

111TH CONGRESS
1ST SESSION

H. R. 3936

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow time for pensions to fund benefit obligations in light of economic circumstances in the financial markets of 2008, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 27, 2009

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

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to allow time for pensions to fund benefit obligations in light of economic circumstances in the financial markets of 2008, 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, ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the
5 “Preserve Benefits and Jobs Act of 2009”.

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

Sec. 1. Short title, etc.

TITLE I—SINGLE EMPLOYER PLANS

- Sec. 101. Extended period for single-employer defined benefit plans to amortize certain shortfall amortization bases.
 Sec. 102. Expansion of corridor within which single-employer defined benefit plans are allowed to average asset values.
 Sec. 103. Lookback for benefit accrual restriction.
 Sec. 104. Lookback for credit balance rule.
 Sec. 105. Clarification of treatment of expenses.
 Sec. 106. Information reporting.
 Sec. 107. Benefit restriction effective date for collectively bargained plans.
 Sec. 108. Social Security level-income options.
 Sec. 109. PBGC guarantee.
 Sec. 110. Application of extended amortization period to plans subject to prior law funding rules.
 Sec. 111. Additions to funding-based limits on benefits and benefits accruals under single-employer plans.
 Sec. 112. Reportable events.

TITLE II—MULTIEMPLOYER PLANS

- Sec. 201. Adjustments to funding standard account rules; reporting clarification.
 Sec. 202. Multiemployer plans in endangered or critical status.
 Sec. 203. Multiemployer plan mergers and alliances.
 Sec. 204. Strengthening participants' benefit protections.

3 **TITLE I—SINGLE EMPLOYER** 4 **PLANS**

5 **SEC. 101. EXTENDED PERIOD FOR SINGLE-EMPLOYER DE-** 6 **FINED BENEFIT PLANS TO AMORTIZE CER-** 7 **TAIN SHORTFALL AMORTIZATION BASES.**

8 (a) AMENDMENTS TO ERISA.—

9 (1) IN GENERAL.—Paragraph (2) of section
 10 303(c) of the Employee Retirement Income Security
 11 Act of 1974 is amended by adding at the end the
 12 following subparagraphs:

13 “(D) SPECIAL RULE.—

1 “(i) IN GENERAL.—In the case of the
2 shortfall amortization base of an active
3 plan for any applicable plan year, the
4 shortfall amortization installments are the
5 amounts described in clause (ii) or clause
6 (iii), as applicable, determined pursuant to
7 clause (iv).

8 “(ii) 7-YEAR AMORTIZATION.—

9 “(I) IN GENERAL.—The shortfall
10 amortization installments described in
11 this clause are—

12 “(aa) in the case of the last
13 7 plan years in the 9-plan-year
14 period beginning with the appli-
15 cable plan year, the amounts nec-
16 essary to amortize the shortfall
17 amortization base of the plan for
18 the applicable plan year in level
19 annual installments over such
20 last 7 plan years, and

21 “(bb) in the case of the first
22 2 plan years in such 9-plan-year
23 period, interest on such shortfall
24 amortization base (determined
25 using the effective rate of inter-

1 est for the plan for the plan
2 year).

3 “(II) SHORTFALL AMORTIZATION
4 INSTALLMENT.—The shortfall amorti-
5 zation installment for any plan year in
6 the 9-plan-year period under this
7 clause with respect to such shortfall
8 amortization base is the annual in-
9 stallment determined under this
10 clause for that year for that base.

11 “(III) MINIMUM REQUIRED CON-
12 TRIBUTION FOR FIRST 2 YEARS.—
13 Notwithstanding the preceding provi-
14 sions of this clause, the minimum re-
15 quired contribution for the two plan
16 years described in subclause (I)(bb)
17 shall be increased to the extent nec-
18 essary so that the minimum required
19 contribution for such plan year is at
20 least equal to the applicable percent-
21 age of the minimum required con-
22 tribution for the plan year preceding
23 the first applicable plan year. If the
24 minimum required contribution is in-
25 creased by reason of the preceding

1 sentence, the shortfall amortization
 2 installments with respect to the short-
 3 fall amortization base for any applica-
 4 ble plan year shall be reduced to take
 5 such increase into account, pursuant
 6 to rules issued by the Secretary of the
 7 Treasury, but only if the shortfall am-
 8 ortization installments with respect to
 9 the shortfall amortization base for
 10 such applicable plan year are deter-
 11 mined under this clause. For purposes
 12 of this subclause, any reference to the
 13 minimum required contribution for
 14 any plan year shall be a reference to
 15 the minimum required contribution
 16 for such plan year prior to any reduc-
 17 tion under subsection (f) and without
 18 taking into account any waiver under
 19 section 302(c). For purposes of this
 20 clause, the applicable percentage shall
 21 be determined as follows:

“For the:	The applicable percentage is:
First applicable plan year	105
Second applicable plan year	110
Plan year following the second applicable plan year	115

22 “(iii) 15-YEAR AMORTIZATION.—The
 23 shortfall amortization installments de-

1 scribed in this clause are the amounts nec-
2 essary to amortize the shortfall amortiza-
3 tion base of the plan for the applicable
4 plan year in level annual installments over
5 15 years. The shortfall amortization in-
6 stallments for any plan year in the 15-
7 plan-year period under this clause is the
8 annual installment determined under this
9 clause for that year for that base.

10 “(iv) ELECTION.—The plan sponsor
11 may, with respect to a plan, elect whether
12 to determine shortfall amortization install-
13 ments under clause (ii), clause (iii), or
14 without regard to this subparagraph. Such
15 election shall be made at such times, and
16 in such form and manner, as shall be pre-
17 scribed by the Secretary of the Treasury,
18 and may be revoked only with the consent
19 of the Secretary of the Treasury. In the
20 absence of a timely election to determine
21 shortfall amortization installments under
22 such clause (ii) or clause (iii), such install-
23 ments shall be determined without regard
24 to this subparagraph.

1 “(E) FAILURE TO MAINTAIN ACTIVE
2 PLAN.—

3 “(i) 2 AND 7 RULE.—If the shortfall
4 amortization installments with respect to a
5 shortfall amortization base for an applica-
6 ble plan year are determined under sub-
7 paragraph (D)(ii), the plan must remain
8 an active plan for the subsequent plan
9 year. If such plan fails to be an active plan
10 in such plan year, the minimum required
11 contribution for the plan year with respect
12 to which a failure occurs shall be increased
13 by all amounts by which the minimum re-
14 quired contribution for the current plan
15 year or any prior plan year has been re-
16 duced by the application of subparagraph
17 (D), plus interest on such amounts at the
18 effective rate of interest for the plan for
19 the plan year for which the increase ap-
20 plies. However, any such increase in the
21 minimum required contribution shall not
22 require a contribution to the extent that
23 the contribution would cause the value of
24 plan assets for the plan year to exceed the
25 funding target of the plan for the plan

1 year (determined without regard to sub-
2 section (i)(1)). If the minimum required
3 contribution is increased by reason of this
4 clause, the shortfall amortization install-
5 ments with respect to the shortfall amorti-
6 zation base for any applicable plan year
7 shall be reduced to take such increase into
8 account, pursuant to rules issued by the
9 Secretary of the Treasury, but only if the
10 shortfall amortization installments with re-
11 spect to the shortfall amortization base for
12 such applicable plan year are determined
13 under subparagraph (D)(ii). For purposes
14 of this clause, any reference to the min-
15 imum required contribution for any plan
16 year shall be a reference to the minimum
17 required contribution for such plan year
18 prior to any reduction under subsection (f)
19 and without taking into account any waiv-
20 er under section 302(c).

21 “(ii) 15-YEAR RULE.—If the shortfall
22 amortization installments with respect to a
23 shortfall amortization base for an applica-
24 ble plan year are determined under sub-
25 paragraph (D)(iii), the plan must remain

1 an active plan for the 7 subsequent plan
2 years. If such plan fails to be an active
3 plan in any such plan year, the shortfall
4 amortization base, reduced by the principal
5 portion of prior shortfall amortization in-
6 stallments relating to that base, shall be
7 amortized over 7 years.

8 “(iii) SPECIAL RULE.—In the case of
9 an applicable plan year that ends before
10 July 1, 2009, the plan sponsor may elect
11 not to have the active plan requirement
12 apply for such plan year. If such election
13 is made—

14 “(I) clause (i) shall be applied so
15 as to require the plan to remain an
16 active plan for the 2 subsequent plan
17 years (instead of 1 subsequent plan
18 year) under rules prescribed by the
19 Secretary of the Treasury, and

20 “(II) clause (ii) shall be applied
21 by substituting ‘8’ for ‘7’ the first
22 place it appears and by substituting
23 ‘6’ for ‘7’ the second place it appears.

24 Such election shall be made at such times,
25 and in such form and manner, as shall be

1 prescribed by the Secretary of the Treas-
2 ury, and may be revoked only with consent
3 of the Secretary of the Treasury.

4 “(F) APPLICABLE PLAN YEAR.—For pur-
5 poses of this paragraph, the term ‘applicable
6 plan year’ means—

7 “(i) except as provided in clauses (ii)
8 and (iii), any plan year beginning in 2009
9 or 2010,

10 “(ii) in the case of a plan with a plan
11 year beginning after October 31 and before
12 January 1, any plan year beginning in
13 2008 or 2009, and

14 “(iii) in the case of a plan for which
15 the valuation date is not the first day of
16 the plan year, any plan year beginning in
17 2008 or 2009.

18 “(G) ACTIVE PLAN.—

19 “(i) IN GENERAL.—For purposes of
20 this paragraph, the term ‘active plan’
21 means a defined benefit plan that is de-
22 scribed in clause (ii), (iii), or (iv). A de-
23 fined benefit plan may satisfy different
24 clauses in different years. Notwithstanding
25 clause (ii), (iii), or (iv), a defined benefit

1 plan is not an active plan if an election
2 under section 402(a)(1) of the Pension
3 Protection Act of 2006 is in effect with re-
4 spect to such plan, or if the plan is de-
5 scribed under rules prescribed by the Sec-
6 retary of the Treasury designed to prevent
7 evasion of the purposes of this subpara-
8 graph.

9 “(ii) DEFINED BENEFIT PLAN.—

10 “(I) IN GENERAL.—A defined
11 benefit plan is described in this clause
12 if minimum benefit accruals are pro-
13 vided on behalf of all employees who
14 have satisfied the plan’s age and serv-
15 ice requirements and who would, but
16 for any prior amendment ceasing ac-
17 cruals, be eligible for an accrual under
18 the plan.

19 “(II) SPECIAL RULE REGARDING
20 MINIMUM BENEFIT ACCRUALS.—For
21 purposes of this clause, the employees
22 described in this clause shall be treat-
23 ed as receiving minimum benefit ac-
24 cruals for a plan year if all such em-
25 ployees are accruing a benefit and—

1 “(aa) the rate of benefit ac-
2 crual for any such employee is
3 not less than the greater of—

4 “(AA) the rate of ben-
5 efit accrual that would have
6 been applied to the employee
7 under the benefit formula in
8 effect on July 1, 2009, dis-
9 regarding any amendments
10 to the plan adopted after
11 June 30, 2009, or

12 “(BB) the rate of ben-
13 efit accrual that would have
14 applied to the employee
15 under the benefit formula in
16 effect as of the last date
17 prior to the effective date of
18 any plan amendment adopt-
19 ed prior to July 1, 2009
20 that ceased providing benefit
21 accruals based on additional
22 service credit with respect to
23 such employee, or

24 “(bb) the target normal cost
25 (without regard to plan adminis-

1 trative expenses) for such plan
2 year with respect to such employ-
3 ees is at least 3 percent of the
4 aggregate compensation (as de-
5 fined in section 415(c)(3) of the
6 Internal Revenue Code of 1986)
7 of such employees for such plan
8 year. Solely for purposes of this
9 paragraph, target normal cost
10 shall be determined by using 5
11 percent in lieu of the interest
12 rate applicable under subsection
13 (h) and by using the mortality
14 tables described in subsection
15 (h)(3)(A).

16 “(iii) DEFINED CONTRIBUTION
17 PLAN.—

18 “(I) IN GENERAL.—A defined
19 benefit plan is described in this clause
20 if—

21 “(aa) the defined benefit
22 plan satisfies clause (ii) except
23 with respect to employees whose
24 failure to accrue a minimum ben-
25 efit is attributable to a plan

1 amendment adopted prior to July
2 1, 2009, and

3 “(bb) the plan sponsor (or
4 any member of such sponsor’s
5 controlled group) maintains a de-
6 fined contribution plan under
7 which allocations are made on be-
8 half of each employee whose fail-
9 ure to accrue a benefit under the
10 defined benefit plan causes the
11 defined benefit plan not to be de-
12 scribed in clause (ii).

13 “(II) MINIMUM ALLOCATIONS.—

14 Such allocations shall not be less than
15 3 percent of an employee’s compensa-
16 tion (as determined in accordance
17 with section 414(s) of the Internal
18 Revenue Code of 1986). A defined
19 contribution plan shall not fail to sat-
20 isfy the requirements of this clause
21 solely by reason of the failure to make
22 allocations on behalf of one or more
23 highly compensated employees (as de-
24 fined in section 414(q) of the Internal
25 Revenue Code of 1986).

1 “(III) ALLOCATIONS TAKEN INTO
2 ACCOUNT.—For purposes of this
3 clause, only the following types of al-
4 locations may be taken into account:

5 “(aa) Employer contribu-
6 tions or forfeitures allocated
7 without regard to whether an em-
8 ployee makes an elective con-
9 tribution or an employee con-
10 tribution.

11 “(bb) In the case of the first
12 plan year ending after June 30,
13 2009, matching contributions (as
14 defined in section 401(m)(4)(A)
15 of the Internal Revenue Code of
16 1986).

17 “(iv) NONQUALIFIED PLAN.—

18 “(I) IN GENERAL.—A defined
19 benefit plan is described in this clause
20 if no key employee (as defined in sec-
21 tion 416(i) of the Internal Revenue
22 Code of 1986 without regard to para-
23 graph (5) thereof) accrues any new
24 benefits for the plan year under any
25 nonqualified deferred compensation

1 plan (as defined in section 409A(d) of
2 the Internal Revenue Code of 1986)
3 maintained by the sponsor of the de-
4 fined benefit plan or by any member
5 of such sponsor's controlled group.

6 “(II) REVOCATION OF CERTAIN
7 ELECTIONS.—The Secretary of the
8 Treasury shall provide rules under
9 section 409A of the Internal Revenue
10 Code of 1986 under which elections to
11 defer compensation made prior to the
12 date of enactment of this clause may
13 be revoked by an employee within 180
14 days after the date of enactment of
15 this clause, but only to the extent
16 that, pursuant to this clause, such
17 elections could otherwise cause a fail-
18 ure of the employee to—

19 “(aa) earn compensation
20 under an arrangement that, but
21 for the election, is not a non-
22 qualified deferred compensation
23 plan (as defined in section
24 409A(d) of the Internal Revenue
25 Code of 1986), and

1 “(bb) earn compensation
2 that is not payable to the em-
3 ployee in another form or under
4 a different arrangement.

5 “(v) MULTIPLE EMPLOYER PLANS.—
6 In the case of a defined benefit plan de-
7 scribed in section 413(c)(4)(B) of the In-
8 ternal Revenue Code of 1986, such plan
9 shall be treated as an active plan if such
10 plan satisfies clause (ii), (iii), or (iv) with
11 respect to at least 85 percent of the em-
12 ployers participating in such plan. In ap-
13 plying the 85 percent requirement, dif-
14 ferent employers may satisfy different
15 clauses.

16 “(vi) CONTROLLED GROUP.—For pur-
17 poses of this paragraph, the term ‘con-
18 trolled group’ means all employers treated
19 as a single employer pursuant to sub-
20 sections (b) and (c) of section 414 of the
21 Internal Revenue Code of 1986.”.

22 (2) CONFORMING AMENDMENT.—Paragraph (1)
23 of section 303(c) of such Act is amended by striking
24 “the shortfall amortization bases for such plan year
25 and each of the 6 preceding plan years” and insert-

1 ing “any shortfall amortization base which has not
2 been fully amortized under this subsection”.

3 (b) AMENDMENTS TO INTERNAL REVENUE
4 CODE OF 1986.—

5 (1) IN GENERAL.—Paragraph (2) of section
6 430(c) of the Internal Revenue Code of 1986 is
7 amended by adding at the end the following sub-
8 paragraphs:

9 “(D) SPECIAL RULE.—

10 “(i) IN GENERAL.—In the case of the
11 shortfall amortization base of an active
12 plan for any applicable plan year, the
13 shortfall amortization installments are the
14 amounts described in clause (ii) or clause
15 (iii), as applicable, determined pursuant to
16 clause (iv).

17 “(ii) 7-YEAR AMORTIZATION.—

18 “(I) IN GENERAL.—The shortfall
19 amortization installments described in
20 this clause are—

21 “(aa) in the case of the last
22 7 plan years in the 9-plan-year
23 period beginning with the appli-
24 cable plan year, the amounts nec-
25 essary to amortize the shortfall

1 amortization base of the plan for
2 the applicable plan year in level
3 annual installments over such
4 last 7 plan years, and

5 “(bb) in the case of the first
6 2 plan years in such 9-plan-year
7 period, interest on such shortfall
8 amortization base (determined
9 using the effective rate of inter-
10 est for the plan for the plan
11 year).

12 “(II) SHORTFALL AMORTIZATION
13 INSTALLMENT.—The shortfall amorti-
14 zation installment for any plan year in
15 the 9-plan-year period under this
16 clause with respect to such shortfall
17 amortization base is the annual in-
18 stallment determined under this
19 clause for that year for that base.

20 “(III) MINIMUM REQUIRED CON-
21 TRIBUTION FOR FIRST 2 YEARS.—
22 Notwithstanding the preceding provi-
23 sions of this clause, the minimum re-
24 quired contribution for the two plan
25 years described in subclause (I)(bb)

1 shall be increased to the extent nec-
2 essary so that the minimum required
3 contribution for such plan year is at
4 least equal to the applicable percent-
5 age of the minimum required con-
6 tribution for the plan year preceding
7 the first applicable plan year. If the
8 minimum required contribution is in-
9 creased by reason of the preceding
10 sentence, the shortfall amortization
11 installments with respect to the short-
12 fall amortization base for any applica-
13 ble plan year shall be reduced to take
14 such increase into account, pursuant
15 to rules issued by the Secretary, but
16 only if the shortfall amortization in-
17 stallments with respect to the shortfall
18 amortization base for such applicable
19 plan year are determined under this
20 clause. For purposes of this subclause,
21 any reference to the minimum re-
22 quired contribution for any plan year
23 shall be a reference to the minimum
24 required contribution for such plan
25 year prior to any reduction under sub-

1 section (f) and without taking into ac-
 2 count any waiver under section
 3 412(c). For purposes of this clause,
 4 the applicable percentage shall be de-
 5 termined as follows:

“For the:	The applicable percentage is:
First applicable plan year	105
Second applicable plan year	110
Plan year following the second applicable plan year	115

6 “(iii) 15-YEAR AMORTIZATION.—The
 7 shortfall amortization installments de-
 8 scribed in this clause are the amounts nec-
 9 essary to amortize the shortfall amortiza-
 10 tion base of the plan for the applicable
 11 plan year in level annual installments over
 12 15 years. The shortfall amortization in-
 13 stallments for any plan year in the 15-
 14 plan-year period under this clause is the
 15 annual installment determined under this
 16 clause for that year for that base.

17 “(iv) ELECTION.—The plan sponsor
 18 may, with respect to a plan, elect whether
 19 to determine shortfall amortization install-
 20 ments under clause (ii), clause (iii), or
 21 without regard to this subparagraph. Such
 22 election shall be made at such times, and
 23 in such form and manner, as shall be pre-

1 scribed by the Secretary, and may be re-
2 voked only with the consent of the Sec-
3 retary. In the absence of a timely election
4 to determine shortfall amortization install-
5 ments under such clause (ii) or clause (iii),
6 such installments shall be determined with-
7 out regard to this subparagraph.

8 “(E) FAILURE TO MAINTAIN ACTIVE
9 PLAN.—

10 “(i) 2 AND 7 RULE.—If the shortfall
11 amortization installments with respect to a
12 shortfall amortization base for an applica-
13 ble plan year are determined under sub-
14 paragraph (D)(ii), the plan must remain
15 an active plan for the subsequent plan
16 year. If such plan fails to be an active plan
17 in such plan year, the minimum required
18 contribution for the plan year with respect
19 to which a failure occurs shall be increased
20 by all amounts by which the minimum re-
21 quired contribution for the current plan
22 year or any prior plan year has been re-
23 duced by the application of subparagraph
24 (D), plus interest on such amounts at the
25 effective rate of interest for the plan for

1 the plan year for which the increase ap-
2 plies. However, any such increase in the
3 minimum required contribution shall not
4 require a contribution to the extent that
5 the contribution would cause the value of
6 plan assets for the plan year to exceed the
7 funding target of the plan for the plan
8 year (determined without regard to sub-
9 section (i)(1)). If the minimum required
10 contribution is increased by reason of this
11 clause, the shortfall amortization install-
12 ments with respect to the shortfall amorti-
13 zation base for any applicable plan year
14 shall be reduced to take such increase into
15 account, pursuant to rules issued by the
16 Secretary, but only if the shortfall amorti-
17 zation installments with respect to the
18 shortfall amortization base for such appli-
19 cable plan year are determined under sub-
20 paragraph (D)(ii). For purposes of this
21 clause, any reference to the minimum re-
22 quired contribution for any plan year shall
23 be a reference to the minimum required
24 contribution for such plan year prior to
25 any reduction under subsection (f) and

1 without taking into account any waiver
2 under section 412(c).

3 “(ii) 15-YEAR RULE.—If the shortfall
4 amortization installments with respect to a
5 shortfall amortization base for an applica-
6 ble plan year are determined under sub-
7 paragraph (D)(iii), the plan must remain
8 an active plan for the 7 subsequent plan
9 years. If such plan fails to be an active
10 plan in any such plan year, the shortfall
11 amortization base, reduced by the principal
12 portion of prior shortfall amortization in-
13 stallments relating to that base, shall be
14 amortized over 7 years.

15 “(iii) SPECIAL RULE.—In the case of
16 an applicable plan year that ends before
17 July 1, 2009, the plan sponsor may elect
18 not to have the active plan requirement
19 apply for such plan year. If such election
20 is made—

21 “(I) clause (i) shall be applied so
22 as to require the plan to remain an
23 active plan for the 2 subsequent plan
24 years (instead of 1 subsequent plan

1 year) under rules prescribed by the
2 Secretary, and

3 “(II) clause (ii) shall be applied
4 by substituting ‘8’ for ‘7’ the first
5 place it appears and by substituting
6 ‘6’ for ‘7’ the second place it appears.

7 Such election shall be made at such times,
8 and in such form and manner, as shall be
9 prescribed by the Secretary, and may be
10 revoked only with consent of the Secretary.

11 “(F) APPLICABLE PLAN YEAR.—For pur-
12 poses of this paragraph, the term ‘applicable
13 plan year’ shall mean—

14 “(i) except as provided in clauses (ii)
15 and (iii), any plan year beginning in 2009
16 or 2010,

17 “(ii) in the case of a plan with a plan
18 year beginning after October 31 and before
19 January 1, any plan year beginning in
20 2008 or 2009, and

21 “(iii) in the case of a plan for which
22 the valuation date is not the first day of
23 the plan year, any plan year beginning in
24 2008 or 2009.

25 “(G) ACTIVE PLAN.—

1 “(i) IN GENERAL.—For purposes of
2 this paragraph, the term ‘active plan’
3 means a defined benefit plan that is de-
4 scribed in clause (ii), (iii), or (iv). A de-
5 fined benefit plan may satisfy different
6 clauses in different years. Notwithstanding
7 clause (ii), (iii), or (iv), a defined benefit
8 plan is not an active plan if an election
9 under section 402(a)(1) of the Pension
10 Protection Act of 2006 is in effect with re-
11 spect to such plan, or if the plan is de-
12 scribed under rules prescribed by the Sec-
13 retary designed to prevent evasion of the
14 purposes of this subparagraph.

15 “(ii) DEFINED BENEFIT PLAN.—

16 “(I) IN GENERAL.—A defined
17 benefit plan is described in this clause
18 if minimum benefit accruals are pro-
19 vided on behalf of all employees who
20 have satisfied the plan’s age and serv-
21 ice requirements and who would, but
22 for any prior amendment ceasing ac-
23 cruals, be eligible for an accrual under
24 the plan.

1 “(II) SPECIAL RULE REGARDING
2 MINIMUM BENEFIT ACCRUALS.—For
3 purposes of this clause, the employees
4 described in this clause shall be treat-
5 ed as receiving minimum benefit ac-
6 cruals for a plan year if all such em-
7 ployees are accruing a benefit and—

8 “(aa) the rate of benefit ac-
9 crual for any such employee is
10 not less than the greater of—

11 “(AA) the rate of ben-
12 efit accrual that would have
13 been applied to the employee
14 under the benefit formula in
15 effect on July 1, 2009, dis-
16 regarding any amendments
17 to the plan adopted after
18 June 30, 2009, or

19 “(BB) the rate of ben-
20 efit accrual that would have
21 applied to the employee
22 under the benefit formula in
23 effect as of the last date
24 prior to the effective date of
25 any plan amendment adopt-

1 ed prior to July 1, 2009,
2 that ceased providing benefit
3 accruals based on additional
4 service credit with respect to
5 such employee, or

6 “(bb) the target normal cost
7 (without regard to plan adminis-
8 trative expenses) for such plan
9 year with respect to such employ-
10 ees is at least 3 percent of the
11 aggregate compensation (as de-
12 fined in section 415(c)(3)) of
13 such employees for such plan
14 year.

15 Solely for purposes of this paragraph,
16 target normal cost shall be determined
17 by using 5 percent in lieu of the inter-
18 est rate applicable under subsection
19 (h) and by using the mortality tables
20 described in subsection (h)(3)(A).

21 “(iii) DEFINED CONTRIBUTION
22 PLAN.—

23 “(I) IN GENERAL.—A defined
24 benefit plan is described in this clause
25 if—

1 “(aa) the defined benefit
2 plan satisfies clause (ii) except
3 with respect to employees whose
4 failure to accrue a minimum ben-
5 efit is attributable to a plan
6 amendment adopted prior to July
7 1, 2009, and

8 “(bb) the plan sponsor (or
9 any member of such sponsor’s
10 controlled group) maintains a de-
11 fined contribution plan under
12 which allocations are made on be-
13 half of each employee whose fail-
14 ure to accrue a benefit under the
15 defined benefit plan causes the
16 defined benefit plan not to be de-
17 scribed in clause (ii).

18 “(II) MINIMUM ALLOCATIONS.—

19 Such allocations shall not be less than
20 3 percent of an employee’s compensa-
21 tion (as determined in accordance
22 with section 414(s)). A defined con-
23 tribution plan shall not fail to satisfy
24 the requirements of this clause solely
25 by reason of the failure to make allo-

1 cations on behalf of one or more high-
2 ly compensated employees (as defined
3 in section 414(q)).

4 “(III) ALLOCATIONS TAKEN INTO
5 ACCOUNT.—For purposes of this
6 clause, only the following types of al-
7 locations may be taken into account:

8 “(aa) Employer contribu-
9 tions or forfeitures allocated
10 without regard to whether an em-
11 ployee makes an elective con-
12 tribution or an employee con-
13 tribution.

14 “(bb) In the case of the first
15 plan year ending after June 30,
16 2009, matching contributions (as
17 defined in section 401(m)(4)(A)).

18 “(iv) NONQUALIFIED PLAN.—

19 “(I) IN GENERAL.—A defined
20 benefit plan is described in this clause
21 if no key employee (as defined in sec-
22 tion 416(i) without regard to para-
23 graph (5) thereof) accrues any new
24 benefits for the plan year under any
25 nonqualified deferred compensation

1 plan (as defined in section 409A(d))
2 maintained by the sponsor of the de-
3 fined benefit plan or by any member
4 of such sponsor's controlled group.

5 “(II) REVOCATION OF CERTAIN
6 ELECTIONS.—The Secretary shall pro-
7 vide rules under section 409A under
8 which elections to defer compensation
9 made prior to the date of enactment
10 of this clause may be revoked by an
11 employee within 180 days after the
12 date of enactment of this clause, but
13 only to the extent that, pursuant to
14 this clause, such elections could other-
15 wise cause a failure of the employee
16 to—

17 “(aa) earn compensation
18 under an arrangement that, but
19 for the election, is not a non-
20 qualified deferred compensation
21 plan (as defined in section
22 409A(d)), and

23 “(bb) earn compensation
24 that is not payable to the em-

1 employee in another form or under
2 a different arrangement.

3 “(v) MULTIPLE EMPLOYER PLANS.—

4 In the case of a defined benefit plan de-
5 scribed in section 413(c)(4)(B), such plan
6 shall be treated as an active plan if such
7 plan satisfies clause (ii), (iii), or (iv) with
8 respect to at least 85 percent of the em-
9 ployers participating in such plan. In ap-
10 plying the 85 percent requirement, dif-
11 ferent employers may satisfy different
12 clauses.

13 “(vi) CONTROLLED GROUP.—For pur-
14 poses of this paragraph, the term ‘con-
15 trolled group’ means all employers treated
16 as a single employer pursuant to sub-
17 sections (b) and (c) of section 414.”.

18 (2) CONFORMING AMENDMENT.—Paragraph (1)
19 of section 430(e) of such Code is amended by strik-
20 ing “the shortfall amortization bases for such plan
21 year and each of the 6 preceding plan years” and in-
22 serting “any shortfall amortization base which has
23 not been fully amortized under this subsection”.

1 (3) AMENDMENT TO SECTION 409A.—Paragraph
2 (3) of section 409A(a) of the Internal Revenue Code
3 of 1986 is amended to read as follows:

4 “(3) ACCELERATION OF BENEFITS.—

5 “(A) IN GENERAL.—The requirements of
6 this paragraph are met if the plan does not per-
7 mit the acceleration of the time or schedule of
8 any payment under the plan, except as provided
9 in regulations by the Secretary. The require-
10 ments of this paragraph shall not be treated as
11 satisfied if the plan makes any payment de-
12 scribed in subparagraph (B) or (C).

13 “(B) EXCESS PAYMENTS FOR CERTAIN AD-
14 JUSTED FUNDING TARGET ATTAINMENT PER-
15 CENTAGES BY ACTIVE PLAN.—A payment is de-
16 scribed in this subparagraph if—

17 “(i) such payment is made during a
18 year in which a defined benefit plan main-
19 tained by the employer sponsoring a non-
20 qualified deferred compensation plan is re-
21 quired to be an active plan under section
22 430(c)(2)(E) or section 107(e) of the Pen-
23 sion Protection Act of 2006, and such de-
24 fined benefit plan has not otherwise failed

1 to be an active plan in such plan year or
2 any prior plan year,

3 “(ii) such defined benefit plan is not
4 described in clause (ii) or (iii) of section
5 430(e)(2)(G) (modified, if applicable by
6 section 107(f)(5) of the Pension Protection
7 Act of 2006),

8 “(iii) such defined benefit plan is de-
9 scribed in paragraph (1) or (3) of section
10 436(d)(or would be if section 430(g)(3)(C)
11 did not apply), and

12 “(iv) the nonqualified deferred com-
13 pensation plan makes any payment in ex-
14 cess of the amounts that would be per-
15 mitted if the requirements of such para-
16 graph (1) or (3), as applicable, applied to
17 such plan.

18 In the case of a defined benefit plan to which
19 section 107 of the Pension Protection Act of
20 2006 applies, clauses (iii) and (iv) shall apply
21 based on rules similar to the rules of section
22 436, as prescribed by the Secretary, except that
23 the parenthetical regarding section
24 430(g)(3)(C) shall not apply. Under rules pre-
25 scribed by the Secretary, a plan shall not fail to

1 satisfy the requirements of this subsection sole-
2 ly by reason of a modification with respect to
3 the time and form of distribution that is con-
4 sistent with the requirements of this subpara-
5 graph.

6 “(C) EXCESS PAYMENTS BY REASON OF
7 CERTAIN INTEREST RATES AND MORTALITY AS-
8 SUMPTIONS.—A payment is described in this
9 subparagraph if—

10 “(i) the requirements of clauses (i)
11 and (ii) of subparagraph (B) are satisfied,
12 and

13 “(ii) the nonqualified deferred com-
14 pensation plan makes any payment in ex-
15 cess of the amount that would be payable
16 if such plan used the interest rate and
17 mortality assumptions from the defined
18 benefit plan described in section 401(a)
19 that would create the smallest payments,
20 determined on a present value basis using
21 the interest rate and mortality assump-
22 tions described in section 430(h).

23 For purposes of this subparagraph, all defined
24 benefit plans maintained by the employer shall
25 be taken into account.”.

1 (c) EFFECTIVE DATE.—The amendments made by
2 this section shall apply to plan years beginning after De-
3 cember 31, 2007.

4 **SEC. 102. EXPANSION OF CORRIDOR WITHIN WHICH SIN-**
5 **GLE-EMPLOYER DEFINED BENEFIT PLANS**
6 **ARE ALLOWED TO AVERAGE ASSET VALUES.**

7 (a) AMENDMENT TO ERISA.—Paragraph (3) of sec-
8 tion 303(g) of the Employee Retirement Income Security
9 Act of 1974 is amended by adding at the end the following
10 new subparagraphs:

11 “(C) SPECIAL RULE.—In the case of any
12 applicable plan year, subparagraph (B)(iii) shall
13 be applied—

14 “(i) by substituting ‘80 percent’ for
15 ‘90 percent’, and

16 “(ii) by substituting ‘120 percent’ for
17 ‘110 percent’.

18 “(D) APPLICABLE PLAN YEAR.—For pur-
19 poses of this paragraph, the term ‘applicable
20 plan year’ means—

21 “(i) except as provided in clauses (ii)
22 and (iii), any plan year beginning in 2009
23 or 2010,

24 “(ii) in the case of a plan with a plan
25 year beginning after October 31 and before

1 January 1, any plan year beginning in
2 2008 or 2009, and

3 “(iii) in the case of a plan for which
4 the valuation date is not the first day of
5 the plan year, any plan year beginning in
6 2008 or 2009.”.

7 (b) AMENDMENT TO INTERNAL REVENUE
8 CODE OF 1986.—Paragraph (3) of section 430(g) of the
9 Internal Revenue Code of 1986 is amended by adding at
10 the end the following new subparagraphs:

11 “(C) SPECIAL RULE.—In the case of any
12 applicable plan year, subparagraph (B)(iii) shall
13 be applied—

14 “(i) by substituting ‘80 percent’ for
15 ‘90 percent’, and

16 “(ii) by substituting ‘120 percent’ for
17 ‘110 percent’.

18 “(D) APPLICABLE PLAN YEAR.—For pur-
19 poses of this paragraph, the term ‘applicable
20 plan year’ means—

21 “(i) except as provided in clauses (ii)
22 and (iii), any plan year beginning in 2009
23 or 2010,

24 “(ii) in the case of a plan with a plan
25 year beginning after October 31 and before

1 January 1, any plan year beginning in
2 2008 or 2009, and

3 “(iii) in the case of a plan for which
4 the valuation date is not the first day of
5 the plan year, any plan year beginning in
6 2008 or 2009.”.

7 (c) EFFECTIVE DATE.—The amendments made by
8 this section shall apply to plan years beginning after De-
9 cember 31, 2007.

10 **SEC. 103. LOOKBACK FOR BENEFIT ACCRUAL RESTRIC-**
11 **TION.**

12 (a) AMENDMENT TO ERISA.—Subsection (g) of sec-
13 tion 206 of the Employee Retirement Income Security Act
14 of 1974 is amended by adding at the end thereof the fol-
15 lowing:

16 “(12) SPECIAL RULE FOR CERTAIN YEARS.—
17 For purposes of paragraph (4) only—

18 “(A) IN GENERAL.—For plan years begin-
19 ning after October 31, 2008, and before No-
20 vember 1, 2010, the adjusted funding target at-
21 tainment percentage of a plan for purposes of
22 paragraph (4) shall be the greater of—

23 “(i) such percentage, as determined
24 without regard to this paragraph, or

1 “(ii) the adjusted funding target at-
2 tainment percentage for such plan for the
3 plan year beginning after October 31,
4 2007, and before November 1, 2008, as
5 determined under rules prescribed by the
6 Secretary of the Treasury.

7 “(B) SPECIAL RULE.—In the case of a
8 plan for which the valuation date is not the
9 first day of the plan year—

10 “(i) subparagraph (A) shall apply to
11 plan years beginning after December 31,
12 2007, and before January 1, 2010, and

13 “(ii) subparagraph (A)(ii) shall apply
14 based on the last plan year beginning be-
15 fore November 1, 2007, as determined
16 under rules prescribed by the Secretary of
17 the Treasury.”.

18 (b) AMENDMENT TO INTERNAL REVENUE
19 CODE OF 1986.—Section 436 of the Internal Revenue
20 Code of 1986 is amended by adding the following at the
21 end thereof:

22 “(n) SPECIAL RULE FOR CERTAIN YEARS.—For pur-
23 poses of subsection (e) only—

24 “(1) IN GENERAL.—For plan years beginning
25 after October 31, 2008, and before November 1,

1 2010, the adjusted funding target attainment per-
2 centage of a plan for purposes of subsection (e) shall
3 be the greater of—

4 “(A) such percentage, as determined with-
5 out regard to this subsection, or

6 “(B) the adjusted funding target attain-
7 ment percentage for such plan for the plan year
8 beginning after October 31, 2007, and before
9 November 1, 2008, as determined under rules
10 prescribed by the Secretary.

11 “(2) SPECIAL RULE.—In the case of a plan for
12 which the valuation date is not the first day of the
13 plan year—

14 “(A) paragraph (1) shall apply to plan
15 years beginning after December 31, 2007, and
16 before January 1, 2010, and

17 “(B) paragraph (1)(B) shall apply based
18 on the last plan year beginning before Novem-
19 ber 1, 2007, as determined under rules pre-
20 scribed by the Secretary.”.

21 (c) INTERACTION WITH WRERA RULE.—Section
22 203 or the Worker, Retiree, and Employer Recovery Act
23 of 2008 shall apply to a plan for any plan year in lieu
24 of the amendments made by this section only to the extent
25 that such section produces a higher adjusted funding tar-

1 get attainment percentage for such plan for such year. In
2 all other cases, such section shall not be applicable to any
3 plan.

4 (d) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply to plan years beginning after October 31,
8 2008.

9 (2) SPECIAL RULE.—In the case of a plan for
10 which the valuation date is not the first day of the
11 plan year, the amendments made by this section
12 shall apply to plan years beginning after December
13 31, 2007.

14 **SEC. 104. LOOKBACK FOR CREDIT BALANCE RULE.**

15 (a) AMENDMENT TO ERISA.—Paragraph (3) of sec-
16 tion 303(f) of the Employee Retirement Income Security
17 Act of 1974 is amended by adding the following at the
18 end thereof:

19 “(D) SPECIAL RULE FOR CERTAIN
20 YEARS.—

21 “(i) IN GENERAL.—For purposes of
22 applying subparagraph (C) for plan years
23 beginning after October 31, 2009, and be-
24 fore November 1, 2011, the ratio deter-
25 mined under such subparagraph for the

1 preceding plan year shall be the greater
2 of—

3 “(I) such ratio, as determined
4 without regard to this subparagraph,
5 or

6 “(II) the ratio for such plan for
7 the plan year beginning after October
8 31, 2007, and before November 1,
9 2008, as determined under rules pre-
10 scribed by the Secretary of the Treas-
11 ury.

12 “(ii) SPECIAL RULE.—In the case of a
13 plan for which the valuation date is not the
14 first day of the plan year—

15 “(I) clause (i) shall apply to plan
16 years beginning after December 31,
17 2008, and before January 1, 2011,
18 and

19 “(II) clause (i)(II) shall apply
20 based on the last plan year beginning
21 before November 1, 2007, as deter-
22 mined under rules prescribed by the
23 Secretary of the Treasury.”.

24 (b) AMENDMENT TO INTERNAL REVENUE
25 CODE OF 1986.—Paragraph (3) of section 430(f) of the

1 Internal Revenue Code of 1986 is amended by adding the
2 following at the end thereof:

3 “(D) SPECIAL RULE FOR CERTAIN
4 YEARS.—

5 “(i) IN GENERAL.—For purposes of
6 applying subparagraph (C) for plan years
7 beginning after October 31, 2009, and be-
8 fore November 1, 2011, the ratio deter-
9 mined under such subparagraph for the
10 preceding plan year of a plan shall be the
11 greater of—

12 “(I) such ratio, as determined
13 without regard to this subsection, or

14 “(II) the ratio for such plan for
15 the plan year beginning after October
16 31, 2007 and before November 1,
17 2008, as determined under rules pre-
18 scribed by the Secretary.

19 “(ii) SPECIAL RULE.—In the case of a
20 plan for which the valuation date is not the
21 first day of the plan year—

22 “(I) clause (i) shall apply to plan
23 years beginning after December 31,
24 2007, and before January 1, 2010,
25 and

1 “(II) clause (i)(II) shall apply
2 based on the last plan year beginning
3 before November 1, 2007, as deter-
4 mined under rules prescribed by the
5 Secretary.”.

6 (c) EFFECTIVE DATE.—

7 (1) IN GENERAL.—Except as provided in para-
8 graph (2), the amendments made by this section
9 shall apply to plan years beginning after October 31,
10 2009.

11 (2) SPECIAL RULE.—In the case of a plan for
12 which the valuation date is not the first day of the
13 plan year, the amendments made by this section
14 shall apply to plan years beginning after December
15 31, 2008.

16 **SEC. 105. CLARIFICATION OF TREATMENT OF EXPENSES.**

17 (a) AMENDMENTS TO ERISA.—

18 (1) IN GENERAL.—Clause (ii) of section
19 303(b)(1)(A) of the Employee Retirement Income
20 Security Act of 1974 is amended by striking “plan-
21 related expenses” and inserting “plan-related admin-
22 istrative expenses”.

23 (2) CONFORMING AMENDMENT.—Subclause (II)
24 of section 303(i)(2)(A)(i) of such Act is amended by

1 striking “plan-related expenses” and inserting
2 “plan-related administrative expenses”.

3 (b) AMENDMENTS TO INTERNAL REVENUE
4 CODE OF 1986.—

5 (1) IN GENERAL.—Clause (ii) of section
6 430(b)(1)(A) of the Internal Revenue Code of 1986
7 is amended by striking “plan-related expenses” and
8 inserting “plan-related administrative expenses”.

9 (2) CONFORMING AMENDMENT.—Subclause (II)
10 of section 430(i)(2)(A)(i) of such Code is amended
11 by striking “plan-related expenses” and inserting
12 “plan-related administrative expenses”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall take effect as if included in paragraphs
15 (1)(A), (1)(F)(i), (2)(A), and (2)(F)(i) of section 101(b)
16 of the Worker, Retiree, and Employer Recovery Act of
17 2008.

18 **SEC. 106. INFORMATION REPORTING.**

19 (a) IN GENERAL.—Paragraph (1) of section 4010(b)
20 of the Employee Retirement Security Act of 1974 is
21 amended by striking “80” and inserting “90”.

22 (b) FUNDING TARGET ATTAINMENT PERCENTAGE.—
23 Subparagraph (B) of section 4010(d)(2) of such Act is
24 amended by striking “303(d)(2).” and inserting

1 “303(d)(2), without regard to the reduction under section
2 303(f)(4)(B).”.

3 (c) CONFIDENTIALITY.—Subsection (c) of section
4 4010 of such Act is amended—

5 (1) by striking “and no such information or
6 documentary material may be made public,” and

7 (2) by adding at the end the following: “All
8 parties, governmental or otherwise, receiving the in-
9 formation (or summary report of such information)
10 required to be provided under this section shall be
11 required to—

12 “(1) ensure that the information received will
13 be kept confidential,

14 “(2) use the information only for the purpose
15 for which it was requested, and

16 “(3) not further disclose the information except
17 to accomplish that purpose, unless a separate con-
18 sent from the taxpayer is obtained.

19 Such requirements shall not apply to information provided
20 under this section that is otherwise publicly available. The
21 corporation shall notify each person providing information
22 under this section of any public disclosure of such infor-
23 mation not permitted by this subsection within a reason-
24 able time of such disclosure becoming known to the cor-
25 poration. If any party, governmental or otherwise, makes

1 an unauthorized disclosure, the person required to provide
2 such information under this section may bring suit against
3 such party in Federal district court. No liability results
4 from a disclosure based upon a good faith, but erroneous,
5 interpretation of this section. Upon a finding of a liability,
6 such person can recover an amount not to exceed
7 \$100,000 per act of unauthorized disclosure plus reason-
8 able attorney fees. The person shall have two years from
9 the date of discovery of the unauthorized disclosure to
10 bring suit.”.

11 (d) EFFECTIVE DATE.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2), the amendments made by this section
14 shall apply to plan years beginning after December
15 31, 2009.

16 (2) CONFIDENTIALITY.—The amendment made
17 by subsection (c) shall take effect on the date of the
18 enactment of this Act.

19 **SEC. 107. BENEFIT RESTRICTION EFFECTIVE DATE FOR**
20 **COLLECTIVELY BARGAINED PLANS.**

21 (a) AMENDMENTS WITH RESPECT TO ERISA.—

22 (1) PLAN AMENDMENTS.—Paragraph (2) of
23 section 103(c) of the Pension Protection Act of 2006
24 is amended—

1 (A) by striking “In the case” and inserting
2 “Except as provided in paragraph (3), in the
3 case”, and

4 (B) by striking “the amendments made by
5 this section” and inserting “section 206(g)(2)
6 of the Employee Retirement Income Security
7 Act of 1974 (and other provisions of such sec-
8 tion 206(g) to the extent that they apply to
9 such section 206(g)(2)), as added by this sec-
10 tion,”.

11 (2) OTHER BENEFIT RESTRICTIONS.—

12 (A) IN GENERAL.—Subsection (c) of sec-
13 tion 103 of the Pension Protection Act of 2006
14 is amended by adding at the end thereof the
15 following:

16 “(3) COLLECTIVE BARGAINING DELAY EXCEPT
17 REGARDING CERTAIN PLAN AMENDMENTS.—

18 “(A) IN GENERAL.—In the case of a plan
19 maintained pursuant to 1 or more collective
20 bargaining agreements between employee rep-
21 resentatives and 1 or more employers, the
22 amendments made by this section shall apply to
23 plan years beginning after December 31, 2011,
24 except that paragraph (2) shall apply to plan
25 amendments made pursuant to a collective bar-

1 gaining agreement ratified after the date of in-
2 troduction of the Preserve Benefits and Jobs
3 Act of 2009.

4 “(B) TRANSITION RULE.—

5 “(i) In the case of a plan described in
6 clause (ii), such plan shall not be required
7 to comply with this section and the amend-
8 ments made by this section until the date
9 that is 60 days after the date of the enact-
10 ment of this paragraph, but such a plan
11 may comply on any otherwise permitted
12 earlier date.

13 “(ii) A plan is described in this clause
14 if a limit on benefits or benefit accruals
15 has been or is, pursuant to section 206(g)
16 of the Employee Retirement Income Secu-
17 rity Act of 1974 and section 436 of the In-
18 ternal Revenue Code of 1986, in effect
19 with respect to such plan as of the date of
20 the enactment of this paragraph.”.

21 (3) CONFORMING AMENDMENT.—The heading
22 of paragraph (2) of section 103(c) of the Pension
23 Protection Act of 2006 is amended to read as fol-
24 lows: “COLLECTIVE BARGAINING EXCEPTION RE-
25 GARDING CERTAIN PLAN AMENDMENTS”.

1 (b) AMENDMENTS WITH RESPECT TO INTERNAL
2 REVENUE CODE OF 1986.—

3 (1) PLAN AMENDMENTS.—Paragraph (2) of
4 section 113(b) of the Pension Protection Act of
5 2006 is amended by—

6 (A) striking “In the case” and inserting
7 “Except as provided in paragraph (3), in the
8 case”, and

9 (B) striking “the amendments made by
10 this section” and inserting “section 436(c) of
11 the Internal Revenue Code of 1986 (and other
12 provisions such section 436 to the extent that
13 they apply to such section 436(c)), as added by
14 this section,”.

15 (2) OTHER BENEFIT RESTRICTIONS.—

16 (A) IN GENERAL.—Subsection (b) of sec-
17 tion 113 of the Pension Protection Act of 2006
18 is amended by adding at the end thereof the
19 following:

20 “(3) COLLECTIVE BARGAINING DELAY EXCEPT
21 REGARDING CERTAIN PLAN AMENDMENTS.—

22 “(A) IN GENERAL.—In the case of a plan
23 maintained pursuant to 1 or more collective
24 bargaining agreements between employee rep-
25 resentatives and 1 or more employers, the

1 amendments made by this section shall apply to
2 plan years beginning after December 31, 2011,
3 except that paragraph (2) shall apply to plan
4 amendments made pursuant to a collective bar-
5 gaining agreement ratified after the date of in-
6 troduction of the Preserve Benefits and Jobs
7 Act of 2009.

8 “(B) TRANSITION RULE.—

9 “(i) In the case of a plan described in
10 clause (ii), a plan shall not be required to
11 comply with this section and the amend-
12 ments made by this section until the date
13 that is 60 days after the date of the enact-
14 ment of this paragraph, but such a plan
15 may comply on any otherwise permitted
16 earlier date.

17 “(ii) A plan is described in this clause
18 if a limit on benefits or benefit accruals
19 has been or is, pursuant to section 206(g)
20 of the Employee Retirement Income Secu-
21 rity Act of 1974 and section 436 of the In-
22 ternal Revenue Code of 1986, in effect
23 with respect to such plan as of the date of
24 the enactment of this paragraph.”.

1 (3) CONFORMING AMENDMENT.—The heading
2 of paragraph (2) of section 103(b) of the Pension
3 Protection Act of 2006 is amended to read as fol-
4 lows: “COLLECTIVE BARGAINING EXCEPTION RE-
5 GARDING CERTAIN PLAN AMENDMENTS”.

6 (c) EFFECTIVE DATE.—Except as provided in the
7 amendments made by this section, the amendments made
8 by this section shall apply as if included in sections 103(c)
9 and 113(b) of such Act.

10 **SEC. 108. SOCIAL SECURITY LEVEL-INCOME OPTIONS.**

11 (a) AMENDMENT TO ERISA.—Subparagraph (E) of
12 section 206(g)(3) of the Employee Retirement Income Se-
13 curity Act of 1974 is amended by adding at the end there-
14 of the following:

15 “For purposes of this paragraph, any stream of pay-
16 ments that is structured to be similar in amount and
17 duration to social security supplements described in
18 the last sentence of section 204(b)(1)(G) shall be
19 treated in the same manner as such supplements.”.

20 (b) AMENDMENT TO INTERNAL REVENUE
21 CODE OF 1986.—Paragraph (5) of section 436(d) of the
22 Internal Revenue Code of 1986 is amended by adding at
23 the end thereof the following:

24 “For purposes of this subsection, any stream of payments
25 that is structured to be similar in amount and duration

1 to social security supplements described in the last sen-
2 tence of section 411(a)(9) shall be treated in the same
3 manner as such supplements.”.

4 (c) EFFECTIVE DATE.—

5 (1) IN GENERAL.—Except as provided in para-
6 graph (2), the amendments made by this section
7 shall apply as if included in sections 103(a) and
8 113(a)(1) of the Pension Protection Act of 2006.

9 (2) TRANSITION RULE.—

10 (A) In the case of a plan described in sub-
11 paragraph (B), a plan shall not be required to
12 comply with the amendments made by this sec-
13 tion until the date that is 60 days after the
14 date of enactment of this Act, but such a plan
15 may comply on any otherwise permitted earlier
16 date.

17 (B) A plan is described in this subpara-
18 graph (B) if a limit on prohibited payments is
19 or has been, pursuant to section 206(g) of the
20 Employee Retirement Income Security Act of
21 1974 and section 436 of the Internal Revenue
22 Code of 1986, in effect with respect to such
23 plan as of the date of enactment of this Act.

1 **SEC. 109. PBGC GUARANTEE.**

2 (a) GUARANTEE.—Section 4022 of the Employee re-
3 tirement Income Security Act of 1974 is amended by
4 striking subsection (g).

5 (b) ALLOCATION OF ASSETS AMONG PRIORITY
6 GROUPS.—Section 4044 of such Act is amended by strik-
7 ing subsection (e).

8 (c) EFFECTIVE DATE.—The amendments made by
9 this section shall be as if included in section 404 of the
10 Pension Protection Act of 2006, except that such amend-
11 ments shall not apply to proceedings initiated under title
12 11, United States Code, or under any similar Federal law
13 or law of a State or political subdivision, on or before the
14 date of enactment of this Act.

15 **SEC. 110. APPLICATION OF EXTENDED AMORTIZATION PE-**
16 **RIOD TO PLANS SUBJECT TO PRIOR LAW**
17 **FUNDING RULES.**

18 (a) IN GENERAL.—Title I of the Pension Protection
19 Act of 2006 is amended by redesignating section 107 as
20 section 108 and by inserting the following after section
21 106:

22 **“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PE-**
23 **RIODS TO PLANS WITH DELAYED EFFECTIVE**
24 **DATE.**

25 “(a) IN GENERAL.—In the case of plans to which sec-
26 tion 104, 105, or 106 of this Act apply, section 302 of

1 the Employee Retirement Income Security Act of 1974
2 and section 412 of the Internal Revenue Code of 1986
3 (as in effect before the amendments made by this subtitle
4 and subtitle B) shall apply in the manner described in this
5 section. All references in this section to ‘such Act’ or ‘such
6 Code’ shall be to such Act or such Code as in effect before
7 the amendments made by this subtitle and subtitle B.

8 “(b) APPLICATION OF 2 AND 7 RULE.—

9 “(1) IN GENERAL.—In the case of an active
10 plan to which this subsection applies, section 302 of
11 such Act and section 412 of such Code shall apply
12 in the manner described in this subsection.

13 “(2) TWO YEAR SUSPENSION OF DEFICIT RE-
14 Duction CONTRIBUTIONS FOR CERTAIN PLANS.—
15 For purposes of applying section 302(d)(9) of such
16 Act and section 412(l)(9) of such Code to a plan de-
17 scribed in paragraph (1), the funded current liability
18 percentage for such plan for any applicable plan
19 year shall be the funded current liability percentage
20 of such plan for the pre-applicable plan year.

21 “(3) CALCULATION OF DEFICIT REDUCTION
22 CONTRIBUTION.—For purposes of applying section
23 302(d) of such Act and section 412(l) of such Code
24 to a plan to which such subsections apply (after tak-
25 ing into account paragraph (2)), the applicable per-

1 centage described in section 302(d)(4)(C) of such
2 Act and section 412(l)(4)(C) of such Code shall be
3 the third segment rate described in sections 104(b),
4 105(b), and 106(b) of this Act, provided that such
5 applicable percentage shall only apply to the in-
6 creased unfunded new liability. The applicable per-
7 centage determined without regard to this section
8 shall apply to the excess of the unfunded new liabil-
9 ity over the increased unfunded new liability.

10 “(c) APPLICATION OF 15-YEAR AMORTIZATION.—

11 “(1) IN GENERAL.—In the case of an active
12 plan to which this subsection applies, section 302 of
13 such Act and section 412 of such Code shall apply
14 in the manner described in this subsection.

15 “(2) CALCULATION OF DEFICIT REDUCTION
16 CONTRIBUTION.—For purposes of applying section
17 302(d) of such Act and section 412(l) of such Code
18 to a plan described in paragraph (1), the applicable
19 percentage described in section 302(d)(4)(C) of such
20 Act and section 412(l)(4)(C) of such Code for any
21 pre-effective date plan year shall be the ratio of—

22 “(A) the annual installments payable in
23 each year if the increased unfunded new liabil-
24 ity for such plan year were amortized over 15
25 years, using an interest rate equal to the third

1 segment rate described in sections 104(b),
2 105(b), and 106(b) of this Act, to

3 “(B) the increased unfunded new liability
4 for such plan year.

5 However, such applicable percentage shall only apply
6 to the increased unfunded new liability. The applica-
7 ble percentage determined without regard to this
8 section shall apply to the excess of the unfunded new
9 liability over the increased unfunded new liability.

10 “(d) ELECTION.—The plan sponsor may, with re-
11 spect to a plan, elect whether to apply subsection (b) or
12 subsection (c) or whether neither subsection shall apply.
13 Such election shall be made at such times, and in such
14 form and manner, as shall be prescribed by the Secretary
15 of the Treasury, and may be revoked only with the consent
16 of the Secretary of the Treasury. In the absence of a time-
17 ly election regarding which subsection shall apply to a
18 plan, neither subsection shall apply to such plan.

19 “(e) FAILURE TO MAINTAIN ACTIVE PLAN.—If the
20 minimum contribution required for a plan to avoid an ac-
21 cumulated funding deficiency under section 302 of such
22 Act and section 412 of such Code is determined under
23 subsection (b) or (c) for a plan year, the plan must remain
24 an active plan for the subsequent plan year. If such plan
25 fails to be an active plan in such plan year, the minimum

1 contribution requirement to avoid an accumulated funding
2 deficiency shall be increased by all amounts by which such
3 minimum contribution was reduced by the application of
4 subsection (b) or (c), plus interest on such amounts at
5 the third segment rate described in sections 104(b),
6 105(b), and 106(b) of this Act. However, any such in-
7 crease in such minimum contribution shall not require a
8 contribution to the extent that the contribution would
9 cause the value of plan assets (determined under section
10 302(c)(2) of such Act and section 412(c)(2) of such Code)
11 to exceed the current liability of such plan for such year.

12 “(f) DEFINITIONS.—

13 “(1) APPLICABLE PLAN YEAR.—For purposes
14 of this section, the term ‘applicable plan year’
15 means—

16 “(A) except as provided in subparagraphs
17 (B), (C), and (D), any plan year beginning in
18 2010 or 2011,

19 “(B) in the case of a plan with a plan year
20 beginning after June 30 and before January 1,
21 any plan year beginning in 2009 or 2010,

22 “(C) in the case of a plan for which the
23 valuation date is not the first day of the plan
24 year, any plan year beginning in 2009 or 2010,
25 and

1 “(D) in the case of a plan to which section
2 106 of the Pension Protection Act of 2006 ap-
3 plies, subparagraphs (A), (B), and (C) shall be
4 applied by inserting ‘2008’, ‘2009’, or ‘2010’
5 for ‘2009’, ‘2010’, or ‘2011’, respectively, each
6 place such year is referenced.

7 “(2) PRE-APPLICABLE PLAN YEAR.—For pur-
8 poses of this section, the term ‘pre-applicable plan
9 year’ means, with respect to a plan, the second plan
10 year preceding the first applicable plan year of such
11 plan, except that in the case of a plan described in
12 paragraph (1)(D), such term means the first plan
13 year preceding the first applicable plan year of such
14 plan.

15 “(3) PRE-EFFECTIVE DATE PLAN YEAR.—For
16 purposes of this section, the term ‘pre-effective date
17 plan year’ means, with respect to a plan, any plan
18 year prior to the first year in which the amendments
19 made by this subtitle and subtitle B apply to the
20 plan, provided that the first pre-effective date plan
21 year shall be the first applicable plan year with re-
22 spect to the plan.

23 “(4) INCREASED UNFUNDED NEW LIABILITY.—
24 For purposes of this section, the term ‘increased un-
25 funded new liability’ means, with respect to a year,

1 the excess (if any) of the unfunded new liability over
2 the amount of unfunded new liability determined as
3 if the value of the plan's assets determined under
4 subsection 302(c)(2) of such Act and section
5 412(c)(2) of such Code equaled the product of the
6 current liability of the plan for the year multiplied
7 by the funded current liability percentage of the plan
8 for the pre-applicable plan year.

9 “(5) ACTIVE PLAN.—For purposes of this sec-
10 tion, the term ‘active plan’ shall have the meaning
11 given such term by section 303(c)(2)(G) of the Em-
12 ployee Retirement Income Security Act of 1974 and
13 in section 430(c)(2)(G) of the Internal Revenue
14 Code of 1986, except that ‘target normal cost’ (with-
15 out regard to plan administrative expenses) shall be
16 determined as if section 303 of the Employee Retire-
17 ment Income Security Act of 1974 and section 430
18 of the Internal Revenue Code of 1986 applied to
19 such plan with the modification regarding the inter-
20 est rate used, as set forth in section 303(e)(2)(G) of
21 the Employee Retirement Income Security Act of
22 1974 and in section 430(e)(2)(G) of the Internal
23 Revenue Code of 1986.

24 “(6) OTHER DEFINITIONS.—For purposes of
25 this section, the terms ‘funded current liability per-

1 centage’, ‘unfunded new liability’, and ‘current liabil-
2 ity’ shall have the meanings set forth in section
3 302(d) of such Act and section 412(l) of such
4 Code.”.

5 (b) ELIGIBLE CHARITY PLANS.—Section 104 of the
6 Pension Protection Act of 2006 is amended by—

7 (1) striking “eligible cooperative plan” wherever
8 it appears in subsections (a) and (b) and inserting
9 “eligible cooperative plan or an eligible charity
10 plan”, and

11 (2) adding at the end the following new sub-
12 section:

13 “(d) ELIGIBLE CHARITY PLAN DEFINED.—For pur-
14 poses of this section, a plan shall be treated as an eligible
15 charity plan for a plan year if the plan is maintained by
16 more than one employer and 100 percent of the employers
17 are described in section 501(e)(3) of such Code.”.

18 (c) EFFECTIVE DATE.—

19 (1) IN GENERAL.—The amendment made by
20 subsection (a) shall take effect as if included in the
21 Pension Protection Act of 2006.

22 (2) ELIGIBLE CHARITY PLAN.—The amend-
23 ments made by subsection (b) shall apply to plan
24 years beginning after December 31, 2008.

1 **SEC. 111. ADDITIONS TO FUNDING-BASED LIMITS ON BENE-**
2 **FITS AND BENEFITS ACCRUALS UNDER SIN-**
3 **GLE-EMPLOYER PLANS.**

4 (a) AMENDMENTS TO INTERNAL REVENUE
5 CODE OF 1986.—

6 (1) Subsection (c) of section 436 of the Internal
7 Revenue Code of 1986 is amended by redesignating
8 paragraph (3) as paragraph (4) and by inserting
9 after paragraph (2) the following:

10 “(3) SPECIAL LIMITATIONS ON AD HOC AMEND-
11 MENTS.—

12 “(A) IN GENERAL.—No ad hoc amendment
13 to a defined benefit plan which is a single em-
14 ployer plan which has the effect of increasing li-
15 abilities of the plan by reason of increases in
16 benefits, establishment of new benefits, chang-
17 ing the rate of benefit accrual, or changing the
18 rate of which benefits become nonforfeitable
19 may take effect during the plan year if the ad-
20 justed funding target attainment percentage for
21 such plan year is—

22 “(i) less than 120 percent, or

23 “(ii) would be less than 120 percent
24 taking into account such amendment.

25 “(B) EXEMPTION.—Subparagraph (A)
26 shall cease to apply with respect to any plan

1 year, effective as of the first day of the plan
2 year (or if later, the effective date of the
3 amendment), upon payment by the plan sponsor
4 of a contribution (in addition to any minimum
5 required contribution under section 430) equal
6 to—

7 “(i) in the case of subparagraph
8 (A)(i), the amount of the increase in the
9 funding target of the plan (under section
10 430) for the plan year attributable to the
11 amendment, and

12 “(ii) in the case of subparagraph
13 (A)(ii), the amount sufficient to result in
14 an adjusted funding target attainment per-
15 centage of 120 percent.

16 “(C) SPECIAL RULE.—An ad hoc amend-
17 ment that is otherwise permitted to take effect
18 under this subsection may not take effect unless
19 the plan provides that the accrued pension ben-
20 efits of any participant or beneficiary under the
21 plan become nonforfeitable in the same manner
22 which would be required if the plan had termi-
23 nated as of the effective date of such ad hoc
24 amendment. This subparagraph shall not apply

1 to an ad hoc amendment that takes effect by
2 reason of subparagraph (B)(i).

3 “(D) AD HOC AMENDMENT.—For purposes
4 of this paragraph, the term ‘ad hoc amendment’
5 means an amendment to a plan which—

6 “(i) increases the nonforfeitable bene-
7 fits payable to one or more participants,

8 “(ii) applies only to a subset of the
9 employees otherwise eligible to accrue ben-
10 efits under the plan,

11 “(iii) applies by its terms only to em-
12 ployees who, during a limited period of
13 time, terminate employment, and

14 “(iv) provides that the increase de-
15 scribed in clause (i) is payable in the form
16 of a prohibited payment (as defined in sub-
17 section (d)(5)).”.

18 (2) Paragraph (4) of section 436(c) of such
19 Code, as redesignated by paragraph (1), is amend-
20 ed—

21 (A) by inserting “(A)” before “Paragraph
22 (1)” and moving the text thereof 2 ems to the
23 right, and

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

1 “(B) Paragraph (3) shall not apply to any
2 amendment of a plan maintained pursuant to 1
3 or more collective bargaining agreements be-
4 tween employee representatives and 1 or more
5 employers.”.

6 (b) AMENDMENTS TO ERISA.—

7 (1) Paragraph (2) of section 206(g) of the Em-
8 ployee Retirement Income Security Act of 1974 is
9 amended by redesignating subparagraph (C) as sub-
10 paragraph (D) and by inserting after subparagraph
11 (B) the following:

12 “(C) SPECIAL LIMITATIONS ON AD HOC
13 AMENDMENTS.—

14 “(i) IN GENERAL.—No ad hoc amend-
15 ment to a defined benefit plan which is a
16 single employer plan which has the effect
17 of increasing liabilities of the plan by rea-
18 son of increases in benefits, establishment
19 of new benefits, changing the rate of ben-
20 efit accrual, or changing the rate of which
21 benefits become nonforfeitable may take ef-
22 fect during the plan year if the adjusted
23 funding target attainment percentage for
24 such plan year is—

25 “(I) less than 120 percent, or

1 “(II) would be less than 120 per-
2 cent taking into account such amend-
3 ment.

4 “(ii) EXEMPTION.—Clause (i) shall
5 cease to apply with respect to any plan
6 year, effective as of the first day of the
7 plan year (or if later, the effective date of
8 the amendment), upon payment by the
9 plan sponsor of a contribution (in addition
10 to any minimum required contribution
11 under section 303) equal to—

12 “(I) in the case of clause (i)(I),
13 the amount of the increase in the
14 funding target of the plan (under sec-
15 tion 303) for the plan year attrib-
16 utable to the amendment, and

17 “(II) in the case of clause (i)(II),
18 the amount sufficient to result in an
19 adjusted funding target attainment
20 percentage of 120 percent.

21 “(iii) SPECIAL RULE.—An ad hoc
22 amendment that is otherwise permitted to
23 take effect under this paragraph may not
24 take effect unless the plan provides that
25 the accrued pension benefits of any partici-

1 pant or beneficiary under the plan become
2 nonforfeitable in the same manner which
3 would be required if the plan had termi-
4 nated as of the effective date of such ad
5 hoc amendment. This subparagraph shall
6 not apply to an ad hoc amendment that
7 takes effect by reason of clause (ii)(I).

8 “(iv) AD HOC AMENDMENT.—For
9 purposes of this subparagraph, the term
10 ‘ad hoc amendment’ means an amendment
11 to a plan which—

12 “(I) increases the nonforfeitable
13 benefits payable to one or more par-
14 ticipants,

15 “(II) applies only to a subset of
16 the employees otherwise eligible to ac-
17 cruce benefits under the plan,

18 “(III) applies by its terms only to
19 employees who, during a limited pe-
20 riod of time, terminate employment,
21 and

22 “(IV) provides that the increase
23 described in subclause (I) is payable
24 in the form of a prohibited payment
25 (as defined in paragraph (3)(E)).”.

1 (2) Subparagraph (D) of section 202(g)(2) of
2 such Act, as redesignated by paragraph (1), is
3 amended—

4 (A) by inserting “(i)” before “Subpara-
5 graph (A)” and moving the text thereof 2 ems
6 to the right, and

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

8 “(ii) Subparagraph (C) shall not
9 apply to any amendment of a plan main-
10 tained pursuant to 1 or more collective
11 bargaining agreements between employee
12 representatives and 1 or more employers.”.

13 (c) EFFECTIVE DATE.—The amendments made by
14 this section shall apply to plan amendments adopted more
15 than 180 days after the date of the enactment of this Act.

16 **SEC. 112. REPORTABLE EVENTS.**

17 (a) IN GENERAL.—Section 4043 of the Employee Re-
18 tirement Income Security Act of 1974 is amended by re-
19 designating subsection (f) as subsection (g) and by insert-
20 ing after subsection (e) the following:

21 “(f) SPECIAL RULE.—

22 “(1) IN GENERAL.—A reportable event de-
23 scribed in paragraph (3) of subsection (c) (without
24 regard to this subsection) shall not be treated as oc-

1 curring with respect to a plan for an applicable plan
2 year if—

3 “(A) the number of employees of the con-
4 tributing sponsor is at least 80 percent of the
5 number of employees of the contributing spon-
6 sor at the beginning of the plan year, and is at
7 least 75 percent of the number of employees of
8 the contributing sponsor at the beginning of the
9 previous plan year,

10 “(B) the funded vested benefit percentage
11 (as defined for purposes of subsection
12 (b)(1)(B)) for the pre-applicable plan year was
13 at least 80 percent, and

14 “(C) the contributing sponsor notifies the
15 corporation of the use of the rule described in
16 this subsection by the date that such contrib-
17 uting sponsor would (but for this subsection) be
18 required to notify the corporation of an event
19 described in subsection (c)(3).

20 “(2) DEFINITIONS.—For purposes of this sub-
21 section—

22 “(A) EMPLOYEE.—The term ‘employee’
23 means, in connection with a contributing spon-
24 sor, an employee of the contributing sponsor or

1 of any member of such sponsor's controlled
2 group.

3 “(B) APPLICABLE PLAN YEAR.—The term
4 ‘applicable plan year’ means—

5 “(i) except as provided in this sub-
6 paragraph, any plan year beginning in
7 2010 or 2011,

8 “(ii) in the case of a plan with a plan
9 year beginning after October 31 and before
10 January 1, any plan year beginning in
11 2009 or 2010, and

12 “(iii) in the case of a plan for which
13 the valuation date is not the first day of
14 the plan year, any plan year beginning in
15 2009 or 2010.

16 “(C) PRE-APPLICABLE PLAN YEAR.—The
17 term ‘pre-applicable plan year’ means, in con-
18 nection with a plan, the second plan year pre-
19 ceding the first applicable plan year of such
20 plan.”.

21 (b) EFFECTIVE DATE.—The amendments made by
22 this section shall take effect on the date of the enactment
23 of this Act.

1 **TITLE II—MULTIEMPLOYER**
2 **PLANS**

3 **SEC. 201. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT**
4 **RULES; REPORTING CLARIFICATION.**

5 (a) AMORTIZATION PERIODS.—

6 (1) AMENDMENT TO ERISA.—Section 304(b) of
7 the Employee Retirement Income Security Act of
8 1974 is amended by adding at the end the following
9 new paragraph:

10 “(8) ELECTIVE SPECIAL RELIEF RULES.—

11 “(A) PLAN SPONSOR ELECTION.—

12 “(i) IN GENERAL.—Notwithstanding
13 any other provision of this subsection, ef-
14 fective with the actuarial valuation for ei-
15 ther of the first two plan years beginning
16 after August 31, 2008, the plan sponsor of
17 a multiemployer plan that meets the sol-
18 vency test in subparagraph (B) may elect
19 to use either the rule in clause (ii) or the
20 rule in clause (iii) in maintaining its fund-
21 ing standard account.

22 “(ii) COMBINED OUTSTANDING BAL-
23 ANCE.—Under this clause, the outstanding
24 balances of all amounts required to be am-
25 ortized under both paragraph (2) and

1 paragraph (3) may be combined into one
2 amount under each such paragraph, to be
3 amortized in equal annual installments
4 (until fully amortized) over a period of 30
5 plan years.

6 “(iii) CERTAIN INVESTMENT
7 LOSSES.—Under this clause, the total
8 amount of the net investment losses, if
9 any, incurred in either or both of the first
10 two plan years ending after August 31,
11 2008, may be charged as an item separate
12 from other experience losses and amortized
13 in equal annual installments (until fully
14 amortized) over a period of 30 plan years.

15 “(B) SOLVENCY TEST.—An election may
16 be made under this paragraph if the plan actu-
17 ary certifies that the plan is projected to have
18 sufficient assets to timely pay expected benefits
19 and anticipated expenditures over the amortiza-
20 tion period as extended.

21 “(C) RESTRICTION ON BENEFIT IN-
22 CREASES.—In the case of a plan for which a
23 rule described in subparagraph (A) is elected, in
24 addition to any other applicable restrictions on
25 benefit increases, an amendment increasing

1 benefits may not go into effect during the pe-
2 riod of two plan years immediately following the
3 plan year for which the rule is first effective,
4 unless—

5 “(i) the plan actuary certifies that
6 such increase is paid for out of additional
7 contributions not allocated to the plan at
8 the time the election was made and the
9 plan’s funded percentage and projected
10 credit balances for those two plan years
11 are reasonably expected to be generally at
12 the same levels as they would have been if
13 the benefit increase had not been adopted,
14 or

15 “(ii) the amendment is required as a
16 condition of qualification under part I of
17 subchapter D of chapter 1 of the Internal
18 Revenue Code of 1986 or to comply with
19 other applicable law.”.

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

24 “(8) ELECTIVE SPECIAL RELIEF RULES.—

25 “(A) PLAN SPONSOR ELECTION.—

1 “(i) IN GENERAL.—Notwithstanding
2 any other provision of this subsection, ef-
3 fective starting with the actuarial valuation
4 for either of the first two plan years begin-
5 ning after August 31, 2008, the plan spon-
6 sor of a multiemployer plan that meets the
7 solvency test in subparagraph (B) may
8 elect to use either the rule in clause (ii) or
9 the rule in clause (iii) in maintaining its
10 funding standard account.

11 “(ii) COMBINED OUTSTANDING BAL-
12 ANCE.—Under this clause, the outstanding
13 balances of all amounts required to be am-
14 ortized under both paragraph (2) and
15 paragraph (3) may be combined into one
16 amount under each such paragraph, to be
17 amortized in equal annual installments
18 (until fully amortized) over a period of 30
19 plan years.

20 “(iii) CERTAIN INVESTMENT
21 LOSSES.—Under this clause, the total
22 amount of the net investment losses, if
23 any, incurred in either or both of the first
24 two plan years ending after August 31,
25 2008, may be charged as an item separate

1 from other experience losses and amortized
2 in equal annual installments (until fully
3 amortized) over a period of 30 plan years.

4 “(B) SOLVENCY TEST.—An election may
5 be made under this paragraph if the plan actu-
6 ary certifies that the plan is projected to have
7 sufficient assets to timely pay expected benefits
8 and anticipated expenditures over the amortiza-
9 tion period as extended.

10 “(C) RESTRICTION ON BENEFIT IN-
11 CREASES.—In the case of a plan for which a
12 rule described in subparagraph (A) is elected, in
13 addition to any other applicable restrictions on
14 benefit increases, an amendment increasing
15 benefits may not go into effect during the pe-
16 riod of two plan years immediately following the
17 plan year for which the rule is first effective,
18 unless—

19 “(i) the plan actuary certifies that
20 such increase is paid for out of additional
21 contributions not allocated to the plan
22 when the election was made and the plan’s
23 funded percentage and projected credit bal-
24 ances for those two plan years are reason-
25 ably expected to be generally at the same

1 levels as they would have been if the ben-
2 efit increase had not been adopted, or

3 “(ii) the amendment is required as a
4 condition of qualification under part I of
5 subchapter D of chapter 1 or to comply
6 with other applicable law.”.

7 (b) AUTOMATIC AMORTIZATION EXTENSIONS.—

8 (1) AMENDMENT TO ERISA.—Section
9 304(d)(1)(A) of the Employee Retirement Income
10 Security Act of 1974 is amended—

11 (A) by striking “(not in excess of 5 years)”
12 and inserting “(not in excess of 10 years)”, and

13 (B) by redesignating subparagraph (C) as
14 subparagraph (D) and inserting after subpara-
15 graph (B) the following new subparagraph:

16 “(C) DEEMED APPROVAL.—

17 “(i) IN GENERAL.—An application
18 under this paragraph shall be deemed ap-
19 proved unless, within 45 days after it is
20 submitted, the Secretary notifies the plan
21 sponsor that the actuary has failed to cer-
22 tify to one or more of the criteria listed in
23 subparagraph (B).

24 “(ii) CORRECTIONS.—If, within 30
25 days after receiving a notice under this

1 subparagraph, the plan sponsor corrects
2 any omissions identified in the notice
3 under this subparagraph or otherwise dem-
4 onstrates that the actuary’s certification
5 satisfies subparagraph (B), the application
6 shall be deemed approved.”.

7 (2) AMENDMENT TO INTERNAL REVENUE CODE
8 OF 1986.—Section 431(d)(1)(A) of the Internal Rev-
9 enue Code of 1986 is amended—

10 (A) by striking “(not in excess of 5 years)”
11 and inserting “(not in excess of 10 years)”, and

12 (B) by redesignating subparagraph (C) as
13 subparagraph (D) and inserting after subpara-
14 graph (B) the following new subparagraph:

15 “(C) DEEMED APPROVAL.—

16 “(i) IN GENERAL.—An application
17 under this paragraph shall be deemed ap-
18 proved unless, within 45 days after it is
19 submitted, the Secretary notifies the plan
20 sponsor that the actuary has failed to cer-
21 tify to one or more of the criteria listed in
22 subparagraph (B).

23 “(ii) CORRECTIONS.—If, within 30
24 days after receiving a notice under this
25 subparagraph, the plan sponsor corrects

1 any omissions identified in the notice
2 under this subparagraph or otherwise dem-
3 onstrates that the actuary's certification
4 satisfies subparagraph (B), the application
5 shall be deemed approved.”.

6 (c) EXTENDED SMOOTHING PERIOD AND WIDER
7 ASSET VALUATION CORRIDOR FOR CERTAIN LOSSES.—

8 (1) IN GENERAL.—

9 (A) The Secretary of the Treasury shall
10 not treat the asset valuation method of a multi-
11 employer plan as unreasonable solely because
12 the plan elects to use either or both of the op-
13 tions described in subparagraph (B) or (C). A
14 plan may elect to use any or all of such options.
15 The election of such options shall apply for pur-
16 poses of sections 431 and 432 of the Internal
17 Revenue Code of 1986.

18 (B) With respect to net investment losses
19 incurred in either or both of the first two plan
20 years ending after August 31, 2008, the plan
21 may utilize a smoothing period of not more
22 than ten years.

23 (C) For either or both of the first two plan
24 years beginning after August 31, 2008, the
25 asset value reflected by the method may not be

1 more than 130 percent of the current fair mar-
2 ket value.

3 (2) DEEMED APPROVAL.—The election by a
4 plan of either or both of the options described in
5 paragraph (1) shall be deemed approved by the Sec-
6 retary of the Treasury under section 412(d)(1) of
7 the Internal Revenue Code of 1986.

8 (d) MODIFICATION OF CERTAIN AMORTIZATION EX-
9 TENSIONS UNDER PRIOR LAW.—Any amortization exten-
10 sions under the terms of section 412(e) of the Internal
11 Revenue Code of 1986 (prior to enactment of the Pension
12 Protection Act of 2006) that were granted to multiem-
13 ployer plans shall remain in effect notwithstanding the im-
14 pact of investment losses incurred by the plans in 2008,
15 2009 or 2010, unless the plan sponsor elects otherwise.

16 (e) CLARIFICATION OF MULTIEMPLOYER REPORTING
17 AND DISCLOSURE REQUIREMENTS.—Sections
18 103(f)(2)(C) and 104(d)(1)(D) of the Employee Retire-
19 ment Income Security Act of 1974 are both amended by
20 striking “as an employer of the participant”.

21 (f) EFFECTIVE DATE.—

22 (1) The amendments made by this section shall
23 take effect as of the first day of the first plan year
24 beginning after August 31, 2008, provided however
25 that any election a plan makes pursuant to this sec-

1 “(C) ELECTION TO EXTEND PERIOD.—The
2 plan sponsor of an endangered or seriously en-
3 dangered plan may elect to extend the applica-
4 ble funding improvement period by up to 5
5 years, including any extension of the period pre-
6 viously elected pursuant to section 205 of the
7 Worker, Retiree and Employer Relief Act of
8 2008.”.

9 (B) REHABILITATION PERIOD.—Section
10 305(e)(4) of such Act is amended by redesignig-
11 nating subparagraph (B) as subparagraph (C)
12 and by inserting after subparagraph (A) the fol-
13 lowing new subparagraph:

14 “(B) ELECTION TO EXTEND PERIOD.—The
15 plan sponsor of a plan in critical status may
16 elect to extend the rehabilitation period by up
17 to five years, including any extension of the pe-
18 riod previously elected pursuant to section 205
19 of the Worker, Retiree and Employer Relief Act
20 of 2008.”.

21 (2) AMENDMENT TO INTERNAL REVENUE CODE
22 OF 1986.—

23 (A) FUNDING IMPROVEMENT PERIOD.—
24 Section 432(c)(4) of the Internal Revenue Code
25 of 1986 is amended by redesignating subpara-

1 graphs (C) and (D) as subparagraphs (D) and
2 (E), respectively, and by inserting after sub-
3 paragraph (B) the following new subparagraph:

4 “(C) ELECTION TO EXTEND PERIOD.—The
5 plan sponsor of an endangered or seriously en-
6 dangered plan may elect to extend the applica-
7 ble funding improvement period by up to 5
8 years, including any extension of the period pre-
9 viously elected pursuant to section 205 of the
10 Worker, Retiree and Employer Relief Act of
11 2008.”.

12 (B) REHABILITATION PERIOD.—Section
13 432(e)(4) of such Code is amended by redesign-
14 ating subparagraph (B) as subparagraph (C)
15 and by inserting after subparagraph (A) the fol-
16 lowing new subparagraph:

17 “(B) ELECTION TO EXTEND PERIOD.—The
18 plan sponsor of a plan in critical status may
19 elect to extend the rehabilitation period by up
20 to five years, including any extension of the pe-
21 riod previously elected pursuant to section 205
22 of the Worker, Retiree and Employer Relief Act
23 of 2008.”.

1 (b) SIMPLIFICATION OF THE FUNDING IMPROVE-
2 MENT PERIOD FOR CERTAIN SERIOUSLY ENDANGERED
3 PLANS.—

4 (1) AMENDMENT TO ERISA.—Section 305(c) of
5 the Employee Retirement Income Security Act of
6 1974 is amended—

7 (A) by striking paragraph (5) and redesignig-
8 nating paragraph (6) as paragraph (5), and

9 (B) in paragraph (1) by striking “(as
10 modified by paragraph (5))”.

11 (2) AMENDMENT TO INTERNAL REVENUE CODE
12 OF 1986.—Section 432(c) of the Internal Revenue
13 Code of 1986 is amended—

14 (A) by striking paragraph (5) and redesignig-
15 nating paragraph (6) as paragraph (5), and

16 (B) in paragraph (1) by striking “(as
17 modified by paragraph (5))”.

18 (c) SOCIAL SECURITY LEVEL INCOME OPTION.—

19 (1) AMENDMENT TO ERISA.—Subparagraph
20 (B)(i) of section 305(f)(2) of the Employee Retirement
21 Income Security Act of 1974 is amended by
22 striking “204(b)(1)(G),” and inserting
23 “204(b)(1)(G) or any stream of payments that is
24 structured to be similar in amount and duration to
25 such supplements),”.

1 (2) AMENDMENT TO INTERNAL REVENUE CODE
2 OF 1986.—Subparagraph (A)(i) of section 432(f)(2)
3 of the Internal Revenue Code of 1986 is amended by
4 striking “411(b)(1)(A),” and inserting
5 “411(b)(1)(A) or any stream of payments that is
6 structured to be similar in amount and duration to
7 such supplements),”.

8 (3) EFFECTIVE DATE.—

9 (A) IN GENERAL.—Except as provided in
10 paragraph (2), the amendments made by this
11 subsection shall apply as if included in sections
12 202(a) and 212(a) of the Pension Protection
13 Act of 2006.

14 (B) TRANSITION RULE.—

15 (i) In the case of a plan described in
16 clause (ii), a plan shall not be required to
17 comply with the amendments made by this
18 section until the date that is 60 days after
19 the date of enactment of this Act, but such
20 a plan may comply on any otherwise per-
21 mitted earlier date.

22 (ii) A plan is described in this clause
23 if a restriction on benefit payments is or
24 has been imposed, pursuant to section
25 305(f) of the Employee Retirement Income

1 security Act of 1974 and section 432(f) of
2 the Internal Revenue Code of 1986, in ef-
3 fect with respect to such plan as of the
4 date of enactment of this Act.

5 (d) TECHNICAL CORRECTIONS.—

6 (1) AMENDMENTS TO ERISA.—Section 305(c) of
7 the Employee Retirement Income Security Act of
8 1974 is amended—

9 (A) in paragraph (1)(B)(i)—

10 (i) by striking “plan, including—”
11 and all that follows through “one proposal
12 for reductions” and inserting “plan, in-
13 cluding one proposal for reductions”,

14 (ii) by striking “, and” at the end of
15 subclause (I) and inserting a period, and

16 (iii) by striking subclause (II),

17 (B) in paragraph (7)(A), by striking
18 “(1)(B)(i)(I)” and inserting “(1)(B)(i)”,

19 (C) in paragraph (4) by adding at the end
20 the following:

21 “(E) PLANS THAT ACHIEVE FUNDING IM-
22 PROVEMENT BENCHMARKS WHILE IN ENDAN-
23 GERED OR SERIOUSLY ENDANGERED STATUS.—

24 If the plan’s actuary certifies under subsection
25 (b)(3)(A) that the plan has achieved the appli-

1 cable increase in the funding percentage de-
2 scribed in paragraph (3) of this subsection and
3 that the plan is nevertheless still in endangered
4 status, the provisions of this subsection and
5 subsection (d) shall remain in effect until the
6 earlier of the expiration of the funding improve-
7 ment period or the last day preceding the plan
8 year for which the actuary certifies that the
9 plan is no longer in endangered status.”, and

10 (D) in paragraph (4)(C)(ii) by striking all
11 that follows “whichever is applicable,” and in-
12 serting the following: “shall end as of the close
13 of the preceding plan year, except that, until
14 the start of the rehabilitation plan adoption pe-
15 riod—

16 “(I) the rules of subparagraphs
17 (A) and (B) of subsection (d)(1) shall
18 apply if, prior to the date the of the
19 critical-status certification, the plan
20 was in the funding improvement plan
21 adoption period for the plan year, and

22 “(II) the rules of subsection
23 (d)(2) shall apply if, prior to the date
24 of the critical-status certification, the

1 plan was in the funding improvement
2 period for the plan year.”.

3 (2) AMENDMENTS TO INTERNAL REVENUE
4 CODE OF 1986.—Section 432(c) of the Internal Rev-
5 enue Code of 1986 is amended—

6 (A) in paragraph (1)(B)(i)—

7 (i) by striking “plan, including—”
8 and all that follows through “one proposal
9 for reductions” and inserting “plan, in-
10 cluding one proposal for reductions”,

11 (ii) by striking “, and” at the end of
12 subclause (I) and inserting a period, and

13 (iii) by striking subclause (II),

14 (B) in paragraph (7)(A), by striking
15 “(1)(B)(i)(I)” and inserting “(1)(B)(i)”,

16 (C) in paragraph (4) by adding at the end
17 the following:

18 “(E) PLANS THAT ACHIEVE FUNDING IM-
19 PROVEMENT BENCHMARKS WHILE IN ENDAN-
20 GERED OR SERIOUSLY ENDANGERED STATUS.—

21 If the plan’s actuary certifies under subsection
22 (b)(3)(A) that the plan has achieved the appli-
23 cable increase in the funding percentage de-
24 scribed in paragraph (3) of this subsection and
25 that the plan is nevertheless still in endangered

1 status, the provisions of this subsection and
2 subsection (d) shall remain in effect until the
3 earlier of the expiration of the funding improve-
4 ment period or the last day preceding the plan
5 year for which the actuary certifies that the
6 plan is no longer in endangered status.”, and

7 (D) in paragraph (4)(C)(ii) by striking all
8 that follows “whichever is applicable,” and in-
9 serting the following: “shall end as of the close
10 of the preceding plan year, except that, until
11 the start of the rehabilitation plan adoption pe-
12 riod—

13 “(I) the rules of subparagraphs
14 (A) and (B) of subsection (d)(1) shall
15 apply if, prior to the date the of the
16 critical-status certification, the plan
17 was in the funding improvement plan
18 adoption period for the plan year, and

19 “(II) the rules of subsection
20 (d)(2) shall apply if, prior to the date
21 of the critical-status certification, the
22 plan was in the funding improvement
23 period for the plan year.”.

1 **SEC. 203. MULTIEMPLOYER PLAN MERGERS AND ALLI-**
2 **ANCES.**

3 (a) MULTIEMPLOYER PLAN ALLIANCES.—

4 (1) AMENDMENTS TO ERISA.—

5 (A) Section 4231 of the Employee Retirement
6 Income Security Act of 1974 is amended
7 by adding at the end the following new sub-
8 section:

9 “(e) MULTIEMPLOYER PLAN ALLIANCES.—

10 “(1) IN GENERAL.—The plan sponsor of a mul-
11 tiemployer plan into which another multiemployer
12 plan has been merged may designate the merger as
13 an alliance to which the rules of this subsection
14 apply by amending the plan—

15 “(A) to identify the allied plan, and

16 “(B) to delineate the terms of operation of
17 the alliance, including the allocation of em-
18 ployer contributions and experience gains and
19 losses between the merged plan and the par-
20 tially separate frozen allied plan described in
21 paragraphs (2) and (3).

22 “(2) APPLICABLE PROVISIONS.—Except to the
23 extent otherwise provided in the plan amendment
24 under paragraph (1), sections 302, 304 and 305
25 (minimum funding), Part 1 of Subtitle E (with-
26 drawal liability), sections 4244A and 4281 (plan ter-

1 mination), part 3 of subtitle E (plan reorganization
2 and insolvency) and section 4261 (financial assist-
3 ance from the corporation) shall apply to the frozen
4 allied plan and the plan into which the allied plan
5 was merged as if they were separate plans.

6 “(3) FROZEN ALLIED PLAN TREATED AS SEPA-
7 RATE PLAN.—

8 “(A) ASSETS AND LIABILITIES.—The fro-
9 zen allied plan that is treated in part as a sepa-
10 rate plan pursuant to this paragraph comprises
11 the assets and liabilities of the allied plan as if
12 it had been amended, effective immediately be-
13 fore the effective date of the merger, to cease
14 all benefit accruals.

15 “(B) EMPLOYERS MAINTAINING PLAN.—
16 The employers that were obligated to contribute
17 to the allied plan immediately before the effec-
18 tive date of the merger, and any successors
19 thereto whether by sale, reorganization or oth-
20 erwise, shall be considered to be the employers
21 maintaining the partially separate frozen allied
22 plan, to the extent they continue to have an ob-
23 ligation to contribute with respect to partici-
24 pants or facilities covered by the allied plan.

1 “(C) PARTICIPANTS AND BENE-
2 FICIARIES.—The participants and beneficiaries
3 of the allied plan immediately before the effec-
4 tive date of the merger shall be considered to
5 be the participants and beneficiaries of the par-
6 tially separate frozen allied plan thereafter.

7 “(4) TREATMENT OF MERGED PLAN AS SINGLE
8 PLAN.—Except as provided in paragraphs (2) and
9 (3), the allied plan and the plan into which it has
10 been merged shall be treated as a single plan.

11 “(5) OTHER RULES.—

12 “(A) ADOPTION OF INITIAL PLAN AMEND-
13 MENT.—The plan amendment initially desig-
14 nating a merger as an alliance, identifying the
15 allied plan and delineating the terms of the alli-
16 ance must be adopted by no later than the last
17 day of the plan year in which the merger takes
18 effect.

19 “(B) SUBSEQUENT AMENDMENTS.—That
20 initial plan amendment may subsequently be
21 modified or repealed, except that the plan gives
22 notice of the change to the employers and par-
23 ticipants of the allied plan at least 15 days be-
24 fore the subsequent amendment takes effect.

1 “(C) DISCRETION TO TREAT MERGERS
2 DIFFERENTLY.—The plan sponsor of a multi-
3 employer plan may, in its discretion, treat some
4 mergers as alliances and others as full mergers,
5 and may prescribe different terms of operation
6 for different alliances, if the basis for the dis-
7 tinctions is not unreasonable.”.

8 (B) Subsection (b) of section 4231 of such
9 Act is amended by striking “and” at the end of
10 paragraph (3), by striking the period at the end
11 of paragraph (4) and inserting “, and”, and by
12 inserting after paragraph (4) adding at the end
13 the following:

14 “(5) a merger that is designated as an alliance
15 under subsection (e) shall not be treated as failing
16 to meet any of the criteria of this subsection solely
17 because benefits under the allied plan are, or are ex-
18 pected to be, reduced or eliminated pursuant to sec-
19 tion 305 as a result of the endangered or critical
20 status of the frozen allied plan.”.

21 (C) Section 404(a) of the Employee Retire-
22 ment Income Security Act of 1974 is amended
23 by adding at the end the following new para-
24 graph:

1 “(3) With respect to a merger of multiemployer
2 plans, including a merger that is designated as an
3 alliance under section 4231(e), the plan sponsors of
4 the merging plans shall be considered to meet the
5 requirements of paragraph (1)(A) if the plan spon-
6 sors determine that the merger is not reasonably
7 likely to be adverse to the long-term interests of the
8 participants and beneficiaries of the plan for which
9 the plan sponsors are responsible prior to the merg-
10 er.”.

11 (i) Section 4231(c) of the Employee
12 Retirement Income Security Act of 1974 is
13 amended by striking “The merger of multi-
14 employer plans or the transfer” and insert-
15 ing “The merger of multiemployer plans,
16 including a merger that is designated as an
17 alliance, or the transfer”.

18 (2) AMENDMENTS TO INTERNAL REVENUE
19 CODE OF 1986.—Section 412 of the Internal Revenue
20 Code of 1986 is amended by adding at the end the
21 following:

22 “(e) MULTIEMPLOYER PLAN ALLIANCES.—

23 “(1) IN GENERAL.—Except to the extent other-
24 wise provided in the plan amendment under section
25 4231(e)(1) of the Employee Retirement Income Se-

1 security Act of 1974 designating a multiemployer plan
2 merger as an alliance, this section and sections 431
3 and 432 shall apply to the frozen allied plan and the
4 plan into which the allied plan was merged as if they
5 were separate plans.

6 “(2) EMPLOYERS MAINTAINING PLAN.—The
7 employers that were obligated to contribute to the
8 allied plan immediately before the effective date of
9 the merger, and any successors thereto whether by
10 sale, reorganization or otherwise, shall be considered
11 to be the employers maintaining the partially sepa-
12 rate frozen allied plan to the extent they continue to
13 have an obligation to contribute with respect to par-
14 ticipants or facilities covered by the allied plan.

15 “(3) PARTICIPANTS AND BENEFICIARIES.—The
16 participants and beneficiaries of the allied plan im-
17 mediately before the effective date of the merger
18 shall be considered to be the participants and bene-
19 ficiaries of the partially separate frozen allied plan
20 thereafter.

21 “(4) TREATMENT OF MERGED PLAN AS SINGLE
22 PLAN.—Except as provided in paragraphs (2) and
23 (3) of section 4231(e) of the Employee Retirement
24 Income Security Act of 1974, the allied plan and the

1 plan into which it has been merged shall be treated
2 as a single plan.

3 “(5) ALLIANCE; ALLIED PLAN.—For purposes
4 of this subsection, the terms ‘alliance’ and ‘allied
5 plan’ shall have the same meanings as they have
6 under section 4231(e) of the Employee Retirement
7 Income Security Act of 1974.”.

8 (b) PBGC ASSISTANCE FOR MULTIEMPLOYER PLAN
9 MERGERS.—Section 4231 of the Employee Retirement In-
10 come Security Act of 1974, as amended by this Act, is
11 amended by adding at the end the following:

12 “(f) FACILITATED MERGERS.—

13 “(1) IN GENERAL.—When requested to do so
14 by the plan sponsors, the corporation shall take rea-
15 sonable actions to promote and facilitate the merger
16 of two or more multiemployer plans, including a
17 merger that is designated as an alliance, if it deter-
18 mines that the transaction is in the interests of the
19 participants and beneficiaries of at least one of the
20 plans, and is not reasonably expected to be adverse
21 to the long-term interests of the participants and
22 beneficiaries of the other plan or plans. Such facili-
23 tation may include training, technical assistance,
24 mediation, communication with stakeholders and

1 support with related requests to other government
2 agencies, among other activities.

3 “(2) FINANCIAL ASSISTANCE.—To facilitate
4 mergers, including mergers designated as alliances,
5 which it determines are reasonably necessary to en-
6 able one or more of the plans involved to avoid or
7 postpone insolvency, the corporation may provide fi-
8 nancial assistance to the merged plan if it reason-
9 ably expects that such financial assistance will re-
10 duce the corporation’s likely long-term loss with re-
11 spect to the plans involved.”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall take effect as of the first day of the first
14 plan year beginning on or after January 1, 2009.

15 **SEC. 204. STRENGTHENING PARTICIPANTS’ BENEFIT PRO-**
16 **TECTIONS.**

17 (a) INCREASE IN MULTIEMPLOYER BENEFIT GUAR-
18 ANTEE.—Paragraph (1) of section 4022A(c) of the Em-
19 ployee Retirement Income Security Act of 1974 is amend-
20 ed to read as follows:

21 “(1) Except as provided in subsection (g), the
22 monthly benefit of a participant or a beneficiary
23 which is guaranteed under this section by the cor-
24 poration with respect to a plan is the product of the

1 number of the participant's years of credited service
 2 multiplied by the sum of—

3 “(A) 100 percent of the accrual rate up to
 4 \$11, plus 75 percent of the lesser of—

5 “(i) \$33, or

6 “(ii) the accrual rate, if any, in excess
 7 of \$11, and

8 “(B) 50 percent of the lesser of—

9 “(i) \$40 or

10 “(ii) the accrual rate, if any, in excess of \$44.”.

11 (b) QUALIFIED PARTITION OF ELIGIBLE MULTIEMPLOYER PLANS.—
 12 PLOYER PLANS.—

13 (1) QUALIFIED PARTITIONS.—Section 4233 of
 14 the Employee Retirement Income Security Act of
 15 1974 is amended by adding at the end the following
 16 new subsection:

17 “(g) QUALIFIED PARTITION OF ELIGIBLE MULTIEMPLOYER PLANS.—
 18 PLOYER PLANS.—

19 “(1) IN GENERAL.—Notwithstanding sub-
 20 sections (a) through (f), upon the election by the
 21 plan sponsor of an eligible multiemployer plan of a
 22 qualified partition, the corporation shall order a par-
 23 tition of the electing multiemployer plan in accord-
 24 ance with this subsection, effective on the first day
 25 of the first month that begins at least 90 days after

1 the date the multiemployer plan made the qualified
2 partition election.

3 “(2) ELIGIBLE MULTIEMPLOYER PLAN.—An el-
4 igible multiemployer plan is a multiemployer plan as
5 to which—

6 “(A) the plan actuary has certified pursu-
7 ant to section 305(c) that the plan is currently
8 in critical status (within the meaning of section
9 305(b)(2));

10 “(B) a substantial reduction in the amount
11 of aggregate contributions under the plan has
12 resulted or will result from—

13 “(i) cases or proceedings under title
14 11, United States Code, with respect to
15 employers, or

16 “(ii) employers’ ceasing to be in busi-
17 ness, if such employers did not pay the full
18 amount of withdrawal liability demanded
19 by the plan under section 4219;

20 “(C) the plan sponsor has certified, con-
21 sistent with projections provided by the plan ac-
22 tuary, that the plan is likely to become insol-
23 vent;

24 “(D) the plan sponsor has certified, con-
25 sistent with projections provided by the plan ac-

1 tuary, that contributions will have to be in-
2 creased significantly to prevent insolvency;

3 “(E) the plan sponsor has certified that, as
4 of the last day of each of the two immediately
5 preceding plan years—

6 “(i) the ratio of the number of the
7 plan’s retirees, beneficiaries of deceased
8 participants, and terminated vested partici-
9 pants to the number of the plan’s active
10 participants for each such year was at
11 least 2 to 1; and

12 “(ii) the ratio of benefit payments
13 made by the plan for each such year to
14 contributions required to be made to the
15 plan under section 304 or 305(e), as appli-
16 cable, for each such year was at least 2 to
17 1; and

18 “(F) the plan sponsor has certified, con-
19 sistent with projections provided by the plan ac-
20 tuary, that partition would significantly reduce
21 the likelihood that the plan will become insol-
22 vent.

23 “(3) TRANSFERS UNDER QUALIFIED PARTITION
24 ORDER.—The corporation’s qualified partition order
25 shall provide for transfers as follows:

1 “(A) An initial transfer of—

2 “(i) no more than the nonforfeitable
3 benefits directly attributable to service with
4 the employers referred to in paragraph
5 (2)(ii), and

6 “(ii) assets attributable to any with-
7 drawal liability payments by such employ-
8 ers and, as adjusted by any gains or losses
9 thereon, and reduced by any benefit pay-
10 ments made with regard to service with the
11 employers.

12 “(B) As of the last day of each plan year
13 following a plan year in which a qualified parti-
14 tion has occurred, the plan sponsor shall deter-
15 mine whether during such plan year, the aggre-
16 gate contributions under the plan declined by
17 10 percent or more as a result of events de-
18 scribed in paragraph (2)(ii); and if such decline
19 has occurred, an additional transfer of—

20 “(i) no more than the nonforfeitable
21 benefits directly attributable to service with
22 employers that meets the requirements of
23 paragraph (2)(ii) after the election of a
24 qualified partition, and

1 “(ii) assets attributable to any with-
2 drawal liability payments by such employ-
3 ers, as adjusted by any gains or losses
4 thereon, and reduced by any benefit pay-
5 ments made with regard to service with the
6 employers.

7 “(4) PLAN CREATED BY QUALIFIED PARTI-
8 TION.—The plan created by the qualified partition
9 is—

10 “(A) a successor plan to which section
11 4022A applies, and

12 “(B) a terminated multiemployer plan to
13 which section 4041A(d) applies, with respect to
14 which only the employers described in para-
15 graphs (2)(ii) and (3)(ii) have withdrawal liabil-
16 ity.”.

17 “(2) EFFECT OF QUALIFIED PARTITION ON PRE-
18 MIUMS.—

19 “(A) Clause (i) of section 4006(a)(3)(C) of
20 the Employee Retirement Income Security Act
21 of 1974 is amended by adding at the end the
22 following:

23 “‘For purposes of this subparagraph, the value of as-
24 sets held by the corporation and the basic benefits guaran-
25 teed for multiemployer plans shall not include assets and

1 liabilities transferred pursuant to a qualified partition
2 order under section 4233(g).”.

3 (B) Section 4022A(f) of the Employee Re-
4 tirement Income Security Act of 1974 is
5 amended by adding at the end the following:

6 “(5) Basic benefits guaranteed in connection
7 with assets and liabilities transferred to the corpora-
8 tion pursuant to a qualified partition order under
9 section 4233(g) shall be disregarded under subpara-
10 graphs (1), (2), and (3)”.

11 (3) PBGC GUARANTEE OF PARTITIONED BENE-
12 FITS.—

13 (A) Section 4022A of the Employee Retire-
14 ment Income Security Act of 1974 is amended
15 by adding at the end the following:

16 “(i) The monthly benefit of a participant or a bene-
17 ficiary whose benefit was transferred pursuant to a quali-
18 fied partition which is guaranteed under this section by
19 the corporation with respect to a plan is the nonforfeitable
20 benefits of the participant or beneficiary transferred pur-
21 suant to the qualified partition.”.

22 (B) Section 4022A(c)(1) of the Employee
23 Retirement Income Security Act of 1974 is
24 amended by striking “subsection (g)” and in-
25 serting “subsections (g) and (i)”.

1 (c) FINANCING FOR QUALIFIED PARTITIONS AND
2 OTHER SPECIAL MATTERS.—

3 (1) OBLIGATIONS OF THE CORPORATION.—The
4 second sentence of section 4002(g)(2) of the Em-
5 ployee Retirement Income Security Act of 1974 is
6 amended to read as follows:

7 “The United States Government is not liable for any
8 obligation or liability incurred by the corporation, except
9 with respect to liabilities transferred pursuant to a quali-
10 fied partition of a multiemployer plan under section
11 4233(g) and such other special matters as may be des-
12 ignated in legislation making funding available therefor.”.

13 (2) PBGC FUND ESTABLISHED.—

14 (A) Fund Established. Section 4005 of the
15 Employee Retirement Income Security Act of
16 1974 is amended by deleting subsections (d)
17 and (e), redesignating existing subsections (f)
18 through (h) as subsections (e) through (g), and
19 inserting a new subsection (d), as follows:

20 “(d) ESTABLISHMENT OF FIFTH FUND; PURPOSE;
21 AVAILABILITY, ETC.—

22 “(1) IN GENERAL.—A fifth fund is hereby es-
23 tablished on the books of the Treasury of the United
24 States. Such fund shall be for the support of special
25 matters undertaken by the corporation to minimize

1 its reasonably expected long-term risk of loss with
2 respect to a plan and protect the reasonable benefit
3 expectations of plan participants and beneficiaries
4 pursuant to its responsibilities under section 4002(a)
5 to encourage the continuation and maintenance of
6 voluntary private pension plans for the benefit of
7 their participants while maintaining premiums at the
8 lowest level consistent with that objective.

9 “(2) USE OF FUND.—The fund established by
10 this subsection shall be used to finance obligations
11 undertaken by the corporation under section 4233
12 (partition of multiemployer plans) and such other
13 matters as may be identified from time to time in
14 legislation making funding available therefor.

15 “(3) CREDITS TO FUND.—The fund established
16 under this subsection shall be credited with funds
17 made available to the corporation that are des-
18 ignated for special matters and the earnings thereon,
19 including any amounts received in connection with a
20 qualified partition under section 4233(g), and shall
21 not include premiums paid under section 4007, em-
22 ployer liability or withdrawal liability payments, the
23 assets of terminated plans or repayments of finan-
24 cial assistance under section 4261 or other amounts

1 received in connection with terminated or insolvent
2 plans.

3 “(4) TRANSACTIONS WITH OTHER FUNDS.—
4 Notwithstanding paragraph (3), this fund may en-
5 gage in transactions with the other funds established
6 under this section to the extent reasonable and nec-
7 essary to meet liquidity demands and maximize the
8 ability of the corporation to accomplish its mission
9 under section 4002(a) without increasing the pre-
10 miums payable under section 4006.

11 “(5) INVESTMENTS.—The corporation may in-
12 vest amounts of the fund in such obligations as the
13 corporation considers appropriate.

14 “(6) OBLIGATIONS OF UNITED STATES.—Not-
15 withstanding any other provision of this title, obliga-
16 tions of the corporation that are financed by the
17 fund created by this subsection shall be obligations
18 of the United States.”.

19 (3) CONFORMING AMENDMENTS.—

20 (A) Section 4022A(g) of such Act is
21 amended by striking paragraph (2).

22 (B) Part 1 of subtitle E of title IV of such
23 Act is amended by striking section 4222, and
24 the table of contents for such Act is amended
25 by striking the item relating to section 4222.

1 (d) EFFECTIVE DATE.—

2 (1) The amendments made by subsection (a)
3 shall apply with respect to plans that first apply for
4 financial assistance from the Pension Benefit Guar-
5 antee Corporation after the date of enactment of
6 this Act.

7 (2) The amendments made by subsections (b)
8 and (c) shall take effect on the date of enactment
9 of this Act.

○