

117TH CONGRESS
1ST SESSION

S. _____

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.

IN THE SENATE OF THE UNITED STATES

_____ introduced the following bill; which was read twice
and referred to the Committee on _____

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 2021”.

2

- 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.

3

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

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

4 “(g) TRANSFER OF BENEFITS.—

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

15 “(2) CONSIDERATIONS.—

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

“(2) EFFECT OF NO REGULATION.—If the corporation does not issue regulations within 180 days after the date of enactment of this section, any applications for partition under this section filed after the date that is 180 days after such date of enactment (and prior to the date regulations are issued) 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.

“(4) ACTUARIAL ASSUMPTIONS.—The regula-
tions under this subsection shall prescribe acceptable
actuarial assumptions, for purposes of an applica-
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

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

4 “(I) the rate equal to the 24-
5 month average of the third segment
6 rate (as defined in section
7 303(h)(2)(C)(iii)), as of the date the
8 determination is made, without regard
9 to section 303(h)(2)(C)(iv), increased
10 by 2 percent; or

11 “(II) 5.5 percent.

12 “(B) Future contribution base units.

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

16 “(D) Future withdrawal liability payments.

17 “(E) Future administrative expenses.

18 “(F) Mortality.

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

21 “(5) RULES RELATING TO ASSUMPTIONS.—

22 “(A) INFORMATION REQUIRED.—For pur-
23 poses of paragraph (4), when prescribing ac-
24 ceptable actuarial assumptions, the corporation
25 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

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

3 “(ii) was equal to or greater than 100
4 percent of the amount of benefits so guar-
5 anteed, any adjustment under paragraph
6 (1) shall not result in a benefit for any
7 participant in the successor plan in excess
8 of the amount of the participant’s benefit
9 subject to the initial transfer; and

10 “(iii) was less than 5 percent of the
11 amount of benefits so guaranteed, there
12 shall be no adjustment under paragraph
13 (1).

14 “(4) TERMINATED AND INSOLVENT PLANS.—
15 With respect to an original plan partitioned under
16 this section that subsequently is terminated or be-
17 comes insolvent, the benefits transferred under the
18 partition order shall revert to the original plan, the
19 partition shall be reversed, and financial assistance
20 provided pursuant to the partition order shall cease.

21 “(5) REGULATIONS.—The corporation shall
22 promulgate regulations describing the process and
23 requirements for reporting and the circumstances
24 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

1 the termination of the plan under section
2 4041A(a)(4) of the Employee Retirement
3 Income Security Act of 1974 as of the first
4 day of the seventh full plan month of the
5 plan's first insolvency year under sub-
6 section (b)(3)";

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

10 (iii) by striking "RESOURCE BENEFIT
11 LEVEL" in the heading and inserting "NO-
12 TICE OF INSOLVENCY";

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

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

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

20 (B) by striking paragraph (2) and insert-
21 ing after paragraph (1) the following new para-
22 graph:

23 "(2) PLANS WITHOUT AVAILABLE RE-
24 SOURCES.—A plan sponsor who has determined that
25 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

“(ii) if the plan applies for such special partition but the corporation does not approve it, the first day of the seventh full plan month following the final determination of the corporation disallowing such special partition.”.

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

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

4 “(I) the net increase (if any) in
5 the unfunded past service liability re-
6 sulting from a reduction in the inter-
7 est rate under paragraph (6)(A) from
8 the rate which applied for the pre-
9 ceding year, over

10 “(II) the amount in the invest-
11 ment risk reduction subaccount under
12 paragraph (9),

13 over a period of 30 years, and”.

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

22 (3) INTEREST.—Paragraph (6) of section
23 431(b) of such Code is amended to read as follows:

24 “(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, 2021, 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-

1 ner as under paragraph (9)(B)(i) based on
2 the unit credit method, and
3 “(iii) the amount determined under
4 clause (ii) shall be added to the otherwise
5 calculated normal cost under the funding
6 method in lieu of the credit under para-
7 graph (9)(B)(i).”.

8 (4) INVESTMENT RISK REDUCTION SUB-
9 ACCOUNT.—Subsection (b) of section 431 of such
10 Code is amended by adding at the end the following
11 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, 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

1 account under clause (ii), reduced by any
2 previous credits under this clause, and
3 “(iv) adjusted with interest at the rate
4 under paragraph (6)(A), as applicable.”.

5 (5) DETERMINATIONS TO BE MADE UNDER
6 FUNDING METHOD.—Paragraph (1) of section
7 431(c) of such Code is amended to read as follows:

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

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

19 “(B) ADJUSTMENTS FOR FUNDING STAND-
20 ARD ACCOUNT NORMAL COST.—Notwith-
21 standing subparagraph (A), in the case of a
22 plan using the unit credit funding method or
23 the entry-age normal funding method, the nor-
24 mal cost for a plan year to be charged to the
25 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, 2021, 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-

1 count under clause (ii), reduced by any
2 previous credits under this clause, and
3 “(iv) adjusted with interest at the rate
4 under paragraph (6)(A), as applicable.”.

5 (5) DETERMINATIONS TO BE MADE UNDER
6 FUNDING METHOD.—Paragraph (1) of section
7 304(c) of such Act (29 U.S.C. 1084(c)) is amended
8 to read as follows:

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

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

20 “(B) ADJUSTMENTS FOR FUNDING STAND-
21 ARD ACCOUNT NORMAL COST.—Notwith-
22 standing subparagraph (A), in the case of a
23 plan using the unit credit funding method or
24 the entry-age normal funding method, the nor-
25 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.

(2) APPROVAL.—If the Secretary of the Treasury (or such Secretary’s delegate) does not approve or deny any petition submitted pursuant to paragraph (1) within 180 days of receiving such petition, such petition shall be deemed to have been approved.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2021.

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.—

(1) IN GENERAL.—Subsection (a) of section 432 of the Internal Revenue Code of 1986 is amended—

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

(B) by redesignating paragraphs (1), (2),
and (3) as paragraphs (2), (3), and (4), respec-
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

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

3 “(B) UNRESTRICTED.—A multiemployer
4 plan is in unrestricted status for a plan year if,
5 as determined by the plan actuary under para-
6 graph (4)—

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

10 “(ii) the plan is not described in para-
11 graph (6), and

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

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

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

23 “(C) CURRENT LIABILITY FUNDED PER-
24 CENTAGE.—For purposes of this section, the
25 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

1 paragraph (5), is further amended by striking para-
2 graph (4) and by inserting after paragraph (3) the
3 following new paragraph:

4 “(4) EMERGENCE FROM ENDANGERED OR CRIT-
5 ICAL STATUS.—

6 “(A) IN GENERAL.—In the case of in-
7 creases in the contribution rate (or other in-
8 creases in contribution requirements unless due
9 to increased levels of work, employment, or pe-
10 riods for which compensation is provided) dis-
11 regarded pursuant to paragraph (3), this sub-
12 section shall cease to apply as of the later of—

13 “(i) the end of the first plan year fol-
14 lowing the plan year in which the plan is
15 no longer in endangered or critical status,
16 or

17 “(ii) the end of the plan year which
18 includes the expiration date of the first col-
19 lective bargaining agreement requiring
20 plan contributions which expires after the
21 plan is no longer in endangered or critical
22 status.

23 “(B) HIGHEST CONTRIBUTION RATE.—
24 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),

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 431(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) of the Employee Retirement In-
19 come Security Act of 1974 shall be treated as
20 being in critical status for the period of 15 con-
21 secutive plan years beginning with the plan year
22 that includes the date of the partition under
23 such section 4233A.”.

24 (d) DECLINING STATUS.—

25 (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 redesi-
11 gnated 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 redesi-
21 gnated).

22 (vii) Subsection (h)(1) (as so redesi-
23 gnated).

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

1 reasonable measures, the plan cannot reason-
2 ably be expected to emerge from critical status
3 within the next 30 plan years, or

4 “(C) the plan has a funded percentage for
5 the plan year which is greater than the pro-
6 jected funded percentage as of the first day of
7 the 15th succeeding plan year, unless the fund-
8 ed percentage for the plan year is 100 percent
9 or greater and the projected funded percentage
10 as of the first day of such 15th succeeding plan
11 year is less than 100 percent.”.

12 (B) CONFORMING AMENDMENTS.—

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

16 (I) by striking “paragraph (4)”
17 each place it appears in subpara-
18 graphs (A) and (B) and inserting
19 “paragraph (5)”, and

20 (II) by striking “paragraph (6)”
21 each place it appears in subpara-
22 graphs (A) and (B) and inserting
23 “paragraph (7)”.

24 (ii) Subsection (c) of section 432 of
25 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

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

6 (viii) Section 432(d)(3)(A)(i)(I) of
7 such Code, as so redesignated and amend-
8 ed, is further amended by striking “sub-
9 section (b)(4)” and inserting “subsection
10 (b)(5)”.

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

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

21 (3) SOLVENCY PLAN.—

22 (A) IN GENERAL.—Paragraph (4) (as re-
23 designated by subsection (a)(1) and amended
24 by paragraph (1)) of section 432(a) of such
25 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-

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

3 “(C) EMERGENCE.—A plan in declining
4 status shall remain in such status until a plan
5 year for which the plan actuary certifies, in ac-
6 cordance with subsection (b)(5)(A), that the
7 plan is not described in one or more of the sub-
8 paragraphs in subsection (b)(4) as of the begin-
9 ning of the plan year.

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

12 “(A) SOLVENCY PLAN.—The plan sponsor
13 shall annually update the solvency plan and
14 shall file the update with the plan’s annual re-
15 port under section 104 of the Employee Retirement
16 Income Security Act of 1974.

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

21 “(C) DURATION OF SCHEDULE.—A sched-
22 ule of contribution rates provided by the plan
23 sponsor and relied upon by bargaining parties
24 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

1 the best interests of participants and bene-
2 ficiaries and that rejection of such agreement
3 would adversely affect the plan, and

4 “(B) no amendment of the plan which in-
5 creases the liabilities of the plan by reason of
6 any increase in benefits, any change in the ac-
7 crual of benefits, or any change in the rate at
8 which benefits become nonforfeitable under the
9 plan may be adopted unless the amendment is
10 required as a condition of qualification under
11 part I of subchapter D of chapter 1 or to com-
12 ply with other applicable law.”.

13 (C) SUSPENSION OF BENEFITS.—Section
14 432 of such Code, as amended by this section,
15 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 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”,

1 (iv) by striking “funding improvement
2 plan or rehabilitation plan” both places it
3 appears in subparagraphs (A) and (B) of
4 paragraph (3) and inserting “funding im-
5 provement, rehabilitation, or solvency
6 plan”,

7 (v) by striking “ENDANGERED OR
8 CRITICAL” in the heading of paragraph
9 (4), as amended by subsection (a), and in-
10 serting “ENDANGERED, CRITICAL, OR DE-
11 CLINING”,

12 (vi) by striking “endangered or crit-
13 ical” each place it appears in paragraph
14 (4), as so amended, and inserting “endan-
15 gered, critical, or declining”, and

16 (vii) by striking “critical or endan-
17 gered” in paragraph (4) and inserting “en-
18 dangered, critical, or declining”.

19 (E) Subsection (k) of section 432 of such
20 Code, as so redesignated and amended, is fur-
21 ther amended—

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

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

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

10 (iv) by striking “adoption of a funding
11 improvement plan or rehabilitation plan”
12 and inserting “adoption of a funding im-
13 provement, rehabilitation, or solvency
14 plan”.

15 (F) Subsection (l) of section 432 of such
16 Code, as so redesignated and amended, is fur-
17 ther amended—

18 (i) by striking “endangered status or
19 in critical status” in paragraph (1) and in-
20 serting “endangered, critical, or declining
21 status”,

22 (ii) by striking “endangered or crit-
23 ical” in paragraph (1) and inserting “en-
24 dangered, 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-

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

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

7 (vi) Subclauses (I) and (II) of para-
8 graph (4)(B) (as so redesignated) are re-
9 designated as clauses (i) and (ii), respec-
10 tively, and moved 2 ems to the left.

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

15 (viii) Paragraph (1)(A), as so redesign-
16 ated, is amended by striking “subpara-
17 graph (C)” and inserting “paragraph (4)”.

18 (ix) Paragraph (1)(B), as so redesign-
19 ated, is amended by striking “clause
20 (iv)(III)” and inserting “subparagraph
21 (D)(iii)”.

22 (x) Paragraph (1)(D), as so redesign-
23 ated, is amended by striking “this para-
24 graph” 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-

1 nated and amended by this section, is further
2 amended—

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

7 (ii) by striking “paragraph (1)(B)(i)”
8 and inserting “subsection (d)(1)(B),
9 (f)(1)(B), or (h)(1)(B), whichever is appli-
10 cable”.

11 (B) CONFORMING AMENDMENT.—Subpara-
12 graph (B) of section 432(m)(1) of such Code,
13 as redesignated and amended by this section, is
14 further amended by striking “critical” both
15 places it appears and inserting “endangered,
16 critical, or declining”.

17 (4) ADDITIONAL ADJUSTABLE BENEFITS.—

18 (A) IN GENERAL.—Subparagraph (D) of
19 section 432(m)(1) of such Code, as redesign-
20 ated by this section, is amended—

21 (i) by inserting “, including early re-
22 duction factors which are not provided on
23 an actuarially equivalent basis,” after
24 “(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

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

“(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.”.

21 (6) ADDITIONAL CONFORMING AMENDMENTS.—

(A) Clause (iii) of section 432(b)(5)(D) of such Code, as redesignated and amended by 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”,

1 (C) by striking “5 plan years may, not
2 later than” in subparagraph (A) and inserting
3 “5 plan years, or

4 “(ii) that is in endangered status and
5 is not reasonably projected to be able to
6 emerge from endangered status within the
7 funding improvement period under the
8 funding improvement plan in effect,
9 may, not later than”, and

10 (D) by striking “under paragraph (3)” in
11 subparagraph (B) and inserting “under para-
12 graph (3) or for endangered status under para-
13 graph (2)”.

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

18 “(8) ELECTION TO BE IN ENDANGERED STA-
19 TUS.—Notwithstanding paragraph (2)—

20 “(A) the plan sponsor of a multiemployer
21 plan that is not in endangered, critical, or de-
22 clining status for a plan year but that is pro-
23 jected by the plan actuary, pursuant to the de-
24 termination under paragraph (5), to be in en-
25 dangered status in any of the 5 succeeding plan

1 years, may, not later than 30 days after the
2 date of the certification under paragraph
3 (5)(A), elect to be in endangered status effec-
4 tive for the current plan year,

5 “(B) the plan year in which the plan spon-
6 sor elects to be in endangered status under sub-
7 paragraph (A) shall be treated for purposes of
8 this section as the first year in which the plan
9 is in endangered status, regardless of the date
10 on which the plan first satisfies the criteria for
11 endangered status under paragraph (2), and

12 “(C) a plan that is in endangered status
13 under this paragraph shall not emerge from en-
14 dangered status unless the plan’s actuary cer-
15 tifies under paragraph (5)(A) that the plan is
16 no longer in endangered status and is not in
17 critical or declining status.”.

18 (g) AMENDMENTS RELATING TO FUNDING IMPROVE-
19 MENT PLAN.—

20 (1) IN GENERAL.—Paragraph (1) of section
21 432(d) of the Internal Revenue Code of 1986, as re-
22 designated and amended by this section, is further
23 amended—

24 (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 2021) 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 2021) 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 red-
21 igned 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, 2021.

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),

1 (5)(B), and (8) of subsection (d), and sub-
2 sections (e)(2), (f)(1)(A), (f)(4)(B)(i),
3 (f)(4)(B)(ii)(I), (f)(5), and (g)(3) of sec-
4 tion 305 of such Act (29 U.S.C. 1085), as
5 respectively redesignated by paragraph (2),
6 are each amended by striking “subsection
7 (b)(3)(A)” and inserting “subsection
8 (b)(4)(A)”.

9 (viii) Section 305(d)(3)(A)(i)(I) of
10 such Act (29 U.S.C. 1085(d)(3)(A)(i)(I)),
11 as so redesignated, is amended by striking
12 “paragraph (b)(3)” and inserting “sub-
13 section (b)(4)”.

14 (ix) Section 305(d)(4)(D) of such Act
15 (29 U.S.C. 1085(d)(4)(D)), as so redesign-
16 ated, is amended by striking “subsection
17 (d)” and inserting “subsection (e)”.

18 (x) Section 305(e) of such Act (29
19 U.S.C. 1085(e)), as so redesignated, is
20 amended to read as follows:

21 “(e) RULES FOR OPERATION OF PLAN DURING
22 ADOPTION AND IMPROVEMENT PERIODS.—A plan may
23 not be amended after the date of the adoption of a funding
24 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 ployment, 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)”.

1 (xxiv) Section 4245 of such Act (29
2 U.S.C. 1426), as amended by this Act, is
3 amended—

4 (I) by striking “305(b)(2),” in
5 subsection (c)(1), as redesignated by
6 section 112, and inserting
7 “305(b)(3),”

8 (II) by striking “305(b)(2)” each
9 place it appears in subsections (c)(2),
10 (d)(1), and (d)(2), as so redesignated,
11 and inserting “305(b)(3)”, and

12 (III) by striking “305(e)(9)” in
13 subsection (f), as so redesignated, and
14 inserting “305(f)(9)”.

15 (xxv) The heading of section 305 of
16 such Act (29 U.S.C. 1085) is amended by
17 striking “**IN ENDANGERED STATUS OR**
18 **CRITICAL STATUS**”.

19 (6) WITHDRAWAL LIABILITY DETERMINATION
20 FOR PLANS EMERGING FROM ENDANGERED OR CRIT-
21 ICAL STATUS.—Section 305(h) of such Act (29
22 U.S.C. 1085(h)), as redesignated by paragraph (2)
23 and as amended by paragraph (5), is further amend-
24 ed by striking paragraph (4) and by inserting after
25 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).

1 (B) Subsections (c), as amended by section
2 221, and (e)(2)(A), as amended by this section,
3 of section 4231 of such Act (29 U.S.C.
4 1411(e)(2)(A)) are each further amended by
5 striking “critical and declining status” and in-
6 serting “declining status”.

7 (C) Section 4233(b)(1) of such Act (29
8 U.S.C. 1413(b)(1)) is amended by striking
9 “critical and declining status” and inserting
10 “declining status”.

11 (D) Section 4245(f) of such Act (29
12 U.S.C. 1426), as amended by section 112 and
13 subsection (a), is further amended by striking
14 “critical and declining status” and inserting
15 “declining status”.

16 (2) DETERMINATION OF DECLINING STATUS.—

17 (A) IN GENERAL.—Subsection (b) of sec-
18 tion 305 of such Act (29 U.S.C. 1085) is
19 amended—

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

22 (ii) by redesignating paragraphs (4),
23 (5), and (6), as so redesignated, as para-
24 graphs (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

1 as of the first day of such 15th succeeding plan
2 year is less than 100 percent.”.

3 (B) CONFORMING AMENDMENTS.—

4 (i) Paragraph (1) of section 305(b) of
5 such Act (29 U.S.C. 1085), as added by
6 subsection (a)(3), is amended—

7 (I) by striking “paragraph (4)”
8 each place it appears in subpara-
9 graphs (A) and (B) and inserting
10 “paragraph (5)”, and

11 (II) by striking “paragraph (6)”
12 each place it appears in subpara-
13 graphs (A) and (B) and inserting
14 “paragraph (7)”.

15 (ii) Subsection (c) of section 305 of
16 such Act (29 U.S.C. 1085), as added by
17 subsection (a)(2), is amended by striking
18 “(b)(4)” each place it appears in para-
19 graphs (1)(A)(i), (1)(A)(ii), (1)(A)(iii),
20 (2)(A), and (2)(B) and inserting “(b)(5)”.

21 (iii) Section 305(b)(5) of such Act (29
22 U.S.C. 1085(b)(5)), as further redesign-
23 nated by subparagraph (A) and as amend-
24 ed by section 321 and subsection (a), is
25 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

1 redesignated and amended, is further
2 amended—

3 (I) by striking “paragraph
4 (4)(A)” and inserting “paragraph
5 (5)(A)”, and

6 (II) by striking “either para-
7 graph (2)(A) or paragraph (2)(B)”
8 and inserting “any subparagraph of
9 paragraph (2)”.

10 (vi) Section 305(b)(7)(B) of such Act
11 (29 U.S.C. 1085(b)(7)(B)), as so further
12 redesignated, is amended by striking “crit-
13 ical or endangered” and inserting “endan-
14 gered, critical, or declining”.

15 (vii) Paragraphs (1)(A), (4)(A)(ii),
16 (4)(C)(i), (4)(C)(ii), (4)(D), and (8) of
17 subsection (d), and subsections (f)(1)(A),
18 (f)(4)(B)(i), (f)(4)(B)(ii)(I), (f)(5), and
19 (g)(3) of section 305 of such Act (29
20 U.S.C. 1085), as redesignated and amend-
21 ed by subsection (a), are each further
22 amended by striking “subsection
23 (b)(4)(A)” and inserting “subsection
24 (b)(5)(A)”.

1 (viii) Section 305(d)(3)(A)(i)(I) of
2 such Act (29 U.S.C. 1085(d)(3)(A)(i)(I)),
3 as so redesignated and amended, is further
4 amended by striking “subsection (b)(4)”
5 and inserting “subsection (b)(5)”.

6 (ix) Subsections (f)(8)(A)(ii) and
7 (g)(2)(A) of section 305 of such Act (29
8 U.S.C. 1085), as so redesignated and
9 amended, are each further amended by
10 striking “subsection (b)(4)(D)” and insert-
11 ing “subsection (b)(5)(D)”.

12 (x) Section 305(f)(9)(J) of such Act
13 (29 U.S.C. 1085(f)(9)(J)), as so redesign-
14 ated and amended, is further amended by
15 striking “subsection (b)(4)” and inserting
16 “subsection (b)(5)”.

17 (xi) Section 4231(e)(2)(A) of such Act
18 (29 U.S.C. 1411(e)(2)(A)), as amended by
19 this section, is further amended by striking
20 “305(b)(7)” and inserting “305(b)(4)”.

21 (3) SOLVENCY PLAN.—

22 (A) IN GENERAL.—Paragraph (4) (as re-
23 designated by subsection (a)(1) and amended
24 by paragraph (1)) of section 305(a) of such Act
25 (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.—

1 “(A) INITIAL CONTRIBUTION SCHEDULE.—

2 If—

3 “(i) a collective bargaining agreement
4 providing for contributions under a multi-
5 employer plan that was in effect at the
6 time the plan entered declining status ex-
7 pires, and

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

15 the plan sponsor shall implement the schedule
16 described in paragraph (1)(B)(i) beginning on
17 the date specified in subparagraph (C).

18 “(B) SUBSEQUENT CONTRIBUTION SCHED-

19 ULE.—If—

20 “(i) a collective bargaining agreement
21 providing for contributions under a multi-
22 employer plan in accordance with a sched-
23 ule provided by the plan sponsor pursuant
24 to a solvency plan (or imposed under sub-

1 paragraph (A)) expires while the plan is
2 still in declining status, and

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

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

21 “(7) SOLVENCY PLAN ADOPTION PERIOD.—For
22 purposes of this section, the term ‘solvency plan
23 adoption period’ means the period beginning on the
24 date of the certification under subsection (b)(5)(A)
25 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 ated 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-

1 graph (D)(i) and inserting “endangered,
2 critical, or declining”,

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

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

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

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

18 “(vii) NOTICE OF PROJECTION TO BE
19 IN DECLINING STATUS IN A FUTURE PLAN
20 YEAR.—In any case in which it is certified
21 under subparagraph (A)(i) that a multiem-
22 ployer plan will be in declining status for
23 any of 5 succeeding plan years (but not for
24 the current plan year), the plan sponsor
25 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.

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

5 (vi) Subclauses (I) and (II) of para-
6 graph (4)(B) (as so redesignated) are re-
7 designated as clauses (i) and (ii), respec-
8 tively, and moved 2 ems to the left.

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

13 (viii) Paragraph (1)(A), as so redesign-
14 ated, is amended by striking “subpara-
15 graph (C)” and inserting “paragraph (4)”.

16 (ix) Paragraph (1)(B), as so redesign-
17 ated, is amended by striking “clause
18 (iv)(III)” and inserting “subparagraph
19 (D)(iii)”.

20 (x) Paragraph (1)(D), as so redesign-
21 ated, is amended by striking “this para-
22 graph” and inserting “this subsection”.

23 (xi) Paragraph (2), as so redesign-
24 ated, 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—

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

5 (ii) by striking “paragraph (1)(B)(i)”
6 and inserting “subsection (d)(1)(B),
7 (f)(1)(B), or (h)(1)(B), whichever is appli-
8 cable”.

9 (B) CONFORMING AMENDMENTS.—Sub-
10 paragraph (B) of section 305(m)(1) of such Act
11 (29 U.S.C. 1085(m)(1)), as redesignated and
12 amended by this section, is further amended by
13 striking “critical” both places it appears and in-
14 serting “endangered, critical, or declining”.

15 (4) ADDITIONAL ADJUSTABLE BENEFITS.—

16 (A) IN GENERAL.—Subparagraph (D) of
17 section 305(m)(1) of such Act (29 U.S.C.
18 1085(m)(1)), as redesignated by this section, is
19 amended—

20 (i) by inserting “, including early re-
21 duction factors which are not provided on
22 an actuarially equivalent basis,” after
23 “(i))” in clause (ii), as so redesignated,

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

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

9 (iv) by adding at the end the following
10 new clauses:

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

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

15 (B) CONFORMING AMENDMENTS.—

16 (i) Subparagraph (B) of section
17 305(m)(1) of such Act (29 U.S.C. 1085),
18 as redesignated and amended by this sec-
19 tion, is further amended by striking “sub-
20 paragraph (D)(iii)” and inserting “clause
21 (iii), (iv), or (v) of subparagraph (D)”.

22 (ii) Paragraph (2) of section 305(m)
23 of such Act (29 U.S.C. 1085), as amended
24 by paragraph (2)(B), is further amended
25 by striking “paragraph (1)(D)(iii)” and in-

1 serting “clause (iii), (iv), or (v) of para-
2 graph (1)(D)”.

3 (iii) Section 4233A(o)(1) of such Act,
4 as added by this Act and as amended by
5 this section, is further amended by striking
6 “305(m)(2)” and inserting “305(n)(2)”.

7 (5) RULES RELATING TO SUSPENSION OF BEN-
8 EFITS UPON RETURN TO WORK.—Subsection (m) of
9 section 305 of such Act (29 U.S.C. 1085), as redes-
10 signed and amended by this section, is further
11 amended by inserting after paragraph (2) the fol-
12 lowing new paragraph:

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

23 (6) ADDITIONAL CONFORMING AMENDMENTS.—

24 (A) Clause (iii) of section 305(b)(5)(D) of
25 such Act (29 U.S.C. 1085(b)(5)(D)), as redes-

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

4 (2) ELECTION TO BE IN ENDANGERED STA-
5 TUS.—Subsection (b) of section 305 of such Act (29
6 U.S.C. 1085), as so redesignated and amended, is
7 further amended by adding at the end the following
8 new paragraph:

9 “(8) ELECTION TO BE IN ENDANGERED STA-
10 TUS.—Notwithstanding paragraph (2)—

11 “(A) the plan sponsor of a multiemployer
12 plan that is not in endangered, critical, or de-
13 clining status for a plan year but that is pro-
14 jected by the plan actuary, pursuant to the de-
15 termination under paragraph (5), to be in en-
16 dangered status in any of the 5 succeeding plan
17 years, may, not later than 30 days after the
18 date of the certification under paragraph
19 (5)(A), elect to be in endangered status effec-
20 tive for the current plan year,

21 “(B) the plan year in which the plan spon-
22 sor elects to be in endangered status under sub-
23 paragraph (A) shall be treated for purposes of
24 this section as the first year in which the plan
is in endangered status, regardless of the date

1 on which the plan first satisfies the criteria for
2 endangered status under paragraph (2), and

3 “(C) a plan that is in endangered status
4 under this paragraph shall not emerge from en-
5 dangered status unless the plan’s actuary cer-
6 tifies under paragraph (5)(A) that the plan is
7 no longer in endangered status and is not in
8 critical or declining status.”.

9 (g) AMENDMENTS RELATING TO FUNDING IMPROVE-
10 MENT PLAN.—

11 (1) IN GENERAL.—Paragraph (1) of section
12 305(d) of the Employee Retirement Income Security
13 Act of 1974 (29 U.S.C. 1085(d)), as redesignated
14 and amended by this section, is further amended—

15 (A) by striking the last sentence, and

16 (B) in subparagraph (B), by striking
17 “funding improvement plan—” and all that fol-
18 lows and inserting “funding improvement plan,
19 shall provide to the bargaining parties 1 or
20 more schedules showing revised benefit struc-
21 tures, revised contribution structures, or both,
22 which, if adopted, may reasonably be expected
23 to enable the multiemployer plan to meet the
24 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 2021) 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.

1 (C) Paragraph (6) of section 305(d) of
2 such Act (29 U.S.C. 1085(d)), as so redesign-
3 nated, is amended—

4 (i) by striking “(1)(B)(i)(I)” in sub-
5 paragraph (A) and inserting “(1)(B)(i)”,
6 and

7 (ii) by striking “paragraph (6)(B)” in
8 subparagraph (B)(ii) and inserting “para-
9 graph (5)(B)”.

10 (D) Paragraph (2) of section 305(d) of
11 such Act (29 U.S.C. 1085(d)), as so redesign-
12 nated, is amended by inserting “, except that
13 the next update of the funding improvement
14 plan shall fulfill the requirement of paragraph
15 (1)(B)(i)” after “for a preceding plan year”.

16 (h) AMENDMENTS RELATING TO REHABILITATION
17 PLAN.—

18 (1) IN GENERAL.—Paragraph (1) of section
19 305(f) of the Employee Retirement Income Security
20 Act of 1974 (29 U.S.C. 1085(f)), as redesignated
21 and amended by this section, is further amended—

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

23 (B) in subparagraph (B), by striking “re-
24 habilitation plan—” and all that follows and in-
25 serting “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 2021) 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

which may also include reduction or elimination of any other adjustable benefits under the plan, and

“(ii) any additional schedules which reduce or eliminate adjustable benefits under the plan which the plan sponsor deems appropriate to provide as an alternative 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.—

(A) IN GENERAL.—Subparagraph (A) of section 305(f)(3) of such Act (29 U.S.C. 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),

(ii) by inserting “, while delaying insolvency for as long as possible and maximizing the income of the plan, including

1 income after insolvency” before the period
2 in clause (ii), and

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

5 (B) CONFORMING AMENDMENTS.—Clause
6 (i) of section 305(f)(3)(C) of such Act (29
7 U.S.C. 1085(f)(3)(C)), as so redesignated, is
8 amended—

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

11 (ii) by striking “the last sentence of
12 paragraph (1)” and inserting “paragraph
13 (1)(B)(i)”.

14 (3) REHABILITATION PERIOD.—

15 (A) IN GENERAL.—Subparagraph (A) of
16 section 305(f)(4) of such Act (29 U.S.C.
17 1085(f)(4)), as so redesignated and amended, is
18 further amended—

19 (i) by striking “The rehabilitation pe-
20 riod” and inserting “Except as otherwise
21 provided in this subparagraph, the reha-
22 bilitation period”, and

23 (ii) by adding at the end the fol-
24 lowing: “If, upon exhaustion of all reason-
25 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

1 of paragraph (1)” and inserting “paragraph
2 (1)(B)(i)”.

3 (B) Paragraph (2) of section 305(f) of
4 such Act (29 U.S.C. 1085(f)), as so redesign-
5 dated, is amended by inserting “, except that
6 the next update of the rehabilitation plan shall
7 fulfill the requirement of paragraph (1)(B)(i)”
8 after “for a preceding plan year”.

9 (i) ACTUARIAL ASSUMPTIONS.—

10 (1) IN GENERAL.—Subsection (n) of section
11 305 of the Employee Retirement Income Security
12 Act of 1974 (29 U.S.C. 1085), as redesignated by
13 subsections (a), (d), and (e), is amended—

14 (A) by striking “METHOD” in the heading
15 and inserting “METHOD AND ASSUMPTIONS”,
16 and

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

19 “(11) ACTUARIAL ASSUMPTIONS.—

20 “(A) IN GENERAL.—The actuarial assump-
21 tions relied upon for purposes of this section by
22 a plan actuary shall be individually reasonable
23 and, in the aggregate, shall be reasonable and
24 (with the exception of assumptions regarding
25 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 “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, 2021.

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, 2022, 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, 2022, shall apply to such plan as of

1 the first day of the first plan year begin-
2 ning after December 31, 2021, and

3 (ii) section 432(d)(1)(B)(i)(II) of such
4 Code and section 305(d)(1)(B)(i)(II) of
5 such Act, as amended by sections 211(g)
6 and 212(g), respectively, shall each apply
7 to such plan by substituting “the date of
8 the enactment of the Chris Allen Multiem-
9 ployer Pension Recapitalization and Re-
10 form Act of 2021” for “the first day of the
11 plan year in which the plan enters endan-
12 gered status”.

13 In the case of any plan with respect to which
14 the plan sponsor makes the election under sub-
15 paragraph (A) but which fails to continue to
16 meet the applicable benchmarks under the
17 funding improvement plan, this subparagraph
18 shall apply to such plan by substituting “the
19 plan year after the first plan year for which the
20 plan fails to meet the applicable benchmarks”
21 for “the first plan year beginning after Decem-
22 ber 31, 2021”.

23 (2) PLANS ENTERING ENDANGERED STATUS
24 BETWEEN ENACTMENT AND JANUARY 1, 2022.—In
25 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, 2022—

3 (A) section 432 of such Code and section
4 305 of such Act as in effect on January 1,
5 2022, 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 2021” 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, 2022, 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, 2022, shall apply to such plan as of
12 the first day of the first plan year begin-
13 ning after December 31, 2021,

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 2021” 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 2021” 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, 2021”.

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, 2022.

4 (2) PLANS ENTERING CRITICAL OR CRITICAL
5 AND DECLINING STATUS BETWEEN ENACTMENT AND
6 JANUARY 1, 2022.—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, 2022—

10 (A) section 432 of such Code and section
11 305 of such Act as in effect on January 1,
12 2022, 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 2021” 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

1 212(d)(3), respectively, shall each apply to such
2 plan by substituting “the date of the enactment
3 of the Chris Allen Multiemployer Pension Re-
4 capitalization and Reform Act of 2021” for
5 “the first day of the plan year in which the
6 plan enters declining status”.

7 (3) QUALIFIED CRITICAL MULTIEMPLOYER
8 PLAN.—For purposes of this subsection, the term
9 “qualified critical multiemployer plan” means a mul-
10 tiemployer plan which is in critical or critical and
11 declining status as of the date of the enactment of
12 this Act, and is making scheduled progress under
13 the plan’s rehabilitation plan, but only if the reha-
14 bilitation plan (as in effect without regard to the
15 amendments made by this Act) targets emergence
16 from critical status not later than 3 years after the
17 end of the rehabilitation period as in effect with re-
18 spect to such plan on the date of the enactment of
19 this Act.

20 (c) ELECTION.—

21 (1) IN GENERAL.—An election under subsection
22 (a)(1)(A) or (b)(1)(A) shall be made—

23 (A) by notice to the Secretary of the
24 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, 2021.

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, 2021.

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, 2021.

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 2022, 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. 4980L. 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.”.

(2) AMENDMENTS TO 1986 CODE.—Section 432(b)(4) of the Internal Revenue Code of 1986, as redesignated by section 211(a) and as in effect before the amendments made by section 211 other 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:

“(A) IN GENERAL.—Not later than the 90th day of each plan year of a multiemployer plan, the plan sponsor shall file, in accordance with regulations prescribed by the ERISA agencies, a report that contains—

“(i) documentation from the plan ac-
tuary certifying to the ERISA agencies
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

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-

1 try activity and contribution base units, mor-
2 tality, and other assumptions as determined by
3 the Secretary, and shall describe the situations
4 in which actuarial assumptions may change
5 during review of an application without the
6 withdrawal and resubmission of the application.
7 In evaluating”.

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

10 (1) EQUITABLE DISTRIBUTION OF BENEFIT
11 SUSPENSIONS.—Clause (vi) of section 305(f)(9)(D)
12 of the Employee Retirement Income Security Act of
13 1974 (29 U.S.C. 1085(f)(9)(D)), as redesignated by
14 section 212(a) and as in effect before the amend-
15 ments made by section 212 other than subsection
16 (a) thereof, is amended by adding at the end the fol-
17 lowing flush language:

18 “For purposes of the preceding sentence, a
19 suspension of benefits in the form of a flat
20 percentage reduction in benefits which is
21 applied in the same manner to all partici-
22 pants and beneficiaries (before application
23 of clauses (ii) and (iii)) shall be treated as
24 being equitably distributed across the par-
25 ticipant 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) IN GENERAL.—The amendments made by subsections (a)(1) and (b)(1) shall apply to suspensions of benefits taking effect after the date of the enactment of this Act.

(2) APPLICATIONS.—The amendments made by subsections (a)(2) and (b)(2) shall apply to applications submitted after the date of the enactment of this Act.

9 SEC. 403. CLARIFICATION OF NOTICE AND COMMENT PROC-
10 ESS.

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

(1) NOTICE TO PARTICIPANTS.—Subparagraph (F) of section 432(f)(9) of the Internal Revenue Code of 1986, as redesignated by section 211(a) and as in effect before the amendments made by section 211 other than subsection (a) thereof, is amended by 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 VIII—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 (1), such notice shall include a certification by
2 the plan actuary under section 305(b)(4) that
3 the effective date of the amendment occurs in
4 a plan year for which the multiemployer plan is
5 not in endangered or critical status for that
6 plan year and any of the succeeding 5 plan
7 years.

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

12 “(7) RULE OF CONSTRUCTION.—Paragraph
13 (2)(A) shall not be construed as preventing the plan
14 sponsor of a multiemployer plan from adopting an
15 amendment pursuant to paragraph (1) because some
16 collective bargaining agreements are amended to
17 cease any covered employer’s obligation to contribute
18 to the multiemployer plan before or after the plan
19 amendment is effective. Paragraph (2)(B) shall not
20 be construed as preventing the plan sponsor of a
21 multiemployer plan from adopting an amendment
22 pursuant to paragraph (1) because some partici-
23 pants cease to have contributions made to the multi-
24 employer plan on their behalf before or after the
25 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

1 described in subparagraph (A) may include any
2 of the following:

3 “(i) Proposed contribution increases.

4 “(ii) A reduction in the rate of future
5 benefit accruals, so long as the resulting
6 rate shall not be less than 1 percent of the
7 contributions on which benefits are based
8 as of the start of the plan year (or the
9 equivalent standard accrual rate as de-
10 scribed in section 432(f)(6)).

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

15 “(iv) Any other legally available meas-
16 ures not specifically described in this sub-
17 paragraph or subparagraph (C) or (D)
18 that the plan sponsor determines are rea-
19 sonable.

20 “(C) ADDITIONAL PROGRAM ELEMENTS.—

21 If the plan sponsor has determined that all rea-
22 sonable measures available under subparagraph
23 (B) will not enable the plan to achieve a pro-
24 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 2021, 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 CALCULATING
14 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 “(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

1 suspended under section 305(f), 803, 4245, or
2 4281”.

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

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

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

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

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

24 (B) INTERNAL REVENUE CODE OF 1986.—
25 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 Retire-
7 ment 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 2022.—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, 2022,” 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 2022, 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 2022,”.

15 (b) FLAT AND VARIABLE RATE PREMIUM FOR YEARS
16 AFTER 2022.—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, 2022,
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, 2023, 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 2021, 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, 2022, 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:

**“If the individual is, or will The applicable percentage is:
 attain during the plan
 year, age:**

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 2022.

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, 2022, 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 2022.

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, 2022, 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.