such plan year and the 9 succeeding plan years, and  
8           the assumptions used in making such projections.

9           “(8) Any significant reduction in the number of  
10          active participants during the plan year preceding  
11          such plan year, and the reason for such reduction.

12          “(9) A list of employers that withdrew from the  
13          plan in the plan year preceding such plan year, and  
14          the resulting reduction in contributions.

15          “(10) A list of employers that paid withdrawal  
16          liability to the plan during the plan year preceding  
17          such plan year and, for each employer, a total as-  
18          sessment of the withdrawal liability paid, the annual  
19          payment amount, and the number of years remain-  
20          ing in the payment schedule with respect to such  
21          withdrawal liability.

22          “(11) Any material changes to benefits, accrual  
23          rates, or contribution rates during the plan year pre-  
24          ceding such plan year, and whether such changes re-  
25          late to the conditions of the partition assistance.

1           “(12) Details regarding any funding improve-  
2           ment plan or rehabilitation plan and updates to such  
3           plan.

4           “(13) The number of participants and bene-  
5           ficiaries during the plan year preceding such plan  
6           year who are active participants, the number of par-  
7           ticipants and beneficiaries in pay status, and the  
8           number of terminated vested participants and bene-  
9           ficiaries.

10          “(14) For—

11               “(A) the first plan year after the effective  
12               date of the partition, a list of all employers that  
13               contributed to the plan during the plan year;  
14               and

15               “(B) subsequent plan years, changes to the  
16               list of contributing employers.

17          “(15) The information contained on the most  
18               recent annual return under section 6058 of the In-  
19               ternal Revenue Code of 1986 and actuarial report  
20               under section 6059 of such Code of the plan.

21          “(16) Copies of the plan document and amend-  
22               ments, other retirement benefit or ancillary benefit  
23               plans relating to the plan and contribution obliga-  
24               tions under such plans, a breakdown of administra-  
25               tive expenses of the plan, participant census data

1 and distribution of benefits, the most recent actu-  
 2 arial valuation report as of the plan year, financial  
 3 reports, and copies of the portions of collective bar-  
 4 gaining agreements relating to plan contributions,  
 5 funding coverage, or benefits, and such other infor-  
 6 mation as the corporation may reasonably require.

7 “(17) A list of the employers that contributed  
 8 more than 5 percent of total contributions to the  
 9 plan during the preceding plan year, and the amount  
 10 contributed by each such employer.

11 Any information or documentary material submitted to  
 12 the corporation pursuant to this subsection that could  
 13 identify individual employers, if clearly designated by the  
 14 person making the submission as confidential (on each  
 15 page in the case of a document, and in the file name in  
 16 the case of a digital file), shall be exempt from disclosure  
 17 under section 552 of title 5, United States Code, and no  
 18 such information or documentary material may be made  
 19 public except as may be relevant to any administrative or  
 20 judicial action or proceeding, including an informal rule-  
 21 making.

22 “(p) RESTRICTIONS ON CONTRIBUTION DE-  
 23 CREASES.—

24 “(1) IN GENERAL.—Subject to paragraph (2),  
 25 except in any plan year in which the plan is certified

1 by the plan actuary as in unrestricted status pursu-  
2 ant to section 305(b)(1)(B), the plan sponsor of an  
3 original plan may not accept a collective bargaining  
4 agreement with respect to such original plan that in-  
5 cludes a reduction in employer contribution rates.

6 “(2) EXCEPTION.—Under a process to be pro-  
7 mulgated by regulation by the corporation, a plan  
8 sponsor of an original plan may petition the corpora-  
9 tion for the authority to approve a collective bar-  
10 gaining agreement that contemplates a reduction in  
11 employer contribution rates. Such regulation shall  
12 include a requirement that a plan petitioning for  
13 such authority demonstrate that its existing con-  
14 tribution rates are higher than contribution rates  
15 paid on behalf of other workers covered by collective  
16 bargaining agreements in the same industry in near-  
17 by localities. The corporation shall approve the peti-  
18 tion if the plan sponsor demonstrates that the reduc-  
19 tion in contribution rates improves the long-term  
20 funding or solvency of the plan, and does not in-  
21 crease the corporation’s expected loss with respect to  
22 the plan.

23 “(q) EFFECT ON ACCUMULATED FUNDING DEFICI-  
24 CIENCY.—Any accumulated funding deficiency (as defined  
25 in section 304(a)) of a plan shall be reduced to zero as

1 of the first day of the plan year during which the partition  
 2 under this section is effective.

3 “(r) COORDINATION OF REPORTING AND DISCLO-  
 4 SURE REQUIREMENTS.—The corporation, the Secretary,  
 5 and the Secretary of the Treasury may, individually or col-  
 6 lectively, promulgate regulations to reduce reporting and  
 7 disclosure obligations for successor plans, including co-  
 8 ordinating with reporting and disclosure by original  
 9 plans.”.

10 (b) CONFORMING AMENDMENT.—Section 4233 of the  
 11 Employee Retirement Income Security Act of 1974 (29  
 12 U.S.C. 1413) is amended by adding at the end the fol-  
 13 lowing:

14 “(g) This section shall not apply to an eligible multi-  
 15 employer plan described in section 4233A(b) that receives  
 16 a special partition under that section.”.

17 (c) CLERICAL AMENDMENT.—The table of contents  
 18 in section 1 of the Employee Retirement Income Security  
 19 Act of 1974 (29 U.S.C. 1001 et seq.) is amended by in-  
 20 serting after the item relating to section 4233 the fol-  
 21 lowing:

“4233A. Special partitions of eligible multiemployer plans.”.

## 1           **Subtitle B—PBGC Reforms**

### 2   **SEC. 111. GUARANTEE RATE INCREASE FOR PLANS RECEIV-** 3                   **ING FINANCIAL ASSISTANCE.**

4           (a) IN GENERAL.—Section 4022A(c)(1) of the Em-  
 5   ployee Retirement Income Security Act of 1974 (29  
 6   U.S.C. 1322(c)(1)) is amended by striking subparagraph  
 7   (A) and inserting the following:

8                   “(A) 100 percent of the accrual rate up to \$15,  
 9           plus 75 percent of the lesser of—

10                           “(i) \$54.67, or

11                           “(ii) the accrual rate, if any, in excess of  
 12                   \$15, and”.

13           (b) EFFECTIVE DATES.—

14                   (1) IN GENERAL.—The amendments made by  
 15   this section shall apply to financial assistance pro-  
 16   vided by the Pension Benefit Guaranty Corpora-  
 17   tion—

18                           (A) to plans that become insolvent after  
 19           the date of the enactment of this Act; or

20                           (B) pursuant to a special partition under  
 21   section 4233A of the Employee Retirement In-  
 22   come Security Act of 1974, as added by this  
 23   Act.

24                   (2) EXCEPTION FOR PARTITIONS ON OR BE-  
 25   FORE DATE OF ENACTMENT.—The amendments

1       made by this section shall not apply to financial as-  
 2       sistance provided by the Pension Benefit Guaranty  
 3       Corporation pursuant to a partition of a multiem-  
 4       ployer plan occurring on or before the date of the  
 5       enactment of this Act.

6   **SEC. 112. AMENDMENT TO DEFINITION OF INSOLVENCY.**

7       (a) AMENDMENTS TO EMPLOYEE RETIREMENT IN-  
 8       COME SECURITY ACT OF 1974.—Section 4245 of the Em-  
 9       ployee Retirement Income Security Act of 1974 (29  
 10      U.S.C. 1426) is amended—

11           (1) by amending subsection (a) to read as fol-  
 12      lows:

13           “(a) Notwithstanding sections 203 and 204, an insol-  
 14      vent multiemployer plan shall suspend the payments of  
 15      benefits which are not basic benefits, in accordance with  
 16      this section, and terminate the plan under section  
 17      4041A(a)(4).”;

18           (2) in subsection (b)—

19                   (A) by striking paragraphs (1) and (2) and  
 20      inserting the following:

21           “(1) a multiemployer plan is insolvent if the  
 22      plan’s available resources in any of the next 5 plan  
 23      years are projected not to be sufficient to pay bene-  
 24      fits under the plan when due for the plan year.”;

- 1 (B) by redesignating paragraphs (3) and
- 2 (4) as paragraphs (2) and (3), respectively; and
- 3 (C) in paragraph (2), as so redesignated,
- 4 by inserting “expected” before “contributions”;
- 5 (3) by striking subsection (c);
- 6 (4) by redesignating subsections (d) through (g)
- 7 as subsections (c) through (f), respectively;
- 8 (5) in subsection (c), as so redesignated—
- 9 (A) in paragraph (1)—
- 10 (i) by striking “critical status, as de-
- 11 scribed in subsection 305(b)(2),)” and in-
- 12 serting “such critical status)”;
- 13 (ii) by striking “3 times” and insert-
- 14 ing “10 times”; and
- 15 (iii) by striking “5 plan years” each
- 16 place such term appears and inserting “8
- 17 plan years”;
- 18 (B) in paragraph (2)—
- 19 (i) by striking “plan’s available re-
- 20 sources are not sufficient to pay benefits
- 21 under the plan when due for the next plan
- 22 year” and inserting “plan will be insolvent
- 23 in any of the next 10 plan years”; and
- 24 (ii) by inserting “and the corporation”
- 25 before the period at the end;

1 (C) by striking paragraph (3); and

2 (D) by redesignating paragraph (4) as  
3 paragraph (3);

4 (6) in subsection (d), as so redesignated—

5 (A) in paragraph (1)—

6 (i) by striking “subsection (d)(1) or  
7 (2)” and inserting “subsection (c)(1) or  
8 (2)”; and

9 (ii) by striking “Treasury,” in sub-  
10 paragraph (A) and inserting “Treasury  
11 and”;

12 (B) in paragraph (2)—

13 (i) by striking “resource benefit level  
14 determined in writing for that insolvency  
15 year” and inserting “reduction of benefit  
16 payments to the level of basic benefits and  
17 the termination of the plan under section  
18 4041A(a)(4) as of the first day of the sev-  
19 enth full plan month of the plan’s first in-  
20 solvency year under subsection (b)(3)”;  
21 and

22 (ii) by striking “each insolvency year”  
23 and inserting “the first insolvency year”;

24 (C) by striking paragraph (3); and

1 (D) by redesignating paragraphs (4) and  
 2 (5) as paragraphs (3) and (4), respectively;  
 3 (7) in subsection (e), as so redesignated—

4 (A) in paragraph (1) by striking “, for  
 5 which the resource benefit level is above the  
 6 level of basic benefits,”; and

7 (B) by striking paragraph (2) and insert-  
 8 ing after paragraph (1) the following new para-  
 9 graph:

10 “(2) A plan sponsor who has determined that  
 11 the plan’s available resources for an insolvency year  
 12 are below the level of basic benefits shall apply for  
 13 financial assistance from the corporation under sec-  
 14 tion 4261.”; and

15 (8) in subsection (f), as so redesignated, by  
 16 striking “Subsections (a) and (c)” and inserting  
 17 “Subsection (a)”.

18 (b) AMENDMENTS TO INTERNAL REVENUE CODE OF  
 19 1986.—Section 418E of the Internal Revenue Code of  
 20 1986 is amended—

21 (1) by amending subsection (a) to read as fol-  
 22 lows:

23 “(a) SUSPENSION OF CERTAIN BENEFIT PAYMENTS;  
 24 TERMINATION.—Notwithstanding section 411, an insol-  
 25 vent multiemployer plan shall suspend the payments of

1 benefits which are not basic benefits, in accordance with  
 2 this section, and terminate the plan under section  
 3 4041A(a)(4) of the Employee Retirement Income Security  
 4 Act of 1974.”;

5 (2) in subsection (b)—

6 (A) by striking paragraphs (1) and (2) and  
 7 inserting the following:

8 “(1) INSOLVENT MULTIEMPLOYER PLAN.—A  
 9 multiemployer plan is insolvent if the plan’s avail-  
 10 able resources in any of the next 5 plan years are  
 11 projected not to be sufficient to pay benefits under  
 12 the plan when due for the plan year.”;

13 (B) by redesignating paragraphs (3) and  
 14 (4) as paragraphs (2) and (3), respectively; and

15 (C) in paragraph (2), as so redesignated,  
 16 by inserting “expected” before “contributions”;  
 17 (3) by striking subsection (c);

18 (4) by redesignating subsections (d) through (h)  
 19 as subsections (c) through (g), respectively;

20 (5) in subsection (c), as so redesignated—

21 (A) in paragraph (1)—

22 (i) by striking “critical status, as de-  
 23 scribed in subsection 432(b)(2))” and in-  
 24 serting “such critical status)”;

1 (ii) by striking “3 times” and insert-  
 2 ing “10 times”; and

3 (iii) by striking “5 plan years” each  
 4 place such term appears and inserting “8  
 5 plan years”;

6 (B) in paragraph (2)—

7 (i) by striking “plan’s available re-  
 8 sources are not sufficient to pay benefits  
 9 under the plan when due for the next plan  
 10 year” and inserting “plan will be insolvent  
 11 in any of the next 10 plan years”; and

12 (ii) by inserting “and the corporation”  
 13 before the period at the end;

14 (C) by striking paragraph (3); and

15 (D) by redesignating paragraph (4) as  
 16 paragraph (3);

17 (6) in subsection (d), as so redesignated—

18 (A) in paragraph (1), by striking “sub-  
 19 section (d)(1) or (2)” and inserting “subsection  
 20 (c)(1) or (2)”;

21 (B) in paragraph (2)—

22 (i) by striking “resource benefit level  
 23 determined in writing for that insolvency  
 24 year” and inserting “reduction of benefit  
 25 payments to the level of basic benefits and

the termination of the plan under section 4041A(a)(4) of the Employee Retirement Income Security Act of 1974 as of the first day of the seventh full plan month of the plan's first insolvency year under subsection (b)(3)";

(ii) by striking "each insolvency year" and inserting "the first insolvency year"; and

(iii) by striking "RESOURCE BENEFIT LEVEL" in the heading and inserting "NOTICE OF INSOLVENCY";

(C) by striking paragraph (3); and

(D) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively; (7) in subsection (e), as so redesignated—

(A) in paragraph (1) by striking " , for which the resource benefit level is above the level of basic benefits,"; and

(B) by striking paragraph (2) and inserting after paragraph (1) the following new paragraph:

"(2) PLANS WITHOUT AVAILABLE RESOURCES.—A plan sponsor who has determined that the plan's available resources for an insolvency year

1 are below the level of basic benefits shall apply for  
 2 financial assistance from the Pension Benefit Guar-  
 3 anty Corporation under section 4261 of the Em-  
 4 ployee Retirement Income Security Act of 1974.”;  
 5 and

6 (8) in subsection (g), as so redesignated, by  
 7 striking “Subsections (a) and (c)” and inserting  
 8 “Subsection (a)”.

9 (c) REGULATIONS.—The Pension Benefit Guaranty  
 10 Corporation shall issue regulations implementing the  
 11 amendments made by this section. Such regulations shall  
 12 address the assumptions a plan may use in projecting  
 13 whether a plan’s available resources in any of the next  
 14 5 plan years are projected not to be sufficient to pay bene-  
 15 fits under the plan when due.

16 **SEC. 113. TERMINATION OF MULTIEMPLOYER PLANS.**

17 (a) TERMINATION BY COURT ORDER.—Section  
 18 4041A of the Employee Retirement Income Security Act  
 19 of 1974 (29 U.S.C. 1341a) is amended by adding at the  
 20 end the following:

21 “(g) EFFECT OF TERMINATION ORDER.—If a court  
 22 orders the termination of a multiemployer plan under sec-  
 23 tion 4042—

24 “(1) the corporation shall determine whether  
 25 the termination of such plan shall be carried out in

1 accordance with paragraph (1) or (2) of subsection  
 2 (a) (and such termination shall be treated as de-  
 3 scribed in whichever of such paragraphs is applicable  
 4 under the determination), and

5 “(2) the plan shall take such actions as the cor-  
 6 poration determines necessary to implement the cor-  
 7 poration’s determination under paragraph (1) by  
 8 such date as the corporation specifies in such deter-  
 9 mination.”.

10 (b) TERMINATION BY REASON OF INSOLVENCY.—

11 (1) IN GENERAL.—Section 4041A(a) of the  
 12 Employee Retirement Income Security Act of 1974  
 13 (29 U.S.C. 1341a(a)) is amended—

14 (A) in paragraph (2), by striking “or” at  
 15 the end;

16 (B) in paragraph (3)—

17 (i) by striking “section 4203(b)(1)”  
 18 and inserting “section 4021(b)(1)”; and

19 (ii) by striking the period and insert-  
 20 ing “; or”; and

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

22 “(4) becoming insolvent (within the meaning of  
 23 section 4245(b)(1)).”.

24 (2) TIME OF TERMINATION.—Section 4041A(b)  
 25 of the Employee Retirement Income Security Act of

1       1974 (29 U.S.C. 1341a(b)) is amended by adding at  
2       the end the following new paragraphs:

3       “(3) Except as provided in paragraph (4), the date  
4       on which a plan terminates under paragraph (4) of sub-  
5       section (a) is the first day of the seventh full plan month  
6       of the plan’s first insolvency year under section  
7       4245(b)(3).

8       “(4)(A) In the case of a multiemployer plan which  
9       is an insolvent plan on the date of enactment of this para-  
10      graph—

11           “(i) paragraph (4) of subsection (a) shall apply  
12      to such plan unless such plan applies for, and re-  
13      ceives, a special partition under section 4233A, and

14           “(ii) the date on which plan terminates shall be  
15      determined under subparagraph (B).

16      “(B) In the case of a plan described in subparagraph  
17      (A), the date on which a plan terminates under paragraph  
18      (4) of subsection (a) is—

19           “(i) if the plan is not eligible for a special parti-  
20      tion under section 4233A, the first day of the sev-  
21      enth full plan month following such date of enact-  
22      ment, except that such plan may, notwithstanding  
23      the amendment required to be adopted by the plan  
24      under section 4245(a), continue to provide service  
25      credit solely for purposes of vesting under the plan

1       until such time as the plan’s available resources are  
 2       not sufficient to pay benefits under the plan, and

3               “(ii) if the plan applies for such special parti-  
 4       tion but the corporation does not approve it, the  
 5       first day of the seventh full plan month following the  
 6       final determination of the corporation disallowing  
 7       such special partition.”.

8               (3) ADOPTION OF AMENDMENT PROVIDING FOR  
 9       NO SERVICE CREDIT.—Section 4245(a) of such Act  
 10      (29 U.S.C. 1426(a)), as amended by this Act, is  
 11      amended by adding at the end the following: “The  
 12      insolvent multiemployer plan shall also, at the time  
 13      of becoming insolvent, adopt an amendment which  
 14      provides that participants will receive no credit for  
 15      any purpose under the plan for service with any em-  
 16      ployer after the date specified in 4041A(b)(3) or (4),  
 17      whichever is applicable.”.

18              (4) OTHER AMENDMENTS.—Section 4041A of  
 19      such Act of 1974 (29 U.S.C. 1341a) is amended—

20                      (A) in subsection (c)—

21                              (i) in the matter preceding paragraph

22                                      (1)—

23                                              (I) by striking “Except” and in-  
 24                                              serting “Consistent with the provi-

1                   sions of section 4281, and except”;  
2                   and

3                   (II) by striking “paragraph (2)”  
4                   and inserting “paragraph (1), (2), or  
5                   (4)”;

6                   (ii) in paragraph (1), by striking  
7                   “and” at the end;

8                   (iii) by redesignating paragraph (2) as  
9                   paragraph (3); and

10                  (iv) by inserting after paragraph (1)  
11                  the following:

12                  “(2) suspend the payment of benefits in excess  
13                  of the level of basic benefits, and”;

14                  (B) by striking subsection (d) and redesign-  
15                  ating subsections (e) and (f) as subsections (d)  
16                  and (e), respectively; and

17                  (C) in subsection (d), as so redesignated—

18                   (i) by striking “paragraph (1) or (3)”  
19                   and inserting “paragraph (1), (3), or (4)”;

20                   (ii) by striking “termination date, un-  
21                   less” and inserting “termination date and  
22                   the total contribution amount shall be not  
23                   less than the average amount of the high-  
24                   est 3 contributions in the previous 10  
25                   years, unless”; and

1 (iii) by adding at the end the fol-  
2 lowing new sentence: “Any liability under  
3 section 4201 due by an employer that  
4 withdraws from the plan after the plan ter-  
5 mination date shall be offset by the con-  
6 tributions made under this subsection sub-  
7 sequent to the plan termination.”.

8 (c) POOLING OF ASSETS.—Section 4041A of the Em-  
9 ployee Retirement Income Security Act of 1974 (29  
10 U.S.C. 1341a), as amended by this section, is further  
11 amended by adding at the end the following:

12 “(g) POOLING OF ASSETS.—Notwithstanding any  
13 other provision of this title, the corporation is authorized  
14 to pool assets of terminated or insolvent multiemployer  
15 plans with fewer than 5,000 participants or to consolidate  
16 such plans by merger, for purposes of administration, in-  
17 vestment, payment of liabilities of all such plans, and such  
18 other purposes as it determinates to be appropriate in the  
19 administration of this title, if it determines that such ac-  
20 tion would reduce administrative expenses or avoid an in-  
21 creased risk of loss. The corporation may exercise this con-  
22 solidation authority by administrative action without peti-  
23 tioning a court for an order to replace the plan’s governing  
24 board of trustees, including receivership by the corpora-  
25 tion, or to consolidate or merge any plans.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
 2 this section shall take effect on the date of enactment of  
 3 this section, except that the amendments made by sub-  
 4 section (b) shall also apply to multiemployer plans that  
 5 are insolvent on such date.

6 **SEC. 114. BENEFITS UNDER CERTAIN TERMINATED PLANS.**

7 Section 4281 of the Employee Retirement Income Se-  
 8 curity Act of 1974 (29 U.S.C. 1441) is amended—

9 (1) in subsection (a), by striking “section  
 10 4041A(d)” and inserting “Section 4041A(c)”;

11 (2) by striking subsections (b), (c), and (d); and

12 (3) by inserting after subsection (a) the fol-  
 13 lowing:

14 “(b)(1) If a plan has been terminated pursuant to  
 15 paragraph (1), (2), or (4) of section 4041A(a), the plan  
 16 sponsor shall amend the plan to suspend benefits in excess  
 17 of the level of basic benefits.

18 “(2) Any plan amendment required by this subsection  
 19 shall, in accordance with regulations prescribed by the cor-  
 20 poration, take effect not later than 6 months after the  
 21 date on which the plan is terminated.

22 “(c)(1) The value of nonforfeitable benefits under a  
 23 terminated plan described in subsection (a), and the value  
 24 of the plan’s assets, shall be determined in writing, in ac-  
 25 cordance with regulations prescribed by the corporation,

1 as of the end of the plan year during which section  
2 4041A(c) becomes applicable to such plan.

3 “(2) For purposes of this subsection, plan assets in-  
4 clude outstanding claims for withdrawal liability (within  
5 the meaning of section 4001(a)(12).

6 “(3) If, according to the determination made under  
7 paragraph (1), the value of plan assets is sufficient to pay  
8 nonforfeitable benefits, the plan sponsor shall use the plan  
9 assets to purchase irrevocable commitments to provide  
10 such benefits from an insurer or otherwise distribute plan  
11 assets in satisfaction of the plan’s obligations with respect  
12 to nonforfeitable benefits, in accordance with all applicable  
13 regulations.

14 “(d)(1) If, according to the determination made  
15 under subsection (c)(1), the value of nonforfeitable bene-  
16 fits exceeds the value of the plan’s assets, the plan sponsor  
17 shall amend the plan to reduce benefits under the plan  
18 as provided in paragraph (2).

19 “(2) Any plan amendment required by paragraph (1)  
20 shall, in accordance with regulations prescribed by the cor-  
21 poration—

22 “(A) reduce benefits to the extent necessary to  
23 eliminate any benefits that are not nonforfeitable;

1           “(B) reduce accrued benefits to the extent that  
2           those benefits are not eligible for the corporation’s  
3           guarantee under section 4022A(b); and

4           “(C) suspend payment of benefits which are not  
5           basic benefits under section 4022A(c).

6           “(e) The powers and duties under this section of a  
7           sponsor of a plan that is terminated as described in section  
8           4041A, before or after the plan begins receiving financial  
9           assistance under section 4261, shall be prescribed by the  
10          corporation, and the corporation shall prescribe by regula-  
11          tion the requirements which assure that plan participants  
12          and beneficiaries receive adequate notice of any suspension  
13          of benefits.”.

## 14           **Subtitle C—Pension Insurance** 15                           **Modeling**

### 16   **SEC. 121. PENSION INSURANCE MODELING.**

17           Section 40233(a) of the Moving Ahead for Progress  
18           in the 21st Century Act (126 Stat. 857; Public Law 112–  
19           141) is amended—

20                   (1) in the subsection heading, by striking “AN-  
21           NUAL”;

22                   (2) by striking “The Pension” and inserting  
23           “Not later than January 1, 2025, and not less fre-  
24           quently than once every 5 years thereafter, the Pen-  
25           sion”;

1 (3) by striking “an annual peer review” and in-  
 2 serting “a peer review”; and

3 (4) by striking the third sentence.

4 **TITLE II—FUNDING RULES,**  
 5 **WITHDRAWAL LIABILITY, AND**  
 6 **OTHER REFORMS**

7 **Subtitle A—Minimum Funding**  
 8 **Standard for Multiemployer Plans**

9 **SEC. 201. VALUATION OF PLAN LIABILITIES.**

10 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF  
 11 1986.—

12 (1) CHARGES TO FUNDING STANDARD AC-  
 13 COUNT.—Subparagraph (B) of section 431(b)(2) of  
 14 the Internal Revenue Code of 1986 is amended—

15 (A) by striking “and” at the end of clause  
 16 (iii),

17 (B) by redesignating clause (iv) as clause  
 18 (v),

19 (C) by striking “actuarial assumptions” in  
 20 clause (v), as so redesignated, and inserting  
 21 “actuarial assumptions not described in clause  
 22 (iv)”, and

23 (D) by inserting after clause (iii) the fol-  
 24 lowing new clause:

“(iv) separately, with respect to each plan year, an amount equal to the excess, if any, of—

“(I) the net increase (if any) in the unfunded past service liability resulting from a reduction in the interest rate under paragraph (6)(A) from the rate which applied for the preceding year, over

“(II) the amount in the investment risk reduction subaccount under paragraph (9),

over a period of 30 years, and”.

(2) CREDITS TO FUNDING STANDARD ACCOUNT.—Clause (iii) of section 431(b)(3)(B) of such Code is amended by inserting “, except that any amount of net gain resulting from an increase in the interest rate from the rate which applied for the preceding year shall first be offset against any unamortized amounts charged under paragraph (2)(B)(iv)” after “15 plan years”.

(3) INTEREST.—Paragraph (6) of section 431(b) of such Code is amended to read as follows:

“(6) INTEREST.—

1           “(A) IN GENERAL.—The funding standard  
2           account (and items therein) shall be charged or  
3           credited (as determined under regulations pre-  
4           scribed by the Secretary) with interest at the  
5           appropriate rate consistent with the rate or  
6           rates of interest used under the plan to deter-  
7           mine the unfunded past service liability. Not-  
8           withstanding any other provision of this section,  
9           the interest rate used shall not exceed—

10           “(i) 7.5 percent for actuarial valu-  
11           ations for plan years beginning after De-  
12           cember 31, 2020, and before January 1,  
13           2024,

14           “(ii) 7.25 percent for actuarial valu-  
15           ations for plan years beginning after De-  
16           cember 31, 2023, and before January 1,  
17           2028,

18           “(iii) 7.0 percent for actuarial valu-  
19           ations for plan years beginning after De-  
20           cember 31, 2027, and before January 1,  
21           2032,

22           “(iv) 6.75 percent for actuarial valu-  
23           ations for plan years beginning after De-  
24           cember 31, 2031, and before January 1,  
25           2036, and

1 “(v) 6.5 percent for actuarial valu-  
2 ations for plan years beginning after De-  
3 cember 31, 2035.

4 Notwithstanding subsection (c), the plan spon-  
5 sor may direct the plan actuary to use any rate  
6 which is not lower than the rate determined  
7 under subparagraph (B) (without regard to this  
8 sentence) and not greater than the rate deter-  
9 mined under the preceding sentence for the  
10 plan year. Nothing in this subparagraph shall  
11 require a plan to take into account the interest  
12 rate limitation for subsequent years under the  
13 preceding sentence in determining actuarial  
14 valuations as of any given year.

15 “(B) INTEREST RATE FOR DETERMINING  
16 NORMAL COST.—Notwithstanding any other  
17 provision of this section, the interest rate used  
18 for determining the normal cost to be charged  
19 under paragraph (2) for the plan year shall be  
20 equal to the least of—

21 “(i) the interest rate applicable under  
22 subparagraph (A) for the plan year,

23 “(ii) a rate equal to the 24-month av-  
24 erage of the third segment rate (as defined  
25 in section 430(h)(2)(C)(iii)), as of the date

1 the determination is made, without regard  
2 to section 430(h)(2)(C)(iv), increased by 2  
3 percent, or

4 “(iii) 5.5 percent.

5 “(C) EXCEPTION FOR CERTAIN PARTI-  
6 TIONED PLANS.—Notwithstanding subpara-  
7 graph (A), in the case of a plan which has been  
8 partitioned under section 4233A of the Em-  
9 ployee Retirement Income Security Act of 1974,  
10 the rate of interest used to determine normal  
11 cost under subparagraph (B) shall also be used  
12 to determine the unfunded past service liability  
13 of the plan.

14 “(D) EXCEPTION FOR PLANS USING A  
15 SPREAD-GAIN METHOD.—Notwithstanding sub-  
16 paragraph (B), and except as noted in subpara-  
17 graph (C), in the case of a plan which uses a  
18 funding method other than the unit credit  
19 method or entry-age normal method—

20 “(i) the normal cost and past service  
21 liability shall be calculated using interest  
22 rates under subparagraph (A),

23 “(ii) an additional normal cost compo-  
24 nent shall be calculated in the same man-

ner as under paragraph (9)(B)(i) based on  
the unit credit method, and

“(iii) the amount determined under  
clause (ii) shall be added to the otherwise  
calculated normal cost under the funding  
method in lieu of the credit under para-  
graph (9)(B)(i).”.

(4) INVESTMENT RISK REDUCTION SUB-  
ACCOUNT.—Subsection (b) of section 431 of such  
Code is amended by adding at the end the following  
new paragraph:

“(9) INVESTMENT RISK REDUCTION SUB-  
ACCOUNT.—For purposes of this part—

“(A) IN GENERAL.—The funding standard  
account shall include an investment risk reduc-  
tion subaccount used solely to offset losses at-  
tributable to reductions in the rate of interest  
used to determine the unfunded past service li-  
ability of the plan over time.

“(B) ANNUAL ADJUSTMENTS.—For a plan  
year, the investment risk reduction subaccount  
shall be—

“(i) credited with the net change (if  
any) in the normal cost for the imme-  
diately preceding plan year due to recal-

1 culation to reflect the difference in interest  
2 rates under paragraphs (6)(A) and (6)(B),

3 “(ii) charged with the amount of any  
4 reduction applied under paragraph  
5 (2)(B)(iv)(II), or, in the case of a plan  
6 using a spread-gain method, an amount  
7 equal to the lesser of—

8 “(I) the entire remaining balance  
9 of such subaccount immediately before  
10 the charge, or

11 “(II) the amount of the increase  
12 in the present value of benefits result-  
13 ing from a decrease in the interest  
14 rate from the rate which applied for  
15 the preceding year,

16 “(iii) at the election of the plan spon-  
17 sor, and pursuant to regulations to be  
18 issued by the Secretary, credited with the  
19 net decrease in the unfunded past service  
20 liability (or present value of benefits, in the  
21 case of a plan using a spread-gain method)  
22 resulting from an increase in the interest  
23 rate under paragraph (6)(A), not to exceed  
24 the amount of any previous charges to the

account under clause (ii), reduced by any  
previous credits under this clause, and

“(iv) adjusted with interest at the rate  
under paragraph (6)(A), as applicable.”.

(5) DETERMINATIONS TO BE MADE UNDER  
FUNDING METHOD.—Paragraph (1) of section  
431(c) of such Code is amended to read as follows:

“(1) DETERMINATIONS TO BE MADE UNDER  
FUNDING METHOD.—

“(A) IN GENERAL.—For purposes of this  
part, normal costs, accrued liability, and experi-  
ence gains and losses used to determine the un-  
funded past service liability for the plan shall be  
determined under the funding method used to  
determine costs under the plan and based on  
the interest rate under subparagraph (A) (or  
subparagraph (C), if applicable) of subsection  
(b)(6).

“(B) ADJUSTMENTS FOR FUNDING STAND-  
ARD ACCOUNT NORMAL COST.—Notwith-  
standing subparagraph (A), in the case of a  
plan using the unit credit funding method or  
the entry-age normal funding method, the nor-  
mal cost for a plan year to be charged to the  
funding standard account under subsection

1 (b)(2) shall be determined under the funding  
 2 method used to determine costs under the plan  
 3 and based on the interest rate under subsection  
 4 (b)(6)(B).”.

5 (b) AMENDMENTS TO EMPLOYEE RETIREMENT IN-  
 6 COME SECURITY ACT OF 1974.—

7 (1) CHARGES TO FUNDING STANDARD AC-  
 8 COUNT.—Subparagraph (B) of section 304(b)(2) of  
 9 the Employee Retirement Income Security Act of  
 10 1974 (29 U.S.C. 1084(b)(2)) is amended—

11 (A) by striking “and” at the end of clause  
 12 (iii),

13 (B) by redesignating clause (iv) as clause  
 14 (v),

15 (C) by striking “actuarial assumptions” in  
 16 clause (v), as so redesignated, and inserting  
 17 “actuarial assumptions not described in clause  
 18 (iv)”, and

19 (D) by inserting after clause (iii) the fol-  
 20 lowing new clause:

21 “(iv) separately, with respect to each  
 22 plan year, an amount equal to the excess,  
 23 if any, of—

24 “(I) the net increase (if any) in  
 25 the unfunded past service liability re-

1                   sulting from a reduction in the inter-  
 2                   est rate under paragraph (6)(A) from  
 3                   the rate which applied for the pre-  
 4                   ceding year, over

5                   “(II) the amount in the invest-  
 6                   ment risk reduction subaccount under  
 7                   paragraph (9),  
 8                   over a period of 30 years, and”.

9                   (2) CREDITS TO FUNDING STANDARD AC-  
 10                  COUNT.—Clause (iii) of section 304(b)(3)(B) of such  
 11                  Act (29 U.S.C. 1084(b)(3)(B)) is amended by in-  
 12                  serting “, except that any amount of net gain result-  
 13                  ing from an increase in the interest rate from the  
 14                  rate which applied for the preceding year shall first  
 15                  be offset against any unamortized amounts charged  
 16                  under paragraph (2)(B)(iv)” after “15 plan years”.

17                  (3) INTEREST.—

18                  (A) IN GENERAL.—Paragraph (6) of sec-  
 19                  tion 304(b) of such Act (29 U.S.C. 1084(b)) is  
 20                  amended to read as follows:

21                  “(6) INTEREST.—

22                  “(A) IN GENERAL.—The funding standard  
 23                  account (and items therein) shall be charged or  
 24                  credited (as determined under regulations pre-  
 25                  scribed by the Secretary) with interest at the

1 appropriate rate consistent with the rate or  
2 rates of interest used under the plan to deter-  
3 mine the unfunded past service liability. Not-  
4 withstanding any other provision of this section,  
5 this interest rate shall not exceed—

6 “(i) 7.5 percent for actuarial valu-  
7 ations for plan years beginning after De-  
8 cember 31, 2020, and before January 1,  
9 2024,

10 “(ii) 7.25 percent for actuarial valu-  
11 ations for plan years beginning after De-  
12 cember 31, 2023, and before January 1,  
13 2028,

14 “(iii) 7.0 percent for actuarial valu-  
15 ations for plan years beginning after De-  
16 cember 31, 2027, and before January 1,  
17 2032,

18 “(iv) 6.75 percent for actuarial valu-  
19 ations for plan years beginning after De-  
20 cember 31, 2031, and before January 1,  
21 2036, and

22 “(v) 6.5 percent for actuarial valu-  
23 ations for plan years beginning after De-  
24 cember 31, 2035.

1           Notwithstanding subsection (c), the plan spon-  
 2           sor may direct the plan actuary to use any rate  
 3           which is not lower than the rate determined  
 4           under subparagraph (B) (without regard to this  
 5           sentence) and not greater than the rate deter-  
 6           mined under the preceding sentence for the  
 7           plan year. Nothing in this subparagraph shall  
 8           require a plan to take into account the interest  
 9           rate limitation for subsequent years under the  
 10          preceding sentence in determining actuarial  
 11          valuations as of any given year.

12           “(B) INTEREST RATE FOR DETERMINING  
 13          NORMAL COST.—Notwithstanding any other  
 14          provision of this section, the interest rate used  
 15          for determining the normal cost to be charged  
 16          under paragraph (2) for the plan year shall be  
 17          equal to the least of—

18                   “(i) the interest rate applicable under  
 19                   subparagraph (A) for the plan year,

20                   “(ii) a rate equal to the 24-month av-  
 21                   erage of the third segment rate (as defined  
 22                   in section 303(h)(2)(C)(iii)), as of the date  
 23                   the determination is made, without regard  
 24                   to section 303(h)(2)(C)(iv), increased by 2  
 25                   percent, or

1 “(iii) 5.5 percent.

2 “(C) EXCEPTION FOR CERTAIN PARTI-  
3 TIONED PLANS.—Notwithstanding subpara-  
4 graph (A), in the case of a plan which has been  
5 partitioned under section 4233A, the rate of in-  
6 terest used to determine normal cost under sub-  
7 paragraph (B) shall also be used to determine  
8 the unfunded past service liability of the plan.

9 “(D) EXCEPTION FOR PLANS USING A  
10 SPREAD-GAIN METHOD.—Notwithstanding sub-  
11 paragraph (B), and except as noted in subpara-  
12 graph (C), in the case of a plan which uses a  
13 funding method other than the unit credit  
14 method or entry-age normal method—

15 “(i) the normal cost and past service  
16 liability shall be calculated using interest  
17 rates under subparagraph (A),

18 “(ii) an additional normal cost compo-  
19 nent shall be calculated in the same man-  
20 ner as under paragraph (9)(B)(i) based on  
21 the unit credit method, and

22 “(iii) the amount determined under  
23 clause (ii) shall be added to the otherwise  
24 calculated normal cost under the funding

1 method in lieu of the credit under para-  
 2 graph (9)(B)(i).”.

3 (B) CONFORMING AMENDMENT.—Subpara-  
 4 graph (A) of section 4233A(h)(4) of such Act,  
 5 as added by this Act, is amended by inserting  
 6 “, consistent with section 304(b)(6)(C)” before  
 7 the period.

8 (4) INVESTMENT RISK REDUCTION SUB-  
 9 ACCOUNT.—Subsection (b) of section 304 of such  
 10 Act (29 U.S.C. 1084) is amended by adding at the  
 11 end the following new paragraph:

12 “(9) INVESTMENT RISK REDUCTION SUB-  
 13 ACCOUNT.—For purposes of this part—

14 “(A) IN GENERAL.—The funding standard  
 15 account shall include an investment risk reduc-  
 16 tion subaccount used solely to offset losses at-  
 17 tributable to reductions in the rate of interest  
 18 used to determine the unfunded past service li-  
 19 ability of the plan over time.

20 “(B) ANNUAL ADJUSTMENTS.—For a plan  
 21 year, the investment risk reduction subaccount  
 22 shall be—

23 “(i) credited with the net change (if  
 24 any) in the normal cost for the imme-  
 25 diately preceding plan year due to recal-

1 culation to reflect the difference in interest  
2 rates under paragraphs (6)(A) and (6)(B),

3 “(ii) charged with the amount of any  
4 reduction applied under paragraph  
5 (2)(B)(iv)(II), or, in the case of a plan  
6 using a spread-gain method, an amount  
7 equal to the lesser of—

8 “(I) the entire remaining balance  
9 of such subaccount immediately before  
10 the charge, or

11 “(II) the amount of the increase  
12 in the present value of benefits result-  
13 ing from a decrease in the interest  
14 rate from the rate which applied for  
15 the preceding year,

16 “(iii) at the election of the plan spon-  
17 sor, and pursuant to regulations to be  
18 issued by the Secretary of the Treasury,  
19 credited with the net decrease in the un-  
20 funded past service liability (or present  
21 value of benefits, in the case of a plan  
22 using a spread-gain method) resulting  
23 from an increase in the interest rate under  
24 paragraph (6)(A), not to exceed the  
25 amount of any previous charges to the ac-

count under clause (ii), reduced by any  
previous credits under this clause, and

“(iv) adjusted with interest at the rate  
under paragraph (6)(A), as applicable.”.

(5) DETERMINATIONS TO BE MADE UNDER  
FUNDING METHOD.—Paragraph (1) of section  
304(c) of such Act (29 U.S.C. 1084(c)) is amended  
to read as follows:

“(1) DETERMINATIONS TO BE MADE UNDER  
FUNDING METHOD.—

“(A) IN GENERAL.—For purposes of this  
part, normal costs, accrued liability, and experi-  
ence gains and losses used to determine the un-  
funded past service liability for the plan shall be  
determined under the funding method used to  
determine costs under the plan and based on  
the interest rate under subparagraph (A) (or  
subparagraph (C), if applicable) of subsection  
(b)(6).

“(B) ADJUSTMENTS FOR FUNDING STAND-  
ARD ACCOUNT NORMAL COST.—Notwith-  
standing subparagraph (A), in the case of a  
plan using the unit credit funding method or  
the entry-age normal funding method, the nor-  
mal cost for a plan year to be charged to the

1 funding standard account under subsection  
2 (b)(2) shall be determined under the funding  
3 method used to determine costs under the plan  
4 and based on the interest rate under subsection  
5 (b)(6)(B).”.

6 (c) PLAN PETITIONS TO INCREASE INTEREST AS-  
7 SUMPTIONS.—

8 (1) IN GENERAL.—Pursuant to regulations to  
9 be issued by the Secretary of the Treasury (or such  
10 Secretary’s delegate), a multiemployer plan must pe-  
11 tition the Secretary of the Treasury (or delegate) for  
12 any increase in the interest assumption made after  
13 a 30-year amortization base is established in accord-  
14 ance with section 431(b)(2)(B)(iv) of the Internal  
15 Revenue Code of 1986 and section 304(b)(2)(B)(iv)  
16 of the Employee Retirement Income Security Act of  
17 1974 (as added by this Act). The Secretary of the  
18 Treasury (or delegate) shall approve such request  
19 upon a determination that the change is reasonably  
20 supported by changes in the financial markets or  
21 changes in the plan’s asset allocation, and is con-  
22 sistent with the manner in which prior changes in  
23 interest rate assumptions were determined since the  
24 date of the enactment of this Act.

1           (2) APPROVAL.—If the Secretary of the Treas-  
 2           ury (or such Secretary’s delegate) does not approve  
 3           or deny any petition submitted pursuant to para-  
 4           graph (1) within 180 days of receiving such petition,  
 5           such petition shall be deemed to have been approved.

6           (d) EFFECTIVE DATE.—The amendments made by  
 7           this section shall apply to plan years beginning after De-  
 8           cember 31, 2020.

## 9           **Subtitle B—Additional Funding** 10          **Rules for Multiemployer Plans**

### 11          **PART I—PLAN STATUS AMENDMENTS**

#### 12          **SEC. 211. AMENDMENTS TO INTERNAL REVENUE CODE OF** 13          **1986.**

14          (a) RULES APPLYING TO ALL MULTIEMPLOYER  
 15          PLANS.—

16               (1) IN GENERAL.—Subsection (a) of section  
 17               432 of the Internal Revenue Code of 1986 is amend-  
 18               ed—

19                       (A) by striking “a multiemployer plan in  
 20                       effect on July 16, 2006—” and inserting “any  
 21                       multiemployer plan—”,

22                       (B) by redesignating paragraphs (1), (2),  
 23                       and (3) as paragraphs (2), (3), and (4), respec-  
 24                       tively,

1 (C) by inserting before paragraph (2), as  
 2 so redesignated, the following new paragraph:

3 “(1) the rules of subsection (c) shall apply,”

4 (D) by striking “subsection (c)” in para-  
 5 graph (2)(A), as so redesignated, and inserting  
 6 “subsection (d)”

7 (E) by striking “subsection (d)” in para-  
 8 graph (2)(B), as so redesignated, and inserting  
 9 “subsection (e)”

10 (F) by striking “subsection (e)” in para-  
 11 graph (3)(A), as so redesignated, and inserting  
 12 “subsection (f)”

13 (G) by striking “subsection (f)” in para-  
 14 graph (3)(B), as so redesignated, and inserting  
 15 “subsection (g)”, and

16 (H) by striking “subsection (e)(9)” in  
 17 paragraph (4)(B), as so redesignated, and in-  
 18 serting “subsection (f)(9)”.

19 (2) RULES OF IMMEDIATE APPLICATION.—Sec-  
 20 tion 432 of such Code is amended—

21 (A) by redesignating subsections (c), (d),  
 22 (e), (f), (g), (h), (i), and (j) as subsections (d),  
 23 (e), (f), (g), (h), (i), (j), and (k), respectively,  
 24 and

1 (B) by inserting after subsection (b) the  
 2 following new subsection:

3 “(c) RULES APPLYING TO ALL MULTIEMPLOYER  
 4 PLANS.—

5 “(1) BENEFIT INCREASES.—

6 “(A) INCREASES BY PLAN AMENDMENT.—

7 The plan sponsor of any multiemployer plan  
 8 shall not adopt a plan amendment which in-  
 9 creases plan liabilities (as determined as of the  
 10 date of the adoption of the amendment) due to  
 11 any increase in benefits, any change in the ac-  
 12 crual rate of benefits, or any change in the rate  
 13 at which benefits become nonforfeitable, un-  
 14 less—

15 “(i) if the plan is in unrestricted sta-  
 16 tus as of the adoption of such amendment,  
 17 the plan actuary certifies in accordance  
 18 with subsection (b)(4) that the increase in  
 19 liabilities will not cause the plan to no  
 20 longer be in unrestricted status,

21 “(ii) if the plan is in stable status as  
 22 of the adoption of such amendment, the  
 23 plan actuary certifies in accordance with  
 24 subsection (b)(4) that any such increase or  
 25 change in benefits will be paid from addi-

1            tional contributions not required by any  
 2            collective bargaining agreement in effect as  
 3            of the adoption of the amendment,

4            “(iii) if the plan is in endangered sta-  
 5            tus as of the adoption of such amendment,  
 6            the plan actuary certifies in accordance  
 7            with subsection (b)(4) that any such in-  
 8            crease or change in benefits will be paid  
 9            from additional contributions not con-  
 10          templated in any current funding improve-  
 11          ment plan, or

12          “(iv) the increase or change in bene-  
 13          fits is required by law or is a de minimis  
 14          change.

15          “(B) INCREASES UNDER CRITICAL OR  
 16          CRITICAL AND DECLINING STATUS.—Unless re-  
 17          quired as a condition of qualification under part  
 18          I of this subchapter or to comply with other ap-  
 19          plicable law, in the case of a plan which is in  
 20          critical or critical and declining status, no in-  
 21          crease in benefits, change in the accrual rate of  
 22          benefits, or change in the rate at which benefits  
 23          become nonforfeitable which increases plan li-  
 24          abilities shall take effect while the plan is in  
 25          such status, without regard to whether such in-

1           crease or change would otherwise occur under  
2           the provisions of the plan, unless the increase  
3           in plan liabilities due to the change is de mini-  
4           mis.

5           “(2) CONTRIBUTION REDUCTIONS.—The plan  
6           sponsor of any multiemployer plan shall not accept  
7           any collective bargaining agreement or participation  
8           agreement which reduces the rate of contributions  
9           under the plan for any participants, suspends con-  
10          tributions with respect to any period of service, or  
11          directly or indirectly excludes younger, probationary,  
12          or newly hired employees from participation in the  
13          plan, unless—

14               “(A) the plan is in unrestricted status as  
15               of the adoption of such agreement and the plan  
16               actuary certifies in accordance with subsection  
17               (b)(4) that the reduction in contributions will  
18               not cause the plan to no longer be in unre-  
19               stricted status,

20               “(B) the reduction in contributions is ac-  
21               companied by a reduction in future accruals for  
22               the affected participants, and the plan actuary  
23               certifies in accordance with subsection (b)(4)  
24               that the combined effect of the changes in con-  
25               tributions and benefits is not projected to re-

1           duce the funded percentage of the plan in any  
2           year, or

3                 “(C) subject to regulations issued by the  
4           Secretary, the plan sponsor reasonably deter-  
5           mines that the acceptance of such an agreement  
6           is in the best interests of plan participants and  
7           beneficiaries and that rejection of the agree-  
8           ment would have an adverse financial effect on  
9           the plan.”.

10           (3) STABLE AND UNRESTRICTED PLANS.—Sub-  
11           section (b) of section 432 of such Code is amend-  
12           ed—

13                 (A) by striking “ENDANGERED AND CRIT-  
14           ICAL” in the heading,

15                 (B) by redesignating paragraphs (1), (2),  
16           (3), (4), (5), and (6) as paragraphs (2), (3),  
17           (4), (5), (6), and (7), respectively, and

18                 (C) by inserting before paragraph (2) the  
19           following new paragraph:

20                 “(1) STABLE AND UNRESTRICTED STATUS.—

21                 “(A) STABLE.—A multiemployer plan is in  
22           stable status for a plan year if, as determined  
23           by the plan actuary under paragraph (4), the  
24           plan is not in unrestricted status for the plan  
25           year, is not in endangered, critical, or critical

and declining status for the plan year, and is not described in paragraph (6).

“(B) UNRESTRICTED.—A multiemployer plan is in unrestricted status for a plan year if, as determined by the plan actuary under paragraph (4)—

“(i) the plan is not in endangered, critical, or critical and declining status for the plan year,

“(ii) the plan is not described in paragraph (6), and

“(iii) as of the beginning of the plan year—

“(I) the plan’s current liability funded percentage for such plan year is at least 70 percent and the plan’s projected funded percentage as of the first day of the 15th succeeding plan year is at least 115 percent, or

“(II) the plan’s current liability funded percentage for such plan year is at least 80 percent.

“(C) CURRENT LIABILITY FUNDED PERCENTAGE.—For purposes of this section, the term ‘current liability funded percentage’ means

1 the percentage equal to a fraction the numer-  
 2 ator of which is the value of plan assets (as de-  
 3 termined for purposes of section  
 4 431(c)(6)(A)(ii)(II)) and the denominator of  
 5 which is the current liabilities of the plan (as  
 6 defined in section 431(c)(6)(D)).”.

7 (4) AMENDMENT TO ANNUAL CERTIFICATION  
 8 BY PLAN ACTUARY.—Subparagraph (A) of para-  
 9 graph (4) (as redesignated by paragraph (3)) of sec-  
 10 tion 432(b) of such Code is amended by inserting  
 11 “whether or not the plan is in unrestricted or stable  
 12 status for such plan year,” in clause (i) before  
 13 “whether or not the plan is in endangered status”.

14 (5) CONFORMING AMENDMENTS.—

15 (A) Paragraphs (2) and (3) of section  
 16 432(b) of such Code, as redesignated by para-  
 17 graph (3), are each amended by striking “para-  
 18 graph (3)” and inserting “paragraph (4)”.

19 (B) Section 432(b)(2) of such Code, as so  
 20 redesignated and amended, is further amended  
 21 by striking “paragraph (5)” and inserting  
 22 “paragraph (6)”.

23 (C) Section 432(b)(4) of such Code, as so  
 24 redesignated, is amended—

1 (i) by striking “paragraph (4)” in  
 2 subparagraph (B)(iv) thereof and inserting  
 3 “paragraph (5)”,

4 (ii) by striking “subsection (e)(9)”  
 5 both places it appears in subparagraph  
 6 (B)(v) and inserting “subsection (f)(9)”,

7 (iii) by striking “subsection  
 8 (e)(3)(A)(ii)” in subparagraph (B)(v) and  
 9 inserting “subsection (f)(3)(A)(ii)”,

10 (iv) by striking “subsection (e)” in  
 11 subparagraph (B)(v) and inserting “sub-  
 12 section (f)”,

13 (v) by striking “paragraph (4)” each  
 14 place it appears in subparagraphs (D)(i)  
 15 and (D)(v) thereof and inserting “para-  
 16 graph (5)”,

17 (vi) by striking “subsection (e)(8)” in  
 18 subparagraph (D)(ii)(I) thereof and insert-  
 19 ing “subsection (f)(8)”,

20 (vii) by striking “paragraph (5)” in  
 21 subparagraph (D)(iii) thereof and inserting  
 22 “paragraph (6)”, and

23 (viii) by striking “(iii) In the case of”  
 24 in subparagraph (D)(iii) thereof and in-  
 25 serting “(iii) SPECIAL RULE.—”.

1 (D) Section 432(b)(5) of such Code, as re-  
2 designated by paragraph (3), is amended—

3 (i) by striking “paragraph (2)” and  
4 inserting “paragraph (3)”,

5 (ii) by striking “paragraph  
6 (3)(B)(iv)” and inserting “paragraph  
7 (4)(B)(iv)”,

8 (iii) by striking “paragraph (3)” in  
9 subparagraph (A) thereof and inserting  
10 “paragraph (4)”,

11 (iv) by striking “paragraph (3)(A)” in  
12 subparagraph (A) thereof and inserting  
13 “paragraph (4)(A)”,

14 (v) by striking “paragraph (2)” in  
15 subparagraph (B) thereof and inserting  
16 “paragraph (3)”, and

17 (vi) by striking “subsection (e)(4)(B)”  
18 in subparagraph (C) thereof and inserting  
19 “subsection (f)(4)(B)”.

20 (E) Section 432(b)(6)(A) of such Code, as  
21 so redesignated, is amended—

22 (i) by striking “paragraph (3)(A)”  
23 and inserting “paragraph (4)(A)”,

24 (ii) by striking “paragraph (1)(A)”  
25 and inserting “paragraph (2)(A)”, and

1 (iii) by striking “paragraph (1)(B)”  
 2 and inserting “paragraph (2)(B)”.

3 (F) Section 432(b)(7) of such Code, as so  
 4 redesignated, is amended by striking “para-  
 5 graph (2)” and inserting “paragraph (3)”.

6 (G) Paragraphs (1)(A), (4)(A)(ii),  
 7 (4)(C)(i), (4)(C)(ii), (4)(D), (5)(A)(i), (5)(B),  
 8 and (8) of subsection (d), and subsections  
 9 (e)(2), (f)(1)(A), (f)(4)(B)(i), (f)(4)(B)(ii)(I),  
 10 (f)(5), and (g)(3) of section 432 of such Code,  
 11 as respectively redesignated by paragraph (2),  
 12 are each amended by striking “subsection  
 13 (b)(3)(A)” and inserting “subsection  
 14 (b)(4)(A)”.

15 (H) Section 432(d)(3)(A)(i)(I) of such  
 16 Code, as so redesignated, is amended by strik-  
 17 ing “paragraph (b)(3)” and inserting “sub-  
 18 section (b)(4)”.

19 (I) Section 432(d)(4)(D) of such Code, as  
 20 so redesignated, is amended by striking “sub-  
 21 section (d)” and inserting “subsection (e)”.

22 (J) Section 432(e) of such Code, as so re-  
 23 designated, is amended to read as follows:

24 “(e) RULES FOR OPERATION OF PLAN DURING  
 25 ADOPTION AND IMPROVEMENT PERIODS.—A plan may

1 not be amended after the date of the adoption of a funding  
 2 improvement plan under subsection (d) so as to be incon-  
 3 sistent with the funding improvement plan or the require-  
 4 ments of subsection (c).”.

5 (K) Clauses (i)(I) and (ii)(I) of section  
 6 432(f)(4)(B) of such Code, as so redesignated,  
 7 are each amended by striking “subsection  
 8 (b)(2)” and inserting “subsection (b)(3)”.

9 (L) Subsections (f)(8)(A)(ii) and (g)(2)(A)  
 10 of section 432 of such Code, as so redesignated,  
 11 are each amended by striking “subsection  
 12 (b)(3)(D)” and inserting “subsection  
 13 (b)(4)(D)”.

14 (M) Section 432(f)(9)(J) of such Code, as  
 15 so redesignated, is amended—

16 (i) by striking “subsection (b)(3)” and  
 17 inserting “subsection (b)(4)”, and

18 (ii) by striking “paragraphs (1) and  
 19 (2)” in clause (i) thereof and inserting  
 20 “paragraphs (2) and (3)”.

21 (N) Subparagraphs (A) and (B) of section  
 22 432(g)(1) of such Code, as so redesignated, are  
 23 each amended by striking “subsection (e)” and  
 24 inserting “subsection (f)”.

1 (O) Paragraph (2)(A) of section 432(g) of  
 2 such Code, as so redesignated, is amended by  
 3 striking “(b)(3)(D)” and inserting “(b)(4)(D)”.

4 (P) Section 432(h) of such Code, as so re-  
 5 designated, is amended—

6 (i) by striking “subsection (e)(8) or  
 7 (f)” in paragraph (1) thereof and inserting  
 8 “subsection (f)(8) or (g),”

9 (ii) by striking “subsection (e)(9)” in  
 10 paragraph (1) thereof and inserting “sub-  
 11 section (f)(9),”

12 (iii) by striking “subsection (e)(7)” in  
 13 paragraph (2) thereof and inserting “sub-  
 14 section (f)(7),” and

15 (iv) by striking “rehabilitation plan”  
 16 and all that follows in paragraph (3)(B)  
 17 thereof and inserting “rehabilitation plan.  
 18 The preceding sentence shall not apply to  
 19 any increase in contribution requirements  
 20 due to increased levels of work, employ-  
 21 ment, or periods for which compensation is  
 22 provided, except to the extent such an in-  
 23 crease is used to provide an increased ac-  
 24 crual rate of benefits or change in the rate

1 at which benefits become nonforfeitable  
 2 which increases plan liabilities.”.

3 (Q) Section 432(i) of such Code, as so re-  
 4 designated, is amended—

5 (i) by striking “subsection (c)” and  
 6 inserting “subsection (d)”, and

7 (ii) by striking “subsection (e)” and  
 8 inserting “subsection (f)”.

9 (R) Section 432(j)(2) of such Code, as so  
 10 redesignated, is amended by striking “sub-  
 11 sections (c) and (e)” and inserting “subsections  
 12 (d) and (f)”.

13 (S) Section 412(b)(3) of such Code is  
 14 amended by striking “section 432(e)” and in-  
 15 serting “section 432(f)”.

16 (T) Section 418E of such Code, as amend-  
 17 ed by this Act, is further amended—

18 (i) by striking “432(b)(2)” each place  
 19 it appears in subsections (c)(1), (c)(2),  
 20 (d)(1), and (d)(2), as redesignated by sec-  
 21 tion 112, and inserting “432(b)(3)”, and

22 (ii) by striking “432(e)(9)” in sub-  
 23 section (g), as so redesignated, and insert-  
 24 ing “432(f)(9)”.

1 (U) Section 4971(g) of such Code is  
 2 amended—

3 (i) by striking “432(e)” in paragraph  
 4 (3)(B)(i) and inserting “432(f)”,

5 (ii) by striking “432(b)(3)(A)(ii)” in  
 6 paragraph (3)(B)(ii) and inserting  
 7 “432(b)(4)(A)(i)(II)”,

8 (iii) by striking “432(e)(1)(A)” in  
 9 paragraph (4)(B)(ii) and inserting  
 10 “432(f)(1)(A)”, and

11 (iv) by striking “432(j)(9)” in para-  
 12 graph (4)(C)(ii) and inserting “432(k)(9)”.

13 (V) Subsection (c)(1) of section 4980I of  
 14 such Code, as added by this Act, is amended by  
 15 adding at the end the following: “Such term  
 16 shall not include such an original plan for any  
 17 plan year in which the plan is in unrestricted  
 18 status (as defined in section 432(b)(1)(B)).”.

19 (W) The heading of section 432 of such  
 20 Code is amended by striking “**IN ENDAN-**  
 21 **GERED STATUS OR CRITICAL STATUS**”.

22 (6) WITHDRAWAL LIABILITY DETERMINATION  
 23 FOR PLANS EMERGING FROM ENDANGERED OR CRIT-  
 24 ICAL STATUS.—Section 432(h) of such Code, as re-  
 25 designated by paragraph (2) and as amended by

paragraph (5), is further amended by striking paragraph (4) and by inserting after paragraph (3) the following new paragraph:

“(4) EMERGENCE FROM ENDANGERED OR CRITICAL STATUS.—

“(A) IN GENERAL.—In the case of increases in the contribution rate (or other increases in contribution requirements unless due to increased levels of work, employment, or periods for which compensation is provided) disregarded pursuant to paragraph (3), this subsection shall cease to apply as of the later of—

“(i) the end of the first plan year following the plan year in which the plan is no longer in endangered or critical status, or

“(ii) the end of the plan year which includes the expiration date of the first collective bargaining agreement requiring plan contributions which expires after the plan is no longer in endangered or critical status.

“(B) HIGHEST CONTRIBUTION RATE.—

Notwithstanding subparagraph (A), once the

1 plan emerges from endangered or critical sta-  
2 tus—

3 “(i) increases in the contribution rate  
4 disregarded pursuant to paragraph (3)  
5 shall continue to be disregarded in deter-  
6 mining the highest contribution rate under  
7 section 4219(c) of such Act for plan years  
8 during which the plan was in endangered  
9 or critical status, and

10 “(ii) the highest contribution rate for  
11 purposes of such section shall be the great-  
12 er of—

13 “(I) the sum of—

14 “(aa) the employer’s con-  
15 tribution rate as of the later of  
16 the last day of the last plan year  
17 ending before December 31,  
18 2014, and the last day of the  
19 plan year for which the employer  
20 first had an obligation to con-  
21 tribute to the plan, and

22 “(bb) any contribution in-  
23 creases determined in accordance  
24 with this section after such later  
25 date and before the date the em-

1                    employer withdraws from the plan,  
2                    or

3                    “(II) the highest contribution  
4                    rate for any plan year after the plan  
5                    year which includes the earlier of—

6                    “(aa) the expiration date of  
7                    the first collective bargaining  
8                    agreement applicable to the with-  
9                    drawing employer requiring plan  
10                   contributions which expires after  
11                   the plan is no longer in endan-  
12                   gered or critical status, or

13                   “(bb) the date as of which  
14                   the withdrawing employer nego-  
15                   tiated a contribution rate effec-  
16                   tive after the plan year in which  
17                   the plan is no longer in endan-  
18                   gered or critical status.”.

19                   (7) EFFECTIVE DATE.—The amendments made  
20                   by this subsection shall take effect on the date of the  
21                   enactment of this Act.

22                   (b) DETERMINATION OF ENDANGERED STATUS.—  
23                   Paragraph (2) of section 432(b) of the Internal Revenue  
24                   Code of 1986, as redesignated by subsection (a)(3), is  
25                   amended to read as follows:

1           “(2) ENDANGERED STATUS.—A multiemployer  
 2           plan is in endangered status for a plan year if, as  
 3           determined by the plan actuary under paragraph  
 4           (5), the plan is not in critical or declining status for  
 5           the plan year and is not described in paragraph (7),  
 6           and, as of the beginning of the plan year—

7                   “(A) the plan’s funded percentage for such  
 8                   plan year is less than 80 percent,

9                   “(B) the plan is projected to have an accu-  
 10                  mulated funding deficiency for any of the 9 suc-  
 11                  ceeding plan years, taking into account any ex-  
 12                  tension of amortization periods under section  
 13                  431(d), or

14                  “(C) the plan’s projected funded percent-  
 15                  age as of the first day of the 15th succeeding  
 16                  plan year is less than 100 percent.”.

17           (c) DETERMINATION OF CRITICAL STATUS.—Para-  
 18           graph (3) of section 432(b) of the Internal Revenue Code  
 19           of 1986, as redesignated by subsection (a)(3), is amended  
 20           to read as follows:

21                   “(3) CRITICAL STATUS.—

22                   “(A) IN GENERAL.—A multiemployer plan  
 23                  is in critical status for a plan year if, as deter-  
 24                  mined by the plan actuary under paragraph (5),

the plan is not in declining status for the plan year and, as of the beginning of the plan year—

“(i) the plan’s funded percentage is less than 65 percent,

“(ii) the plan has an accumulated funding deficiency for the plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 431(d), or

“(iii) the plan’s projected funded percentage as of the first day of the 15th succeeding plan year is less than 80 percent.

“(B) ORIGINAL PLANS.—Notwithstanding subparagraph (A), a multiemployer plan which is an original plan pursuant to section 4233A(d)(3) of the Employee Retirement Income Security Act of 1974 shall be treated as being in critical status for the period of 15 consecutive plan years beginning with the plan year that includes the date of the partition under such section 4233A.”.

(d) DECLINING STATUS.—

(1) IN GENERAL.—

1 (A) The following provisions of section 432  
2 of the Internal Revenue Code of 1986 are each  
3 amended by striking “critical and declining”  
4 each place it appears and inserting “declining”:

5 (i) Subsection (a)(4) (as redesignated  
6 by subsection (a)(1)).

7 (ii) Subparagraphs (A) and (B)(i) of  
8 subsection (b)(1), as added by subsection  
9 (a)(3).

10 (iii) Subsection (b)(4)(B)(v) (as rededesignated  
11 by subsection (a)(3)), and the  
12 heading thereof.

13 (iv) Paragraph (1)(B), and the head-  
14 ing of such paragraph (1)(B), of sub-  
15 section (c), as added by subsection (a)(2).

16 (v) The heading of paragraph (9) of  
17 subsection (f) (as redesignated by sub-  
18 section (a)(2)).

19 (vi) Subparagraphs (A), (C), (G)(i),  
20 and (J) of subsection (f)(9) (as so redesignated).  
21

22 (vii) Subsection (h)(1) (as so redesignated).  
23

24 (B) Section 418E(g) of such Code, as  
25 amended by section 112 and subsection (a), is

1 further amended by striking “critical and de-  
 2 clining status” and inserting “declining status”.

3 (2) DETERMINATION OF DECLINING STATUS.—

4 (A) IN GENERAL.—Subsection (b) of sec-  
 5 tion 432 of such Code is amended—

6 (i) by striking paragraph (7), as re-  
 7 designated by subsection (a)(3),

8 (ii) by redesignating paragraphs (4),  
 9 (5), and (6), as so redesignated, as para-  
 10 graphs (5), (6), and (7), respectively, and

11 (iii) by inserting after paragraph (3),  
 12 as so redesignated, the following new para-  
 13 graph:

14 “(4) DECLINING STATUS.—A multiemployer  
 15 plan is in declining status for a plan year if—

16 “(A) as determined by the plan actuary  
 17 under paragraph (5), as of the beginning of the  
 18 plan year the plan is projected to become insol-  
 19 vent within the plan year or any of the 29 suc-  
 20 ceeding plan years,

21 “(B) the plan is otherwise in critical status  
 22 for the plan year as determined by the plan ac-  
 23 tuary under paragraph (5), and the plan spon-  
 24 sor determines that, based on reasonable actu-  
 25 arial assumptions and upon exhaustion of all

reasonable measures, the plan cannot reasonably be expected to emerge from critical status within the next 30 plan years, or

“(C) the plan has a funded percentage for the plan year which is greater than the projected funded percentage as of the first day of the 15th succeeding plan year, unless the funded percentage for the plan year is 100 percent or greater and the projected funded percentage as of the first day of such 15th succeeding plan year is less than 100 percent.”.

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (1) of section 432(b) of such Code, as added by subsection (a)(3), is amended—

(I) by striking “paragraph (4)” each place it appears in subparagraphs (A) and (B) and inserting “paragraph (5)”, and

(II) by striking “paragraph (6)” each place it appears in subparagraphs (A) and (B) and inserting “paragraph (7)”.

(ii) Subsection (c) of section 432 of such Code, as added by subsection (a)(2),

1 is amended by striking “(b)(4)” each place  
 2 it appears in paragraphs (1)(A)(i),  
 3 (1)(A)(ii), (1)(A)(iii), (2)(A), and (2)(B)  
 4 and inserting “(b)(5)”.

5 (iii) Section 432(b)(5) of such Code,  
 6 as further redesignated by subparagraph  
 7 (A) and as amended by section 321 and  
 8 subsection (a), is further amended—

9 (I) by striking “paragraph (5)”  
 10 in subparagraph (B)(iv) thereof and  
 11 inserting “paragraph (6)”,

12 (II) by striking “paragraph (5)”  
 13 each place it appears in subpara-  
 14 graphs (D)(i) and (D)(vi) thereof and  
 15 inserting “paragraph (6)”, and

16 (III) by striking “paragraph (6)”  
 17 in subparagraph (D)(iv) thereof and  
 18 inserting “paragraph (7)”.

19 (iv) Section 432(b)(6) of such Code,  
 20 as so further redesignated and amended, is  
 21 further amended—

22 (I) by striking “paragraph  
 23 (4)(B)(iv)” and inserting “paragraph  
 24 (5)(B)(iv)”,

1 (II) by striking “paragraph (4)”  
 2 in subparagraph (A) thereof and in-  
 3 serting “paragraph (5)”, and

4 (III) by striking “paragraph  
 5 (4)(A)” in subparagraph (A) thereof  
 6 and inserting “paragraph (5)(A)”.

7 (v) Section 432(b)(7)(A) of such  
 8 Code, as so further redesignated and  
 9 amended, is further amended—

10 (I) by striking “paragraph  
 11 (4)(A)” and inserting “paragraph  
 12 (5)(A)”, and

13 (II) by striking “either para-  
 14 graph (2)(A) or paragraph (2)(B)”  
 15 and inserting “any subparagraph of  
 16 paragraph (2)”.

17 (vi) Section 432(b)(7)(B) of such  
 18 Code, as so further redesignated, is amend-  
 19 ed by striking “critical or endangered” and  
 20 inserting “endangered, critical, or declin-  
 21 ing”.

22 (vii) Paragraphs (1)(A), (4)(A)(ii),  
 23 (4)(C)(i), (4)(C)(ii), (4)(D), and (8) of  
 24 subsection (d), and subsections (f)(1)(A),  
 25 (f)(4)(B)(i), (f)(4)(B)(ii)(I), (f)(5), and

(g)(3) of section 432 of such Code, as redesignated and amended by subsection (a), are each further amended by striking “subsection (b)(4)(A)” and inserting “subsection (b)(5)(A)”.

(viii) Section 432(d)(3)(A)(i)(I) of such Code, as so redesignated and amended, is further amended by striking “subsection (b)(4)” and inserting “subsection (b)(5)”.

(ix) Subsections (f)(8)(A)(ii) and (g)(2)(A) of section 432 of such Code, as so redesignated and amended, are each further amended by striking “subsection (b)(4)(D)” and inserting “subsection (b)(5)(D)”.

(x) Section 432(f)(9)(J) of such Code, as so redesignated and amended, is further amended by striking “subsection (b)(4)” and inserting “subsection (b)(5)”.

(3) SOLVENCY PLAN.—

(A) IN GENERAL.—Paragraph (4) (as redesignated by subsection (a)(1) and amended by paragraph (1)) of section 432(a) of such Code is amended—

1 (i) by redesignating subparagraph (B)  
 2 as subparagraph (D), and

3 (ii) by striking subparagraph (A) and  
 4 inserting before subparagraph (D) (as so  
 5 redesignated) the following new subpara-  
 6 graphs:

7 “(A) the plan sponsor shall adopt and im-  
 8 plement a solvency plan in accordance with the  
 9 requirements of subsection (h),

10 “(B) any rehabilitation plan in place as of  
 11 the date the plan enters declining status shall  
 12 continue to apply throughout the solvency plan  
 13 adoption period,

14 “(C) the requirements of subsection (i) and  
 15 paragraphs (6) and (7) of subsection (f) shall  
 16 apply during the solvency plan adoption period  
 17 and the solvency attainment period, and”.

18 (B) ADOPTION OF PLAN.—Section 432 of  
 19 such Code, as amended by this section, is fur-  
 20 ther amended—

21 (i) by redesignating subsection (l), as  
 22 added by title V of this Act, as subsection  
 23 (n), and by further redesignating sub-  
 24 sections (h), (i), (j), and (k), as redesign-

1                   nated by subsection (a)(2), as subsections  
 2                   (j), (k), (l), and (m), respectively, and  
 3                   (ii) by inserting after subsection (g),  
 4                   as redesignated by subsection (a)(2), the  
 5                   following new subsections:

6           “(h) SOLVENCY PLAN MUST BE ADOPTED FOR MUL-  
 7   TIEMPLOYER PLANS IN DECLINING STATUS.—

8           “(1) IN GENERAL.—In any case in which a  
 9   multiemployer plan is in declining status for a plan  
 10   year, the plan sponsor, in accordance with this sub-  
 11   section—

12           “(A) shall adopt a solvency plan not later  
 13   than 240 days following the required date for  
 14   the actuarial certification of declining status  
 15   under subsection (b)(5)(A), and

16           “(B) within 30 days after the adoption of  
 17   the solvency plan shall provide to the bar-  
 18   gaining parties 1 or more schedules showing re-  
 19   vised benefit structures, revised contribution  
 20   structures, or both, which, if adopted, may rea-  
 21   sonably be expected to enable the multiemployer  
 22   plan to meet the requirements of paragraph (3),  
 23   including—

24           “(i) one default proposal under  
 25   which—

1                   “(I) all adjustable benefits in the  
2                   form of early retirement subsidies (in-  
3                   cluding early reduction factors which  
4                   are not provided on an actuarially  
5                   equivalent basis) under the plan are  
6                   eliminated, and

7                   “(II) the future monthly benefit  
8                   accrual rate under the plan is reduced  
9                   to the equivalent of 1 percent of an-  
10                  nual contributions (or, if lower, the  
11                  current accrual rate) based on the  
12                  contribution rate in effect as of the  
13                  later of the first day of the plan year  
14                  in which the plan enters declining sta-  
15                  tus or the date of a partition under  
16                  section 4233A of the Employee Re-  
17                  tirement Income Security Act of  
18                  1974, and

19                  which may also include reduction or elimi-  
20                  nation of any other adjustable benefits  
21                  under the plan, and

22                  “(ii) any additional schedules which  
23                  reduce or eliminate adjustable benefits  
24                  under the plan which the plan sponsor

1                   deems appropriate to provide as an alter-  
2                   native to the default proposal.

3       No schedule provided to or adopted by the bar-  
4       gaining parties shall provide for a monthly benefit  
5       accrual rate in excess of the rate described in sub-  
6       paragraph (B)(i)(II).

7               “(2) EXCEPTION FOR YEARS AFTER PROCESS  
8       BEGINS.—Paragraph (1) shall not apply to a plan  
9       year if such year is in a solvency plan adoption pe-  
10      riod or solvency attainment period by reason of the  
11      plan being in declining status for a preceding plan  
12      year, except that the next update of the solvency  
13      plan shall fulfill the requirement of paragraph  
14      (1)(B)(i). For purposes of this section, such pre-  
15      ceding plan year shall be the initial determination  
16      year with respect to the solvency plan to which it re-  
17      lates.

18              “(3) SOLVENCY PLAN.—For purposes of this  
19      section, a solvency plan is a plan which consists of  
20      the actions, including options or a range of options  
21      to be proposed to the bargaining parties, formulated,  
22      based on reasonably anticipated experience and rea-  
23      sonable actuarial assumptions, to enable the plan to  
24      delay or avoid the projected insolvency.

1           “(4) SOLVENCY ATTAINMENT PERIOD.—For  
2 purposes of this section—

3           “(A) IN GENERAL.—Except as provided in  
4 subparagraph (B), the solvency attainment pe-  
5 riod for any solvency plan adopted pursuant to  
6 this subsection is the period—

7           “(i) beginning on the first day of the  
8 first plan year of the multiemployer plan  
9 beginning after the earlier of—

10           “(I) the second anniversary of  
11 the date of the adoption of the sol-  
12 vency plan, or

13           “(II) the expiration of the collec-  
14 tive bargaining agreements in effect  
15 on the due date for the actuarial cer-  
16 tification of declining status for the  
17 initial determination year under sub-  
18 section (b)(5)(A) and covering, as of  
19 such due date, at least 75 percent of  
20 the active participants in such plan,  
21 and

22           “(ii) ending on the date the plan ei-  
23 ther emerges from declining status or be-  
24 comes insolvent.

1                   “(B) COORDINATION WITH CHANGES IN  
2 STATUS.—

3                   “(i) PLANS NO LONGER IN DECLINING  
4 STATUS.—If the plan’s actuary certifies in  
5 accordance with subparagraph (C) for a  
6 plan year in any solvency plan adoption pe-  
7 riod or solvency attainment period that the  
8 plan is no longer in declining status, the  
9 solvency plan adoption period or solvency  
10 attainment period, whichever is applicable,  
11 shall end as of the date of such certifi-  
12 cation.

13                   “(ii) PLANS IN CRITICAL OR ENDAN-  
14 GERED STATUS.—If the plan’s actuary cer-  
15 tifies under subsection (b)(5)(A) for the  
16 plan year described in clause (i) that the  
17 plan is in critical or endangered rather  
18 than declining status, the provisions of  
19 subsections (d) and (e), or subsections (f)  
20 and (g), whichever are applicable, shall be  
21 applied as if such plan year were an initial  
22 determination year, except that the plan  
23 may not be amended in a manner incon-  
24 sistent with the solvency plan in effect for  
25 the preceding plan year until a new fund-

ing improvement plan or rehabilitation plan, whichever is applicable, is adopted.

“(C) EMERGENCE.—A plan in declining status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(5)(A), that the plan is not described in one or more of the subparagraphs in subsection (b)(4) as of the beginning of the plan year.

“(5) UPDATES TO SOLVENCY PLANS AND SCHEDULES.—

“(A) SOLVENCY PLAN.—The plan sponsor shall annually update the solvency plan and shall file the update with the plan’s annual report under section 104 of the Employee Retirement Income Security Act of 1974.

“(B) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

“(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement

1           shall remain in effect for the duration of that  
2           collective bargaining agreement.

3           “(6) IMPOSITION OF SCHEDULE WHERE FAIL-  
4           URE TO ADOPT SOLVENCY PLAN.—

5           “(A) INITIAL CONTRIBUTION SCHEDULE.—

6           If—

7                   “(i) a collective bargaining agreement  
8                   providing for contributions under a multi-  
9                   employer plan that was in effect at the  
10                  time the plan entered declining status ex-  
11                  pires, and

12                  “(ii) after receiving one or more  
13                  schedules from the plan sponsor under  
14                  paragraph (1)(B), the bargaining parties  
15                  with respect to such agreement fail to  
16                  adopt a contribution schedule with terms  
17                  consistent with the solvency plan and a  
18                  schedule from the plan sponsor,

19           the plan sponsor shall implement the schedule  
20           described in paragraph (1)(B)(i) beginning on  
21           the date specified in subparagraph (C).

22           “(B) SUBSEQUENT CONTRIBUTION SCHED-  
23           ULE.—If—

24                   “(i) a collective bargaining agreement  
25                   providing for contributions under a multi-

1 employer plan in accordance with a sched-  
2 ule provided by the plan sponsor pursuant  
3 to a solvency plan (or imposed under sub-  
4 paragraph (A)) expires while the plan is  
5 still in declining status, and

6 “(ii) after receiving one or more up-  
7 dated schedules from the plan sponsor  
8 under paragraph (5)(B), the bargaining  
9 parties with respect to such agreement fail  
10 to adopt a contribution schedule with  
11 terms consistent with the updated solvency  
12 plan and a schedule from the plan sponsor,  
13 then the contribution schedule applicable under  
14 the expired collective bargaining agreement, as  
15 updated and in effect on the date the collective  
16 bargaining agreement expires, shall be imple-  
17 mented by the plan sponsor beginning on the  
18 date specified in subparagraph (C).

19 “(C) DATE OF IMPLEMENTATION.—The  
20 date specified in this subparagraph is the date  
21 which is 180 days after the date on which the  
22 collective bargaining agreement described in  
23 subparagraph (A) or (B) expires.

24 “(7) SOLVENCY PLAN ADOPTION PERIOD.—For  
25 purposes of this section, the term ‘solvency plan

1 adoption period’ means the period beginning on the  
 2 date of the certification under subsection (b)(5)(A)  
 3 for the initial determination year and ending on the  
 4 day before the first day of the solvency attainment  
 5 period.

6 “(i) RULES FOR OPERATION OF PLAN DURING  
 7 ADOPTION AND ATTAINMENT PERIODS.—

8 “(1) COMPLIANCE WITH SOLVENCY PLAN.—

9 “(A) IN GENERAL.—A plan may not be  
 10 amended after the date of the adoption of a sol-  
 11 vency plan under subsection (h) so as to be in-  
 12 consistent with the solvency plan.

13 “(B) SPECIAL RULES FOR BENEFIT IN-  
 14 CREASES.—A plan may not be amended after  
 15 the date of the adoption of a solvency plan  
 16 under subsection (h) so as to increase benefits,  
 17 including future benefit accruals, unless the in-  
 18 crease is required by law or is a de minimis  
 19 change.

20 “(C) SPECIAL RULES FOR INCREASES IN  
 21 COMPENSATION OR CONTRIBUTION RATE.—Any  
 22 increase in employee compensation or contribu-  
 23 tion rates which takes effect after the first day  
 24 of the plan year in which the plan enters declin-  
 25 ing status shall not give rise to an increase in

1           benefits or future benefit accruals under the  
2           plan.

3           “(2) RESTRICTION ON LUMP SUMS AND SIMI-  
4       LAR BENEFITS.—

5                   “(A) IN GENERAL.—Effective on the date  
6           the notice of certification of the plan’s declining  
7           status for the initial determination year under  
8           subsection (b)(5)(D) is sent, and notwith-  
9           standing section 411(d)(6), the plan shall not  
10          pay—

11                   “(i) any payment, in excess of the  
12           monthly amount paid under a single life  
13           annuity (plus any social security supple-  
14           ments described in the last sentence of sec-  
15           tion 411(a)(9)), to a participant or bene-  
16           ficiary whose annuity starting date (as de-  
17           fined in section 417(f)(2)) occurs after the  
18           date such notice is sent,

19                   “(ii) any payment for the purchase of  
20           an irrevocable commitment from an insurer  
21           to pay benefits, or

22                   “(iii) any other payment specified by  
23           the Secretary by regulations,  
24          unless it is a de minimis amount.

1           “(B) EXCEPTION.—Subparagraph (A)  
 2           shall not apply to a benefit which under section  
 3           411(a)(11) may be immediately distributed  
 4           without the consent of the participant or to any  
 5           makeup payment in the case of a retroactive  
 6           annuity starting date or any similar payment of  
 7           benefits owed with respect to a prior period.

8           “(3) SPECIAL RULES FOR PLAN ADOPTION PE-  
 9           RIOD.—During the period beginning on the date of  
 10          the certification under subsection (b)(5)(A) for the  
 11          initial determination year and ending on the date of  
 12          the adoption of a solvency plan—

13           “(A) the plan sponsor may not accept a  
 14           collective bargaining agreement or participation  
 15           agreement with respect to the multiemployer  
 16           plan that provides for—

17           “(i) a reduction in the level of con-  
 18           tributions for any participants,

19           “(ii) a suspension of contributions  
 20           with respect to any period of service, or

21           “(iii) any new direct or indirect exclu-  
 22           sion of younger or newly hired employees  
 23           from plan participation,

24           unless the plan sponsor reasonably determines  
 25           that the acceptance of such an agreement is in

the best interests of participants and beneficiaries and that rejection of such agreement would adversely affect the plan, and

“(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless 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.”.

(C) SUSPENSION OF BENEFITS.—Section 432 of such Code, as amended by this section, is further amended—

(i) by redesignating paragraph (9) of subsection (f) (as redesignated by subsection (a)(2)) as paragraph (8) of subsection (h) (as added by subparagraph (B)), and

(ii) by moving such paragraph to the position immediately after paragraph (7) of such subsection (h).

(4) CONFORMING AMENDMENTS.—

1           (A) Subsection (a)(4)(D) of section 432 of  
2 such Code, as redesignated and amended by the  
3 preceding provisions of this section, is further  
4 amended by striking “subsection (f)(9)” and in-  
5 serting “subsection (h)(8)”.

6           (B) Paragraph (5) of section 432(b) of  
7 such Code, as so redesignated and as amended  
8 by section 321 and the preceding provisions of  
9 this section, is further amended—

10               (i) by striking “critical” in subpara-  
11 graph (A)(i)(I) and inserting “critical or  
12 declining”,

13               (ii) by striking “funding improvement  
14 or rehabilitation period” in subparagraph  
15 (A)(i)(II) and inserting “funding improve-  
16 ment, rehabilitation, or solvency attain-  
17 ment period”,

18               (iii) by striking “funding improvement  
19 or rehabilitation plan” in subparagraph  
20 (A)(i)(II) and inserting “funding improve-  
21 ment, rehabilitation, or solvency plan”,

22               (iv) by striking “endangered or crit-  
23 ical” in subparagraph (A)(i)(V)(bb) and  
24 inserting “endangered, critical, or declin-  
25 ing”,

1 (v) by striking “funding improvement  
2 plan or rehabilitation” in subparagraph  
3 (A)(iv) and inserting “funding improve-  
4 ment, rehabilitation, or solvency”,

5 (vi) by striking “critical” each place it  
6 appears in subparagraph (A)(vi) and in-  
7 serting “critical or declining”,

8 (vii) by striking “rehabilitation pe-  
9 riod” in subparagraph (A)(vi) and insert-  
10 ing “rehabilitation or solvency attainment  
11 period”,

12 (viii) by striking “as described in sub-  
13 section (f)(9)” in subparagraph (B)(v),

14 (ix) by inserting “if the plan is al-  
15 ready in a rehabilitation period, and” be-  
16 fore “if reasonable” in subparagraph  
17 (B)(v)(I),

18 (x) by striking “subsection (f)(9)” in  
19 subparagraph (B)(v)(II) and inserting  
20 “subsection (h)(8)”,

21 (xi) by striking “endangered or crit-  
22 ical” both places it appears in subpara-  
23 graph (D)(i) and inserting “endangered,  
24 critical, or declining”,

1 (xii) by striking “ENDANGERED OR  
 2 CRITICAL” in the heading of subparagraph  
 3 (D)(ii) and inserting “ENDANGERED, CRIT-  
 4 ICAL, OR DECLINING”,

5 (xiii) by striking “endangered or crit-  
 6 ical” in subparagraph (D)(ii) and inserting  
 7 “endangered, critical, or declining”,

8 (xiv) by striking “funding improve-  
 9 ment or rehabilitation plan” both places it  
 10 appears in subclauses (I) and (II) of sub-  
 11 paragraph (D)(ii) and inserting “funding  
 12 improvement, rehabilitation, or solvency  
 13 plan”, and

14 (xv) by adding at the end of subpara-  
 15 graph (D) the following new clause:

16 “(vii) NOTICE OF PROJECTION TO BE  
 17 IN DECLINING STATUS IN A FUTURE PLAN  
 18 YEAR.—In any case in which it is certified  
 19 under subparagraph (A)(i) that a multiem-  
 20 ployer plan will be in declining status for  
 21 any of 5 succeeding plan years (but not for  
 22 the current plan year), the plan sponsor  
 23 shall, not later than 30 days after the date  
 24 of the certification, provide notification of

1 the projected declining status to the Pen-  
 2 sion Benefit Guaranty Corporation.”.

3 (C) Subparagraph (J) of section 432(h)(8)  
 4 of such Code, as so redesignated and amended,  
 5 is further amended—

6 (i) by striking “CRITICAL” in the  
 7 heading and inserting “DECLINING”, and

8 (ii) by striking “shall not emerge from  
 9 critical status under paragraph (4)(B),”  
 10 and inserting “shall not emerge from de-  
 11 clining status”.

12 (D) Subsection (j) of section 432 of such  
 13 Code, as so redesignated and amended, is fur-  
 14 ther amended—

15 (i) by striking “(f)(8) or (g)” in para-  
 16 graph (1) and inserting “(f)(8), (g), or  
 17 (i)”,

18 (ii) by striking “subsection (f)(9)” in  
 19 paragraph (1) and inserting “subsection  
 20 (h)(8)”,

21 (iii) by striking “FUNDING IMPROVE-  
 22 MENT OR REHABILITATION PLAN” in the  
 23 heading of paragraph (3) and inserting  
 24 “FUNDING IMPROVEMENT, REHABILITA-  
 25 TION, OR SOLVENCY”,

(iv) by striking “funding improvement plan or rehabilitation plan” both places it appears in subparagraphs (A) and (B) of paragraph (3) and inserting “funding improvement, rehabilitation, or solvency plan”,

(v) by striking “ENDANGERED OR CRITICAL” in the heading of paragraph (4), as amended by subsection (a), and inserting “ENDANGERED, CRITICAL, OR DECLINING”,

(vi) by striking “endangered or critical” each place it appears in paragraph (4), as so amended, and inserting “endangered, critical, or declining”, and

(vii) by striking “critical or endangered” in paragraph (4) and inserting “endangered, critical, or declining”.

(E) Subsection (k) of section 432 of such Code, as so redesignated and amended, is further amended—

(i) by striking “or a rehabilitation plan under subsection (f)” and inserting “, a rehabilitation plan under subsection (f), or a solvency plan under subsection (h)”,

(ii) by striking “endangered status or a plan in critical status” and inserting “endangered, critical, or declining status”,

(iii) by striking “has not agreed on a funding improvement plan or rehabilitation plan” and inserting “has not agreed on a funding improvement, rehabilitation, or solvency plan (whichever is applicable)”, and

(iv) by striking “adoption of a funding improvement plan or rehabilitation plan” and inserting “adoption of a funding improvement, rehabilitation, or solvency plan”.

(F) Subsection (l) of section 432 of such Code, as so redesignated and amended, is further amended—

(i) by striking “endangered status or in critical status” in paragraph (1) and inserting “endangered, critical, or declining status”,

(ii) by striking “endangered or critical” in paragraph (1) and inserting “endangered, critical, or declining”, and

1 (iii) by striking “(d) and (f)” in para-  
 2 graph (2) and inserting “(d), (f), and (h)”.

3 (G) Section 418E of such Code, as amend-  
 4 ed by section 112 and this section, is further  
 5 amended—

6 (i) by striking “432(b)(3)” each place  
 7 it appears in subsections (c)(1), (c)(2),  
 8 (d)(1), and (d)(2) and inserting  
 9 “432(b)(3), or a plan in declining status,  
 10 as described in section 432(b)(4)”, and

11 (ii) by striking “432(f)(9)” in sub-  
 12 section (g) and inserting “432(h)(8)”.

13 (H) Section 4971(g) of such Code, as  
 14 amended by this section, is further amended—

15 (i) by striking “ENDANGERED OR  
 16 CRITICAL” in the heading and inserting  
 17 “ENDANGERED, CRITICAL, OR DECLIN-  
 18 ING”,

19 (ii) by striking “critical status” in  
 20 paragraph (1)(A) and inserting “critical or  
 21 declining status”,

22 (iii) by striking “OR REHABILITATION  
 23 PLAN” in the heading of paragraph (2)  
 24 and inserting “, REHABILITATION, OR SOL-  
 25 VENCY PLAN”,

1 (iv) by striking “plan or rehabilitation  
2 plan” in paragraph (2)(A) and inserting “,  
3 rehabilitation, or solvency plan”,

4 (v) by striking “rehabilitation plan” in  
5 paragraph (2)(C) and inserting “funding  
6 improvement, rehabilitation, or solvency  
7 plan”,

8 (vi) by striking paragraph (3) and re-  
9 designating paragraphs (4), (5), and (6) as  
10 paragraphs (3), (4), and (5), respectively,

11 (vii) by striking “REHABILITATION  
12 PLAN” in the heading of paragraph (3), as  
13 so redesignated, and inserting “REHABILI-  
14 TATION OR SOLVENCY PLAN”,

15 (viii) by striking “critical status” in  
16 paragraph (3)(A), as so redesignated, and  
17 inserting “critical or declining status”,

18 (ix) by striking “rehabilitation plan”  
19 in paragraph (3)(A), as so redesignated,  
20 and inserting “rehabilitation or solvency  
21 plan”,

22 (x) by striking “described in section  
23 432(f)(1)(A) and ending on the day on  
24 which the rehabilitation plan is adopted”  
25 in paragraph (3)(B)(ii), as so redesignated,

1 and inserting “described in section  
 2 432(f)(1)(A) or 432(h)(1)(A), whichever is  
 3 applicable, and ending on the day on which  
 4 the rehabilitation plan or solvency plan is  
 5 adopted”,

6 (xi) by striking “432(k)(9)” in para-  
 7 graph (3)(C)(ii), as so redesignated, and  
 8 inserting “432(n)(9)”, and

9 (xii) by striking “or (3)” in paragraph  
 10 (4), as so redesignated.

11 (e) ADJUSTMENT OF BENEFITS.—

12 (1) IN GENERAL.—Section 432 of the Internal  
 13 Revenue Code of 1986, as amended by this section,  
 14 is further amended—

15 (A) by further redesignating subsections  
 16 (m) and (n), as redesignated by subsection (d),  
 17 as subsections (n) and (o), respectively,

18 (B) by redesignating paragraph (8) of sub-  
 19 section (f), as redesignated by subsection  
 20 (a)(2), as subsection (m), and

21 (C) by moving such subsection to the posi-  
 22 tion immediately after subsection (l).

23 (2) CLERICAL AND CONFORMING AMEND-  
 24 MENTS.—

1 (A) The heading of subsection (m) of sec-  
2 tion 432 of such Code, as redesignated by para-  
3 graph (1), is amended to read as follows:

4 “(m) ADJUSTMENT OF BENEFITS.—”.

5 (B) The following provisions of such sub-  
6 section (m) are amended as follows:

7 (i) Subparagraphs (A), (B), and (C)  
8 are redesignated as paragraphs (1), (2),  
9 and (4), respectively, and moved 2 ems to  
10 the left.

11 (ii) Clauses (i), (ii), (iii), and (iv) of  
12 paragraph (1) (as so redesignated) are re-  
13 designated as subparagraphs (A), (B), (C),  
14 and (D), respectively, and moved 2 ems to  
15 the left.

16 (iii) Subclauses (I), (II), and (III) of  
17 paragraph (1)(D) (as so redesignated) are  
18 redesignated as clauses (i), (ii), and (iii),  
19 respectively, and moved 2 ems to the left.

20 (iv) Clauses (i), (ii), and (iii) of para-  
21 graph (4) (as so redesignated) are redesign-  
22 ated as subparagraphs (A), (B), and (C),  
23 respectively, and moved 2 ems to the left,  
24 and the flush sentence at the end of sub-

paragraph (C) (as so redesignated) is moved 2 ems to the left.

(v) Subclauses (I), (II), and (III) of paragraph (4)(A) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(vi) Subclauses (I) and (II) of paragraph (4)(B) (as so redesignated) are redesignated as clauses (i) and (ii), respectively, and moved 2 ems to the left.

(vii) Subclauses (I), (II), and (III) of paragraph (4)(C) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(viii) Paragraph (1)(A), as so redesignated, is amended by striking “subparagraph (C)” and inserting “paragraph (4)”.

(ix) Paragraph (1)(B), as so redesignated, is amended by striking “clause (iv)(III)” and inserting “subparagraph (D)(iii)”.

(x) Paragraph (1)(D), as so redesignated, is amended by striking “this paragraph” and inserting “this subsection”.

1 (xi) Paragraph (2), as so redesign-  
 2 nated, is amended—

3 (I) by striking “subparagraph  
 4 (A)(iv)(III)” and inserting “para-  
 5 graph (1)(D)(iii)”, and

6 (II) by striking “this paragraph”  
 7 and inserting “this subsection”.

8 (xii) Paragraph (4)(A), as so redesign-  
 9 nated, is amended by striking “subpara-  
 10 graph (A)” and inserting “paragraph (1)”.

11 (xiii) Paragraphs (4)(B) and (4)(C),  
 12 as so redesignated, are each amended by  
 13 striking “clause (i)” each place it appears  
 14 and inserting “subparagraph (A)”.

15 (xiv) The last sentence of paragraph  
 16 (4)(C), as so redesignated, is amended—

17 (I) by striking “subclause (I)”  
 18 and inserting “clause (i)”, and

19 (II) by striking “this subpara-  
 20 graph” and inserting “this para-  
 21 graph”.

22 (3) APPLICATION TO ALL PLANS IN ENDAN-  
 23 GERED, CRITICAL, OR DECLINING STATUS.—

24 (A) IN GENERAL.—Subparagraph (A) of  
 25 section 432(m)(1) of such Code, as redesign-

nated and amended by this section, is further amended—

(i) by striking “the plan sponsor shall” and inserting “the plan sponsor of a multiemployer plan in endangered, critical, or declining status may”, and

(ii) by striking “paragraph (1)(B)(i)” and inserting “subsection (d)(1)(B), (f)(1)(B), or (h)(1)(B), whichever is applicable”.

(B) CONFORMING AMENDMENT.—Subparagraph (B) of section 432(m)(1) of such Code, as redesignated and amended by this section, is further amended by striking “critical” both places it appears and inserting “endangered, critical, or declining”.

(4) ADDITIONAL ADJUSTABLE BENEFITS.—

(A) IN GENERAL.—Subparagraph (D) of section 432(m)(1) of such Code, as redesignated by this section, is amended—

(i) by inserting “, including early reduction factors which are not provided on an actuarially equivalent basis,” after “(i))” in clause (ii), as so redesignated,

1 (ii) by striking “and” at the end of  
 2 clause (ii) (as so redesignated),

3 (iii) by striking “that would not be eli-  
 4 gible” and all that follows through the pe-  
 5 riod in clause (iii) (as so redesignated) and  
 6 inserting “which were adopted (or, if later,  
 7 took effect) less than 120 months before  
 8 the first day of the first plan year in which  
 9 the plan was in endangered, critical, or de-  
 10 clining status,” and

11 (iv) by adding at the end the following  
 12 new clauses:

13 “(iv) any one-time bonus payment or  
 14 ‘thirteenth check’ provision, and

15 “(v) benefits granted for periods of  
 16 service prior to participation in the plan.”.

17 (B) CONFORMING AMENDMENTS.—

18 (i) Subparagraph (B) of section  
 19 432(m)(1) of such Code, as redesignated  
 20 and amended by this section, is further  
 21 amended by striking “subparagraph  
 22 (D)(iii)” and inserting “clause (iii), (iv), or  
 23 (v) of subparagraph (D)”.

24 (ii) Paragraph (2) of section 432(m)  
 25 of such Code, as amended by paragraph

1                   (2)(B), is further amended by striking  
 2                   “paragraph (1)(D)(iii)” and inserting  
 3                   “clause (iii), (iv), or (v) of paragraph  
 4                   (1)(D)”.

5                   (5) RULES RELATING TO SUSPENSION OF BEN-  
 6                   EFITS UPON RETURN TO WORK.—Subsection (m) of  
 7                   section 432 of such Code, as redesignated and  
 8                   amended by this section, is further amended by in-  
 9                   serting after paragraph (2) the following new para-  
 10                  graph:

11                “(3) RULES RELATING TO SUSPENSION OF  
 12                BENEFITS UPON RETURN TO WORK.—The plan  
 13                sponsor of a multiemployer plan in endangered, crit-  
 14                ical, or declining status may amend rules regarding  
 15                the suspension of a participant’s benefits upon a re-  
 16                turn to work after commencement of benefits, or the  
 17                commencement of benefits after normal retirement  
 18                age (including in the case of continued employment  
 19                after normal retirement age). Any such changes  
 20                shall apply only to future payments of benefits.”.

21                (6) ADDITIONAL CONFORMING AMENDMENTS.—

22                   (A) Clause (iii) of section 432(b)(5)(D) of  
 23                   such Code, as redesignated and amended by  
 24                   this section, is further amended—

1 (i) by striking “CRITICAL” in the  
 2 heading and inserting “ENDANGERED,  
 3 CRITICAL, OR DECLINING”,

4 (ii) by striking “critical status” both  
 5 places it appears and inserting “endan-  
 6 gered, critical, or declining status”, and

7 (iii) by striking “subsection (f)(8)” in  
 8 subclause (I) and inserting “subsection  
 9 (m)(1)(D)”.

10 (B) Subsection (j) of section 432 of such  
 11 Code, as amended by subsection (d), is further  
 12 amended by striking “(f)(8), (g), or (i)” and in-  
 13 serting “(e), (g), (i), or (m)”.

14 (f) ELECTIONS TO BE IN CRITICAL OR ENDANGERED  
 15 STATUS.—

16 (1) IN GENERAL.—Paragraph (6) of section  
 17 432(b) of the Internal Revenue Code of 1986, as re-  
 18 designated and amended by this section, is further  
 19 amended—

20 (A) by striking “is not in critical status”  
 21 in subparagraph (A) and inserting “is not in  
 22 critical or declining status”,

23 (B) by striking “but that is projected” in  
 24 subparagraph (A) and inserting “but—

25 “(i) that is projected”,

(C) by striking “5 plan years may, not later than” in subparagraph (A) and inserting “5 plan years, or

“(ii) that is in endangered status and is not reasonably projected to be able to emerge from endangered status within the funding improvement period under the funding improvement plan in effect,

may, not later than”, and

(D) by striking “under paragraph (3)” in subparagraph (B) and inserting “under paragraph (3) or for endangered status under paragraph (2)”.

(2) ELECTION TO BE IN ENDANGERED STATUS.—Subsection (b) of section 432 of such Code, as so redesignated and amended, is further amended by adding at the end the following new paragraph:

“(8) ELECTION TO BE IN ENDANGERED STATUS.—Notwithstanding paragraph (2)—

“(A) the plan sponsor of a multiemployer plan that is not in endangered, critical, or declining status for a plan year but that is projected by the plan actuary, pursuant to the determination under paragraph (5), to be in endangered status in any of the 5 succeeding plan

years, may, not later than 30 days after the date of the certification under paragraph (5)(A), elect to be in endangered status effective for the current plan year,

“(B) the plan year in which the plan sponsor elects to be in endangered status under subparagraph (A) shall be treated for purposes of this section as the first year in which the plan is in endangered status, regardless of the date on which the plan first satisfies the criteria for endangered status under paragraph (2), and

“(C) a plan that is in endangered status under this paragraph shall not emerge from endangered status unless the plan’s actuary certifies under paragraph (5)(A) that the plan is no longer in endangered status and is not in critical or declining status.”.

(g) AMENDMENTS RELATING TO FUNDING IMPROVEMENT PLAN.—

(1) IN GENERAL.—Paragraph (1) of section 432(d) of the Internal Revenue Code of 1986, as redesignated and amended by this section, is further amended—

(A) by striking the last sentence, and

1 (B) in subparagraph (B), by striking  
2 “funding improvement plan—” and all that fol-  
3 lows and inserting “funding improvement plan,  
4 shall provide to the bargaining parties 1 or  
5 more schedules showing revised benefit struc-  
6 tures, revised contribution structures, or both,  
7 which, if adopted, may reasonably be expected  
8 to enable the multiemployer plan to meet the  
9 requirements of paragraph (3), including—

10 “(i) one default proposal under  
11 which—

12 “(I) all adjustable benefits in the  
13 form of early retirement subsidies (in-  
14 cluding early reduction factors which  
15 are not provided on an actuarially  
16 equivalent basis) under the plan are  
17 eliminated, and

18 “(II) the future monthly benefit  
19 accrual rate under the plan is reduced  
20 to the equivalent of 1 percent of an-  
21 nual contributions (or, if lower, the  
22 accrual rate as of the date of the en-  
23 actment of the Chris Allen Multiem-  
24 ployer Pension Recapitalization and  
25 Reform Act of 2020) based on the

1 contribution rate in effect as of the  
 2 first day of the plan year in which the  
 3 plan enters endangered status, and  
 4 which may also include reduction or elimi-  
 5 nation of any other adjustable benefits  
 6 under the plan, and

7 “(ii) any additional schedules which  
 8 reduce or eliminate adjustable benefits  
 9 under the plan which the plan sponsor  
 10 deems appropriate to provide as an alter-  
 11 native to the default proposal.”.

12 (2) FUNDING IMPROVEMENT PLAN.—Paragraph  
 13 (3) of section 432(d) of such Code, as so redesign-  
 14 nated and amended, is further amended—

15 (A) by striking “For purposes of this sec-  
 16 tion—” and all that follows through “which  
 17 consists of” in subparagraph (A) and inserting  
 18 “For purposes of this section, a funding im-  
 19 provement plan is a plan which consists of”,  
 20 and

21 (B) by striking “formulated to provide”  
 22 and all that follows and inserting “formulated,  
 23 based on reasonably anticipated experience and  
 24 reasonable actuarial assumptions, to—

1           “(A) enable the plan to no longer be in en-  
 2           dangered status (as certified by the plan actu-  
 3           ary) by the end of the funding improvement pe-  
 4           riod, and

5           “(B) avoid any accumulated funding defi-  
 6           ciencies during the funding improvement period  
 7           (taking into account any extension of amortiza-  
 8           tion periods under section 431(d)).”.

9           (3) FUNDING IMPROVEMENT PERIOD.—Para-  
 10          graph (4) of section 432(d) of such Code, as so re-  
 11          designated and amended, is further amended by  
 12          striking subparagraph (B) and inserting after sub-  
 13          paragraph (A) the following new subparagraph:

14               “(B) NEW PERIOD BASED ON ADVERSE  
 15          EXPERIENCE.—

16               “(i) IN GENERAL.—If the plan’s actu-  
 17               ary determines necessary based on adverse  
 18               plan experience, the plan sponsor may pro-  
 19               vide for a new 10-year period as of the  
 20               first day of any plan year in the original  
 21               funding improvement period, but only if  
 22               the plan is still projected to meet the re-  
 23               quirements of the funding improvement  
 24               plan and emerge from endangered status

1 at the end of the new funding improvement  
2 period.

3 “(ii) LIMITATION.—A plan sponsor  
4 may provide a new 10-year period under  
5 clause (i) not more than 1 time in any 20-  
6 consecutive-year period, unless the plan  
7 sponsor submits to the Secretary an appli-  
8 cation for an additional new period. Such  
9 application shall include a certification that  
10 the plan is projected to emerge from en-  
11 dangered status in the proposed new 10-  
12 year period and a description of key as-  
13 sumptions, to be specified in regulations  
14 promulgated by the Secretary in consulta-  
15 tion with the Pension Benefit Guaranty  
16 Corporation.”.

17 (4) CONFORMING AMENDMENTS.—

18 (A) Subparagraph (C) of section 432(d)(4)  
19 of such Code, as so redesignated and amended,  
20 is further amended—

21 (i) by striking “critical status” both  
22 places it appears in clauses (i) and (ii) and  
23 inserting “critical or declining status”,

1 (ii) by striking “rehabilitation period”  
 2 in clause (ii) and inserting “rehabilitation  
 3 or solvency attainment period”, and

4 (iii) by striking “CRITICAL STATUS” in  
 5 the heading of clause (ii) and inserting  
 6 “CRITICAL OR DECLINING STATUS”.

7 (B) Subsection (d) of section 432 of such  
 8 Code, as so redesignated and amended, is fur-  
 9 ther amended by striking paragraph (5) and by  
 10 redesignating paragraphs (6), (7), and (8) as  
 11 paragraphs (5), (6), and (7), respectively.

12 (C) Paragraph (6) of section 432(d) of  
 13 such Code, as so redesignated, is amended—

14 (i) by striking “(1)(B)(i)(I)” in sub-  
 15 paragraph (A) and inserting “(1)(B)(i)”,  
 16 and

17 (ii) by striking “paragraph (6)(B)” in  
 18 subparagraph (B)(ii) and inserting “para-  
 19 graph (5)(B)”.

20 (D) Paragraph (2) of section 432(d) of  
 21 such Code, as so redesignated, is amended by  
 22 inserting “, except that the next update of the  
 23 funding improvement plan shall fulfill the re-  
 24 quirement of paragraph (1)(B)(i)” after “for a  
 25 preceding plan year”.

1 (h) AMENDMENTS RELATING TO REHABILITATION  
2 PLAN.—

3 (1) IN GENERAL.—Paragraph (1) of section  
4 432(f) of the Internal Revenue Code of 1986, as re-  
5 designated and amended by this section, is further  
6 amended—

7 (A) by striking the last 2 sentences, and

8 (B) in subparagraph (B), by striking “re-  
9 habilitation plan—” and all that follows and in-  
10 serting “rehabilitation plan, shall provide to the  
11 bargaining parties 1 or more schedules showing  
12 revised benefit structures, revised contribution  
13 structures, or both, which, if adopted, may rea-  
14 sonably be expected to enable the multiemployer  
15 plan to meet the requirements of paragraph (3),  
16 including—

17 “(i) one default proposal under  
18 which—

19 “(I) all adjustable benefits in the  
20 form of early retirement subsidies (in-  
21 cluding early reduction factors which  
22 are not provided on an actuarially  
23 equivalent basis) under the plan are  
24 eliminated, and

1                   “(II) the future monthly benefit  
2                   accrual rate under the plan is reduced  
3                   to the equivalent of 1 percent of an-  
4                   nual contributions (or, if lower, the  
5                   accrual rate as of the date of the en-  
6                   actment of the Chris Allen Multiem-  
7                   ployer Pension Recapitalization and  
8                   Reform Act of 2020) based on the  
9                   contribution rate in effect as of the  
10                  first day of the plan year in which the  
11                  plan enters critical status, and  
12                  which may also include reduction or elimi-  
13                  nation of any other adjustable benefits  
14                  under the plan, and  
15                  “(ii) any additional schedules which  
16                  reduce or eliminate adjustable benefits  
17                  under the plan which the plan sponsor  
18                  deems appropriate to provide as an alter-  
19                  native to the default proposal.  
20                  In the case of a plan adopting a rehabilitation  
21                  plan described in paragraph (3)(A)(ii), no  
22                  schedule provided to or adopted by the bar-  
23                  gaining parties shall provide for a monthly ben-  
24                  efit accrual rate in excess of the rate described  
25                  in subparagraph (B)(i)(II).”.

1 (2) REHABILITATION PLAN.—

2 (A) IN GENERAL.—Subparagraph (A) of  
3 section 432(f)(3) of such Code, as so redesign-  
4 nated, is amended—

5 (i) by striking “and may include” and  
6 all that follows through “such actions” in  
7 clause (i),

8 (ii) by inserting “, while delaying in-  
9 solvency for as long as possible and maxi-  
10 mizing the income of the plan, including  
11 income after insolvency” before the period  
12 in clause (ii), and

13 (iii) by striking “(1)(B)(i)” in the last  
14 sentence and inserting “(1)(B)”.

15 (B) CONFORMING AMENDMENTS.—Clause  
16 (i) of section 432(f)(3)(C) of such Code, as so  
17 redesignated, is amended—

18 (i) by striking “(1)(B)(i)” in sub-  
19 clause (II) and inserting “(1)(B)”, and

20 (ii) by striking “the last sentence of  
21 paragraph (1)” and inserting “paragraph  
22 (1)(B)(i)”.

23 (3) REHABILITATION PERIOD.—

1 (A) IN GENERAL.—Subparagraph (A) of  
2 section 432(f)(4) of such Code, as so redesign-  
3 nated and amended, is further amended—

4 (i) by striking “The rehabilitation pe-  
5 riod” and inserting “Except as otherwise  
6 provided in this subparagraph, the reha-  
7 bilitation period”, and

8 (ii) by adding at the end the fol-  
9 lowing: “If, upon exhaustion of all reason-  
10 able measures, the plan is not reasonably  
11 expected to emerge from critical status by  
12 the end of such 10-year period, the reha-  
13 bilitation period shall be extended to take  
14 into account the projected date of emer-  
15 gence from critical status (if the rehabilita-  
16 tion plan remained in effect until such  
17 date) or the projected date of insolvency (if  
18 applicable) (unless the plan enters declin-  
19 ing status).”.

20 (B) EMERGENCE FROM CRITICAL STA-  
21 TUS.—Subparagraph (B) of section 432(f)(4) of  
22 such Code, as so redesignated and amended, is  
23 further amended—

1 (i) by inserting “and is not in declin-  
 2 ing status,” after the comma in clause  
 3 (i)(I),

4 (ii) by striking subclause (III) of  
 5 clause (i) and inserting the following:

6 “(III) the plan’s projected funded  
 7 percentage as of the first day of the  
 8 15th succeeding plan year is at least  
 9 100 percent and is projected to in-  
 10 crease after such date.”,

11 (iii) by striking “that—” and all that  
 12 follows through “regardless of whether” in  
 13 clause (ii)(I) and inserting “that the plan  
 14 meets the requirements of subclauses (II)  
 15 and (III) of clause (i), regardless of wheth-  
 16 er”, and

17 (iv) by striking “unless—” and all  
 18 that follows in clause (ii)(II) and inserting  
 19 “unless, as of such plan year, the plan fails  
 20 to meet the requirements of subclause (II)  
 21 or (III) of clause (i).”.

22 (4) RULES RELATING TO BENEFIT INCREASES  
 23 DURING REHABILITATION PERIOD.—Subparagraph  
 24 (B) of section 432(g)(1) of such Code, as so redesign-  
 25 nated and amended, is further amended by striking

1 “unless” and all that follows and inserting “unless  
 2 the amendment is required as a condition of quali-  
 3 fication under part I of subchapter D of chapter 1  
 4 or to comply with other applicable law, or the  
 5 amendment provides for only a de minimis increase  
 6 in the liabilities of the plan.”.

7 (5) CONFORMING AMENDMENTS.—

8 (A) Paragraph (6) of section 432(f) of  
 9 such Code, as so redesignated, is amended by  
 10 striking “the last sentence of paragraph (1)”  
 11 and inserting “paragraph (1)(B)(i)”.

12 (B) Paragraph (2) of section 432(f) of  
 13 such Code, as so redesignated, is amended by  
 14 inserting “, except that the next update of the  
 15 rehabilitation plan shall fulfill the requirement  
 16 of paragraph (1)(B)(i)” after “for a preceding  
 17 plan year”.

18 (i) ACTUARIAL ASSUMPTIONS.—

19 (1) IN GENERAL.—Subsection (n) of section  
 20 432 of the Internal Revenue Code of 1986, as reded-  
 21 icated by subsections (a), (d), and (e), is amend-  
 22 ed—

23 (A) by striking “METHOD” in the heading  
 24 and inserting “METHOD AND ASSUMPTIONS”,  
 25 and

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

3 “(11) ACTUARIAL ASSUMPTIONS.—

4 “(A) IN GENERAL.—The actuarial assump-  
5 tions relied upon for purposes of this section by  
6 a plan actuary shall be individually reasonable  
7 and, in the aggregate, shall be reasonable and  
8 (with the exception of assumptions regarding  
9 future contributions) represent the actuary’s  
10 best estimate of future plan experience, within  
11 limitations prescribed by the Secretary. A plan  
12 actuary shall avoid conservatism or optimism in  
13 individual assumptions to the extent that they  
14 would result in a set of assumptions that is un-  
15 reasonable in the aggregate.

16 “(B) INVESTMENT RETURNS.—The invest-  
17 ment return assumption for projecting plan as-  
18 sets may differ from the actuarial valuation in-  
19 terest rate. In selecting the investment return  
20 assumption for projecting plan assets, the plan  
21 actuary shall estimate the expected return of  
22 the plan’s investments as currently invested and  
23 as expected to be invested in the future, con-  
24 sistent with the plan’s adopted investment pol-  
25 icy, if applicable. It is reasonable for an actuary

1 to expect that the plan’s investment decisions  
2 will consider risk, expected returns over time,  
3 and expected future benefit payments. The in-  
4 vestment return assumption shall not exceed  
5 the interest rate used to determine past service  
6 liability under section 431(b)(6).

7 “(C) CONTRIBUTIONS.—

8 “(i) IN GENERAL.—The plan actuary  
9 shall develop assumptions for the projec-  
10 tion of future contributions, including as-  
11 sumptions regarding industry activity  
12 among contributing employers and con-  
13 tribution rates, based on information pro-  
14 vided by the plan sponsor, which must act  
15 reasonably and in good faith. The plan ac-  
16 tuary shall certify the reasonableness of all  
17 assumptions.

18 “(ii) PROJECTED INDUSTRY ACTIV-  
19 ITY.—Any projection of activity in the in-  
20 dustry or industries covered by the plan,  
21 including future covered employment and  
22 contribution levels, shall be based on infor-  
23 mation provided by the plan sponsor acting  
24 reasonably and in good faith.

1 “(iii) FUTURE CONTRIBUTION BASE  
2 UNITS.—

3 “(I) DECLINING CONTRIBUTION  
4 BASE UNITS.—If recent experience of  
5 the plan has been declining contribu-  
6 tion base units, the plan actuary may  
7 assume future contribution base units  
8 will continue to decline at the same  
9 annualized trend as over the 5 imme-  
10 diately preceding plan years, unless  
11 the actuary determines that there  
12 have been significant changes that  
13 would make such assumption unrea-  
14 sonable.

15 “(II) FLAT OR INCREASING CON-  
16 TRIBUTION BASE UNITS.—If recent  
17 experience of the plan has been in-  
18 creasing, or neither increasing nor de-  
19 creasing, contribution base units, the  
20 plan actuary may assume future con-  
21 tribution base units will remain un-  
22 changed indefinitely, unless the actu-  
23 ary determines that there have been  
24 significant changes that would make  
25 such assumption unreasonable.

1 “(iv) FUTURE CONTRIBUTION  
2 RATES.—

3 “(I) IN GENERAL.—Projections  
4 of contributions shall be based on the  
5 contribution rates consistent with the  
6 terms of collective bargaining and  
7 participation agreements currently in  
8 effect.

9 “(II) FUTURE INCREASES IN AC-  
10 CORDANCE WITH CORRECTION  
11 PLANS.—If reasonable and applicable,  
12 the plan actuary may assume future  
13 increases in contribution rates con-  
14 sistent with the adopted funding im-  
15 provement plan, rehabilitation plan, or  
16 solvency plan.

17 “(III) ADDITIONAL FACTORS.—  
18 Information provided by the plan  
19 sponsor to the plan actuary in setting  
20 the assumption regarding future in-  
21 creases in contribution rates shall  
22 take into account the ability of the  
23 participating employers to make con-  
24 tributions at the scheduled rates over  
25 time, considering relevant factors such

1 as projected industry activity, the fi-  
 2 nancial strength of participating em-  
 3 ployers, market competition, and the  
 4 scheduled contribution rate to the  
 5 plan relative to the overall wage pack-  
 6 age.

7 “(D) ASSUMPTIONS FOR DEVELOPING  
 8 SCHEDULES.—All schedules under any funding  
 9 improvement plan, rehabilitation plan, or sol-  
 10 vency plan must be developed based on the  
 11 same set of actuarial assumptions unless it  
 12 would be unreasonable to do so, taking into ac-  
 13 count the anticipated impact of the schedules  
 14 on participant behavior and employer participa-  
 15 tion.”.

16 (2) ADDITIONS TO FORM 5500 SCHEDULE MB.—  
 17 Subparagraph (B) of section 432(b)(5) of such  
 18 Code, as redesignated and amended by this section,  
 19 is further amended by adding at the end the fol-  
 20 lowing new clause:

21 “(vi) ADDITIONAL ATTACHMENTS.—  
 22 The plan actuary shall attach to the cer-  
 23 tification required under subparagraph  
 24 (A)—

1           “(I) documentation supporting  
2           the certification of status under sub-  
3           paragraph (A), including projections  
4           of the funding standard account,  
5           funded percentage, and solvency of  
6           the plan,

7           “(II) a clear description of the  
8           key assumptions used in performing  
9           the projections, including investment  
10          returns, contribution base units, and  
11          contribution rates,

12          “(III) a 5-year history of con-  
13          tributions, including contribution base  
14          units, average contribution rates, and  
15          withdrawal liability payments, and a  
16          comparison of such contribution base  
17          units, rates, and payments to projec-  
18          tions made by the plan, and

19          “(IV) an alternate projection of  
20          the funding standard account, funded  
21          percentage, and solvency, based on the  
22          following assumptions:

23                  “(aa) Annual future invest-  
24                  ment returns on plan assets

1 equal the actuarial interest rate  
2 assumption minus 1 percent.

3 “(bb) Future contribution  
4 base units projected using a  
5 trend equal to the lesser of—

6 “(AA) the annualized  
7 trend of actual contribution  
8 base units over the 5 pre-  
9 ceding plan years, and

10 “(BB) no change in fu-  
11 ture contribution base units.

12 “(cc) No increases in future  
13 contribution rates beyond those  
14 consistent with the collective bar-  
15 gaining agreements and partici-  
16 pation agreements in effect for  
17 the plan year.

18 “(dd) The withdrawal from  
19 the plan of the employer which  
20 has contributed the greatest total  
21 amount of contributions over the  
22 5 preceding plan years, if such  
23 employer has contributed at least  
24 10 percent of the total contribu-  
25 tions to the plan over such 5 plan

1 years and such employer has a  
2 below investment grade credit  
3 rating (but only if obtaining the  
4 credit rating of such employer is  
5 not an undue burden).

6 “(ee) If such credit rating  
7 cannot be obtained without  
8 undue burden, the withdrawal of  
9 the employer which has contrib-  
10 uted the greatest total amount of  
11 contributions over the 5 pre-  
12 ceding plan years, if such em-  
13 ployer has contributed at least 10  
14 percent of the total contributions  
15 to the plan over such 5 plan  
16 years without regard to collection  
17 of any withdrawal liability.

18 “(ff) If no employer has con-  
19 tributed at least 10 percent of  
20 the total contributions to the  
21 plan over the 5 preceding plan  
22 years, the withdrawal of the em-  
23 ployer which contributed the  
24 greatest total amount of con-  
25 tributions for the current plan

1 year, without regard to collection  
 2 of any withdrawal liability, unless  
 3 the employer contributed less  
 4 than 1 percent of the total con-  
 5 tributions to the plan for such  
 6 plan year.

7 “(gg) Other assumptions  
 8 consistent with the projection  
 9 based on the actuary’s best esti-  
 10 mate assumptions.”.

11 (3) CONFORMING AMENDMENTS.—

12 (A) Section 432(b)(5)(B)(i) of such Code,  
 13 as redesignated by this section, is amended by  
 14 striking “assumptions” and inserting “assump-  
 15 tions meeting the requirements of subsection  
 16 (n)(11)”.

17 (B) Section 432(b)(5)(A)(vi) of such Code,  
 18 as amended by this section and section 321, is  
 19 further amended by striking “reasonable actu-  
 20 arial assumptions” and inserting “assumptions  
 21 meeting the requirements of subsection  
 22 (n)(11)”.

23 (C) Paragraph (3) of section 432(d) of  
 24 such Code, as amended by subsection (g), is  
 25 further amended by striking “reasonable actu-

1           arial assumptions” and inserting “assumptions  
2           meeting the requirements of subsection  
3           (n)(11)”.

4           (D) Clause (i) of section 432(f)(3)(A) of  
5           such Code, as amended by subsection (h), is  
6           further amended by striking “reasonable actu-  
7           arial assumptions” and inserting “assumptions  
8           meeting the requirements of subsection  
9           (n)(11)”.

10          (E) Section 432(h)(3) of such Code, as  
11          added by subsection (d), is amended by striking  
12          “reasonable actuarial assumptions” and insert-  
13          ing “assumptions meeting the requirements of  
14          subsection (n)(11)”.

15          (j) CONFORMING AMENDMENTS RELATING TO LEG-

16   ACY PLANS.—

17          (1) Subsections (a)(3)(F), (b)(1)(B)(i),  
18          (b)(1)(H)(iv), and (d)(6)(A) of section 411 of the  
19          Internal Revenue Code of 1986, as amended by title  
20          V, are each further amended by striking “432(f)”  
21          each place it appears and inserting “432(h)(8)”.

22          (2) Sections 431(b)(10), 440A(d)(2)(D), and  
23          440A(d)(4) of such Code, as added by title V, are  
24          each amended by striking “endangered or critical”  
25          and inserting “endangered, critical, or declining”.

1           (3) Section 437(b)(1) of such Act, as so added,  
2           is amended by striking “endangered or critical” both  
3           places it appears and inserting “endangered, critical,  
4           or declining”.

5           (4) Sections 437(b)(5)(B) and 440A(b)(1)(A)  
6           of such Code, as so added, are each amended by  
7           striking “endangered or critical” and inserting “en-  
8           dangered, critical, or declining”.

9           (5) Sections 437(b)(1), 437(b)(5)(B),  
10          440A(b)(1)(A), and 440A(e)(3) of such Code, as so  
11          added, are each amended by striking “432(b)(4)”  
12          and inserting “432(b)(5)”.

13          (6) Sections 438(b)(5) and 440A(d)(2)(A) of  
14          such Code, as so added, are each amended by strik-  
15          ing “432(b)(4)(B)” and inserting “432(b)(5)(B)”.

16          (7) Section 438(b)(1) of such Code, as so  
17          added, is amended by striking “and” at the end of  
18          subparagraph (B), by striking the period at the end  
19          of subparagraph (C) and inserting “, and”, and by  
20          adding at the end the following new subparagraph:

21                 “(D) consistent with the principles of sub-  
22                 paragraphs (B), (C), and (D) of section  
23                 432(n)(11).”.

1           (8) Section 439(a)(2)(D) of such Code, as so  
 2       added, is amended by striking “432(f)(9)(D)(vi)”  
 3       and inserting “432(h)(8)(D)(vi)”.

4           (9) Section 439(a)(3) of such Code, as so  
 5       added, is amended by striking “432(f)(8)” and in-  
 6       serting “432(m)(1)(D)”.

7           (10) Section 440A(d)(2)(D) of such Code, as so  
 8       added and amended, is further amended by striking  
 9       “funding improvement or rehabilitation plan” and  
 10      inserting “funding improvement, rehabilitation, or  
 11      solvency plan”.

12       (k) EFFECTIVE DATE.—Except as otherwise pro-  
 13      vided in subsection (a)(7), the amendments made by this  
 14      section shall apply to plan years beginning after December  
 15      31, 2020.

16       (l) CREDIT RATINGS.—No requirement of section  
 17      939 or 939A of the Dodd-Frank Wall Street Reform and  
 18      Consumer Protection Act (124 Stat. 1887; 15 U.S.C.  
 19      78o–7 note) shall apply with respect to the amendment  
 20      made by subsection (i)(2).

21      **SEC. 212. AMENDMENTS TO EMPLOYEE RETIREMENT IN-**  
 22                                   **COME SECURITY ACT OF 1974.**

23       (a) RULES APPLYING TO ALL MULTIEMPLOYER  
 24      PLANS.—

1           (1) IN GENERAL.—Subsection (a) of section  
2       305 of the Employee Retirement Income Security  
3       Act of 1974 (29 U.S.C. 1085) is amended—

4           (A) by striking “a multiemployer plan in  
5       effect on July 16, 2006—” and inserting “any  
6       multiemployer plan—”,

7           (B) by redesignating paragraphs (1), (2),  
8       and (3) as paragraphs (2), (3), and (4), respec-  
9       tively,

10          (C) by inserting before paragraph (2), as  
11       so redesignated, the following new paragraph:  
12       “(1) the rules of subsection (c) shall apply,”

13          (D) by striking “subsection (c)” in para-  
14       graph (2)(A), as so redesignated, and inserting  
15       “subsection (d)”,

16          (E) by striking “subsection (d)” in para-  
17       graph (2)(B), as so redesignated, and inserting  
18       “subsection (e)”,

19          (F) by striking “subsection (e)” in para-  
20       graph (3)(A), as so redesignated, and inserting  
21       “subsection (f)”,

22          (G) by striking “subsection (f)” in para-  
23       graph (3)(B), as so redesignated, and inserting  
24       “subsection (g)”, and

1 (H) by striking “subsection (e)(9)” in  
 2 paragraph (4)(B), as so redesignated, and in-  
 3 serting “subsection (f)(9)”.

4 (2) RULES OF IMMEDIATE APPLICATION.—Sec-  
 5 tion 305 of such Act (29 U.S.C. 1085) is amend-  
 6 ed—

7 (A) by redesignating subsections (c), (d),  
 8 (e), (f), (g), (h), (i), and (j) as subsections (d),  
 9 (e), (f), (g), (h), (i), (j), and (k), respectively,  
 10 and

11 (B) by inserting after subsection (b) the  
 12 following new subsection:

13 “(c) RULES APPLYING TO ALL MULTIEMPLOYER  
 14 PLANS.—

15 “(1) BENEFIT INCREASES.—

16 “(A) INCREASES BY PLAN AMENDMENT.—

17 The plan sponsor of any multiemployer plan  
 18 shall not adopt a plan amendment which in-  
 19 creases plan liabilities (as determined as of the  
 20 date of the adoption of the amendment) due to  
 21 any increase in benefits, any change in the ac-  
 22 crual rate of benefits, or any change in the rate  
 23 at which benefits become nonforfeitable, un-  
 24 less—

1           “(i) if the plan is in unrestricted sta-  
2           tus as of the adoption of such amendment,  
3           the plan actuary certifies in accordance  
4           with subsection (b)(4) that the increase in  
5           liabilities will not cause the plan to no  
6           longer be in unrestricted status,

7           “(ii) if the plan is in stable status as  
8           of the adoption of such amendment, the  
9           plan actuary certifies in accordance with  
10          subsection (b)(4) that any such increase or  
11          change in benefits will be paid from addi-  
12          tional contributions not required by any  
13          collective bargaining agreement in effect as  
14          of the adoption of the amendment,

15          “(iii) if the plan is in endangered sta-  
16          tus as of the adoption of such amendment,  
17          the plan actuary certifies in accordance  
18          with subsection (b)(4) that any such in-  
19          crease or change in benefits will be paid  
20          from additional contributions not con-  
21          templated in any current funding improve-  
22          ment plan, or

23          “(iv) the increase or change in bene-  
24          fits is required by law or is a de minimis  
25          change.

1                   “(B) INCREASES UNDER CRITICAL OR  
2                   CRITICAL AND DECLINING STATUS.—Unless re-  
3                   quired as a condition of qualification under part  
4                   I of subchapter D of chapter 1 of the Internal  
5                   Revenue Code of 1986 or to comply with other  
6                   applicable law, in the case of a plan which is in  
7                   critical or critical and declining status, no in-  
8                   crease in benefits, change in the accrual rate of  
9                   benefits, or change in the rate at which benefits  
10                  become nonforfeitable which increases plan li-  
11                  abilities shall take effect while the plan is in  
12                  such status, without regard to whether such in-  
13                  crease or change would otherwise occur under  
14                  the provisions of the plan, unless the increase  
15                  in plan liabilities due to the change is de mini-  
16                  mis.

17               “(2) CONTRIBUTION REDUCTIONS.—The plan  
18               sponsor of any multiemployer plan shall not accept  
19               any collective bargaining agreement or participation  
20               agreement which reduces the rate of contributions  
21               under the plan for any participants, suspends con-  
22               tributions with respect to any period of service, or  
23               directly or indirectly excludes younger, probationary,  
24               or newly hired employees from participation in the  
25               plan, unless—

1           “(A) the plan is in unrestricted status as  
2           of the adoption of such agreement and the plan  
3           actuary certifies in accordance with subsection  
4           (b)(4) that the reduction in contributions will  
5           not cause the plan to no longer be in unre-  
6           stricted status,

7           “(B) the reduction in contributions is ac-  
8           companied by a reduction in future accruals for  
9           the affected participants, and the plan actuary  
10          certifies in accordance with subsection (b)(4)  
11          that the combined effect of the changes in con-  
12          tributions and benefits is not projected to re-  
13          duce the funded percentage of the plan in any  
14          year, or

15          “(C) subject to regulations issued by the  
16          Secretary of the Treasury, the plan sponsor  
17          reasonably determines that the acceptance of  
18          such an agreement is in the best interests of  
19          plan participants and beneficiaries and that re-  
20          jection of the agreement would have an adverse  
21          financial effect on the plan.”.

22          (3) STABLE AND UNRESTRICTED PLANS.—Sub-  
23          section (b) of section 305 of such Act (29 U.S.C.  
24          1085) is amended—

1 (A) by striking “ENDANGERED AND CRIT-  
2 ICAL” in the heading,

3 (B) by redesignating paragraphs (1), (2),  
4 (3), (4), (5), and (6) as paragraphs (2), (3),  
5 (4), (5), (6), and (7), respectively, and

6 (C) by inserting before paragraph (2) the  
7 following new paragraph:

8 “(1) STABLE AND UNRESTRICTED STATUS.—

9 “(A) STABLE.—A multiemployer plan is in  
10 stable status for a plan year if, as determined  
11 by the plan actuary under paragraph (4), the  
12 plan is not in unrestricted status for the plan  
13 year, is not in endangered, critical, or critical  
14 and declining status for the plan year, and is  
15 not described in paragraph (6).

16 “(B) UNRESTRICTED.—A multiemployer  
17 plan is in unrestricted status for a plan year if,  
18 as determined by the plan actuary under para-  
19 graph (4)—

20 “(i) the plan is not in endangered,  
21 critical, or critical and declining status for  
22 the plan year,

23 “(ii) the plan is not described in para-  
24 graph (6), and

1 “(iii) as of the beginning of the plan  
2 year—

3 “(I) the plan’s current liability  
4 funded percentage for such plan year  
5 is at least 70 percent and the plan’s  
6 projected funded percentage as of the  
7 first day of the 15th succeeding plan  
8 year is at least 115 percent, or

9 “(II) the plan’s current liability  
10 funded percentage for such plan year  
11 is at least 80 percent.

12 “(C) CURRENT LIABILITY FUNDED PER-  
13 CENTAGE.—For purposes of this section, the  
14 term ‘current liability funded percentage’ means  
15 the percentage equal to a fraction the numer-  
16 ator of which is the value of plan assets (as de-  
17 termined for purposes of section  
18 304(c)(6)(A)(ii)(II)) and the denominator of  
19 which is the current liabilities of the plan (as  
20 defined in section 304(c)(6)(D)).”.

21 (4) AMENDMENT TO ANNUAL CERTIFICATION  
22 BY PLAN ACTUARY.—Subparagraph (A) of para-  
23 graph (4) (as redesignated by paragraph (3)) of sec-  
24 tion 305(b) of such Act (29 U.S.C. 1085(b)) is  
25 amended by inserting “whether or not the plan is in

1       unrestricted or stable status for such plan year,” in  
 2       clause (i) before “whether or not the plan is in en-  
 3       dangered status”.

4               (5) CONFORMING AND TECHNICAL AMEND-  
 5       MENTS.—

6               (A) TECHNICAL CORRECTION.—Section  
 7       305(b)(3)(B) of such Act (29 U.S.C.  
 8       1085(b)(3)(B)) is amended by redesignating the  
 9       clause (iv) relating to projections of critical and  
 10      declining status, as added by section 201(a)(5)  
 11      of the Consolidated and Further Continuing  
 12      Appropriations Act, 2015, as clause (v), and by  
 13      moving such clause to the position immediately  
 14      after clause (iv).

15              (B) CONFORMING AMENDMENTS.—

16              (i) Paragraphs (2) and (3) of section  
 17      305(b) of such Act (29 U.S.C. 1085(b)),  
 18      as redesignated by paragraph (3), are each  
 19      amended by striking “paragraph (3)” and  
 20      inserting “paragraph (4)”.

21              (ii) Section 305(b)(2) of such Act (29  
 22      U.S.C. 1085(b)(2)), as so redesignated and  
 23      amended, is further amended by striking  
 24      “paragraph (5)” and inserting “paragraph  
 25      (6)”.

1 (iii) Section 305(b)(4) of such Act (29  
2 U.S.C. 1085(b)(4)), as so redesignated, is  
3 amended—

4 (I) by striking “paragraph (4)”  
5 in subparagraph (B)(iv) thereof and  
6 inserting “paragraph (5)”,

7 (II) by striking “subsection  
8 (e)(9)” both places it appears in sub-  
9 paragraph (B)(v), as redesignated by  
10 subparagraph (A), and inserting “sub-  
11 section (f)(9)”,

12 (III) by striking “subsection  
13 (e)(3)(A)(ii)” in subparagraph (B)(v),  
14 as so redesignated, and inserting  
15 “subsection (f)(3)(A)(ii)”,

16 (IV) by striking “subsection (e)”  
17 in subparagraph (B)(v), as so redesign-  
18 ated, and inserting “subsection (f)”,

19 (V) by striking “paragraph (4)”  
20 each place it appears in subpara-  
21 graphs (D)(i) and (D)(v) thereof and  
22 inserting “paragraph (5)”,

23 (VI) by striking “subsection  
24 (e)(8)” in subparagraph (D)(iii)(I)

1                   thereof and inserting “subsection  
2                   (f)(8)”,

3                   (VII) by striking “paragraph  
4                   (5)” in subparagraph (D)(iii) thereof  
5                   and inserting “paragraph (6)”, and

6                   (VIII) by striking “(iii) In the  
7                   case of” in subparagraph (D)(iii)  
8                   thereof and inserting “(iii) SPECIAL  
9                   RULE.—”.

10                  (iv) Section 305(b)(5) of such Act (29  
11                  U.S.C. 1085(b)(5)), as redesignated by  
12                  paragraph (3), is amended—

13                   (I) by striking “paragraph (2)”  
14                   and inserting “paragraph (3)”,

15                   (II) by striking “paragraph  
16                   (3)(B)(iv)” and inserting “paragraph  
17                   (4)(B)(iv)”,

18                   (III) by striking “paragraph (3)”  
19                   in subparagraph (A) thereof and in-  
20                   serting “paragraph (4)”,

21                   (IV) by striking “paragraph  
22                   (3)(A)” in subparagraph (A) thereof  
23                   and inserting “paragraph (4)(A)”,

1 (V) by striking “paragraph (2)”  
 2 in subparagraph (B) thereof and in-  
 3 serting “paragraph (3)”, and

4 (VI) by striking “subsection  
 5 (e)(4)(B)” in subparagraph (C) there-  
 6 of and inserting “subsection  
 7 (f)(4)(B)”.

8 (v) Section 305(b)(6)(A) of such Act  
 9 (29 U.S.C. 1085(b)(6)(A)), as so redesign-  
 10 nated, is amended—

11 (I) by striking “paragraph  
 12 (3)(A)” and inserting “paragraph  
 13 (4)(A)”,

14 (II) by striking “paragraph  
 15 (1)(A)” and inserting “paragraph  
 16 (2)(A)”, and

17 (III) by striking “paragraph  
 18 (1)(B)” and inserting “paragraph  
 19 (2)(B)”.

20 (vi) Section 305(b)(7) of such Act (29  
 21 U.S.C. 1085(b)(7)), as so redesignated, is  
 22 amended by striking “paragraph (2)” and  
 23 inserting “paragraph (3)”.

24 (vii) Paragraphs (1)(A), (4)(A)(ii),  
 25 (4)(C)(i), (4)(C)(ii), (4)(D), (5)(A)(i),

(5)(B), and (8) of subsection (d), and subsections (e)(2), (f)(1)(A), (f)(4)(B)(i), (f)(4)(B)(ii)(I), (f)(5), and (g)(3) of section 305 of such Act (29 U.S.C. 1085), as respectively redesignated by paragraph (2), are each amended by striking “subsection (b)(3)(A)” and inserting “subsection (b)(4)(A)”.

(viii) Section 305(d)(3)(A)(i)(I) of such Act (29 U.S.C. 1085(d)(3)(A)(i)(I)), as so redesignated, is amended by striking “paragraph (b)(3)” and inserting “subsection (b)(4)”.

(ix) Section 305(d)(4)(D) of such Act (29 U.S.C. 1085(d)(4)(D)), as so redesignated, is amended by striking “subsection (d)” and inserting “subsection (e)”.

(x) Section 305(e) of such Act (29 U.S.C. 1085(e)), as so redesignated, is amended to read as follows:

“(e) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (d) so as to be incon-

1 sistent with the funding improvement plan or the require-  
 2 ments of subsection (c).”.

3 (xi) Clauses (i)(I) and (ii)(I) of sec-  
 4 tion 305(f)(4)(B) of such Act (29 U.S.C.  
 5 1085(f)(4)(B)), as so redesignated, are  
 6 each amended by striking “subsection  
 7 (b)(2)” and inserting “subsection (b)(3)”.

8 (xii) Subsections (f)(8)(A)(ii) and  
 9 (g)(2)(A) of section 305 of such Act (29  
 10 U.S.C. 1085), as so redesignated, are each  
 11 amended by striking “subsection  
 12 (b)(3)(D)” and inserting “subsection  
 13 (b)(4)(D)”.

14 (xiii) Section 305(f)(9)(J) of such Act  
 15 (29 U.S.C. 1085(f)(9)(J)), as so redesign-  
 16 ated, is amended—

17 (I) by striking “subsection  
 18 (b)(3)” and inserting “subsection  
 19 (b)(4)”, and

20 (II) by striking “paragraphs (1)  
 21 and (2)” in clause (i) thereof and in-  
 22 serting “paragraphs (2) and (3)”.

23 (xiv) Subparagraphs (A) and (B) of  
 24 section 305(g)(1) of such Act (29 U.S.C.  
 25 1085(g)(1)), as so redesignated, are each

1 amended by striking “subsection (e)” and  
 2 inserting “subsection (f)”.

3 (xv) Paragraph (2)(A) of section  
 4 305(g) of such Act (29 U.S.C. 1085(g)),  
 5 as so redesignated, is amended by striking  
 6 “(b)(3)(D)” and inserting “(b)(4)(D)”.

7 (xvi) Section 305(h) of such Act (29  
 8 U.S.C. 1085(h)), as so redesignated, is  
 9 amended—

10 (I) by striking “subsection (e)(8)  
 11 or (f)” in paragraph (1) thereof and  
 12 inserting “subsection (f)(8) or (g)”,

13 (II) by striking “subsection  
 14 (e)(9)” in paragraph (1) thereof and  
 15 inserting “subsection (f)(9)”,

16 (III) by striking “subsection  
 17 (e)(7)” in paragraph (2) thereof and  
 18 inserting “subsection (f)(7)”, and

19 (IV) by striking “rehabilitation  
 20 plan” and all that follows in para-  
 21 graph (3)(B) thereof and inserting  
 22 “rehabilitation plan. The preceding  
 23 sentence shall not apply to any in-  
 24 crease in contribution requirements  
 25 due to increased levels of work, em-

1           employment, or periods for which com-  
2           pensation is provided, except to the  
3           extent such an increase is used to pro-  
4           vide an increased accrual rate of bene-  
5           fits or change in the rate at which  
6           benefits become nonforfeitable which  
7           increases plan liabilities.”.

8           (xvii) Section 305(i) of such Act (29  
9           U.S.C. 1085(i)), as so redesignated, is  
10          amended—

11                   (I) by striking “subsection (c)”  
12                   and inserting “subsection (d)”, and

13                   (II) by striking “subsection (e)”  
14                   and inserting “subsection (f)”.

15          (xviii) Section 305(j)(2) of such Act  
16          (29 U.S.C. 1085(j)(2)), as so redesignated,  
17          is amended by striking “subsections (c)  
18          and (e)” and inserting “subsections (d)  
19          and (f)”.

20          (xix) Section 101(f)(2)(B) of such Act  
21          (29 U.S.C. 1021(f)(2)(B)) is amended—

22                   (I) by striking “305(i)” in clause  
23                   (i)(II) and inserting “305(k)”, and

1 (II) by striking “305(i)(8)” in  
 2 clause (ii)(II) and inserting  
 3 “305(k)(8)”.

4 (xx) Section 103(f)(1)(B)(ii) of such  
 5 Act (29 U.S.C. 1023(f)(1)(B)(ii)) is  
 6 amended by striking “305(i)(2)” and in-  
 7 serting “305(k)(2)”.

8 (xxi) Section 302(b)(3) of such Act  
 9 (29 U.S.C. 1082) is amended by striking  
 10 “section 305(e)” and inserting “section  
 11 305(f)”.

12 (xxii) Section 4231(e)(2)(A) of such  
 13 Act (29 U.S.C. 1411(e)(2)(A)) is amended  
 14 by striking “section 305(b)(4)” and insert-  
 15 ing “305(b)(7)”.

16 (xxiii) Section 4233 of such Act (29  
 17 U.S.C. 1413) is amended—

18 (I) by striking “305(e)(9)” each  
 19 place it appears in subsections (b)(2)  
 20 and (e)(1)(A) and inserting  
 21 “305(f)(9)”, and

22 (II) by striking  
 23 “305(e)(9)(E)(vi)” in subsection  
 24 (e)(2) and inserting  
 25 “305(f)(9)(E)(vi)”.

(xxiv) Section 4245 of such Act (29 U.S.C. 1426), as amended by this Act, is amended—

(I) by striking “305(b)(2),” in subsection (c)(1), as redesignated by section 112, and inserting “305(b)(3),”

(II) by striking “305(b)(2)” each place it appears in subsections (c)(2), (d)(1), and (d)(2), as so redesignated, and inserting “305(b)(3)”, and

(III) by striking “305(e)(9)” in subsection (f), as so redesignated, and inserting “305(f)(9)”.

(xxv) The heading of section 305 of such Act (29 U.S.C. 1085) is amended by striking “**IN ENDANGERED STATUS OR CRITICAL STATUS**”.

(6) WITHDRAWAL LIABILITY DETERMINATION FOR PLANS EMERGING FROM ENDANGERED OR CRITICAL STATUS.—Section 305(h) of such Act (29 U.S.C. 1085(h)), as redesignated by paragraph (2) and as amended by paragraph (5), is further amended by striking paragraph (4) and by inserting after paragraph (3) the following new paragraph:

1           “(4) EMERGENCE FROM ENDANGERED OR CRIT-  
2       ICAL STATUS.—

3           “(A) IN GENERAL.—In the case of in-  
4       creases in the contribution rate (or other in-  
5       creases in contribution requirements unless due  
6       to increased levels of work, employment, or pe-  
7       riods for which compensation is provided) dis-  
8       regarded pursuant to paragraph (3), this sub-  
9       section shall cease to apply as of the later of—

10           “(i) the end of the first plan year fol-  
11       lowing the plan year in which the plan is  
12       no longer in endangered or critical status,  
13       or

14           “(ii) the end of the plan year which  
15       includes the expiration date of the first col-  
16       lective bargaining agreement requiring  
17       plan contributions which expires after the  
18       plan is no longer in endangered or critical  
19       status.

20           “(B) HIGHEST CONTRIBUTION RATE.—  
21       Notwithstanding subparagraph (A), once the  
22       plan emerges from endangered or critical sta-  
23       tus—

24           “(i) increases in the contribution rate  
25       disregarded pursuant to paragraph (3)

1 shall continue to be disregarded in deter-  
2 mining the highest contribution rate under  
3 section 4219(c) for plan years during  
4 which the plan was in endangered or crit-  
5 ical status, and

6 “(ii) the highest contribution rate for  
7 purposes of such section shall be the great-  
8 er of—

9 “(I) the sum of—

10 “(aa) the employer’s con-  
11 tribution rate as of the later of  
12 the last day of the last plan year  
13 ending before December 31,  
14 2014, and the last day of the  
15 plan year for which the employer  
16 first had an obligation to con-  
17 tribute to the plan, and

18 “(bb) any contribution in-  
19 creases determined in accordance  
20 with this section after such later  
21 date and before the date the em-  
22 ployer withdraws from the plan,  
23 or

1 “(II) the highest contribution  
 2 rate for any plan year after the plan  
 3 year which includes the earlier of—

4 “(aa) the expiration date of  
 5 the first collective bargaining  
 6 agreement applicable to the with-  
 7 drawing employer requiring plan  
 8 contributions which expires after  
 9 the plan is no longer in endan-  
 10 gered or critical status, or

11 “(bb) the date as of which  
 12 the withdrawing employer nego-  
 13 tiated a contribution rate effec-  
 14 tive after the plan year in which  
 15 the plan is no longer in endan-  
 16 gered or critical status.”.

17 (7) EFFECTIVE DATE.—The amendments made  
 18 by this subsection shall take effect on the date of the  
 19 enactment of this Act.

20 (b) DETERMINATION OF ENDANGERED STATUS.—  
 21 Paragraph (2) of section 305(b) of the Employee Retire-  
 22 ment Income Security Act of 1974 (29 U.S.C. 1085(b)),  
 23 as redesignated by subsection (a)(3), is amended to read  
 24 as follows:

1           “(2) ENDANGERED STATUS.—A multiemployer  
 2           plan is in endangered status for a plan year if, as  
 3           determined by the plan actuary under paragraph  
 4           (5), the plan is not in critical or declining status for  
 5           the plan year and is not described in paragraph (7),  
 6           and, as of the beginning of the plan year—

7                   “(A) the plan’s funded percentage for such  
 8                   plan year is less than 80 percent,

9                   “(B) the plan is projected to have an accu-  
 10                  mulated funding deficiency for any of the 9 suc-  
 11                  ceeding plan years, taking into account any ex-  
 12                  tension of amortization periods under section  
 13                  304(d), or

14                  “(C) the plan’s projected funded percent-  
 15                  age as of the first day of the 15th succeeding  
 16                  plan year is less than 100 percent.”.

17           (c) DETERMINATION OF CRITICAL STATUS.—Para-  
 18           graph (3) of section 305(b) of the Employee Retirement  
 19           Income Security Act of 1974 (29 U.S.C. 1085(b)), as re-  
 20           designated by subsection (a)(3), is amended to read as fol-  
 21           lows:

22                   “(3) CRITICAL STATUS.—

23                   “(A) IN GENERAL.—A multiemployer plan  
 24                   is in critical status for a plan year if, as deter-  
 25                   mined by the plan actuary under paragraph (5),

1 the plan is not in declining status for the plan  
 2 year and, as of the beginning of the plan year—

3 “(i) the plan’s funded percentage is  
 4 less than 65 percent,

5 “(ii) the plan has an accumulated  
 6 funding deficiency for the plan year, or is  
 7 projected to have such an accumulated  
 8 funding deficiency for any of the 6 suc-  
 9 ceeding plan years, taking into account any  
 10 extension of amortization periods under  
 11 section 304(d), or

12 “(iii) the plan’s projected funded per-  
 13 centage as of the first day of the 15th suc-  
 14 ceeding plan year is less than 80 percent.

15 “(B) ORIGINAL PLANS.—Notwithstanding  
 16 subparagraph (A), a multiemployer plan which  
 17 is an original plan pursuant to section  
 18 4233A(d)(3) shall be treated as being in critical  
 19 status for the period of 15 consecutive plan  
 20 years beginning with the plan year that includes  
 21 the date of the partition under section 4233A.”.

22 (d) DECLINING STATUS.—

23 (1) IN GENERAL.—

24 (A) The following provisions of section 305  
 25 of the Employee Retirement Income Security

1 Act of 1974 (29 U.S.C. 1085) are each amend-  
2 ed by striking “critical and declining” each  
3 place it appears and inserting “declining”:

4 (i) Subsection (a)(4) (as redesignated  
5 by subsection (a)(1)).

6 (ii) Subparagraphs (A) and (B)(i) of  
7 subsection (b)(1), as added by subsection  
8 (a)(3).

9 (iii) Subsection (b)(4)(B)(v) (as red-  
10 igned by subsection (a)(3)).

11 (iv) The heading of clause (v) of sub-  
12 section (b)(4)(B), as redesignated by sub-  
13 section (a)(3).

14 (v) Paragraph (1)(B), and the head-  
15 ing of such paragraph (1)(B), of sub-  
16 section (c), as added by subsection (a)(2).

17 (vi) The heading of paragraph (9) of  
18 subsection (f) (as redesignated by sub-  
19 section (a)(2)).

20 (vii) Subparagraphs (A), (C), (G)(i),  
21 and (J) of subsection (f)(9) (as so redesi-  
22 gnated).

23 (viii) Subsection (h)(1) (as so redesi-  
24 gnated).

(B) Subsections (c), as amended by section 221, and (e)(2)(A), as amended by this section, of section 4231 of such Act (29 U.S.C. 1411(e)(2)(A)) are each further amended by striking “critical and declining status” and inserting “declining status”.

(C) Section 4233(b)(1) of such Act (29 U.S.C. 1413(b)(1)) is amended by striking “critical and declining status” and inserting “declining status”.

(D) Section 4245(f) of such Act (29 U.S.C. 1426), as amended by section 112 and subsection (a), is further amended by striking “critical and declining status” and inserting “declining status”.

(2) DETERMINATION OF DECLINING STATUS.—

(A) IN GENERAL.—Subsection (b) of section 305 of such Act (29 U.S.C. 1085) is amended—

(i) by striking paragraph (7), as redesignated by subsection (a)(3),

(ii) by redesignating paragraphs (4), (5), and (6), as so redesignated, as paragraphs (5), (6), and (7), respectively, and

1 (iii) by inserting after paragraph (3),  
2 as so redesignated, the following new para-  
3 graph:

4 “(4) DECLINING STATUS.—A multiemployer  
5 plan is in declining status for a plan year if—

6 “(A) as determined by the plan actuary  
7 under paragraph (5), as of the beginning of the  
8 plan year the plan is projected to become insol-  
9 vent within the plan year or any of the 29 suc-  
10 ceeding plan years,

11 “(B) the plan is otherwise in critical status  
12 for the plan year as determined by the plan ac-  
13 tuary under paragraph (5), and the plan spon-  
14 sor determines that, based on reasonable actu-  
15 arial assumptions and upon exhaustion of all  
16 reasonable measures, the plan cannot reason-  
17 ably be expected to emerge from critical status  
18 within the next 30 plan years, or

19 “(C) the plan has a funded percentage for  
20 the plan year which is greater than the pro-  
21 jected funded percentage as of the first day of  
22 the 15th succeeding plan year, unless the fund-  
23 ed percentage for the plan year is 100 percent  
24 or greater and the projected funded percentage

as of the first day of such 15th succeeding plan  
year is less than 100 percent.”.

(B) CONFORMING AMENDMENTS.—

(i) Paragraph (1) of section 305(b) of  
such Act (29 U.S.C. 1085), as added by  
subsection (a)(3), is amended—

(I) by striking “paragraph (4)”  
each place it appears in subpara-  
graphs (A) and (B) and inserting  
“paragraph (5)”, and

(II) by striking “paragraph (6)”  
each place it appears in subpara-  
graphs (A) and (B) and inserting  
“paragraph (7)”.

(ii) Subsection (c) of section 305 of  
such Act (29 U.S.C. 1085), as added by  
subsection (a)(2), is amended by striking  
“(b)(4)” each place it appears in para-  
graphs (1)(A)(i), (1)(A)(ii), (1)(A)(iii),  
(2)(A), and (2)(B) and inserting “(b)(5)”.

(iii) Section 305(b)(5) of such Act (29  
U.S.C. 1085(b)(5)), as further redesign-  
ated by subparagraph (A) and as amend-  
ed by section 321 and subsection (a), is  
further amended—

1 (I) by striking “paragraph (5)”  
2 in subparagraph (B)(iv) thereof and  
3 inserting “paragraph (6)”,

4 (II) by striking “paragraph (5)”  
5 each place it appears in subpara-  
6 graphs (D)(i) and (D)(vi) thereof and  
7 inserting “paragraph (6)”, and

8 (III) by striking “paragraph (6)”  
9 in subparagraph (D)(iv) thereof and  
10 inserting “paragraph (7)”.

11 (iv) Section 305(b)(6) of such Act (29  
12 U.S.C. 1085(b)(6)), as so further redesign-  
13 nated and amended, is further amended—

14 (I) by striking “paragraph  
15 (4)(B)(iv)” and inserting “paragraph  
16 (5)(B)(iv)”,

17 (II) by striking “paragraph (4)”  
18 in subparagraph (A) thereof and in-  
19 serting “paragraph (5)”, and

20 (III) by striking “paragraph  
21 (4)(A)” in subparagraph (A) thereof  
22 and inserting “paragraph (5)(A)”.

23 (v) Section 305(b)(7)(A) of such Act  
24 (29 U.S.C. 1085(b)(7)(A)), as so further

redesignated and amended, is further amended—

(I) by striking “paragraph (4)(A)” and inserting “paragraph (5)(A)”, and

(II) by striking “either paragraph (2)(A) or paragraph (2)(B)” and inserting “any subparagraph of paragraph (2)”.

(vi) Section 305(b)(7)(B) of such Act (29 U.S.C. 1085(b)(7)(B)), as so further redesignated, is amended by striking “critical or endangered” and inserting “endangered, critical, or declining”.

(vii) Paragraphs (1)(A), (4)(A)(ii), (4)(C)(i), (4)(C)(ii), (4)(D), and (8) of subsection (d), and subsections (f)(1)(A), (f)(4)(B)(i), (f)(4)(B)(ii)(I), (f)(5), and (g)(3) of section 305 of such Act (29 U.S.C. 1085), as redesignated and amended by subsection (a), are each further amended by striking “subsection (b)(4)(A)” and inserting “subsection (b)(5)(A)”.

(viii) Section 305(d)(3)(A)(i)(I) of such Act (29 U.S.C. 1085(d)(3)(A)(i)(I)), as so redesignated and amended, is further amended by striking “subsection (b)(4)” and inserting “subsection (b)(5)”.

(ix) Subsections (f)(8)(A)(ii) and (g)(2)(A) of section 305 of such Act (29 U.S.C. 1085), as so redesignated and amended, are each further amended by striking “subsection (b)(4)(D)” and inserting “subsection (b)(5)(D)”.

(x) Section 305(f)(9)(J) of such Act (29 U.S.C. 1085(f)(9)(J)), as so redesignated and amended, is further amended by striking “subsection (b)(4)” and inserting “subsection (b)(5)”.

(xi) Section 4231(e)(2)(A) of such Act (29 U.S.C. 1411(e)(2)(A)), as amended by this section, is further amended by striking “305(b)(7)” and inserting “305(b)(4)”.

(3) SOLVENCY PLAN.—

(A) IN GENERAL.—Paragraph (4) (as redesignated by subsection (a)(1) and amended by paragraph (1)) of section 305(a) of such Act (29 U.S.C. 1085(a)) is amended—

1 (i) by redesignating subparagraph (B)  
2 as subparagraph (D), and

3 (ii) by striking subparagraph (A) and  
4 inserting before subparagraph (D) (as so  
5 redesignated) the following new subpara-  
6 graphs:

7 “(A) the plan sponsor shall adopt and im-  
8 plement a solvency plan in accordance with the  
9 requirements of subsection (h),

10 “(B) any rehabilitation plan in place as of  
11 the date the plan enters declining status shall  
12 continue to apply throughout the solvency plan  
13 adoption period,

14 “(C) the requirements of subsection (i) and  
15 paragraphs (6) and (7) of subsection (f) shall  
16 apply during the solvency plan adoption period  
17 and the solvency attainment period, and”.

18 (B) ADOPTION OF PLAN.—Section 305 of  
19 such Act (29 U.S.C. 1085), as amended by this  
20 section, is further amended—

21 (i) by redesignating subsection (l), as  
22 added by title V of this Act, as subsection  
23 (n), and by further redesignating sub-  
24 sections (h), (i), (j), and (k), as redesign-

1                   nated by subsection (a)(2), as subsections  
 2                   (j), (k), (l), and (m), respectively, and  
 3                   (ii) by inserting after subsection (g),  
 4                   as redesignated by subsection (a)(2), the  
 5                   following new subsections:

6           “(h) SOLVENCY PLAN MUST BE ADOPTED FOR MUL-  
 7   TIEMPLOYER PLANS IN DECLINING STATUS.—

8           “(1) IN GENERAL.—In any case in which a  
 9   multiemployer plan is in declining status for a plan  
 10   year, the plan sponsor, in accordance with this sub-  
 11   section—

12           “(A) shall adopt a solvency plan not later  
 13   than 240 days following the required date for  
 14   the actuarial certification of declining status  
 15   under subsection (b)(5)(A), and

16           “(B) within 30 days after the adoption of  
 17   the solvency plan shall provide to the bar-  
 18   gaining parties 1 or more schedules showing re-  
 19   vised benefit structures, revised contribution  
 20   structures, or both, which, if adopted, may rea-  
 21   sonably be expected to enable the multiemployer  
 22   plan to meet the requirements of paragraph (3),  
 23   including—

24           “(i) one default proposal under  
 25   which—

1           “(I) all adjustable benefits in the  
2           form of early retirement subsidies (in-  
3           cluding early reduction factors which  
4           are not provided on an actuarially  
5           equivalent basis) under the plan are  
6           eliminated, and

7           “(II) the future monthly benefit  
8           accrual rate under the plan is reduced  
9           to the equivalent of 1 percent of an-  
10          nual contributions (or, if lower, the  
11          current accrual rate) based on the  
12          contribution rate in effect as of the  
13          later of the first day of the plan year  
14          in which the plan enters declining sta-  
15          tus or the date of a partition under  
16          section 4233A, and

17          which may also include reduction or elimi-  
18          nation of any other adjustable benefits  
19          under the plan, and

20          “(ii) any additional schedules which  
21          reduce or eliminate adjustable benefits  
22          under the plan which the plan sponsor  
23          deems appropriate to provide as an alter-  
24          native to the default proposal.

1 No schedule provided to or adopted by the bar-  
2 gaining parties shall provide for a monthly benefit  
3 accrual rate in excess of the rate described in sub-  
4 paragraph (B)(i)(II).

5 “(2) EXCEPTION FOR YEARS AFTER PROCESS  
6 BEGINS.—Paragraph (1) shall not apply to a plan  
7 year if such year is in a solvency plan adoption pe-  
8 riod or solvency attainment period by reason of the  
9 plan being in declining status for a preceding plan  
10 year, except that the next update of the solvency  
11 plan shall fulfill the requirement of paragraph  
12 (1)(B)(i). For purposes of this section, such pre-  
13 ceding plan year shall be the initial determination  
14 year with respect to the solvency plan to which it re-  
15 lates.

16 “(3) SOLVENCY PLAN.—For purposes of this  
17 section, a solvency plan is a plan which consists of  
18 the actions, including options or a range of options  
19 to be proposed to the bargaining parties, formulated,  
20 based on reasonably anticipated experience and rea-  
21 sonable actuarial assumptions, to enable the plan to  
22 delay or avoid the projected insolvency.

23 “(4) SOLVENCY ATTAINMENT PERIOD.—For  
24 purposes of this section—

1           “(A) IN GENERAL.—Except as provided in  
 2           subparagraph (B), the solvency attainment pe-  
 3           riod for any solvency plan adopted pursuant to  
 4           this subsection is the period—

5                   “(i) beginning on the first day of the  
 6                   first plan year of the multiemployer plan  
 7                   beginning after the earlier of—

8                           “(I) the second anniversary of  
 9                           the date of the adoption of the sol-  
 10                          vency plan, or

11                           “(II) the expiration of the collec-  
 12                          tive bargaining agreements in effect  
 13                          on the due date for the actuarial cer-  
 14                          tification of declining status for the  
 15                          initial determination year under sub-  
 16                          section (b)(5)(A) and covering, as of  
 17                          such due date, at least 75 percent of  
 18                          the active participants in such plan,  
 19                          and

20                          “(ii) ending on the date the plan ei-  
 21                          ther emerges from declining status or be-  
 22                          comes insolvent.

23           “(B) COORDINATION WITH CHANGES IN  
 24           STATUS.—

1           “(i) PLANS NO LONGER IN DECLINING  
2           STATUS.—If the plan’s actuary certifies in  
3           accordance with subparagraph (C) for a  
4           plan year in any solvency plan adoption pe-  
5           riod or solvency attainment period that the  
6           plan is no longer in declining status, the  
7           solvency plan adoption period or solvency  
8           attainment period, whichever is applicable,  
9           shall end as of the date of such certifi-  
10          cation.

11          “(ii) PLANS IN CRITICAL OR ENDAN-  
12          GERED STATUS.—If the plan’s actuary cer-  
13          tifies under subsection (b)(5)(A) for the  
14          plan year described in clause (i) that the  
15          plan is in critical or endangered rather  
16          than declining status, the provisions of  
17          subsections (d) and (e), or subsections (f)  
18          and (g), whichever are applicable, shall be  
19          applied as if such plan year were an initial  
20          determination year, except that the plan  
21          may not be amended in a manner incon-  
22          sistent with the solvency plan in effect for  
23          the preceding plan year until a new fund-  
24          ing improvement plan or rehabilitation  
25          plan, whichever is applicable, is adopted.

1           “(C) EMERGENCE.—A plan in declining  
 2           status shall remain in such status until a plan  
 3           year for which the plan actuary certifies, in ac-  
 4           cordance with subsection (b)(5)(A), that the  
 5           plan is not described in one or more of the sub-  
 6           paragraphs in subsection (b)(4) as of the begin-  
 7           ning of the plan year.

8           “(5) UPDATES TO SOLVENCY PLANS AND  
 9           SCHEDULES.—

10           “(A) SOLVENCY PLAN.—The plan sponsor  
 11           shall annually update the solvency plan and  
 12           shall file the update with the plan’s annual re-  
 13           port under section 104.

14           “(B) SCHEDULES.—The plan sponsor shall  
 15           annually update any schedule of contribution  
 16           rates provided under this subsection to reflect  
 17           the experience of the plan.

18           “(C) DURATION OF SCHEDULE.—A sched-  
 19           ule of contribution rates provided by the plan  
 20           sponsor and relied upon by bargaining parties  
 21           in negotiating a collective bargaining agreement  
 22           shall remain in effect for the duration of that  
 23           collective bargaining agreement.

24           “(6) IMPOSITION OF SCHEDULE WHERE FAIL-  
 25           URE TO ADOPT SOLVENCY PLAN.—

“(A) INITIAL CONTRIBUTION SCHEDULE.—

If—

“(i) a collective bargaining agreement providing for contributions under a multi-employer plan that was in effect at the time the plan entered declining status expires, and

“(ii) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to adopt a contribution schedule with terms consistent with the solvency plan and a schedule from the plan sponsor,

the plan sponsor shall implement the schedule described in paragraph (1)(B)(i) beginning on the date specified in subparagraph (C).

“(B) SUBSEQUENT CONTRIBUTION SCHEDULE.—If—

“(i) a collective bargaining agreement providing for contributions under a multi-employer plan in accordance with a schedule provided by the plan sponsor pursuant to a solvency plan (or imposed under sub-

paragraph (A)) expires while the plan is still in declining status, and

“(ii) after receiving one or more updated schedules from the plan sponsor under paragraph (5)(B), the bargaining parties with respect to such agreement fail to adopt a contribution schedule with terms consistent with the updated solvency plan and a schedule from the plan sponsor, then the contribution schedule applicable under the expired collective bargaining agreement, as updated and in effect on the date the collective bargaining agreement expires, shall be implemented by the plan sponsor beginning on the date specified in subparagraph (C).

“(C) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the date which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) or (B) expires.

“(7) SOLVENCY PLAN ADOPTION PERIOD.—For purposes of this section, the term ‘solvency plan adoption period’ means the period beginning on the date of the certification under subsection (b)(5)(A) for the initial determination year and ending on the

1 day before the first day of the solvency attainment  
2 period.

3 “(i) RULES FOR OPERATION OF PLAN DURING  
4 ADOPTION AND ATTAINMENT PERIODS.—

5 “(1) COMPLIANCE WITH SOLVENCY PLAN.—

6 “(A) IN GENERAL.—A plan may not be  
7 amended after the date of the adoption of a sol-  
8 vency plan under subsection (h) so as to be in-  
9 consistent with the solvency plan.

10 “(B) SPECIAL RULES FOR BENEFIT IN-  
11 CREASES.—A plan may not be amended after  
12 the date of the adoption of a solvency plan  
13 under subsection (h) so as to increase benefits,  
14 including future benefit accruals, unless the in-  
15 crease is required by law or is a de minimis  
16 change.

17 “(C) SPECIAL RULES FOR INCREASES IN  
18 COMPENSATION OR CONTRIBUTION RATE.—Any  
19 increase in employee compensation or contribu-  
20 tion rates which takes effect after the first day  
21 of the plan year in which the plan enters declin-  
22 ing status shall not give rise to an increase in  
23 benefits or future benefit accruals under the  
24 plan.

1           “(2) RESTRICTION ON LUMP SUMS AND SIMI-  
2       LAR BENEFITS.—

3           “(A) IN GENERAL.—Effective on the date  
4       the notice of certification of the plan’s declining  
5       status for the initial determination year under  
6       subsection (b)(5)(D) is sent, and notwith-  
7       standing section 204(g), the plan shall not  
8       pay—

9           “(i) any payment, in excess of the  
10       monthly amount paid under a single life  
11       annuity (plus any social security supple-  
12       ments described in the last sentence of sec-  
13       tion 204(b)(1)(G)), to a participant or ben-  
14       eficiary whose annuity starting date (as de-  
15       fined in section 205(h)(2)) occurs after the  
16       date such notice is sent,

17          “(ii) any payment for the purchase of  
18       an irrevocable commitment from an insurer  
19       to pay benefits, or

20          “(iii) any other payment specified by  
21       the Secretary of the Treasury by regula-  
22       tions,  
23       unless it is a de minimis amount.

24          “(B) EXCEPTION.—Subparagraph (A)  
25       shall not apply to a benefit which under section

1           203(e) may be immediately distributed without  
 2           the consent of the participant or to any makeup  
 3           payment in the case of a retroactive annuity  
 4           starting date or any similar payment of benefits  
 5           owed with respect to a prior period.

6           “(3) SPECIAL RULES FOR PLAN ADOPTION PE-  
 7           RIOD.—During the period beginning on the date of  
 8           the certification under subsection (b)(5)(A) for the  
 9           initial determination year and ending on the date of  
 10          the adoption of a solvency plan—

11                 “(A) the plan sponsor may not accept a  
 12                 collective bargaining agreement or participation  
 13                 agreement with respect to the multiemployer  
 14                 plan that provides for—

15                         “(i) a reduction in the level of con-  
 16                         tributions for any participants,

17                         “(ii) a suspension of contributions  
 18                         with respect to any period of service, or

19                         “(iii) any new direct or indirect exclu-  
 20                         sion of younger or newly hired employees  
 21                         from plan participation,

22           unless the plan sponsor reasonably determines  
 23           that the acceptance of such an agreement is in  
 24           the best interests of participants and bene-

1           ficiaries and that rejection of such agreement  
2           would adversely affect the plan, and

3           “(B) no amendment of the plan which in-  
4           creases the liabilities of the plan by reason of  
5           any increase in benefits, any change in the ac-  
6           crual of benefits, or any change in the rate at  
7           which benefits become nonforfeitable under the  
8           plan may be adopted unless the amendment is  
9           required as a condition of qualification under  
10          part I of subchapter D of chapter 1 of the In-  
11          ternal Revenue Code of 1986 or to comply with  
12          other applicable law.”.

13           (C) SUSPENSION OF BENEFITS.—Section  
14          305 of such Act (29 U.S.C. 1085), as amended  
15          by this section, is further amended—

16           (i) by redesignating paragraph (9) of  
17           subsection (f) (as redesignated by sub-  
18           section (a)(2)) as paragraph (8) of sub-  
19           section (h) (as added by subparagraph  
20           (B)), and

21           (ii) by moving such paragraph to the  
22           position immediately after paragraph (7)  
23           of such subsection (h).

24          (4) CONFORMING AMENDMENTS.—

1           (A) Subsection (a)(4)(D) of section 305 of  
2 such Act (29 U.S.C. 1085), as redesignated and  
3 amended by the preceding provisions of this  
4 section, is further amended by striking “sub-  
5 section (f)(9)” and inserting “subsection  
6 (h)(8)”.

7           (B) Paragraph (5) of section 305(b) of  
8 such Act (29 U.S.C. 1085(b)), as so redesign-  
9 nated and as amended by section 321 and the  
10 preceding provisions of this section, is further  
11 amended—

12               (i) by striking “critical” in subpara-  
13 graph (A)(i)(I) and inserting “critical or  
14 declining”,

15               (ii) by striking “funding improvement  
16 or rehabilitation period” in subparagraph  
17 (A)(i)(II) and inserting “funding improve-  
18 ment, rehabilitation, or solvency attain-  
19 ment period”,

20               (iii) by striking “funding improvement  
21 or rehabilitation plan” in subparagraph  
22 (A)(i)(II) and inserting “funding improve-  
23 ment, rehabilitation, or solvency plan”,

24               (iv) by striking “endangered or crit-  
25 ical” in subparagraph (A)(i)(V)(bb) and

1 inserting “endangered, critical, or declin-  
2 ing”,

3 (v) by striking “funding improvement  
4 plan or rehabilitation” in subparagraph  
5 (A)(iv) and inserting “funding improve-  
6 ment, rehabilitation, or solvency”,

7 (vi) by striking “critical” each place it  
8 appears in subparagraph (A)(vi) and in-  
9 serting “critical or declining”,

10 (vii) by striking “rehabilitation pe-  
11 riod” in subparagraph (A)(vi) and insert-  
12 ing “rehabilitation or solvency attainment  
13 period”,

14 (viii) by striking “as described in sub-  
15 section (f)(9)” in subparagraph (B)(v),

16 (ix) by inserting “if the plan is al-  
17 ready in a rehabilitation period, and” be-  
18 fore “if reasonable” in subparagraph  
19 (B)(v)(I),

20 (x) by striking “subsection (f)(9)” in  
21 subparagraph (B)(v)(II) and inserting  
22 “subsection (h)(8)”,

23 (xi) by striking “endangered or crit-  
24 ical” both places it appears in subpara-

graph (D)(i) and inserting “endangered,  
critical, or declining”,

(xii) by striking “ENDANGERED OR  
CRITICAL” in the heading of subparagraph  
(D)(ii) and inserting “ENDANGERED, CRIT-  
ICAL, OR DECLINING”,

(xiii) by striking “endangered or crit-  
ical” in subparagraph (D)(ii) and inserting  
“endangered, critical, or declining”,

(xiv) by striking “funding improve-  
ment or rehabilitation plan” both places it  
appears in subclauses (I) and (II) of sub-  
paragraph (D)(ii) and inserting “funding  
improvement, rehabilitation, or solvency  
plan”, and

(xv) by adding at the end of subpara-  
graph (D) the following new clause:

“(vii) NOTICE OF PROJECTION TO BE  
IN DECLINING STATUS IN A FUTURE PLAN  
YEAR.—In any case in which it is certified  
under subparagraph (A)(i) that a multiem-  
ployer plan will be in declining status for  
any of 5 succeeding plan years (but not for  
the current plan year), the plan sponsor  
shall, not later than 30 days after the date

1 of the certification, provide notification of  
2 the projected declining status to the Pen-  
3 sion Benefit Guaranty Corporation.”.

4 (C) Subparagraph (J) of section 305(h)(8)  
5 of such Act (29 U.S.C. 1085(h)(8)), as so re-  
6 designated and amended, is further amended—

7 (i) by striking “CRITICAL” in the  
8 heading and inserting “DECLINING”, and

9 (ii) by striking “shall not emerge from  
10 critical status under paragraph (4)(B),”  
11 and inserting “shall not emerge from de-  
12 clining status”.

13 (D) Subsection (j) of section 305 of such  
14 Act (29 U.S.C. 1085), as so redesignated and  
15 amended, is further amended—

16 (i) by striking “(f)(8) or (g)” in para-  
17 graph (1) and inserting “(f)(8), (g), or  
18 (i)”,

19 (ii) by striking “subsection (f)(9)” in  
20 paragraph (1) and inserting “subsection  
21 (h)(8)”,

22 (iii) by striking “FUNDING IMPROVE-  
23 MENT OR REHABILITATION PLAN” in the  
24 heading of paragraph (3) and inserting

1 “FUNDING IMPROVEMENT, REHABILITA-  
2 TION, OR SOLVENCY”,

3 (iv) by striking “funding improvement  
4 plan or rehabilitation plan” both places it  
5 appears in subparagraphs (A) and (B) of  
6 paragraph (3) and inserting “funding im-  
7 provement, rehabilitation, or solvency  
8 plan”,

9 (v) by striking “ENDANGERED OR  
10 CRITICAL” in the heading of paragraph  
11 (4), as amended by subsection (a), and in-  
12 serting “ENDANGERED, CRITICAL, OR DE-  
13 CLINING”,

14 (vi) by striking “endangered or crit-  
15 ical” each place it appears in paragraph  
16 (4), as so amended, and inserting “endan-  
17 gered, critical, or declining”, and

18 (vii) by striking “critical or endan-  
19 gered” in paragraph (4) and inserting “en-  
20 dangered, critical, or declining”.

21 (E) Subsection (k) of section 305 of such  
22 Act (29 U.S.C. 1085), as so redesignated and  
23 amended, is further amended—

24 (i) by striking “or a rehabilitation  
25 plan under subsection (f)” and inserting “,

1 a rehabilitation plan under subsection (f),  
2 or a solvency plan under subsection (h)”,

3 (ii) by striking “endangered status or  
4 a plan in critical status” and inserting  
5 “endangered, critical, or declining status”,

6 (iii) by striking “has not agreed on a  
7 funding improvement plan or rehabilitation  
8 plan” and inserting “has not agreed on a  
9 funding improvement, rehabilitation, or  
10 solvency plan (whichever is applicable)”,  
11 and

12 (iv) by striking “adoption of a funding  
13 improvement plan or rehabilitation plan”  
14 and inserting “adoption of a funding im-  
15 provement, rehabilitation, or solvency  
16 plan”.

17 (F) Subsection (l) of section 305 of such  
18 Act (29 U.S.C. 1085), as so redesignated and  
19 amended, is further amended—

20 (i) by striking “endangered status or  
21 in critical status” in paragraph (1) and in-  
22 serting “endangered, critical, or declining  
23 status”,

1 (ii) by striking “endangered or crit-  
 2 ical” in paragraph (1) and inserting “en-  
 3 dangered, critical, or declining”, and

4 (iii) by striking “(d) and (f)” in para-  
 5 graph (2) and inserting “(d), (f), and (h)”.

6 (G) Section 101(f)(2)(B) of such Act (29  
 7 U.S.C. 1021(f)(2)(B)), as amended by this sec-  
 8 tion, is amended—

9 (i) by striking “305(k)” in clause  
 10 (i)(II) and inserting “305(m)”, and

11 (ii) by striking “305(k)(8)” in clause  
 12 (ii)(II) and inserting “305(m)(8)”.

13 (H) Section 101(k)(1)(K) of such Act (29  
 14 U.S.C. 1021(k)(1)(K)) is amended—

15 (i) by striking “critical or endan-  
 16 gered” and inserting “endangered, critical,  
 17 or declining”, and

18 (ii) by striking “funding improvement  
 19 or rehabilitation” both places it appears  
 20 and inserting “funding improvement, reha-  
 21 bilitation, or solvency”.

22 (I) Section 103(f)(1)(B)(ii) of such Act  
 23 (29 U.S.C. 1023(f)(1)(B)(ii)), as amended by  
 24 this section, is amended by striking  
 25 “305(k)(2)” and inserting “305(m)(2)”.

1 (J) Section 103(f)(2)(G) of such Act (29  
2 U.S.C. 1023(f)(2)(G)) is amended—

3 (i) by striking “critical or endan-  
4 gered” and inserting “endangered, critical,  
5 or declining”, and

6 (ii) by striking “funding improvement  
7 or rehabilitation” and inserting “funding  
8 improvement, rehabilitation, or solvency”.

9 (K) Section 104(d)(1)(E) of such Act (29  
10 U.S.C. 1024(d)(1)(E)) is amended—

11 (i) by striking “critical or endan-  
12 gered” and inserting “endangered, critical,  
13 or declining”, and

14 (ii) by striking “funding improvement  
15 or rehabilitation” and inserting “funding  
16 improvement, rehabilitation, or solvency”.

17 (L) Section 502(a)(10) of such Act (29  
18 U.S.C. 1132(a)(10)) is amended—

19 (i) by striking “endangered or crit-  
20 ical” and inserting “endangered, critical,  
21 or declining”, and

22 (ii) by striking “funding improvement  
23 or rehabilitation” each place it appears  
24 and inserting “funding improvement, reha-  
25 bilitation, or solvency”.

1 (M) Section 502(c)(8) of such Act (29  
2 U.S.C. 1132(c)(8)) is amended—

3 (i) by striking “funding improvement  
4 plan or rehabilitation” in subparagraph  
5 (A) and inserting “funding improvement,  
6 rehabilitation, or solvency”,

7 (ii) by striking “endangered or crit-  
8 ical” in subparagraph (A) and inserting  
9 “endangered, critical, or declining”,

10 (iii) by striking “which is not in seri-  
11 ously endangered status” in subparagraph  
12 (B), and

13 (iv) by striking “meet the applicable  
14 benchmarks” in subparagraph (B) and in-  
15 serting “emerge from endangered status”.

16 (N) Section 4233 of such Act (29 U.S.C.  
17 1413), as amended by this section, is further  
18 amended—

19 (i) by striking “305(f)(9)” each place  
20 it appears in subsections (b)(2) and  
21 (e)(1)(A) and inserting “305(h)(8)”, and

22 (ii) by striking “305(f)(9)(E)(vi)” in  
23 subsection (e)(2) and inserting  
24 “305(h)(8)(E)(vi)”.

1           (O) Section 4233(m)(1) of such Act, as  
2           added by this Act, is amended by striking  
3           “funding improvement or rehabilitation” and  
4           inserting “funding improvement, rehabilitation,  
5           or solvency”.

6           (P) Section 4233A(h)(4)(C) of such Act,  
7           as added by this Act, is amended by striking  
8           “rehabilitation plan” and inserting “rehabilita-  
9           tion or solvency plan”.

10          (Q) Section 4233A(m)(1) of such Act, as  
11          added by this Act, is amended by striking  
12          “funding improvement or rehabilitation” and  
13          inserting “funding improvement, rehabilitation,  
14          or solvency”.

15          (R) Section 4233A(o)(1) of such Act, as  
16          added by this Act, is amended by striking  
17          “305(k)(2)” and inserting “305(m)(2)”.

18          (S) Section 4233A(o)(12) of such Act, as  
19          added by this Act, is amended by striking  
20          “funding improvement plan or rehabilitation”  
21          and inserting “funding improvement, rehabilita-  
22          tion, or solvency”.

23          (T) Section 4245 of such Act (29 U.S.C.  
24          1426), as amended by section 112 and this sec-  
25          tion, is further amended—

- 1 (i) by striking “305(b)(3)” each place  
 2 it appears in subsections (c)(1), (c)(2),  
 3 (d)(1), and (d)(2) and inserting  
 4 “305(b)(3), or a plan in declining status,  
 5 as described in section 305(b)(4)”, and  
 6 (ii) by striking “305(f)(9)” in sub-  
 7 section (f) and inserting “305(h)(8)”.

8 (e) ADJUSTMENT OF BENEFITS.—

9 (1) IN GENERAL.—Section 305 of the Employee  
 10 Retirement Income Security Act of 1974 (29 U.S.C.  
 11 1085), as amended by this section, is further amend-  
 12 ed—

13 (A) by further redesignating subsections  
 14 (m) and (n), as redesignated by subsection (d),  
 15 as subsections (n) and (o), respectively,

16 (B) by redesignating paragraph (8) of sub-  
 17 section (f), as redesignated by subsection  
 18 (a)(2), as subsection (m), and

19 (C) by moving such subsection to the posi-  
 20 tion immediately after subsection (l).

21 (2) CLERICAL AND CONFORMING AMEND-  
 22 MENTS.—

23 (A) The heading of subsection (m) of sec-  
 24 tion 305 of such Act (29 U.S.C. 1085), as re-

1 designated by paragraph (1), is amended to  
2 read as follows:

3 “(m) ADJUSTMENT OF BENEFITS.—”.

4 (B) The following provisions of such sub-  
5 section (m) are amended as follows:

6 (i) Subparagraphs (A), (B), and (C)  
7 are redesignated as paragraphs (1), (2),  
8 and (4), respectively, and moved 2 ems to  
9 the left.

10 (ii) Clauses (i), (ii), (iii), and (iv) of  
11 paragraph (1) (as so redesignated) are re-  
12 designated as subparagraphs (A), (B), (C),  
13 and (D), respectively, and moved 2 ems to  
14 the left.

15 (iii) Subclauses (I), (II), and (III) of  
16 paragraph (1)(D) (as so redesignated) are  
17 redesignated as clauses (i), (ii), and (iii),  
18 respectively, and moved 2 ems to the left.

19 (iv) Clauses (i), (ii), and (iii) of para-  
20 graph (4) (as so redesignated) are redesign-  
21 ated as subparagraphs (A), (B), and (C),  
22 respectively, and moved 2 ems to the left,  
23 and the flush sentence at the end of sub-  
24 paragraph (C) (as so redesignated) is  
25 moved 2 ems to the left.

(v) Subclauses (I), (II), and (III) of paragraph (4)(A) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(vi) Subclauses (I) and (II) of paragraph (4)(B) (as so redesignated) are redesignated as clauses (i) and (ii), respectively, and moved 2 ems to the left.

(vii) Subclauses (I), (II), and (III) of paragraph (4)(C) (as so redesignated) are redesignated as clauses (i), (ii), and (iii), respectively, and moved 2 ems to the left.

(viii) Paragraph (1)(A), as so redesignated, is amended by striking “subparagraph (C)” and inserting “paragraph (4)”.

(ix) Paragraph (1)(B), as so redesignated, is amended by striking “clause (iv)(III)” and inserting “subparagraph (D)(iii)”.

(x) Paragraph (1)(D), as so redesignated, is amended by striking “this paragraph” and inserting “this subsection”.

(xi) Paragraph (2), as so redesignated, is amended—

1 (I) by striking “subparagraph  
2 (A)(iv)(III)” and inserting “para-  
3 graph (1)(D)(iii)”, and

4 (II) by striking “this paragraph”  
5 and inserting “this subsection”.

6 (xii) Paragraph (4)(A), as so redesign-  
7 nated, is amended by striking “subpara-  
8 graph (A)” and inserting “paragraph (1)”.

9 (xiii) Paragraphs (4)(B) and (4)(C),  
10 as so redesignated, are each amended by  
11 striking “clause (i)” each place it appears  
12 and inserting “subparagraph (A)”.

13 (xiv) The last sentence of paragraph  
14 (4)(C), as so redesignated, is amended—

15 (I) by striking “subclause (I)”  
16 and inserting “clause (i)”, and

17 (II) by striking “this subpara-  
18 graph” and inserting “this para-  
19 graph”.

20 (3) APPLICATION TO ALL PLANS IN ENDAN-  
21 GERED, CRITICAL, OR DECLINING STATUS.—

22 (A) IN GENERAL.—Subparagraph (A) of  
23 section 305(m)(1) of such Act (29 U.S.C.  
24 1085(m)(1)), as redesignated and amended by  
25 this section, is further amended—

(i) by striking “the plan sponsor shall” and inserting “the plan sponsor of a multiemployer plan in endangered, critical, or declining status may”, and

(ii) by striking “paragraph (1)(B)(i)” and inserting “subsection (d)(1)(B), (f)(1)(B), or (h)(1)(B), whichever is applicable”.

(B) CONFORMING AMENDMENTS.—Subparagraph (B) of section 305(m)(1) of such Act (29 U.S.C. 1085(m)(1)), as redesignated and amended by this section, is further amended by striking “critical” both places it appears and inserting “endangered, critical, or declining”.

(4) ADDITIONAL ADJUSTABLE BENEFITS.—

(A) IN GENERAL.—Subparagraph (D) of section 305(m)(1) of such Act (29 U.S.C. 1085(m)(1)), as redesignated by this section, is amended—

(i) by inserting “, including early reduction factors which are not provided on an actuarially equivalent basis,” after “(i))” in clause (ii), as so redesignated,

(ii) by striking “and” at the end of clause (ii) (as so redesignated),

(iii) by striking “that would not be eligible” and all that follows through the period in clause (iii) (as so redesignated) and inserting “which were adopted (or, if later, took effect) less than 120 months before the first day of the first plan year in which the plan was in endangered, critical, or declining status,” and

(iv) by adding at the end the following new clauses:

“(iv) any one-time bonus payment or ‘thirteenth check’ provision, and

“(v) benefits granted for periods of service prior to participation in the plan.”.

(B) CONFORMING AMENDMENTS.—

(i) Subparagraph (B) of section 305(m)(1) of such Act (29 U.S.C. 1085), as redesignated and amended by this section, is further amended by striking “subparagraph (D)(iii)” and inserting “clause (iii), (iv), or (v) of subparagraph (D)”.

(ii) Paragraph (2) of section 305(m) of such Act (29 U.S.C. 1085), as amended by paragraph (2)(B), is further amended by striking “paragraph (1)(D)(iii)” and in-

serting “clause (iii), (iv), or (v) of paragraph (1)(D)”.

(iii) Section 4233A(o)(1) of such Act, as added by this Act and as amended by this section, is further amended by striking “305(m)(2)” and inserting “305(n)(2)”.

(5) RULES RELATING TO SUSPENSION OF BENEFITS UPON RETURN TO WORK.—Subsection (m) of section 305 of such Act (29 U.S.C. 1085), as redesignated and amended by this section, is further amended by inserting after paragraph (2) the following new paragraph:

“(3) RULES RELATING TO SUSPENSION OF BENEFITS UPON RETURN TO WORK.—The plan sponsor of a multiemployer plan in endangered, critical, or declining status may amend rules regarding the suspension of a participant’s benefits upon a return to work after commencement of benefits, or the commencement of benefits after normal retirement age (including in the case of continued employment after normal retirement age). Any such changes shall apply only to future payments of benefits.”.

(6) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 305(b)(5)(D) of such Act (29 U.S.C. 1085(b)(5)(D)), as reded-

1           ignated and amended by this section, is further  
2           amended—

3                   (i) by striking “CRITICAL” in the  
4                   heading and inserting “ENDANGERED,  
5                   CRITICAL, OR DECLINING”,

6                   (ii) by striking “critical status” both  
7                   places it appears and inserting “endan-  
8                   gered, critical, or declining status”, and

9                   (iii) by striking “subsection (f)(8)” in  
10                  subclause (I) and inserting “subsection  
11                  (m)(1)(D)”.

12           (B) Subsection (j) of section 305 of such  
13           Act (29 U.S.C. 1085), as amended by sub-  
14           section (d), is further amended by striking  
15           “(f)(8), (g), or (i)” and inserting “(e), (g), (i),  
16           or (m)”.

17           (C) Section 101(f)(2)(B) of such Act (29  
18           U.S.C. 1021(f)(2)(B)), as amended by this sec-  
19           tion, is amended—

20                   (i) by striking “305(m)” in clause  
21                   (i)(II) and inserting “305(n)”, and

22                   (ii) by striking “305(m)(8)” in clause  
23                   (ii)(II) and inserting “305(n)(8)”.

24           (D) Section 103(f)(1)(B)(ii) of such Act  
25           (29 U.S.C. 1023(f)(1)(B)(ii)), as amended by

1           this section, is amended by striking  
2           “305(m)(2)” and inserting “305(n)(2)”.

3           (f) ELECTIONS TO BE IN CRITICAL OR ENDANGERED  
4 STATUS.—

5           (1) IN GENERAL.—Paragraph (6) of section  
6           305(b) of the Employee Retirement Income Security  
7           Act of 1974 (29 U.S.C. 1085(b)), as redesignated  
8           and amended by this section, is further amended—

9                   (A) by striking “is not in critical status”  
10                  in subparagraph (A) and inserting “is not in  
11                  critical or declining status”,

12                  (B) by striking “but that is projected” in  
13                  subparagraph (A) and inserting “but—

14                           “(i) that is projected”,

15                  (C) by striking “5 plan years may, not  
16                  later than” in subparagraph (A) and inserting  
17                  “5 plan years, or

18                           “(ii) that is in endangered status and  
19                  is not reasonably projected to be able to  
20                  emerge from endangered status within the  
21                  funding improvement period under the  
22                  funding improvement plan in effect,  
23                  may, not later than”, and

24                  (D) by striking “under paragraph (3)” in  
25                  subparagraph (B) and inserting “under para-

1 graph (3) or for endangered status under para-  
2 graph (2)''.

3 (2) ELECTION TO BE IN ENDANGERED STA-  
4 TUS.—Subsection (b) of section 305 of such Act (29  
5 U.S.C. 1085), as so redesignated and amended, is  
6 further amended by adding at the end the following  
7 new paragraph:

8 “(8) ELECTION TO BE IN ENDANGERED STA-  
9 TUS.—Notwithstanding paragraph (2)—

10 “(A) the plan sponsor of a multiemployer  
11 plan that is not in endangered, critical, or de-  
12 clining status for a plan year but that is pro-  
13 jected by the plan actuary, pursuant to the de-  
14 termination under paragraph (5), to be in en-  
15 dangered status in any of the 5 succeeding plan  
16 years, may, not later than 30 days after the  
17 date of the certification under paragraph  
18 (5)(A), elect to be in endangered status effec-  
19 tive for the current plan year,

20 “(B) the plan year in which the plan spon-  
21 sor elects to be in endangered status under sub-  
22 paragraph (A) shall be treated for purposes of  
23 this section as the first year in which the plan  
24 is in endangered status, regardless of the date

on which the plan first satisfies the criteria for  
endangered status under paragraph (2), and

“(C) a plan that is in endangered status  
under this paragraph shall not emerge from en-  
dangered status unless the plan’s actuary cer-  
tifies under paragraph (5)(A) that the plan is  
no longer in endangered status and is not in  
critical or declining status.”.

(g) AMENDMENTS RELATING TO FUNDING IMPROVE-  
MENT PLAN.—

(1) IN GENERAL.—Paragraph (1) of section  
305(d) of the Employee Retirement Income Security  
Act of 1974 (29 U.S.C. 1085(d)), as redesignated  
and amended by this section, is further amended—

(A) by striking the last sentence, and

(B) in subparagraph (B), by striking  
“funding improvement plan—” and all that fol-  
lows and inserting “funding improvement plan,  
shall provide to the bargaining parties 1 or  
more schedules showing revised benefit struc-  
tures, revised contribution structures, or both,  
which, if adopted, may reasonably be expected  
to enable the multiemployer plan to meet the  
requirements of paragraph (3), including—

1                   “(i) one default proposal under  
2                   which—

3                   “(I) all adjustable benefits in the  
4                   form of early retirement subsidies (in-  
5                   cluding early reduction factors which  
6                   are not provided on an actuarially  
7                   equivalent basis) under the plan are  
8                   eliminated, and

9                   “(II) the future monthly benefit  
10                  accrual rate under the plan is reduced  
11                  to the equivalent of 1 percent of an-  
12                  nual contributions (or, if lower, the  
13                  accrual rate as of the date of the en-  
14                  actment of the Chris Allen Multiem-  
15                  ployer Pension Recapitalization and  
16                  Reform Act of 2020) based on the  
17                  contribution rate in effect as of the  
18                  first day of the plan year in which the  
19                  plan enters endangered status, and  
20                  which may also include reduction or elimi-  
21                  nation of any other adjustable benefits  
22                  under the plan, and

23                  “(ii) any additional schedules which  
24                  reduce or eliminate adjustable benefits  
25                  under the plan which the plan sponsor

1           deems appropriate to provide as an alter-  
 2           native to the default proposal.”.

3           (2) FUNDING IMPROVEMENT PLAN.—Paragraph  
 4           (3) of section 305(d) of such Act (29 U.S.C.  
 5           1085(d)), as so redesignated and amended, is fur-  
 6           ther amended—

7           (A) by striking “For purposes of this sec-  
 8           tion—” and all that follows through “which  
 9           consists of” in subparagraph (A) and inserting  
 10          “For purposes of this section, a funding im-  
 11          provement plan is a plan which consists of”,  
 12          and

13          (B) by striking “formulated to provide”  
 14          and all that follows and inserting “formulated,  
 15          based on reasonably anticipated experience and  
 16          reasonable actuarial assumptions, to—

17          “(A) enable the plan to emerge from en-  
 18          dangered status by the end of the funding im-  
 19          provement period, and

20          “(B) avoid any accumulated funding defi-  
 21          ciencies during the funding improvement period  
 22          (taking into account any extension of amortiza-  
 23          tion periods under section 304(d)).”.

24          (3) FUNDING IMPROVEMENT PERIOD.—Para-  
 25          graph (4) of section 305(d) of such Act (29 U.S.C.

1 1085(d)(4)), as so redesignated and amended, is fur-  
2 ther amended by striking subparagraph (B) and in-  
3 serting after subparagraph (A) the following new  
4 subparagraph:

5 “(B) NEW PERIOD BASED ON ADVERSE  
6 EXPERIENCE.—

7 “(i) IN GENERAL.—If the plan’s actu-  
8 ary determines necessary based on adverse  
9 plan experience, the plan sponsor may pro-  
10 vide for a new 10-year period as of the  
11 first day of any plan year in the original  
12 funding improvement period, but only if  
13 the plan is still projected to meet the re-  
14 quirements of the funding improvement  
15 plan and emerge from endangered status  
16 at the end of the new funding improvement  
17 period.

18 “(ii) LIMITATION.—A plan sponsor  
19 may provide a new 10-year period under  
20 clause (i) not more than 1 time in any 20-  
21 consecutive-year period, unless the plan  
22 sponsor submits to the Secretary an appli-  
23 cation for an additional new period. Such  
24 application shall include a certification that  
25 the plan is projected to emerge from en-

1           dangered status in the proposed new 10-  
2           year period and a description of key as-  
3           sumptions, to be specified in regulations  
4           promulgated by the Secretary in consulta-  
5           tion with the Pension Benefit Guaranty  
6           Corporation.”.

7           (4) CONFORMING AMENDMENTS.—

8           (A) Subparagraph (C) of section 305(d)(4)  
9           of such Act (29 U.S.C. 1085(d)(4)), as so re-  
10          designated and amended, is further amended—

11               (i) by striking “critical status” both  
12               places it appears in clauses (i) and (ii) and  
13               inserting “critical or declining status”,

14               (ii) by striking “rehabilitation period”  
15               in clause (ii) and inserting “rehabilitation  
16               or solvency attainment period”, and

17               (iii) by striking “CRITICAL STATUS” in  
18               the heading of clause (ii) and inserting  
19               “CRITICAL OR DECLINING STATUS”.

20          (B) Subsection (d) of section 305 of such  
21          Act (29 U.S.C. 1085), as so redesignated and  
22          amended, is further amended by striking para-  
23          graph (5) and by redesignating paragraphs (6),  
24          (7), and (8) as paragraphs (5), (6), and (7), re-  
25          spectively.

(C) Paragraph (6) of section 305(d) of such Act (29 U.S.C. 1085(d)), as so redesignated, is amended—

(i) by striking “(1)(B)(i)(I)” in subparagraph (A) and inserting “(1)(B)(i)”, and

(ii) by striking “paragraph (6)(B)” in subparagraph (B)(ii) and inserting “paragraph (5)(B)”.

(D) Paragraph (2) of section 305(d) of such Act (29 U.S.C. 1085(d)), as so redesignated, is amended by inserting “, except that the next update of the funding improvement plan shall fulfill the requirement of paragraph (1)(B)(i)” after “for a preceding plan year”.

(h) AMENDMENTS RELATING TO REHABILITATION PLAN.—

(1) IN GENERAL.—Paragraph (1) of section 305(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(f)), as redesignated and amended by this section, is further amended—

(A) by striking the last 2 sentences, and

(B) in subparagraph (B), by striking “rehabilitation plan—” and all that follows and inserting “rehabilitation plan, shall provide to the

1 bargaining parties 1 or more schedules showing  
2 revised benefit structures, revised contribution  
3 structures, or both, which, if adopted, may rea-  
4 sonably be expected to enable the multiemployer  
5 plan to meet the requirements of paragraph (3),  
6 including—

7 “(i) one default proposal under  
8 which—

9 “(I) all adjustable benefits in the  
10 form of early retirement subsidies (in-  
11 cluding early reduction factors which  
12 are not provided on an actuarially  
13 equivalent basis) under the plan are  
14 eliminated, and

15 “(II) the future monthly benefit  
16 accrual rate under the plan is reduced  
17 to the equivalent of 1 percent of an-  
18 nual contributions (or, if lower, the  
19 accrual rate as of the date of the en-  
20 actment of the Chris Allen Multiem-  
21 ployer Pension Recapitalization and  
22 Reform Act of 2020) based on the  
23 contribution rate in effect as of the  
24 first day of the plan year in which the  
25 plan enters critical status, and

1 which may also include reduction or elimi-  
 2 nation of any other adjustable benefits  
 3 under the plan, and

4 “(ii) any additional schedules which  
 5 reduce or eliminate adjustable benefits  
 6 under the plan which the plan sponsor  
 7 deems appropriate to provide as an alter-  
 8 native to the default proposal.

9 In the case of a plan adopting a rehabilitation  
 10 plan described in paragraph (3)(A)(ii), no  
 11 schedule provided to or adopted by the bar-  
 12 gaining parties shall provide for a monthly ben-  
 13 efit accrual rate in excess of the rate described  
 14 in subparagraph (B)(i)(II).”.

15 (2) REHABILITATION PLAN.—

16 (A) IN GENERAL.—Subparagraph (A) of  
 17 section 305(f)(3) of such Act (29 U.S.C.  
 18 1085(f)(3)), as so redesignated, is amended—

19 (i) by striking “and may include” and  
 20 all that follows through “such actions” in  
 21 clause (i),

22 (ii) by inserting “, while delaying in-  
 23 solvency for as long as possible and maxi-  
 24 mizing the income of the plan, including

income after insolvency” before the period  
in clause (ii), and

(iii) by striking “(1)(B)(i)” in the last  
sentence and inserting “(1)(B)”.

(B) CONFORMING AMENDMENTS.—Clause  
(i) of section 305(f)(3)(C) of such Act (29  
U.S.C. 1085(f)(3)(C)), as so redesignated, is  
amended—

(i) by striking “(1)(B)(i)” in sub-  
clause (II) and inserting “(1)(B)”, and

(ii) by striking “the last sentence of  
paragraph (1)” and inserting “paragraph  
(1)(B)(i)”.

(3) REHABILITATION PERIOD.—

(A) IN GENERAL.—Subparagraph (A) of  
section 305(f)(4) of such Act (29 U.S.C.  
1085(f)(4)), as so redesignated and amended, is  
further amended—

(i) by striking “The rehabilitation pe-  
riod” and inserting “Except as otherwise  
provided in this subparagraph, the reha-  
bilitation period”, and

(ii) by adding at the end the fol-  
lowing: “If, upon exhaustion of all reason-  
able measures, the plan is not reasonably

1 expected to emerge from critical status by  
 2 the end of such 10-year period, the reha-  
 3 bilitation period shall be extended to take  
 4 into account the projected date of emer-  
 5 gence from critical status (if the rehabilita-  
 6 tion plan remained in effect until such  
 7 date) or the projected date of insolvency (if  
 8 applicable) (unless the plan enters declin-  
 9 ing status).”.

10 (B) EMERGENCE FROM CRITICAL STA-  
 11 TUS.—Subparagraph (B) of section 305(f)(4) of  
 12 such Act (29 U.S.C. 1085(f)(4)), as so redesign-  
 13 nated and amended, is further amended—

14 (i) by inserting “and is not in declin-  
 15 ing status,” after the comma in clause  
 16 (i)(I),

17 (ii) by striking subclause (III) of  
 18 clause (i) and inserting the following:

19 “(III) the plan’s projected funded  
 20 percentage as of the first day of the  
 21 15th succeeding plan year is at least  
 22 100 percent and is projected to in-  
 23 crease after such date.”,

24 (iii) by striking “that—” and all that  
 25 follows through “regardless of whether” in

1 clause (ii)(I) and inserting “that the plan  
 2 meets the requirements of subclauses (II)  
 3 and (III) of clause (i), regardless of wheth-  
 4 er”, and

5 (iv) by striking “unless—” and all  
 6 that follows in clause (ii)(II) and inserting  
 7 “unless, as of such plan year, the plan fails  
 8 to meet the requirements of subclause (II)  
 9 or (III) of clause (i).”.

10 (4) RULES RELATING TO BENEFIT INCREASES  
 11 DURING REHABILITATION PERIOD.—Subparagraph  
 12 (B) of section 305(g)(1) of such Act (29 U.S.C.  
 13 1085(g)(1)), as so redesignated and amended, is fur-  
 14 ther amended by striking “unless” and all that fol-  
 15 lows and inserting “unless the amendment is re-  
 16 quired as a condition of qualification under part I of  
 17 subchapter D of chapter 1 of the Internal Revenue  
 18 Code of 1986 or to comply with other applicable law,  
 19 or the amendment provides for only a de minimis in-  
 20 crease in the liabilities of the plan.”.

21 (5) CONFORMING AMENDMENTS.—

22 (A) Paragraph (6) of section 305(f) of  
 23 such Act (29 U.S.C. 1085(f)), as so redesign-  
 24 ated, is amended by striking “the last sentence

of paragraph (1)” and inserting “paragraph (1)(B)(i)”.

(B) Paragraph (2) of section 305(f) of such Act (29 U.S.C. 1085(f)), as so redesignated, is amended by inserting “, except that the next update of the rehabilitation plan shall fulfill the requirement of paragraph (1)(B)(i)” after “for a preceding plan year”.

(i) ACTUARIAL ASSUMPTIONS.—

(1) IN GENERAL.—Subsection (n) of section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085), as redesignated by subsections (a), (d), and (e), is amended—

(A) by striking “METHOD” in the heading and inserting “METHOD AND ASSUMPTIONS”, and

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

“(11) ACTUARIAL ASSUMPTIONS.—

“(A) IN GENERAL.—The actuarial assumptions relied upon for purposes of this section by a plan actuary shall be individually reasonable and, in the aggregate, shall be reasonable and (with the exception of assumptions regarding future contributions) represent the actuary’s

1 best estimate of future plan experience, within  
2 limitations prescribed by the Secretary of the  
3 Treasury. A plan actuary shall avoid conserv-  
4 atism or optimism in individual assumptions to  
5 the extent that they would result in a set of as-  
6 sumptions that is unreasonable in the aggre-  
7 gate.

8 “(B) INVESTMENT RETURNS.—The invest-  
9 ment return assumption for projecting plan as-  
10 sets may differ from the actuarial valuation in-  
11 terest rate. In selecting the investment return  
12 assumption for projecting plan assets, the plan  
13 actuary shall estimate the expected return of  
14 the plan’s investments as currently invested and  
15 as expected to be invested in the future, con-  
16 sistent with the plan’s adopted investment pol-  
17 icy, if applicable. It is reasonable for an actuary  
18 to expect that the plan’s investment decisions  
19 will consider risk, expected returns over time,  
20 and expected future benefit payments. The in-  
21 vestment return assumption shall not exceed  
22 the interest rate used to determine past service  
23 liability under section 431(b)(6).

24 “(C) CONTRIBUTIONS.—

1           “(i) IN GENERAL.—The plan actuary  
2           shall develop assumptions for the projec-  
3           tion of future contributions, including as-  
4           sumptions regarding industry activity  
5           among contributing employers and con-  
6           tribution rates, based on information pro-  
7           vided by the plan sponsor, which must act  
8           reasonably and in good faith. The plan ac-  
9           tuary shall certify the reasonableness of all  
10          assumptions.

11          “(ii) PROJECTED INDUSTRY ACTIV-  
12          ITY.—Any projection of activity in the in-  
13          dustry or industries covered by the plan,  
14          including future covered employment and  
15          contribution levels, shall be based on infor-  
16          mation provided by the plan sponsor acting  
17          reasonably and in good faith.

18          “(iii) FUTURE CONTRIBUTION BASE  
19          UNITS.—

20                 “(I) DECLINING CONTRIBUTION  
21                 BASE UNITS.—If recent experience of  
22                 the plan has been declining contribu-  
23                 tion base units, the plan actuary may  
24                 assume future contribution base units  
25                 will continue to decline at the same

1 annualized trend as over the 5 imme-  
2 diately preceding plan years, unless  
3 the actuary determines that there  
4 have been significant changes that  
5 would make such assumption unrea-  
6 sonable.

7 “(II) FLAT OR INCREASING CON-  
8 TRIBUTION BASE UNITS.—If recent  
9 experience of the plan has been in-  
10 creasing, or neither increasing nor de-  
11 creasing, contribution base units, the  
12 plan actuary may assume future con-  
13 tribution base units will remain un-  
14 changed indefinitely, unless the actu-  
15 ary determines that there have been  
16 significant changes that would make  
17 such assumption unreasonable.

18 “(iv) FUTURE CONTRIBUTION  
19 RATES.—

20 “(I) IN GENERAL.—Projections  
21 of contributions shall be based on the  
22 contribution rates consistent with the  
23 terms of collective bargaining and  
24 participation agreements currently in  
25 effect.

1                   “(II) FUTURE INCREASES IN AC-  
2                   CORDANCE       WITH       CORRECTION  
3                   PLANS.—If reasonable and applicable,  
4                   the plan actuary may assume future  
5                   increases in contribution rates con-  
6                   sistent with the adopted funding im-  
7                   provement plan, rehabilitation plan, or  
8                   solvency plan.

9                   “(III) ADDITIONAL FACTORS.—  
10                  Information provided by the plan  
11                  sponsor to the plan actuary in setting  
12                  the assumption regarding future in-  
13                  creases in contribution rates shall  
14                  take into account the ability of the  
15                  participating employers to make con-  
16                  tributions at the scheduled rates over  
17                  time, considering relevant factors such  
18                  as projected industry activity, the fi-  
19                  nancial strength of participating em-  
20                  ployers, market competition, and the  
21                  scheduled contribution rate to the  
22                  plan relative to the overall wage pack-  
23                  age.

24                  “(D) ASSUMPTIONS FOR DEVELOPING  
25                  SCHEDULES.—All schedules under any funding

1 improvement plan, rehabilitation plan, or sol-  
 2 vency plan must be developed based on the  
 3 same set of actuarial assumptions unless it  
 4 would be unreasonable to do so, taking into ac-  
 5 count the anticipated impact of the schedules  
 6 on participant behavior and employer participa-  
 7 tion.”.

8 (2) ADDITIONS TO FORM 5500 SCHEDULE MB.—

9 Subparagraph (B) of section 305(b)(5) of such Act  
 10 (29 U.S.C. 1085(b)(5)), as redesignated and amend-  
 11 ed by this section, is further amended by adding at  
 12 the end the following new clause:

13 “(vi) ADDITIONAL ATTACHMENTS.—

14 The plan actuary shall attach to the cer-  
 15 tification required under subparagraph  
 16 (A)—

17 “(I) documentation supporting  
 18 the certification of status under sub-  
 19 paragraph (A)(i), including projec-  
 20 tions of the funding standard account,  
 21 funded percentage, and solvency of  
 22 the plan,

23 “(II) a clear description of the  
 24 key assumptions used in performing  
 25 the projections, including investment

1 returns, contribution base units, and  
2 contribution rates,

3 “(III) a 5-year history of con-  
4 tributions, including contribution base  
5 units, average contribution rates, and  
6 withdrawal liability payments, and a  
7 comparison of such contribution base  
8 units, rates, and payments to projec-  
9 tions made by the plan, and

10 “(IV) an alternate projection of  
11 the funding standard account, funded  
12 percentage, and solvency, based on the  
13 following assumptions:

14 “(aa) Annual future invest-  
15 ment returns on plan assets  
16 equal the actuarial interest rate  
17 assumption minus 1 percent.

18 “(bb) Future contribution  
19 base units projected using a  
20 trend equal to the lesser of—

21 “(AA) the annualized  
22 trend of actual contribution  
23 base units over the 5 pre-  
24 ceding plan years, and

1                   “(BB) no change in fu-  
2                   ture contribution base units.

3                   “(cc) No increases in future  
4                   contribution rates beyond those  
5                   consistent with the collective bar-  
6                   gaining agreements and partici-  
7                   pation agreements in effect for  
8                   the plan year.

9                   “(dd) The withdrawal from  
10                  the plan of the employer which  
11                  has contributed the greatest total  
12                  amount of contributions over the  
13                  5 preceding plan years, if such  
14                  employer has contributed at least  
15                  10 percent of the total contribu-  
16                  tions to the plan over such 5 plan  
17                  years and such employer has a  
18                  below investment grade credit  
19                  rating (but only if obtaining the  
20                  credit rating of such employer is  
21                  not an undue burden).

22                  “(ee) If such credit rating  
23                  cannot be obtained without  
24                  undue burden, the withdrawal of  
25                  the employer which has contrib-

1           uted the greatest total amount of  
2           contributions over the 5 pre-  
3           ceding plan years, if such em-  
4           ployer has contributed at least 10  
5           percent of the total contributions  
6           to the plan over such 5 plan  
7           years without regard to collection  
8           of any withdrawal liability.

9           “(ff) If no employer has con-  
10          tributed at least 10 percent of  
11          the total contributions to the  
12          plan over the 5 preceding plan  
13          years, the withdrawal of the em-  
14          ployer which contributed the  
15          greatest total amount of con-  
16          tributions for the current plan  
17          year, without regard to collection  
18          of any withdrawal liability, unless  
19          the employer contributed less  
20          than 1 percent of the total con-  
21          tributions to the plan for such  
22          plan year.

23          “(gg) Other assumptions  
24          consistent with the projection

1 based on the actuary's best esti-  
2 mate assumptions.”.

3 (3) CONFORMING AMENDMENTS.—

4 (A) Section 305(b)(5)(B)(i) of such Act  
5 (29 U.S.C. 1085(b)(5)(B)(i)), as redesignated  
6 by this section, is amended by striking “as-  
7 sumptions” and inserting “assumptions meeting  
8 the requirements of subsection (n)(11)”.

9 (B) Section 305(b)(5)(A)(vi) of such Act  
10 (29 U.S.C. 1085(b)(5)(A)(vi), as amended by  
11 this section and section 321, is further amended  
12 by striking “reasonable actuarial assumptions”  
13 and inserting “assumptions meeting the re-  
14 quirements of subsection (n)(11)”.

15 (C) Paragraph (3) of section 305(d) of  
16 such Act (29 U.S.C. 1085(d)), as amended by  
17 subsection (g), is further amended by striking  
18 “reasonable actuarial assumptions” and insert-  
19 ing “assumptions meeting the requirements of  
20 subsection (n)(11)”.

21 (D) Clause (i) of section 305(f)(3)(A) of  
22 such Act (29 U.S.C. 1085(f)(3)(A)), as amend-  
23 ed by subsection (h), is further amended by  
24 striking “reasonable actuarial assumptions”

1           and inserting “assumptions meeting the re-  
2           quirements of subsection (n)(11)”.

3           (E) Section 305(h)(3) of such Act (29  
4           U.S.C. 1085(h)(3)), as added by subsection (d),  
5           is amended by striking “reasonable actuarial  
6           assumptions” and inserting “assumptions meet-  
7           ing the requirements of subsection (n)(11)”.

8           (j) CONFORMING AMENDMENTS RELATING TO PRE-  
9           MIUMS.—Paragraph (10) of section 4006(a) of such Act  
10          (29 U.S.C. 1306(a)), as added by this Act, is amended—

11           (1) by striking “305(b)(7)” in subparagraph  
12          (B)(iii) thereof and inserting “305(b)(4)”,

13           (2) by striking “critical and declining” in sub-  
14          paragraph (B)(iii) thereof and inserting “declining”,  
15          and

16           (3) by striking “305(f)(9)” in subparagraph (C)  
17          and inserting “305(h)(8)”.

18          (k) CONFORMING AMENDMENTS RELATING TO COM-  
19          POSITE AND LEGACY PLANS.—

20           (1) Sections 203(a)(3)(E)(ii), 204(b)(1)(B)(i),  
21          204(b)(1)(H)(v), and 204(g)(1) of the Employee Re-  
22          tirement Income Security Act of 1974 (29 U.S.C.  
23          1053(a)(3)(E)(ii),                               1054(b)(1)(B)(i),  
24          1054(b)(1)(H)(v), and 1054(g)(1)), as amended by  
25          title V, are each further amended by striking

1       “305(f)” each place it appears and inserting  
2       “305(h)(8)”.

3           (2) Sections 304(b)(10), 805(d)(2)(D), and  
4       805(d)(4) of such Act, as added by title V, are each  
5       amended by striking “endangered or critical” and  
6       inserting “endangered, critical, or declining”.

7           (3) Section 801(b)(1) of such Act, as so added,  
8       is amended by striking “endangered or critical” both  
9       places it appears and inserting “endangered, critical,  
10      or declining”.

11          (4) Sections 801(b)(1), 801(b)(5)(B),  
12      805(b)(1)(A), and 805(e)(3) of such Act, as so  
13      added, are each amended by striking “305(b)(4)”  
14      and inserting “305(b)(5)”.

15          (5) Sections 801(b)(5)(B) and 805(b)(1)(A) of  
16      such Act, as so added, are each amended by striking  
17      “endangered or critical” and inserting “endangered,  
18      critical, or declining”.

19          (6) Section 802(b)(1) of such Act, as so added,  
20      is amended by striking “and” at the end of subpara-  
21      graph (B), by striking the period at the end of sub-  
22      paragraph (C) and inserting “; and”, and by adding  
23      at the end the following new subparagraph:

1 “(D) consistent with the principles of sub-  
 2 paragraphs (B), (C), and (D) of section  
 3 305(n)(11).”.

4 (7) Sections 802(b)(5) and 805(d)(2)(A) of  
 5 such Act, as so added, are each amended by striking  
 6 “305(b)(4)(B)” and inserting “305(b)(5)(B)”.

7 (8) Section 803(a)(2)(D) of such Act, as so  
 8 added, is amended by striking “305(f)(9)(D)(vi)”  
 9 and inserting “305(h)(8)(D)(vi)”.

10 (9) Section 803(a)(3) of such Act, as so added,  
 11 is amended by striking “305(f)(8)” and inserting  
 12 “305(m)(1)(D)”.

13 (10) Section 805(d)(2)(D) of such Act, as so  
 14 added and amended, is further amended by striking  
 15 “funding improvement or rehabilitation plan” and  
 16 inserting “funding improvement, rehabilitation, or  
 17 solvency plan”.

18 (l) ADDITIONAL CONFORMING AMENDMENTS.—

19 (1) Section 502(c) of the Employee Retirement  
 20 Income Security Act of 1974 (29 U.S.C. 1132(c)) is  
 21 amended—

22 (A) in paragraph (7)(B), as added by sec-  
 23 tion 322, by striking “305(b)(4)(D)” and in-  
 24 serting “305(b)(5)(D)”, and

1 (B) in paragraph (14), as so added and as  
2 redesignated by section 501—

3 (i) by striking “305(b)(4)(D)” in sub-  
4 paragraph (A) and inserting  
5 “305(b)(5)(D)”, and

6 (ii) by striking “305(b)(4)” in sub-  
7 paragraph (B) and inserting “305(b)(5)”.

8 (2) Section 4003(g) of such Act (29 U.S.C.  
9 1303(g)), as added by section 321, is amended by  
10 striking “section 305(b)(4)(A)” and inserting “sec-  
11 tion 305(b)(5)(A)”.

12 (3) Section 4042(b)(2)(B)(i) of such Act (29  
13 U.S.C. 1342(b)(2)(B)), as added by section 301, is  
14 amended—

15 (A) by striking “critical and declining” and  
16 inserting “declining”, and

17 (B) by striking “(7)” and inserting “(4)”.

18 (m) EFFECTIVE DATE.—Except as otherwise pro-  
19 vided in subsection (a)(7), the amendments made by this  
20 section shall apply to plan years beginning after December  
21 31, 2020.

22 (n) CREDIT RATINGS.—No requirement of section  
23 939 or 939A of the Dodd-Frank Wall Street Reform and  
24 Consumer Protection Act (124 Stat. 1887; 15 U.S.C.

1 78o–7 note) shall apply with respect to the amendment  
2 made by subsection (i)(2).

3 **SEC. 213. TRANSITION RULES.**

4 (a) PLANS IN ENDANGERED STATUS.—

5 (1) IN GENERAL.—In the case of a multiem-  
6 ployer plan which is in endangered status as of the  
7 date of the enactment of this Act, and is on schedule  
8 as of such date to meet the applicable benchmarks  
9 in accordance with the plan’s funding improvement  
10 plan—

11 (A) ELECTION TO APPLY LAW BEFORE  
12 AMENDMENT.—The plan sponsor may elect to  
13 remain in endangered status and to apply sec-  
14 tion 432 of the Internal Revenue Code of 1986  
15 and section 305 of the Employee Retirement  
16 Income Security Act of 1974 (29 U.S.C. 1085)  
17 as in effect before January 1, 2021, to the  
18 plan, but only if the plan continues to meet  
19 such applicable benchmarks.

20 (B) TRANSITIONAL EFFECTIVE DATE.—If  
21 the plan sponsor does not make the election  
22 under paragraph (1)—

23 (i) section 432 of such Code and sec-  
24 tion 305 of such Act as in effect on Janu-  
25 ary 1, 2021, shall apply to such plan as of

the first day of the first plan year beginning after December 31, 2020, and

(ii) section 432(d)(1)(B)(i)(II) of such Code and section 305(d)(1)(B)(i)(II) of such Act, as amended by sections 211(g) and 212(g), respectively, shall each apply to such plan by substituting “the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020” for “the first day of the plan year in which the plan enters endangered status”.

In the case of any plan with respect to which the plan sponsor makes the election under subparagraph (A) but which fails to continue to meet the applicable benchmarks under the funding improvement plan, this subparagraph shall apply to such plan by substituting “the plan year after the first plan year for which the plan fails to meet the applicable benchmarks” for “the first plan year beginning after December 31, 2020”.

(2) PLANS ENTERING ENDANGERED STATUS

BETWEEN ENACTMENT AND JANUARY 1, 2021.—In

the case of a multiemployer plan which enters en-

1       dangered status after the date of the enactment of  
2       this Act and before January 1, 2021—

3               (A) section 432 of such Code and section  
4       305 of such Act as in effect on January 1,  
5       2021, shall apply to such plan as if already in  
6       effect, and

7               (i) section 432(d)(1)(B)(i)(II) of such  
8       Code and section 305(d)(1)(B)(i)(II) of  
9       such Act, as amended by sections 211(g)  
10      and 212(g), respectively, shall each apply  
11      to such plan by substituting “the date of  
12      the enactment of the Chris Allen Multiem-  
13      ployer Pension Recapitalization and Re-  
14      form Act of 2020” for “the first day of the  
15      plan year in which the plan enters endan-  
16      gered status”.

17      (b) PLANS IN CRITICAL OR CRITICAL AND DECLIN-  
18      ING STATUS.—

19              (1) IN GENERAL.—In the case of a qualified  
20      critical multiemployer plan—

21              (A) ELECTION TO APPLY LAW BEFORE  
22      AMENDMENT.—The plan sponsor may elect to  
23      remain in critical or critical and declining sta-  
24      tus and to apply section 432 of the Internal  
25      Revenue Code of 1986 and section 305 of the

1 Employee Retirement Income Security Act of  
2 1974 (29 U.S.C. 1085) as in effect before Jan-  
3 uary 1, 2021, to the plan, but only if the plan  
4 continues to make scheduled progress under the  
5 plan’s rehabilitation plan.

6 (B) TRANSITIONAL EFFECTIVE DATE.—If  
7 the plan sponsor does not make the election  
8 under paragraph (1)—

9 (i) section 432 of such Code and sec-  
10 tion 305 of such Act as in effect on Janu-  
11 ary 1, 2021, shall apply to such plan as of  
12 the first day of the first plan year begin-  
13 ning after December 31, 2020,

14 (ii) section 432(f)(1)(B)(i)(II) of such  
15 Code and section 305(f)(1)(B)(i)(II) of  
16 such Act, as amended by sections 211(h)  
17 and 212(h), respectively, shall each apply  
18 to such plan by substituting “the date of  
19 the enactment of the Chris Allen Multiem-  
20 ployer Pension Recapitalization and Re-  
21 form Act of 2020” for “the first day of the  
22 plan year in which the plan enters critical  
23 status”, and

24 (iii) section 432(h)(1)(B)(i)(II) of  
25 such Code and section 305(h)(1)(B)(i)(II)

1 of such Act, as amended by sections  
2 211(d)(3) and 212(d)(3), respectively, shall  
3 each apply to such plan by substituting  
4 “the date of the enactment of the Chris  
5 Allen Multiemployer Pension Recapitaliza-  
6 tion and Reform Act of 2020” for “the  
7 first day of the plan year in which the plan  
8 enters declining status”.

9 In the case of any plan with respect to which  
10 the plan sponsor makes the election under sub-  
11 paragraph (A) but which fails to continue to  
12 make scheduled progress under the rehabilita-  
13 tion plan, this subparagraph shall apply to such  
14 plan by substituting “the plan year after the  
15 first plan year for which the plan fails to make  
16 scheduled progress under the rehabilitation  
17 plan” for “the first plan year beginning after  
18 December 31, 2020”.

19 (C) APPLICATION OF PREMIUM AMEND-  
20 MENTS.—A plan with respect to which the plan  
21 sponsor makes the election under subparagraph  
22 (A) shall be treated as described in clause (iii)  
23 of section 4006(a)(10)(B) of the Employee Re-  
24 tirement Income Security Act of 1974 until  
25 such time as the plan emerges from critical and

1 declining status pursuant to section 432 of such  
2 Code and section 305 of such Act as in effect  
3 before January 1, 2021.

4 (2) PLANS ENTERING CRITICAL OR CRITICAL  
5 AND DECLINING STATUS BETWEEN ENACTMENT AND  
6 JANUARY 1, 2021.—In the case of a multiemployer  
7 plan which enters critical or critical and declining  
8 status after the date of the enactment of this Act  
9 and before January 1, 2021—

10 (A) section 432 of such Code and section  
11 305 of such Act as in effect on January 1,  
12 2021, shall apply to such plan as if already in  
13 effect,

14 (B) section 432(f)(1)(B)(i)(II) of such  
15 Code and section 305(f)(1)(B)(i)(II) of such  
16 Act, as amended by sections 211(h) and 212(h),  
17 respectively, shall each apply to such plan by  
18 substituting “the date of the enactment of the  
19 Chris Allen Multiemployer Pension Recapital-  
20 ization and Reform Act of 2020” for “the first  
21 day of the plan year in which the plan enters  
22 critical status”, and

23 (C) section 432(h)(1)(B)(i)(II) of such  
24 Code and section 305(h)(1)(B)(i)(II) of such  
25 Act, as amended by sections 211(d)(3) and

212(d)(3), respectively, shall each apply to such plan by substituting “the date of the enactment of the Chris Allen Multiemployer Pension Recapitalization and Reform Act of 2020” for “the first day of the plan year in which the plan enters declining status”.

(3) QUALIFIED CRITICAL MULTIEMPLOYER

PLAN.—For purposes of this subsection, the term

“qualified critical multiemployer plan” means a mul-

tiemployer plan which is in critical or critical and

declining status as of the date of the enactment of

this Act, and is making scheduled progress under

the plan’s rehabilitation plan, but only if the reha-

bilitation plan (as in effect without regard to the

amendments made by this Act) targets emergence

from critical status not later than 3 years after the

end of the rehabilitation period as in effect with re-

spect to such plan on the date of the enactment of

this Act.

(c) ELECTION.—

(1) IN GENERAL.—An election under subsection

(a)(1)(A) or (b)(1)(A) shall be made—

(A) by notice to the Secretary of the

Treasury and the Pension Benefit Guaranty

1 Corporation, in such manner as the Secretary  
2 of the Treasury may prescribe, and

3 (B) not later than the due date for the no-  
4 tice of endangered status or critical status for  
5 the first plan year beginning after December  
6 31, 2020.

7 (2) PERIODS AFTER ELECTION.—After making  
8 a timely election under paragraph (1)—

9 (A) the plan sponsor shall annually review  
10 and update (if necessary) the plan’s funding  
11 improvement plan or rehabilitation plan, and

12 (B) the plan actuary shall certify annually  
13 whether the plan is making scheduled progress  
14 under the funding improvement plan or reha-  
15 bilitation plan.

16 (d) DEFINITIONS.—Any term used in this section  
17 which is also used in section 432 of the Internal Revenue  
18 Code of 1986 or section 305 of the Employee Retirement  
19 Income Security Act of 1974 (before or after the amend-  
20 ments made by this Act) shall have the same meaning as  
21 when used in such sections.

1       **PART II—PROVISIONS RELATING TO PLAN**

2                       **MERGERS**

3   **SEC. 221. PROVISIONS RELATING TO PLAN MERGERS AND**

4                       **CONSOLIDATIONS.**

5       (a) IN GENERAL.—Section 4231(c) of the Employee  
6 Retirement Income Security Act of 1974 (29 U.S.C.  
7 1411(c)) is amended—

8               (1) by striking “section 406(a) or section  
9 406(b)(2)” and inserting “section 404, 406(a), or  
10 406(b)(2)”, and

11              (2) by adding at the end the following: “The  
12 corporation shall prescribe safe harbor provisions  
13 whereby a merger of multiemployer plans or the  
14 transfer of assets or liabilities between multiem-  
15 ployer plans, where one of the plans is in critical and  
16 declining status pursuant to section 305 and one is  
17 in stable or unrestricted status pursuant to such sec-  
18 tion, shall be deemed to satisfy the requirements of  
19 this section. Notwithstanding the preceding sen-  
20 tences, the implementation of such merger or trans-  
21 fer shall be subject to the rules of section 404.”.

22       (b) CALCULATION OF WITHDRAWAL LIABILITY.—

23              (1) IN GENERAL.—Section 4231 of the Em-  
24 ployee Retirement Income Security Act of 1974 (29  
25 U.S.C. 1411) is amended by adding at the end the  
26 following new subsection:

1       “(f) CALCULATION OF WITHDRAWAL LIABILITY  
 2 POST-MERGER.—The corporation shall prescribe the  
 3 methods and conditions under which employers contrib-  
 4 uting to plans which are in stable or unrestricted status  
 5 under section 305 when such plan merges with a plan in  
 6 declining status under such section will not be allocated  
 7 the unfunded vested benefits of the plan in declining sta-  
 8 tus (as determined immediately before the merger).”.

9           (2) EFFECTIVE DATE.—The amendment made  
 10       by this section shall apply to plan mergers after De-  
 11       cember 31, 2020.

12 **SEC. 222. CLARIFICATION OF PBGC FINANCIAL ASSISTANCE**  
 13 **FOR PLAN MERGERS AND PARTITIONS.**

14       (a) IN GENERAL.—Paragraph (2) of section 4231(e)  
 15 of the Employee Retirement Income Security Act of 1974  
 16 (29 U.S.C. 1411(e)) is amended—

17           (1) by striking the semicolon in subparagraph  
 18       (B)(ii) and inserting “, determined solely with re-  
 19       spect to the liabilities and assets of the plan which  
 20       was in critical and declining status prior to the  
 21       merger; and”; and

22           (2) by striking subparagraph (C) and redesign-  
 23       nating subparagraph (D) as subparagraph (C).

24       (b) PARTITIONS.—Section 4233(b) of the Employee  
 25 Retirement Income Security Act of 1974 (29 U.S.C.

1 1413(b)) is amended by striking paragraph (4), by adding  
 2 “and” at the end of paragraph (3)(B), and by redesignig-  
 3 nating paragraph (5) as paragraph (4).

4 (c) CONFORMING AMENDMENT RELATING TO STA-  
 5 TUS CHANGES.—Section 4231(e)(2)(B)(ii) of the Em-  
 6 ployee Retirement Income Security Act of 1974 (29  
 7 U.S.C. 1411(e)(2)(B)(ii)), as amended by subsection (a),  
 8 is further amended by striking “critical and declining”  
 9 and inserting “declining”.

10 (d) EFFECTIVE DATES.—

11 (1) IN GENERAL.—The amendments made by  
 12 subsections (a) and (b) shall apply to plan mergers  
 13 and partitions taking effect after the date of the en-  
 14 actment of this Act.

15 (2) CONFORMING AMENDMENT.—The amend-  
 16 ment made by subsection (c) shall apply to plan  
 17 mergers taking effect in plan years beginning after  
 18 December 31, 2020.

19 **SEC. 223. RESTORATION NOT REQUIRED FOR CERTAIN**  
 20 **MERGERS.**

21 (a) AMENDMENT OF INTERNAL REVENUE CODE OF  
 22 1986.—Clause (ii) of section 432(f)(9)(C) of the Internal  
 23 Revenue Code of 1986, as redesignated by section 211(a)  
 24 and as in effect before the amendments made by section

1 211 other than subsection (a) thereof, is amended by add-  
 2 ing at the end the following flush language:

3                    “If, during the period of the benefit sus-  
 4 pension, the plan merges with a plan which  
 5 is in stable or unrestricted status, nothing  
 6 in this clause shall be construed to require  
 7 the plan formed by the merger to restore  
 8 the suspension of benefits.”.

9            (b) AMENDMENT OF ERISA.—Clause (ii) of section  
 10 305(f)(9)(C) of the Employee Retirement Income Security  
 11 Act of 1974 (29 U.S.C. 1085(f)(9)(C)), as redesignated  
 12 by section 212(a) and as in effect before the amendments  
 13 made by section 212 other than subsection (a) thereof,  
 14 is amended by adding at the end the following flush lan-  
 15 guage:

16                    “If, during the period of the benefit sus-  
 17 pension, the plan merges with a plan which  
 18 is in stable or unrestricted status, nothing  
 19 in this clause shall be construed to require  
 20 the plan formed by the merger to restore  
 21 the suspension of benefits.”.

22            (c) EFFECTIVE DATE.—The amendments made by  
 23 subsections (a) and (b) shall apply to plan mergers taking  
 24 effect after the date of the enactment of this Act.

1       **PART III—WITHDRAWAL LIABILITY REFORM**

2       **SEC. 231. WITHDRAWAL LIABILITY REFORM.**

3           (a) WITHDRAWAL LIABILITY DEFINITION.—Section  
4   4201(b)(1) of the Employee Retirement Income Security  
5   Act of 1974 (29 U.S.C. 1381(b)(1)) is amended to read  
6   as follows:

7                   “(1) DETERMINATION OF WITHDRAWAL LIABIL-  
8       ITY.—

9                   “(A) IN GENERAL.—The withdrawal liabil-  
10       ity of an employer to a plan is the applicable  
11       amount determined under subparagraph (B),  
12       adjusted—

13                   “(i) first, in the case of a partial with-  
14       drawal, in accordance with section 4206;

15                   “(ii) second, by any de minimis reduc-  
16       tion applicable under section 4209; and

17                   “(iii) third, in accordance with section  
18       4225.

19                   “(B) APPLICABLE AMOUNT.—The applica-  
20       ble amount determined under this subpara-  
21       graph is the lesser of—

22                   “(i) the amount determined under  
23       section 4211 to be the allocable amount of  
24       unfunded vested benefits; or

25                   “(ii) the present value of a series of  
26       20 equal annual payments in the amount

1           determined with respect to the employer  
2           under section 4219(c)(1)(C).

3           In the case of an employer withdrawing from a  
4           multiemployer plan described in subparagraph  
5           (C), clause (i) shall be applied by substituting  
6           ‘25’ for ‘20’.

7           “(C) PLANS FOR WHICH 25 PAYMENTS RE-  
8           QUIRED.—

9           “(i) IN GENERAL.—A multiemployer  
10          plan is described in this subparagraph if  
11          the plan—

12               “(I) is certified to be in declining  
13               status (or, for plan years prior to  
14               2021, in critical or declining status)  
15               for the plan year in which the employ-  
16               er’s withdrawal occurs; or

17               “(II) terminates as described in  
18               section 4041A(a) or 4042.

19           “(ii) SPECIAL RULE FOR TERMI-  
20          NATIONS.—Clause (i)(II) shall apply to  
21          each employer who withdraws from a plan  
22          during a period of 3 consecutive plan years  
23          that includes the withdrawal of every em-  
24          ployer from the plan, or the cessation of  
25          the obligation of all employers to con-

1           tribute under the plan, as described in sec-  
2           tion 4041A(a)(2). For purposes of this  
3           clause, withdrawal by an employer from a  
4           plan, during a period of 3 consecutive plan  
5           years within which substantially all the em-  
6           ployers who have an obligation to con-  
7           tribute under the plan withdraw, shall be  
8           presumed to be a withdrawal pursuant to  
9           an agreement or arrangement, unless the  
10          employer proves otherwise by a preponder-  
11          ance of the evidence.

12           “(D) PRESENT VALUE.—For purposes of  
13          subparagraph (B)(ii), the present value of the  
14          annual payments shall be determined based on  
15          the assumptions used for the most recent actu-  
16          arial valuation for the plan used to determine  
17          unfunded past service liability for funding pur-  
18          poses.”.

19          (b) DE MINIMIS RULE.—Section 4209 of the Em-  
20          ployee Retirement Income Security Act of 1974 (29  
21          U.S.C. 1389) is amended—

22           (1) in subsection (a)—

23           (A) in the matter preceding paragraph (1),  
24           by striking “unfunded vested benefits allocable  
25           under section 4211 to” and inserting “applica-

1           ble amount determined under section  
2           4201(b)(1)(B) with respect to”;

3           (B) in paragraph (2), by striking  
4           “\$50,000” and inserting “\$100,000”; and

5           (C) in the flush text following paragraph  
6           (2)—

7                 (i) by striking “the unfunded vested  
8                 benefits” and inserting “such applicable  
9                 amount”; and

10                (ii) by striking “\$100,000” and in-  
11                serting “\$200,000”;

12           (2) in subsection (b)—

13                 (A) in the matter preceding paragraph (1),  
14                 by striking “amount determined under section  
15                 4211” and inserting “applicable amount deter-  
16                 mined under section 4201(b)(1)(B) with respect  
17                 to an employer”;

18                 (B) in paragraph (2)(B), by striking  
19                 “\$100,000” and inserting “\$250,000”; and

20                 (C) in the flush text at the end—

21                 (i) by striking “the amount deter-  
22                 mined under section 4211 for” and insert-  
23                 ing “such applicable amount with respect  
24                 to”; and

1 (ii) by striking “\$150,000” and in-  
2 serting “\$500,000”.

3 (c) PAYMENT OF WITHDRAWAL LIABILITY.—Section  
4 4219(c)(1) of the Employee Retirement Income Security  
5 Act of 1974 (29 U.S.C. 1399(c)(1)) is amended—

6 (1) by striking so much of paragraph (1) as  
7 precedes subparagraph (C) and inserting:

8 “(1)(A)(i) Subject to subparagraph (B), an employer  
9 shall pay its liability determined under section 4201(b)(1)  
10 in level annual payments determined under subparagraph  
11 (C) over the applicable period of years determined under  
12 clause (ii), calculated as if the first payment were made  
13 on the first day of the plan year following the plan year  
14 in which the withdrawal occurs and as if each subsequent  
15 payment were made on the first day of each subsequent  
16 plan year. Actual payment shall commence in accordance  
17 with paragraph (2).

18 “(ii) For purposes of clause (i), if the applicable  
19 amount used under section 4201(b)(1)(A) is the amount  
20 determined—

21 “(I) under section 4201(b)(1)(B)(i), the appli-  
22 cable period of years is the period of years necessary  
23 to amortize such amount in level annual payments  
24 determined under subparagraph (C), or

1           “(II) under section 4201(b)(1)(B)(ii), the appli-  
2           cable period of years is 20 years (25 years if the  
3           plan is described in section 4201(b)(1)(C)).

4           “(iii) For purposes of clause (ii)(I), the determination  
5           of the amortization period described in clause (i) shall be  
6           based on the assumptions used for the most recent actu-  
7           arial valuation for the plan to determine unfunded past  
8           service liability for funding purposes.

9           “(B)(i) If any adjustment is required to the with-  
10          drawal liability amount by reason of clause (i), (ii), or (iii)  
11          of section 4210(b)(1)(A), modifications shall be made  
12          under subparagraph (A) to reflect such adjustments in ac-  
13          cordance with this subparagraph and in such manner as  
14          the corporation shall provide.

15          “(ii) In the case of a partial withdrawal described in  
16          section 4205(a), the amount of each annual payment shall  
17          be the product of—

18                 “(I) the amount determined under subpara-  
19                 graph (C) (determined without regard to this sub-  
20                 paragraph), multiplied by

21                 “(II) the fraction determined under section  
22                 4206(a)(2).

23          “(iii) In the case of a de minimis reduction under  
24          section 4209, the period of years described in subpara-  
25          graph (A)(ii)(I) shall be adjusted so that the withdrawal

1 liability amount, as reduced under such section, is amor-  
 2 tized in level annual payments determined under subpara-  
 3 graph (C).”;

4 (2) in subparagraph (C)—

5 (A) in clause (i)(I)—

6 (i) by striking “3” and inserting “5”;

7 and

8 (ii) by striking “10” and inserting

9 “20”; and

10 (B) by striking clause (iii); and

11 (3) by striking subparagraphs (D) and (E) and  
 12 inserting the following:

13 “(D)(i) In the case of a subsequent partial with-  
 14 drawal or a complete withdrawal that was preceded by one  
 15 or more partial withdrawals, the amount of the annual  
 16 payment with respect to the subsequent partial withdrawal  
 17 or complete withdrawal shall be reduced by the amounts  
 18 of the payments determined under subparagraph (B)(ii)  
 19 with respect to each of the preceding partial withdrawals.

20 “(ii) The amount of any reductions described in  
 21 clause (i) shall be phased out consistent with the method  
 22 and period of time being used by the plan to allocate un-  
 23 funded vested benefits under section 4211.

24 “(iii) The corporation may prescribe regulations as  
 25 may be necessary to provide for proper adjustments in the

1 reduction in the payment amount under clauses (i) and  
2 (ii).”.

3 (d) AMENDMENT OF PLAN.—Section 4211(c)(1) of  
4 the Employee Retirement Income Security Act of 1974  
5 (29 U.S.C. 1391(c)(1)) is amended—

6 (1) by inserting “(A)” after “(c)(1)”,

7 (2) by striking “(b) or (d). A plan” and insert-  
8 ing “(b) or (d).

9 “(B) A multiemployer plan”, and

10 (3) by striking “, to the extent provided” and  
11 all that follows and inserting “to provide—

12 “(i) that the amount of the unfunded vested  
13 benefits allocable to an employer that withdraws  
14 from the plan is an amount determined under para-  
15 graph (5) of this subsection, rather than under sub-  
16 section (b), or

17 “(ii) to the extent provided in regulations pre-  
18 scribed by the corporation, that the amount of the  
19 unfunded vested benefits allocable to an employer  
20 not described in section 4203(b)(1)(A) shall be de-  
21 termined in a manner different from that provided  
22 in subsection (b).”.

1 **TITLE III—PLAN GOVERNANCE,**  
2 **DISCLOSURE, AND OTHER RE-**  
3 **FORMS FOR MULTIEMPLOYER**  
4 **DEFINED BENEFIT PENSION**  
5 **PLANS**

6 **Subtitle A—Plan Governance and**  
7 **Operations for Multiemployer**  
8 **Plans**

9 **SEC. 301. INDEPENDENT TRUSTEES.**

10 Section 4042 of the Employee Retirement Income Se-  
11 curity Act of 1974 (29 U.S.C. 1342) is amended—

12 (1) in subsection (a)—

13 (A) in the matter preceding paragraph (1),  
14 by striking “a plan” and inserting “a single-em-  
15 ployer or multiemployer plan”;

16 (B) in paragraph (3)—

17 (i) by inserting “with respect to a sin-  
18 gle-employer plan” before the comma; and

19 (ii) by striking “or”;

20 (C) in paragraph (4), by striking the pe-  
21 riod at the end and inserting “, or”; and

22 (D) by inserting after paragraph (4) the  
23 following:

24 “(5) in the case of a multiemployer plan—

1           “(A) such plan is an eligible multiemployer  
2           plan as defined in section 4233A which fails to  
3           apply for a special partition under such section,  
4           or

5           “(B) termination of the plan would protect  
6           the interests of participants and beneficiaries.”;  
7           (2) in subsection (b)—

8           (A) in paragraph (2)—

9           (i) in subparagraph (A)—

10           (I) by inserting “or remove”  
11           after “appoint”,

12           (II) by inserting “or removal”  
13           after “appointment”, and

14           (III) by striking “and” at the  
15           end;

16           (ii) by striking subparagraph (B) and  
17           inserting the following:

18           “(B) upon the petition of the corporation,  
19           the appropriate United States district court  
20           shall appoint a trustee proposed by the corpora-  
21           tion for—

22           “(i) any multiemployer plan which is  
23           in critical status or critical and declining  
24           status (as defined in paragraph (3) or (7),  
25           respectively, of section 305(b)), if the court

1 finds the appointment of the trustee would  
2 help prevent an abuse of the multiemployer  
3 insurance program or any unreasonable in-  
4 crease in the liability of the fund, and

5 “(ii) any multiemployer plan which  
6 has terminated under section 4041A(a),  
7 unless a party opposing appointment of a  
8 trustee shows that such appointment would  
9 be materially adverse to the interests of  
10 the plan participants and beneficiaries in  
11 the aggregate, and”; and

12 (iii) by adding at the end the fol-  
13 lowing:

14 “(C) in the case of a special partition of a  
15 plan under section 4233A, the corporation may  
16 remove and appoint trustees subject to the pro-  
17 visions of paragraph (5).”; and

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

19 “(4)(A) A trustee appointed to a multiemployer plan  
20 under paragraph (2)(B), (2)(C), or (3) shall report plan  
21 activity to the corporation, in the form and manner pro-  
22 vided for in the judicial or administrative order or agree-  
23 ment appointing the trustee. A trustee so appointed may  
24 remain a trustee engaged in the ongoing governance of

1 a multiemployer plan whether or not the corporation initi-  
2 ates plan termination proceedings under subsection (c).

3 “(B) Notwithstanding plan or trust documents to the  
4 contrary, in addition to any powers described in subsection  
5 (d), the order or agreement appointing a trustee under  
6 paragraph (2)(B), (2)(C), or (3) may include authority for  
7 the corporation to monitor and oversee plan activity and  
8 to review and approve trustee decisions related to funding  
9 or financial activities of the plan.

10 “(5)(A) The corporation may remove any trustees of  
11 an original plan that received a special partition under sec-  
12 tion 4233A if the corporation determines that the actions  
13 of such trustees unreasonably increased the risk of loss  
14 to participants in the plan or to the corporation, and may  
15 appoint 1 or more new trustees as replacements.

16 “(B) The corporation may appoint a special master,  
17 which may be an employee of the corporation, the duties  
18 of whom shall be disclosed to participants and contrib-  
19 uting employers in accordance with regulations to be  
20 issued by the corporation, with respect to each original  
21 plan, as defined in section 4233A. Such special master  
22 shall be invited to every meeting of the plan’s board of  
23 trustees or any committees thereof; shall be furnished any  
24 requested actuarial or financial information by the plan  
25 or agents thereof; shall receive all creditable complaints

1 or other information from participants, beneficiaries, em-  
 2 ployers, plan employees and contractors, and any other  
 3 person regarding the plan’s operations; and shall furnish  
 4 the corporation with semiannual reports of the board’s ac-  
 5 tivities, the plan’s performance, and the potential liabil-  
 6 ities of the corporation with respect to the plan. The trust-  
 7 ees shall provide the special master with not less than 30  
 8 days notice prior to taking any action that could increase  
 9 the risk of loss to the corporation, and the special master  
 10 shall report such potential action to the corporation within  
 11 5 days of receiving such notice from the trustees.”;

12 (3) in subsection (c)(1)—

13 (A) in the second sentence, by striking  
 14 “subsection (b)” and inserting “subsection  
 15 (b)(1)”; and

16 (B) in the third sentence, by inserting “,  
 17 including, in the case of a multiemployer plan,  
 18 by requiring the withdrawal of employers” be-  
 19 fore the period; and

20 (4) in subsection (d)(1)—

21 (A) in subparagraph (A), by striking “sub-  
 22 section (b)” in the second sentence and insert-  
 23 ing “subsection (b)(1)”; and

1 (B) in subparagraph (B), by striking “If”  
2 and inserting “If a trustee is appointed under  
3 paragraph (2) or (3) of subsection (b), or if”.

4 **SEC. 302. INVESTIGATORY AUTHORITY.**

5 Section 4003(a) of the Employee Retirement Income  
6 Security Act of 1974 (29 U.S.C. 1303(a)) is amended to  
7 read as follows:

8 “(a)(1) The corporation may, in its discretion, inves-  
9 tigate any facts, conditions, practices, or matters as the  
10 corporation determines necessary or proper to aid in—

11 “(A) the enforcement of any provision of this  
12 title or any rule or regulation thereunder;

13 “(B) the prescribing of rules and regulations  
14 under this title; or

15 “(C) evaluating the corporation’s liability or po-  
16 tential liability with respect to a plan.

17 “(2) Any information or documentary material sub-  
18 mitted to the corporation pursuant to this section, if clear-  
19 ly designated by the person making the submission as con-  
20 fidential (on each page in the case of a document, and  
21 in the file name in the case of a digital file), shall be ex-  
22 empt from disclosure under section 552 of title 5, United  
23 States Code, and no such information or documentary ma-  
24 terial may be made public, except as may be relevant to

1 any administrative or judicial action or proceeding, includ-  
 2 ing an informal rulemaking.

3 “(3) The corporation may require or permit any per-  
 4 son to submit a statement in writing, under oath or other-  
 5 wise as the corporation determines, as to all facts and cir-  
 6 cumstances concerning the matter to be investigated.

7 “(4) The corporation shall annually audit a statis-  
 8 tically significant number of plans terminating under sec-  
 9 tion 4041(b) to determine whether participants and bene-  
 10 ficiaries have received their benefit commitments and  
 11 whether section 4050(a) has been satisfied. Each audit  
 12 shall include a statistically significant number of partici-  
 13 pants and beneficiaries.”.

14 **SEC. 303. CONDITIONS ON FINANCIAL ASSISTANCE.**

15 (a) IN GENERAL.—Section 4261(b) of the Employee  
 16 Retirement Income Security Act of 1974 (29 U.S.C.  
 17 1431(b)) is amended—

18 (1) in paragraph (1), by striking the period at  
 19 the end and inserting “, or to prevent an abuse of  
 20 the multiemployer insurance program or any unrea-  
 21 sonable increase in the liability of the fund. The cor-  
 22 poration shall provide the plan sponsor written no-  
 23 tice of each condition on financial assistance and a  
 24 written explanation of its determination. If the spon-  
 25 sor fails to satisfy timely a condition on financial as-

1       sistance, the corporation may withhold financial as-  
 2       sistance until the condition is satisfied.”; and

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

4       “(3) The conditions described in paragraph (1) may  
 5 include an offset for the guaranteed benefits of a partici-  
 6 pant whose benefit in excess of the benefit guaranteed  
 7 under this title is provided by another plan, or in the case  
 8 of a plan that has not yet terminated, the cessation of  
 9 future accruals or a requirement that contribution  
 10 amounts or annual withdrawal liability payment amounts  
 11 under section 4219 be maintained as if the employer had  
 12 withdrawn on the date of insolvency.”.

13       (b) CONFORMING AMENDMENT.—Section 4261(a) of  
 14 the Employee Retirement Income Security Act of 1974  
 15 (29 U.S.C. 1431(a)) is amended by striking “section  
 16 4245(f) or section 4281(d)” and inserting “section  
 17 4245(e) or 4281”.

18 **SEC. 304. EXCISE TAX ON EXCESS COMPENSATION OF COV-**  
 19 **ERED EMPLOYEES OF PARTITIONED MULTI-**  
 20 **EMPLOYER PLANS.**

21       (a) IN GENERAL.—Chapter 43 of the Internal Rev-  
 22 enue Code of 1986 is amended by adding at the end the  
 23 following new section:

1 **“SEC. 4980I. TAX ON EXCESS COMPENSATION OF COVERED**  
2 **EMPLOYEES OF PARTITIONED MULTIEM-**  
3 **PLOYER PLANS.**

4 “(a) TAX IMPOSED.—In the case of an applicable  
5 multiemployer plan, there is hereby imposed an excise tax  
6 for each plan year in an amount equal to the product of—

7 “(1) the rate of tax under section 11 for tax-  
8 able years beginning in the calendar year in which  
9 such plan year begins, and

10 “(2) so much of the remuneration paid by the  
11 applicable multiemployer plan for the plan year with  
12 respect to employment of any covered employee as  
13 exceeds \$500,000.

14 For purposes of the preceding sentence, remuneration  
15 shall be treated as paid when there is no substantial risk  
16 of forfeiture (within the meaning of section 457(f)(3)(B))  
17 of the rights to such remuneration.

18 “(b) LIABILITY FOR TAX.—The applicable multiem-  
19 ployer plan shall be liable for the tax imposed under sub-  
20 section (a).

21 “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
22 poses of this section—

23 “(1) APPLICABLE MULTIEMPLOYER PLAN.—

24 The term ‘applicable multiemployer plan’ means any  
25 multiemployer plan which is an original plan (as de-  
26 fined in section 4233A(d)(3) of the Employee Re-

1       tirement Income Security Act of 1974) with respect  
2       to a multiemployer plan which was partitioned pur-  
3       suant to an order by the Pension Benefit Guaranty  
4       Corporation under section 4233A of such Act.

5               “(2) COVERED EMPLOYEE.—The term ‘covered  
6       employee’ means any employee (including any  
7       former employee) of an applicable multiemployer  
8       plan if the employee—

9               “(A) is one of the 5 highest compensated  
10       employees of the plan for the plan year, or

11              “(B) was a covered employee of the organi-  
12       zation (or any predecessor) for any preceding  
13       plan year beginning after the date of the enact-  
14       ment of this section.

15              “(3) REMUNERATION.—The term ‘remunera-  
16       tion’ means wages (as defined in section 3401(a)).

17              “(d) REGULATIONS.—The Secretary shall prescribe  
18       such regulations as may be necessary to prevent avoidance  
19       of the tax under this section, including regulations to pre-  
20       vent avoidance of such tax through the performance of  
21       services other than as an employee or by providing com-  
22       pensation through a pass-through or other entity (includ-  
23       ing a related entity) to avoid such tax.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-  
 2 tions for chapter 43 of the Internal Revenue Code of 1986  
 3 is amended by adding at the end the following new item:

“Sec. 4980I. Tax on excess compensation of covered employees of partitioned  
 multiemployer plans.”.

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

## 7 **Subtitle B—Reportable Events for** 8 **Multiemployer Plans**

### 9 **SEC. 311. REPORTABLE EVENTS.**

10 (a) ADDITIONAL REPORTABLE EVENTS.—

11 (1) IN GENERAL.—Section 4043(c) of the Em-  
 12 ployee Retirement Income Security Act of 1974 (29  
 13 U.S.C. 1343(c)) is amended by striking “or” at the  
 14 end of paragraph (12), by redesignating paragraph  
 15 (13) as paragraph (17), and by inserting after para-  
 16 graph (12) the following new paragraphs:

17 “(13) when the plan sponsor of a multiemployer  
 18 plan, or such sponsor’s delegate, convenes or other-  
 19 wise takes action to adopt any amendment (or ac-  
 20 cepts any collective bargaining agreement) that  
 21 would exclude newly hired employees from participa-  
 22 tion in the plan, or any amendment (or agreement)  
 23 that would substantially reduce the rate of future

1 benefit accruals or the contribution rate for any par-  
2 ticipants under the plan;

3 “(14) when—

4 “(A) the plan sponsor of a multiemployer  
5 plan, or such sponsor’s delegate, convenes or  
6 otherwise takes action to adopt; or

7 “(B) the plan sponsor receives notice  
8 under subsection (f) or otherwise becomes  
9 aware that the bargaining parties have nego-  
10 tiated an agreement to adopt;

11 a new pension plan, including any plan a trust form-  
12 ing part of which is a qualified trust under section  
13 401(a) of the Internal Revenue Code of 1986 and  
14 any plan treated as a welfare plan by reason of sec-  
15 tion 3(2)(B)(ii), the expected participants of which  
16 are expected to substantially overlap with the active  
17 participants in a preexisting plan;

18 “(15) when an event pertaining to a multiem-  
19 ployer plan occurs that is prescribed by the corpora-  
20 tion in regulations, if the event materially jeopard-  
21 izes the security of participant benefits or the finan-  
22 cial condition of the plan, or is likely to increase the  
23 risk of loss to the corporation;

1           “(16) when a multiemployer plan has, or will  
2           foreseeably have, only one trustee or no trustees on  
3           its board; or”.

4           (2) NOTIFICATION BY BARGAINING PARTIES.—  
5           Section 4043 of such Act (29 U.S.C. 1343) is  
6           amended by redesignating subsection (f) as sub-  
7           section (g), and by inserting after subsection (e) the  
8           following new subsection:

9           “(f) NOTIFICATION BY BARGAINING PARTIES.—Not  
10          later than 60 days prior to the adoption of a new pension  
11          plan described in subsection (c)(14), the bargaining par-  
12          ties shall notify the plan sponsor of the negotiation of an  
13          agreement to adopt such plan.”.

14          (3) CONFORMING AMENDMENT.—Section  
15          4043(b)(3) of such Act (29 U.S.C. 1343(b)(3)) is  
16          amended by striking “(13)” and inserting “(17)”.

17          (b) APPLICATION TO PLANS.—

18               (1) IN GENERAL.—Section 4043(a) of the Em-  
19          ployee Retirement Income Security Act of 1974 (29  
20          U.S.C. 1343(a)) is amended by inserting “, plan  
21          sponsor (in the case of a multiemployer plan),” after  
22          “plan administrator”.

23               (2) NOTIFICATION THAT EVENT IS ABOUT TO  
24          OCCUR.—Section 4043(b) of such Act (29 U.S.C.  
25          1343(b)) is amended—

1 (A) in paragraph (1)—

2 (i) by redesignating subparagraphs  
3 (A) and (B) as clauses (i) and (ii), respec-  
4 tively, and by moving such clauses 2 ems  
5 to the right;

6 (ii) by striking “shall be applicable to  
7 a contributing sponsor” and inserting  
8 “shall be applicable—

9 “(A) to any plan sponsor of a multiem-  
10 ployer plan; and

11 “(B) to any contributing sponsor”; and

12 (iii) in the last sentence, by striking  
13 “subparagraph (B)” and inserting “clause  
14 (ii)”;

15 (B) by striking “This subsection” in para-  
16 graph (2) and inserting “In the case of a sin-  
17 gle-employer plan, this subsection”;

18 (C) by striking “any contributing sponsor”  
19 in paragraph (4) and inserting “any plan spon-  
20 sor of a multiemployer plan or any contributing  
21 sponsor”;

22 (D) by redesignating paragraph (4), as so  
23 amended, as paragraph (5); and

24 (E) by inserting after paragraph (3) the  
25 following new paragraph:

1           “(4) No later than 60 days prior to an event  
 2           described in paragraph (13), (14)(A), (15), or (16)  
 3           of subsection (c), the plan sponsor of a multiem-  
 4           ployer plan shall notify the corporation that the  
 5           event is about to occur.”.

6           (c) TECHNICAL CORRECTIONS.—

7           (1) Section 4045(c)(1) of the Employee Retire-  
 8           ment Income Security Act of 1974 (29 U.S.C.  
 9           1345(c)(1)) is amended by striking “4043(b)(7)”  
 10          and inserting “4043(c)(7)”.

11          (2) Section 4065(2) of such Act (29 U.S.C.  
 12          1365(2)) is amended by striking “4043(b)” and in-  
 13          serting “4043(c)”.

14          (d) EFFECTIVE DATE.—The amendments made by  
 15          this section shall apply to reportable events (as defined  
 16          in section 4043(c) of the Employee Retirement Income Se-  
 17          curity Act of 1974 (29 U.S.C. 1343(c))) occurring after  
 18          the date of the enactment of this Act.

## 19   **Subtitle C—Funding Notices to** 20   **Participants in Multiemployer** 21   **Plans**

### 22   **SEC. 321. IMPROVED MULTIEMPLOYER PLAN DISCLOSURE.**

23          (a) PLAN FUNDING NOTICES.—Section 101(f) of the  
 24          Employee Retirement Income Security Act of 1974 (29  
 25          U.S.C. 1021(f)) is amended—

1 (1) in paragraph (2)(B)—

2 (A) in clause (iv), by striking “setting  
3 forth” and inserting “describing how a person  
4 may obtain information regarding”;

5 (B) by striking clauses (v) and (vi);

6 (C) by redesignating clauses (vii) through  
7 (xi) as clauses (v) through (ix), respectively;

8 (D) in clause (vi), as so redesignated—

9 (i) by striking “(I) in the case of” and  
10 inserting “in the case of”;

11 (ii) by striking “, or” and inserting a  
12 comma; and

13 (iii) by striking subclause (II); and

14 (E) by amending clause (vii), as so redesign-  
15 ated, to read as follows:

16 “(vii)(I) in the case of a single-em-  
17 ployer plan, a general description of the  
18 benefits under the plan which are eligible  
19 to be guaranteed by the Pension Benefit  
20 Guaranty Corporation, and an explanation  
21 of the limitations on the guarantee and the  
22 circumstances under which such limitations  
23 apply, and

24 “(II) in the case of a multiemployer  
25 plan, a statement that eligible benefits are

1           guaranteed by the Pension Benefit Guar-  
 2           anty Corporation, and a statement of how  
 3           to obtain both a general description of the  
 4           benefits under the plan which are eligible  
 5           to be guaranteed by the Pension Benefit  
 6           Guaranty Corporation and an explanation  
 7           of the limitations on the guarantee and the  
 8           circumstances under which such limitations  
 9           apply,”; and

10       (2) in paragraph (4)(C)—

11           (A) by striking “(C) may be provided” and  
 12           inserting “(C)(i) subject to clause (ii), may be  
 13           provided”;

14           (B) by striking the period and inserting “;  
 15           and”; and

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

17           “(ii) in the case of such a notice provided  
 18           to the Pension Benefit Guaranty Corporation,  
 19           shall be in an electronic format in such manner  
 20           prescribed in regulations of such Corporation.”.

21       (b) DISCLOSURES BY PLANS REGARDING STATUS.—

22           (1) AMENDMENTS TO EMPLOYEE RETIREMENT  
 23           INCOME SECURITY ACT OF 1974.—Section 305(b)(4)  
 24           of the Employee Retirement Income Security Act of  
 25           1974 (29 U.S.C. 1085(b)(4)), as redesignated by

1 section 212(a) and as in effect before the amend-  
2 ments made by section 212 other than subsection  
3 (a) thereof, is further amended—

4 (A) in the paragraph heading, by striking  
5 “BY PLAN ACTUARY” and inserting “AND RE-  
6 PORT”;

7 (B) by amending subparagraph (A) to read  
8 as follows:

9 “(A) IN GENERAL.—Not later than the  
10 90th day of each plan year of a multiemployer  
11 plan, the plan sponsor shall file, in accordance  
12 with regulations prescribed by the ERISA agen-  
13 cies, a report that contains—

14 “(i) documentation from the plan ac-  
15 tuary certifying to the ERISA agencies  
16 and to the plan sponsor—

17 “(I) whether or not the plan is in  
18 unrestricted or stable status for such  
19 plan year, whether or not the plan is  
20 in endangered status for such plan  
21 year and whether or not the plan is or  
22 will be in critical status for such plan  
23 year or any of the 5 succeeding plan  
24 years,

1 “(II) in the case of a plan which  
2 is in a funding improvement or reha-  
3 bilitation period, whether or not the  
4 plan is making the scheduled progress  
5 in meeting the requirements of its  
6 funding improvement or rehabilitation  
7 plan and, if not, a summary of the  
8 primary reasons the plan is not mak-  
9 ing the scheduled progress,

10 “(III) the funded percentage of  
11 the plan determined as of the first  
12 day of the current plan year and the  
13 value of assets and liabilities used to  
14 calculate such funded percentage,

15 “(IV) a projection of the funding  
16 standard account on a year-by-year  
17 basis for the current plan year and  
18 the 14 succeeding plan years and a  
19 statement of the actuarial assump-  
20 tions for such projections, and

21 “(V)(aa) subject to item (bb), a  
22 projection of the cash flow of the plan  
23 and actuarial assumptions for the cur-  
24 rent plan year and 14 succeeding plan  
25 years, and

1                   “(bb) in the case in which it is  
2                   certified that a multiemployer plan is  
3                   or will be in endangered or critical  
4                   status for a plan year, the projection  
5                   of the cash flow of the plan and actu-  
6                   arial assumptions for the current year  
7                   and 29 succeeding plan years,  
8                   “(ii) as of the last day of the prior  
9                   plan year, a good faith determination of—  
10                   “(I) the fair market value of the  
11                   assets of the plan,  
12                   “(II) the number of participants  
13                   who are—  
14                   “(aa) retired or separated  
15                   from service and are receiving  
16                   benefits,  
17                   “(bb) retired or separated  
18                   participants entitled to future  
19                   benefits, and  
20                   “(cc) active participants  
21                   under the plan,  
22                   “(III) the total value of all bene-  
23                   fits paid during the prior plan year,  
24                   “(IV) the total value of all con-  
25                   tributions and withdrawal liability

1                   payments made to the plan during the  
2                   prior plan year, and

3                   “(V) the total value of all invest-  
4                   ment gains or losses during the prior  
5                   plan year,

6                   “(iii) a description of any material  
7                   changes during the previous plan year to  
8                   the rates at which participants accrue ben-  
9                   efits or the rate at which employers con-  
10                  tribute,

11                  “(iv) a copy of any funding improve-  
12                  ment plan or rehabilitation plan, and any  
13                  update thereto or modification thereof,  
14                  that was adopted under this section prior  
15                  to the filing of the report for the current  
16                  plan year in accordance with this subpara-  
17                  graph and, if applicable, after the filing of  
18                  the report required by this subparagraph  
19                  for the prior plan year,

20                  “(v) in the case of any plan amend-  
21                  ment, scheduled benefit increase or reduc-  
22                  tion, or other known event taking effect in  
23                  the current plan year and having a mate-  
24                  rial effect on plan liabilities or assets for  
25                  the year (as defined in regulations by the

1 ERISA agencies), an explanation of the  
2 amendment, scheduled increase or reduc-  
3 tion, or event, and a projection to the end  
4 of such plan year of the effect of the  
5 amendment, scheduled increase or reduc-  
6 tion, or event on plan liabilities,

7 “(vi) in the case of a multiemployer  
8 plan certified to be in critical status for  
9 which the plan sponsor has determined  
10 that, based on reasonable actuarial as-  
11 sumptions and upon exhaustion of all rea-  
12 sonable measures, the plan cannot reason-  
13 ably be expected to emerge from critical  
14 status by the end of the rehabilitation pe-  
15 riod, a description of all reasonable meas-  
16 ures, whether or not such measures were  
17 implemented, and a summary of the con-  
18 sideration of such measures,

19 “(vii) a statement, containing the in-  
20 formation available to the plan sponsor,  
21 describing—

22 “(I) the withdrawal of any em-  
23 ployer during the prior plan year and  
24 the percentage of total contributions

1 made by that employer during the  
2 prior plan year,

3 “(II) any material reduction in  
4 total contributions or withdrawal li-  
5 ability payments of any employers and  
6 the reason for such reduction, and a  
7 comparison to contributions projected  
8 previously,

9 “(III) any material reduction in  
10 the number of active plan participants  
11 and the reason for such reduction,  
12 and

13 “(IV) the annual withdrawal li-  
14 ability payment each withdrawn em-  
15 ployer is obligated to pay to the plan  
16 for the plan year, whether that  
17 amount was collected by the plan (and  
18 if not, the amount that was collected),  
19 and the remaining years on the em-  
20 ployer’s obligation to make withdrawal  
21 liability payments, and

22 “(viii) such other information as may  
23 be required by the ERISA agencies by reg-  
24 ulation.”;

1 (C) by striking subparagraph (C) and in-  
2 serting the following:

3 “(C) FORM AND MANNER.—The report re-  
4 quired by subparagraph (A) shall be filed elec-  
5 tronically in accordance with regulations pre-  
6 scribed by the ERISA agencies.”;

7 (D) in subparagraph (D)—

8 (i) by redesignating clauses (ii), (iii),  
9 (iv), and (v) as clauses (iii), (iv), (v), and  
10 (vi), respectively;

11 (ii) by inserting after clause (i) the  
12 following:

13 “(ii) PLANS IN ENDANGERED OR  
14 CRITICAL STATUS.—If it is certified under  
15 subparagraph (A) that a multiemployer  
16 plan is or will be in endangered or critical  
17 status, the plan sponsor shall include in  
18 the notice under clause (i)—

19 “(I) a statement describing how  
20 a person may obtain a copy of the  
21 plan’s funding improvement or reha-  
22 bilitation plan, as appropriate, adopt-  
23 ed under this section and the actu-  
24 arial and financial data that dem-

1           onstrate any action taken by the plan  
2           toward fiscal improvement,

3           “(II) a summary of any funding  
4           improvement or rehabilitation plan,  
5           and any update thereto or modifica-  
6           tion thereof, adopted under this sec-  
7           tion prior to the furnishing of such  
8           notice,

9           “(III) a summary of the rules  
10          governing insolvency, including the  
11          limitations on benefit payments, and

12          “(IV) a general description of the  
13          benefits under the plan which are eli-  
14          gible to be guaranteed by the Pension  
15          Benefit Guaranty Corporation and an  
16          explanation of the limitations on the  
17          guarantee and the circumstances  
18          under which such limitations apply.”;

19          and

20          (iii) in clause (v), as so redesign-  
21          nated—

22                 (I) by striking “The Secretary of  
23                 the Treasury, in consultation with the  
24                 Secretary” and inserting “The ERISA  
25                 agencies”; and

1 (II) by striking “(ii) and (iii)”  
2 and inserting “(ii), (iii), and (iv)”;  
3 and

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

5 “(E) DESIGNATION AND COORDINATION.—

6 The ERISA agencies shall—

7 “(i) designate one ERISA agency to  
8 receive the report described in subpara-  
9 graph (A) on behalf of all the ERISA  
10 agencies, which shall each have full access  
11 to such report; and

12 “(ii) consult with each other and de-  
13 velop rules, regulations, practices, and  
14 forms, which to the extent appropriate for  
15 the efficient administration of the provi-  
16 sions of this paragraph are designed to re-  
17 place duplication of effort, duplication of  
18 reporting, conflicting or overlapping re-  
19 quirements, and the burden of compliance  
20 with such provisions by plan administra-  
21 tors and plan sponsors.

22 “(F) ERISA AGENCIES.—In this para-  
23 graph, the term ‘ERISA agencies’ means the  
24 Secretary, the Secretary of the Treasury, and  
25 the Pension Benefit Guaranty Corporation.”.

1           (2) AMENDMENTS TO 1986 CODE.—Section  
2           432(b)(4) of the Internal Revenue Code of 1986, as  
3           redesignated by section 211(a) and as in effect be-  
4           fore the amendments made by section 211 other  
5           than subsection (a) thereof, is further amended—

6                   (A) in the paragraph heading, by striking  
7           “BY PLAN ACTUARY” and inserting “AND RE-  
8           PORT”;

9                   (B) by amending subparagraph (A) to read  
10          as follows:

11                   “(A) IN GENERAL.—Not later than the  
12          90th day of each plan year of a multiemployer  
13          plan, the plan sponsor shall file, in accordance  
14          with regulations prescribed by the ERISA agen-  
15          cies, a report that contains—

16                           “(i) documentation from the plan ac-  
17                           tuary certifying to the ERISA agencies  
18                           and to the plan sponsor—

19                                   “(I) whether or not the plan is in  
20                                   unrestricted or stable status for such  
21                                   plan year, whether or not the plan is  
22                                   in endangered status for such plan  
23                                   year and whether or not the plan is or  
24                                   will be in critical status for such plan

1 year or any of the 5 succeeding plan  
2 years,

3 “(II) in the case of a plan which  
4 is in a funding improvement or reha-  
5 bilitation period, whether or not the  
6 plan is making the scheduled progress  
7 in meeting the requirements of its  
8 funding improvement or rehabilitation  
9 plan and, if not, a summary of the  
10 primary reasons the plan is not mak-  
11 ing the scheduled progress,

12 “(III) the funded percentage of  
13 the plan determined as of the first  
14 day of the current plan year and the  
15 value of assets and liabilities used to  
16 calculate such funded percentage,

17 “(IV) a projection of the funding  
18 standard account on a year-by-year  
19 basis for the current plan year and  
20 the 14 succeeding plan years and a  
21 statement of the actuarial assump-  
22 tions for such projections, and

23 “(V)(aa) subject to item (bb), a  
24 projection of the cash flow of the plan  
25 and actuarial assumptions for the cur-

1 rent plan year and 14 succeeding plan  
2 years, and

3 “(bb) in the case in which it is  
4 certified that a multiemployer plan is  
5 or will be in endangered or critical  
6 status for a plan year, the projection  
7 of the cash flow of the plan and actu-  
8 arial assumptions for the current year  
9 and 29 succeeding plan years,

10 “(ii) as of the last day of the prior  
11 plan year, a good faith determination of—

12 “(I) the fair market value of the  
13 assets of the plan,

14 “(II) the number of participants  
15 who are—

16 “(aa) retired or separated  
17 from service and are receiving  
18 benefits,

19 “(bb) retired or separated  
20 participants entitled to future  
21 benefits, and

22 “(cc) active participants  
23 under the plan,

24 “(III) the total value of all bene-  
25 fits paid during the prior plan year,

1                   “(IV) the total value of all con-  
2                   tributions and withdrawal liability  
3                   payments made to the plan during the  
4                   prior plan year, and

5                   “(V) the total value of all invest-  
6                   ment gains or losses during the prior  
7                   plan year,

8                   “(iii) a description of any material  
9                   changes during the previous plan year to  
10                  the rates at which participants accrue ben-  
11                  efits or the rate at which employers con-  
12                  tribute,

13                  “(iv) a copy of any funding improve-  
14                  ment plan or rehabilitation plan, and any  
15                  update thereto or modification thereof,  
16                  that was adopted under this section prior  
17                  to the filing of the report for the current  
18                  plan year in accordance with this subpara-  
19                  graph and, if applicable, after the filing of  
20                  the report required by this subparagraph  
21                  for the prior plan year,

22                  “(v) in the case of any plan amend-  
23                  ment, scheduled benefit increase or reduc-  
24                  tion, or other known event taking effect in  
25                  the current plan year and having a mate-

1           rial effect on plan liabilities or assets for  
2           the year (as defined in regulations by the  
3           ERISA agencies), an explanation of the  
4           amendment, scheduled increase or reduc-  
5           tion, or event, and a projection to the end  
6           of such plan year of the effect of the  
7           amendment, scheduled increase or reduc-  
8           tion, or event on plan liabilities,

9           “(vi) in the case of a multiemployer  
10          plan certified to be in critical status for  
11          which the plan sponsor has determined  
12          that, based on reasonable actuarial as-  
13          sumptions and upon exhaustion of all rea-  
14          sonable measures, the plan cannot reason-  
15          ably be expected to emerge from critical  
16          status by the end of the rehabilitation pe-  
17          riod, a description of all reasonable meas-  
18          ures, whether or not such measures were  
19          implemented, and a summary of the con-  
20          sideration of such measures,

21          “(vii) a statement, containing the in-  
22          formation available to the plan sponsor,  
23          describing—

24                  “(I) the withdrawal of any em-  
25                  ployer during the prior plan year and

1 the percentage of total contributions  
2 made by that employer during the  
3 prior plan year, and a comparison to  
4 contributions projected previously,

5 “(II) any material reduction in  
6 total contributions or withdrawal li-  
7 ability payments of any employers and  
8 the reason for such reduction,

9 “(III) any material reduction in  
10 the number of active plan participants  
11 and the reason for such reduction,  
12 and

13 “(IV) the annual withdrawal li-  
14 ability payment each withdrawn em-  
15 ployer is obligated to pay to the plan  
16 for the plan year, whether that  
17 amount was collected by the plan (and  
18 if not, the amount that was collected),  
19 and the remaining years on the em-  
20 ployer’s obligation to make withdrawal  
21 liability payments, and

22 “(viii) such other information as may  
23 be required by the ERISA agencies by reg-  
24 ulation.”;

1 (C) by striking subparagraph (C) and in-  
2 serting the following:

3 “(C) FORM AND MANNER.—The report re-  
4 quired by subparagraph (A) shall be filed elec-  
5 tronically in accordance with regulations pre-  
6 scribed by the ERISA agencies.”;

7 (D) in subparagraph (D)—

8 (i) by redesignating clauses (ii), (iii),  
9 (iv), and (v) as clauses (iii), (iv), (v), and  
10 (vi), respectively;

11 (ii) by inserting after clause (i) the  
12 following:

13 “(ii) PLANS IN ENDANGERED OR  
14 CRITICAL STATUS.—If it is certified under  
15 subparagraph (A) that a multiemployer  
16 plan is or will be in endangered or critical  
17 status, the plan sponsor shall include in  
18 the notice under clause (i)—

19 “(I) a statement describing how  
20 a person may obtain a copy of the  
21 plan’s funding improvement or reha-  
22 bilitation plan, as appropriate, adopt-  
23 ed under this section and the actu-  
24 arial and financial data that dem-

1 onstrate any action taken by the plan  
2 toward fiscal improvement,

3 “(II) a summary of any funding  
4 improvement or rehabilitation plan,  
5 and any update thereto or modifica-  
6 tion thereof, adopted under this sec-  
7 tion prior to the furnishing of such  
8 notice,

9 “(III) a summary of the rules  
10 governing insolvency, including the  
11 limitations on benefit payments, and

12 “(IV) a general description of the  
13 benefits under the plan which are eli-  
14 gible to be guaranteed by the Pension  
15 Benefit Guaranty Corporation and an  
16 explanation of the limitations on the  
17 guarantee and the circumstances  
18 under which such limitations apply.”;

19 and

20 (iii) in clause (v), as so redesign-  
21 nated—

22 (I) by striking “The Secretary of  
23 the Treasury, in consultation with the  
24 Secretary” and inserting “The ERISA  
25 agencies”; and

1 (II) by striking “(ii) and (iii)”  
2 and inserting “(ii), (iii), and (iv)”;  
3 and

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

5 “(E) DESIGNATION AND COORDINATION.—

6 The ERISA agencies shall—

7 “(i) designate one ERISA agency to  
8 receive the report described in subpara-  
9 graph (A) on behalf of all the ERISA  
10 agencies, which shall each have full access  
11 to such report; and

12 “(ii) consult with each other and de-  
13 velop rules, regulations, practices, and  
14 forms, which to the extent appropriate for  
15 the efficient administration of the provi-  
16 sions of this paragraph are designed to re-  
17 place duplication of effort, duplication of  
18 reporting, conflicting or overlapping re-  
19 quirements, and the burden of compliance  
20 with such provisions by plan administra-  
21 tors and plan sponsors.

22 “(F) ERISA AGENCIES.—In this para-  
23 graph, the term ‘ERISA agencies’ means the  
24 Secretary, the Secretary of Labor, and the Pen-  
25 sion Benefit Guaranty Corporation.”.

1           (3) INVESTIGATIONS.—Section 4003 of the Em-  
2       ployee Retirement Income Security Act of 1974 (29  
3       U.S.C. 1303) is amended by adding at the end the  
4       following:

5       “(g) The corporation may investigate or review any  
6       facts, conditions, practices, or other matters it determines  
7       necessary or proper related to the actuarial certification  
8       and report by multiemployer plans under section  
9       305(b)(4)(A), or to obtain such information as any duly  
10      authorized committee or subcommittee of the Congress  
11      may request with respect to such plans. Any information  
12      or documentary material submitted to the corporation  
13      pursuant to this section, if clearly designated by the per-  
14      son making the submission as confidential (on each page  
15      in the case of a document, and in the file name in the  
16      case of a digital file), shall be exempt from disclosure  
17      under section 552 of title 5, United States Code, and no  
18      such information or documentary material may be made  
19      public, except as may be relevant to any administrative  
20      or judicial action or proceeding, including an informal  
21      rulemaking.”.

22   **SEC. 322. PENALTIES FOR FAILURE TO PROVIDE NOTICES.**

23       (a) IN GENERAL.—Section 502(c) of the Employee  
24      Retirement Income Security Act of 1974 (29 U.S.C. 1132)  
25      is amended—

1 (1) in paragraph (7)—

2 (A) by striking “(7) The Secretary” and  
3 inserting “(7)(A) The Secretary”; and

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

5 “(B) The Secretary may assess a civil penalty against  
6 a plan sponsor of up to \$110 per day from the date of  
7 the plan administrator’s or sponsor’s failure or refusal to  
8 provide the relevant notices under section 101(f) or section  
9 305(b)(4)(D) to a recipient other than the Secretary or  
10 the Pension Benefit Guaranty Corporation. For purposes  
11 of this paragraph, each violation with respect to any single  
12 recipient shall be treated as a separate violation.”; and

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

14 “(13)(A) The Secretary may assess a civil pen-  
15 alty against any plan sponsor of up to \$2,140 per  
16 day from the date of the plan sponsor’s failure to  
17 file with the Secretary or the Pension Benefit Guar-  
18 anty Corporation the notice required under section  
19 305(b)(4)(D) or with the Pension Benefit Guaranty  
20 Corporation the notice required under section  
21 101(f).

22 “(B) The Secretary may assess a civil penalty  
23 against any plan sponsor of up to \$1,100 per day  
24 from the date of the plan sponsor’s failure to file  
25 with the ERISA agency designated in accordance

1 with subparagraph (E) of section 305(b)(4) the re-  
 2 port under subparagraph (A) of such section.”.

3 (b) CONFORMING AMENDMENT.—Section 502(a)(6)  
 4 of such Act is amended by striking “or (9)” and inserting  
 5 “(9), (10), or (13)”.

## 6 **Subtitle D—Consistency of** 7 **Criminal Penalties**

### 8 **SEC. 331. CONSISTENCY OF CRIMINAL PENALTIES.**

9 Part I of title 18, United States Code, is amended—

10 (1) in section 664, in the first undesignated  
 11 paragraph, by striking “five years” and inserting  
 12 “10 years”;

13 (2) in section 1027, by striking “five years”  
 14 and inserting “10 years”; and

15 (3) in section 1954, in the undesignated matter  
 16 following paragraph (4), by striking “three years”  
 17 and inserting “10 years”.

## 18 **TITLE IV—OTHER MULTIEM-** 19 **PLOYER PLAN REFORMS**

### 20 **SEC. 401. CLARIFICATION OF FIDUCIARY DUTY OF RETIREE** 21 **REPRESENTATIVE WHO IS A TRUSTEE.**

22 (a) AMENDMENT OF INTERNAL REVENUE CODE OF  
 23 1986.—Subclause (III) of section 432(f)(9)(B)(v) of the  
 24 Internal Revenue Code of 1986, as redesignated by section  
 25 211(a) and as in effect before the amendments made by

1 section 211 other than subsection (a) thereof, is amended  
 2 by striking the period and inserting “, or to any other  
 3 duties performed by such person pursuant to such per-  
 4 son’s role as a plan trustee.”.

5 (b) AMENDMENT OF EMPLOYEE RETIREMENT IN-  
 6 COME SECURITY ACT OF 1974.—Subclause (III) of sec-  
 7 tion 305(f)(9)(B)(v) of the Employee Retirement Income  
 8 Security Act of 1974 (29 U.S.C. 1085(f)(9)(B)(v)), as re-  
 9 designated by section 212(a) and as in effect before the  
 10 amendments made by section 212 other than subsection  
 11 (a) thereof, is amended by striking the period and insert-  
 12 ing “, or to any other duties performed by such person  
 13 pursuant to such person’s role as a plan trustee.”.

14 (c) EFFECTIVE DATE.—The amendments made by  
 15 this section shall take effect on the date of the enactment  
 16 of this Act.

17 **SEC. 402. SAFE HARBORS.**

18 (a) AMENDMENTS TO INTERNAL REVENUE CODE OF  
 19 1986.—

20 (1) EQUITABLE DISTRIBUTION OF BENEFIT  
 21 SUSPENSIONS.—Clause (vi) of section 432(f)(9)(D)  
 22 of the Internal Revenue Code of 1986, as redesign-  
 23 nated by section 211(a) and as in effect before the  
 24 amendments made by section 211 other than sub-

1 section (a) thereof, is amended by adding at the end  
 2 the following flush language:

3 “For purposes of the preceding sentence, a  
 4 suspension of benefits in the form of a flat  
 5 percentage reduction in benefits which is  
 6 applied in the same manner to all partici-  
 7 pants and beneficiaries (before application  
 8 of clauses (ii) and (iii)) shall be treated as  
 9 being equitably distributed across the par-  
 10 ticipant and beneficiary population.”.

11 (2) APPLICATION ASSUMPTIONS.—Clause (v) of  
 12 section 432(f)(9)(G) of such Code, as so redesign-  
 13 nated and in effect, is amended—

14 (A) by striking “STANDARD FOR ACCEPT-  
 15 ING” in the heading and inserting “STANDARDS  
 16 FOR ASSUMPTIONS AND ACCEPTING”, and

17 (B) by striking “In evaluating” and insert-  
 18 ing “The Secretary, in consultation with the  
 19 Pension Benefit Guaranty Corporation and the  
 20 Secretary of Labor, shall promulgate regula-  
 21 tions regarding the actuarial assumptions that  
 22 plans may use for purposes of the application  
 23 under this subparagraph. Such regulations shall  
 24 create safe harbors regarding assumptions for  
 25 future rate of investment returns, future indus-

try activity and contribution base units, mortality, and other assumptions as determined by the Secretary, and shall describe the situations in which actuarial assumptions may change during review of an application without the withdrawal and resubmission of the application.

In evaluating”.

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

(1) EQUITABLE DISTRIBUTION OF BENEFIT SUSPENSIONS.—Clause (vi) of section 305(f)(9)(D) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085(f)(9)(D)), as redesignated by section 212(a) and as in effect before the amendments made by section 212 other than subsection (a) thereof, is amended by adding at the end the following flush language:

“For purposes of the preceding sentence, a suspension of benefits in the form of a flat percentage reduction in benefits which is applied in the same manner to all participants and beneficiaries (before application of clauses (ii) and (iii)) shall be treated as being equitably distributed across the participant and beneficiary population.”.

1           (2) APPLICATION ASSUMPTIONS.—Clause (v) of  
2       section 305(f)(9)(G) of such Act (29 U.S.C.  
3       1085(f)(9)(G)), as so redesignated and in effect, is  
4       amended—

5           (A) by striking “STANDARD FOR ACCEPT-  
6       ING” in the heading and inserting “STANDARDS  
7       FOR ASSUMPTIONS AND ACCEPTING”, and

8           (B) by striking “In evaluating” and insert-  
9       ing “The Secretary of the Treasury, in con-  
10      sultation with the Pension Benefit Guaranty  
11      Corporation and the Secretary of Labor, shall  
12      promulgate regulations regarding the actuarial  
13      assumptions that plans may use for purposes of  
14      the application under this subparagraph. Such  
15      regulations shall create safe harbors regarding  
16      assumptions for future rate of investment re-  
17      turns, future industry activity and contribution  
18      base units, mortality, and other assumptions as  
19      determined by the Secretary, and shall describe  
20      the situations in which actuarial assumptions  
21      may change during review of an application  
22      without the withdrawal and resubmission of the  
23      application. In evaluating”.

24      (c) EFFECTIVE DATES.—

1           (1) IN GENERAL.—The amendments made by  
 2       subsections (a)(1) and (b)(1) shall apply to suspen-  
 3       sions of benefits taking effect after the date of the  
 4       enactment of this Act.

5           (2) APPLICATIONS.—The amendments made by  
 6       subsections (a)(2) and (b)(2) shall apply to applica-  
 7       tions submitted after the date of the enactment of  
 8       this Act.

9       **SEC. 403. CLARIFICATION OF NOTICE AND COMMENT PROC-**  
 10           **ESS.**

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

13           (1) NOTICE TO PARTICIPANTS.—Subparagraph  
 14       (F) of section 432(f)(9) of the Internal Revenue  
 15       Code of 1986, as redesignated by section 211(a) and  
 16       as in effect before the amendments made by section  
 17       211 other than subsection (a) thereof, is amended by  
 18       adding at the end the following new clause:

19                   “(vi) DE MINIMIS CHANGES.—Notice  
 20                   under clause (i) is not required in the case  
 21                   of a change to a notice previously issued,  
 22                   and an application previously submitted  
 23                   under subparagraph (G), if such change  
 24                   would have a de minimis effect on the sus-  
 25                   pension of benefits proposed, such as a

1 change of 5 percent or less (whether in-  
2 crease or decrease) of a participant's post-  
3 suspension benefits.”.

4 (2) SOLICITATION OF COMMENTS.—

5 (A) DE MINIMIS CHANGES.—Clause (ii) of  
6 section 432(f)(9)(G) of such Code, as so redes-  
7 ignated and in effect, is amended by adding at  
8 the end the following: “The preceding sentences  
9 shall not apply in the case of a resubmission of  
10 an application previously submitted if such  
11 change would have a de minimis effect on the  
12 suspension of benefits proposed.”.

13 (B) EXTENSION OF PERIOD FOR CORREC-  
14 TION OF DEFECT.—Clause (iii) of section  
15 432(f)(9)(G) of such Code, as so redesignated  
16 and in effect, is amended by inserting after the  
17 second sentence the following: “If the only fail-  
18 ure with respect to an application is a failure  
19 to provide adequate notice to participants under  
20 subparagraph (F), the Secretary may extend  
21 the 225-day deadline for consideration of the  
22 application by notice to the plan sponsor.”.

23 (b) AMENDMENTS TO EMPLOYEE RETIREMENT IN-  
24 COME SECURITY ACT OF 1974.—

1           (1) NOTICE TO PARTICIPANTS.—Subparagraph  
2           (F) of section 305(f)(9) of the Employee Retirement  
3           Income Security Act of 1974 (29 U.S.C.  
4           1085(f)(9)), as redesignated by section 212(a) and  
5           as in effect before the amendments made by section  
6           212 other than subsection (a) thereof, is amended by  
7           adding at the end the following new clause:

8                   “(vi) DE MINIMIS CHANGES.—Notice  
9                   under clause (i) is not required in the case  
10                  of a change to a notice previously issued,  
11                  and an application previously submitted  
12                  under subparagraph (G), if such change  
13                  would have a de minimis effect on the sus-  
14                  pension of benefits proposed, such as a  
15                  change of 5 percent or less (whether in-  
16                  crease or decrease) of a participant’s post-  
17                  suspension benefits.”.

18           (2) SOLICITATION OF COMMENTS.—

19                   (A) DE MINIMIS CHANGES.—Clause (ii) of  
20                  section 305(f)(9)(G) of such Act (29 U.S.C.  
21                  1085(f)(9)(G)), as so redesignated and in ef-  
22                  fect, is amended by adding at the end the fol-  
23                  lowing: “The preceding sentences shall not  
24                  apply in the case of a resubmission of an appli-  
25                  cation previously submitted if such change

1 would have a de minimis effect on the suspen-  
 2 sion of benefits proposed.”.

3 (B) EXTENSION OF PERIOD FOR CORREC-  
 4 TION OF DEFECT.—Clause (iii) of section  
 5 305(f)(9)(G) of such Act (29 U.S.C.  
 6 1085(f)(9)(G)), as so redesignated and in ef-  
 7 fect, is amended by inserting after the second  
 8 sentence the following: “If the only failure with  
 9 respect to an application is a failure to provide  
 10 adequate notice to participants under subpara-  
 11 graph (F), the Secretary may extend the 225-  
 12 day deadline for consideration of the application  
 13 by notice to the plan sponsor.”.

14 (c) EFFECTIVE DATE.—The amendments made by  
 15 this section shall apply to applications, or changes to ap-  
 16 plications, submitted after the date of the enactment of  
 17 this Act.

18 **SEC. 404. PROTECTION OF PARTICIPANTS RECEIVING DIS-**  
 19 **ABILITY BENEFITS.**

20 (a) AMENDMENT TO INTERNAL REVENUE CODE OF  
 21 1986.—Clause (iii) of section 432(f)(9)(D) of the Internal  
 22 Revenue Code of 1986, as redesignated by section 211(a)  
 23 and as in effect before the amendments made by section  
 24 211 other than subsection (a) thereof, is amended to read  
 25 as follows:

1                   “(iii) No benefits based on disability  
2                   (as defined under the plan) may be sus-  
3                   pended under this paragraph if the partici-  
4                   pant or beneficiary is disabled (as so de-  
5                   fined) or receiving disability benefits under  
6                   the plan as of the date of the suspension  
7                   of benefits. No benefits under the plan  
8                   may be suspended under this paragraph of  
9                   any participant or beneficiary who is enti-  
10                  tled to a benefit under title II of the Social  
11                  Security Act on the basis of a disability (as  
12                  defined in section 223(d)(2) of such Act)  
13                  as of such date.”.

14           (b) AMENDMENT TO EMPLOYEE RETIREMENT IN-  
15 COME SECURITY ACT OF 1974.—Clause (iii) of section  
16 305(f)(9)(D) of the Employee Retirement Income Security  
17 Act of 1974 (29 U.S.C. 1085(f)(9)(D)), as redesignated  
18 by section 212(a) and as in effect before the amendments  
19 made by section 212 other than subsection (a) thereof,  
20 is amended to read as follows:

21                   “(iii) No benefits based on disability  
22                   (as defined under the plan) may be sus-  
23                   pended under this paragraph if the partici-  
24                   pant or beneficiary is disabled (as so de-  
25                   fined) or receiving disability benefits under

1           the plan as of the date of the suspension  
2           of benefits. No benefits under the plan  
3           may be suspended under this paragraph of  
4           any participant or beneficiary who is enti-  
5           tled to a benefit under title II of the Social  
6           Security Act on the basis of a disability (as  
7           defined in section 223(d)(2) of such Act)  
8           as of such date.”.

9           (c) EFFECTIVE DATE.—The amendments made by  
10 this section shall apply to suspensions of benefits taking  
11 effect after the date of the enactment of this Act.

12 **SEC. 405. MODEL NOTICE.**

13           Not later than 1 year after the date of the enactment  
14 of this Act, the Secretary of the Treasury, in consultation  
15 with the Secretary of Labor and the Pension Benefit  
16 Guaranty Corporation, shall develop a 1-page, plain-lan-  
17 guage, cover-page format for the model notice under sec-  
18 tion 432(e)(9)(F)(v) of the Internal Revenue Code of 1986  
19 (as in effect on the day before the date of the enactment  
20 of this Act) and section 305(e)(9)(F)(v) of the Employee  
21 Retirement Income Security Act of 1974 (29 U.S.C.  
22 1085(e)(9)(F)(v)), as so in effect.

1     **TITLE V—ALTERNATIVE PLAN**  
2                     **STRUCTURES**

3     **SEC. 501. COMPOSITE PLANS.**

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

6                     (1) IN GENERAL.—Title I of the Employee Re-  
7 tirement Income Security Act of 1974 (29 U.S.C.  
8 1001 et seq.) is amended by adding at the end the  
9 following:

10     **“PART 8—COMPOSITE PLANS AND LEGACY**  
11                     **PLANS**

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

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

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

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

1           “(3) which provides systematically for the pay-  
2       ment of benefits—

3           “(A) objectively calculated pursuant to a  
4       nondiscretionary formula specified in the plan  
5       document with respect to plan participants for  
6       life; and

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

11          “(4) for which the anticipated employer con-  
12      tributions to the plan for the first plan year are at  
13      least 120 percent of the normal cost for the plan  
14      year;

15          “(5) which requires—

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

20           “(B) an annual actuarial determination of  
21      the plan’s current funded ratio and projected  
22      funded ratio under section 802(a);

23           “(C) corrective action through a realign-  
24      ment program pursuant to section 803 when-

1           ever the plan’s projected funded ratio is below  
2           120 percent for the plan year; and

3           “(D) an annual notification to each partici-  
4           pant describing benefits under the plan and ex-  
5           plaining that such benefits may be subject to  
6           reduction under a realignment program pursu-  
7           ant to section 803 based on the plan’s funded  
8           status in future plan years; and

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

14          “(b) TRANSITION FROM A MULTIEMPLOYER DE-  
15          FINED BENEFIT PLAN.—

16               “(1) IN GENERAL.—The plan sponsor of a de-  
17          fined benefit plan that is a multiemployer plan may,  
18          subject to paragraph (2), amend the plan to incor-  
19          porate the features of a composite plan as a compo-  
20          nent of the multiemployer plan separate from the  
21          defined benefit plan component, except in the case of  
22          a defined benefit plan for which the plan actuary has  
23          certified under section 305(b)(4) that the plan is or  
24          will be in endangered or critical status for the plan  
25          year in which such amendment would become effec-

1       tive or in endangered or critical status for any of the  
2       succeeding 5 plan years.

3           “(2) REQUIREMENTS.—Any amendment pursu-  
4       ant to paragraph (1) to incorporate the features of  
5       a composite plan as a component of a multiemployer  
6       plan shall—

7           “(A) apply with respect to all collective  
8       bargaining agreements providing for contribu-  
9       tions to the multiemployer plan on or after the  
10      effective date of the amendment;

11          “(B) apply with respect to all participants  
12      in the multiemployer plan for whom contribu-  
13      tions are made to the multiemployer plan on or  
14      after the effective date of the amendment;

15          “(C) specify that the effective date of the  
16      amendment is—

17           “(i) the first day of a specified plan  
18      year following the date of the adoption of  
19      the amendment, except that the plan spon-  
20      sor may alternatively provide for a sepa-  
21      rate effective date with respect to each col-  
22      lective bargaining agreement under which  
23      contributions to the multiemployer plan  
24      are required, which shall occur on the first  
25      day of the first plan year beginning after

1 the termination, or if earlier, the re-open-  
2 ing, of each such agreement, or such ear-  
3 lier date as the parties to the agreement  
4 and the plan sponsor of the multiemployer  
5 plan shall agree to; and

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

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

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

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

20 “(A) the requirements of this title and title  
21 IV shall be applied to the composite plan com-  
22 ponent and the defined benefit plan component  
23 of the multiemployer plan as if each such com-  
24 ponent were maintained as a separate plan; and

1 “(B) the assets of the composite plan com-  
2 ponent and the defined benefit plan component  
3 of the plan shall be held in a single trust form-  
4 ing part of the plan under which the trust in-  
5 strument expressly provides—

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

22 “(ii) that the assets of each of the two  
23 plan components shall be held, invested,  
24 reinvested, managed, administered and dis-  
25 tributed for the exclusive benefit of the

1 participants and beneficiaries of each such  
2 plan component, and in no event shall the  
3 assets of one of the plan components be  
4 available to pay benefits due under the  
5 other plan component.

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

12 “(5) NOTICE TO THE SECRETARY.—

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

23 “(B) CERTIFICATION.—In the case of a  
24 composite plan incorporated as a component of  
25 a multiemployer plan as described in paragraph

(1), such notice shall include a certification by the plan actuary under section 305(b)(4) that the effective date of the amendment occurs in a plan year for which the multiemployer plan is not in endangered or 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.

1 “(c) COORDINATION WITH FUNDING RULES.—Ex-  
 2 cept as otherwise provided in this part, sections 302, 304,  
 3 and 305 shall not apply to a composite plan.

4 “(d) TREATMENT OF A COMPOSITE PLAN.—For pur-  
 5 poses of this Act (other than sections 302 and 4245), a  
 6 composite plan shall be treated as if it were a defined ben-  
 7 efit plan unless a different treatment is provided for under  
 8 applicable law.

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

10 “(a) CERTIFICATION OF FUNDED RATIOS.—

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

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

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

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

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

4                   “(B) PROJECTED FUNDED RATIO.—The  
5                   projected funded ratio is the funded ratio deter-  
6                   mined under subparagraph (A), projected as of  
7                   the first day of the fifteenth plan year following  
8                   the plan year for which the determination is  
9                   being made.

10                  “(3) CONSIDERATION OF CONTRIBUTION RATE  
11                  INCREASES.—For purposes of projections under this  
12                  subsection, the plan actuary may anticipate con-  
13                  tribution rate increases beyond the term of the cur-  
14                  rent collective bargaining agreement and any agreed-  
15                  to supplements, if reasonable, not to exceed 2.5 per-  
16                  cent per year, compounded annually.

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

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

23                                 “(A) each of which is reasonable (taking  
24                                 into account the experience of the plan and rea-  
25                                 sonable expectations);

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

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

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

13          “(3) DETERMINATION OF NORMAL COST AND  
14          PLAN LIABILITIES.—A plan’s normal cost and liabil-  
15          ities shall be based—

16               “(A) on the most recent actuarial valuation  
17               required under section 801(a)(5)(A) and the  
18               unit credit funding method; and

19               “(B) on rates of interest subject to section  
20               304(b)(6).

21          “(4) TIME WHEN CERTAIN CONTRIBUTIONS  
22          DEEMED MADE.—Any contributions for a plan year  
23          made by an employer after the last day of such plan  
24          year, but not later than 2½ months after such day,  
25          shall be deemed to have been made on such last day.

1 For purposes of this paragraph, such 2½-month pe-  
 2 riod may be extended to a total of not more than  
 3 120 days under regulations prescribed by the Sec-  
 4 retary of the Treasury.

5 “(5) ADDITIONAL ACTUARIAL ASSUMPTIONS.—  
 6 Except where otherwise provided in this part, the  
 7 provisions of section 305(b)(4)(B) shall apply to any  
 8 determination or projection under this part.

9 **“SEC. 803. REALIGNMENT PROGRAM.**

10 “(a) REALIGNMENT PROGRAM.—

11 “(1) ADOPTION.—In any case in which the plan  
 12 actuary certifies under section 802(a) that the plan’s  
 13 projected funded ratio is below 120 percent for the  
 14 plan year, the plan sponsor shall adopt a realign-  
 15 ment program under paragraph (2) not later than  
 16 210 days after the due date of the certification re-  
 17 quired under such section 802(a). The plan sponsor  
 18 shall adopt an updated realignment program for  
 19 each succeeding plan year for which a certification  
 20 described in the preceding sentence is made.

21 “(2) CONTENT OF REALIGNMENT PROGRAM.—

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

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

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

11               “(i) Proposed contribution increases.

12               “(ii) A reduction in the rate of future  
13              benefit accruals, so long as the resulting  
14              rate is not less than 1 percent of the con-  
15              tributions on which benefits are based as  
16              of the start of the plan year (or the equiva-  
17              lent standard accrual rate as described in  
18              section 305(f)(6)).

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

23               “(iv) Any other lawfully available  
24              measures not specifically described in this  
25              subparagraph or subparagraph (C) or (D)

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

3           “(C) ADDITIONAL PROGRAM ELEMENTS.—

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

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

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

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

1           for the following plan year, the realignment  
2           program may also include—

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

7                   “(ii) a reduction of core benefits,  
8           provided that such reductions shall be equitably  
9           distributed across the participant and bene-  
10          ficiary population, taking into account factors,  
11          with respect to participants and beneficiaries  
12          and their benefits, that may include one or  
13          more of the factors listed in subclauses (I)  
14          through (X) of section 305(f)(9)(D)(vi), to the  
15          extent necessary to enable the plan to achieve  
16          a projected funded ratio of at least 120 percent  
17          for the following plan year.

18           “(3) ADJUSTABLE BENEFIT DEFINED.—For  
19          purposes of this part, the term ‘adjustable benefit’  
20          means—

21                   “(A) benefits, rights, and features under  
22                   the plan, including post-retirement death bene-  
23                   fits, disability benefits not yet in pay status,  
24                   and similar benefits,

1           “(B) any early retirement benefit or retire-  
2           ment-type subsidy (within the meaning of sec-  
3           tion 204(g)(2)(A)) (including early reduction  
4           factors which are not provided on an actuarially  
5           equivalent basis) and any benefit payment op-  
6           tion (other than the qualified joint and survivor  
7           annuity),

8           “(C) benefit increases which were adopted  
9           (or, if later, took effect) less than 120 months  
10          before the first day of the first plan year in  
11          which such realignment program took effect,

12          “(D) any one-time bonus payment or ‘thir-  
13          teenth check’ provision, and

14          “(E) benefits granted for period of service  
15          prior to participation in the plan.

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

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

1           “(B) any cost-of-living adjustments or ben-  
 2           efit increases effective after the date of retire-  
 3           ment.

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

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

12          “(B) INDEPENDENT BENEFIT MODIFICA-  
 13          TIONS.—If a realignment program adopts any  
 14          changes to the benefit formula that are inde-  
 15          pendent of potential contribution increases,  
 16          such changes shall take effect not later than  
 17          180 days after the first day of the first plan  
 18          year that begins following the adoption of the  
 19          realignment program.

20          “(C) CONDITIONAL BENEFIT MODIFICA-  
 21          TIONS.—If a realignment program adopts any  
 22          changes to the benefit formula that take effect  
 23          only if the bargaining parties fail to agree to  
 24          contribution increases, such changes shall take  
 25          effect not later than the first day of the first

1 plan year beginning after the third anniversary  
2 of the date of adoption of the realignment pro-  
3 gram.

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

16 “(b) NOTICE.—

17 “(1) IN GENERAL.—In any case in which it is  
18 certified under section 802(a) that the projected  
19 funded ratio is less than 120 percent, the plan spon-  
20 sor shall, not later than 30 days after the date of  
21 the certification, provide notification of the current  
22 and projected funded ratios to the participants and  
23 beneficiaries, the bargaining parties, the Secretary of  
24 the Treasury, and the Secretary. Such notice shall  
25 include—

1           “(A) an explanation that contribution rate  
2           increases or benefit reductions may be nec-  
3           essary;

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

6           “(C) an estimate of the contribution in-  
7           creases and benefit reductions that may be nec-  
8           essary to achieve a projected funded ratio of  
9           120 percent.

10          “(2) NOTICE OF BENEFIT MODIFICATIONS.—

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

18           “(i) plan participants and bene-  
19           ficiaries;

20           “(ii) each employer who has an obliga-  
21           tion to contribute to the composite plan;  
22           and

23           “(iii) each employee organization  
24           which, for purposes of collective bar-

1           gaining, represents plan participants em-  
2           ployed by such employers.

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

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

14                  “(ii) information as to the rights and  
15                  remedies of plan participants and bene-  
16                  ficiaries as well as how to contact the De-  
17                  partment of the Treasury for further infor-  
18                  mation and assistance, where appropriate.

19           “(C) FORM AND MANNER.—Any notice  
20           under subparagraph (A)—

21                   “(i) shall be provided in a form and  
22                   manner prescribed in regulations of the  
23                   Secretary of the Treasury; and

1 “(ii) shall be written in a manner so  
2 as to be understood by the average plan  
3 participant.

4 “(3) MODEL NOTICES.—The Secretary of the  
5 Treasury shall—

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

10 “(B) by regulation enumerate any details  
11 related to the elements listed in paragraph (1)  
12 that any notice under this subsection must in-  
13 clude.

14 “(4) DELIVERY METHOD.—Any notice under  
15 this part shall be provided in writing and may be  
16 provided in electronic form to the extent that the  
17 form is reasonably accessible to persons to whom the  
18 notice is provided.

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

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

1           “(1) the plan’s current funded ratio is at least  
2       110 percent (without regard to the benefit increase  
3       or new benefits);

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

8           “(3) in any case in which, after taking the ben-  
9       efit increase or new benefits into account, the cur-  
10      rent funded ratio is less than 140 percent and the  
11      projected funded ratio is less than 140 percent, the  
12      benefit increase or new benefits are projected by the  
13      plan actuary to increase the present value of the  
14      plan’s liabilities for the plan year by not more than  
15      3 percent; and

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

21          “(b) ADDITIONAL REQUIREMENTS WHERE CORE  
22      BENEFITS REDUCED.—If a plan has been amended to re-  
23      duce core benefits pursuant to a realignment program  
24      under section 803(a)(2)(D), such plan may not be subse-

1 quently amended to increase core benefits unless the  
2 amendment—

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

5 “(2) provides for an equitable distribution of  
6 benefit increases across the participant and bene-  
7 ficiary population, taking into account the extent to  
8 which the benefits of participants were previously re-  
9 duced pursuant to such realignment program.

10 “(c) EXCEPTION TO COMPLY WITH APPLICABLE  
11 LAW.—Subsection (a) shall not apply in connection with  
12 a plan amendment if the amendment is required as a con-  
13 dition of qualification under part I of subchapter D of  
14 chapter 1 of the Internal Revenue Code of 1986 or to com-  
15 ply with other applicable law.

16 “(d) EXCEPTION WHERE MAXIMUM DEDUCTIBLE  
17 LIMIT APPLIES.—Subsection (a) shall not apply in con-  
18 nection with a plan amendment if and to the extent that  
19 contributions to the composite plan would not be deduct-  
20 ible for the plan year under section 404(a)(1)(E) of the  
21 Internal Revenue Code of 1986 if the plan amendment is  
22 not adopted.

23 “(e) EXCEPTION FOR CERTAIN BENEFIT MODIFICA-  
24 TIONS.—Subsection (a) shall not apply in connection with

1 a plan amendment under section 803(a)(5)(C), regarding  
2 conditional benefit modifications.

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

5 “(1) if two or more plan amendments increas-  
6 ing benefits or establishing new benefits are adopted  
7 in a plan year, such amendments shall be treated as  
8 a single amendment adopted on the last day of the  
9 plan year;

10 “(2) all benefit increases and new benefits  
11 adopted in a single amendment are treated as a sin-  
12 gle benefit increase, irrespective of whether the in-  
13 creases and new benefits take effect in more than  
14 one plan year; and

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

21 **“SEC. 805. COMPOSITE PLAN RESTRICTIONS TO PRESERVE**  
22 **LEGACY PLAN FUNDING.**

23 “(a) TREATMENT AS A LEGACY PLAN.—

24 “(1) IN GENERAL.—For purposes of this part  
25 and parts 2 and 3, a defined benefit plan shall be

1 treated as a legacy plan with respect to the com-  
2 posite plan under which employees who were eligible  
3 to accrue a benefit under the defined benefit plan  
4 become eligible to accrue a benefit under such com-  
5 posite plan.

6 “(2) COMPONENT PLANS.—In any case in  
7 which a defined benefit plan is amended to add a  
8 composite plan component pursuant to section  
9 801(b), paragraph (1) shall be applied by sub-  
10 stituting ‘defined benefit component’ for ‘defined  
11 benefit plan’ and ‘composite plan component’ for  
12 ‘composite plan’.

13 “(3) ELIGIBLE TO ACCRUE A BENEFIT.—For  
14 purposes of paragraph (1), an employee is consid-  
15 ered eligible to accrue a benefit under a composite  
16 plan as of the first day in which the employee com-  
17 pletes an hour of service under a collective bar-  
18 gaining agreement that provides for contributions to  
19 and accruals under the composite plan in lieu of ac-  
20 cruals under the defined benefit plan.

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

1           “(5) OTHER TERMS.—Any term used in this  
2           part which is not defined in this part and which is  
3           also used in section 305 shall have the same mean-  
4           ing provided such term in such section.

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

7           “(1) IN GENERAL.—The plan sponsor of a com-  
8           posite plan shall not accept or recognize a collective  
9           bargaining agreement (or any modification to such  
10          agreement), and no contributions may be accepted  
11          and no benefits may be accrued or otherwise earned  
12          under the agreement—

13               “(A) in any case in which the plan actuary  
14               of any defined benefit plan that would be treat-  
15               ed as a legacy plan with respect to such com-  
16               posite plan has certified under section  
17               305(b)(4) that such defined benefit plan is or  
18               will be in endangered or critical status for the  
19               plan year in which such agreement would take  
20               effect or for any of the succeeding 5 plan years;  
21               and

22               “(B) unless the agreement requires each  
23               employer who is a party to such agreement, in-  
24               cluding employers whose employees are not par-  
25               ticipants in the legacy plan, to provide contribu-

1           tions to the legacy plan with respect to such  
2           composite plan in a manner that satisfies the  
3           transition contribution requirements of sub-  
4           section (d).

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

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

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

16                   “(C) to the Secretary, the Secretary of the  
17           Treasury, and the Pension Benefit Guaranty  
18           Corporation.

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

23          “(c) RESTRICTION ON ACCRUAL OF BENEFITS  
24          UNDER A COMPOSITE PLAN.—

1           “(1) IN GENERAL.—In any case in which an  
2           employer, under a collective bargaining agreement  
3           entered into after the date of enactment of this part,  
4           ceases to have an obligation to contribute to a multi-  
5           employer defined benefit plan, no employees em-  
6           ployed by the employer may accrue or otherwise earn  
7           benefits under any composite plan, with respect to  
8           service with that employer, for a 60-month period  
9           beginning on the date on which the employer entered  
10          into such collective bargaining agreement.

11          “(2) NOTICE OF CESSATION OF OBLIGATION.—  
12          Within 30 days of determining that an employer has  
13          ceased to have an obligation to contribute to a leg-  
14          acy plan with respect to employees employed by an  
15          employer that is or will be contributing to a com-  
16          posite plan with respect to service of such employees,  
17          the plan sponsor of the legacy plan shall notify the  
18          plan sponsor of the composite plan of that cessation.

19          “(3) NOTICE OF CESSATION OF ACCRUALS.—  
20          Not later than 30 days after determining that an  
21          employer has ceased to have an obligation to con-  
22          tribute to a legacy plan, the plan sponsor of the  
23          composite plan shall notify the bargaining parties,  
24          the active participants affected by the cessation of  
25          accruals, the Secretary, the Secretary of the Treas-

1       ury, and the Pension Benefit Guaranty Corporation  
 2       of the cessation of accruals, the period during which  
 3       such cessation is in effect, and the reasons therefor.

4           “(4) LIMITATION ON RETROACTIVE EFFECT.—

5       This subsection shall not apply to benefits accrued  
 6       before the date on which notice is provided under  
 7       paragraph (3).

8           “(d) TRANSITION CONTRIBUTION REQUIREMENTS.—

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

12           “(A) authorizes payment of contributions  
 13       to a legacy plan at a rate, or multiple rates, as  
 14       described in paragraph (2)(B), equal to or  
 15       greater than the transition contribution rate es-  
 16       tablished by the legacy plan under paragraph  
 17       (2); and

18           “(B) does not provide for—

19           “(i) a suspension of contributions to  
 20       the legacy plan with respect to any period  
 21       of service; or

22           “(ii) any new direct or indirect exclu-  
 23       sion of younger or newly hired employees  
 24       of the employer from being taken into ac-

1 count in determining contributions owed to  
2 the legacy plan.

3 “(2) TRANSITION CONTRIBUTION RATE.—

4 “(A) IN GENERAL.—The transition con-  
5 tribution rate for a plan year is the contribution  
6 rate that, as certified by the actuary of the leg-  
7 acy plan in accordance with the principles in  
8 section 305(b)(4)(B), is reasonably expected to  
9 be adequate—

10 “(i) to fund the normal cost for the  
11 plan year;

12 “(ii) to amortize the plan’s unfunded  
13 liabilities in level annual installments over  
14 25 years, beginning with the plan year in  
15 which the transition contribution rate is  
16 first established; and

17 “(iii) to amortize any subsequent  
18 changes in the legacy plan’s unfunded li-  
19 ability due to experience gains or losses  
20 (including investment gains or losses, gains  
21 or losses due to contributions greater or  
22 less than the contributions made under the  
23 prior transition contribution rate, and  
24 other actuarial gains or losses), changes in  
25 actuarial assumptions, changes to the leg-

1           acy plan’s benefits, or changes in funding  
2           method over a period of 15 plan years be-  
3           ginning with the plan year following the  
4           plan year in which such change in un-  
5           funded liability is incurred, unless other-  
6           wise prescribed.

7           The transition contribution rate for any plan  
8           year may not be less than the transition con-  
9           tribution rate for the plan year in which such  
10          rate is first established.

11          “(B) MULTIPLE RATES.—If different rates  
12          of contribution are payable to the legacy plan  
13          by different employers or for different classes of  
14          employees, the certification by the actuary of  
15          the legacy plan shall specify a transition con-  
16          tribution rate for each such employer or class of  
17          employees.

18          “(C) RATE APPLICABLE TO EMPLOYER.—

19               “(i) IN GENERAL.—Except as pro-  
20               vided by clause (ii), the transition con-  
21               tribution rate applicable to an employer for  
22               a plan year is the rate in effect for the  
23               plan year of the legacy plan that com-  
24               mences on or after 180 days before the  
25               earlier of—

1                   “(I) the effective date of the col-  
2                   lective bargaining agreement pursuant  
3                   to which the employer contributes to  
4                   the legacy plan; or

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

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

17                  “(D) EFFECT OF LEGACY PLAN FINANCIAL  
18                  CIRCUMSTANCES.—If the plan actuary of the  
19                  legacy plan has certified under section 305 that  
20                  the plan is in endangered or critical status for  
21                  a plan year, the transition contribution rate for  
22                  the following plan year is the rate determined  
23                  with respect to the employer under the legacy  
24                  plan’s funding improvement or rehabilitation  
25                  plan under section 305, if greater than the rate

1 otherwise determined, but in no event shall the  
2 transition contribution rate be greater than 75  
3 percent of the sum of the contribution rates ap-  
4 plicable to the legacy plan and the composite  
5 plan for the plan year. Notwithstanding the  
6 preceding sentence, if the transition contribu-  
7 tion rate in the prior year is more than 75 per-  
8 cent of the sum of the contribution rates appli-  
9 cable to the legacy plan and the composite plan  
10 for the prior plan year, the transition contribu-  
11 tion rate applicable to the legacy plan shall not  
12 be subject to the 75-percent limitation, but  
13 shall be neither increased nor reduced as a per-  
14 centage of the sum of the contribution rates ap-  
15 plicable to the legacy plan and the composite  
16 plan for the plan year.

17 “(E) OTHER ACTUARIAL ASSUMPTIONS  
18 AND METHODS.—Except as provided in sub-  
19 paragraph (A), the determination of the transi-  
20 tion contribution rate for a plan year shall be  
21 based on actuarial assumptions and methods  
22 consistent with the minimum funding deter-  
23 minations made under section 304 (or, if appli-  
24 cable, section 305) with respect to the legacy  
25 plan for the plan year.

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

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

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

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

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

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

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

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

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

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

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

7       **“SEC. 806. MERGERS AND ASSET TRANSFERS OF COM-**  
8               **POSITE PLANS.**

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

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

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

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

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

1 A plan which is not a composite plan may not merge with  
2 or transfer assets and liabilities to a composite plan.

3 “(b) LEGACY PLAN.—

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

10 “(2) MULTIPLE LEGACY PLANS.—If an em-  
11 ployer is obligated to contribute to more than one  
12 legacy plan with respect to employees eligible to ac-  
13 crue benefits under more than one composite plan  
14 and there is a merger or transfer of such legacy  
15 plans, the transition contribution rate applicable to  
16 the legacy plan resulting from the merger or trans-  
17 fer with respect to that employer shall be determined  
18 in accordance with the provisions of section  
19 805(d)(2)(B).”.

20 (2) PENALTIES.—

21 (A) CIVIL ENFORCEMENT OF FAILURE TO  
22 COMPLY WITH REALIGNMENT PROGRAM.—Sec-  
23 tion 502(a) of such Act (29 U.S.C. 1132(a)) is  
24 amended—

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

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

5 (iii) by adding at the end the fol-  
6 lowing:

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

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

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

16 by the Secretary, by an employer that has an obliga-  
17 tion to contribute with respect to the composite plan,  
18 or by an employee organization that represents ac-  
19 tive participants in the composite plan, for an order  
20 compelling the plan sponsor to adopt a realignment  
21 program, or to update or comply with the terms of  
22 the realignment program, in accordance with the re-  
23 quirements of such section and the realignment pro-  
24 gram.”.

1 (B) CIVIL PENALTIES.—Section 502(c) of  
2 such Act (29 U.S.C. 1132(c)), as amended by  
3 this Act, is further amended—

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

6 (ii) by redesignating paragraphs (9)  
7 through (13) as paragraphs (12) through  
8 (16), respectively; and

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

11 “(9) The Secretary may assess against any plan  
12 sponsor of a composite plan a civil penalty of not  
13 more than \$2,140 per day for each violation by such  
14 sponsor—

15 “(A) of the requirement under section  
16 801(a)(5)(D) to furnish an annual notification  
17 to each participant;

18 “(B) of the requirement under section  
19 802(a) on the plan actuary to certify the plan’s  
20 current or projected funded ratio by the date  
21 specified in such subsection; or

22 “(C) of the requirement under section 803  
23 to adopt a realignment program by the deadline  
24 established in that section and to comply with  
25 its terms.

1           “(10)(A) The Secretary may assess against any  
2           plan sponsor of a composite plan a civil penalty of  
3           not more than \$100 per day for each violation by  
4           such sponsor of the requirement under section  
5           803(b) to provide notice as described in such section,  
6           except that no penalty may be assessed in any case  
7           in which the plan sponsor exercised reasonable dili-  
8           gence to meet the requirements of such section  
9           and—

10                   “(i) the plan sponsor did not know that the  
11                   violation existed; or

12                   “(ii) the plan sponsor provided such notice  
13                   during the 30-day period beginning on the first  
14                   date on which the plan sponsor knew, or in ex-  
15                   ercising reasonable due diligence should have  
16                   known, that such violation existed.

17           “(B) In any case in which the plan sponsor ex-  
18           ercised reasonable diligence to meet the require-  
19           ments of section 803(b), the Secretary may waive  
20           part or all of such penalty to the extent that the  
21           payment of such penalty would be excessive or other-  
22           wise inequitable relative to the violation involved.

23           “(11) The Secretary may assess against any  
24           plan sponsor of a composite plan a civil penalty of  
25           not more than \$100 per day for each violation by

1 such sponsor of the notice requirements under sec-  
 2 tions 801(b)(5) and 805(b)(2).”.

3 (3) AUTHORITIES.—Section 101(a) of Reorga-  
 4 nization Plan No. 4 of 1978 (29 U.S.C. 1001 note)  
 5 is amended by striking “Parts 2 and 3” and insert-  
 6 ing “Parts 2, 3, and 8”.

7 (4) CONFORMING AMENDMENT.—The table of  
 8 contents in section 1 of such Act (29 U.S.C. 1001  
 9 note) is amended by inserting after the item relating  
 10 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.”.

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

13 (1) IN GENERAL.—Subchapter D of chapter 1  
 14 of the Internal Revenue Code of 1986 is amended by  
 15 adding at the end the following:

16 **“PART IV—COMPOSITE PLANS AND LEGACY**  
 17 **PLANS**

“Sec. 437. Composite plan defined.

“Sec. 438. Funded ratios; actuarial assumptions.

“Sec. 439. Realignment program.

“Sec. 440. Limitation on increasing benefits.

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

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

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

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

4 “(1) which is a multiemployer plan that is nei-  
5 ther a defined benefit plan nor a defined contribu-  
6 tion plan,

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

14 “(3) which provides systematically for the pay-  
15 ment of benefits—

16 “(A) objectively calculated pursuant to a  
17 nondiscretionary formula specified in the plan  
18 document with respect to plan participants for  
19 life, and

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

24 “(4) for which the anticipated employer con-  
25 tributions to the plan for the first plan year are at

1       least 120 percent of the normal cost for the plan  
2       year,

3           “(5) which requires—

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

8               “(B) an annual actuarial determination of  
9               the plan’s current funded ratio and projected  
10              funded ratio under section 438(a),

11              “(C) corrective action through a realign-  
12              ment program pursuant to section 439 when-  
13              ever the plan’s projected funded ratio is below  
14              120 percent for the plan year, and

15              “(D) an annual notification to each partici-  
16              pant describing benefits under the plan and ex-  
17              plaining that such benefits may be subject to  
18              reduction under a realignment program pursu-  
19              ant to section 439 based on the plan’s funded  
20              status in future plan years, and

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

1       “(b) TRANSITION FROM A MULTIEMPLOYER DE-  
2 FINED BENEFIT PLAN.—

3               “(1) IN GENERAL.—The plan sponsor of a de-  
4 fined benefit plan that is a multiemployer plan may,  
5 subject to paragraph (2), amend the plan to incor-  
6 porate the features of a composite plan as a compo-  
7 nent of the multiemployer plan separate from the  
8 defined benefit plan component, except in the case of  
9 a defined benefit plan for which the plan actuary has  
10 certified under section 432(b)(4) that the plan is or  
11 will be in endangered or critical status for the plan  
12 year in which such amendment would become effec-  
13 tive or in endangered or critical status for any of the  
14 succeeding 5 plan years.

15               “(2) REQUIREMENTS.—Any amendment pursu-  
16 ant to paragraph (1) to incorporate the features of  
17 a composite plan as a component of a multiemployer  
18 plan shall—

19                       “(A) apply with respect to all collective  
20 bargaining agreements providing for contribu-  
21 tions to the multiemployer plan on or after the  
22 effective date of the amendment,

23                       “(B) apply with respect to all participants  
24 in the multiemployer plan for whom contribu-

1           tions are made to the multiemployer plan on or  
2           after the effective date of the amendment,

3           “(C) specify that the effective date of the  
4           amendment is—

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

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

22           “(D) specify that, as of the amendment’s  
23           effective date, no further benefits shall accrue  
24           under the defined benefit component of the  
25           multiemployer plan, and

1           “(E) specify that, as of the amendment’s  
2           effective date, the plan sponsor of the multiem-  
3           ployer plan shall be the plan sponsor of both  
4           the composite plan component and the defined  
5           benefit plan component of the plan.

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

8           “(A) the requirements of this title shall be  
9           applied to the composite plan component and  
10          the defined benefit plan component of the mul-  
11          tiemployer plan as if each such component were  
12          maintained as a separate plan, and

13          “(B) the assets of the composite plan com-  
14          ponent and the defined benefit plan component  
15          of the plan shall be held in a single trust form-  
16          ing part of the plan under which the trust in-  
17          strument expressly provides—

18               “(i) for separate accounts (and appro-  
19               priate records) to be maintained to reflect  
20               the interest which each of the plan compo-  
21               nents has in the trust, including separate  
22               accounting for additions to the trust for  
23               the benefit of each plan component, dis-  
24               bursements made from each plan compo-  
25               nent’s account in the trust, investment ex-

1 perience of the trust allocable to that ac-  
2 count, and administrative expenses (wheth-  
3 er direct expenses or shared expenses allo-  
4 cated proportionally), and permits, but  
5 does not require, the pooling of some or all  
6 of the assets of the two plan components  
7 for investment purposes, subject to the  
8 judgment of the plan fiduciaries, and

9 “(ii) that the assets of each of the two  
10 plan components shall be held, invested,  
11 reinvested, managed, administered and dis-  
12 tributed for the exclusive benefit of the  
13 participants and beneficiaries of each such  
14 plan component, and in no event shall the  
15 assets of one of the plan components be  
16 available to pay benefits due under the  
17 other plan component.

18 “(4) NOT A TERMINATION EVENT.—Notwith-  
19 standing section 4041A of the Employee Retirement  
20 Income Security Act of 1974, an amendment pursu-  
21 ant to paragraph (1) to incorporate the features of  
22 a composite plan as a component of a multiemployer  
23 plan does not constitute termination of the multiem-  
24 ployer plan.

25 “(5) NOTICE TO THE SECRETARY OF LABOR.—

1           “(A) NOTICE.—The plan sponsor of a  
2           composite plan shall provide notice to the Sec-  
3           retary of Labor of the intent to establish the  
4           composite plan (or, in the case of a composite  
5           plan incorporated as a component of a multiem-  
6           ployer plan as described in paragraph (1), the  
7           intent to amend the multiemployer plan to in-  
8           corporate such composite plan) at least 30 days  
9           prior to the effective date of such establishment  
10          or amendment.

11          “(B) CERTIFICATION.—In the case of a  
12          composite plan incorporated as a component of  
13          a multiemployer plan as described in paragraph  
14          (1), such notice shall include a certification by  
15          the plan actuary under section 432(b)(4) that  
16          the effective date of the amendment occurs in  
17          a plan year for which the multiemployer plan is  
18          not in endangered or critical status for that  
19          plan year and any of the succeeding 5 plan  
20          years.

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

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

15          “(c) COORDINATION WITH FUNDING RULES.—Ex-  
16          cept as otherwise provided in this part, sections 412, 431,  
17          and 432 shall not apply to a composite plan.

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

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

24          “(a) CERTIFICATION OF FUNDED RATIOS.—

1           “(1) IN GENERAL.—Not later than the one-  
2           hundred twentieth day of each plan year of a com-  
3           posite plan, the plan actuary of the composite plan  
4           shall certify to the Secretary, the Secretary of  
5           Labor, and the plan sponsor the plan’s current fund-  
6           ed ratio and projected funded ratio for the plan  
7           year.

8           “(2) DETERMINATION OF CURRENT FUNDED  
9           RATIO AND PROJECTED FUNDED RATIO.—For pur-  
10          poses of this section—

11           “(A) CURRENT FUNDED RATIO.—The cur-  
12          rent funded ratio is the ratio (expressed as a  
13          percentage) of—

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

16           “(ii) the plan actuary’s calculation of  
17          the present value of the plan liabilities as  
18          of the first day of the plan year.

19           “(B) PROJECTED FUNDED RATIO.—The  
20          projected funded ratio is the funded ratio deter-  
21          mined under subparagraph (A), projected as of  
22          the first day of the fifteenth plan year following  
23          the plan year for which the determination is  
24          being made.

1           “(3) CONSIDERATION OF CONTRIBUTION RATE  
2 INCREASES.—For purposes of projections under this  
3 subsection, the plan actuary may anticipate con-  
4 tribution rate increases beyond the term of the cur-  
5 rent collective bargaining agreement and any agreed-  
6 to supplements, if reasonable, not to exceed 2.5 per-  
7 cent per year, compounded annually.

8           “(b) ACTUARIAL ASSUMPTIONS AND METHODS.—  
9 For purposes of this part—

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

14           “(A) each of which is reasonable (taking  
15 into account the experience of the plan and rea-  
16 sonable expectations),

17           “(B) which, in combination, offer the actu-  
18 ary’s best estimate of anticipated experience  
19 under the plan, and

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

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

4           “(3) DETERMINATION OF NORMAL COST AND  
5           PLAN LIABILITIES.—A plan’s normal cost and liabil-  
6           ities shall be based on—

7                   “(A) the most recent actuarial valuation  
8                   required under section 437(a)(5)(A) and the  
9                   unit credit funding method, and

10                   “(B) rates of interest subject to section  
11                   431(b)(6).

12           “(4) TIME WHEN CERTAIN CONTRIBUTIONS  
13           DEEMED MADE.—Any contributions for a plan year  
14           made by an employer after the last day of such plan  
15           year, but not later than 2½ months after such day,  
16           shall be deemed to have been made on such last day.  
17           For purposes of this paragraph, such 2½-month pe-  
18           riod may be extended to a total of not more than  
19           120 days under regulations prescribed by the Sec-  
20           retary.

21           “(5) ADDITIONAL ACTUARIAL ASSUMPTIONS.—  
22           Except where otherwise provided in this part, the  
23           provisions of section 432(b)(4)(B) shall apply to any  
24           determination or projection under this part.

1 **“SEC. 439. REALIGNMENT PROGRAM.**

2 “(a) REALIGNMENT PROGRAM.—

3 “(1) ADOPTION.—In any case in which the plan  
4 actuary certifies under section 438(a) that the plan’s  
5 projected funded ratio is below 120 percent for the  
6 plan year, the plan sponsor shall adopt a realign-  
7 ment program under paragraph (2) not later than  
8 210 days after the due date of the certification re-  
9 quired under section 438(a). The plan sponsor shall  
10 adopt an updated realignment program for each suc-  
11 ceeding plan year for which a certification described  
12 in the preceding sentence is made.

13 “(2) CONTENT OF REALIGNMENT PROGRAM.—

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

24 “(B) INITIAL PROGRAM ELEMENTS.—Rea-  
25 sonable 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 de-  
scribed in section 432(f)(6)).

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

“(iv) Any other legally available meas-  
ures not specifically described in this sub-  
paragraph or subparagraph (C) or (D)  
that the plan sponsor determines are rea-  
sonable.

“(C) ADDITIONAL PROGRAM ELEMENTS.—

If the plan sponsor has determined that all rea-  
sonable measures available under subparagraph  
(B) will not enable the plan to achieve a pro-  
jected funded ratio of at least 120 percent the

1 following plan year, such realignment program  
2 may also include—

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

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

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

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

24 “(ii) a reduction of core benefits,

1 provided that such reductions shall be equitably  
2 distributed across the participant and bene-  
3 ficiary population, taking into account factors,  
4 with respect to participants and beneficiaries  
5 and their benefits, that may include one or  
6 more of the factors listed in subclauses (I)  
7 through (X) of section 432(f)(9)(D)(vi), to the  
8 extent necessary to enable the plan to achieve  
9 a projected funded ratio of at least 120 percent  
10 for the following plan year.

11 “(3) ADJUSTABLE BENEFIT DEFINED.—For  
12 purposes of this part, the term ‘adjustable benefit’  
13 means—

14 “(A) benefits, rights, and features under  
15 the plan, including post-retirement death bene-  
16 fits, disability benefits not yet in pay status,  
17 and similar benefits,

18 “(B) any early retirement benefit or retire-  
19 ment-type subsidy (within the meaning of sec-  
20 tion 411(d)(6)(B)(i)) (including early reduction  
21 factors which are not provided on an actuarially  
22 equivalent basis) and any benefit payment op-  
23 tion (other than the qualified joint and survivor  
24 annuity),

1           “(C) benefit increases which were adopted  
2           (or, if later, took effect) less than 120 months  
3           before the first day of the first plan year in  
4           which such realignment program took effect,

5           “(D) any one-time bonus payment or ‘thir-  
6           teenth check’ provision, and

7           “(E) benefits granted for period of service  
8           prior to participation in the plan.

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

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

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

21           “(5) COORDINATION WITH CONTRIBUTION IN-  
22          CREASES.—

23               “(A) IN GENERAL.—A realignment pro-  
24               gram may provide that some or all of the ben-  
25               efit modifications described in the program will

1           only take effect if the bargaining parties fail to  
2           agree to specified levels of increases in contribu-  
3           tions to the plan, effective as of specified dates.

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

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

21          “(D) REVOCATION OF CERTAIN BENEFIT  
22          MODIFICATIONS.—Benefit modifications de-  
23          scribed in paragraph (3) may be revoked, in  
24          whole or in part, and retroactively or prospec-  
25          tively, when contributions to the plan are in-

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

8           “(b) NOTICE.—

9           “(1) IN GENERAL.—In any case in which it is  
10          certified under section 438(a) that the projected  
11          funded ratio is less than 120 percent, the plan spon-  
12          sor shall, not later than 30 days after the date of  
13          the certification, provide notification of the current  
14          and projected funded ratios to the participants and  
15          beneficiaries, the bargaining parties, the Secretary of  
16          Labor, and the Secretary. Such notice shall in-  
17          clude—

18               “(A) an explanation that contribution rate  
19               increases or benefit reductions may be nec-  
20               essary,

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

23               “(C) an estimate of the contribution in-  
24               creases and benefit reductions that may be nec-

1           essary to achieve a projected funded ratio of  
2           120 percent.

3           “(2) NOTICE OF BENEFIT MODIFICATIONS.—

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

11                   “(i) plan participants and bene-  
12           ficiaries,

13                   “(ii) each employer who has an obliga-  
14           tion to contribute to the composite plan,  
15           and

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

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

22                   “(i) sufficient information to enable  
23           participants and beneficiaries to under-  
24           stand the effect of any reduction on their  
25           benefits, including an illustration of any

1 affected benefit or subsidy, on an annual  
2 or monthly basis that a participant or ben-  
3 eficiary would otherwise have been eligible  
4 for as of the general effective date de-  
5 scribed in subparagraph (A), and

6 “(ii) information as to the rights and  
7 remedies of plan participants and bene-  
8 ficiaries as well as how to contact the De-  
9 partment of the Treasury for further infor-  
10 mation and assistance, where appropriate.

11 “(C) FORM AND MANNER.—Any notice  
12 under subparagraph (A)—

13 “(i) shall be provided in a form and  
14 manner prescribed in regulations of the  
15 Secretary, and

16 “(ii) shall be written in a manner so  
17 as to be understood by the average plan  
18 participant.

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

20 “(A) prescribe model notices that the plan  
21 sponsor of a composite plan may use to satisfy  
22 the notice requirements under this subsection,  
23 and

24 “(B) by regulation enumerate any details  
25 related to the elements listed in paragraph (1)

1           that any notice under this subsection must in-  
2           clude.

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

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

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

14               “(1) the plan’s current funded ratio is at least  
15               110 percent (without regard to the benefit increase  
16               or new benefits),

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

21               “(3) in any case in which, after taking the ben-  
22               efit increase or new benefits into account, the cur-  
23               rent funded ratio is less than 140 percent or the  
24               projected funded ratio is less than 140 percent, the  
25               benefit increase or new benefits are projected by the

1 plan actuary to increase the present value of the  
2 plan's liabilities for the plan year by not more than  
3 3 percent, and

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

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

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

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

22 “(c) EXCEPTION TO COMPLY WITH APPLICABLE  
23 LAW.—Subsection (a) shall not apply in connection with  
24 a plan amendment if the amendment is required as a con-

1 dition of qualification under part I of subchapter D of  
2 chapter 1 or to comply with other applicable law.

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

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

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

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

22 “(2) all benefit increases and new benefits  
23 adopted in a single amendment are treated as a sin-  
24 gle benefit increase, irrespective of whether the in-

1        creases and new benefits take effect in more than  
 2        one plan year, and

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

9    **“SEC. 440A. COMPOSITE PLAN RESTRICTIONS TO PRE-**  
 10           **SERVE LEGACY PLAN FUNDING.**

11        “(a) TREATMENT AS A LEGACY PLAN.—

12            “(1) IN GENERAL.—For purposes of this sub-  
 13        chapter, a defined benefit plan shall be treated as a  
 14        legacy plan with respect to the composite plan under  
 15        which employees who were eligible to accrue a ben-  
 16        efit under the defined benefit plan become eligible to  
 17        accrue a benefit under such composite plan.

18            “(2) COMPONENT PLANS.—In any case in  
 19        which a defined benefit plan is amended to add a  
 20        composite plan component pursuant to section  
 21        437(b), paragraph (1) shall be applied by sub-  
 22        stituting ‘defined benefit component’ for ‘defined  
 23        benefit plan’ and ‘composite plan component’ for  
 24        ‘composite plan’.

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

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

13          “(5) OTHER TERMS.—Any term used in this  
14          part which is not defined in this part and which is  
15          also used in section 432 shall have the same mean-  
16          ing provided such term in such section.

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

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

1           “(A) in any case in which the plan actuary  
2           of any defined benefit plan that would be treat-  
3           ed as a legacy plan with respect to such com-  
4           posite plan has certified under section  
5           432(b)(4) that such defined benefit plan is or  
6           will be in endangered or critical status for the  
7           plan year in which such agreement would take  
8           effect or for any of the succeeding 5 plan years,  
9           and

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

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

24           “(A) the parties to the agreement,

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

5           “(C) the Secretary of Labor, the Secretary  
6           of the Treasury, and the Pension Benefit Guar-  
7           anty Corporation.

8           “(3) LIMITATION ON RETROACTIVE EFFECT.—

9           This subsection shall not apply to benefits accrued  
10          before the date on which notice is provided under  
11          paragraph (2).

12          “(c) RESTRICTION ON ACCRUAL OF BENEFITS  
13          UNDER A COMPOSITE PLAN.—

14               “(1) IN GENERAL.—In any case in which an  
15          employer, under a collective bargaining agreement  
16          entered into after the date of enactment of the Chris  
17          Allen Multiemployer Pension Recapitalization and  
18          Reform Act of 2020, ceases to have an obligation to  
19          contribute to a multiemployer defined benefit plan,  
20          no employees employed by the employer may accrue  
21          or otherwise earn benefits under any composite plan,  
22          with respect to service with that employer, for a 60-  
23          month period beginning on the date on which the  
24          employer entered into such collective bargaining  
25          agreement.

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

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

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

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

19           “(4) LIMITATION ON RETROACTIVE EFFECT.—

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

23           “(d) TRANSITION CONTRIBUTION REQUIREMENTS.—

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

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

9           “(B) does not provide for—

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

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

18           “(2) TRANSITION CONTRIBUTION RATE.—

19           “(A) IN GENERAL.—The transition con-  
20 tribution rate for a plan year is the contribution  
21 rate that, as certified by the actuary of the leg-  
22 acy plan in accordance with the principles in  
23 section 432(b)(4)(B), is reasonably expected to  
24 be adequate—

1           “(i) to fund the normal cost for the  
2           plan year,

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

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

23          The transition contribution rate for any plan  
24          year may not be less than the transition con-

1           tribution rate for the plan year in which such  
2           rate is first established.

3           “(B) MULTIPLE RATES.—If different rates  
4           of contribution are payable to the legacy plan  
5           by different employers or for different classes of  
6           employees, the certification by the actuary of  
7           the legacy plan shall specify a transition con-  
8           tribution rate for each such employer or class of  
9           employees.

10          “(C) RATE APPLICABLE TO EMPLOYER.—

11           “(i) IN GENERAL.—Except as pro-  
12           vided by clause (ii), the transition con-  
13           tribution rate applicable to an employer for  
14           a plan year is the rate in effect for the  
15           plan year of the legacy plan that com-  
16           mences on or after 180 days before the  
17           earlier of—

18           “(I) the effective date of the col-  
19           lective bargaining agreement pursuant  
20           to which the employer contributes to  
21           the legacy plan, or

22           “(II) 5 years after the last plan  
23           year for which the transition contribu-  
24           tion rate applicable to the employer  
25           was established or updated.

1                   “(ii) EXCEPTION.—The transition  
2                   contribution rate applicable to an employer  
3                   for the first plan year beginning on or  
4                   after the commencement of the employer’s  
5                   obligation to contribute to the composite  
6                   plan is the rate in effect for the plan year  
7                   of the legacy plan that commences on or  
8                   after 180 days before such first plan year.

9                   “(D) EFFECT OF LEGACY PLAN FINANCIAL  
10                  CIRCUMSTANCES.—If the plan actuary of the  
11                  legacy plan has certified under section 432 that  
12                  the plan is in endangered or critical status for  
13                  a plan year, the transition contribution rate for  
14                  the following plan year is the rate determined  
15                  with respect to the employer under the legacy  
16                  plan’s funding improvement or rehabilitation  
17                  plan under section 432, if greater than the rate  
18                  otherwise determined, but in no event shall the  
19                  transition contribution rate be greater than 75  
20                  percent of the sum of the contribution rates ap-  
21                  plicable to the legacy plan and the composite  
22                  plan for the plan year. Notwithstanding the  
23                  preceding sentence, if the transition contribu-  
24                  tion rate in the prior year is more than 75 per-  
25                  cent of the sum of the contribution rates appli-

1 cable to the legacy plan and the composite plan  
2 for the prior plan year, the transition contribu-  
3 tion rate applicable to the legacy plan shall not  
4 be subject to the 75-percent limitation, but  
5 shall be neither increased nor reduced as a per-  
6 centage of the sum of the contribution rates ap-  
7 plicable to the legacy plan and the composite  
8 plan for the plan year.

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

18 “(F) ADJUSTMENTS IN RATE.—The plan  
19 sponsor of a legacy plan from time to time may  
20 adjust the transition contribution rate or rates  
21 applicable to an employer under this paragraph  
22 by increasing some rates and decreasing others  
23 if the actuary certifies that such adjusted rates  
24 in combination will produce projected contribu-  
25 tion income for the plan year beginning on or

1 after the date of certification that is not less  
2 than would be produced by the transition con-  
3 tribution rates in effect at the time of the cer-  
4 tification.

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

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

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

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

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

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

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

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

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

1 **“SEC. 440B. MERGERS AND ASSET TRANSFERS OF COM-**  
2 **POSITE PLANS.**

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

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

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

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

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

19 A plan which is not a composite plan may not merge with  
20 or transfer assets and liabilities to a composite plan.

21 “(b) LEGACY PLAN.—

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

1       that applied to that employer immediately before the  
2       merger or transfer.

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

13           (2) CLERICAL AMENDMENT.—The table of  
14      parts for subchapter D of chapter 1 of the Internal  
15      Revenue Code of 1986 is amended by adding at the  
16      end the following new item:

“PART IV—COMPOSITE PLANS AND LEGACY PLANS”.

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

20      **SEC. 502. APPLICATION OF CERTAIN REQUIREMENTS TO**  
21                                   **COMPOSITE PLANS.**

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

24           (1) TREATMENT FOR PURPOSES OF FUNDING  
25      NOTICES.—Section 101(f) of the Employee Retire-

1       ment Income Security Act of 1974 (29 U.S.C.  
2       1021(f)), as amended by this Act, is further amend-  
3       ed—

4               (A) in paragraph (1) by striking “title IV  
5       applies” and inserting “title IV applies or which  
6       is a composite plan”; and

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

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

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

18              (A) in subsection (d) by adding at the end  
19      the following sentence: “The provisions of this  
20      subsection shall apply to a composite plan only  
21      to the extent prescribed by the Secretary in reg-  
22      ulations that take into account the differences  
23      between a composite plan and a defined benefit  
24      plan that is a multiemployer plan.”;

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

3 “(3) ADDITIONAL INFORMATION FOR COM-  
 4 POSITE PLANS.—With respect to any composite  
 5 plan—

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

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

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

18 “(h) COMPOSITE PLANS.—A multiemployer plan that  
 19 incorporates the features of a composite plan as provided  
 20 in section 801(b) shall be treated as a single plan for pur-  
 21 poses of the report required by this section, except that  
 22 separate financial statements and actuarial statements  
 23 shall be provided under paragraphs (3) and (4) of sub-  
 24 section (a) for the defined benefit plan component and for

1 the composite plan component of the multiemployer  
2 plan.”.

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

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

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

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

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

4       **SEC. 503. TREATMENT OF COMPOSITE PLANS UNDER TITLE**  
 5                                   **IV.**

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

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

13       (b) COMPOSITE PLANS DISREGARDED FOR CALCU-  
 14 LATING PREMIUMS.—Section 4006(a) of the Employee  
 15 Retirement Income Security Act of 1974 (29 U.S.C.  
 16 1306(a)) is amended by adding at the end the following:

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

21       (c) COMPOSITE PLANS NOT COVERED.—Section  
 22 4021(b)(1) of the Employee Retirement Income Security  
 23 Act of 1974 (29 U.S.C. 1321(b)(1)) is amended by strik-  
 24 ing “Act” and inserting “Act, or a composite plan, as de-  
 25 fined in paragraph (43) of section 3 of this Act”.

1 (d) NO WITHDRAWAL LIABILITY.—Section 4201 of  
2 the Employee Retirement Income Security Act of 1974  
3 (29 U.S.C. 1381) is amended by adding at the end the  
4 following:

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

8 (e) NO WITHDRAWAL LIABILITY FOR CERTAIN  
9 PLANS.—Section 4201 of the Employee Retirement In-  
10 come Security Act of 1974 (29 U.S.C. 1381) is further  
11 amended by adding at the end the following:

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

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

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

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

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

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

18          (f) NO WITHDRAWAL LIABILITY FOR EMPLOYERS  
19    CONTRIBUTING TO CERTAIN FULLY FUNDED LEGACY  
20    PLANS.—Section 4211 of the Employee Retirement In-  
21    come Security Act of 1974 (29 U.S.C. 1382) is amended  
22    by adding at the end the following:

23           “(g) LEGACY PLANS.—No amount of unfunded vest-  
24    ed benefits shall be allocated to an employer that has an  
25    obligation to contribute to a legacy plan described in sub-

1 section (e) of section 4201 for each plan year for which  
2 such subsection applies.”.

3 (g) NO OBLIGATION TO CONTRIBUTE.—Section  
4 4212 of the Employee Retirement Income Security Act of  
5 1974 (29 U.S.C. 1392) is amended by adding at the end  
6 the following:

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

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

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

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

1        legacy plan with respect to service with that em-  
2        ployer.”.

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

12      (i) EFFECTIVE DATE.—

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

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

22      **SEC. 504. CONFORMING CHANGES.**

23      (a) DEFINITIONS.—

24            (1) AMENDMENT TO EMPLOYEE RETIREMENT  
25      INCOME SECURITY ACT OF 1974.—Section 3 of the

1 Employee Retirement Income Security Act of 1974  
2 (29 U.S.C. 1002) is amended—

3 (A) in paragraph (35), by inserting “or a  
4 composite plan” after “other than an individual  
5 account plan”; and

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

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

9 (2) AMENDMENT TO INTERNAL REVENUE CODE  
10 OF 1986.—Section 414(j) of the Internal Revenue  
11 Code of 1986 is amended by inserting “, other than  
12 a composite plan (as defined in section 437(a)),”  
13 after “any plan”.

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

16 (1) AMENDMENT TO EMPLOYEE RETIREMENT  
17 INCOME SECURITY ACT OF 1974.—Section 304(b) of  
18 the Employee Retirement Income Security Act of  
19 1974 (29 U.S.C. 1084(b)), as amended by this Act,  
20 is amended by adding at the end the following:

21 “(10) SPECIAL FUNDING RULE FOR CERTAIN  
22 LEGACY PLANS.—In the case of a multiemployer de-  
23 fined benefit plan that has adopted an amendment  
24 under section 801(b), in accordance with which no  
25 further benefits shall accrue under the multiem-

1        ployer defined benefit plan, the plan sponsor may  
2        combine the outstanding balance of all charge and  
3        credit bases and amortize that combined base in  
4        level annual installments (until fully amortized) over  
5        a period of 25 plan years beginning with the plan  
6        year following the date all benefit accruals ceased,  
7        but only if the plan is not in endangered or critical  
8        status under section 305.”.

9            (2) AMENDMENT TO INTERNAL REVENUE CODE  
10        OF 1986.—Section 431(b) of the Internal Revenue  
11        Code of 1986, as amended by this Act, is amended  
12        by adding at the end the following:

13            “(10) SPECIAL FUNDING RULE FOR CERTAIN  
14        LEGACY PLANS.—In the case of a multiemployer de-  
15        fined benefit plan that has adopted an amendment  
16        under section 437(b), in accordance with which no  
17        further benefits shall accrue under the multiem-  
18        ployer defined benefit plan, the plan sponsor may  
19        combine the outstanding balance of all charge and  
20        credit bases and amortize that combined base in  
21        level annual installments (until fully amortized) over  
22        a period of 25 plan years beginning with the plan  
23        year following the date on which all benefit accruals  
24        ceased, but only if the plan is not in endangered or  
25        critical status under section 432.”.

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

3           (1) AMENDMENT TO EMPLOYEE RETIREMENT  
4 INCOME SECURITY ACT OF 1974.—Section 208 of the  
5 Employee Retirement Income Security Act of 1974  
6 (29 U.S.C. 1058) is amended—

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

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

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

14          “(2) SPECIAL REQUIREMENTS FOR MULTIEM-  
15 PLOYER PLANS.—Paragraph (1) shall not apply to  
16 any transaction to the extent that participants either  
17 before or after the transaction are covered under a  
18 multiemployer plan to which title IV of this Act ap-  
19 plies or a composite plan.”.

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

22           (A) QUALIFICATION REQUIREMENT.—Sec-  
23 tion 401(a)(12) of the Internal Revenue Code  
24 of 1986 is amended—

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

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

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

7 (ii) by striking the second sentence;

8 and

9 (iii) by adding at the end the fol-  
 10 lowing:

11 “(B) SPECIAL REQUIREMENTS FOR MULTI-  
 12 EMPLOYER PLANS.—Subparagraph (A) shall  
 13 not apply to any multiemployer plan with re-  
 14 spect to any transaction to the extent that par-  
 15 ticipants either before or after the transaction  
 16 are covered under a multiemployer plan to  
 17 which title IV of the Employee Retirement In-  
 18 come Security Act of 1974 applies or a com-  
 19 posite plan.”.

20 (B) ADDITIONAL QUALIFICATION REQUIRE-  
 21 MENT.—Paragraph (1) of section 414(l) of such  
 22 Code is amended—

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

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

3           “(A) IN GENERAL.—Except as provided in  
4       subparagraph (B), a trust which forms a part  
5       of a plan shall not constitute”;

6           (ii) by striking the second sentence;

7           and

8           (iii) by adding at the end the fol-  
9       lowing:

10          “(B) SPECIAL REQUIREMENTS FOR MULTI-  
11       EMPLOYER PLANS.—Subparagraph (A) does not  
12       apply to any multiemployer plan with respect to  
13       any transaction to the extent that participants  
14       either before or after the transaction are cov-  
15       ered under a multiemployer plan to which title  
16       IV of the Employee Retirement Income Secu-  
17       rity Act of 1974 applies or a composite plan.”.

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

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

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

6           (e) DEDUCTION FOR CONTRIBUTIONS TO A QUALI-  
7           FIED PLAN.—Section 404(a)(1) of the Internal Revenue  
8           Code of 1986 is amended by redesignating subparagraph  
9           (E) as subparagraph (F) and by inserting after subpara-  
10          graph (D) the following:

11                   “(E) COMPOSITE PLANS.—

12                           “(i) IN GENERAL.—In the case of a  
13                   composite plan, subparagraph (D) shall  
14                   not apply and the maximum amount de-  
15                   ductible for a plan year shall be the excess  
16                   (if any) of—

17                                   “(I) 140 percent of the greater  
18                   of—

19                                           “(aa) the current liability of  
20                   the plan determined in accord-  
21                   ance with the principles of sec-  
22                   tion 431(c)(6)(D), or

23                                           “(bb) the present value of  
24                   plan liabilities as determined  
25                   under section 438, over

1 “(II) the fair market value of the  
 2 plan’s assets, projected to the end of  
 3 the plan year.

4 “(ii) SPECIAL RULES FOR PREDE-  
 5 CESSOR MULTIEMPLOYER PLAN TO COM-  
 6 POSITE PLAN.—

7 “(I) IN GENERAL.—Except as  
 8 provided in subclause (II), if an em-  
 9 ployer contributes to a composite plan  
 10 with respect to its employees, con-  
 11 tributions by that employer to a leg-  
 12 acy plan with respect to some or all of  
 13 the same group of employees shall be  
 14 deductible under sections 162 and this  
 15 section, subject to the limits in sub-  
 16 paragraph (D).

17 “(II) TRANSITION CONTRIBU-  
 18 TION.—The full amount of a contribu-  
 19 tion to satisfy the transition contribu-  
 20 tion requirement (as defined in sec-  
 21 tion 440A(d)) and allocated to the  
 22 legacy defined benefit plan for the  
 23 plan year shall be deductible for the  
 24 employer’s taxable year ending with or  
 25 within the plan year.”.

1 (f) MINIMUM VESTING STANDARDS.—

2 (1) YEARS OF SERVICE UNDER COMPOSITE  
3 PLANS.—

4 (A) EMPLOYEE RETIREMENT INCOME SE-  
5 CURITY ACT OF 1974.—Section 203 of the Em-  
6 ployee Retirement Income Security Act of 1974  
7 (29 U.S.C. 1053) is amended by inserting after  
8 subsection (f) the following:

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

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

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

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

3            “(3) CERTIFICATION OF YEARS OF SERVICE.—

4        For purposes of paragraph (1), the plan sponsor of  
5        the composite plan shall rely on a written certifi-  
6        cation by the plan sponsor of the legacy plan of the  
7        years of service the qualified employee completed  
8        under the defined benefit plan as of the date the em-  
9        ployee satisfies the requirements of paragraph (2),  
10       disregarding any years of service that had been for-  
11       feited under the rules of the defined benefit plan be-  
12       fore that date unless contrary to service records pro-  
13       vided by the participant. In the case of a conflict,  
14       the plan sponsor shall evaluate the evidence and  
15       make a reasonable factual determination.

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

18            “(1) IN GENERAL.—In determining a qualified  
19        employee’s years of service under a legacy plan for  
20        purposes of this section, and in addition to any serv-  
21        ice under applicable regulations, the employee’s  
22        years of service under a composite plan shall be  
23        treated as years of service earned under the legacy  
24        plan. For purposes of such determination, a com-

1       posite plan shall not be treated as a defined benefit  
2       plan pursuant to section 801(d).

3               “(2) QUALIFIED EMPLOYEE.—For purposes of  
4       this subsection, an employee is a qualified employee  
5       if the employee first completes an hour of service  
6       under the composite plan (determined without re-  
7       gard to the provisions of this subsection) within the  
8       12-month period immediately preceding or the 24-  
9       month period immediately following the date the em-  
10      ployee ceased to accrue benefits under the legacy  
11      plan.

12              “(3) CERTIFICATION OF YEARS OF SERVICE.—  
13      For purposes of paragraph (1), the plan sponsor of  
14      the legacy plan shall rely on a written certification  
15      by the plan sponsor of the composite plan of the  
16      years of service the qualified employee completed  
17      under the composite plan after the employee satisfies  
18      the requirements of paragraph (2), disregarding any  
19      years of service that has been forfeited under the  
20      rules of the composite plan unless contrary to service  
21      records provided by the participant. In the case of  
22      a conflict, the plan sponsor shall evaluate the evi-  
23      dence and make a reasonable factual determina-  
24      tion.”.

1 (B) INTERNAL REVENUE CODE OF 1986.—  
2 Section 411(a) of the Internal Revenue Code of  
3 1986 is amended by adding at the end the fol-  
4 lowing:

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

7 “(A) IN GENERAL.—In determining a  
8 qualified employee’s years of service under a  
9 composite plan for purposes of this subsection,  
10 the employee’s years of service under a legacy  
11 plan shall be treated as years of service earned  
12 under the composite plan. For purposes of such  
13 determination, a composite plan shall not be  
14 treated as a defined benefit plan pursuant to  
15 section 437(d).

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

1           “(C) CERTIFICATION OF YEARS OF SERV-  
 2           ICE.—For purposes of subparagraph (A), the  
 3           plan sponsor of the composite plan shall rely on  
 4           a written certification by the plan sponsor of  
 5           the legacy plan of the years of service the quali-  
 6           fied employee completed under the legacy plan  
 7           as of the date the employee satisfies the re-  
 8           quirements of subparagraph (B), disregarding  
 9           any years of service that had been forfeited  
 10          under the rules of the defined benefit plan be-  
 11          fore that date unless contrary to service records  
 12          provided by the participant. In the case of a  
 13          conflict, the plan sponsor shall evaluate the evi-  
 14          dence and make a reasonable factual determina-  
 15          tion.

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

18           “(A) IN GENERAL.—In determining a  
 19           qualified employee’s years of service under a  
 20           legacy plan for purposes of this section, and in  
 21           addition to any service under applicable regula-  
 22           tions, the employee’s years of service under a  
 23           composite plan shall be treated as years of serv-  
 24           ice earned under the legacy plan. For purposes  
 25           of such determination, a composite plan shall

1 not be treated as a defined benefit plan pursu-  
2 ant to section 437(d).

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

12 “(C) CERTIFICATION OF YEARS OF SERV-  
13 ICE.—For purposes of subparagraph (A), the  
14 plan sponsor of the legacy plan shall rely on a  
15 written certification by the plan sponsor of the  
16 composite plan of the years of service the quali-  
17 fied employee completed under the composite  
18 plan after the employee satisfies the require-  
19 ments of subparagraph (B), disregarding any  
20 years of service that has been forfeited under  
21 the rules of the composite plan unless contrary  
22 to service records provided by the participant.  
23 In the case of a conflict, the plan sponsor shall  
24 evaluate the evidence and make a reasonable  
25 factual determination.”.

1 (2) REDUCTION OF BENEFITS.—

2 (A) EMPLOYEE RETIREMENT INCOME SE-  
 3 CURITY ACT OF 1974.—Section 203(a)(3)(E)(ii)  
 4 of the Employee Retirement Income Security  
 5 Act of 1974 (29 U.S.C. 1053(a)(3)(E)(ii)) is  
 6 amended—

7 (i) in subclause (I) by striking  
 8 “4244A” and inserting “305(f), 803,”;  
 9 and

10 (ii) in subclause (II) by striking  
 11 “4245” and inserting “305(f), 4245,”.

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

15 (i) in clause (i) by striking “section  
 16 418D or under section 4281 of the Em-  
 17 ployee Retirement Income Security Act of  
 18 1974” and inserting “section 432(f) or  
 19 439 or under section 4281 of the Em-  
 20 ployee Retirement Income Security Act of  
 21 1974”; and

22 (ii) in clause (ii) by inserting “or  
 23 432(f)” after “section 418E”.

24 (3) ACCRUED BENEFIT REQUIREMENTS.—

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

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

17 (4) ADDITIONAL ACCRUED BENEFIT REQUIRE-  
18 MENTS.—

19 (A) EMPLOYEE RETIREMENT INCOME SE-  
20 CURITY ACT OF 1974.—Section 204(b)(1)(H)(v)  
21 of the Employee Retirement Income Security  
22 Act of 1974 (29 U.S.C. 1053(b)(1)(H)(v)) is  
23 amended by inserting before the period at the  
24 end the following: “, or benefits are reduced or

suspended under section 305(f), 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(f), 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(f), 803, 4245,”.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(d)(6)(A) of the Internal Revenue

1 Code of 1986 is amended by inserting after  
2 “412(d)(2),” the following: “418E, 432(f), or  
3 439,”.

4 (g) CERTAIN FUNDING RULES NOT APPLICABLE.—

5 (1) EMPLOYEE RETIREMENT INCOME SECURITY  
6 ACT OF 1974.—Section 305 of the Employee Retirement  
7 Income Security Act of 1974 (29 U.S.C.  
8 1085), as amended by section 212(a) and as in ef-  
9 fect before the amendments made by section 212  
10 other than subsection (a) thereof, is further amend-  
11 ed by adding at the end the following:

12 “(l) LEGACY PLANS.—This section and sections 302  
13 and 304 shall not apply to an employer that has an obliga-  
14 tion to contribute to a plan that is a legacy plan within  
15 the meaning of section 805(a) solely because the employer  
16 has an obligation to contribute to a composite plan de-  
17 scribed in section 801 that is associated with that legacy  
18 plan.”.

19 (2) INTERNAL REVENUE CODE OF 1986.—Sec-  
20 tion 432 of the Internal Revenue Code of 1986, as  
21 amended by section 211(a) and as in effect before  
22 the amendments made by section 211 other than  
23 subsection (a) thereof, is further amended by adding  
24 at the end the following:

1       “(l) LEGACY PLANS.—This section and sections 412  
2 and 431 shall not apply to an employer that has an obliga-  
3 tion to contribute to a plan that is a legacy plan within  
4 the meaning of section 440A(a) solely because the em-  
5 ployer has an obligation to contribute to a composite plan  
6 described in section 437 that is associated with that legacy  
7 plan.”.

8       (h) TERMINATION OF COMPOSITE PLAN.—Section  
9 403(d) of the Employee Retirement Income Security Act  
10 of 1974 (29 U.S.C. 1103(d)) is amended—

11           (1) in paragraph (1), by striking “regulations  
12 of the Secretary.” and inserting “regulations of the  
13 Secretary, or as provided in paragraph (3).”; and

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

15           “(3) Section 4044(a) of this Act shall be ap-  
16 plied in the case of the termination of a composite  
17 plan by—

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

21           “(B) including in the benefits subject to  
22 paragraph (4) all other benefits (if any) of indi-  
23 viduals under the plan that would be guaran-  
24 teed under section 4022A if the plan were sub-  
25 ject to title IV.”.

1 (i) GOOD FAITH COMPLIANCE PRIOR TO GUID-  
 2 ANCE.—Where the implementation of any provision of law  
 3 added or amended by this Act is subject to issuance of  
 4 regulations by the Secretary of Labor, the Secretary of  
 5 the Treasury, or the Pension Benefit Guaranty Corpora-  
 6 tion, a multiemployer plan shall not be treated as failing  
 7 to meet the requirements of any such provision prior to  
 8 the issuance of final regulations or other guidance to carry  
 9 out such provision if such plan is operated in accordance  
 10 with a reasonable, good faith interpretation of such provi-  
 11 sion.

12 **SEC. 505. EFFECTIVE DATE.**

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

16 **TITLE VI—FINANCIAL**  
 17 **PROVISIONS**

18 **SEC. 601. ADDITIONAL PREMIUMS.**

19 (a) INCREASE IN FLAT DOLLAR PREMIUM BEGIN-  
 20 NING IN 2021.—Section 4006(a)(3) of the Employee Re-  
 21 tirement Income Security Act of 1974 (29 U.S.C.  
 22 1306(a)(3)) is amended—

23 (1) in subparagraph (A)—

24 (A) in clause (vi)—

1 (i) by inserting “and before January  
2 1, 2021,” after “2014,”; and

3 (ii) by striking “or” at the end;

4 (B) by moving the margins of clause (vii)  
5 2 ems to the left;

6 (C) by redesignating clause (vii) as clause  
7 (ix); and

8 (D) by inserting after clause (vi) the fol-  
9 lowing:

10 “(vii) in the case of a multiemployer plan, for  
11 plan years beginning in calendar year 2021, for each  
12 individual who is a participant in such plan during  
13 the plan year, the dollar amount in effect under  
14 clause (i) for plan years beginning in 2021,”.

15 (b) FLAT AND VARIABLE RATE PREMIUM FOR YEARS  
16 AFTER 2021.—Section 4006(a)(3) of the Employee Re-  
17 tirement Income Security Act of 1974 (29 U.S.C.  
18 1306(a)(3)), as amended by subsection (a), is further  
19 amended—

20 (1) by inserting after clause (vii) of subpara-  
21 graph (A) the following:

22 “(viii) in the case of a multiemployer plan, for  
23 any plan year beginning after December 31, 2021,  
24 an amount for each individual who is a participant

1 in such plan during the plan year equal to the sum  
2 of—

3 “(I) the premium rate applicable under  
4 clause (i)(VIII), plus

5 “(II) the additional premium (if any) de-  
6 termined under subparagraph (N) for the plan  
7 year, or”; and

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

9 “(N)(i) The additional premium determined under  
10 this subparagraph with respect to any multiemployer plan  
11 for any plan year shall be an amount equal to the least  
12 of—

13 “(I) the amount determined under clause (ii)  
14 for the plan year divided by the number of partici-  
15 pants in such plan as of the close of the preceding  
16 plan year;

17 “(II) 10 percent of the historic base contribu-  
18 tions divided by the number of participants in such  
19 plan as of the close of the preceding plan year; or

20 “(III) \$250.

21 “(ii) The amount determined under this clause for  
22 any plan year shall be an amount equal to \$10 for each  
23 \$1,000 (or fraction thereof) of the multiemployer un-  
24 funded vested benefits under the plan as of the close of  
25 the preceding plan year. For purposes of this clause, the

1 term ‘multiemployer unfunded vested benefits’ means, for  
2 a plan year, the excess (if any) of—

3 “(I) the current liability of the plan as deter-  
4 mined under section 304(c)(6)(D) by taking into ac-  
5 count only vested benefits, over

6 “(II) the fair market value (as determined  
7 under section 304(c)(6)(A)(ii)(I)) of the plan assets  
8 for the plan year which are held by the plan as of  
9 the valuation date.

10 “(iii) For purposes of clause (i)(II), the term ‘historic  
11 base contributions’ means the average amount of the con-  
12 tributions, excluding any payments of withdrawal liability,  
13 to the plan required to be reported by the plan on Sched-  
14 ule MB of the 3 most recent Forms 5500 required to be  
15 filed before the date of enactment of this subparagraph.

16 “(iv) For each plan year beginning after December  
17 31, 2022, there shall be substituted for the dollar amount  
18 of historic base contributions under clause (i)(II) and the  
19 dollar amount specified in clause (i)(III) an amount equal  
20 to the greater of—

21 “(I) the product derived by multiplying such  
22 dollar amount for plan years beginning in that cal-  
23 endar year by the ratio of—

24 “(aa) the national average wage index (as  
25 defined in section 209(k)(1) of the Social Secu-

1           rity Act) for the first of the 2 calendar years  
 2           preceding the calendar year in which such plan  
 3           year begins, to

4                   “(bb) the national average wage index (as  
 5           so defined) for 2020, or

6                   “(II) such dollar amount in effect for plan  
 7           years beginning in the preceding calendar year.

8           If any amount determined under this clause is not  
 9           a multiple of \$1, such product shall be rounded to  
 10          the nearest multiple of \$1.”.

11          (c) ADDITIONAL PREMIUMS.—Section 4006(a) of the  
 12   Employee Retirement Income Security Act of 1974 (29  
 13   U.S.C. 1306(a)), as amended by this Act, is further  
 14   amended by adding at the end the following:

15                   “(10) ADDITIONAL PREMIUMS PAYABLE BY  
 16   PARTICIPANTS AND BENEFICIARIES.—

17                   “(A) IN GENERAL.—In addition to the  
 18           amounts payable under paragraph (3), for plan  
 19           years beginning after December 31, 2021, with  
 20           respect to multiemployer plans, premiums shall  
 21           be payable to the corporation with respect to  
 22           participants and beneficiaries who are in pay  
 23           status in accordance with this paragraph.

24                   “(B) AMOUNTS PAYABLE.—Subject to sub-  
 25           paragraphs (C), (D), and (E), the monthly

1 amount payable by each participant or bene-  
2 ficiary who is in pay status is—

3 “(i) an amount equal to 3 percent of  
4 the participant’s or beneficiary’s aggregate  
5 monthly benefit, in the case of a plan in  
6 endangered status, as described in section  
7 305(b)(2);

8 “(ii) an amount equal to 5 percent of  
9 the participant’s or beneficiary’s aggregate  
10 monthly benefit, in the case of a plan in  
11 critical status, as described in section  
12 305(b)(3);

13 “(iii) an amount equal to 7 percent of  
14 the participant’s or beneficiary’s aggregate  
15 monthly benefit, in the case of a plan in  
16 critical and declining status (as described  
17 in section 305(b)(7)), a plan that became  
18 an insolvent plan after the date of enact-  
19 ment of this paragraph, or a plan that has  
20 been terminated under section 4041A or  
21 4042 but is not insolvent, unless that plan  
22 is (or was) an original or successor plan  
23 pursuant to a special partition order under  
24 section 4233A; or

1 “(iv) notwithstanding clauses (i), (ii),  
2 or (iii), an amount equal to 10 percent of  
3 the participant’s or beneficiary’s aggregate  
4 monthly benefit, in the case of a plan  
5 which is (or was) an original or successor  
6 plan pursuant to a special partition order  
7 under section 4233A, regardless of the sta-  
8 tus of the original or successor plan.

9 “(C) COORDINATION WITH SUSPENSION OF  
10 BENEFITS.—In the case of any participant or  
11 beneficiary whose benefits are suspended under  
12 section 305(f)(9), the percentage of benefits  
13 payable under the applicable clause of subpara-  
14 graph (B) with respect to the participant or  
15 beneficiary shall be reduced (but not below  
16 zero) by the percentage of benefits which were  
17 so suspended.

18 “(D) TREATMENT OF BENEFITS BASED ON  
19 DISABILITY.—No benefits—

20 “(i) based on disability (as defined by  
21 the plan), or

22 “(ii) of a participant or beneficiary  
23 who is entitled to a benefit under title II  
24 of the Social Security Act on the basis of

1           a disability (as defined in section 223(d)(2)  
 2           of such Act),  
 3           shall be included in the calculation of the par-  
 4           ticipant's or beneficiary's aggregate monthly  
 5           benefit for purposes of determining the pay-  
 6           ment due under subparagraph (B).

7           “(E) PHASEOUT OF PREMIUM FOR THOSE  
 8           AGED 75 AND OLDER.—

9           “(i) IN GENERAL.—In the case of a  
 10          participant or beneficiary who has attained  
 11          or will attain at least 75 years of age in a  
 12          plan year, the monthly amount payable by  
 13          such participant or beneficiary for months  
 14          during such plan year under this para-  
 15          graph (determined without regard to this  
 16          subparagraph) shall be reduced by the ap-  
 17          plicable percentage of such amount.

18          “(ii) APPLICABLE PERCENTAGE.—For  
 19          purposes of clause (i), the applicable per-  
 20          centage for any month shall be determined  
 21          in accordance with the following table:

| <b>“If the individual is, or will   The applicable percentage is:<br/>attain during the plan<br/>year, age:</b> |              |
|-----------------------------------------------------------------------------------------------------------------|--------------|
| 75 .....                                                                                                        | 20 percent   |
| 76 .....                                                                                                        | 40 percent   |
| 77 .....                                                                                                        | 60 percent   |
| 78 .....                                                                                                        | 80 percent   |
| 79 or older .....                                                                                               | 100 percent. |

1           “(F) METHODS OF COLLECTION.—The  
2 premiums payable under subparagraph (B)  
3 shall be collected by the plan from participants  
4 who are receiving benefits under the plan by de-  
5 ducting the amount of the premium from the  
6 benefits as and when paid, and holding such  
7 amounts in a separate account to be remitted to  
8 the corporation annually, as prescribed by regu-  
9 lations of the corporation. Amounts held in a  
10 separate account under this subparagraph shall  
11 not accrue interest, shall not be treated as as-  
12 sets of the plan, and shall not be commingled  
13 with any other assets of the plan.

14           “(G) PLAN AMENDMENTS.—The adminis-  
15 trator of each multiemployer plan shall amend  
16 the plan documents to allow for deductions  
17 from benefits pursuant to this paragraph.

18           “(H) PREEMPTION.—This paragraph shall  
19 supersede any law of a State which would di-  
20 rectly or indirectly prohibit or restrict an em-  
21 ployer, plan, or labor organization from with-  
22 holding or remitting premium amounts in ac-  
23 cordance with this paragraph.

24           “(I) DETERMINATION OF PLAN STATUS.—

1           “(i) IN GENERAL.—Except as other-  
2           wise provided by the regulations issued  
3           pursuant to clause (ii), for purposes of de-  
4           termining premiums due under this para-  
5           graph, the plan’s status shall be the status  
6           certified under section 305 for the first  
7           plan year beginning on or after January 1,  
8           2021.

9           “(ii) SUBSEQUENT CHANGES IN STA-  
10          TUS.—The corporation shall issue regula-  
11          tions regarding the timing required for re-  
12          flecting, in the amounts withheld, a revised  
13          plan status certified at a later date. In no  
14          event shall such regulations allow a delay  
15          of more than 90 days.

16          “(11) ADDITIONAL PREMIUMS PAYABLE BY EM-  
17          PLOYERS AND LABOR ORGANIZATIONS.—

18               “(A) IN GENERAL.—In addition to the  
19               amounts payable under paragraph (3), for plan  
20               years beginning after December 31, 2021, with  
21               respect to multiemployer plans, premiums shall  
22               be payable to the corporation with respect to  
23               employers and labor organizations in accord-  
24               ance with this paragraph.

1           “(B) EMPLOYERS.—The monthly amount  
2 payable by employers, for each employee par-  
3 ticipating in the plan (as determined under sub-  
4 paragraph (D)) during that month is—

5           “(i) \$1 in the case of a plan in unre-  
6 stricted status pursuant to section  
7 305(b)(1)(B), or \$1.50 in the case of a  
8 plan in stable status pursuant to section  
9 305(b)(1)(A), but only if the plan is not an  
10 original plan or a successor plan within the  
11 meaning of section 4233A; and

12           “(ii) \$2.50 in any other case.

13           “(C) LABOR ORGANIZATIONS.—The  
14 monthly amount payable by labor organizations,  
15 for each member paying dues and participating  
16 in the plan (as determined under subparagraph  
17 (D)) during that month is—

18           “(i) \$1 in the case of a plan in unre-  
19 stricted status pursuant to section  
20 305(b)(1)(B), or \$1.50 in the case of a  
21 plan in stable status pursuant to section  
22 305(b)(1)(A), but only if the plan is not an  
23 original plan or a successor plan within the  
24 meaning of section 4233A; and

25           “(ii) \$2.50 in any other case.

1           “(D) PERSONS PARTICIPATING IN THE  
2           PLAN.—For purposes of subparagraphs (B) and  
3           (C), an employee or member participating in  
4           the plan during any month is a person with re-  
5           spect to whom the employer had an obligation  
6           to contribute to the plan under the terms of a  
7           collective bargaining agreement or other partici-  
8           pation agreement for that month.

9           “(E) REMITTANCE.—Premiums required  
10          under subparagraph (B) or (C) shall be remit-  
11          ted to the plan monthly and held in a separate  
12          account until remittance, as prescribed in sub-  
13          paragraph (F). In the case of a participant or  
14          beneficiary on whose behalf more than one em-  
15          ployer contributed during a month, the plan  
16          may elect to apportion the monthly amount to  
17          the employers on a proportional basis. Amounts  
18          held in a separate account under this subpara-  
19          graph shall not accrue interest, shall not be  
20          treated as assets of the plan, and shall not be  
21          commingled with any other assets of the plan.

22          “(F) SUBMISSION TO THE CORPORA-  
23          TION.—Each plan shall submit the premiums  
24          under subparagraph (E) to the corporation, on

1 an annual basis, as prescribed by regulations of  
2 the corporation.

3 “(G) DETERMINATION OF PLAN STATUS.—

4 “(i) IN GENERAL.—Except as other-  
5 wise provided by the regulations issued  
6 pursuant to clause (ii), for purposes of de-  
7 termining premiums due under this para-  
8 graph, the plan’s status shall be the status  
9 certified under section 305 for the first  
10 plan year beginning on or after January 1,  
11 2021.

12 “(ii) SUBSEQUENT CHANGES IN STA-  
13 TUS.—The corporation shall issue regula-  
14 tions regarding the timing required for re-  
15 flecting, in the amounts due, a revised plan  
16 status certified at a later date. In no event  
17 shall such regulations allow a delay of  
18 more than 90 days.”.

19 (d) PAYMENT OF PREMIUMS.—

20 (1) APPLICABILITY OF PREMIUMS.—Section  
21 4007(b) of the Employee Retirement Income Secu-  
22 rity Act of 1974 (29 U.S.C. 1307(b)) is amended by  
23 adding at the end the following:

1       “(3)(A)(i) The following plans shall not owe a vari-  
2 able rate premium determined under section  
3 4006(a)(3)(N):

4           “(I) An insolvent plan that has commenced re-  
5 ceiving financial assistance.

6           “(II) A plan which is certified by the plan actu-  
7 ary under section 305 as being in unrestricted status  
8 pursuant to section 305(b)(1)(B), and which is not  
9 an original plan within the meaning of section  
10 4233A.

11          “(III) With respect to plan years beginning be-  
12 fore January 1, 2025, a plan which is certified by  
13 the plan actuary under section 305 as being in sta-  
14 ble status pursuant to section 305(b)(1)(A), and  
15 which is not an original plan within the meaning of  
16 section 4233A.

17          “(ii) An insolvent plan that has commenced receiving  
18 financial assistance shall not owe the flat rate premium  
19 under section 4006(a)(3)(A)(viii)(I).

20          “(B) In the case of a special partition under section  
21 4233A, the original plan shall calculate and remit pre-  
22 miums under section 4006 as if the original plan and suc-  
23 cessor plan were one plan and the successor plan shall not  
24 be required to remit any such premiums.

1       “(4) Paragraph (1) shall apply to the additional pre-  
2       miums required by section 4006(a)(10) and (11).”.

3               (2) AUTHORIZED CIVIL ACTIONS.—Section  
4       4007(c) of the Employee Retirement Income Secu-  
5       rity Act of 1974 (29 U.S.C. 1307(c)) is amended by  
6       inserting after the first sentence the following: “The  
7       corporation is authorized to bring a civil action to  
8       prevent or correct any action by a designated payor,  
9       if a principal purpose of the action by the designated  
10      payor is to evade or avoid the payment of premiums,  
11      and the corporation shall be authorized to recover  
12      the amount of premium that should have been paid  
13      by such payor, plus a late payment penalty and in-  
14      terest.”.

15           (e) REPORTING ON PREMIUM INCREASES AND GUAR-  
16      ANTEE REDUCTIONS.—Section 4008 of the Employee Re-  
17      tirement Income Security Act of 1974 (29 U.S.C. 1308)  
18      is amended by adding at the end the following:

19           “(c) Beginning with the report for fiscal year 2025,  
20      if the corporation projects in its reporting under this sec-  
21      tion that the corporation’s multiemployer plan program  
22      will not remain solvent for at least 10 years after the date  
23      of the report, the corporation shall include in the report  
24      a recommendation for a balanced combination of premium  
25      increases and guarantee reductions needed to ensure sol-

1 vency for the next 20 years without respect to any loans  
 2 under section 4005. Such recommendations shall be auto-  
 3 matically adopted at the beginning of the next fiscal year  
 4 unless Congress takes other action.”.

5 (f) DELINQUENT CONTRIBUTIONS.—

6 (1) IN GENERAL.—Section 515 of the Employee  
 7 Retirement Income Security Act of 1974 (29 U.S.C.  
 8 1145) is amended—

9 (A) by striking “**CONTRIBUTIONS.—**  
 10 Every”, and inserting “**CONTRIBUTIONS AND**  
 11 **PREMIUMS.—**

12 “(a) IN GENERAL.—Every”, and

13 (B) by adding at the end the following new  
 14 subsection:

15 “(b) PREMIUMS.—Every employer or labor organiza-  
 16 tion which is obligated to remit premiums with respect to  
 17 a multiemployer plan under section 4006 shall remit such  
 18 premiums to the plan in accordance with the terms of the  
 19 plan and regulations issued by the corporation.”.

20 (2) CIVIL ENFORCEMENT.—Section  
 21 502(g)(2)(A) of such Act (29 U.S.C. 1132(g)(2)(A))  
 22 is amended by striking “contributions,” and insert-  
 23 ing “contributions or premiums,”.

1 **SEC. 602. FUNDING.**

2 (a) LOANS TO THE CORPORATION FOR THE FUND TO  
3 PAY BASIC BENEFITS.—Section 4005 of the Employee  
4 Retirement Income Security Act of 1974 (29 U.S.C. 1305)  
5 is amended by adding at the end the following:

6 “(i)(1) The corporation may borrow from the Sec-  
7 retary of the Treasury such funds as are necessary to pay  
8 basic benefits guaranteed under section 4022A or ex-  
9 penses related to the corporation’s multiemployer plan  
10 program if the balance of assets in the revolving fund es-  
11 tablished under subsection (a) for purposes of paying such  
12 benefits is \$500,000,000 or less within that year. The cor-  
13 poration may invest amounts so borrowed in accordance  
14 with subsection (b)(3)(A).

15 “(2) Amounts borrowed under this subsection shall  
16 be—

17 “(A) issued at an annual interest rate of 0 per-  
18 cent; and

19 “(B) repaid by the corporation—

20 “(i) beginning 20 years after the date on  
21 which the loan is issued;

22 “(ii) over a period of not more than 20  
23 years from commencement of repayment; and

24 “(iii) out of the fund established under  
25 subsection (a) to pay basic benefits guaranteed  
26 under section 4022A.

1       “(3) The corporation shall notify the Committee on  
 2 Health, Education, Labor, and Pensions and the Com-  
 3 mittee on Finance of the Senate and the Committee on  
 4 Education and Labor and the Committee on Ways and  
 5 Means of the House of Representatives within 14 days of  
 6 requesting a loan under this subsection.

7       “(4) Beginning on January 1, 2021, if, as of the close  
 8 of any calendar year the outstanding balance of the loans  
 9 provided to the corporation during the previous year under  
 10 this subsection exceeded \$2,000,000,000, the multiem-  
 11 ployer flat-rate premium rates applicable under section  
 12 4006(a) solely for plan years beginning in the immediately  
 13 succeeding calendar year shall be increased by 20 per-  
 14 cent.”.

15       (b) STUDY ON FUNDING FOR BASIC BENEFIT GUAR-  
 16 ANTEE.—Section 4022A(f) of the Employee Retirement  
 17 Income Security Act of 1974 (29 U.S.C. 1322a(f)) is  
 18 amended—

19           (1) by striking “Committee on Labor and  
 20 Human Resources” each place such term appears  
 21 and inserting “Committee on Health, Education,  
 22 Labor, and Pensions”;

23           (2) in paragraph (1)(A)—

24                   (A) in clause (i), by striking “, and” and  
 25                   inserting a semicolon; and

1 (B) by inserting after clause (ii) the fol-  
 2 lowing:

3 “(iii) whether the Corporation projects  
 4 that the loans issued under section 4005(i) will  
 5 be repaid in accordance with the schedule set  
 6 forth in paragraph (2)(B) of such section;  
 7 and”;

8 (3) in paragraph (2)—

9 (A) in subparagraph (A)—

10 (i) in the matter preceding clause (i),  
 11 by inserting “and repayment of loans  
 12 under section 4005(i)” after “multiem-  
 13 ployer plans”; and

14 (ii) in clause (ii), by inserting “, and  
 15 repayment of any loans issued under sec-  
 16 tion 4005(i)” before the comma at the end;  
 17 and

18 (B) in subparagraph (C), by striking “sec-  
 19 ond”; and

20 (4) in paragraph (3)(A)(ii), by inserting “and  
 21 repayment of loans issued under section 4005(i)”  
 22 before the period.

23 **SEC. 603. COMPOSITE PLAN TRANSITION FEE.**

24 (a) IN GENERAL.—Section 4006(a) of the Employee  
 25 Retirement Income Security Act of 1974 (29 U.S.C.

1 1306(a)), as amended by this Act, is further is amended  
2 by adding at the end the following:

3 “(12) COMPOSITE PLAN TRANSITION FEE.—  
4 Notwithstanding paragraph (9), in any year after  
5 2024, a composite plan (as defined in section  
6 801(a)) shall remit to the legacy plan (within the  
7 meaning of section 805) \$15 per participant that is  
8 not also a participant in the legacy plan. The legacy  
9 plan shall remit such amount to the corporation in  
10 addition to its premiums otherwise required under  
11 this section.”.

12 (b) CONFORMING AMENDMENT.—Section 4007(b)(4)  
13 of the Employee Retirement Income Security Act of 1974  
14 (29 U.S.C. 1307(b)(4)), as added by section 601, is  
15 amended by inserting “, and the transition fees required  
16 by section 4006(a)(12)” before the period.

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