

Union Calendar No. 172

109TH CONGRESS
1ST SESSION

H. R. 2830

[Report No. 109–232, Parts I and II]

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2005

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

SEPTEMBER 22, 2005

Reported from the Committee on Education and the Workforce with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

SEPTEMBER 22, 2005

Referral to the Committee on Ways and Means extended for a period ending not later than September 30, 2005

SEPTEMBER 30, 2005

Referral to the Committee on Ways and Means extended for a period ending not later than November 4, 2005

NOVEMBER 4, 2005

Referral to the Committee on Ways and Means extended for a period ending not later than November 18, 2005

NOVEMBER 18, 2005

Referral to the Committee on Ways and Means extended for a period ending
not later than December 6, 2005

DECEMBER 6, 2005

Additional sponsors: Mr. SHAW, Mr. SESSIONS, Mr. OTTER, Mr. CALVERT,
Mr. WESTMORELAND, Mr. PRICE of Georgia, Mr. ISSA, Mr. BARTLETT
of Maryland, Mr. MANZULLO, and Mr. GERLACH

DECEMBER 6, 2005

Reported from the Committee on Ways and Means with an amendment; com-
mitted to the Committee of the Whole House on the State of the Union
and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in boldface roman]

[For text of introduced bill, see copy of bill as introduced on June 9, 2005]

A BILL

To amend the Employee Retirement Income Security Act
of 1974 and the Internal Revenue Code of 1986 to
reform the pension funding rules, 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 AND TABLE OF CONTENTS.**

4 (a) *SHORT TITLE.*—*This Act may be cited as the*
5 *“Pension Protection Act of 2005”.*

6 (b) *TABLE OF CONTENTS.*—*The table of contents for*
7 *this Act is as follows:*

Sec. 1. Short title and table of contents.

**TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER
DEFINED BENEFIT PENSION PLANS**

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Sec. 101. Minimum funding standards.

Sec. 102. Funding rules for single-employer defined benefit pension plans.

Sec. 103. Benefit limitations under single-employer plans.

Sec. 104. Technical and conforming amendments.

Subtitle B—Amendments to Internal Revenue Code of 1986

[See introduced bill, page 71, line 1 through page 140, line 13].

Subtitle C—Other Provisions

Sec. 121. Modification of transition rule to pension funding requirements.

Sec. 122. Treatment of nonqualified deferred compensation plans when employer defined benefit plan in at-risk status [See introduced bill, page 142, line 3 through page 143, line 16].

TITLE II—FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Sec. 201. Funding rules for multiemployer defined benefit plans.

Sec. 202. Additional funding rules for multiemployer plans in endangered or critical status.

Sec. 203. Measures to forestall insolvency of multiemployer plans.

Sec. 204. Withdrawal liability reforms.

Sec. 205. Removal of restrictions with respect to procedures applicable to disputes involving withdrawal liability.

Subtitle B—Amendments to Internal Revenue Code of 1986

[See introduced bill, page 200, line 8 through page 251, line 15].

TITLE III—OTHER PROVISIONS

Sec. 301. Interest rate assumption for determination of lump sum distributions.

Sec. 302. Interest rate assumption for applying benefit limitations to lump sum distributions [See introduced bill, page 254, line 6 through page 255, line 7].

Sec. 303. Distributions during working retirement.

Sec. 304. Other amendments relating to prohibited transactions.

Sec. 305. Correction period for certain transactions involving securities and commodities.

Sec. 306. Government Accountability Office pension funding report.

TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS

Sec. 401. Increases in PBGC premiums.

TITLE V—DISCLOSURE

Sec. 501. Defined benefit plan funding notices.

Sec. 502. Additional disclosure requirements.

Sec. 503. Section 4010 filings with the PBGC.

TITLE VI—INVESTMENT ADVICE

Sec. 601. Amendments to Employee Retirement Income Security Act of 1974 providing prohibited transaction exemption for provision of investment advice.

Sec. 602. Amendments to Internal Revenue Code of 1986 providing prohibited transaction exemption for provision of investment advice [See introduced bill, page 287, line 15 through page 298, line 23].

TITLE VII—BENEFIT ACCRUAL STANDARDS

Sec. 701. Improvements in benefit accrual standards.

TITLE VIII—DEDUCTION LIMITATIONS

[See introduced bill, page 299, line 1 through page 305, line 20].

1 **TITLE I—REFORM OF FUNDING**
 2 **RULES FOR SINGLE-EM-**
 3 **PLOYER DEFINED BENEFIT**
 4 **PENSION PLANS**

5 **Subtitle A—Amendments to Em-**
 6 **ployee Retirement Income Secu-**
 7 **rity Act of 1974**

8 **SEC. 101. MINIMUM FUNDING STANDARDS.**

9 (a) *REPEAL OF EXISTING FUNDING RULES.*—Sections
 10 302 through 308 of the Employee Retirement Income Secu-
 11 rity Act of 1974 (29 U.S.C. 1082 through 1086) are re-
 12 pealed.

13 (b) *NEW MINIMUM FUNDING STANDARDS.*—Part 3 of
 14 subtitle B of title I of such Act (as amended by subsection
 15 (a)) is amended further by inserting after section 301 the
 16 following new section:

17 “MINIMUM FUNDING STANDARDS

18 “SEC. 302. (a) *REQUIREMENT TO MEET MINIMUM*
 19 *FUNDING STANDARD.*—

1 “(1) *IN GENERAL.*—A plan to which this part
2 *applies shall satisfy the minimum funding standard*
3 *applicable to the plan for any plan year.*

4 “(2) *MINIMUM FUNDING STANDARD.*—For pur-
5 *poses of paragraph (1), a plan shall be treated as sat-*
6 *isfying the minimum funding standard for a plan*
7 *year if—*

8 “(A) *in the case of a defined benefit plan*
9 *which is a single-employer plan, the employer*
10 *makes contributions to or under the plan for the*
11 *plan year which, in the aggregate, are not less*
12 *than the minimum required contribution deter-*
13 *mined under section 303 for the plan for the*
14 *plan year,*

15 “(B) *in the case of a money purchase plan*
16 *which is a single-employer plan, the employer*
17 *makes contributions to or under the plan for the*
18 *plan year which are required under the terms of*
19 *the plan, and*

20 “(C) *in the case of a multiemployer plan,*
21 *the employers make contributions to or under the*
22 *plan for any plan year which, in the aggregate,*
23 *are sufficient to ensure that the plan does not*
24 *have an accumulated funding deficiency under*
25 *section 304 as of the end of the plan year.*

1 “(b) *LIABILITY FOR CONTRIBUTIONS.*—

2 “(1) *IN GENERAL.*—*Except as provided in para-*
3 *graph (2), the amount of any contribution required*
4 *by this section (including any required installments*
5 *under paragraphs (3) and (4) of section 303(j)) shall*
6 *be paid by the employer responsible for making con-*
7 *tributions to or under the plan.*

8 “(2) *JOINT AND SEVERAL LIABILITY WHERE EM-*
9 *PLOYER MEMBER OF CONTROLLED GROUP.*—*In the*
10 *case of a single-employer plan, if the employer re-*
11 *ferred to in paragraph (1) is a member of a controlled*
12 *group, each member of such group shall be jointly and*
13 *severally liable for payment of such contributions.*

14 “(c) *VARIANCE FROM MINIMUM FUNDING STAND-*
15 *ARDS.*—

16 “(1) *WAIVER IN CASE OF BUSINESS HARD-*
17 *SHIP.*—

18 “(A) *IN GENERAL.*—*If—*

19 “(i) *an employer is (or in the case of*
20 *a multiemployer plan, 10 percent or more*
21 *of the number of employers contributing to*
22 *or under the plan is) unable to satisfy the*
23 *minimum funding standard for a plan year*
24 *without temporary substantial business*

1 *hardship (substantial business hardship in*
2 *the case of a multiemployer plan), and*

3 “(ii) *application of the standard would*
4 *be adverse to the interests of plan partici-*
5 *pants in the aggregate,*

6 *the Secretary of the Treasury may, subject to*
7 *subparagraph (C), waive the requirements of*
8 *subsection (a) for such year with respect to all*
9 *or any portion of the minimum funding stand-*
10 *ard. The Secretary of the Treasury shall not*
11 *waive the minimum funding standard with re-*
12 *spect to a plan for more than 3 of any 15 (5 of*
13 *any 15 in the case of a multiemployer plan) con-*
14 *secutive plan years.*

15 “(B) *EFFECTS OF WAIVER.—If a waiver is*
16 *granted under subparagraph (A) for any plan*
17 *year—*

18 “(i) *in the case of a single-employer*
19 *plan, the minimum required contribution*
20 *under section 303 for the plan year shall be*
21 *reduced by the amount of the waived fund-*
22 *ing deficiency and such amount shall be*
23 *amortized as required under section 303(e),*
24 *and*

1 “(ii) in the case of a multiemployer
2 plan, the funding standard account shall be
3 credited under section 304(b)(3)(C) with the
4 amount of the waived funding deficiency
5 and such amount shall be amortized as re-
6 quired under section 304(b)(2)(C).

7 “(C) WAIVER OF AMORTIZED PORTION NOT
8 ALLOWED.—The Secretary of the Treasury may
9 not waive under subparagraph (A) any portion
10 of the minimum funding standard under sub-
11 section (a) for a plan year which is attributable
12 to any waived funding deficiency for any pre-
13 ceding plan year.

14 “(2) DETERMINATION OF BUSINESS HARD-
15 SHIP.—For purposes of this subsection, the factors
16 taken into account in determining temporary sub-
17 stantial business hardship (substantial business hard-
18 ship in the case of a multiemployer plan) shall in-
19 clude (but shall not be limited to) whether or not—

20 “(A) the employer is operating at an eco-
21 nomic loss,

22 “(B) there is substantial unemployment or
23 underemployment in the trade or business and
24 in the industry concerned,

1 “(C) the sales and profits of the industry
2 concerned are depressed or declining, and

3 “(D) it is reasonable to expect that the plan
4 will be continued only if the waiver is granted.

5 “(3) *WAIVED FUNDING DEFICIENCY.*—For pur-
6 poses of this part, the term ‘waived funding defi-
7 ciency’ means the portion of the minimum funding
8 standard under subsection (a) (determined without
9 regard to the waiver) for a plan year waived by the
10 Secretary of the Treasury and not satisfied by em-
11 ployer contributions.

12 “(4) *SECURITY FOR WAIVERS FOR SINGLE-EM-*
13 *PLOYER PLANS, CONSULTATIONS.*—

14 “(A) *SECURITY MAY BE REQUIRED.*—

15 “(i) *IN GENERAL.*—Except as provided
16 in subparagraph (C), the Secretary of the
17 Treasury may require an employer main-
18 taining a defined benefit plan which is a
19 single-employer plan (within the meaning
20 of section 4001(a)(15)) to provide security
21 to such plan as a condition for granting or
22 modifying a waiver under paragraph (1).

23 “(ii) *SPECIAL RULES.*—Any security
24 provided under clause (i) may be perfected
25 and enforced only by the Pension Benefit

1 *Guaranty Corporation, or at the direction*
2 *of the Corporation, by a contributing spon-*
3 *sor (within the meaning of section*
4 *4001(a)(13)), or a member of such sponsor’s*
5 *controlled group (within the meaning of sec-*
6 *tion 4001(a)(14)).*

7 “(B) *CONSULTATION WITH THE PENSION*
8 *BENEFIT GUARANTY CORPORATION.—Except as*
9 *provided in subparagraph (C), the Secretary of*
10 *the Treasury shall, before granting or modifying*
11 *a waiver under this subsection with respect to a*
12 *plan described in subparagraph (A)(i)—*

13 “(i) *provide the Pension Benefit Guar-*
14 *anty Corporation with—*

15 “(I) *notice of the completed appli-*
16 *cation for any waiver or modification,*
17 *and*

18 “(II) *an opportunity to comment*
19 *on such application within 30 days*
20 *after receipt of such notice, and*

21 “(ii) *consider—*

22 “(I) *any comments of the Cor-*
23 *poration under clause (i)(II), and*

24 “(II) *any views of any employee*
25 *organization (within the meaning of*

1 *section 3(4)) representing participants*
2 *in the plan which are submitted in*
3 *writing to the Secretary of the Treas-*
4 *ury in connection with such applica-*
5 *tion.*

6 *Information provided to the Corporation under*
7 *this subparagraph shall be considered tax return*
8 *information and subject to the safeguarding and*
9 *reporting requirements of section 6103(p) of the*
10 *Internal Revenue Code of 1986.*

11 *“(C) EXCEPTION FOR CERTAIN WAIVERS.—*

12 *“(i) IN GENERAL.—The preceding pro-*
13 *visions of this paragraph shall not apply to*
14 *any plan with respect to which the sum*
15 *of—*

16 *“(I) the aggregate unpaid min-*
17 *imum required contribution for the*
18 *plan year and all preceding plan*
19 *years, and*

20 *“(II) the present value of all*
21 *waiver amortization installments de-*
22 *termined for the plan year and suc-*
23 *ceeding plan years under section*
24 *303(e)(2),*

25 *is less than \$1,000,000.*

1 “(ii) *TREATMENT OF WAIVERS FOR*
2 *WHICH APPLICATIONS ARE PENDING.—The*
3 *amount described in clause (i)(I) shall in-*
4 *clude any increase in such amount which*
5 *would result if all applications for waivers*
6 *of the minimum funding standard under*
7 *this subsection which are pending with re-*
8 *spect to such plan were denied.*

9 “(iii) *UNPAID MINIMUM REQUIRED*
10 *CONTRIBUTION.—For purposes of this sub-*
11 *paragraph—*

12 “(I) *IN GENERAL.—The term ‘un-*
13 *paid minimum required contribution’*
14 *means, with respect to any plan year,*
15 *any minimum required contribution*
16 *under section 303 for the plan year*
17 *which is not paid on or before the due*
18 *date (as determined under section*
19 *303(j)(1)) for the plan year.*

20 “(II) *ORDERING RULE.—For pur-*
21 *poses of subclause (I), any payment to*
22 *or under a plan for any plan year*
23 *shall be allocated first to unpaid min-*
24 *imum required contributions for all*
25 *preceding plan years on a first-in,*

1 *first-out basis and then to the min-*
2 *imum required contribution under sec-*
3 *tion 303 for the plan year.*

4 “(5) *SPECIAL RULES FOR SINGLE-EMPLOYER*
5 *PLANS.—*

6 “(A) *APPLICATION MUST BE SUBMITTED*
7 *BEFORE DATE 2½ MONTHS AFTER CLOSE OF*
8 *YEAR.—In the case of a single-employer plan, no*
9 *waiver may be granted under this subsection*
10 *with respect to any plan for any plan year un-*
11 *less an application therefor is submitted to the*
12 *Secretary of the Treasury not later than the 15th*
13 *day of the 3rd month beginning after the close of*
14 *such plan year.*

15 “(B) *SPECIAL RULE IF EMPLOYER IS MEM-*
16 *BER OF CONTROLLED GROUP.—In the case of a*
17 *single-employer plan, if an employer is a mem-*
18 *ber of a controlled group, the temporary substan-*
19 *tial business hardship requirements of paragraph*
20 *(1) shall be treated as met only if such require-*
21 *ments are met—*

22 “(i) *with respect to such employer, and*

23 “(ii) *with respect to the controlled*
24 *group of which such employer is a member*

1 *(determined by treating all members of such*
2 *group as a single employer).*

3 *The Secretary of the Treasury may provide that*
4 *an analysis of a trade or business or industry of*
5 *a member need not be conducted if the Secretary*
6 *of the Treasury determines such analysis is not*
7 *necessary because the taking into account of such*
8 *member would not significantly affect the deter-*
9 *mination under this paragraph.*

10 “(6) *ADVANCE NOTICE.—*

11 “(A) *IN GENERAL.—The Secretary of the*
12 *Treasury shall, before granting a waiver under*
13 *this subsection, require each applicant to provide*
14 *evidence satisfactory to such Secretary that the*
15 *applicant has provided notice of the filing of the*
16 *application for such waiver to each affected*
17 *party (as defined in section 4001(a)(21)). Such*
18 *notice shall include a description of the extent to*
19 *which the plan is funded for benefits which are*
20 *guaranteed under title IV and for benefit liabil-*
21 *ities.*

22 “(B) *CONSIDERATION OF RELEVANT INFOR-*
23 *MATION.—The Secretary of the Treasury shall*
24 *consider any relevant information provided by a*

1 *person to whom notice was given under subpara-*
2 *graph (A).*

3 “(7) *RESTRICTION ON PLAN AMENDMENTS.*—

4 “(A) *IN GENERAL.*—*No amendment of a*
5 *plan which increases the liabilities of the plan by*
6 *reason of any increase in benefits, any change in*
7 *the accrual of benefits, or any change in the rate*
8 *at which benefits become nonforfeitable under the*
9 *plan shall be adopted if a waiver under this sub-*
10 *section or an extension of time under section*
11 *304(d) is in effect with respect to the plan, or if*
12 *a plan amendment described in subsection (d)(2)*
13 *has been made at any time in the preceding 24*
14 *months. If a plan is amended in violation of the*
15 *preceding sentence, any such waiver, or extension*
16 *of time, shall not apply to any plan year ending*
17 *on or after the date on which such amendment*
18 *is adopted.*

19 “(B) *EXCEPTION.*—*Paragraph (1) shall not*
20 *apply to any plan amendment which—*

21 “(i) *the Secretary of the Treasury de-*
22 *termines to be reasonable and which pro-*
23 *vides for only de minimis increases in the*
24 *liabilities of the plan,*

1 “(ii) only repeals an amendment de-
2 scribed in subsection (d)(2), or

3 “(iii) is required as a condition of
4 qualification under part I of subchapter D,
5 of chapter 1 of the Internal Revenue Code of
6 1986.

7 “(8) *CROSS REFERENCE.*—For corresponding
8 duties of the Secretary of the Treasury with regard to
9 implementation of the Internal Revenue Code of 1986,
10 see section 412(c) of such Code.

11 “(d) *MISCELLANEOUS RULES.*—

12 “(1) *CHANGE IN METHOD OR YEAR.*—If the fund-
13 ing method, the valuation date, or a plan year for a
14 plan is changed, the change shall take effect only if
15 approved by the Secretary of the Treasury.

16 “(2) *CERTAIN RETROACTIVE PLAN AMEND-*
17 *MENTS.*—For purposes of this section, any amend-
18 ment applying to a plan year which—

19 “(A) is adopted after the close of such plan
20 year but no later than 2½ months after the close
21 of the plan year (or, in the case of a multiem-
22 ployer plan, no later than 2 years after the close
23 of such plan year),

24 “(B) does not reduce the accrued benefit of
25 any participant determined as of the beginning

1 *of the first plan year to which the amendment*
2 *applies, and*

3 “(C) *does not reduce the accrued benefit of*
4 *any participant determined as of the time of*
5 *adoption except to the extent required by the cir-*
6 *cumstances,*

7 *shall, at the election of the plan administrator, be*
8 *deemed to have been made on the first day of such*
9 *plan year. No amendment described in this para-*
10 *graph which reduces the accrued benefits of any par-*
11 *ticipant shall take effect unless the plan adminis-*
12 *trator files a notice with the Secretary of the Treas-*
13 *ury notifying him of such amendment and such Sec-*
14 *retary has approved such amendment, or within 90*
15 *days after the date on which such notice was filed,*
16 *failed to disapprove such amendment. No amendment*
17 *described in this subsection shall be approved by the*
18 *Secretary of the Treasury unless such Secretary deter-*
19 *mines that such amendment is necessary because of a*
20 *substantial business hardship (as determined under*
21 *subsection (c)(2)) and that a waiver under subsection*
22 *(c) (or, in the case of a multiemployer plan, any ex-*
23 *tension of the amortization period under section*
24 *304(d)) is unavailable or inadequate.*

1 “(1) in any case in which the value of plan as-
2 sets of the plan (as reduced under subsection (f)(4))
3 is less than the funding target of the plan for the plan
4 year, the sum of—

5 “(A) the target normal cost of the plan for
6 the plan year,

7 “(B) the shortfall amortization charge (if
8 any) for the plan for the plan year determined
9 under subsection (c), and

10 “(C) the waiver amortization charge (if
11 any) for the plan for the plan year as deter-
12 mined under subsection (e);

13 “(2) in any case in which the value of plan as-
14 sets of the plan (as reduced under subsection (f)(4))
15 exceeds the funding target of the plan for the plan
16 year, the target normal cost of the plan for the plan
17 year reduced by such excess; or

18 “(3) in any other case, the target normal cost of
19 the plan for the plan year.

20 “(b) TARGET NORMAL COST.—For purposes of this
21 section, except as provided in subsection (i)(2) with respect
22 to plans in at-risk status, the term ‘target normal cost’
23 means, for any plan year, the present value of all benefits
24 which are expected to accrue or to be earned under the plan
25 during the plan year. For purposes of this subsection, if

1 *any benefit attributable to services performed in a preceding*
2 *plan year is increased by reason of any increase in com-*
3 *pensation during the current plan year, the increase in such*
4 *benefit shall be treated as having accrued during the current*
5 *plan year.*

6 “(c) *SHORTFALL AMORTIZATION CHARGE.*—

7 “(1) *IN GENERAL.*—*For purposes of this section,*
8 *the shortfall amortization charge for a plan for any*
9 *plan year is the aggregate total of the shortfall amor-*
10 *tization installments for such plan year with respect*
11 *to the shortfall amortization bases for such plan year*
12 *and each of the 6 preceding plan years.*

13 “(2) *SHORTFALL AMORTIZATION INSTALL-*
14 *MENT.*—*The plan sponsor shall determine, with re-*
15 *spect to the shortfall amortization base of the plan for*
16 *any plan year, the amounts necessary to amortize*
17 *such shortfall amortization base, in level annual in-*
18 *stallments over a period of 7 plan years beginning*
19 *with such plan year. For purposes of paragraph (1),*
20 *the annual installment of such amortization for each*
21 *plan year in such 7-plan-year period is the shortfall*
22 *amortization installment for such plan year with re-*
23 *spect to such shortfall amortization base. In deter-*
24 *mining any shortfall amortization installment under*
25 *this paragraph, the plan sponsor shall use the seg-*

1 *ment rates determined under subparagraph (C) of*
2 *subsection (h)(2), applied under rules similar to the*
3 *rules of subparagraph (B) of subsection (h)(2).*

4 “(3) *SHORTFALL AMORTIZATION BASE.—For*
5 *purposes of this section, the shortfall amortization*
6 *base of a plan for a plan year is the excess (if any)*
7 *of—*

8 “(A) *the funding shortfall of such plan for*
9 *such plan year, over*

10 “(B) *the sum of—*

11 “(i) *the present value (determined*
12 *using the segment rates determined under*
13 *subparagraph (C) of subsection (h)(2), ap-*
14 *plied under rules similar to the rules of sub-*
15 *paragraph (B) of subsection (h)(2)) of the*
16 *aggregate total of the shortfall amortization*
17 *installments, for such plan year and the 5*
18 *succeeding plan years, which have been de-*
19 *termined with respect to the shortfall amor-*
20 *tization bases of the plan for each of the 6*
21 *plan years preceding such plan year, and*

22 “(ii) *the present value (as so deter-*
23 *mined) of the aggregate total of the waiver*
24 *amortization installments for such plan*
25 *year and the 5 succeeding plan years, which*

1 *have been determined with respect to the*
2 *waiver amortization bases of the plan for*
3 *each of the 5 plan years preceding such*
4 *plan year.*

5 *In any case in which the value of plan assets of*
6 *the plan (as reduced under subsection (f)(4)) is*
7 *equal to or greater than the funding target of the*
8 *plan for the plan year, the shortfall amortization*
9 *base of the plan for such plan year shall be zero.*

10 “(4) *FUNDING SHORTFALL.—*

11 “(A) *IN GENERAL.—For purposes of this*
12 *section, except as provided in subparagraph (B),*
13 *the funding shortfall of a plan for any plan year*
14 *is the excess (if any) of—*

15 “(i) *the funding target of the plan for*
16 *the plan year, over*

17 “(ii) *the value of plan assets of the*
18 *plan (as reduced under subsection (f)(4)) for*
19 *the plan year which are held by the plan on*
20 *the valuation date.*

21 “(B) *TRANSITION RULE.—*

22 “(i) *IN GENERAL.—For purposes of*
23 *paragraph (3), in the case of a non-defecit*
24 *reduction plan, subparagraph (A) shall be*
25 *applied to plan years beginning after 2005*

1 and before 2010 by substituting for the
 2 amount described in subparagraph (A)(i)
 3 the applicable percentage of the funding tar-
 4 get of the plan for the plan year determined
 5 under the following table:

| <i>“In the case of a plan year beginning in calendar year:</i> | <i>The appli- cable per- centage is:</i> |
|---|---|
| 2006 | 92 percent |
| 2007 | 94 percent |
| 2008 | 96 percent |
| 2009 | 98 percent. |

6 “*(ii) NON-DEFICIT REDUCTION PLAN.—*
 7 *For purposes of clause (i), the term ‘non-*
 8 *deficit reduction plan’ means any plan—*

9 *“(I) to which this part (as in ef-*
 10 *fect on the day before the date of the*
 11 *enactment of the Pension Protection*
 12 *Act of 2005) applied for the plan year*
 13 *beginning in 2005, and*

14 *“(II) to which section 302(d) (as*
 15 *so in effect) did not apply for such*
 16 *plan year.*

17 “*(5) EARLY DEEMED AMORTIZATION UPON AT-*
 18 *TAINMENT OF FUNDING TARGET.—In any case in*
 19 *which the funding shortfall of a plan for a plan year*
 20 *is zero, for purposes of determining the shortfall am-*
 21 *ortization charge for such plan year and succeeding*

1 *plan years, the shortfall amortization bases for all*
2 *preceding plan years (and all shortfall amortization*
3 *installments determined with respect to such bases)*
4 *shall be reduced to zero.*

5 *“(d) RULES RELATING TO FUNDING TARGET.—For*
6 *purposes of this section—*

7 *“(1) FUNDING TARGET.—Except as provided in*
8 *subsection (i)(1) with respect to plans in at-risk sta-*
9 *tus, the funding target of a plan for a plan year is*
10 *the present value of all liabilities to participants and*
11 *their beneficiaries under the plan for the plan year.*

12 *“(2) FUNDING TARGET ATTAINMENT PERCENT-*
13 *AGE.—The ‘funding target attainment percentage’ of*
14 *a plan for a plan year is the ratio (expressed as a*
15 *percentage) which—*

16 *“(A) the value of plan assets for the plan*
17 *year (as reduced under subsection (f)(4)), bears*
18 *to*

19 *“(B) the funding target of the plan for the*
20 *plan year (determined without regard to sub-*
21 *section (i)(1)).*

22 *“(e) WAIVER AMORTIZATION CHARGE.—*

23 *“(1) DETERMINATION OF WAIVER AMORTIZATION*
24 *CHARGE.—The waiver amortization charge (if any)*
25 *for a plan for any plan year is the aggregate total*

1 of the waiver amortization installments for such plan
2 year with respect to the waiver amortization bases for
3 each of the 5 preceding plan years.

4 “(2) *WAIVER AMORTIZATION INSTALLMENT.*—
5 The plan sponsor shall determine, with respect to the
6 waiver amortization base of the plan for any plan
7 year, the amounts necessary to amortize such waiver
8 amortization base, in level annual installments over
9 a period of 5 plan years beginning with the suc-
10 ceeding plan year. For purposes of paragraph (1), the
11 annual installment of such amortization for each
12 plan year in such 5-plan year period is the waiver
13 amortization installment for such plan year with re-
14 spect to such waiver amortization base.

15 “(3) *INTEREST RATE.*—In determining any
16 waiver amortization installment under this sub-
17 section, the plan sponsor shall use the segment rates
18 determined under subparagraph (C) of subsection
19 (h)(2), applied under rules similar to the rules of sub-
20 paragraph (B) of subsection (h)(2).

21 “(4) *WAIVER AMORTIZATION BASE.*—The waiver
22 amortization base of a plan for a plan year is the
23 amount of the waived funding deficiency (if any) for
24 such plan year under section 302(c).

1 “(5) *EARLY DEEMED AMORTIZATION UPON AT-*
2 *TAINMENT OF FUNDING TARGET.—In any case in*
3 *which the funding shortfall of a plan for a plan year*
4 *is zero, for purposes of determining the waiver amor-*
5 *tization charge for such plan year and succeeding*
6 *plan years, the waiver amortization base for all pre-*
7 *ceding plan years shall be reduced to zero.*

8 “(f) *REDUCTION OF MINIMUM REQUIRED CONTRIBU-*
9 *TION BY PRE-FUNDING BALANCE AND FUNDING STANDARD*
10 *CARRYOVER BALANCE.—*

11 “(1) *ELECTION TO MAINTAIN BALANCES.—*

12 “(A) *PRE-FUNDING BALANCE.—The plan*
13 *sponsor of a single-employer plan may elect to*
14 *maintain a pre-funding balance.*

15 “(B) *FUNDING STANDARD CARRYOVER BAL-*
16 *ANCE.—*

17 “(i) *IN GENERAL.—In the case of a*
18 *single-employer plan described in clause*
19 *(ii), the plan sponsor may elect to maintain*
20 *a funding standard carryover balance, until*
21 *such balance is reduced to zero.*

22 “(ii) *PLANS MAINTAINING FUNDING*
23 *STANDARD ACCOUNT IN 2005.—A plan is de-*
24 *scribed in this clause if the plan—*

1 “(I) was in effect for a plan year
2 beginning in 2005, and

3 “(II) had a positive balance in the
4 funding standard account under sec-
5 tion 302(b) as in effect for such plan
6 year and determined as of the end of
7 such plan year.

8 “(2) APPLICATION OF BALANCES.—A pre-funding
9 balance and a funding standard carryover balance
10 maintained pursuant to this paragraph—

11 “(A) shall be available for crediting against
12 the minimum required contribution, pursuant to
13 an election under paragraph (3),

14 “(B) shall be applied as a reduction in the
15 amount treated as the value of plan assets for
16 purposes of this section, to the extent provided in
17 paragraph (4), and

18 “(C) may be reduced at any time, pursuant
19 to an election under paragraph (5).

20 “(3) ELECTION TO APPLY BALANCES AGAINST
21 MINIMUM REQUIRED CONTRIBUTION.—

22 “(A) IN GENERAL.—Except as provided in
23 subparagraphs (B) and (C), in the case of any
24 plan year in which the plan sponsor elects to
25 credit against the minimum required contribu-

1 tion for the current plan year all or a portion
2 of the pre-funding balance or the funding stand-
3 ard carryover balance for the current plan year
4 (not in excess of such minimum required con-
5 tribution), the minimum required contribution
6 for the plan year shall be reduced by the amount
7 so credited by the plan sponsor. For purposes of
8 the preceding sentence, the minimum required
9 contribution shall be determined after taking
10 into account any waiver under section 302(c).

11 “(B) COORDINATION WITH FUNDING STAND-
12 ARD CARRYOVER BALANCE.—To the extent that
13 any plan has a funding standard carryover bal-
14 ance greater than zero, no amount of the pre-
15 funding balance of such plan may be credited
16 under this paragraph in reducing the minimum
17 required contribution.

18 “(C) LIMITATION FOR UNDERFUNDED
19 PLANS.—The preceding provisions of this para-
20 graph shall not apply for any plan year if the
21 ratio (expressed as a percentage) which—

22 “(i) the value of plan assets for the
23 preceding plan year (as reduced under
24 paragraph (4)), bears to

1 “(ii) the funding target of the plan for
2 the preceding plan year (determined with-
3 out regard to subsection (i)(1)),
4 is less than 80 percent.

5 “(4) *EFFECT OF BALANCES ON AMOUNTS TREAT-*
6 *ED AS VALUE OF PLAN ASSETS.—In the case of any*
7 *plan maintaining a pre-funding balance or a funding*
8 *standard carryover balance pursuant to this sub-*
9 *section, the amount treated as the value of plan assets*
10 *shall be deemed to be such amount, reduced as pro-*
11 *vided in the following subparagraphs:*

12 “(A) *APPLICABILITY OF SHORTFALL AMOR-*
13 *TIZATION CHARGE AND WAIVER AMORTIZATION*
14 *CHARGE.—For purposes of subsection (c)(3), the*
15 *value of plan assets is deemed to be such amount,*
16 *reduced by the amount of the pre-funding bal-*
17 *ance, but only if an election under paragraph*
18 *(2) applying any portion of the pre-funding bal-*
19 *ance in reducing the minimum required con-*
20 *tribution is in effect for the plan year.*

21 “(B) *DETERMINATION OF EXCESS ASSETS,*
22 *FUNDING SHORTFALL, AND FUNDING TARGET AT-*
23 *TAINMENT PERCENTAGE.—For purposes of sub-*
24 *sections (a), (c)(4)(A)(ii), and (d)(2)(A), the*
25 *value of plan assets is deemed to be such amount,*

1 *reduced by the amount of the pre-funding bal-*
2 *ance and the funding standard carryover bal-*
3 *ance.*

4 “(C) *AVAILABILITY OF BALANCES IN PLAN*
5 *YEAR FOR CREDITING AGAINST MINIMUM RE-*
6 *QUIRED CONTRIBUTION.—For purposes of para-*
7 *graph (3)(C)(i) of this subsection, the value of*
8 *plan assets is deemed to be such amount, reduced*
9 *by the amount of the pre-funding balance.*

10 “(5) *ELECTION TO REDUCE BALANCE PRIOR TO*
11 *DETERMINATIONS OF VALUE OF PLAN ASSETS AND*
12 *CREDITING AGAINST MINIMUM REQUIRED CONTRIBU-*
13 *TION.—*

14 “(A) *IN GENERAL.—The plan sponsor may*
15 *elect to reduce by any amount the balance of the*
16 *pre-funding balance and the funding standard*
17 *carryover balance for any plan year (but not*
18 *below zero). Such reduction shall be effective*
19 *prior to any determination of the value of plan*
20 *assets for such plan year under this section and*
21 *application of the balance in reducing the min-*
22 *imum required contribution for such plan for*
23 *such plan year pursuant to an election under*
24 *paragraph (2).*

1 “(B) *COORDINATION BETWEEN PRE-FUND-*
2 *ING BALANCE AND FUNDING STANDARD CARRY-*
3 *OVER BALANCE.*—*To the extent that any plan*
4 *has a funding standard carryover balance great-*
5 *er than zero, no election may be made under sub-*
6 *paragraph (A) with respect to the pre-funding*
7 *balance.*

8 “(6) *PRE-FUNDING BALANCE.*—

9 “(A) *IN GENERAL.*—*A pre-funding balance*
10 *maintained by a plan shall consist of a begin-*
11 *ning balance of zero, increased and decreased to*
12 *the extent provided in subparagraphs (B) and*
13 *(C), and adjusted further as provided in para-*
14 *graph (8).*

15 “(B) *INCREASES.*—*As of the valuation date*
16 *for each plan year beginning after 2006, the pre-*
17 *funding balance of a plan shall be increased by*
18 *the amount elected by the plan sponsor for the*
19 *plan year. Such amount shall not exceed the ex-*
20 *cess (if any) of—*

21 “(i) *the aggregate total of employer*
22 *contributions to the plan for the preceding*
23 *plan year, over*

24 “(ii) *the minimum required contribu-*
25 *tion for such preceding plan year (increased*

1 by interest on any portion of such min-
2 imum required contribution remaining un-
3 paid as of the valuation date for the current
4 plan year, at the effective interest rate for
5 the plan for the preceding plan year, for the
6 period beginning with the first day of such
7 preceding plan year and ending on the date
8 that payment of such portion is made).

9 “(C) *DECREASES*.—As of the valuation date
10 for each plan year after 2006, the pre-funding
11 balance of a plan shall be decreased (but not
12 below zero) by the sum of—

13 “(i) the amount of such balance cred-
14 ited under paragraph (2) (if any) in reduc-
15 ing the minimum required contribution of
16 the plan for the preceding plan year, and

17 “(ii) any reduction in such balance
18 elected under paragraph (5).

19 “(7) *FUNDING STANDARD CARRYOVER BAL-*
20 *ANCE*.—

21 “(A) *IN GENERAL*.—A funding standard
22 carryover balance maintained by a plan shall
23 consist of a beginning balance determined under
24 subparagraph (B), decreased to the extent pro-

1 *vided in subparagraph (C), and adjusted further*
2 *as provided in paragraph (8).*

3 *“(B) BEGINNING BALANCE.—The beginning*
4 *balance of the funding standard carryover bal-*
5 *ance shall be the positive balance described in*
6 *paragraph (1)(B)(ii)(II).*

7 *“(C) DECREASES.—As of the valuation date*
8 *for each plan year after 2006, the funding stand-*
9 *ard carryover balance of a plan shall be de-*
10 *creased (but not below zero) by the sum of—*

11 *“(i) the amount of such balance cred-*
12 *ited under paragraph (2) (if any) in reduc-*
13 *ing the minimum required contribution of*
14 *the plan for the preceding plan year, and*

15 *“(ii) any reduction in such balance*
16 *elected under paragraph (5).*

17 *“(8) ADJUSTMENTS TO BALANCES.—In deter-*
18 *mining the pre-funding balance or the funding stand-*
19 *ard carryover balance of a plan as of the valuation*
20 *date (before applying any increase or decrease under*
21 *paragraph (6) or (7)), the plan sponsor shall, in ac-*
22 *cordance with regulations which shall be prescribed*
23 *by the Secretary of the Treasury, adjust such balance*
24 *so as to reflect the rate of net gain or loss (deter-*
25 *mined, notwithstanding subsection (g)(3), on the basis*

1 *of fair market value) experienced by all plan assets*
2 *for the period beginning with the valuation date for*
3 *the preceding plan year and ending with the date*
4 *preceding the valuation date for the current plan*
5 *year, properly taking into account, in accordance*
6 *with such regulations, all contributions, distributions,*
7 *and other plan payments made during such period.*

8 “(9) *ELECTIONS.—Elections under this sub-*
9 *section shall be made at such times, and in such form*
10 *and manner, as shall be prescribed in regulations of*
11 *the Secretary of the Treasury.*

12 “(g) *VALUATION OF PLAN ASSETS AND LIABILITIES.—*

13 “(1) *TIMING OF DETERMINATIONS.—Except as*
14 *otherwise provided under this subsection, all deter-*
15 *minations under this section for a plan year shall be*
16 *made as of the valuation date of the plan for such*
17 *plan year.*

18 “(2) *VALUATION DATE.—For purposes of this*
19 *section—*

20 “(A) *IN GENERAL.—Except as provided in*
21 *subparagraph (B), the valuation date of a plan*
22 *for any plan year shall be the first day of the*
23 *plan year.*

24 “(B) *EXCEPTION FOR SMALL PLANS.—If, on*
25 *each day during the preceding plan year, a plan*

1 *had 500 or fewer participants, the plan may des-*
2 *ignate any day during the plan year as its valu-*
3 *ation date for such plan year and succeeding*
4 *plan years. For purposes of this subparagraph,*
5 *all defined benefit plans (other than multiem-*
6 *ployer plans) maintained by the same employer*
7 *(or any member of such employer’s controlled*
8 *group) shall be treated as 1 plan, but only em-*
9 *ployees of such employer or member shall be*
10 *taken into account.*

11 “(C) *APPLICATION OF CERTAIN RULES IN*
12 *DETERMINATION OF PLAN SIZE.—For purposes of*
13 *this paragraph—*

14 “(i) *PLANS NOT IN EXISTENCE IN PRE-*
15 *CEDING YEAR.—In the case of the first plan*
16 *year of any plan, subparagraph (B) shall*
17 *apply to such plan by taking into account*
18 *the number of participants that the plan is*
19 *reasonably expected to have on days during*
20 *such first plan year.*

21 “(ii) *PREDECESSORS.—Any reference*
22 *in subparagraph (B) to an employer shall*
23 *include a reference to any predecessor of*
24 *such employer.*

1 “(3) *AUTHORIZATION OF USE OF ACTUARIAL*
2 *VALUE.—For purposes of this section, the value of*
3 *plan assets shall be determined on the basis of any*
4 *reasonable actuarial method of valuation which takes*
5 *into account fair market value and which is per-*
6 *mitted under regulations prescribed by the Secretary*
7 *of the Treasury, except that—*

8 “(A) *any such method providing for aver-*
9 *aging of fair market values may not provide for*
10 *averaging of such values over more than the 3*
11 *most recent plan years (including the current*
12 *plan year), and*

13 “(B) *any such method may not result in a*
14 *determination of the value of plan assets which,*
15 *at any time, is lower than 90 percent or greater*
16 *than 110 percent of the fair market value of such*
17 *assets at such time.*

18 “(4) *ACCOUNTING FOR CONTRIBUTION RE-*
19 *CEIPTS.—For purposes of this section—*

20 “(A) *CONTRIBUTIONS FOR PRIOR PLAN*
21 *YEARS TAKEN INTO ACCOUNT.—For purposes of*
22 *determining the value of plan assets for any cur-*
23 *rent plan year, in any case in which a contribu-*
24 *tion properly allocable to amounts owed for a*
25 *preceding plan year is made on or after the*

1 *valuation date of the plan for such current plan*
2 *year, such contribution shall be taken into ac-*
3 *count, except that any such contribution made*
4 *during any such current plan year beginning*
5 *after 2006 shall be taken into account only in an*
6 *amount equal to its present value (determined*
7 *using the effective rate of interest for the plan for*
8 *the preceding plan year) as of the valuation date*
9 *of the plan for such current plan year.*

10 “(B) *CONTRIBUTIONS FOR CURRENT PLAN*
11 *YEAR DISREGARDED.—For purposes of deter-*
12 *mining the value of plan assets for any current*
13 *plan year, contributions which are properly allo-*
14 *cable to amounts owed for such plan year shall*
15 *not be taken into account, and, in the case of*
16 *any such contribution made before the valuation*
17 *date of the plan for such plan year, such value*
18 *of plan assets shall be reduced for interest on*
19 *such amount determined using the effective rate*
20 *of interest of the plan for the preceding plan*
21 *year for the period beginning when such pay-*
22 *ment was made and ending on the valuation*
23 *date of the plan.*

24 “(5) *ACCOUNTING FOR PLAN LIABILITIES.—For*
25 *purposes of this section—*

1 “(A) *LIABILITIES TAKEN INTO ACCOUNT*
2 *FOR CURRENT PLAN YEAR.*—*In determining the*
3 *value of liabilities under a plan for a plan year,*
4 *liabilities shall be taken into account to the ex-*
5 *tent attributable to benefits (including any early*
6 *retirement or similar benefit) accrued or earned*
7 *as of the beginning of the plan year.*

8 “(B) *ACCRUALS DURING CURRENT PLAN*
9 *YEAR DISREGARDED.*—*For purposes of subpara-*
10 *graph (A), benefits accrued or earned during*
11 *such plan year shall not be taken into account,*
12 *irrespective of whether the valuation date of the*
13 *plan for such plan year is later than the first*
14 *day of such plan year.*

15 “(h) *ACTUARIAL ASSUMPTIONS AND METHODS.*—

16 “(1) *IN GENERAL.*—*Subject to this subsection,*
17 *the determination of any present value or other com-*
18 *putation under this section shall be made on the basis*
19 *of actuarial assumptions and methods—*

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

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

1 “(2) *INTEREST RATES.*—

2 “(A) *EFFECTIVE INTEREST RATE.*—*For*
3 *purposes of this section, the term ‘effective inter-*
4 *est rate’ means, with respect to any plan for any*
5 *plan year, the single rate of interest which, if*
6 *used to determine the present value of the plan’s*
7 *liabilities referred to in subsection (d)(1), would*
8 *result in an amount equal to the funding target*
9 *of the plan for such plan year.*

10 “(B) *INTEREST RATES FOR DETERMINING*
11 *FUNDING TARGET.*—*For purposes of determining*
12 *the funding target of a plan for any plan year,*
13 *the interest rate used in determining the present*
14 *value of the liabilities of the plan shall be—*

15 “(i) *in the case of liabilities reasonably*
16 *determined to be payable during the 5-year*
17 *period beginning on the first day of the*
18 *plan year, the first segment rate with re-*
19 *spect to the applicable month,*

20 “(ii) *in the case of liabilities reason-*
21 *ably determined to be payable during the*
22 *15-year period beginning at the end of the*
23 *period described in clause (i), the second*
24 *segment rate with respect to the applicable*
25 *month, and*

1 “(iii) *in the case of liabilities reason-*
2 *ably determined to be payable after the pe-*
3 *riod described in clause (ii), the third seg-*
4 *ment rate with respect to the applicable*
5 *month.*

6 “(C) *SEGMENT RATES.—For purposes of*
7 *this paragraph—*

8 “(i) *FIRST SEGMENT RATE.—The term*
9 *‘first segment rate’ means, with respect to*
10 *any month, the single rate of interest which*
11 *shall be determined by the Secretary of the*
12 *Treasury for such month on the basis of the*
13 *corporate bond yield curve for such month,*
14 *taking into account only that portion of*
15 *such yield curve which is based on bonds*
16 *maturing during the 5-year period com-*
17 *mencing with such month.*

18 “(ii) *SECOND SEGMENT RATE.—The*
19 *term ‘second segment rate’ means, with re-*
20 *spect to any month, the single rate of inter-*
21 *est which shall be determined by the Sec-*
22 *retary of the Treasury for such month on*
23 *the basis of the corporate bond yield curve*
24 *for such month, taking into account only*
25 *that portion of such yield curve which is*

1 *based on bonds maturing during the 15-*
2 *year period beginning at the end of the pe-*
3 *riod described in clause (i).*

4 “(iii) *THIRD SEGMENT RATE.*—*The*
5 *term ‘third segment rate’ means, with re-*
6 *spect to any month, the single rate of inter-*
7 *est which shall be determined by the Sec-*
8 *retary of the Treasury for such month on*
9 *the basis of the corporate bond yield curve*
10 *for such month, taking into account only*
11 *that portion of such yield curve which is*
12 *based on bonds maturing during periods be-*
13 *ginning after the period described in clause*
14 *(ii).*

15 “(D) *CORPORATE BOND YIELD CURVE.*—*For*
16 *purposes of this paragraph—*

17 “(i) *IN GENERAL.*—*The term ‘corporate*
18 *bond yield curve’ means, with respect to*
19 *any month, a yield curve which is pre-*
20 *scribed by the Secretary of the Treasury for*
21 *such month and which reflects a 3-year*
22 *weighted average of yields on investment*
23 *grade corporate bonds with varying matu-*
24 *rities.*

1 “(ii) *3-YEAR WEIGHTED AVERAGE.*—
2 *The term ‘3-year weighted average’ means*
3 *an average determined by using a method-*
4 *ology under which the most recent year is*
5 *weighted 50 percent, the year preceding*
6 *such year is weighted 35 percent, and the*
7 *second year preceding such year is weighted*
8 *15 percent.*

9 “(E) *APPLICABLE MONTH.*—*For purposes of*
10 *this paragraph, the term ‘applicable month’*
11 *means, with respect to any plan for any plan*
12 *year, the month which includes the valuation*
13 *date of such plan for such plan year or, at the*
14 *election of the plan administrator, any of the 4*
15 *months which precede such month. Any election*
16 *made under this subparagraph shall apply to the*
17 *plan year for which the election is made and all*
18 *succeeding plan years, unless the election is re-*
19 *voked with the consent of the Secretary of the*
20 *Treasury.*

21 “(F) *PUBLICATION REQUIREMENTS.*—*The*
22 *Secretary of the Treasury shall publish for each*
23 *month the corporate bond yield curve (and the*
24 *corporate bond yield curve reflecting the modi-*
25 *fication described in section 205(g)(3)(B)(iii)(I))*

1 *for such month and each of the rates determined*
2 *under subparagraph (B) for such month. The*
3 *Secretary of the Treasury shall also publish a de-*
4 *scription of the methodology used to determine*
5 *such yield curve and such rates which is suffi-*
6 *ciently detailed to enable plans to make reason-*
7 *able projections regarding the yield curve and*
8 *such rates for future months based on the plan's*
9 *projection of future interest rates.*

10 “(G) *TRANSITION RULE.—*

11 “(i) *IN GENERAL.—Notwithstanding*
12 *the preceding provisions of this paragraph,*
13 *for plan years beginning in 2006 or 2007,*
14 *the first, second, or third segment rate for a*
15 *plan with respect to any month shall be*
16 *equal to the sum of—*

17 “(I) *the product of such rate for*
18 *such month determined without regard*
19 *to this subparagraph, multiplied by the*
20 *applicable percentage, and*

21 “(II) *the product of the rate deter-*
22 *mined under the rules of section*
23 *302(b)(5)(B)(ii)(II) (as in effect for*
24 *plan years beginning in 2005), multi-*

1 *plied by a percentage equal to 100 per-*
2 *cent minus the applicable percentage.*

3 *“(ii) APPLICABLE PERCENTAGE.—For*
4 *purposes of clause (i), the applicable per-*
5 *centage is 33¹/₃ percent for plan years be-*
6 *ginning in 2006 and 66²/₃ percent for plan*
7 *years beginning in 2007.*

8 *“(3) MORTALITY TABLE.—*

9 *“(A) IN GENERAL.—Except as provided in*
10 *subparagraph (C), the mortality table used in*
11 *determining any present value or making any*
12 *computation under this section shall be the RP-*
13 *2000 Combined Mortality Table, using Scale AA,*
14 *as published by the Society of Actuaries, as in*
15 *effect on the date of the enactment of the Pension*
16 *Protection Act of 2005 and as revised from time*
17 *to time under subparagraph (B).*

18 *“(B) PERIODIC REVISION.—The Secretary*
19 *of the Treasury shall (at least every 10 years)*
20 *make revisions in any table in effect under sub-*
21 *paragraph (A) to reflect the actual experience of*
22 *pension plans and projected trends in such expe-*
23 *rience.*

24 *“(C) SUBSTITUTE MORTALITY TABLE.—*

1 “(i) *IN GENERAL.*—Upon request by
2 the plan sponsor and approval by the Sec-
3 retary of the Treasury for a period not to
4 exceed 10 years, a mortality table which
5 meets the requirements of clause (ii) shall be
6 used in determining any present value or
7 making any computation under this section.
8 A mortality table described in this clause
9 shall cease to be in effect if the plan actuary
10 determines at any time that such table does
11 not meet the requirements of subclauses (I)
12 and (II) of clause (ii).

13 “(ii) *REQUIREMENTS.*—A mortality
14 table meets the requirements of this clause if
15 the Secretary of the Treasury determines
16 that—

17 “(I) such table reflects the actual
18 experience of the pension plan and
19 projected trends in such experience,
20 and

21 “(II) such table is significantly
22 different from the table described in
23 subparagraph (A).

24 “(iii) *DEADLINE FOR DISPOSITION OF*
25 *APPLICATION.*—Any mortality table sub-

1 mitted to the Secretary of the Treasury for
2 approval under this subparagraph shall be
3 treated as in effect for the succeeding plan
4 year unless the Secretary of the Treasury,
5 during the 180-day period beginning on the
6 date of such submission, disapproves of such
7 table and provides the reasons that such
8 table fails to meet the requirements of clause
9 (ii).

10 “(D) *TRANSITION RULE.*—Under regula-
11 tions of the Secretary of the Treasury, any dif-
12 ference in assumptions as set forth in the mor-
13 tality table specified in subparagraph (A) and
14 assumptions as set forth in the mortality table
15 described in section 302(d)(7)(C)(ii) (as in effect
16 for plan years beginning in 2005) shall be
17 phased in ratably over the first period of 5 plan
18 years beginning in or after 2006 so as to be fully
19 effective for the fifth plan year.

20 “(4) *PROBABILITY OF BENEFIT PAYMENTS IN*
21 *THE FORM OF LUMP SUMS OR OTHER OPTIONAL*
22 *FORMS.*—For purposes of determining any present
23 value or making any computation under this section,
24 there shall be taken into account—

1 “(A) the probability that future benefit pay-
2 ments under the plan will be made in the form
3 of optional forms of benefits provided under the
4 plan (including lump sum distributions, deter-
5 mined on the basis of the plan’s experience and
6 other related assumptions), and

7 “(B) any difference in the present value of
8 such future benefit payments resulting from the
9 use of actuarial assumptions, in determining
10 benefit payments in any such optional form of
11 benefits, which are different from those specified
12 in this subsection.

13 “(5) APPROVAL OF LARGE CHANGES IN ACTU-
14 ARIAL ASSUMPTIONS.—

15 “(A) IN GENERAL.—No actuarial assump-
16 tion used to determine the funding target for a
17 single-employer plan to which this paragraph
18 applies may be changed without the approval of
19 the Secretary of the Treasury.

20 “(B) PLANS TO WHICH PARAGRAPH AP-
21 PLIES.—This paragraph shall apply to a plan
22 only if—

23 “(i) the aggregate unfunded vested ben-
24 efits as of the close of the preceding plan
25 year (as determined under section

1 4006(a)(3)(E)(iii)) of such plan and all
2 other plans maintained by the contributing
3 sponsors (as defined in section 4001(a)(13))
4 and members of such sponsors' controlled
5 groups (as defined in section 4001(a)(14))
6 which are covered by title IV (disregarding
7 plans with no unfunded vested benefits) ex-
8 ceed \$50,000,000; and

9 “(ii) the change in assumptions (deter-
10 mined after taking into account any
11 changes in interest rate and mortality
12 table) results in a decrease in the funding
13 shortfall of the plan for the current plan
14 year that exceeds \$50,000,000, or that ex-
15 ceeds \$5,000,000 and that is 5 percent or
16 more of the funding target of the plan before
17 such change.

18 “(i) *SPECIAL RULES FOR AT-RISK PLANS.*—

19 “(1) *FUNDING TARGET FOR PLANS IN AT-RISK*
20 *STATUS.*—

21 “(A) *IN GENERAL.*—*In any case in which a*
22 *plan is in at-risk status for a plan year, the*
23 *funding target of the plan for the plan year is*
24 *the sum of—*

1 “(i) the present value of all liabilities
2 to participants and their beneficiaries
3 under the plan for the plan year, as deter-
4 mined by using, in addition to the actu-
5 arial assumptions described in subsection
6 (g), the supplemental actuarial assumptions
7 described in subparagraph (B), plus

8 “(ii) a loading factor determined
9 under subparagraph (C).

10 “(B) SUPPLEMENTAL ACTUARIAL ASSUMP-
11 TIONS.—The actuarial assumptions used in de-
12 termining the valuation of the funding target
13 shall include, in addition to the actuarial as-
14 sumptions described in subsection (h), an as-
15 sumption that all participants will elect benefits
16 at such times and in such forms as will result
17 in the highest present value of liabilities under
18 subparagraph (A)(i).

19 “(C) LOADING FACTOR.—The loading factor
20 applied with respect to a plan under this para-
21 graph for any plan year is the sum of—

22 “(i) \$700, times the number of partici-
23 pants in the plan, plus

1 “(ii) 4 percent of the funding target
2 (determined without regard to this para-
3 graph) of the plan for the plan year.

4 “(2) *TARGET NORMAL COST OF AT-RISK*
5 *PLANS.*—In any case in which a plan is in at-risk
6 status for a plan year, the target normal cost of the
7 plan for such plan year shall be the sum of—

8 “(A) the present value of all benefits which
9 are expected to accrue or be earned under the
10 plan during the plan year, determined under the
11 actuarial assumptions used under paragraph
12 (1), plus

13 “(B) the loading factor under paragraph
14 (1)(C), excluding the portion of the loading fac-
15 tor described in paragraph (1)(C)(i).

16 “(3) *DETERMINATION OF AT-RISK STATUS.*—For
17 purposes of this subsection, a plan is in ‘at-risk sta-
18 tus’ for a plan year if the funding target attainment
19 percentage of the plan for the preceding plan year
20 was less than 60 percent.

21 “(4) *TRANSITION BETWEEN APPLICABLE FUND-*
22 *ING TARGETS AND BETWEEN APPLICABLE TARGET*
23 *NORMAL COSTS.*—

24 “(A) *IN GENERAL.*—In any case in which a
25 plan which is in at-risk status for a plan year

1 *has been in such status for a consecutive period*
2 *of fewer than 5 plan years, the applicable*
3 *amount of the funding target and of the target*
4 *normal cost shall be, in lieu of the amount deter-*
5 *mined without regard to this paragraph, the sum*
6 *of—*

7 *“(i) the amount determined under this*
8 *section without regard to this subsection,*
9 *plus*

10 *“(ii) the transition percentage for such*
11 *plan year of the excess of the amount deter-*
12 *mined under this subsection (without regard*
13 *to this paragraph) over the amount deter-*
14 *mined under this section without regard to*
15 *this subsection.*

16 *“(B) TRANSITION PERCENTAGE.—For pur-*
17 *poses of this paragraph, the ‘transition percent-*
18 *age’ for a plan year is the product derived by*
19 *multiplying—*

20 *“(i) 20 percent, by*

21 *“(ii) the number of plan years during*
22 *the period described in subparagraph (A).*

23 *“(j) PAYMENT OF MINIMUM REQUIRED CONTRIBU-*
24 *TIONS.—*

1 “(1) *IN GENERAL.*—For purposes of this section,
2 the due date for any payment of any minimum re-
3 quired contribution for any plan year shall be 8½
4 months after the close of the plan year.

5 “(2) *INTEREST.*—Any payment required under
6 paragraph (1) for a plan year made after the valu-
7 ation date for such plan year shall be increased by in-
8 terest, for the period from the valuation date to the
9 payment date, at the effective rate of interest for the
10 plan for such plan year.

11 “(3) *ACCELERATED QUARTERLY CONTRIBUTION*
12 *SCHEDULE FOR UNDERFUNDED PLANS.*—

13 “(A) *INTEREST PENALTY FOR FAILURE TO*
14 *MEET ACCELERATED QUARTERLY PAYMENT*
15 *SCHEDULE.*—In any case in which the plan has
16 a funding shortfall for the preceding plan year,
17 if the required installment is not paid in full,
18 then the minimum required contribution for the
19 plan year (as increased under paragraph (2))
20 shall be further increased by an amount equal to
21 the interest on the amount of the underpayment
22 for the period of the underpayment, using an in-
23 terest rate equal to the excess of—

24 “(i) 175 percent of the Federal mid-
25 term rate (as in effect under section 1274 of

1 *the Internal Revenue Code of 1986 for the*
2 *1st month of such plan year), over*

3 “(ii) *the effective rate of interest for the*
4 *plan for the plan year.*

5 “(B) *AMOUNT OF UNDERPAYMENT, PERIOD*
6 *OF UNDERPAYMENT.—For purposes of subpara-*
7 *graph (A)—*

8 “(i) *AMOUNT.—The amount of the un-*
9 *derpayment shall be the excess of—*

10 “(I) *the required installment, over*

11 “(II) *the amount (if any) of the*
12 *installment contributed to or under the*
13 *plan on or before the due date for the*
14 *installment.*

15 “(ii) *PERIOD OF UNDERPAYMENT.—*
16 *The period for which any interest is charged*
17 *under this paragraph with respect to any*
18 *portion of the underpayment shall run from*
19 *the due date for the installment to the date*
20 *on which such portion is contributed to or*
21 *under the plan.*

22 “(iii) *ORDER OF CREDITING CON-*
23 *TRIBUTIONS.—For purposes of clause*
24 *(i)(II), contributions shall be credited*
25 *against unpaid required installments in the*

1 order in which such installments are re-
 2 quired to be paid.

3 “(C) NUMBER OF REQUIRED INSTALL-
 4 MENTS; DUE DATES.—For purposes of this para-
 5 graph—

6 “(i) PAYABLE IN 4 INSTALLMENTS.—
 7 There shall be 4 required installments for
 8 each plan year.

9 “(ii) TIME FOR PAYMENT OF INSTALL-
 10 MENTS.—The due dates for required install-
 11 ments are set forth in the following table:

| <i>“In the case of the following required installment:</i> | <i>The due date is:</i> |
|---|---------------------------------------|
| 1st | April 15 |
| 2nd | July 15 |
| 3rd | October 15 |
| 4th | January 15 of the fol- lowing year |

12 “(D) AMOUNT OF REQUIRED INSTALL-
 13 MENT.—For purposes of this paragraph—

14 “(i) IN GENERAL.—The amount of any
 15 required installment shall be 25 percent of
 16 the required annual payment.

17 “(ii) REQUIRED ANNUAL PAYMENT.—
 18 For purposes of clause (i), the term ‘re-
 19 quired annual payment’ means the lesser
 20 of—

1 “(I) 90 percent of the minimum
2 required contribution (without regard
3 to any waiver under section 302(c)) to
4 the plan for the plan year under this
5 section, or

6 “(II) in the case of a plan year
7 beginning after 2006, 100 percent of
8 the minimum required contribution
9 (without regard to any waiver under
10 section 302(c)) to the plan for the pre-
11 ceding plan year.

12 Subclause (II) shall not apply if the pre-
13 ceding plan year referred to in such clause
14 was not a year of 12 months.

15 “(E) FISCAL YEARS AND SHORT YEARS.—

16 “(i) FISCAL YEARS.—In applying this
17 paragraph to a plan year beginning on any
18 date other than January 1, there shall be
19 substituted for the months specified in this
20 paragraph, the months which correspond
21 thereto.

22 “(ii) SHORT PLAN YEAR.—This sub-
23 paragraph shall be applied to plan years of
24 less than 12 months in accordance with reg-

1 *ulations prescribed by the Secretary of the*
2 *Treasury.*

3 “(4) *LIQUIDITY REQUIREMENT IN CONNECTION*
4 *WITH QUARTERLY CONTRIBUTIONS.—*

5 “(A) *IN GENERAL.—A plan to which this*
6 *paragraph applies shall be treated as failing to*
7 *pay the full amount of any required installment*
8 *under paragraph (3) to the extent that the value*
9 *of the liquid assets paid in such installment is*
10 *less than the liquidity shortfall (whether or not*
11 *such liquidity shortfall exceeds the amount of*
12 *such installment required to be paid but for this*
13 *paragraph).*

14 “(B) *PLANS TO WHICH PARAGRAPH AP-*
15 *PLIES.—This paragraph shall apply to a plan*
16 *(other than a plan that would be described in*
17 *subsection (f)(2)(B) if ‘100’ were substituted for*
18 *‘500’ therein) which—*

19 “(i) *is required to pay installments*
20 *under paragraph (3) for a plan year, and*

21 “(ii) *has a liquidity shortfall for any*
22 *quarter during such plan year.*

23 “(C) *PERIOD OF UNDERPAYMENT.—For*
24 *purposes of paragraph (3)(A), any portion of an*
25 *installment that is treated as not paid under*

1 subparagraph (A) shall continue to be treated as
2 unpaid until the close of the quarter in which the
3 due date for such installment occurs.

4 “(D) *LIMITATION ON INCREASE.*—If the
5 amount of any required installment is increased
6 by reason of subparagraph (A), in no event shall
7 such increase exceed the amount which, when
8 added to prior installments for the plan year, is
9 necessary to increase the funding target attain-
10 ment percentage of the plan for the plan year
11 (taking into account the expected increase in
12 funding target due to benefits accruing or earned
13 during the plan year) to 100 percent.

14 “(E) *DEFINITIONS.*—For purposes of this
15 subparagraph:

16 “(i) *LIQUIDITY SHORTFALL.*—The term
17 ‘liquidity shortfall’ means, with respect to
18 any required installment, an amount equal
19 to the excess (as of the last day of the quar-
20 ter for which such installment is made) of—

21 “(I) the base amount with respect
22 to such quarter, over

23 “(II) the value (as of such last
24 day) of the plan’s liquid assets.

25 “(ii) *BASE AMOUNT.*—

1 “(I) *IN GENERAL.*—The term ‘base
2 amount’ means, with respect to any
3 quarter, an amount equal to 3 times
4 the sum of the adjusted disbursements
5 from the plan for the 12 months ending
6 on the last day of such quarter.

7 “(II) *SPECIAL RULE.*—If the
8 amount determined under subclause (I)
9 exceeds an amount equal to 2 times the
10 sum of the adjusted disbursements from
11 the plan for the 36 months ending on
12 the last day of the quarter and an en-
13 rolled actuary certifies to the satisfac-
14 tion of the Secretary of the Treasury
15 that such excess is the result of non-
16 recurring circumstances, the base
17 amount with respect to such quarter
18 shall be determined without regard to
19 amounts related to those nonrecurring
20 circumstances.

21 “(iii) *DISBURSEMENTS FROM THE*
22 *PLAN.*—The term ‘disbursements from the
23 plan’ means all disbursements from the
24 trust, including purchases of annuities,

1 *payments of single sums and other benefits,*
2 *and administrative expenses.*

3 “(iv) *ADJUSTED DISBURSEMENTS.*—

4 *The term ‘adjusted disbursements’ means*
5 *disbursements from the plan reduced by the*
6 *product of—*

7 “(I) *the plan’s funding target at-*
8 *tainment percentage for the plan year,*
9 *and*

10 “(II) *the sum of the purchases of*
11 *annuities, payments of single sums,*
12 *and such other disbursements as the*
13 *Secretary of the Treasury shall provide*
14 *in regulations.*

15 “(v) *LIQUID ASSETS.*—*The term ‘liq-*
16 *uid assets’ means cash, marketable securi-*
17 *ties, and such other assets as specified by*
18 *the Secretary of the Treasury in regula-*
19 *tions.*

20 “(vi) *QUARTER.*—*The term ‘quarter’*
21 *means, with respect to any required install-*
22 *ment, the 3-month period preceding the*
23 *month in which the due date for such in-*
24 *stallment occurs.*

1 “(F) REGULATIONS.—The Secretary of the
2 Treasury may prescribe such regulations as are
3 necessary to carry out this paragraph.

4 “(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE
5 REQUIRED CONTRIBUTIONS.—

6 “(1) IN GENERAL.—In the case of a plan covered
7 under section 4021 of this Act and to which this sub-
8 section applies (as provided under paragraph (2)),
9 if—

10 “(A) any person fails to make a contribu-
11 tion payment required by section 302 and this
12 section before the due date for such payment, and

13 “(B) the unpaid balance of such payment
14 (including interest), when added to the aggregate
15 unpaid balance of all preceding such payments
16 for which payment was not made before the due
17 date (including interest), exceeds \$1,000,000,

18 then there shall be a lien in favor of the plan in the
19 amount determined under paragraph (3) upon all
20 property and rights to property, whether real or per-
21 sonal, belonging to such person and any other person
22 who is a member of the same controlled group of
23 which such person is a member.

24 “(2) PLANS TO WHICH SUBSECTION APPLIES.—
25 This subsection shall apply to a defined benefit plan

1 *which is a single-employer plan for any plan year for*
2 *which the funding target attainment percentage (as*
3 *defined in subsection (d)(2)) of such plan is less than*
4 *100 percent.*

5 “(3) *AMOUNT OF LIEN.*—*For purposes of para-*
6 *graph (1), the amount of the lien shall be equal to the*
7 *aggregate unpaid balance of contribution payments*
8 *required under this section and section 302 for which*
9 *payment has not been made before the due date.*

10 “(4) *NOTICE OF FAILURE; LIEN.*—

11 “(A) *NOTICE OF FAILURE.*—*A person com-*
12 *mitting a failure described in paragraph (1)*
13 *shall notify the Pension Benefit Guaranty Cor-*
14 *poration of such failure within 10 days of the*
15 *due date for the required contribution payment.*

16 “(B) *PERIOD OF LIEN.*—*The lien imposed*
17 *by paragraph (1) shall arise on the due date for*
18 *the required contribution payment and shall con-*
19 *tinue until the last day of the first plan year in*
20 *which the plan ceases to be described in para-*
21 *graph (1)(B). Such lien shall continue to run*
22 *without regard to whether such plan continues to*
23 *be described in paragraph (2) during the period*
24 *referred to in the preceding sentence.*

1 “(C) *CERTAIN RULES TO APPLY.*—*Any*
2 *amount with respect to which a lien is imposed*
3 *under paragraph (1) shall be treated as taxes*
4 *due and owing the United States and rules simi-*
5 *lar to the rules of subsections (c), (d), and (e) of*
6 *section 4068 shall apply with respect to a lien*
7 *imposed by subsection (a) and the amount with*
8 *respect to such lien.*

9 “(5) *ENFORCEMENT.*—*Any lien created under*
10 *paragraph (1) may be perfected and enforced only by*
11 *the Pension Benefit Guaranty Corporation, or at the*
12 *direction of the Pension Benefit Guaranty Corpora-*
13 *tion, by the contributing sponsor (or any member of*
14 *the controlled group of the contributing sponsor).*

15 “(6) *DEFINITIONS.*—*For purposes of this sub-*
16 *section—*

17 “(A) *CONTRIBUTION PAYMENT.*—*The term*
18 *‘contribution payment’ means, in connection*
19 *with a plan, a contribution payment required to*
20 *be made to the plan, including any required in-*
21 *stallment under paragraphs (3) and (4) of sub-*
22 *section (i).*

23 “(B) *DUE DATE; REQUIRED INSTALL-*
24 *MENT.*—*The terms ‘due date’ and ‘required in-*
25 *stallment’ have the meanings given such terms*

1 by subsection (j), except that in the case of a
2 payment other than a required installment, the
3 due date shall be the date such payment is re-
4 quired to be made under section 303.

5 “(C) *CONTROLLED GROUP*.—The term ‘con-
6 trolled group’ means any group treated as a sin-
7 gle employer under subsections (b), (c), (m), and
8 (o) of section 414 of the Internal Revenue Code
9 of 1986.

10 “(l) *QUALIFIED TRANSFERS TO HEALTH BENEFIT AC-*
11 *COUNTS*.—In the case of a qualified transfer (as defined in
12 *section 420 of the Internal Revenue Code of 1986*), any as-
13 *sets so transferred shall not, for purposes of this section,*
14 *be treated as assets in the plan.”.*

15 “(b) *CLERICAL AMENDMENT*.—The table of sections in
16 *section 1 of such Act (as amended by section 101) is amend-*
17 *ed by inserting after the item relating to section 302 the*
18 *following new item:*

“Sec. 303. *Minimum funding standards for single-employer defined benefit pen-*
sion plans.”.

19 “(c) *EFFECTIVE DATE*.—The amendments made by this
20 *section shall apply with respect to plan years beginning*
21 *after 2005.*

1 **SEC. 103. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER**
2 **PLANS.**

3 (a) *PROHIBITION OF SHUTDOWN BENEFITS AND*
4 *OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS*
5 *UNDER SINGLE-EMPLOYER PLANS.*—Section 206 of the
6 *Employee Retirement Income Security Act of 1974 (29*
7 *U.S.C. 1056) is amended by adding at the end the following*
8 *new subsection:*

9 “(g) *PROHIBITION OF SHUTDOWN BENEFITS AND*
10 *OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS*
11 *UNDER SINGLE-EMPLOYER PLANS.*—

12 “(1) *IN GENERAL.*—No pension plan which is a
13 *single-employer plan may provide benefits to which*
14 *participants are entitled solely by reason of the occur-*
15 *rence of—*

16 “(A) *a plant shutdown, or*

17 “(B) *any other unpredictable contingent*
18 *event.*

19 “(2) *UNPREDICTABLE CONTINGENT EVENT.*—For
20 *purposes of this subsection, the term ‘unpredictable*
21 *contingent event’ means an event other than—*

22 “(A) *attainment of any age, performance of*
23 *any service, receipt or derivation of any com-*
24 *ensation, or the occurrence of death or dis-*
25 *ability, or*

1 “(B) an event which is reasonably and reli-
2 ably predictable (as determined by the Secretary
3 of the Treasury).”.

4 (b) *OTHER LIMITS ON BENEFITS AND BENEFIT AC-*
5 *CRUALS.—*

6 (1) *IN GENERAL.—*Section 206 of such Act (as
7 amended by subsection (a)) is amended further by
8 adding at the end the following new subsection:

9 “(h) *FUNDING-BASED LIMITS ON BENEFITS AND BEN-*
10 *EFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.—*

11 “(1) *LIMITATIONS ON PLAN AMENDMENTS IN-*
12 *CREASING LIABILITY FOR BENEFITS.—*

13 “(A) *IN GENERAL.—*No amendment to a
14 single-employer plan which has the effect of in-
15 creasing liabilities of the plan by reason of in-
16 creases in benefits, establishment of new benefits,
17 changing the rate of benefit accrual, or changing
18 the rate at which benefits become nonforfeitable
19 to the plan may take effect during any plan year
20 if the funding target attainment percentage as of
21 the valuation date of the plan for such plan year
22 is—

23 “(i) less than 80 percent, or

24 “(ii) would be less than 80 percent tak-
25 ing into account such amendment.

1 *For purposes of this subparagraph, any increase*
2 *in benefits under the plan by reason of an in-*
3 *crease in the benefit rate provided under the*
4 *plan or on the basis of an increase in compensa-*
5 *tion shall be treated as affected by plan amend-*
6 *ment.*

7 “(B) *EXEMPTION.*—*Subparagraph (A) shall*
8 *cease to apply with respect to any plan year, ef-*
9 *fective as of the first date of the plan year (or*
10 *if later, the effective date of the amendment),*
11 *upon payment by the plan sponsor of a contribu-*
12 *tion (in addition to any minimum required con-*
13 *tribution under section 303) equal to—*

14 “(i) *in the case of subparagraph (A)(i),*
15 *the amount of the increase in the funding*
16 *target of the plan (under section 303) for*
17 *the plan year attributable to the amend-*
18 *ment, and*

19 “(ii) *in the case of subparagraph*
20 *(A)(ii), the amount sufficient to result in a*
21 *funding target attainment percentage of 80*
22 *percent.*

23 “(2) *FUNDING-BASED LIMITATION ON CERTAIN*
24 *FORMS OF DISTRIBUTION.*—

1 “(A) *IN GENERAL.*—A single-employer plan
2 shall provide that, in any case in which the
3 plan’s funding target attainment percentage as
4 of the valuation date of the plan for a plan year
5 is less than 80 percent, the plan may not after
6 such date pay any prohibited payment (as de-
7 fined in section 206(e)).

8 “(B) *EXCEPTION.*—Subparagraph (A) shall
9 not apply to any plan for any plan year if the
10 terms of such plan (as in effect for the period be-
11 ginning on June 29, 2005, and ending with such
12 plan year) provide for no benefit accruals with
13 respect to any participant during such period.

14 “(3) *LIMITATIONS ON BENEFIT ACCRUALS FOR*
15 *PLANS WITH SEVERE FUNDING SHORTFALLS.*—A sin-
16 gle-employer plan shall provide that, in any case in
17 which the plan’s funding target attainment percent-
18 age as of the valuation date of the plan for a plan
19 year is less than 60 percent, all future benefit accru-
20 als under the plan shall cease as of such date.

21 “(4) *NEW PLANS.*—Paragraphs (1) and (3) shall
22 not apply to a plan for the first 5 plan years of the
23 plan. For purposes of this paragraph, the reference in
24 this paragraph to a plan shall include a reference to
25 any predecessor plan.

1 “(5) *PRESUMED UNDERFUNDING FOR PURPOSES*
2 *OF BENEFIT LIMITATIONS BASED ON PRIOR YEAR’S*
3 *FUNDING STATUS.*—

4 “(A) *PRESUMPTION OF CONTINUED UNDER-*
5 *FUNDING.*—*In any case in which a benefit limi-*
6 *tation under paragraph (1), (2), or (3) has been*
7 *applied to a plan with respect to the plan year*
8 *preceding the current plan year, the funding tar-*
9 *get attainment percentage of the plan as of the*
10 *valuation date of the plan for the current plan*
11 *year shall be presumed to be equal to the funding*
12 *target attainment percentage of the plan as of*
13 *the valuation date of the plan for the preceding*
14 *plan year until the enrolled actuary of the plan*
15 *certifies the actual funding target attainment*
16 *percentage of the plan as of the valuation date*
17 *of the plan for the current plan year.*

18 “(B) *PRESUMPTION OF UNDERFUNDING*
19 *AFTER 10TH MONTH.*—*In any case in which no*
20 *such certification is made with respect to the*
21 *plan before the first day of the 10th month of the*
22 *current plan year, for purposes of paragraphs*
23 *(1), (2), and (3), the plan’s funding target at-*
24 *tainment percentage shall be conclusively pre-*
25 *sumed to be less than 60 percent as of the first*

1 *day of such 10th month, and such day shall be*
2 *deemed, for purposes of such paragraphs, to be*
3 *the valuation date of the plan for the current*
4 *plan year.*

5 “(C) *PRESUMPTION OF UNDERFUNDING*
6 *AFTER 4TH MONTH FOR NEARLY UNDERFUNDED*
7 *PLANS.—In any case in which—*

8 “(i) *a benefit limitation under para-*
9 *graph (1), (2), or (3) did not apply to a*
10 *plan with respect to the plan year preceding*
11 *the current plan year, but the funding tar-*
12 *get attainment percentage of the plan for*
13 *such preceding plan year was not more*
14 *than 10 percentage points greater than the*
15 *percentage which would have caused such*
16 *paragraph to apply to the plan with respect*
17 *to such preceding plan year, and*

18 “(ii) *as of the first day of the 4th*
19 *month of the current plan year, the enrolled*
20 *actuary of the plan has not certified the ac-*
21 *tual funding target attainment percentage*
22 *of the plan as of the valuation date of the*
23 *plan for the current plan year,*
24 *until the enrolled actuary so certifies, such first*
25 *day shall be deemed, for purposes of such para-*

1 *graph, to be the valuation date of the plan for*
2 *the current plan year and the funding target at-*
3 *tainment percentage of the plan as of such first*
4 *day shall, for purposes of such paragraph, be*
5 *presumed to be equal to 10 percentage points less*
6 *than the funding target attainment percentage of*
7 *the plan as of the valuation date of the plan for*
8 *such preceding plan year.*

9 “(6) *RESTORATION BY PLAN AMENDMENT OF*
10 *BENEFITS OR BENEFIT ACCRUAL.—In any case in*
11 *which a prohibition under paragraph (2) of the pay-*
12 *ment of lump sum distributions or benefits in any*
13 *other accelerated form or a cessation of benefit accru-*
14 *als under paragraph (3) is applied to a plan with re-*
15 *spect to any plan year and such prohibition or ces-*
16 *sation, as the case may be, ceases to apply to any*
17 *subsequent plan year, the plan may provide for the*
18 *resumption of such benefit payment or such benefit*
19 *accrual only by means of the adoption of a plan*
20 *amendment after the valuation date of the plan for*
21 *such subsequent plan year. The preceding sentence*
22 *shall not apply to a prohibition or cessation required*
23 *by reason of paragraph (5).*

24 “(7) *FUNDING TARGET ATTAINMENT PERCENT-*
25 *AGE.—*

1 “(A) *IN GENERAL.*—For purposes of this
2 subsection, the term ‘funding target attainment
3 percentage’ means, with respect to any plan for
4 any plan year, the ratio (expressed as a percent-
5 age) which—

6 “(i) the value of plan assets for the
7 plan year (as determined under section
8 303(g)) reduced by the pre-funding balance
9 and the funding standard carryover balance
10 (within the meaning of section 303(f)),
11 bears to

12 “(ii) the funding target of the plan for
13 the plan year (as determined under section
14 303(d)(1), but without regard to section
15 303(i)(1)).

16 “(B) *APPLICATION TO PLANS WHICH ARE*
17 *FULLY FUNDED WITHOUT REGARD TO REDUC-*
18 *TIONS FOR FUNDING BALANCES.*—In the case of
19 a plan for any plan year, if the funding target
20 attainment percentage is 100 percent or more
21 (determined without regard to this subparagraph
22 and without regard to the reduction under sub-
23 paragraph (A)(i) for the pre-funding balance
24 and the funding standard carryover balance),

1 *subparagraph (A) shall be applied without re-*
2 *gard to such reduction.”.*

3 (2) *NOTICE REQUIREMENT.*—

4 (A) *IN GENERAL.*—*Section 101 of such Act*
5 *(29 U.S.C. 1021) is amended—*

6 (i) *by redesignating subsection (j) as*
7 *subsection (k); and*

8 (ii) *by inserting after subsection (i) the*
9 *following new subsection:*

10 “(j) *NOTICE OF FUNDING-BASED LIMITATION ON CER-*
11 *TAIN FORMS OF DISTRIBUTION.*—*The plan administrator*
12 *of a single-employer plan shall provide a written notice to*
13 *plan participants and beneficiaries within 30 days after*
14 *the plan has become subject to the restriction described in*
15 *section 206(h)(2) or at such other time as may be deter-*
16 *mined by the Secretary.”.*

17 (B) *ENFORCEMENT.*—*Section 502(c)(4) of*
18 *such Act (29 U.S.C. 1132(c)(4)) is amended by*
19 *striking “section 302(b)(7)(F)(vi)” and inserting*
20 *“sections 101(j) and 302(b)(7)(F)(vi)”.*

21 (c) *SPECIAL RULE FOR PLAN AMENDMENTS.*—*A plan*
22 *shall not fail to meet the requirements of section 204(g) of*
23 *the Employee Retirement Income Security Act of 1974 or*
24 *section 411(d)(6) of the Internal Revenue Code of 1986 sole-*
25 *ly by reason of the adoption by the plan of an amendment*

1 *necessary to meet the requirements of the amendments made*
2 *by this section.*

3 *(d) EFFECTIVE DATE.—*

4 *(1) SHUTDOWN BENEFITS.—Except as provided*
5 *in paragraph (3), the amendments made by sub-*
6 *section (a) shall apply with respect to plant shut-*
7 *downs, or other unpredictable contingent events, oc-*
8 *curing after 2006.*

9 *(2) OTHER BENEFITS.—Except as provided in*
10 *paragraph (3), the amendments made by subsection*
11 *(b) shall apply with respect to plan years beginning*
12 *after 2006.*

13 *(3) COLLECTIVE BARGAINING EXCEPTION.—In*
14 *the case of a plan maintained pursuant to 1 or more*
15 *collective bargaining agreements between employee*
16 *representatives and 1 or more employers ratified be-*
17 *fore the date of the enactment of this Act, the amend-*
18 *ments made by this subsection shall not apply to plan*
19 *years beginning before the earlier of—*

20 *(A) the later of—*

21 *(i) the date on which the last collective*
22 *bargaining agreement relating to the plan*
23 *terminates (determined without regard to*
24 *any extension thereof agreed to after the*
25 *date of the enactment of this Act), or*

1 (ii) the first day of the first plan year
2 to which the amendments made by this sub-
3 section would (but for this subparagraph)
4 apply, or

5 (B) January 1, 2009.

6 For purposes of clause (i), any plan amendment
7 made pursuant to a collective bargaining agreement
8 relating to the plan which amends the plan solely to
9 conform to any requirement added by this subsection
10 shall not be treated as a termination of such collective
11 bargaining agreement.

12 **SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.**

13 (a) MISCELLANEOUS AMENDMENTS TO TITLE I.—Sub-
14 title B of title I of such Act (29 U.S.C. 1021 et seq.) is
15 amended—

16 (1) in section 101(d)(3), by striking “section
17 302(e)” and inserting “section 303(j)”;

18 (2) in section 101(f)(2)(B), by striking clause (i)
19 and inserting the following:

20 “(i) a statement as to whether—

21 “(I) in the case of a single-em-
22 ployer plan, the plan’s funding target
23 attainment percentage (as defined in
24 section 303(d)(2)), or

1 “(II) in the case of a multiem-
2 ployer plan, the plan’s funded percent-
3 age (as defined in section 305(d)(2)),
4 is at least 100 percent (and, if not, the ac-
5 tual percentage);”;

6 (3) in section 103(d)(8)(B), by striking “the re-
7 quirements of section 302(c)(3)” and inserting “the
8 applicable requirements of sections 303(h) and
9 304(c)(3)”;

10 (4) in section 103(d), by striking paragraph (11)
11 and inserting the following:

12 “(11) If the current value of the assets of the
13 plan is less than 70 percent of—

14 “(A) in the case of a single-employer plan,
15 the funding target (as defined in section
16 303(d)(1)) of the plan, or

17 “(B) in the case of a multiemployer plan,
18 the current liability (as defined in section
19 304(c)(6)(D)) under the plan,

20 the percentage which such value is of the amount de-
21 scribed in subparagraph (A) or (B).”;

22 (5) in section 203(a)(3)(C), by striking “section
23 302(c)(8)” and inserting “section 302(d)(2)”;

24 (6) in section 204(g)(1), by striking “section
25 302(c)(8)” and inserting “section 302(d)(2)”;

1 (7) in section 204(i)(2)(B), by striking “section
2 302(c)(8)” and inserting “section 302(d)(2)”;

3 (8) in section 204(i)(3), by striking “funded cur-
4 rent liability percentage (within the meaning of sec-
5 tion 302(d)(8) of this Act)” and inserting “funding
6 target attainment percentage (as defined in section
7 303(d)(2))”;

8 (9) in section 204(i)(4), by striking “section
9 302(c)(11)(A), without regard to section
10 302(c)(11)(B)” and inserting “section 302(b)(1),
11 without regard to section 302(b)(2)”;

12 (10) in section 206(e)(1), by striking “section
13 302(d)” and inserting “section 303(j)(4)”, and by
14 striking “section 302(e)(5)” and inserting “section
15 303(j)(4)(E)(i)”;

16 (11) in section 206(e)(3), by striking “section
17 302(e) by reason of paragraph (5)(A) thereof” and in-
18 serting “section 303(j)(3) by reason of section
19 303(j)(4)(A)”;

20 (12) in sections 101(e)(3), 403(c)(1), and
21 408(b)(13), by striking “American Jobs Creation Act
22 of 2004” and inserting “Pension Protection Act of
23 2005”.

24 (b) MISCELLANEOUS AMENDMENTS TO TITLE IV.—
25 Title IV of such Act is amended—

1 (1) in section 4001(a)(13) (29 U.S.C.
2 1301(a)(13)), by striking “302(c)(11)(A)” and insert-
3 ing “302(b)(1)”, by striking “412(c)(11)(A)” and in-
4 serting “412(b)(1)”, by striking “302(c)(11)(B)” and
5 inserting “302(b)(2)”, and by striking
6 “412(c)(11)(B)” and inserting “412(b)(2)”;

7 (2) in section 4003(e)(1) (29 U.S.C. 1303(e)(1)),
8 by striking “302(f)(1)(A) and (B)” and inserting
9 “303(k)(1)(A) and (B)”, and by striking
10 “412(n)(1)(A) and (B)” and inserting “430(k)(1)(A)
11 and (B)”;

12 (3) in section 4010(b)(2) (29 U.S.C. 1310(b)(2)),
13 by striking “302(f)(1)(A) and (B)” and inserting
14 “303(k)(1)(A) and (B)”, and by striking
15 “412(n)(1)(A) and (B)” and inserting “430(k)(1)(A)
16 and (B)”;

17 (4) in section 4011(b) (29 U.S.C. 1311(b)), by
18 striking “to which” and all that follows and inserting
19 “for any plan year for which the plan’s funding tar-
20 get attainment percentage (as defined in section
21 303(d)(2)) is at least 90 percent.”;

22 (5) in section 4062(c)(1) (29 U.S.C. 1362(c)(1)),
23 by striking paragraphs (1), (2), and (3) and inserting
24 the following:

1 “(1)(A) in the case of a single-employer plan, the
2 sum of the shortfall amortization charge (within the
3 meaning of section 303(c)(1) of this Act and 430(c)(1)
4 of the Internal Revenue Code of 1986) with respect to
5 the plan (if any) for the plan year in which the ter-
6 mination date occurs, plus the aggregate total of
7 shortfall amortization installments (if any) deter-
8 mined for succeeding plan years under section
9 303(c)(2) of this Act and section 430(c)(2) of such
10 Code (which, for purposes of this subparagraph, shall
11 include any increase in such sum which would result
12 if all applications for waivers of the minimum fund-
13 ing standard under section 302(c) of this Act and sec-
14 tion 412(c) of such Code which are pending with re-
15 spect to such plan were denied and if no additional
16 contributions (other than those already made by the
17 termination date) were made for the plan year in
18 which the termination date occurs or for any previous
19 plan year), or

20 “(B) in the case of a multiemployer plan, the
21 outstanding balance of the accumulated funding defi-
22 ciencies (within the meaning of section 304(a)(2) of
23 this Act and section 431(a) of the Internal Revenue
24 Code of 1986) of the plan (if any) (which, for pur-
25 poses of this subparagraph, shall include the amount

1 of any increase in such accumulated funding defi-
2 ciencies of the plan which would result if all pending
3 applications for waivers of the minimum funding
4 standard under section 302(c) of this Act or section
5 412(c) of such Code and for extensions of the amorti-
6 zation period under section 304(d) of this Act or sec-
7 tion 431(d) of such Code with respect to such plan
8 were denied and if no additional contributions (other
9 than those already made by the termination date)
10 were made for the plan year in which the termination
11 date occurs or for any previous plan year),

12 “(2)(A) in the case of a single-employer plan, the
13 sum of the waiver amortization charge (within the
14 meaning of section 303(e)(1) of this Act and 430(j)(2)
15 of the Internal Revenue Code of 1986) with respect to
16 the plan (if any) for the plan year in which the ter-
17 mination date occurs, plus the aggregate total of
18 waiver amortization installments (if any) determined
19 for succeeding plan years under section 303(e)(2) of
20 this Act and section 430(j)(3) of such Code, or

21 “(B) in the case of a multiemployer plan, the
22 outstanding balance of the amount of waived funding
23 deficiencies of the plan waived before such date under
24 section 302(c) of this Act or section 412(c) of such
25 Code (if any), and

1 “(3) in the case of a multiemployer plan, the
2 outstanding balance of the amount of decreases in the
3 minimum funding standard allowed before such date
4 under section 304(d) of this Act or section 431(d) of
5 such Code (if any);”;

6 (6) in section 4071 (29 U.S.C. 1371), by striking
7 “302(f)(4)” and inserting “303(k)(4)”;

8 (7) in section 4243(a)(1)(B) (29 U.S.C.
9 1423(a)(1)(B)), by striking “302(a)” and inserting
10 “304(a)”, and, in clause (i), by striking “302(a)” and
11 inserting “304(a)”;

12 (8) in section 4243(f)(1) (29 U.S.C. 1423(f)(1)),
13 by striking “303(a)” and inserting “302(c)”;

14 (9) in section 4243(f)(2) (29 U.S.C. 1423(f)(2)),
15 by striking “303(c)” and inserting “302(c)(3)”;

16 (10) in section 4243(g) (29 U.S.C. 1423(g)), by
17 striking “302(c)(3)” and inserting “304(c)(3)”.

18 (c) AMENDMENTS TO REORGANIZATION PLAN NO. 4 OF
19 1978.—Section 106(b)(ii) of Reorganization Plan No. 4 of
20 1978 (ratified and affirmed as law by Public Law 98–532
21 (98 Stat. 2705)) is amended by striking “302(c)(8)” and
22 inserting “302(d)(2)”, by striking “304(a) and (b)(2)(A)”
23 and inserting “304(d)(1), (d)(2), and (e)(2)(A)”, and by
24 striking “412(c)(8), (e), and (f)(2)(A)” and inserting
25 “412(d)(2) and 431(d)(1), (d)(2), and (e)(2)(A)”.

1 (d) *REPEAL OF EXPIRED AUTHORITY FOR TEMPORARY*
 2 *VARIANCES.*—

3 (1) *IN GENERAL.*—Section 207 of such Act (29
 4 U.S.C. 1057) is repealed.

5 (2) *CONFORMING AMENDMENT.*—The table of
 6 contents in section 1 of such Act is amended by strik-
 7 ing the item relating to section 207.

8 (e) *EFFECTIVE DATE.*—The amendments made by this
 9 section shall apply to plan years beginning after 2005.

10 ***Subtitle B—Amendments to***
 11 ***Internal Revenue Code of 1986***

12 **SEC. 111.** [See introduced bill, page 71, line 1 through page 140, line 13.]

13 ***Subtitle C—Other Provisions***

14 **SEC. 121. MODIFICATION OF TRANSITION RULE TO PEN-**
 15 **SION FUNDING REQUIREMENTS.**

16 (a) *IN GENERAL.*—In the case of a plan that—

17 (1) was not required to pay a variable rate pre-
 18 mium for the plan year beginning in 1996,

19 (2) has not, in any plan year beginning after
 20 1995, merged with another plan (other than a plan
 21 sponsored by an employer that was in 1996 within
 22 the controlled group of the plan sponsor); and

23 (3) is sponsored by a company that is engaged
 24 primarily in the interurban or interstate passenger
 25 bus service,

1 *the rules described in subsection (b) shall apply for any*
2 *plan year beginning after 2005.*

3 *(b) MODIFIED RULES.—The rules described in this*
4 *subsection are as follows:*

5 *(1) For purposes of section 430(i)(3) of the Inter-*
6 *nal Revenue Code of 1986 and section 303(j)(3) of the*
7 *Employee Retirement Income Security Act of 1974,*
8 *the plan shall be treated as not having a funding*
9 *shortfall for any plan year.*

10 *(2) For purposes of—*

11 *(A) determining unfunded vested benefits*
12 *under section 4006(a)(3)(E)(iii) of such Act, and*

13 *(B) determining any present value or mak-*
14 *ing any computation under section 412 of such*
15 *Code or section 302 of such Act,*

16 *the mortality table shall be the mortality table used*
17 *by the plan.*

18 *(3) Notwithstanding section 303(f)(4)(B) of such*
19 *Act, for purposes of section 303(c)(4)(B) of such Act,*
20 *the value of plan assets is deemed to be such amount,*
21 *reduced by the amount of the pre-funding balance if,*
22 *pursuant to a binding written agreement with the*
23 *Pension Benefit Guaranty Corporation entered into*
24 *before January 1, 2006, the funding standard carry-*

1 *over balance is not available to reduce the minimum*
 2 *required contribution for the plan year.*

3 *(4) Section 430(c)(4)(B) of such Code and sec-*
 4 *tion 303(c)(4)(B) of such Act (relating to phase-in of*
 5 *funding target for determination of funding shortfall)*
 6 *shall each be applied by substituting “2011” for*
 7 *“2010” therein and by substituting for the table there-*
 8 *in the following:*

| <i>In the case of a plan year beginning in calendar year:</i> | <i>The appli- cable per- centage is:</i> |
|--|---|
| 2006 | 90 percent |
| 2007 | 92 percent |
| 2008 | 94 percent |
| 2009 | 96 percent |
| 2010 | 98 percent. |

9 *(c) DEFINITIONS.—Any term used in this section*
 10 *which is also used in section 303 of such Act shall have*
 11 *the meaning provided such term in such section.*

12 *(d) CONFORMING AMENDMENT.—*

13 *(1) Section 769 of the Retirement Protection Act*
 14 *of 1994 (26 U.S.C. 412 note) is amended by striking*
 15 *subsection (c).*

16 *(2) The amendment made this subsection shall*
 17 *apply to plan years beginning after 2005.*

1 **SEC. 122. TREATMENT OF NONQUALIFIED DEFERRED COM-**
2 **PENSATION PLANS WHEN EMPLOYER DE-**
3 **FINED BENEFIT PLAN IN AT-RISK STATUS.**

4 *[See introduced bill, page 142, line 3 through page*
5 *143, line 16]*

6 **TITLE II—FUNDING RULES FOR**
7 **MULTIEMPLOYER DEFINED**
8 **BENEFIT PLANS**

9 **Subtitle A—Amendments to Em-**
10 **ployee Retirement Income Secu-**
11 **rity Act of 1974**

12 **SEC. 201. FUNDING RULES FOR MULTIEMPLOYER DEFINED**
13 **BENEFIT PLANS.**

14 *(a) IN GENERAL.—Part 3 of subtitle B of title I of*
15 *the Employee Retirement Income Security Act of 1974 (as*
16 *amended by section 102) is amended further by inserting*
17 *after section 303 the following new section:*

18 **“MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER**
19 **PLANS**

20 **“SEC. 304. (a) IN GENERAL.—For purposes of section**
21 **302, the accumulated funding deficiency of a multiemployer**
22 **plan for any plan year is—**

23 *“(1) except as provided in paragraph (2), the*
24 *amount, determined as of the end of the plan year,*
25 *equal to the excess (if any) of the total charges to the*
26 *funding standard account of the plan for all plan*

1 years (beginning with the first plan year for which
2 this part applies to the plan) over the total credits to
3 such account for such years, and

4 “(2) if the multiemployer plan is in reorganiza-
5 tion for any plan year, the accumulated funding defi-
6 ciency of the plan determined under section 4243.

7 “(b) *FUNDING STANDARD ACCOUNT.*—

8 “(1) *ACCOUNT REQUIRED.*—Each multiemployer
9 plan to which this part applies shall establish and
10 maintain a funding standard account. Such account
11 shall be credited and charged solely as provided in
12 this section.

13 “(2) *CHARGES TO ACCOUNT.*—For a plan year,
14 the funding standard account shall be charged with
15 the sum of—

16 “(A) the normal cost of the plan for the
17 plan year,

18 “(B) the amounts necessary to amortize in
19 equal annual installments (until fully amor-
20 tized)—

21 “(i) in the case of a plan in existence
22 on January 1, 1974, the unfunded past
23 service liability under the plan on the first
24 day of the first plan year to which this sec-
25 tion applies, over a period of 40 plan years,

1 “(ii) in the case of a plan which comes
2 into existence after January 1, 1974, the
3 unfunded past service liability under the
4 plan on the first day of the first plan year
5 to which this section applies, over a period
6 of 15 plan years,

7 “(iii) separately, with respect to each
8 plan year, the net increase (if any) in un-
9 funded past service liability under the plan
10 arising from plan amendments adopted in
11 such year, over a period of 15 plan years,

12 “(iv) separately, with respect to each
13 plan year, the net experience loss (if any)
14 under the plan, over a period of 15 plan
15 years, and

16 “(v) separately, with respect to each
17 plan year, the net loss (if any) resulting
18 from changes in actuarial assumptions used
19 under the plan, over a period of 15 plan
20 years,

21 “(C) the amount necessary to amortize each
22 waived funding deficiency (within the meaning
23 of section 302(e)(3)) for each prior plan year in
24 equal annual installments (until fully amor-
25 tized) over a period of 15 plan years,

1 “(D) the amount necessary to amortize in
2 equal annual installments (until fully amor-
3 tized) over a period of 5 plan years any amount
4 credited to the funding standard account under
5 section 302(b)(3)(D) (as in effect on the day be-
6 fore the date of the enactment of the Pension
7 Protection Act of 2005), and

8 “(E) the amount necessary to amortize in
9 equal annual installments (until fully amor-
10 tized) over a period of 20 years the contributions
11 which would be required to be made under the
12 plan but for the provisions of section
13 302(c)(7)(A)(i)(I) (as in effect on the day before
14 the date of the enactment of the Pension Protec-
15 tion Act of 2005).

16 “(3) CREDITS TO ACCOUNT.—For a plan year,
17 the funding standard account shall be credited with
18 the sum of—

19 “(A) the amount considered contributed by
20 the employer to or under the plan for the plan
21 year,

22 “(B) the amount necessary to amortize in
23 equal annual installments (until fully amor-
24 tized)—

1 “(i) separately, with respect to each
2 plan year, the net decrease (if any) in un-
3 funded past service liability under the plan
4 arising from plan amendments adopted in
5 such year, over a period of 15 plan years,

6 “(ii) separately, with respect to each
7 plan year, the net experience gain (if any)
8 under the plan, over a period of 15 plan
9 years, and

10 “(iii) separately, with respect to each
11 plan year, the net gain (if any) resulting
12 from changes in actuarial assumptions used
13 under the plan, over a period of 15 plan
14 years,

15 “(C) the amount of the waived funding defi-
16 ciency (within the meaning of section 302(c)(3))
17 for the plan year, and

18 “(D) in the case of a plan year for which
19 the accumulated funding deficiency is deter-
20 mined under the funding standard account if
21 such plan year follows a plan year for which
22 such deficiency was determined under the alter-
23 native minimum funding standard under section
24 305 (as in effect on the day before the date of the
25 enactment of the Pension Protection Act of

1 2005), the excess (if any) of any debit balance in
2 the funding standard account (determined with-
3 out regard to this subparagraph) over any debit
4 balance in the alternative minimum funding
5 standard account.

6 “(4) *SPECIAL RULE FOR AMOUNTS FIRST AMOR-*
7 *TIZED TO PLAN YEARS BEFORE 2006.*—In the case of
8 any amount amortized under section 302(b) (as in ef-
9 fect on the day before the date of the enactment of the
10 *Pension Protection Act of 2005*) over any period be-
11 ginning with a plan year beginning before 2006, in
12 lieu of the amortization described in paragraphs
13 (2)(B) and (3)(B), such amount shall continue to be
14 amortized under such section as so in effect.

15 “(5) *COMBINING AND OFFSETTING AMOUNTS TO*
16 *BE AMORTIZED.*—Under regulations prescribed by the
17 Secretary of the Treasury, amounts required to be
18 amortized under paragraph (2) or paragraph (3), as
19 the case may be—

20 “(A) may be combined into one amount
21 under such paragraph to be amortized over a pe-
22 riod determined on the basis of the remaining
23 amortization period for all items entering into
24 such combined amount, and

1 “(B) may be offset against amounts re-
2 quired to be amortized under the other such
3 paragraph, with the resulting amount to be am-
4 ortized over a period determined on the basis of
5 the remaining amortization periods for all items
6 entering into whichever of the two amounts being
7 offset is the greater.

8 “(6) *INTEREST.*—Except as provided in sub-
9 section (c)(9), the funding standard account (and
10 items therein) shall be charged or credited (as deter-
11 mined under regulations prescribed by the Secretary
12 of the Treasury) with interest at the appropriate rate
13 consistent with the rate or rates of interest used under
14 the plan to determine costs.

15 “(7) *CERTAIN AMORTIZATION CHARGES AND*
16 *CREDITS.*—In the case of a plan which, immediately
17 before the date of the enactment of the Multiemployer
18 Pension Plan Amendments Act of 1980, was a multi-
19 employer plan (within the meaning of section 3(37)
20 as in effect immediately before such date)—

21 “(A) any amount described in paragraph
22 (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this sub-
23 section which arose in a plan year beginning be-
24 fore such date shall be amortized in equal annual
25 installments (until fully amortized) over 40 plan

1 years, beginning with the plan year in which the
2 amount arose;

3 “(B) any amount described in paragraph
4 (2)(B)(iv) or (3)(B)(ii) of this subsection which
5 arose in a plan year beginning before such date
6 shall be amortized in equal annual installments
7 (until fully amortized) over 20 plan years, begin-
8 ning with the plan year in which the amount
9 arose;

10 “(C) any change in past service liability
11 which arises during the period of 3 plan years
12 beginning on or after such date, and results from
13 a plan amendment adopted before such date,
14 shall be amortized in equal annual installments
15 (until fully amortized) over 40 plan years, begin-
16 ning with the plan year in which the change
17 arises; and

18 “(D) any change in past service liability
19 which arises during the period of 2 plan years
20 beginning on or after such date, and results from
21 the changing of a group of participants from one
22 benefit level to another benefit level under a
23 schedule of plan benefits which—

24 “(i) was adopted before such date, and

1 “(ii) was effective for any plan partici-
2 pant before the beginning of the first plan
3 year beginning on or after such date,
4 shall be amortized in equal annual installments
5 (until fully amortized) over 40 plan years, begin-
6 ning with the plan year in which the change
7 arises.

8 “(8) *SPECIAL RULES RELATING TO CHARGES*
9 *AND CREDITS TO FUNDING STANDARD ACCOUNT.—For*
10 *purposes of this part—*

11 “(A) *WITHDRAWAL LIABILITY.—Any*
12 *amount received by a multiemployer plan in*
13 *payment of all or part of an employer’s with-*
14 *drawal liability under part 1 of subtitle E of*
15 *title IV shall be considered an amount contrib-*
16 *uted by the employer to or under the plan. The*
17 *Secretary of the Treasury may prescribe by regu-*
18 *lation additional charges and credits to a multi-*
19 *employer plan’s funding standard account to the*
20 *extent necessary to prevent withdrawal liability*
21 *payments from being unduly reflected as advance*
22 *funding for plan liabilities.*

23 “(B) *ADJUSTMENTS WHEN A MULTIEM-*
24 *PLOYER PLAN LEAVES REORGANIZATION.—If a*
25 *multiemployer plan is not in reorganization in*

1 *the plan year but was in reorganization in the*
2 *immediately preceding plan year, any balance*
3 *in the funding standard account at the close of*
4 *such immediately preceding plan year—*

5 *“(i) shall be eliminated by an offset-*
6 *ting credit or charge (as the case may be),*
7 *but*

8 *“(ii) shall be taken into account in*
9 *subsequent plan years by being amortized*
10 *in equal annual installments (until fully*
11 *amortized) over 30 plan years.*

12 *The preceding sentence shall not apply to the ex-*
13 *tent of any accumulated funding deficiency*
14 *under section 4243(a) as of the end of the last*
15 *plan year that the plan was in reorganization.*

16 *“(C) PLAN PAYMENTS TO SUPPLEMENTAL*
17 *PROGRAM OR WITHDRAWAL LIABILITY PAYMENT*
18 *FUND.—Any amount paid by a plan during a*
19 *plan year to the Pension Benefit Guaranty Cor-*
20 *poration pursuant to section 4222 of this Act or*
21 *to a fund exempt under section 501(c)(22) of the*
22 *Internal Revenue Code of 1986 pursuant to sec-*
23 *tion 4223 of this Act shall reduce the amount of*
24 *contributions considered received by the plan for*
25 *the plan year.*

1 “(D) *INTERIM WITHDRAWAL LIABILITY PAY-*
2 *MENTS.—Any amount paid by an employer*
3 *pending a final determination of the employer’s*
4 *withdrawal liability under part 1 of subtitle E*
5 *of title IV and subsequently refunded to the em-*
6 *ployer by the plan shall be charged to the fund-*
7 *ing standard account in accordance with regula-*
8 *tions prescribed by the Secretary of the Treasury.*

9 “(E) *ELECTION FOR DEFERRAL OF CHARGE*
10 *FOR PORTION OF NET EXPERIENCE LOSS.—If an*
11 *election is in effect under section 302(b)(7)(F)*
12 *(as in effect on the day before the date of the en-*
13 *actment of the Pension Protection Act of 2005)*
14 *for any plan year, the funding standard account*
15 *shall be charged in the plan year to which the*
16 *portion of the net experience loss deferred by*
17 *such election was deferred with the amount so*
18 *deferred (and paragraph (2)(B)(iv) shall not*
19 *apply to the amount so charged).*

20 “(F) *FINANCIAL ASSISTANCE.—Any amount*
21 *of any financial assistance from the Pension*
22 *Benefit Guaranty Corporation to any plan, and*
23 *any repayment of such amount, shall be taken*
24 *into account under this section and section 412*

1 *in such manner as is determined by the Sec-*
2 *retary of the Treasury.*

3 “(G) *SHORT-TERM BENEFITS.*—*To the ex-*
4 *tent that any plan amendment increases the un-*
5 *funded past service liability under the plan by*
6 *reason of an increase in benefits which are pay-*
7 *able under the plan during a period that does*
8 *not exceed 14 years, paragraph (2)(B)(iii) shall*
9 *be applied separately with respect to such in-*
10 *crease in unfunded past service liability by sub-*
11 *stituting the number of years of the period dur-*
12 *ing which such benefits are payable for ‘15’.*

13 “(c) *ADDITIONAL RULES.*—

14 “(1) *DETERMINATIONS TO BE MADE UNDER*
15 *FUNDING METHOD.*—*For purposes of this part, nor-*
16 *mal costs, accrued liability, past service liabilities,*
17 *and experience gains and losses shall be determined*
18 *under the funding method used to determine costs*
19 *under the plan.*

20 “(2) *VALUATION OF ASSETS.*—

21 “(A) *IN GENERAL.*—*For purposes of this*
22 *part, the value of the plan’s assets shall be deter-*
23 *mined on the basis of any reasonable actuarial*
24 *method of valuation which takes into account*
25 *fair market value and which is permitted under*

1 *regulations prescribed by the Secretary of the*
2 *Treasury.*

3 “(B) *ELECTION WITH RESPECT TO*
4 *BONDS.—The value of a bond or other evidence*
5 *of indebtedness which is not in default as to*
6 *principal or interest may, at the election of the*
7 *plan administrator, be determined on an amor-*
8 *tized basis running from initial cost at purchase*
9 *to par value at maturity or earliest call date.*
10 *Any election under this subparagraph shall be*
11 *made at such time and in such manner as the*
12 *Secretary of the Treasury shall by regulations*
13 *provide, shall apply to all such evidences of in-*
14 *debtedness, and may be revoked only with the*
15 *consent of such Secretary.*

16 “(3) *ACTUARIAL ASSUMPTIONS MUST BE REA-*
17 *SONABLE.—For purposes of this section, all costs, li-*
18 *abilities, rates of interest, and other factors under the*
19 *plan shall be determined on the basis of actuarial as-*
20 *sumptions and methods—*

21 *“(A) each of which is reasonable (taking*
22 *into account the experience of the plan and rea-*
23 *sonable expectations), and*

1 “(B) which, in combination, offer the actu-
2 ary’s best estimate of anticipated experience
3 under the plan.

4 “(4) *TREATMENT OF CERTAIN CHANGES AS EX-*
5 *PERIENCE GAIN OR LOSS.—For purposes of this sec-*
6 *tion, if—*

7 “(A) a change in benefits under the Social
8 Security Act or in other retirement benefits cre-
9 ated under Federal or State law, or

10 “(B) a change in the definition of the term
11 ‘wages’ under section 3121 of the Internal Rev-
12 enue Code of 1986, or a change in the amount
13 of such wages taken into account under regula-
14 tions prescribed for purposes of section 401(a)(5)
15 of such Code,

16 *results in an increase or decrease in accrued liability*
17 *under a plan, such increase or decrease shall be treat-*
18 *ed as an experience loss or gain.*

19 “(5) *FULL FUNDING.—If, as of the close of a*
20 *plan year, a plan would (without regard to this para-*
21 *graph) have an accumulated funding deficiency in ex-*
22 *cess of the full funding limitation—*

23 “(A) *the funding standard account shall be*
24 *credited with the amount of such excess, and*

1 “(B) all amounts described in subpara-
2 graphs (B), (C), and (D) of subsection (b) (2)
3 and subparagraph (B) of subsection (b)(3) which
4 are required to be amortized shall be considered
5 fully amortized for purposes of such subpara-
6 graphs.

7 “(6) FULL-FUNDING LIMITATION.—

8 “(A) IN GENERAL.—For purposes of para-
9 graph (5), the term ‘full-funding limitation’
10 means the excess (if any) of—

11 “(i) the accrued liability (including
12 normal cost) under the plan (determined
13 under the entry age normal funding method
14 if such accrued liability cannot be directly
15 calculated under the funding method used
16 for the plan), over

17 “(ii) the lesser of—

18 “(I) the fair market value of the
19 plan’s assets, or

20 “(II) the value of such assets de-
21 termined under paragraph (2).

22 “(B) MINIMUM AMOUNT.—

23 “(i) IN GENERAL.—In no event shall
24 the full-funding limitation determined

1 under subparagraph (A) be less than the ex-
2 cess (if any) of—

3 “(I) 90 percent of the current li-
4 ability of the plan (including the ex-
5 pected increase in current liability due
6 to benefits accruing during the plan
7 year), over

8 “(II) the value of the plan’s assets
9 determined under paragraph (2).

10 “(i) ASSETS.—For purposes of clause
11 (i), assets shall not be reduced by any credit
12 balance in the funding standard account.

13 “(C) FULL FUNDING LIMITATION.—For pur-
14 poses of this paragraph, unless otherwise pro-
15 vided by the plan, the accrued liability under a
16 multiemployer plan shall not include benefits
17 which are not nonforfeitable under the plan after
18 the termination of the plan (taking into consid-
19 eration section 411(d)(3) of the Internal Revenue
20 Code of 1986).

21 “(D) CURRENT LIABILITY.—For purposes of
22 this paragraph—

23 “(i) IN GENERAL.—The term ‘current
24 liability’ means all liabilities to employees
25 and their beneficiaries under the plan.

1 “(i) *TREATMENT OF UNPREDICTABLE*
2 *CONTINGENT EVENT BENEFITS.*—For pur-
3 poses of clause (i), any benefit contingent on
4 an event other than—

5 “(I) *age, service, compensation,*
6 *death, or disability, or*

7 “(II) *an event which is reasonably*
8 *and reliably predictable (as determined*
9 *by the Secretary of the Treasury),*
10 *shall not be taken into account until the*
11 *event on which the benefit is contingent oc-*
12 *curs.*

13 “(iii) *INTEREST RATE USED.*—The
14 rate of interest used to determine current li-
15 ability under this paragraph shall be the
16 rate of interest determined under subpara-
17 graph (E).

18 “(iv) *MORTALITY TABLES.*—

19 “(I) *COMMISSIONERS’ STANDARD*
20 *TABLE.*—In the case of plan years be-
21 ginning before the first plan year to
22 which the first tables prescribed under
23 subclause (II) apply, the mortality
24 table used in determining current li-
25 ability under this paragraph shall be

1 *the table prescribed by the Secretary of*
2 *the Treasury which is based on the*
3 *prevailing commissioners' standard*
4 *table (described in section 807(d)(5)(A)*
5 *of the Internal Revenue Code of 1986)*
6 *used to determine reserves for group*
7 *annuity contracts issued on January*
8 *1, 1993.*

9 “(II) SECRETARIAL AUTHORITY.—
10 *The Secretary of the Treasury*
11 *may by regulation prescribe for plan*
12 *years beginning after December 31,*
13 *1999, mortality tables to be used in de-*
14 *termining current liability under this*
15 *subsection. Such tables shall be based*
16 *upon the actual experience of pension*
17 *plans and projected trends in such ex-*
18 *perience. In prescribing such tables,*
19 *such Secretary shall take into account*
20 *results of available independent studies*
21 *of mortality of individuals covered by*
22 *pension plans.*

23 “(v) SEPARATE MORTALITY TABLES
24 FOR THE DISABLED.—*Notwithstanding*
25 *clause (iv)—*

1 “(I) *IN GENERAL.*—*In the case of*
2 *plan years beginning after December*
3 *31, 1995, the Secretary of the Treasury*
4 *shall establish mortality tables which*
5 *may be used (in lieu of the tables*
6 *under clause (iv)) to determine current*
7 *liability under this subsection for indi-*
8 *viduals who are entitled to benefits*
9 *under the plan on account of dis-*
10 *ability. Such Secretary shall establish*
11 *separate tables for individuals whose*
12 *disabilities occur in plan years begin-*
13 *ning before January 1, 1995, and for*
14 *individuals whose disabilities occur in*
15 *plan years beginning on or after such*
16 *date.*

17 “(II) *SPECIAL RULE FOR DISABIL-*
18 *ITIES OCCURRING AFTER 1994.*—*In the*
19 *case of disabilities occurring in plan*
20 *years beginning after December 31,*
21 *1994, the tables under subclause (I)*
22 *shall apply only with respect to indi-*
23 *viduals described in such subclause*
24 *who are disabled within the meaning*

1 of title II of the Social Security Act
2 and the regulations thereunder.

3 “(vi) *PERIODIC REVIEW.*—The Sec-
4 retary of the Treasury shall periodically (at
5 least every 5 years) review any tables in ef-
6 fect under this subparagraph and shall, to
7 the extent such Secretary determines nec-
8 essary, by regulation update the tables to
9 reflect the actual experience of pension
10 plans and projected trends in such experi-
11 ence.

12 “(E) *REQUIRED CHANGE OF INTEREST*
13 *RATE.*—For purposes of determining a plan’s
14 current liability for purposes of this para-
15 graph—

16 “(i) *IN GENERAL.*—If any rate of in-
17 terest used under the plan under subsection
18 (b)(6) to determine cost is not within the
19 permissible range, the plan shall establish a
20 new rate of interest within the permissible
21 range.

22 “(ii) *PERMISSIBLE RANGE.*—For pur-
23 poses of this subparagraph—

24 “(I) *IN GENERAL.*—Except as pro-
25 vided in subclause (II), the term ‘per-

1 *missible range' means a rate of interest*
2 *which is not more than 5 percent*
3 *above, and not more than 10 percent*
4 *below, the weighted average of the rates*
5 *of interest on 30-year Treasury securi-*
6 *ties during the 4-year period ending on*
7 *the last day before the beginning of the*
8 *plan year.*

9 “(II) *SECRETARIAL AUTHORITY.—If the Secretary of the Treasury*
10 *finds that the lowest rate of interest*
11 *permissible under subclause (I) is un-*
12 *reasonably high, such Secretary may*
13 *prescribe a lower rate of interest, ex-*
14 *cept that such rate may not be less*
15 *than 80 percent of the average rate de-*
16 *termined under such subclause.*

17 “(iii) *ASSUMPTIONS.—Notwith-*
18 *standing paragraph (3)(A), the interest rate*
19 *used under the plan shall be—*

20 “(I) *determined without taking*
21 *into account the experience of the plan*
22 *and reasonable expectations, but*

23 “(II) *consistent with the assump-*
24 *tions which reflect the purchase rates*
25

1 *which would be used by insurance com-*
2 *panies to satisfy the liabilities under*
3 *the plan.*

4 “(7) ANNUAL VALUATION.—

5 “(A) IN GENERAL.—*For purposes of this*
6 *section, a determination of experience gains and*
7 *losses and a valuation of the plan’s liability*
8 *shall be made not less frequently than once every*
9 *year, except that such determination shall be*
10 *made more frequently to the extent required in*
11 *particular cases under regulations prescribed by*
12 *the Secretary of the Treasury.*

13 “(B) VALUATION DATE.—

14 “(i) CURRENT YEAR.—*Except as pro-*
15 *vided in clause (ii), the valuation referred*
16 *to in subparagraph (A) shall be made as of*
17 *a date within the plan year to which the*
18 *valuation refers or within one month prior*
19 *to the beginning of such year.*

20 “(ii) USE OF PRIOR YEAR VALU-
21 ATION.—*The valuation referred to in sub-*
22 *paragraph (A) may be made as of a date*
23 *within the plan year prior to the year to*
24 *which the valuation refers if, as of such*
25 *date, the value of the assets of the plan are*

1 *not less than 100 percent of the plan's cur-*
2 *rent liability (as defined in paragraph*
3 *(6)(D) without regard to clause (iv) there-*
4 *of).*

5 “(iii) *ADJUSTMENTS.*—*Information*
6 *under clause (i) shall, in accordance with*
7 *regulations, be actuarially adjusted to re-*
8 *flect significant differences in participants.*

9 “(iv) *LIMITATION.*—*A change in fund-*
10 *ing method to use a prior year valuation,*
11 *as provided in clause (i), may not be made*
12 *unless as of the valuation date within the*
13 *prior plan year, the value of the assets of*
14 *the plan are not less than 125 percent of the*
15 *plan's current liability (as defined in para-*
16 *graph (6)(D) without regard to clause (iv)*
17 *thereof).*

18 “(8) *TIME WHEN CERTAIN CONTRIBUTIONS*
19 *DEEMED MADE.*—*For purposes of this section, any*
20 *contributions for a plan year made by an employer*
21 *after the last day of such plan year, but not later*
22 *than two and one-half months after such day, shall be*
23 *deemed to have been made on such last day. For pur-*
24 *poses of this subparagraph, such two and one-half*
25 *month period may be extended for not more than six*

1 *months under regulations prescribed by the Secretary*
2 *of the Treasury.*

3 “(9) *INTEREST RULE FOR WAIVERS AND EXTEN-*
4 *SIONS.—The interest rate applicable for any plan*
5 *year for purposes of computing the amortization*
6 *charge described in subsection (b)(2)(C) and in con-*
7 *nection with an extension granted under subsection*
8 *(d) shall be the greater of—*

9 “(A) *150 percent of the Federal mid-term*
10 *rate (as in effect under section 1274 of the Inter-*
11 *nal Revenue Code of 1986 for the 1st month of*
12 *such plan year), or*

13 “(B) *the rate of interest used under the plan*
14 *for determining costs.*

15 “(d) *EXTENSION OF AMORTIZATION PERIODS FOR*
16 *MULTIEMPLOYER PLANS.—In the case of a multiemployer*
17 *plan—*

18 “(1) *EXTENSION.—The period of years required*
19 *to amortize any unfunded liability (described in any*
20 *clause of subsection (b)(2)(B)) of any multiemployer*
21 *plan may be extended (in addition to any extension*
22 *under paragraph (2)) by the Secretary of the Treas-*
23 *ury for a period of time (not in excess of 5 years) if*
24 *such Secretary determines that such extension would*
25 *carry out the purposes of this Act and would provide*

1 adequate protection for participants under the plan
2 and their beneficiaries and if he determines that the
3 failure to permit such extension would—

4 “(A) result in—

5 “(i) a substantial risk to the voluntary
6 continuation of the plan, or

7 “(ii) a substantial curtailment of pen-
8 sion benefit levels or employee compensa-
9 tion, and

10 “(B) be adverse to the interests of plan par-
11 ticipants in the aggregate.

12 “(2) *ADDITIONAL EXTENSION.*—The period of
13 years required to amortize any unfunded liability
14 (described in any clause of subsection (b)(2)(B)) of
15 any multiemployer plan may be extended (in addi-
16 tion to any extension under paragraph (1)) by the
17 Secretary of the Treasury for a period of time (not
18 in excess of 5 years) if such Secretary determines
19 that—

20 “(A) absent the extension, the plan would
21 have an accumulated funding deficiency in any
22 of the next 10 plan years,

23 “(B) the plan sponsor has adopted a plan
24 to improve the plan’s funding status, and

1 “(C) *taking into account the extension, the*
2 *plan is projected to have sufficient assets to time-*
3 *ly pay its expected benefit liabilities and other*
4 *anticipated expenditures*

5 “(3) *ADVANCE NOTICE.—*

6 “(A) *IN GENERAL.—The Secretary of the*
7 *Treasury shall, before granting an extension*
8 *under this section, require each applicant to pro-*
9 *vide evidence satisfactory to such Secretary that*
10 *the applicant has provided notice of the filing of*
11 *the application for such extension to each af-*
12 *ected party (as defined in section 4001(a)(21))*
13 *with respect to the affected plan. Such notice*
14 *shall include a description of the extent to which*
15 *the plan is funded for benefits which are guaran-*
16 *teed under title IV and for benefit liabilities.*

17 “(B) *CONSIDERATION OF RELEVANT INFOR-*
18 *MATION.—The Secretary of the Treasury shall*
19 *consider any relevant information provided by a*
20 *person to whom notice was given under para-*
21 *graph (1).”.*

22 “(b) *CONFORMING AMENDMENTS.—*

23 “(1) *Section 301 of the Employee Retirement In-*
24 *come Security Act of 1974 (29 U.S.C. 1081) is*
25 *amended by striking subsection (d).*

1 (2) *The table of contents in section 1 of such Act*
 2 *(as amended by section 102 of this Act) is amended*
 3 *further by inserting after the item relating to section*
 4 *303 the following new item:*

“Sec. 304. Minimum funding standards for multiemployer plans.”.

5 (c) *EFFECTIVE DATE.—The amendments made by this*
 6 *section shall apply to plan years beginning after 2005.*

7 **SEC. 202. ADDITIONAL FUNDING RULES FOR MULTIEM-**
 8 **PLOYER PLANS IN ENDANGERED OR CRIT-**
 9 **ICAL STATUS.**

10 (a) *IN GENERAL.—Part 3 of subtitle B of title I of*
 11 *the Employee Retirement Income Security Act of 1974 (as*
 12 *amended by the preceding provisions of this Act) is amend-*
 13 *ed further by inserting after section 304 the following new*
 14 *section:*

15 “*ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER*
 16 *PLANS IN ENDANGERED STATUS OR CRITICAL STATUS*

17 “*SEC. 305. (a) ANNUAL CERTIFICATION BY PLAN AC-*
 18 *TUARY.—*

19 “*(1) IN GENERAL.—During the 90-day period*
 20 *beginning on first day of each plan year of a multi-*
 21 *employer plan, the plan actuary shall certify to the*
 22 *Secretary of the Treasury whether or not the plan is*
 23 *in endangered status for such plan year and whether*
 24 *or not the plan is in critical status for such plan*
 25 *year.*

1 “(2) *ACTUARIAL PROJECTIONS OF ASSETS AND*
2 *LIABILITIES.*—

3 “(A) *IN GENERAL.*—*In making the deter-*
4 *minations under paragraph (1), the plan actu-*
5 *ary shall make projections under subsections*
6 *(b)(2) and (c)(2) for the current and succeeding*
7 *plan years, using reasonable actuarial assump-*
8 *tions and methods, of the current value of the as-*
9 *sets of the plan and the present value of all li-*
10 *abilities to participants and beneficiaries under*
11 *the plan for the current plan year as of the be-*
12 *ginning of such year, as based on the actuarial*
13 *statement prepared for the preceding plan year*
14 *under section 103(d).*

15 “(B) *DETERMINATIONS OF FUTURE CON-*
16 *TRIBUTIONS.*—*Any such actuarial projection of*
17 *plan assets shall assume—*

18 “(i) *reasonably anticipated employer*
19 *and employee contributions for the current*
20 *and succeeding plan years, assuming that*
21 *the terms of the one or more collective bar-*
22 *gaining agreements pursuant to which the*
23 *plan is maintained for the current plan*
24 *year continue in effect for succeeding plan*
25 *years, or*

1 “(ii) that employer and employee con-
2 tributions for the most recent plan year will
3 continue indefinitely, but only if the plan
4 actuary determines there have been no sig-
5 nificant demographic changes that would
6 make continued application of such terms
7 unreasonable.

8 “(3) *PRESUMED STATUS IN ABSENCE OF TIMELY*
9 *ACTUARIAL CERTIFICATION.*—If certification under
10 this subsection is not made before the end of the 90-
11 day period specified in paragraph (1), the plan shall
12 be presumed to be in critical status for such plan year
13 until such time as the plan actuary makes a contrary
14 certification.

15 “(4) *NOTICE.*—In any case in which a multiem-
16 ployer plan is certified to be in endangered status
17 under paragraph (1) or enters into critical status, the
18 plan sponsor shall, not later than 30 days after the
19 date of the certification or entry, provide notification
20 of the endangered or critical status to the participants
21 and beneficiaries, the bargaining parties, the Pension
22 Benefit Guaranty Corporation, the Secretary of the
23 Treasury, and the Secretary of Labor.

24 “(b) *FUNDING RULES FOR MULTIEMPLOYER PLANS IN*
25 *ENDANGERED STATUS.*—

1 “(1) *IN GENERAL.*—*In any case in which a mul-*
2 *tiemployer plan is in endangered status for a plan*
3 *year and no funding improvement plan under this*
4 *subsection with respect to such multiemployer plan is*
5 *in effect for the plan year, the plan sponsor shall, in*
6 *accordance with this subsection, amend the multiem-*
7 *ployer plan to include a funding improvement plan*
8 *upon approval thereof by the bargaining parties*
9 *under this subsection. The amendment shall be adopt-*
10 *ed not later than 240 days after the date on which*
11 *the plan is certified to be in endangered status under*
12 *subsection (a)(1).*

13 “(2) *ENDANGERED STATUS.*—*A multiemployer*
14 *plan is in endangered status for a plan year if, as*
15 *determined by the plan actuary under subsection*
16 *(a)—*

17 “(A) *the plan’s funded percentage for such*
18 *plan year is less than 80 percent, or*

19 “(B) *the plan has an accumulated funding*
20 *deficiency for such plan year under section 304*
21 *or is projected to have such an accumulated*
22 *funding deficiency for any of the 6 succeeding*
23 *plan years, taking into account any extension of*
24 *amortization periods under section 304(d).*

25 “(3) *FUNDING IMPROVEMENT PLAN.*—

1 “(A) *BENCHMARKS.*—A funding improve-
2 ment plan shall consist of amendments to the
3 plan formulated to provide, under reasonable ac-
4 tuarial assumptions, for the attainment, during
5 the funding improvement period under the fund-
6 ing improvement plan, of the following bench-
7 marks:

8 “(i) *INCREASE IN FUNDED PERCENT-*
9 *AGE.*—An increase in the plan’s funded per-
10 centage such that—

11 “(I) the difference between 100
12 percent and the plan’s funded percent-
13 age for the last year of the funding im-
14 provement period, is not more than

15 “(II) $\frac{2}{3}$ of the difference between
16 100 percent and the plan’s funded per-
17 centage for the first year of the funding
18 improvement period.

19 “(ii) *AVOIDANCE OF ACCUMULATED*
20 *FUNDING DEFICIENCIES.*—No accumulated
21 funding deficiency for any plan year during
22 the funding improvement period (taking
23 into account any extension of amortization
24 periods under section 304(d)).

1 “(B) *FUNDING IMPROVEMENT PERIOD.*—*The*
2 *funding improvement period for any funding*
3 *improvement plan adopted pursuant to this sub-*
4 *section is the 10-year period beginning on the*
5 *earlier of—*

6 “(i) *the second anniversary of the date*
7 *of the adoption of the funding improvement*
8 *plan, or*

9 “(ii) *the first day of the first plan year*
10 *of the multiemployer plan following the*
11 *plan year in which occurs the first date*
12 *after the day of the certification as of which*
13 *collective bargaining agreements covering on*
14 *the day of such certification at least 75 per-*
15 *cent of active participants in such multiem-*
16 *ployer plan have expired.*

17 “(C) *SPECIAL RULES FOR CERTAIN SERI-*
18 *OUSLY UNDERFUNDED PLANS.*—

19 “(i) *In the case of a plan in which the*
20 *funded percentage of a plan for the plan*
21 *year is 70 percent or less, subparagraph*
22 *(A)(i)(II) shall be applied by substituting*
23 *‘ $\frac{4}{5}$ ’ for ‘ $\frac{2}{3}$ ’ and subparagraph (B) shall be*
24 *applied by substituting ‘the 15-year period’*
25 *for ‘the 10-year period’.*

1 “(ii) In the case of a plan in which the
2 funded percentage of a plan for the plan
3 year is more than 70 percent but less than
4 80 percent, and—

5 “(I) the plan actuary certifies
6 within 30 days after certification
7 under subsection (a)(1) that the plan is
8 not able to attain the increase de-
9 scribed in subparagraph (A)(i) over the
10 period described in subparagraph (B),
11 and

12 “(II) the plan year is prior to the
13 day described in subparagraph (B)(ii),
14 subparagraph (A)(i)(II) shall be applied by
15 substituting ‘ $\frac{4}{5}$ ’ for ‘ $\frac{2}{3}$ ’ and subparagraph
16 (B) shall be applied by substituting ‘the 15-
17 year period’ for ‘the 10-year period’.

18 “(iii) For any plan year following the
19 year described in clause (ii)(II), subpara-
20 graph (A)(i)(II) and subparagraph (B)
21 shall apply, except that for each plan year
22 ending after such date for which the plan
23 actuary certifies (at the time of the annual
24 certification under subsection (a)(1) for
25 such plan year) that the plan is not able to

1 *attain the increase described in subpara-*
2 *graph (A)(i) over the period described in*
3 *subparagraph (B), subparagraph (B) shall*
4 *be applied by substituting ‘the 15-year pe-*
5 *riod’ for ‘the 10-year period’.*

6 “(D) *REPORTING.*—*A summary of any*
7 *funding improvement plan or modification*
8 *thereto adopted during any plan year, together*
9 *with annual updates regarding the funding ratio*
10 *of the plan, shall be included in the annual re-*
11 *port for such plan year under section 104(a) and*
12 *in the summary annual report described in sec-*
13 *tion 104(b)(3).*

14 “(4) *DEVELOPMENT OF FUNDING IMPROVEMENT*
15 *PLAN.*—

16 “(A) *ACTIONS BY PLAN SPONSOR PENDING*
17 *APPROVAL.*—*Pending the approval of a funding*
18 *improvement plan under this paragraph, the*
19 *plan sponsor shall take all reasonable actions,*
20 *consistent with the terms of the plan and appli-*
21 *cable law, necessary to ensure—*

22 “(i) *an increase in the plan’s funded*
23 *percentage, and*

1 “(ii) postponement of an accumulated
2 funding deficiency for at least 1 additional
3 plan year.

4 Such actions include applications for extensions
5 of amortization periods under section 304(d), use
6 of the shortfall funding method in making fund-
7 ing standard account computations, amendments
8 to the plan’s benefit structure, reductions in fu-
9 ture benefit accruals, and other reasonable ac-
10 tions consistent with the terms of the plan and
11 applicable law.

12 “(B) RECOMMENDATIONS BY PLAN SPON-
13 SOR.—

14 “(i) IN GENERAL.—During the period
15 of 90 days following the date on which a
16 multiemployer plan is certified to be in en-
17 dangered status, the plan sponsor shall de-
18 velop and provide to the bargaining parties
19 alternative proposals for revised benefit
20 structures, contribution structures, or both,
21 which, if adopted as amendments to the
22 plan, may be reasonably expected to meet
23 the benchmarks described in paragraph
24 (3)(A). Such proposals shall include—

1 “(I) at least one proposal for re-
2 ductions in the amount of future ben-
3 efit accruals necessary to achieve the
4 benchmarks, assuming no amendments
5 increasing contributions under the
6 plan (other than amendments increas-
7 ing contributions necessary to achieve
8 the benchmarks after amendments have
9 reduced future benefit accruals to the
10 maximum extent permitted by law),
11 and

12 “(II) at least one proposal for in-
13 creases in contributions under the plan
14 necessary to achieve the benchmarks,
15 assuming no amendments reducing fu-
16 ture benefit accruals under the plan.

17 “(ii) *REQUESTS BY BARGAINING PAR-*
18 *TIES.*—Upon the request of any bargaining
19 party who—

20 “(I) employs at least 5 percent of
21 the active participants, or

22 “(II) represents as an employee
23 organization, for purposes of collective
24 bargaining, at least 5 percent of the
25 active participants,

1 *the plan sponsor shall provide all such par-*
2 *ties information as to other combinations of*
3 *increases in contributions and reductions in*
4 *future benefit accruals which would result*
5 *in achieving the benchmarks.*

6 “(iii) *OTHER INFORMATION.—The*
7 *plan sponsor may, as it deems appropriate,*
8 *prepare and provide the bargaining parties*
9 *with additional information relating to con-*
10 *tribution structures or benefit structures or*
11 *other information relevant to the funding*
12 *improvement plan.*

13 “(5) *MAINTENANCE OF CONTRIBUTIONS PENDING*
14 *APPROVAL OF FUNDING IMPROVEMENT PLAN.—Pend-*
15 *ing approval of a funding improvement plan by the*
16 *bargaining parties with respect to a multiemployer*
17 *plan, the multiemployer plan may not be amended so*
18 *as to provide—*

19 “(A) *a reduction in the level of contribu-*
20 *tions for participants who are not in pay status,*

21 “(B) *a suspension of contributions with re-*
22 *spect to any period of service, or*

23 “(C) *any new direct or indirect exclusion of*
24 *younger or newly hired employees from plan*
25 *participation.*

1 “(6) *BENEFIT RESTRICTIONS PENDING APPROVAL*
2 *OF FUNDING IMPROVEMENT PLAN.*—*Pending approval*
3 *of a funding improvement plan by the bargaining*
4 *parties with respect to a multiemployer plan—*

5 “(A) *RESTRICTIONS ON LUMP SUM AND*
6 *SIMILAR DISTRIBUTIONS.*—*In any case in which*
7 *the present value of a participant’s accrued ben-*
8 *efit under the plan exceeds \$5,000, such benefit*
9 *may not be distributed as an immediate dis-*
10 *tribution or in any other accelerated form.*

11 “(B) *PROHIBITION ON BENEFIT IN-*
12 *CREASES.*—

13 “(i) *IN GENERAL.*—*No amendment of*
14 *the plan which increases the liabilities of*
15 *the plan by reason of any increase in bene-*
16 *fits, any change in the accrual of benefits,*
17 *or any change in the rate at which benefits*
18 *become nonforfeitable under the plan may*
19 *be adopted.*

20 “(ii) *EXCEPTION.*—*Clause (i) shall not*
21 *apply to any plan amendment which is re-*
22 *quired as a condition of qualification under*
23 *part I of subchapter D of chapter 1 of sub-*
24 *title A of the Internal Revenue Code of*
25 *1986.*

1 “(7) *DEFAULT CRITICAL STATUS IF NO FUNDING*
2 *IMPROVEMENT PLAN ADOPTED.*—If no plan amend-
3 ment adopting a funding improvement plan has been
4 adopted by the end of the 240-day period referred to
5 in subsection (b)(1), the plan enters into critical sta-
6 tus as of the first day of the succeeding plan year.

7 “(8) *RESTRICTIONS UPON APPROVAL OF FUNDING*
8 *IMPROVEMENT PLAN.*—Upon adoption of a funding
9 improvement plan with respect to a multiemployer
10 plan, the plan may not be amended—

11 “(A) so as to be inconsistent with the fund-
12 ing improvement plan, or

13 “(B) so as to increase future benefit accru-
14 als, unless the plan actuary certifies in advance
15 that, after taking into account the proposed in-
16 crease, the plan is reasonably expected to meet
17 the the benchmarks described in paragraph
18 (3)(A).

19 “(c) *FUNDING RULES FOR MULTIEMPLOYER PLANS IN*
20 *CRITICAL STATUS.*—

21 “(1) *IN GENERAL.*—In any case in which a mul-
22 tiemployer plan is in critical status for a plan year
23 as described in paragraph (2) (or otherwise enters
24 into critical status under this section) and no reha-
25 bilitation plan under this subsection with respect to

1 *such multiemployer plan is in effect for the plan year,*
2 *the plan sponsor shall, in accordance with this sub-*
3 *section, amend the multiemployer plan to include a*
4 *rehabilitation plan under this subsection. The amend-*
5 *ment shall be adopted not later than 240 days after*
6 *the date on which the plan enters into critical status.*

7 *“(2) CRITICAL STATUS.—A multiemployer plan*
8 *is in critical status for a plan year if—*

9 *“(A) the plan is in endangered status for*
10 *the preceding plan year and the requirements of*
11 *subsection (b)(1) were not met with respect to the*
12 *plan for such preceding plan year, or*

13 *“(B) as determined by the plan actuary*
14 *under subsection (a), the plan is described in*
15 *paragraph (3).*

16 *“(3) CRITICALITY DESCRIPTION.—For purposes*
17 *of paragraph (2)(B), a plan is described in this para-*
18 *graph if the plan is described in at least one of the*
19 *following subparagraphs:*

20 *“(A) A plan is described in this subpara-*
21 *graph if, as of the beginning of the current plan*
22 *year—*

23 *“(i) the funded percentage of the plan*
24 *is less than 65 percent, and*

25 *“(ii) the sum of—*

1 “(I) the market value of plan as-
2 sets, plus

3 “(II) the present value of the rea-
4 sonably anticipated employer and em-
5 ployee contributions for the current
6 plan year and each of the 6 succeeding
7 plan years, assuming that the terms of
8 the one or more collective bargaining
9 agreements pursuant to which the plan
10 is maintained for the current plan
11 year continue in effect for succeeding
12 plan years,

13 is less than the present value of all non-
14 forfeitable benefits for all participants and
15 beneficiaries projected to be payable under
16 the plan during the current plan year and
17 each of the 6 succeeding plan years (plus
18 administrative expenses for such plan
19 years).

20 “(B) A plan is described in this subpara-
21 graph if, as of the beginning of the current plan
22 year, the sum of—

23 “(i) the market value of plan assets,
24 plus

1 “(ii) the present value of the reason-
2 ably anticipated employer and employee
3 contributions for the current plan year and
4 each of the 4 succeeding plan years, assum-
5 ing that the terms of the one or more collec-
6 tive bargaining agreements pursuant to
7 which the plan is maintained for the cur-
8 rent plan year remain in effect for suc-
9 ceeding plan years,

10 is less than the present value of all nonforfeitable
11 benefits for all participants and beneficiaries
12 projected to be payable under the plan during
13 the current plan year and each of the 4 suc-
14 ceeding plan years (plus administrative expenses
15 for such plan years).

16 “(C) A plan is described in this subpara-
17 graph if—

18 “(i) as of the beginning of the current
19 plan year, the funded percentage of the plan
20 is less than 65 percent, and

21 “(ii) the plan has an accumulated
22 funding deficiency for the current plan year
23 or is projected to have an accumulated
24 funding deficiency for any of the 4 suc-
25 ceeding plan years, not taking into account

1 *any extension of amortization periods under*
2 *section 304(d).*

3 “(D) *A plan is described in this subpara-*
4 *graph if—*

5 “(i)(I) *the plan’s normal cost for the*
6 *current plan year, plus interest (determined*
7 *at the rate used for determining cost under*
8 *the plan) for the current plan year on the*
9 *amount of unfunded benefit liabilities under*
10 *the plan as of the last date of the preceding*
11 *plan year, exceeds*

12 “(II) *the present value, as of the begin-*
13 *ning of the current plan year, of the reason-*
14 *ably anticipated employer and employee*
15 *contributions for the current plan year,*

16 “(ii) *the present value, as of the begin-*
17 *ning of the current plan year, of nonforfeit-*
18 *able benefits of inactive participants is*
19 *greater than the present value, as of the be-*
20 *ginning of the current plan year, of non-*
21 *forfeitable benefits of active participants,*
22 *and*

23 “(iii) *the plan is projected to have an*
24 *accumulated funding deficiency for the cur-*
25 *rent plan year or any of the 4 succeeding*

1 *plan years, not taking into account any ex-*
2 *ension of amortization periods under sec-*
3 *tion 304(d).*

4 “(E) *A plan is described in this subpara-*
5 *graph if—*

6 “(i) *the funded percentage of the plan*
7 *is greater than 65 percent for the current*
8 *plan year, and*

9 “(ii) *the plan is projected to have an*
10 *accumulated funding deficiency during any*
11 *of the succeeding 3 plan years, not taking*
12 *into account any extension of amortization*
13 *periods under section 304(d).*

14 “(4) *REHABILITATION PLAN.—*

15 “(A) *IN GENERAL.—A rehabilitation plan*
16 *shall consist of—*

17 “(i) *amendments to the plan providing*
18 *(under reasonable actuarial assumptions)*
19 *for measures, agreed to by the bargaining*
20 *parties, to increase contributions, reduce*
21 *plan expenditures (including plan mergers*
22 *and consolidations), or reduce future benefit*
23 *accruals, or to take any combination of such*
24 *actions, determined necessary to cause the*

1 *plan to cease, during the rehabilitation pe-*
2 *riod, to be in critical status, or*

3 *“(ii) reasonable measures to forestall*
4 *possible insolvency (within the meaning of*
5 *section 4245) if the plan sponsor determines*
6 *that, upon exhaustion of all reasonable*
7 *measures, the plan would not cease during*
8 *the rehabilitation period to be in critical*
9 *status.*

10 *“(B) REHABILITATION PERIOD.—The reha-*
11 *ilitation period for any rehabilitation plan*
12 *adopted pursuant to this subsection is the 10-*
13 *year period beginning on the earlier of—*

14 *“(i) the second anniversary of the date*
15 *of the adoption of the rehabilitation plan, or*

16 *“(ii) the first day of the first plan year*
17 *of the multiemployer plan following the*
18 *plan year in which occurs the first date,*
19 *after the date of the plan’s entry into crit-*
20 *ical status, as of which collective bargaining*
21 *agreements covering at least 75 percent of*
22 *active participants in such multiemployer*
23 *plan (determined as of such date of entry)*
24 *have expired.*

1 “(C) *REPORTING.*—A summary of any re-
2 *habilitation plan or modification thereto adopted*
3 *during any plan year, together with annual up-*
4 *dates regarding the funding ratio of the plan,*
5 *shall be included in the annual report for such*
6 *plan year under section 104(a) and in the sum-*
7 *mary annual report described in section*
8 *104(b)(3).*

9 “(5) *DEVELOPMENT OF REHABILITATION*
10 *PLAN.*—

11 “(A) *PROPOSALS BY PLAN SPONSOR.*—

12 “(i) *IN GENERAL.*—Within 90 days
13 *after the date of entry into critical status*
14 *(or the date as of which the requirements of*
15 *subsection (b)(1) are not met with respect to*
16 *the plan), the plan sponsor shall propose to*
17 *all bargaining parties a range of alternative*
18 *schedules of increases in contributions and*
19 *reductions in future benefit accruals that*
20 *would serve to carry out a rehabilitation*
21 *plan under this subsection.*

22 “(ii) *PROPOSAL ASSUMING NO CON-*
23 *TRIBUTION INCREASES.*—Such proposals
24 *shall include, as one of the proposed sched-*
25 *ules, a schedule of those reductions in future*

1 *benefit accruals that would be necessary to*
2 *cause the plan to cease to be in critical sta-*
3 *tus if there were no further increases in*
4 *rates of contribution to the plan.*

5 “(iii) *PROPOSAL WHERE CONTRIBU-*
6 *TIONS ARE NECESSARY.—If the plan spon-*
7 *sor determines that the plan will not cease*
8 *to be in critical status during the rehabili-*
9 *tation period unless the plan is amended to*
10 *provide for an increase in contributions, the*
11 *plan sponsor’s proposals shall include a*
12 *schedule of those increases in contribution*
13 *rates that would be necessary to cause the*
14 *plan to cease to be in critical status if fu-*
15 *ture benefit accruals were reduced to the*
16 *maximum extent permitted by law.*

17 “(B) *REQUESTS FOR ADDITIONAL SCHED-*
18 *ULES.—Upon the request of any bargaining*
19 *party who—*

20 “(i) *employs at least 5 percent of the*
21 *active participants, or*

22 “(ii) *represents as an employee organi-*
23 *zation, for purposes of collective bargaining,*
24 *at least 5 percent of active participants,*

1 *the plan sponsor shall include among the pro-*
2 *posed schedules such schedules of increases in*
3 *contributions and reductions in future benefit*
4 *accruals as may be specified by the bargaining*
5 *parties.*

6 “(C) *SUBSEQUENT AMENDMENTS.*—*Upon*
7 *the adoption of a schedule of increases in con-*
8 *tributions or reductions in future benefit accru-*
9 *als as part of the rehabilitation plan, the plan*
10 *sponsor may amend the plan thereafter to update*
11 *the schedule to adjust for any experience of the*
12 *plan contrary to past actuarial assumptions, ex-*
13 *cept that such an amendment may be made not*
14 *more than once in any 3-year period.*

15 “(D) *ALLOCATION OF REDUCTIONS IN FU-*
16 *TURE BENEFIT ACCRUALS.*—*Any schedule con-*
17 *taining reductions in future benefit accruals*
18 *forming a part of a rehabilitation plan shall be*
19 *applicable with respect to any group of active*
20 *participants who are employed by any bar-*
21 *gaining party (as an employer obligated to con-*
22 *tribute under the plan) in proportion to the ex-*
23 *tent to which increases in contributions under*
24 *such schedule apply to such bargaining party.*

1 “(E) *LIMITATION ON REDUCTION IN RATES*
2 *OF FUTURE ACCRUALS.*—*Any schedule proposed*
3 *under this paragraph shall not reduce the rate of*
4 *future accruals below the lower of—*

5 “(i) *a monthly benefit equal to 1 per-*
6 *cent of the contributions required to be*
7 *made with respect to a participant or the*
8 *equivalent standard accrual rate for a par-*
9 *ticipant or group of participants under the*
10 *collective bargaining agreements in effect as*
11 *of the first day of the plan year in which*
12 *the plan enters critical status, or*

13 “(ii) *if lower, the accrual rate under*
14 *the plan on such date.*

15 *The equivalent standard accrual rate shall be de-*
16 *termined by the trustees based on the standard or*
17 *average contribution base units that they deter-*
18 *mine to be representative for active participants*
19 *and such other factors as they determine to be*
20 *relevant.*

21 “(6) *MAINTENANCE OF CONTRIBUTIONS AND RE-*
22 *STRICTIONS ON BENEFITS PENDING ADOPTION OF RE-*
23 *HABILITATION PLAN.*—*The rules of paragraphs (5)*
24 *and (6) of subsection (b) shall apply for purposes of*

1 *this subsection by substituting the term ‘rehabilitation*
2 *plan’ for ‘funding improvement plan’.*

3 “(7) *SPECIAL RULES.—*

4 “(A) *AUTOMATIC EMPLOYER SURCHARGE.—*

5 “(i) *5 PERCENT AND 10 PERCENT SUR-*
6 *CHARGE.—For the first plan year in which*
7 *the plan is in critical status, each employer*
8 *otherwise obligated to make a contribution*
9 *for that plan year shall be obligated to pay*
10 *to the plan a surcharge equal to 5 percent*
11 *of the contribution otherwise required under*
12 *the respective collective bargaining agree-*
13 *ment (or other agreement pursuant to which*
14 *the employer contributes). For each consec-*
15 *utive plan year thereafter in which the plan*
16 *is in critical status, the surcharge shall be*
17 *10 percent of the contribution otherwise re-*
18 *quired under the respective collective bar-*
19 *gaining agreement (or other agreement pur-*
20 *suant to which the employer contributes).*

21 “(ii) *ENFORCEMENT OF SURCHARGE.—*

22 *The surcharges under clause (i) shall be due*
23 *and payable on the same schedule as the*
24 *contributions on which they are based. Any*
25 *failure to make a surcharge payment shall*

1 *be treated as a delinquent contribution*
2 *under section 515 and shall be enforceable*
3 *as such.*

4 “(iii) *SURCHARGE TO TERMINATE*
5 *UPON CBA RENEGOTIATION.—The surcharge*
6 *under this paragraph shall cease to be effec-*
7 *tive with respect to employees covered by a*
8 *collective bargaining agreement, beginning*
9 *on the date on which that agreement is re-*
10 *negotiated to include—*

11 “(I) *a schedule of benefits and*
12 *contributions published by the trustees*
13 *pursuant to the plan’s rehabilitation*
14 *plan, or*

15 “(II) *otherwise collectively bar-*
16 *gained benefit changes.*

17 “(iv) *SURCHARGE NOT TO APPLY*
18 *UNTIL EMPLOYER RECEIVES 30-DAY NO-*
19 *TICE.—The surcharge under this subpara-*
20 *graph shall not apply to an employer until*
21 *30 days after the employer has been notified*
22 *by the trustees that the plan is in critical*
23 *status and that the surcharge is in effect.*

24 “(v) *SURCHARGE NOT TO GENERATE*
25 *INCREASED BENEFIT ACCRUALS.—Notwith-*

1 *standing any provision of a plan to the*
2 *contrary, the amount of any surcharge shall*
3 *not be the basis for any benefit accruals*
4 *under the plan.*

5 “(B) *BENEFIT ADJUSTMENTS.*—

6 “(i) *IN GENERAL.*—*The trustees shall*
7 *make appropriate reductions, if any, to ad-*
8 *justable benefits based upon the outcome of*
9 *collective bargaining over the schedules pro-*
10 *vided under paragraph (5).*

11 “(ii) *RETIREE PROTECTION.*—*Except*
12 *as provided in subparagraph (C), the trust-*
13 *ees of a plan in critical status may not re-*
14 *duce adjustable benefits of any participant*
15 *or beneficiary who was in pay status at*
16 *least one year before the first day of the first*
17 *plan year in which the plan enters into*
18 *critical status.*

19 “(iii) *TRUSTEE FLEXIBILITY.*—*The*
20 *trustees shall include in the schedules pro-*
21 *vided to the bargaining parties an allow-*
22 *ance for funding the benefits of participants*
23 *with respect to whom contributions are not*
24 *currently required to be made, and shall re-*
25 *duce their benefits to the extent permitted*

1 *under this title and considered appropriate*
2 *based on the plan's then current overall*
3 *funding status and its future prospects in*
4 *light of the results of the parties' negotia-*
5 *tions.*

6 “(C) *ADJUSTABLE BENEFIT DEFINED.*—*For*
7 *purposes of this paragraph, the term ‘adjustable*
8 *benefit’ means—*

9 “(i) *benefits, rights, and features, such*
10 *as post-retirement death benefits, 60-month*
11 *guarantees, disability benefits not yet in*
12 *pay status, and similar benefits,*

13 “(ii) *retirement-type subsidies, early*
14 *retirement benefits, and benefit payment op-*
15 *tions (other than the 50 percent qualified*
16 *joint-and-survivor benefit and single life an-*
17 *nuity), and*

18 “(iii) *benefit increases that would not*
19 *be eligible for a guarantee under section*
20 *4022A on the first day of the plan year in*
21 *which the plan enters into critical status be-*
22 *cause they were adopted, or if later, took ef-*
23 *fect less than 60 months before reorganiza-*
24 *tion.*

1 “(D) *NORMAL RETIREMENT BENEFITS PRO-*
2 *TECTED.—Nothing in this paragraph shall be*
3 *construed to permit a plan to reduce the level of*
4 *a participant’s accrued benefit payable at nor-*
5 *mal retirement age which is not an adjustable*
6 *benefit.*

7 “(E) *ADJUSTMENTS DISREGARDED IN*
8 *WITHDRAWAL LIABILITY DETERMINATION.—*

9 “(i) *BENEFIT REDUCTIONS.—Any ben-*
10 *efit reductions under this paragraph shall*
11 *be disregarded in determining a plan’s un-*
12 *funded vested benefits for purposes of deter-*
13 *mining an employer’s withdrawal liability*
14 *under section 4201.*

15 “(ii) *SURCHARGES.—Any surcharges*
16 *under this paragraph shall be disregarded*
17 *in determining an employer’s withdrawal*
18 *liability under section 4211, except for pur-*
19 *poses of determining the unfunded vested*
20 *benefits attributable to an employer or*
21 *under a modified attributable method*
22 *adopted with the approval of the Pension*
23 *Benefit Guaranty Corporation under sub-*
24 *section (c)(5) of that section.*

1 “(8) *RESTRICTIONS UPON APPROVAL OF REHA-*
2 *BILITATION PLAN.*—*Upon adoption of a rehabilitation*
3 *plan with respect to a multiemployer plan, the plan*
4 *may not be amended—*

5 “(A) *so as to be inconsistent with the reha-*
6 *bilitation plan, or*

7 “(B) *so as to increase future benefit accru-*
8 *als, unless the plan actuary certifies in advance*
9 *that, after taking into account the proposed in-*
10 *crease, the plan is reasonably expected to cease to*
11 *be in critical status.*

12 “(9) *IMPLEMENTATION OF DEFAULT SCHEDULE*
13 *UPON FAILURE TO ADOPT REHABILITATION PLAN.*—*If*
14 *the plan is not amended by the end of the 240-day*
15 *period after entry into critical status to include a re-*
16 *habilitation plan, the plan sponsor shall amend the*
17 *plan to implement the schedule required by para-*
18 *graph (5)(A)(ii).*

19 “(10) *DEEMED WITHDRAWAL.*—*Upon the failure*
20 *of any employer who has an obligation to contribute*
21 *under the plan to make contributions in compliance*
22 *with the schedule adopted under paragraph (4) as*
23 *part of the rehabilitation plan, the failure of the em-*
24 *ployer may, at the discretion of the plan sponsor, be*
25 *treated as a withdrawal by the employer from the*

1 *plan under section 4203 or a partial withdrawal by*
2 *the employer under section 4205.*

3 “(d) *DEFINITIONS.—For purposes of this section—*

4 “(1) *BARGAINING PARTY.—The term ‘bargaining*
5 *party’ means, in connection with a multiemployer*
6 *plan—*

7 “(A) *an employer who has an obligation to*
8 *contribute under the plan, and*

9 “(B) *an employee organization which, for*
10 *purposes of collective bargaining, represents plan*
11 *participants employed by such an employer.*

12 “(2) *FUNDED PERCENTAGE.—The term ‘funded*
13 *percentage’ means the percentage expressed as a ratio*
14 *of which—*

15 “(A) *the numerator of which is the value of*
16 *the plan’s assets, as determined under section*
17 *304(c)(2), and*

18 “(B) *the denominator of which is the ac-*
19 *crued liability of the plan.*

20 “(3) *ACCUMULATED FUNDING DEFICIENCY.—The*
21 *term ‘accumulated funding deficiency’ has the mean-*
22 *ing provided such term in section 304(a).*

23 “(4) *ACTIVE PARTICIPANT.—The term ‘active*
24 *participant’ means, in connection with a multiem-*

1 *ployer plan, a participant who is in covered service*
2 *under the plan.*

3 “(5) *INACTIVE PARTICIPANT.*—*The term ‘inactive*
4 *participant’ means, in connection with a multiem-*
5 *ployer plan, a participant who—*

6 “(A) *is not in covered service under the*
7 *plan, and*

8 “(B) *is in pay status under the plan or has*
9 *a nonforfeitable right to benefits under the plan.*

10 “(6) *PAY STATUS.*—*A person is in ‘pay status’*
11 *under a multiemployer plan if—*

12 “(A) *at any time during the current plan*
13 *year, such person is a participant or beneficiary*
14 *under the plan and is paid an early, late, nor-*
15 *mal, or disability retirement benefit under the*
16 *plan (or a death benefit under the plan related*
17 *to a retirement benefit), or*

18 “(B) *to the extent provided in regulations of*
19 *the Secretary of the Treasury, such person is en-*
20 *titled to such a benefit under the plan.*

21 “(7) *OBLIGATION TO CONTRIBUTE.*—*The term*
22 *‘obligation to contribute’ has the meaning provided*
23 *such term under section 4212(a).*

24 “(8) *ENTRY INTO CRITICAL STATUS.*—*A plan*
25 *shall be treated as entering into critical status as of*

1 *the date that such plan is certified to be in critical*
 2 *status under subsection (a)(1), is presumed to be in*
 3 *critical status under subsection (a)(3), or enters into*
 4 *critical status under subsection (b)(7).”.*

5 *(b) CONFORMING AMENDMENT.—The table of contents*
 6 *in section 1 of such Act (as amended by the preceding provi-*
 7 *sions of this Act) is amended further by inserting after the*
 8 *item relating to section 304 the following new item:*

*“Sec. 305. Additional funding rules for multiemployer plans in endangered status
or critical status.”.*

9 *(c) EFFECTIVE DATE.—The amendment made by this*
 10 *section shall apply with respect to plan years beginning*
 11 *after 2005.*

12 **SEC. 203. MEASURES TO FORESTALL INSOLVENCY OF MUL-**
 13 **TIEMPLOYER PLANS.**

14 *(a) ADVANCE DETERMINATION OF IMPENDING INSOL-*
 15 *VENCY OVER 5 YEARS.—Section 4245(d)(1) of the Em-*
 16 *ployee Retirement Income Security Act of 1974 (29 U.S.C.*
 17 *1426(d)(1)) is amended—*

18 *(1) by striking “3 plan years” the second place*
 19 *it appears and inserting “5 plan years”; and*

20 *(2) by adding at the end the following new sen-*
 21 *tence: “If the plan sponsor makes such a determina-*
 22 *tion that the plan will be insolvent in any of the next*
 23 *5 plan years, the plan sponsor shall make the com-*
 24 *parison under this paragraph at least annually until*

1 *the plan sponsor makes a determination that the plan*
2 *will not be insolvent in any of the next 5 plan*
3 *years.”.*

4 **(b) EFFECTIVE DATE.**—*The amendments made by this*
5 *section shall apply with respect to determinations made in*
6 *plan years beginning after 2005.*

7 **SEC. 204. WITHDRAWAL LIABILITY REFORMS.**

8 **(a) REPEAL OF LIMITATION ON WITHDRAWAL LIABIL-**
9 **ITY IN THE EVENT OF CERTAIN SALES OF EMPLOYER AS-**
10 **SETS TO UNRELATED PARTIES.**—

11 **(1) IN GENERAL.**—*Section 4225 of the Employee*
12 *Retirement Income Security Act of 1974 (29 U.S.C.*
13 *1405) is repealed.*

14 **(2) CONFORMING AMENDMENT.**—*The table of*
15 *contents in section 1 of such Act is amended by strik-*
16 *ing the item relating to section 4225.*

17 **(3) EFFECTIVE DATE.**—*The amendments made*
18 *by this section shall apply with respect to sales occur-*
19 *ring on or after January 1, 2006.*

20 **(b) REPEAL OF LIMITATION TO 20 ANNUAL PAY-**
21 **MENTS.**—

22 **(1) IN GENERAL.**—*Section 4219(c)(1) of such Act*
23 *(29 U.S.C. 1399(c)(1)) is amended by striking sub-*
24 *paragraph (B).*

1 (2) *EFFECTIVE DATE.*—*The amendment made by*
2 *this section shall apply with respect to withdrawals*
3 *occurring on or after January 1, 2006.*

4 (c) *WITHDRAWAL LIABILITY CONTINUES IF WORK*
5 *CONTRACTED OUT.*—

6 (1) *IN GENERAL.*—*Clause (i) of section*
7 *4205(b)(2)(A) of such Act (29 U.S.C. 1385(b)(2)(A))*
8 *is amended by inserting “or to another party or par-*
9 *ties” after “to another location”.*

10 (2) *EFFECTIVE DATE.*—*The amendment made by*
11 *this subsection shall apply with respect to work trans-*
12 *ferred on or after the date of the enactment of this*
13 *Act.*

14 (d) *REPEAL OF SPECIAL RULE FOR LONG AND SHORT*
15 *HAUL TRUCKING INDUSTRY.*—

16 (1) *IN GENERAL.*—*Subsection (d) of section 4203*
17 *of such Act (29 U.S.C. 1383(d)) is repealed.*

18 (2) *EFFECTIVE DATE.*—*The repeal under this*
19 *subsection shall apply with respect to cessations to*
20 *have obligations to contribute to multiemployer plans*
21 *and cessations of covered operations under such plans*
22 *occurring on or after January 1, 2006.*

23 (e) *APPLICATION OF FORGIVENESS RULE TO PLANS*
24 *PRIMARILY COVERING EMPLOYEES IN THE BUILDING AND*
25 *CONSTRUCTION.*—

1 (1) *IN GENERAL.*—Section 4210(b) of such Act
2 (29 U.S.C. 1390(b)) is amended—

3 (A) *by striking paragraph (1); and*

4 (B) *by redesignating paragraphs (2)*
5 *through (4) as paragraphs (1) through (3), re-*
6 *spectively.*

7 (2) *EFFECTIVE DATE.*—*The amendments made*
8 *by this subsection shall apply with respect to plan*
9 *withdrawals occurring on or after January 1, 2006.*

10 **SEC. 205. REMOVAL OF RESTRICTIONS WITH RESPECT TO**
11 **PROCEDURES APPLICABLE TO DISPUTES IN-**
12 **VOLVING WITHDRAWAL LIABILITY.**

13 (a) *IN GENERAL.*—Section 4221(f)(1) of the Employee
14 *Retirement Income Security Act of 1974 (29 U.S.C.*
15 *1401(f)(1)) is amended—*

16 (1) *in subparagraph (A) by inserting “and”*
17 *after “plan,” and*

18 (2) *by striking subparagraphs (B) and (C) and*
19 *inserting the following new subparagraph:*

20 *“(B) such determination is based in whole*
21 *or in part on a finding by the plan sponsor*
22 *under section 4212(c) that a principal purpose*
23 *of any transaction which occurred at least 5*
24 *years (2 years in the case of a small employer)*
25 *before the date of the complete or partial with-*

1 *drawal was to evade or avoid withdrawal liability*
2 *under this subtitle,”.*

3 **(b) SMALL EMPLOYER.**—*Paragraph (2) of section*
4 *4221(f) of such Act is amended by adding at the end the*
5 *following new subparagraph:*

6 **“(C) SMALL EMPLOYER.**—*For purposes of*
7 *paragraph (1)(B)—*

8 **“(i) IN GENERAL.**—*The term ‘small*
9 *employer’ means any employer who (as of*
10 *immediately before the transaction referred*
11 *to in paragraph (1)(B))—*

12 **“(I) employs not more than 500**
13 *employees, and*

14 **“(II) is required to make con-**
15 *tributions to the plan for not more*
16 *than 250 employees.*

17 **“(ii) CONTROLLED GROUP.**—*Any*
18 *group treated as a single employer under*
19 *subsection (b), (c), (m), or (o) of section 414*
20 *of the Internal Revenue Code of 1986 shall*
21 *be treated as a single employer for purposes*
22 *of this subparagraph.”.*

23 **(c) ADDITIONAL AMENDMENTS.**—

24 **(1) Subparagraph (A) of section 4221(f)(2) of**
25 *such Act (29 U.S.C. 1401(f)(2)) is amended by strik-*

1 *ing “Notwithstanding” and inserting “In the case of*
 2 *a transaction occurring before January 1, 1999, and*
 3 *at least 5 years before the date of the complete or par-*
 4 *tial withdrawal, notwithstanding”.*

5 *(2) Section 4221(f)(2)(B) of such Act (29 U.S.C.*
 6 *1401(f)(2)(B)) is amended—*

7 *(A) by inserting “with respect to with-*
 8 *drawal liability payments” after “determina-*
 9 *tion” the first place it appears, and*

10 *(B) by striking “any” and inserting “the”.*

11 *(d) EFFECTIVE DATE.—The amendments made by this*
 12 *section shall apply to any employer that receives a notifica-*
 13 *tion under section 4219(b)(1) of the Employee Retirement*
 14 *Income Security Act of 1974 on or after the date of the*
 15 *enactment of this Act.*

16 ***Subtitle B—Amendments to***
 17 ***Internal Revenue Code of 1986***

18 ***SEC. 211.*** *[See introduced bill, page 200, line 8 through page 251, line 15.]*

19 ***TITLE III—OTHER PROVISIONS***

20 ***SEC. 301. INTEREST RATE ASSUMPTION FOR DETERMINA-***
 21 ***TION OF LUMP SUM DISTRIBUTIONS.***

22 *(a) AMENDMENTS TO EMPLOYEE RETIREMENT IN-*
 23 *COME SECURITY ACT OF 1974.—Paragraph (3) of section*
 24 *205(g) of the Employee Retirement Income Security Act of*
 25 *1974 (29 U.S.C. 1055(g)(3)) is amended to read as follows:*

1 “(3)(A) For purposes of paragraphs (1) and (2), the
2 present value shall not be less than the present value cal-
3 culated by using the applicable mortality table and the ap-
4 plicable interest rate.

5 “(B) For purposes of subparagraph (A)—

6 “(i) The term ‘applicable mortality table’ means
7 a mortality table, modified as appropriate by the Sec-
8 retary of the Treasury, based on the mortality table
9 specified for the plan year under section 303(h)(3).

10 “(ii) The term ‘applicable interest rate’ means
11 the adjusted first, second, and third segment rates ap-
12 plied under rules similar to the rules of section
13 303(h)(2)(C) for the month before the date of the dis-
14 tribution or such other time as the Secretary of the
15 Treasury may by regulations prescribe.

16 “(iii) For purposes of clause (ii), the adjusted
17 first, second, and third segment rates are the first,
18 second, and third segment rates which would be deter-
19 mined under section 303(h)(2)(C) if—

20 “(I) section 303(h)(2)(D)(i) were applied by
21 substituting ‘the yields’ for ‘a 3-year weighted
22 average of yields’,

23 “(II) section 303(h)(2)(G)(i)(II) were ap-
24 plied by substituting ‘section

1 205(g)(3)(A)(ii)(II)’ for ‘section
 2 302(b)(5)(B)(ii)(II)’, and
 3 “(III) the applicable percentage under sec-
 4 tion 303(h)(2)(G) were determined in accordance
 5 with the following table:

| “In the case of plan years beginning in: | The applicable percentage is: |
|---|--|
| 2006 | 20 percent |
| 2007 | 40 percent |
| 2008 | 60 percent |
| 2009 | 80 percent.”. |

6 (b) *AMENDMENTS TO INTERNAL REVENUE CODE OF*
 7 *1986.—[See introduced bill, page 252, line 19 through page*
 8 *254, line 5]*

9 (c) *SPECIAL RULE FOR PLAN AMENDMENTS.—A plan*
 10 *shall not fail to meet the requirements of section 204(g) of*
 11 *the Employee Retirement Income Security Act of 1974 sole-*
 12 *ly by reason of the adoption by the plan of an amendment*
 13 *necessary to meet the requirements of the amendments made*
 14 *by this section.*

15 (d) *EFFECTIVE DATE.—The amendments made by this*
 16 *section shall apply with respect to plan years beginning*
 17 *after 2005.*

1 **SEC. 302. INTEREST RATE ASSUMPTION FOR APPLYING**
2 **BENEFIT LIMITATIONS TO LUMP SUM DIS-**
3 **TRIBUTIONS.**

4 *[See introduced bill, page 254, line 6 through page*
5 *255, line 7]*

6 **SEC. 303. DISTRIBUTIONS DURING WORKING RETIREMENT.**

7 *(a) IN GENERAL.—Subparagraph (A) of section 3(2)*
8 *of the Employee Retirement Income Security Act of 1974*
9 *(29 U.S.C. 1002(2)) is amended by adding at the end the*
10 *following new sentence: “A distribution from a plan, fund,*
11 *or program shall not be treated as made in a form other*
12 *than retirement income or as a distribution prior to termi-*
13 *nation of covered employment solely because such distribu-*
14 *tion is made to an employee who has attained age 62 and*
15 *who is not separated from employment at the time of such*
16 *distribution.”.*

17 *(b) EFFECTIVE DATE.—The amendment made by sub-*
18 *section (a) shall apply to distributions in plan years begin-*
19 *ning after 2005.*

20 **SEC. 304. OTHER AMENDMENTS RELATING TO PROHIBITED**
21 **TRANSACTIONS.**

22 *(a) DEFINITION OF AMOUNT INVOLVED.—Section*
23 *502(i) of the Employee Retirement Income Security Act of*
24 *1974 (29 U.S.C. 1132(i)) is amended to read as follows:*

25 *“(i)(1) In the case of a transaction prohibited by sec-*
26 *tion 406 by a party in interest with respect to a plan to*

1 *which this part applies, the Secretary may assess a civil*
2 *penalty against such party in interest. The amount of such*
3 *penalty may not exceed 5 percent of the amount involved*
4 *in each such transaction for each year or part thereof dur-*
5 *ing which the prohibited transaction continues, except that,*
6 *if the transaction is not corrected (in such manner as the*
7 *Secretary shall prescribe in regulations) within 90 days*
8 *after notice from the Secretary (or such longer period as*
9 *the Secretary may permit), such penalty may be in an*
10 *amount not more than 100 percent of the amount involved.*

11 *“(2) For purposes of paragraph (1)—*

12 *“(A) Except as provided in subparagraphs (C)*
13 *and (D), the term ‘amount involved’ means, with re-*
14 *spect to a prohibited transaction, the greater of—*

15 *“(i) the amount of money and the fair mar-*
16 *ket value of the other property given, or*

17 *“(ii) the amount of money and the fair*
18 *market value of the other property received.*

19 *“(B) For purposes of subparagraph (A), fair*
20 *market value—*

21 *“(i) shall be determined as of the date on*
22 *which the prohibited transaction occurs; and*

23 *“(ii) shall be the highest fair market value*
24 *during the period between the date of the trans-*
25 *action and the date of correction.*

1 “(C) *In the case of services described in sub-*
2 *section (b)(2) or (c)(2) of section 408, the term*
3 *‘amount involved’ means only the amount of excess*
4 *compensation.*

5 “(D) *In the case of principal transactions in-*
6 *volving securities or commodities, the term ‘amount*
7 *involved’ means only the amount received by the dis-*
8 *qualified person in excess of the amount such person*
9 *would have received in an arm’s length transaction*
10 *with an unrelated party as of the same date.*

11 “(E) *For the purposes of this paragraph—*

12 “(i) *the term ‘security’ has the meaning*
13 *given such term by section 475(c)(2) of the Inter-*
14 *nal Revenue Code of 1986 (without regard to*
15 *subparagraph (F)(iii) and the last sentence*
16 *thereof) , and*

17 “(ii) *the term ‘commodity’ has the meaning*
18 *given such term by section 475(e)(2) of such Code*
19 *(without regard to subparagraph (D)(iii) there-*
20 *of).”.*

21 (b) *EXEMPTION FOR BLOCK TRADING.—Section 408(b)*
22 *of such Act (29 U.S.C. 1108(b)), as amended by section 601,*
23 *is further amended by adding at the end the following new*
24 *paragraph:*

1 “(15)(A) *Any transaction involving the purchase*
2 *or sale of securities between a plan and a party in*
3 *interest (other than a fiduciary) with respect to a*
4 *plan if—*

5 “(i) *the transaction involves a block trade,*

6 “(ii) *at the time of the transaction, the in-*
7 *terest of the plan (together with the interests of*
8 *any other plans maintained by the same plan*
9 *sponsor), does not exceed 10 percent of the aggre-*
10 *gate size of the block trade, and*

11 “(iii) *the terms of the transaction, includ-*
12 *ing the price, are at least as favorable to the*
13 *plan as an arm’s length transaction.*

14 “(B) *For purposes of this paragraph, the term*
15 *‘block trade’ includes any trade which will be allo-*
16 *cated across two or more client accounts of a fidu-*
17 *ciary.’”.*

18 (c) *BONDING RELIEF.— Section 412(a) of such Act (29*
19 *U.S.C. 1112(a)) is amended—*

20 (1) *by redesignating paragraph (2) as para-*
21 *graph (3);*

22 (2) *by striking “and” at the end of paragraph*
23 *(1); and*

24 (3) *by inserting after paragraph (1) the fol-*
25 *lowing new paragraph:*

1 “(2) no bond shall be required of an entity which
2 is subject to regulation as a broker or a dealer under
3 section 15 of the Securities Exchange Act of 1934 (15
4 U.S.C. 78a et seq.) or an entity registered under the
5 Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et
6 seq.), including requirements imposed by a self-regu-
7 latory organization (within the meaning of section
8 3(a)(26) of such Act (15 U.S.C. 78c(a)(26)), or any
9 affiliate with respect to which the broker or dealer
10 agrees to be liable to the same extent as if they held
11 the assets directly.”.

12 (d) *EXEMPTION FOR ELECTRONIC COMMUNICATION*
13 *NETWORK.*—Section 408(b) of such Act (as amended by
14 subsection (b)) is further amended by adding at the end
15 the following:

16 “(16) Any transaction involving the purchase
17 and sale of securities or other property between a
18 plan and a fiduciary or a party in interest if—

19 “(A) the transaction is executed through an
20 exchange, electronic communication network, al-
21 ternative trading system, or similar execution
22 system or trading venue subject to regulation
23 and oversight by the applicable governmental
24 regulating entity,

1 “(B) neither the execution system nor the
2 parties to the transaction take into account the
3 identity of the parties in the execution of trades,

4 “(C) the transaction is effected pursuant to
5 rules designed to match purchases and sales at
6 the best price available through the execution sys-
7 tem, and

8 “(D) the price and compensation associated
9 with the purchase and sale are not greater than
10 an arm’s length transaction with an unrelated
11 party.”.

12 (e) *CONFORMING ERISA’S PROHIBITED TRANSACTION*
13 *PROVISION TO FERSA.*—Section 408(b) of such Act (29
14 U.S.C. 1106), as amended by subsection (d), is further
15 amended by adding at the end the following new paragraph:

16 “(17)(A) transactions described in subpara-
17 graphs (A), (B), and (D) of section 406(a)(1) between
18 a plan and a party that is a party in interest (under
19 section 3(14)) solely by reason of providing services,
20 but only if in connection with such transaction the
21 plan receives no less, nor pays no more, than ade-
22 quate consideration.

23 “(B) For purposes of this paragraph, the term
24 ‘adequate consideration’ means—

1 “(i) in the case of a security for which there
2 is a generally recognized market—

3 “(I) the price of the security prevailing
4 on a national securities exchange which is
5 registered under section 6 of the Securities
6 Exchange Act of 1934, taking into account
7 factors such as the size of the transaction
8 and marketability of the security, or

9 “(II) if the security is not traded on
10 such a national securities exchange, a price
11 not less favorable to the plan than the offer-
12 ing price for the security as established by
13 the current bid and asked prices quoted by
14 persons independent of the issuer and of the
15 party in interest, taking into account fac-
16 tors such as the size of the transaction and
17 marketability of the security, and

18 “(ii) in the case of an asset other than a se-
19 curity for which there is a generally recognized
20 market, the fair market value of the asset as de-
21 termined in good faith by a fiduciary or fidu-
22 ciaries in accordance with regulations prescribed
23 by the Secretary.”.

24 (f) RELIEF FOR FOREIGN EXCHANGE TRANS-
25 ACTIONS.— Section 408(b) of such Act (as amended by the

1 *preceding provisions of this section) is further amended by*
2 *adding at the end the following new paragraph:*

3 “(18) *Any foreign exchange transactions, between*
4 *a bank or broker-dealer, or any affiliate of either*
5 *thereof, and a plan with respect to which the bank or*
6 *broker-dealer, or any affiliate, is a trustee, custodian,*
7 *fiduciary, or other party in interest, if—*

8 “(A) *the transaction is in connection with*
9 *the purchase or sale of securities,*

10 “(B) *at the time the foreign exchange trans-*
11 *action is entered into, the terms of the trans-*
12 *action are not less favorable to the plan than the*
13 *terms generally available in comparable arm’s*
14 *length foreign exchange transactions between un-*
15 *related parties, or the terms afforded by the bank*
16 *or the broker-dealer (or any affiliate thereof) in*
17 *comparable arm’s-length foreign exchange trans-*
18 *actions involving unrelated parties,*

19 “(C) *the exchange rate used by the bank or*
20 *broker-dealer for a particular foreign exchange*
21 *transaction must be at a rate no less favorable*
22 *than the rate quoted for transactions of similar*
23 *size at the time of the transaction as displayed*
24 *on an independent service that reports rates of*

1 *exchange in the foreign currency market for such*
2 *currency, and*

3 “(D) *the bank or broker-dealer, or any affil-*
4 *iate, does not have investment discretion, or pro-*
5 *vide investment advice, with respect to the secu-*
6 *rities transaction.*”.

7 (g) *DEFINITION OF PLAN ASSET VEHICLE.—Section 3*
8 *of such Act (29 U.S.C. 1002) is amended by adding at the*
9 *end the following new paragraph:*

10 “(42) *the term ‘plan assets’ means plan assets as de-*
11 *finied by such regulations as the Secretary may prescribe,*
12 *except that under such regulations the assets of any entity*
13 *shall not be treated as plan assets if, immediately after the*
14 *most recent acquisition of any equity interest in the entity,*
15 *less than 50 percent of the total value of all equity interests*
16 *in the entity are held by employee benefit plan investors.*
17 *For purposes of determinations pursuant to this paragraph,*
18 *the value of any equity interest owned by a person (other*
19 *than such an employee benefit plan) who has discretionary*
20 *authority or control with respect to the assets of the entity*
21 *or any person who provides investment advice for a fee (di-*
22 *rect or indirect) with respect to such assets, or any affiliate*
23 *of such a person, shall be disregarded for purposes of calcu-*
24 *lating the 50 percent threshold. An entity shall be consid-*
25 *ered to hold plan assets only to the extent of the percentage*

1 *of the equity interest owned by benefit plan investors. For*
2 *purposes of this paragraph, the term ‘benefit plan investor’*
3 *means an employee benefit plan subject to this part and*
4 *any plan to which section 4975 of the Internal Revenue*
5 *Code of 1986 applies.”.*

6 **SEC. 305. CORRECTION PERIOD FOR CERTAIN TRANS-**
7 **ACTIONS INVOLVING SECURITIES AND COM-**
8 **MODITIES.**

9 *(a) IN GENERAL.—Section 408(b) of the Employee Re-*
10 *tirement Income Security Act of 1974 (29 U.S.C. 1108(b)),*
11 *as amended by sections 304 and 601, is further amended*
12 *by adding at the end the following new paragraph:*

13 *“(19)(A) Except as provided in subparagraphs*
14 *(B) and (C), a transaction described in section 406(a)*
15 *in connection with the acquisition, holding, or dis-*
16 *position of any security or commodity, if the trans-*
17 *action is corrected before the end of the correction pe-*
18 *riod.*

19 *“(B) Subparagraph (A) does not apply to any*
20 *transaction between a plan and a plan sponsor or its*
21 *affiliates that involves the acquisition or sale of an*
22 *employer security (as defined in section 407(d)(1)) or*
23 *the acquisition, sale, or lease of employer real prop-*
24 *erty (as defined in section 407(d)(2)).*

1 “(C) *In the case of any fiduciary or other party*
2 *in interest (or any other person knowingly partici-*
3 *partating in such transaction), subparagraph (A) does*
4 *not apply to any prohibited transaction if, at the*
5 *time such transaction is discovered, such fiduciary or*
6 *party in interest (or other person) knew that the*
7 *transaction would (without regard to this paragraph)*
8 *constitute a violation of section 406(a).*

9 “(D) *For purposes of this paragraph, the term*
10 *‘correction period’ means, in connection with a fidu-*
11 *ciary or party in interest (or other person knowingly*
12 *participating in the transaction), the 14-day period*
13 *beginning on the date on which such fiduciary or*
14 *party in interest (or other person) discovers, or rea-*
15 *sonably should have discovered, that the transaction*
16 *would (without regard to this paragraph) constitute*
17 *a violation of section 406(a).*

18 “(E) *For purposes of this paragraph—*

19 “(i) *The term ‘security’ has the meaning*
20 *given such term by section 475(e)(2) of the Inter-*
21 *nal Revenue Code of 1986 (without regard to*
22 *subparagraph (F)(iii) and the last sentence*
23 *thereof).*

24 “(ii) *The term ‘commodity’ has the meaning*
25 *given such term by section 475(e)(2) of such Code*

1 *(without regard to subparagraph (D)(iii) there-*
2 *of).*

3 *“(iii) The term ‘correct’ means, with respect*
4 *to a transaction, to undo the transaction to the*
5 *extent possible, but in any case, to make good to*
6 *the plan or affected account any losses resulting*
7 *from the transaction and to restore to the plan*
8 *or affected account any profits made through use*
9 *of the plan. ”.*

10 ***(b) EFFECTIVE DATE.***—*The amendments made by this*
11 *section shall apply to any transaction which the fiduciary*
12 *or disqualified person discovers, or reasonably should have*
13 *discovered, after the date of the enactment of this Act, con-*
14 *stitutes a prohibited transaction.*

15 **SEC. 306. GOVERNMENT ACCOUNTABILITY OFFICE PENSION**
16 **FUNDING REPORT.**

17 ***(a) IN GENERAL.***—*The Comptroller General of the*
18 *Government Accountability Office shall transmit to the*
19 *Congress a pension funding report not later than one year*
20 *after the date of the enactment of this Act.*

21 ***(b) REPORT CONTENT.***—*The pension funding report*
22 *required under subsection (a) shall include an analysis of*
23 *the feasibility, advantages, and disadvantages of—*

24 ***(1)*** *requiring an employee pension benefit plan*
25 *to insure a portion of such plan’s total investments;*

1 (2) *requiring an employee pension benefit plan*
2 *to adhere to uniform solvency standards set by the*
3 *Pension Benefit Guaranty Corporation, which are*
4 *similar to those applied on a State level in the insur-*
5 *ance industry; and*

6 (3) *amortizing a single-employer defined benefit*
7 *pension plan’s shortfall amortization base (referred to*
8 *in section 303(c)(3) of the Employee Retirement In-*
9 *come Security Act of 1974 (as amended by this Act))*
10 *over various periods of not more than 7 years.*

11 ***TITLE IV—IMPROVEMENTS IN***
12 ***PBGC GUARANTEE PROVISIONS***

13 ***SEC. 401. INCREASES IN PBGC PREMIUMS.***

14 (a) *FLAT-RATE PREMIUMS.*—*Section 4006(a)(3) of the*
15 *Employee Retirement Income Security Act of 1974 (29*
16 *U.S.C. 1306(a)(3)) is amended—*

17 (1) *by striking clause (i) of subparagraph (A)*
18 *and inserting the following:*

19 “(i) *in the case of a single-employer plan, an*
20 *amount equal to—*

21 “(I) *for plan years beginning after Decem-*
22 *ber 31, 1990, and before January 1, 2006, \$19,*
23 *or*

1 “(II) for plan years beginning after Decem-
2 ber 31, 2005, the amount determined under sub-
3 paragraph (F),
4 plus the additional premium (if any) determined
5 under subparagraph (E) for each individual who is
6 a participant in such plan during the plan year;”;
7 and

8 (2) by adding at the end the following new sub-
9 paragraph:

10 “(F)(i) Except as otherwise provided in this subpara-
11 graph, for purposes of determining the annual premium
12 rate payable to the corporation by a single-employer plan
13 for basic benefits guaranteed under this title, the amount
14 determined under this subparagraph is the greater of \$30
15 or the adjusted amount determined under clause (ii).

16 “(ii) For plan years beginning after 2006, the adjusted
17 amount determined under this clause is the product derived
18 by multiplying \$30 by the ratio of—

19 “(I) the national average wage index (as defined
20 in section 209(k)(1) of the Social Security Act) for the
21 first of the 2 calendar years preceding the calendar
22 year in which the plan year begins, to

23 “(II) the national average wage index (as so de-
24 fined) for 2004,

1 *with such product, if not a multiple of \$1, being rounded*
 2 *to the next higher multiple of \$1 where such product is a*
 3 *multiple of \$0.50 but not of \$1, and to the nearest multiple*
 4 *of \$1 in any other case.*

5 “(iii) *For purposes of determining the annual pre-*
 6 *mium rate payable to the corporation by a single-employer*
 7 *plan for basic benefits guaranteed under this title for any*
 8 *plan year beginning after 2005 and before 2010—*

9 “(I) *except as provided in subclause (II), the pre-*
 10 *mium amount referred to in subparagraph (A)(i)(II)*
 11 *for any such plan year is the amount set forth in con-*
 12 *nection with such plan year in the following table:*

| <i>“If the plan year begins in:</i> | <i>The amount is:</i> |
|--|------------------------------|
| 2006 | \$21.20 |
| 2007 | \$23.40 |
| 2008 | \$25.60 |
| 2009 | \$27.80; or |

13 “(II) *if the plan’s funding target attainment*
 14 *percentage for the plan year preceding the current*
 15 *plan year was less than 80 percent, the premium*
 16 *amount referred to in subparagraph (A)(i)(II) for*
 17 *such current plan year is the amount set forth in con-*
 18 *nection with such current plan year in the following*
 19 *table:*

| <i>“If the plan year begins in:</i> | <i>The amount is:</i> |
|--|------------------------------|
| 2006 | \$22.67 |

| | |
|--------------------|--|
| 2007 | §26.33 |
| 2008 or 2009 | the amount provided under clause (i). |

1 “(iv) For purposes of this subparagraph, the term
2 ‘funding target attainment percentage’ has the meaning
3 provided such term in section 303(d)(2).”

4 (b) RISK-BASED PREMIUMS.—

5 (1) CONFORMING AMENDMENTS RELATED TO
6 FUNDING RULES FOR SINGLE-EMPLOYER PLANS.—Sec-
7 tion 4006(a)(3)(E) of such Act is amended by striking
8 clauses (iii) and (iv) and inserting the following:

9 “(iii)(I) For purposes of clause (ii), except as provided
10 in subclause (II), the term ‘unfunded vested benefits’ means,
11 for a plan year, the amount which would be the plan’s fund-
12 ing shortfall (as defined in section 303(c)(4)), if the value
13 of plan assets of the plan were equal to the fair market value
14 of such assets and only vested benefits were taken into ac-
15 count.

16 “(II) The interest rate used in valuing vested benefits
17 for purposes of subclause (I) shall be equal to the first, sec-
18 ond, or third segment rate which would be determined
19 under section 303(h)(2)(C) if section 303(h)(2)(D)(i) were
20 applied by substituting ‘the yields’ for ‘the 3-year weighted
21 average of yields’, as applicable under rules similar to the
22 rules under section 303(h)(2)(B).”

1 (2) *EFFECTIVE DATE.*—*The amendments made*
2 *by paragraph (1) shall apply with respect to plan*
3 *years beginning after 2005.*

4 **TITLE V—DISCLOSURE**

5 **SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICES.**

6 (a) *APPLICATION OF PLAN FUNDING NOTICE RE-*
7 *QUIREMENTS TO ALL DEFINED BENEFIT PLANS.*—*Section*
8 *101(f) of the Employee Retirement Income Security Act of*
9 *1974 (29 U.S.C. 1021(f)) is amended—*

10 (1) *in the heading, by striking “MULTIEM-*
11 *PLOYER”;*

12 (2) *in paragraph (1), by striking “which is a*
13 *multiemployer plan”;* and

14 (3) *by striking paragraph (2)(B)(iii) and insert-*
15 *ing the following:*

16 *“(iii)(I) in the case of a single-em-*
17 *ployer plan, a summary of the rules gov-*
18 *erning termination of single-employer plans*
19 *under subtitle C of title IV, or*

20 *“(II) in the case of a multiemployer*
21 *plan, a summary of the rules governing in-*
22 *solvent multiemployer plans, including the*
23 *limitations on benefit payments and any*
24 *potential benefit reductions and suspensions*
25 *(and the potential effects of such limita-*

1 *tions, reductions, and suspensions on the*
 2 *plan); and”.*

3 *(b) INCLUSION OF STATEMENT OF THE RATIO OF IN-*
 4 *ACTIVE PARTICIPANTS TO ACTIVE PARTICIPANTS.—Section*
 5 *101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B)) is*
 6 *amended—*

7 *(1) in clause (iii)(II) (added by subsection (a)(3)*
 8 *of this section), by striking “and” at the end;*

9 *(2) in clause (iv), by striking “apply.” and in-*
 10 *serting “apply; and”; and*

11 *(3) by adding at the end the following new*
 12 *clause:*

13 *“(v) a statement of the ratio, as of the*
 14 *end of the plan year to which the notice re-*
 15 *lates, of—*

16 *“(I) the number of participants*
 17 *who are not in covered service under*
 18 *the plan and are in pay status under*
 19 *the plan or have a nonforfeitable right*
 20 *to benefits under the plan, to*

21 *“(II) the number of participants*
 22 *who are in covered service under the*
 23 *plan.”.*

24 *(c) COMPARISON OF MONTHLY AVERAGE OF VALUE OF*
 25 *PLAN ASSETS TO PROJECTED CURRENT LIABILITIES.—*

1 *Section 101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B))*
2 *(as amended by the preceding provisions of this section) is*
3 *amended further—*

4 *(1) by striking clause (ii) and inserting the fol-*
5 *lowing:*

6 *“(ii) a statement of a reasonable esti-*
7 *mate of—*

8 *“(I) the value of the plan’s assets*
9 *for the plan year to which the notice*
10 *relates,*

11 *“(II) projected liabilities of the*
12 *plan for the plan year to which the no-*
13 *tice relates, and*

14 *“(III) the ratio of the estimated*
15 *amount determined under subclause (I)*
16 *to the estimated amount determined*
17 *under subclause (II);”;* and

18 *(2) by adding at the end (after and below clause*
19 *(v)) the following:*

20 *“For purposes of determining a plan’s projected*
21 *liabilities for a plan year under clause (ii)(II),*
22 *such projected liabilities shall be determined by*
23 *projecting forward in a reasonable manner to the*
24 *end of the plan year the liabilities of the plan to*
25 *participants and beneficiaries as of the first day*

1 *of the plan year, taking into account any signifi-*
2 *cant events that occur during the plan year and*
3 *that have a material effect on such liabilities, in-*
4 *cluding any plan amendments in effect for the*
5 *plan year.”.*

6 *(d) STATEMENT OF PLAN’S FUNDING POLICY AND*
7 *METHOD OF ASSET ALLOCATION.—Section 101(f)(2)(B) of*
8 *such Act (as amended by the preceding provisions of this*
9 *section) is amended further—*

10 *(1) in clause (iv), by striking “and” at the end;*

11 *(2) in clause (v), by striking the period and in-*
12 *serting “; and”; and*

13 *(3) by inserting after clause (v) the following*
14 *new clause:*

15 *“(vi) a statement setting forth the*
16 *funding policy of the plan and the asset al-*
17 *location of investments under the plan (ex-*
18 *pressed as percentages of total assets) as of*
19 *the end of the plan year to which the notice*
20 *relates.”.*

21 *(e) NOTICE OF FUNDING IMPROVEMENT PLAN OR RE-*
22 *HABILITATION PLAN ADOPTED BY MULTIEmployer*
23 *PLAN.—Section 101(f)(2)(B) of such Act (as amended by*
24 *the preceding provisions of this section) is amended fur-*
25 *ther—*

1 (1) *in clause (v), by striking “and” at the end;*

2 (2) *in clause (vi), by striking the period and in-*
3 *serting “; and”; and*

4 (3) *by inserting after clause (vi) the following*
5 *new clause:*

6 *“(vii) a summary of any funding im-*
7 *provement plan, rehabilitation plan, or*
8 *modification thereof adopted under section*
9 *305 during the plan year to which the no-*
10 *tice relates.”.*

11 (f) *NOTICE DUE 90 DAYS AFTER PLAN’S VALUATION*
12 *DATE.—*

13 (1) *IN GENERAL.—Section 101(f)(3) of such Act*
14 *(29 U.S.C. 1021(f)(3)) is amended by striking “two*
15 *months after the deadline (including extensions) for*
16 *filing the annual report for the plan year” and in-*
17 *serting “90 days after the end of the plan year”.*

18 (2) *MODEL NOTICE.—Not later than 180 days*
19 *after the date of the enactment of this Act, the Sec-*
20 *retary of Labor shall publish a model version of the*
21 *notice required by section 101(f) of the Employee Re-*
22 *irement Income Security Act of 1974.*

23 (g) *EFFECTIVE DATE.—The amendments made by this*
24 *section shall apply to plan years beginning after December*
25 *31, 2005.*

1 **SEC. 502. ADDITIONAL DISCLOSURE REQUIREMENTS.**

2 (a) *ADDITIONAL ANNUAL REPORTING REQUIRE-*
3 *MENTS.*—Section 103 of the *Employee Retirement Income*
4 *Security Act of 1974 (29 U.S.C. 1023)* is amended—

5 (1) *in subsection (a)(1)(B), by striking “sub-*
6 *sections (d) and (e)” and inserting “subsections (d),*
7 *(e), and (f)”;* and

8 (2) *by adding at the end the following new sub-*
9 *section:*

10 “*(f)(1) With respect to any defined benefit plan, an*
11 *annual report under this section for a plan year shall in-*
12 *clude the following:*

13 “*(A) The ratio, as of the end of such plan year,*
14 *of—*

15 “*(i) the number of participants who, as of*
16 *the end of such plan year, are not in covered*
17 *service under the plan and are in pay status*
18 *under the plan or have a nonforfeitable right to*
19 *benefits under the plan, to*

20 “*(ii) the number of participants who are in*
21 *covered service under the plan as of the end of*
22 *such plan year.*

23 “*(B) In any case in which any liabilities to par-*
24 *ticipants or their beneficiaries under such plan as of*
25 *the end of such plan year consist (in whole or in*
26 *part) of liabilities to such participants and bene-*

1 *beneficiaries borne by 2 or more pension plans as of im-*
2 *mediately before such plan year, the funded ratio of*
3 *each of such 2 or more pension plans as of imme-*
4 *diately before such plan year and the funded ratio of*
5 *the plan with respect to which the annual report is*
6 *filed as of the end of such plan year.*

7 *“(C) For purposes of this paragraph, the term*
8 *‘funded ratio’ means, in connection with a plan, the*
9 *percentage which—*

10 *“(i) the value of the plan’s assets is of*

11 *“(ii) the liabilities to participants and*
12 *beneficiaries under the plan.*

13 *“(2) With respect to any defined benefit plan which*
14 *is a multiemployer plan, an annual report under this sec-*
15 *tion for a plan year shall include the following:*

16 *“(A) The number of employers obligated to con-*
17 *tribute to the plan as of the end of such plan year.*

18 *“(B) The number of participants under the plan*
19 *on whose behalf no employer contributions have been*
20 *made to the plan for such plan year. For purposes of*
21 *this subparagraph, the term ‘employer contribution’*
22 *means, in connection with a participant, a contribu-*
23 *tion made by an employer as an employer of such*
24 *participant.”.*

1 (b) *ADDITIONAL INFORMATION IN ANNUAL ACTUARIAL*
2 *STATEMENT REGARDING PLAN RETIREMENT PROJEC-*
3 *TIONS.—Section 103(d) of such Act (29 U.S.C. 1023(d)) is*
4 *amended—*

5 (1) *by redesignating paragraphs (12) and (13)*
6 *as paragraphs (13) and (14), respectively; and*

7 (2) *by inserting after paragraph (11) the fol-*
8 *lowing new paragraph:*

9 “(12) *A statement explaining the actuarial as-*
10 *sumptions and methods used in projecting future re-*
11 *tirements and forms of benefit distributions under the*
12 *plan.*”.

13 (c) *FILING AFTER 275 DAYS AFTER PLAN YEAR ONLY*
14 *IN CASES OF HARDSHIP.—Section 104(a)(1) of such Act*
15 *(29 U.S.C. 1024(a)(1)) is amended by inserting after the*
16 *first sentence the following new sentence: “In the case of*
17 *a pension plan, the Secretary may extend the deadline for*
18 *filing the annual report for any plan year past 275 days*
19 *after the close of the plan year only on a case by case basis*
20 *and only in cases of hardship, in accordance with regula-*
21 *tions which shall be prescribed by the Secretary.*”.

22 (d) *INTERNET DISPLAY OF INFORMATION.—Section*
23 *104(b) of such Act (29 U.S.C. 1024(b)) is amended by add-*
24 *ing at the end the following:*

1 “(5) *Identification and basic plan information and ac-*
2 *tuarial information included in the annual report for any*
3 *plan year shall be filed with the Secretary in an electronic*
4 *format which accommodates display on the Internet, in ac-*
5 *cordance with regulations which shall be prescribed by the*
6 *Secretary. The Secretary shall provide for display of such*
7 *information included in the annual report, within 90 days*
8 *after the date of the filing of the annual report, on a website*
9 *maintained by the Secretary on the Internet and other ap-*
10 *propriate media. Such information shall also be displayed*
11 *on any website maintained by the plan sponsor (or by the*
12 *plan administrator on behalf of the plan sponsor) on the*
13 *Internet, in accordance with regulations which shall be pre-*
14 *scribed by the Secretary.”.*

15 (e) *SUMMARY ANNUAL REPORT FILED WITHIN 15*
16 *DAYS AFTER DEADLINE FOR FILING OF ANNUAL RE-*
17 *PORT.—Section 104(b)(3) of such Act (29 U.S.C.*
18 *1024(b)(3)) is amended—*

19 (1) *by striking “Within 210 days after the close*
20 *of the fiscal year of the plan,” and inserting “Within*
21 *15 business days after the due date under subsection*
22 *(a)(1) for the filing of the annual report for the fiscal*
23 *year of the plan,”; and*

24 (2) *by striking “the latest” and inserting “such”.*

1 (f) *DISCLOSURE OF PLAN ASSETS AND LIABILITIES IN*
2 *SUMMARY ANNUAL REPORT.*—

3 (1) *IN GENERAL.*—Section 104(b)(3) of such Act
4 (as amended by subsection (a)) is amended further—

5 (A) by inserting “(A)” after “(3)”; and

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

7 “(B) The material provided pursuant to subparagraph
8 (A) to summarize the latest annual report shall be written
9 in a manner calculated to be understood by the average
10 plan participant and shall set forth the total assets and li-
11 abilities of the plan for the plan year for which the latest
12 annual report was filed and for each of the 2 preceding
13 plan years, as reported in the annual report for each such
14 plan year under this section.”.

15 (g) *INFORMATION MADE AVAILABLE TO PARTICIPANTS,*
16 *BENEFICIARIES, AND EMPLOYERS WITH RESPECT TO MUL-*
17 *TIEMPLOYER PLANS.*—

18 (1) *IN GENERAL.*—Section 101 of the Employee
19 Retirement Income Security Act of 1974 (29 U.S.C.
20 1021) (as amended by section 103(b)(2)(A)) is further
21 amended—

22 (A) by redesignating subsection (k) as sub-
23 section (l); and

24 (B) by inserting after subsection (j) the fol-
25 lowing new subsection:

1 “(k) *MULTIEMPLOYER PLAN INFORMATION MADE*
2 *AVAILABLE ON REQUEST.*—

3 “(1) *IN GENERAL.*—*Each administrator of a*
4 *multiemployer plan shall furnish to any plan partici-*
5 *phant or beneficiary or any employer having an obli-*
6 *gation to contribute to the plan, who so requests in*
7 *writing—*

8 “(A) *a copy of any actuarial report received*
9 *by the plan for any plan year which has been in*
10 *receipt by the plan for at least 30 days, and*

11 “(B) *a copy of any financial report pre-*
12 *pared for the plan by any plan investment man-*
13 *ager or advisor or other person who is a plan fi-*
14 *ducary which has been in receipt by the plan*
15 *for at least 30 days.*

16 “(2) *COMPLIANCE.*—*Information required to be*
17 *provided under paragraph (1) —*

18 “(A) *shall be provided to the requesting par-*
19 *ticipant, beneficiary, or employer within 30 days*
20 *after the request in a form and manner pre-*
21 *scribed in regulations of the Secretary, and*

22 “(B) *may be provided in written, electronic,*
23 *or other appropriate form to the extent such form*
24 *is reasonably accessible to persons to whom the*
25 *information is required to be provided.*

1 “(3) *LIMITATIONS.*—*In no case shall a partici-*
2 *part, beneficiary, or employer be entitled under this*
3 *subsection to receive more than one copy of any report*
4 *described in paragraph (1) during any one 12-month*
5 *period. The administrator may make a reasonable*
6 *charge to cover copying, mailing, and other costs of*
7 *furnishing copies of information pursuant to para-*
8 *graph (1). The Secretary may by regulations pre-*
9 *scribe the maximum amount which will constitute a*
10 *reasonable charge under the preceding sentence.”.*

11 (2) *ENFORCEMENT.*—*Section 502(c)(4) of such*
12 *Act (29 U.S.C. 1132(c)(4)) (as amended by section*
13 *103(b)(2)(B)) is further amended by striking “sec-*
14 *tions 101(j) and 302(b)(7)(F)(iv)” and inserting “sec-*
15 *tions 101(j), 101(k), and 302(b)(7)(F)(iv)”.*

16 (3) *REGULATIONS.*—*The Secretary shall pre-*
17 *scribe regulations under section 101(k)(2) of the Em-*
18 *ployee Retirement Income Security Act of 1974*
19 *(added by paragraph (1) of this subsection) not later*
20 *than 90 days after the date of the enactment of this*
21 *Act.*

22 (h) *NOTICE OF POTENTIAL WITHDRAWAL LIABILITY*
23 *TO MULTIEMPLOYER PLANS.*—

1 (1) *IN GENERAL.*—Section 101 of such Act (as
2 amended by subsection (g) of this section) is further
3 amended—

4 (A) by redesignating subsection (l) as sub-
5 section (m); and

6 (B) by inserting after subsection (k) the fol-
7 lowing new subsection:

8 “(l) *NOTICE OF POTENTIAL WITHDRAWAL LIABIL-*
9 *ITY.*—

10 “(1) *IN GENERAL.*—The plan sponsor or admin-
11 istrator of a multiemployer plan shall furnish to any
12 employer who has an obligation to contribute under
13 the plan and who so requests in writing notice of—

14 “(A) the amount which would be the
15 amount of such employer’s withdrawal liability
16 under part 1 of subtitle E of title IV if such em-
17 ployer withdrew on the last day of the plan year
18 preceding the date of the request, and

19 “(B) the average increase, per participant
20 under the plan, in accrued liabilities under the
21 plan as of the end of such plan year to partici-
22 pants under such plan on whose behalf no em-
23 ployer contributions are payable (or their bene-
24 ficiaries), which would be attributable to such a
25 withdrawal by such employer.

1 *For purposes of subparagraph (B), the term ‘employer*
2 *contribution’ means, in connection with a partici-*
3 *part, a contribution made by an employer as an em-*
4 *ployer of such participant.*

5 “(2) *COMPLIANCE.—Any notice required to be*
6 *provided under paragraph (1)—*

7 “(A) *shall be provided to the requesting em-*
8 *ployer within 180 days after the request in a*
9 *form and manner prescribed in regulations of*
10 *the Secretary, and*

11 “(B) *may be provided in written, electronic,*
12 *or other appropriate form to the extent such form*
13 *is reasonably accessible to employers to whom the*
14 *information is required to be provided.*

15 “(3) *LIMITATIONS.—In no case shall an em-*
16 *ployer be entitled under this subsection to receive*
17 *more than one notice described in paragraph (1) dur-*
18 *ing any one 12-month period. The person required to*
19 *provide such notice may make a reasonable charge to*
20 *cover copying, mailing, and other costs of furnishing*
21 *such notice pursuant to paragraph (1). The Secretary*
22 *may by regulations prescribe the maximum amount*
23 *which will constitute a reasonable charge under the*
24 *preceding sentence.”.*

1 (2) *ENFORCEMENT.*—Section 502(c)(4) of such
2 *Act* (29 U.S.C. 1132(c)(4)) (as amended by para-
3 *graph* (1)) is further amended by striking “sections
4 101(j), 101(k), and 302(b)(7)(F)(iv)” and inserting
5 “sections 101(j), 101(k), 101(l), and
6 302(b)(7)(F)(iv)”.

7 (i) *MODEL FORM.*—Not later than 180 days after the
8 date of the enactment of this Act, the Secretary of Labor
9 shall publish a model form for providing the statements,
10 schedules, and other material required to be provided under
11 section 104(b)(3) of the Employee Retirement Income Secu-
12 rity Act of 1974, as amended by this section.

13 (j) *EFFECTIVE DATE.*—The amendments made by this
14 section shall apply to plan years beginning after December
15 31, 2005.

16 **SEC. 503. SECTION 4010 FILINGS WITH THE PBGC.**

17 (a) *CHANGE IN CRITERIA FOR PERSONS REQUIRED TO*
18 *PROVIDE INFORMATION TO PBGC.*—Section 4010(b) of the
19 Employee Retirement Income Security Act of 1974 (29
20 U.S.C. 1310(b)) is amended by striking paragraph (1), by
21 redesignating paragraphs (2) and (3) as paragraphs (3)
22 and (4), respectively, and by inserting before paragraph (3)
23 (as so redesignated) the following new paragraphs:

1 “(1) *the aggregate funding target attainment*
2 *percentage of the plan (as defined in subsection*
3 *(d)(2)) is less than 60 percent;*

4 “(2)(A) *the aggregate funding target attainment*
5 *percentage of the plan (as defined in subsection*
6 *(d)(2)) is less than 75 percent, and*

7 “(B) *the plan sponsor is in an industry with re-*
8 *spect to which the corporation determines that there*
9 *is substantial unemployment or underemployment*
10 *and the sales and profits are depressed or declining;*
11 ”.

12 **(b) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—**
13 *Section 4010 of the Employee Retirement Income Security*
14 *Act of 1974 (29 U.S.C. 1310) is amended by adding at the*
15 *end the following new subsection:*

16 **“(d) NOTICE TO PARTICIPANTS AND BENE-**
17 **FICIARIES.—**

18 **“(1) IN GENERAL.—***Not later than 90 days after*
19 *the submission by any person to the corporation of*
20 *information or documentary material with respect to*
21 *any plan pursuant to subsection (a), such person*
22 *shall provide notice of such submission to each partic-*
23 *ipant and beneficiary under the plan (and under all*
24 *plans maintained by members of the controlled group*

1 of each contributing sponsor of the plan). Such notice
2 shall also set forth—

3 “(A) the number of single-employer plans
4 covered by this title which are in at-risk status
5 and are maintained by contributing sponsors of
6 such plan (and by members of their controlled
7 groups) with respect to which the funding target
8 attainment percentage for the preceding plan
9 year of each plan is less than 60 percent;

10 “(B) the value of the assets of each of the
11 plans described in subparagraph (A) for the plan
12 year, the funding target for each of such plans
13 for the plan year, and the funding target attain-
14 ment percentage of each of such plans for the
15 plan year; and

16 “(C) taking into account all single-employer
17 plans maintained by the contributing sponsor
18 and the members of its controlled group as of the
19 end of such plan year—

20 “(i) the aggregate total of the values of
21 plan assets of such plans as of the end of
22 such plan year,

23 “(ii) the aggregate total of the funding
24 targets of such plans, as of the end of such
25 plan year, taking into account only benefits

1 to which participants and beneficiaries have
2 a nonforfeitable right, and

3 “(iii) the aggregate funding targets at-
4 tainment percentage with respect to the con-
5 tributing sponsor for the preceding plan
6 year.

7 “(2) *DEFINITIONS.*—For purposes of this sub-
8 section—

9 “(A) *VALUE OF PLAN ASSETS.*—The term
10 ‘value of plan assets’ means the value of plan as-
11 sets, as determined under section 303(g)(3).

12 “(B) *FUNDING TARGET.*—The term ‘funding
13 target’ has the meaning provided under section
14 303(d)(1).

15 “(C) *FUNDING TARGET ATTAINMENT PER-*
16 *CENTAGE.*—The term ‘funding target attainment
17 percentage’ has the meaning provided in section
18 303(d)(2).

19 “(D) *AGGREGATE FUNDING TARGETS AT-*
20 *TAINMENT PERCENTAGE.*—The term ‘aggregate
21 funding targets attainment percentage’ with re-
22 spect to a contributing sponsor for a plan year
23 is the percentage, taking into account all plans
24 maintained by the contributing sponsor and the

1 *members of its controlled group as of the end of*
2 *such plan year, which*

3 *“(i) the aggregate total of the values of*
4 *plan assets, as of the end of such plan year,*
5 *of such plans, is of*

6 *“(ii) the aggregate total of the funding*
7 *targets of such plans, as of the end of such*
8 *plan year, taking into account only benefits*
9 *to which participants and beneficiaries have*
10 *a nonforfeitable right.*

11 *“(E) AT-RISK STATUS.—The term ‘at-risk*
12 *status’ has the meaning provided in section*
13 *303(i)(3).*

14 *“(3) COMPLIANCE.—*

15 *“(A) IN GENERAL.—Any notice required to*
16 *be provided under paragraph (1) may be pro-*
17 *vided in written, electronic, or other appropriate*
18 *form to the extent such form is reasonably acces-*
19 *sible to individuals to whom the information is*
20 *required to be provided.*

21 *“(B) LIMITATIONS.—In no case shall a par-*
22 *ticipant or beneficiary be entitled under this sub-*
23 *section to receive more than one notice described*
24 *in paragraph (1) during any one 12-month pe-*
25 *riod. The person required to provide such notice*

1 *may make a reasonable charge to cover copying,*
 2 *mailing, and other costs of furnishing such no-*
 3 *tice pursuant to paragraph (1). The corporation*
 4 *may by regulations prescribe the maximum*
 5 *amount which will constitute a reasonable charge*
 6 *under the preceding sentence.*

7 “(4) *NOTICE TO CONGRESS.*—*Concurrent with*
 8 *the provision of any notice under paragraph (1), such*
 9 *person shall provide such notice to the Committee on*
 10 *Education and the Workforce of the House of Rep-*
 11 *resentatives and the Committee on Health, Education,*
 12 *Labor, and Pensions of the Senate, which shall be*
 13 *treated as materials provided in executive session.”.*

14 (c) *EFFECTIVE DATE.*—*The amendment made by this*
 15 *section shall apply with respect to plan years beginning*
 16 *after 2006.*

17 **TITLE VI—INVESTMENT ADVICE**

18 **SEC. 601. AMENDMENTS TO EMPLOYEE RETIREMENT IN-** 19 **COME SECURITY ACT OF 1974 PROVIDING** 20 **PROHIBITED TRANSACTION EXEMPTION FOR** 21 **PROVISION OF INVESTMENT ADVICE.**

22 (a) *EXEMPTION FROM PROHIBITED TRANSACTIONS.*—
 23 *Section 408(b) of the Employee Retirement Income Security*
 24 *Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at*
 25 *the end the following new paragraph:*

1 “(14)(A) Any transaction described in subpara-
2 graph (B) in connection with the provision of invest-
3 ment advice described in section 3(21)(A)(ii), in any
4 case in which—

5 “(i) the investment of assets of the plan is
6 subject to the direction of plan participants or
7 beneficiaries,

8 “(ii) the advice is provided to the plan or
9 a participant or beneficiary of the plan by a fi-
10 diciary adviser in connection with any sale, ac-
11 quisition, or holding of a security or other prop-
12 erty for purposes of investment of plan assets,
13 and

14 “(iii) the requirements of subsection (g) are
15 met in connection with the provision of the ad-
16 vice.

17 “(B) The transactions described in this subpara-
18 graph are the following:

19 “(i) the provision of the advice to the
20 plan, participant, or beneficiary;

21 “(ii) the sale, acquisition, or holding of
22 a security or other property (including any
23 lending of money or other extension of cred-
24 it associated with the sale, acquisition, or

1 *holding of a security or other property)*
2 *pursuant to the advice; and*

3 “(iii) *the direct or indirect receipt of*
4 *fees or other compensation by the fiduciary*
5 *adviser or an affiliate thereof (or any em-*
6 *ployee, agent, or registered representative of*
7 *the fiduciary adviser or affiliate) in connec-*
8 *tion with the provision of the advice or in*
9 *connection with a sale, acquisition, or hold-*
10 *ing of a security or other property pursuant*
11 *to the advice.”.*

12 (b) *REQUIREMENTS.*—*Section 408 of such Act is*
13 *amended further by adding at the end the following new*
14 *subsection:*

15 “(g) *REQUIREMENTS RELATING TO PROVISION OF IN-*
16 *VESTMENT ADVICE BY FIDUCIARY ADVISERS.*—

17 “(1) *IN GENERAL.*—*The requirements of this sub-*
18 *section are met in connection with the provision of*
19 *investment advice referred to in section 3(21)(A)(ii),*
20 *provided to an employee benefit plan or a participant*
21 *or beneficiary of an employee benefit plan by a fidu-*
22 *ciary adviser with respect to the plan in connection*
23 *with any sale, acquisition, or holding of a security or*
24 *other property for purposes of investment of amounts*
25 *held by the plan, if—*

1 “(A) in the case of the initial provision of
2 the advice with regard to the security or other
3 property by the fiduciary adviser to the plan,
4 participant, or beneficiary, the fiduciary adviser
5 provides to the recipient of the advice, at a time
6 reasonably contemporaneous with the initial pro-
7 vision of the advice, a written notification
8 (which may consist of notification by means of
9 electronic communication)—

10 “(i) of all fees or other compensation
11 relating to the advice that the fiduciary ad-
12 viser or any affiliate thereof is to receive
13 (including compensation provided by any
14 third party) in connection with the provi-
15 sion of the advice or in connection with the
16 sale, acquisition, or holding of the security
17 or other property,

18 “(ii) of any material affiliation or
19 contractual relationship of the fiduciary ad-
20 viser or affiliates thereof in the security or
21 other property,

22 “(iii) of any limitation placed on the
23 scope of the investment advice to be pro-
24 vided by the fiduciary adviser with respect

1 to any such sale, acquisition, or holding of
2 a security or other property,

3 “(iv) of the types of services provided
4 by the fiduciary adviser in connection with
5 the provision of investment advice by the fi-
6 duciary adviser,

7 “(v) that the adviser is acting as a fi-
8 duciary of the plan in connection with the
9 provision of the advice, and

10 “(vi) that a recipient of the advice
11 may separately arrange for the provision of
12 advice by another adviser, that could have
13 no material affiliation with and receive no
14 fees or other compensation in connection
15 with the security or other property,

16 “(B) the fiduciary adviser provides appro-
17 priate disclosure, in connection with the sale, ac-
18 quisition, or holding of the security or other
19 property, in accordance with all applicable secu-
20 rities laws,

21 “(C) the sale, acquisition, or holding occurs
22 solely at the direction of the recipient of the ad-
23 vice,

24 “(D) the compensation received by the fidu-
25 ciary adviser and affiliates thereof in connection

1 *with the sale, acquisition, or holding of the secu-*
2 *rity or other property is reasonable, and*

3 *“(E) the terms of the sale, acquisition, or*
4 *holding of the security or other property are at*
5 *least as favorable to the plan as an arm’s length*
6 *transaction would be.*

7 “(2) *STANDARDS FOR PRESENTATION OF INFOR-*
8 *MATION.—*

9 “(A) *IN GENERAL.—The notification re-*
10 *quired to be provided to participants and bene-*
11 *ficiaries under paragraph (1)(A) shall be written*
12 *in a clear and conspicuous manner and in a*
13 *manner calculated to be understood by the aver-*
14 *age plan participant and shall be sufficiently ac-*
15 *curate and comprehensive to reasonably apprise*
16 *such participants and beneficiaries of the infor-*
17 *mation required to be provided in the notifica-*
18 *tion.*

19 “(B) *MODEL FORM FOR DISCLOSURE OF*
20 *FEES AND OTHER COMPENSATION.—The Sec-*
21 *retary shall issue a model form for the disclosure*
22 *of fees and other compensation required in para-*
23 *graph (1)(A)(i) which meets the requirements of*
24 *subparagraph (A).*

1 “(3) *EXEMPTION CONDITIONED ON MAKING RE-*
2 *QUIRED INFORMATION AVAILABLE ANNUALLY, ON RE-*
3 *QUEST, AND IN THE EVENT OF MATERIAL CHANGE.—*

4 *The requirements of paragraph (1)(A) shall be deemed*
5 *not to have been met in connection with the initial*
6 *or any subsequent provision of advice described in*
7 *paragraph (1) to the plan, participant, or beneficiary*
8 *if, at any time during the provision of advisory serv-*
9 *ices to the plan, participant, or beneficiary, the fidu-*
10 *ciary adviser fails to maintain the information de-*
11 *scribed in clauses (i) through (iv) of subparagraph*
12 *(A) in currently accurate form and in the manner de-*
13 *scribed in paragraph (2) or fails—*

14 “(A) *to provide, without charge, such cur-*
15 *rently accurate information to the recipient of*
16 *the advice no less than annually,*

17 “(B) *to make such currently accurate infor-*
18 *mation available, upon request and without*
19 *charge, to the recipient of the advice, or*

20 “(C) *in the event of a material change to*
21 *the information described in clauses (i) through*
22 *(iv) of paragraph (1)(A), to provide, without*
23 *charge, such currently accurate information to*
24 *the recipient of the advice at a time reasonably*

1 *contemporaneous to the material change in in-*
2 *formation.*

3 “(4) *MAINTENANCE FOR 6 YEARS OF EVIDENCE*
4 *OF COMPLIANCE.—A fiduciary adviser referred to in*
5 *paragraph (1) who has provided advice referred to in*
6 *such paragraph shall, for a period of not less than 6*
7 *years after the provision of the advice, maintain any*
8 *records necessary for determining whether the require-*
9 *ments of the preceding provisions of this subsection*
10 *and of subsection (b)(14) have been met. A trans-*
11 *action prohibited under section 406 shall not be con-*
12 *sidered to have occurred solely because the records are*
13 *lost or destroyed prior to the end of the 6-year period*
14 *due to circumstances beyond the control of the fidu-*
15 *ciary adviser.*

16 “(5) *EXEMPTION FOR PLAN SPONSOR AND CER-*
17 *TAIN OTHER FIDUCIARIES.—*

18 “(A) *IN GENERAL.—Subject to subpara-*
19 *graph (B), a plan sponsor or other person who*
20 *is a fiduciary (other than a fiduciary adviser)*
21 *shall not be treated as failing to meet the re-*
22 *quirements of this part solely by reason of the*
23 *provision of investment advice referred to in sec-*
24 *tion 3(21)(A)(ii) (or solely by reason of con-*

1 *tracting for or otherwise arranging for the provi-*
2 *sion of the advice), if—*

3 *“(i) the advice is provided by a fidu-*
4 *ciary adviser pursuant to an arrangement*
5 *between the plan sponsor or other fiduciary*
6 *and the fiduciary adviser for the provision*
7 *by the fiduciary adviser of investment ad-*
8 *vice referred to in such section,*

9 *“(ii) the terms of the arrangement re-*
10 *quire compliance by the fiduciary adviser*
11 *with the requirements of this subsection,*
12 *and*

13 *“(iii) the terms of the arrangement in-*
14 *clude a written acknowledgment by the fidu-*
15 *ciary adviser that the fiduciary adviser is a*
16 *fiduciary of the plan with respect to the*
17 *provision of the advice.*

18 *“(B) CONTINUED DUTY OF PRUDENT SELEC-*
19 *TION OF ADVISER AND PERIODIC REVIEW.—Noth-*
20 *ing in subparagraph (A) shall be construed to*
21 *exempt a plan sponsor or other person who is a*
22 *fiduciary from any requirement of this part for*
23 *the prudent selection and periodic review of a fi-*
24 *duciary adviser with whom the plan sponsor or*
25 *other person enters into an arrangement for the*

1 *provision of advice referred to in section*
2 *3(21)(A)(ii). The plan sponsor or other person*
3 *who is a fiduciary has no duty under this part*
4 *to monitor the specific investment advice given*
5 *by the fiduciary adviser to any particular re-*
6 *ipient of the advice.*

7 “(C) *AVAILABILITY OF PLAN ASSETS FOR*
8 *PAYMENT FOR ADVICE.—Nothing in this part*
9 *shall be construed to preclude the use of plan as-*
10 *sets to pay for reasonable expenses in providing*
11 *investment advice referred to in section*
12 *3(21)(A)(ii).*

13 “(6) *DEFINITIONS.—For purposes of this sub-*
14 *section and subsection (b)(14)—*

15 “(A) *FIDUCIARY ADVISER.—The term ‘fidu-*
16 *ciary adviser’ means, with respect to a plan, a*
17 *person who is a fiduciary of the plan by reason*
18 *of the provision of investment advice by the per-*
19 *son to the plan or to a participant or beneficiary*
20 *and who is—*

21 “(i) *registered as an investment ad-*
22 *viser under the Investment Advisers Act of*
23 *1940 (15 U.S.C. 80b–1 et seq.) or under the*
24 *laws of the State in which the fiduciary*

1 *maintains its principal office and place of*
2 *business,*

3 “(ii) *a bank or similar financial insti-*
4 *tution referred to in section 408(b)(4) or a*
5 *savings association (as defined in section*
6 *3(b)(1) of the Federal Deposit Insurance Act*
7 *(12 U.S.C. 1813(b)(1))), but only if the ad-*
8 *vice is provided through a trust department*
9 *of the bank or similar financial institution*
10 *or savings association which is subject to*
11 *periodic examination and review by Federal*
12 *or State banking authorities,*

13 “(iii) *an insurance company qualified*
14 *to do business under the laws of a State,*

15 “(iv) *a person registered as a broker or*
16 *dealer under the Securities Exchange Act of*
17 *1934 (15 U.S.C. 78a et seq.),*

18 “(v) *an affiliate of a person described*
19 *in any of clauses (i) through (iv), or*

20 “(vi) *an employee, agent, or registered*
21 *representative of a person described in any*
22 *of clauses (i) through (v) who satisfies the*
23 *requirements of applicable insurance, bank-*
24 *ing, and securities laws relating to the pro-*
25 *vision of the advice.*

1 “(B) *AFFILIATE*.—The term ‘affiliate’ of
2 another entity means an affiliated person of the
3 entity (as defined in section 2(a)(3) of the In-
4 vestment Company Act of 1940 (15 U.S.C. 80a-
5 2(a)(3))).

6 “(C) *REGISTERED REPRESENTATIVE*.—The
7 term ‘registered representative’ of another entity
8 means a person described in section 3(a)(18) of
9 the Securities Exchange Act of 1934 (15 U.S.C.
10 78c(a)(18)) (substituting the entity for the broker
11 or dealer referred to in such section) or a person
12 described in section 202(a)(17) of the Investment
13 Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17))
14 (substituting the entity for the investment ad-
15 viser referred to in such section).”.

16 (c) *EFFECTIVE DATE*.—The amendments made by this
17 section shall apply with respect to advice referred to in sec-
18 tion 3(21)(A)(ii) of the Employee Retirement Income Secu-
19 rity Act of 1974 provided on or after January 1, 2006.

20 **SEC. 602. AMENDMENTS TO INTERNAL REVENUE CODE OF**
21 **1986 PROVIDING PROHIBITED TRANSACTION**
22 **EXEMPTION FOR PROVISION OF INVESTMENT**
23 **ADVICE.**

24 [See introduced bill, page 287, line 15 through page
25 298, line 23]

1 **TITLE VII—BENEFIT ACCRUAL**
2 **STANDARDS**

3 **SEC. 701. IMPROVEMENTS IN BENEFIT ACCRUAL STAND-**
4 **ARDS.**

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

7 *(1) RULES RELATING TO REDUCTION IN AC-*
8 *CRUED BENEFITS BECAUSE OF ATTAINMENT OF ANY*
9 *AGE.—Section 204(b)(1)(H) of the Employee Retirement*
10 *Income Security Act of 1974 (29 U.S.C.*
11 *1054(b)(1)(H)) is amended by adding at the end the*
12 *following new clauses:*

13 *“(vii)(I) A plan shall not be treated as failing to meet*
14 *the requirements of clause (i) if a participant’s entire ac-*
15 *crued benefit, as determined as of any date under the for-*
16 *mula for determining benefits as set forth in the text of the*
17 *plan documents, would be equal to or greater than that of*
18 *any similarly situated, younger individual.*

19 *“(II) For purposes of this clause, an individual is*
20 *similarly situated to a participant if such individual is*
21 *identical to such participant in every respect (including pe-*
22 *riod of service, compensation, position, date of hire, work*
23 *history, and any other respect) except for age.*

24 *“(III) In determining the entire accrued benefit for*
25 *purposes of this clause, the subsidized portion of any early*

1 *retirement benefit (including any early retirement subsidy*
2 *that is fully or partially included or reflected in an employ-*
3 *ee's opening balance or other transition benefits) shall be*
4 *disregarded.*

5 *“(viii) A plan under which the accrued benefit payable*
6 *under the plan upon distribution (or any portion thereof)*
7 *is expressed as the balance of a hypothetical account main-*
8 *tained for the participant shall not be treated as failing*
9 *to meet the requirements of clause (i) solely because interest*
10 *accruing on such balance is taken into account.*

11 *“(ix) A plan shall not be treated as failing to meet*
12 *the requirements of this subparagraph solely because the*
13 *plan provides allowable offsets against those benefits under*
14 *the plan which are attributable to employer contributions,*
15 *based on benefits which are provided under title II of the*
16 *Social Security Act, the Railroad Retirement Act of 1974,*
17 *another plan described in section 401(a) of the Internal*
18 *Revenue Code of 1986 maintained by the same employer,*
19 *or under any retirement program for officers or employees*
20 *of the Federal Government or of the government of any*
21 *State or political subdivision thereof. For purposes of this*
22 *clause, allowable offsets based on such benefits consist of off-*
23 *sets equal to all or part of the actual benefit payment*
24 *amounts, reasonable projections or estimations of such ben-*
25 *efit payment amounts, or actuarial equivalents of such ac-*

1 tual benefit payment amounts, projections, or estimations
2 (determined on the basis of reasonable actuarial assump-
3 tions).

4 “(x) A plan shall not be treated as failing to meet the
5 requirements of this subparagraph solely because the plan
6 provides a disparity in contributions or benefits with re-
7 spect to which the requirements of section 401(l) of the In-
8 ternal Revenue Code of 1986 are met.

9 “(xi)(I) A plan shall not be treated as failing to meet
10 the requirements of this subparagraph solely because the
11 plan provides for pre-retirement indexing of accrued bene-
12 fits under the plan.

13 “(II) For purposes of this clause, the term ‘pre-retire-
14 ment indexing’ means, in connection with an accrued ben-
15 efit, the periodic adjustment of the accrued benefit by means
16 of the application of a recognized index or methodology so
17 as to protect the economic value of the benefit against infla-
18 tion prior to distribution.”.

19 (2) *DETERMINATIONS OF ACCRUED BENEFIT AS*
20 *BALANCE OF BENEFIT ACCOUNT.*—Section 203 of such
21 Act (29 U.S.C. 1053) is amended by adding at the
22 end the following new subsection:

23 “(f)(1) A defined benefit plan under which the accrued
24 benefit payable under the plan upon distribution (or any
25 portion thereof) is expressed as the balance of a hypothetical

1 account maintained for the participant shall not be treated
 2 as failing to meet the requirements of subsection (a)(2) and
 3 section 205(g) solely because of the amount actually made
 4 available for such distribution under the terms of the plan,
 5 in any case in which the applicable interest rate that would
 6 be used under the terms of the plan to project the amount
 7 of the participant's account balance to normal retirement
 8 age is not greater than a market rate of return.

9 “(2) The Secretary of the Treasury may provide by
 10 regulation for rules governing the calculation of a market
 11 rate of return for purposes of paragraph (1) and for permis-
 12 sible methods of crediting interest to the account (including
 13 variable interest rates) resulting in effective rates of return
 14 meeting the requirements of paragraph (1).”.

15 (b) *EFFECTIVE DATE.*—The amendments made by this
 16 section shall apply to periods beginning on or after June
 17 29, 2005.

18 **TITLE VIII—DEDUCTION**

19 **LIMITATIONS**

20 **SEC. 801.** [See introduced bill, page 299, line 1 through page 305, line 20.]

21 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

22 (a) **SHORT TITLE.**—This Act may be cited as
 23 the “Pension Protection Act of 2005”.

24 (b) **TABLE OF CONTENTS.**—The table of con-
 25 tents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—REFORM OF FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

- Sec. 101. Minimum funding standards.**
- Sec. 102. Funding rules for single-employer defined benefit pension plans.**
- Sec. 103. Benefit limitations under single-employer plans.**
- Sec. 104. Technical and conforming amendments.**

Subtitle B—Amendments to Internal Revenue Code of 1986

- Sec. 111. Minimum funding standards.**
- Sec. 112. Funding rules for single-employer defined benefit pension plans.**
- Sec. 113. Benefit limitations under single-employer plans.**
- Sec. 114. Technical and conforming amendments.**

Subtitle C—Other Provisions

- Sec. 121. Modification of transition rule to pension funding requirements.**
- Sec. 122. Treatment of nonqualified deferred compensation plans when employer defined benefit plan in at-risk status.**

TITLE II—FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

- Sec. 201. Funding rules for multiemployer defined benefit plans.**
- Sec. 202. Additional funding rules for multiemployer plans in endangered or critical status.**
- Sec. 203. Measures to forestall insolvency of multiemployer plans.**
- Sec. 204. Withdrawal liability reforms.**
- Sec. 205. Removal of restrictions with respect to procedures applicable to disputes involving withdrawal liability.**

Subtitle B—Amendments to Internal Revenue Code of 1986

- Sec. 211. Funding rules for multiemployer defined benefit plans.**
- Sec. 212. Additional funding rules for multiemployer plans in endangered or critical status.**
- Sec. 213. Measures to forestall insolvency of multiemployer plans.**

TITLE III—OTHER PROVISIONS

- Sec. 301. Interest rate for 2006 funding requirements.**

- Sec. 302. Interest rate assumption for determination of lump sum distributions.
- Sec. 303. Interest rate assumption for applying benefit limitations to lump sum distributions.
- Sec. 304. Distributions during working retirement.
- Sec. 305. Other amendments relating to prohibited transactions.
- Sec. 306. Correction period for certain transactions involving securities and commodities.
- Sec. 307. Government Accountability Office pension funding report.

TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS

- Sec. 401. Increases in PBGC premiums.

TITLE V—DISCLOSURE

- Sec. 501. Defined benefit plan funding notices.
- Sec. 502. Additional disclosure requirements.
- Sec. 503. Section 4010 filings with the PBGC.

TITLE VI—INVESTMENT ADVICE

- Sec. 601. Amendments to Employee Retirement Income Security Act of 1974 providing prohibited transaction exemption for provision of investment advice.
- Sec. 602. Amendments to Internal Revenue Code of 1986 providing prohibited transaction exemption for provision of investment advice.

TITLE VII—BENEFIT ACCRUAL STANDARDS

- Sec. 701. Improvements in benefit accrual standards.

TITLE VIII—DEDUCTION LIMITATIONS

- Sec. 801. Increase in deduction limits.
- Sec. 802. Updating deduction rules for combination of plans.

TITLE IX—ENHANCED RETIREMENTS SAVINGS AND DEFINED CONTRIBUTION PLANS

- Sec. 901. Pensions and individual retirement arrangement provisions of Economic Growth and Tax Relief Reconciliation Act of 2001 made permanent.
- Sec. 902. Saver's credit.
- Sec. 903. Increasing participation through automatic contribution arrangements.
- Sec. 904. Penalty-free withdrawals from retirement plans for individuals called to active duty for at least 179 days.
- Sec. 905. Waiver of 10 percent early withdrawal penalty tax on certain distributions of pension plans for public safety employees.

Sec. 906. Combat zone compensation taken into account for purposes of determining limitation and deductibility of contributions to individual retirement plans.

Sec. 907. Direct payment of tax refunds to individual retirement plans.

Sec. 908. IRA eligibility for the disabled.

Sec. 909. Allow rollovers by nonspouse beneficiaries of certain retirement plan distributions.

TITLE X—PROVISIONS TO ENHANCE HEALTH CARE AFFORDABILITY

Sec. 1001. Treatment of annuity and life insurance contracts with a long-term care insurance feature.

Sec. 1002. Disposition of unused health benefits in cafeteria plans and flexible spending arrangements.

Sec. 1003. Distributions from governmental retirement plans for health and long-term care insurance for public safety officers.

1 **TITLE I—REFORM OF FUNDING**
 2 **RULES FOR SINGLE-EM-**
 3 **PLOYER DEFINED BENEFIT**
 4 **PENSION PLANS**

5 **Subtitle A—Amendments to Em-**
 6 **ployee Retirement Income Secu-**
 7 **rity Act of 1974**

8 **SEC. 101. MINIMUM FUNDING STANDARDS.**

9 [See section 101 of the bill as reported by
 10 the Committee on Education and the Work-
 11 force.]

12 **SEC. 102. FUNDING RULES FOR SINGLE-EMPLOYER DE-**
 13 **FINED BENEFIT PENSION PLANS.**

14 [See section 102 of the bill as reported by
 15 the Committee on Education and the Work-
 16 force.]

1 SEC. 103. BENEFIT LIMITATIONS UNDER SINGLE-EM-
2 PLOYER PLANS.

3 [See section 103 of the bill as reported by
4 the Committee on Education and the Work-
5 force.]

6 SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.

7 [See section 104 of the bill as reported by
8 the Committee on Education and the Work-
9 force.]

10 **Subtitle B—Amendments to**
11 **Internal Revenue Code of 1986**

12 SEC. 111. MINIMUM FUNDING STANDARDS.

13 (a) NEW MINIMUM FUNDING STANDARDS.—
14 Section 412 of the Internal Revenue Code of
15 1986 (relating to minimum funding standards)
16 is amended to read as follows:

17 “SEC. 412. MINIMUM FUNDING STANDARDS.

18 “(a) REQUIREMENT TO MEET MINIMUM FUND-
19 ING STANDARD.—

20 “(1) IN GENERAL.—A plan to which this
21 section applies shall satisfy the minimum
22 funding standard applicable to the plan
23 for any plan year.

24 “(2) MINIMUM FUNDING STANDARD.—For
25 purposes of paragraph (1), a plan shall be

1 **treated as satisfying the minimum fund-**
2 **ing standard for a plan year if—**

3 **“(A) in the case of a defined ben-**
4 **efit plan which is not a multiem-**
5 **ployer plan, the employer makes con-**
6 **tributions to or under the plan for**
7 **the plan year which, in the aggregate,**
8 **are not less than the minimum re-**
9 **quired contribution determined**
10 **under section 430 for the plan for the**
11 **plan year,**

12 **“(B) in the case of a money pur-**
13 **chase plan which is not a multiem-**
14 **ployer plan, the employer makes con-**
15 **tributions to or under the plan for**
16 **the plan year which are required**
17 **under the terms of the plan, and**

18 **“(C) in the case of a multiem-**
19 **ployer plan, the employers make con-**
20 **tributions to or under the plan for**
21 **any plan year which, in the aggre-**
22 **gate, are sufficient to ensure that the**
23 **plan does not have an accumulated**
24 **funding deficiency under section 431**
25 **as of the end of the plan year.**

1 **“(b) LIABILITY FOR CONTRIBUTIONS.—**

2 **“(1) IN GENERAL.—Except as provided**
3 **in paragraph (2), the amount of any con-**
4 **tribution required by this section (includ-**
5 **ing any required installments under**
6 **paragraphs (3) and (4) of section 430(j))**
7 **shall be paid by the employer responsible**
8 **for making contributions to or under the**
9 **plan.**

10 **“(2) JOINT AND SEVERAL LIABILITY**
11 **WHERE EMPLOYER MEMBER OF CONTROLLED**
12 **GROUP.—In the case of a defined benefit**
13 **plan which is not a multiemployer plan,**
14 **if the employer referred to in paragraph**
15 **(1) is a member of a controlled group,**
16 **each member of such group shall be joint-**
17 **ly and severally liable for payment of**
18 **such contributions.**

19 **“(c) VARIANCE FROM MINIMUM FUNDING**
20 **STANDARDS.—**

21 **“(1) WAIVER IN CASE OF BUSINESS HARD-**
22 **SHIP.—**

23 **“(A) IN GENERAL.—If—**

24 **“(i) an employer is (or in the**
25 **case of a multiemployer plan, 10**

1 **percent or more of the number of**
2 **employers contributing to or**
3 **under the plan is) unable to sat-**
4 **isfy the minimum funding stand-**
5 **ard for a plan year without tem-**
6 **porary substantial business hard-**
7 **ship (substantial business hard-**
8 **ship in the case of a multiem-**
9 **ployer plan), and**

10 **“(ii) application of the stand-**
11 **ard would be adverse to the inter-**
12 **ests of plan participants in the ag-**
13 **gregate,**

14 **the Secretary may, subject to sub-**
15 **paragraph (C), waive the require-**
16 **ments of subsection (a) for such year**
17 **with respect to all or any portion of**
18 **the minimum funding standard. The**
19 **Secretary shall not waive the min-**
20 **imum funding standard with respect**
21 **to a plan for more than 3 of any 15 (5**
22 **of any 15 in the case of a multiem-**
23 **ployer plan) consecutive plan years.**

1 **“(B) EFFECTS OF WAIVER.—If a**
2 **waiver is granted under subpara-**
3 **graph (A) for any plan year—**

4 **“(i) in the case of a defined**
5 **benefit plan which is not a multi-**
6 **employer plan, the minimum re-**
7 **quired contribution under section**
8 **430 for the plan year shall be re-**
9 **duced by the amount of the**
10 **waived funding deficiency and**
11 **such amount shall be amortized**
12 **as required under section 430(e),**
13 **and**

14 **“(ii) in the case of a multiem-**
15 **ployer plan, the funding standard**
16 **account shall be credited under**
17 **section 431(b)(3)(C) with the**
18 **amount of the waived funding de-**
19 **ficiency and such amount shall be**
20 **amortized as required under sec-**
21 **tion 431(b)(2)(C).**

22 **“(C) WAIVER OF AMORTIZED POR-**
23 **TION NOT ALLOWED.—The Secretary**
24 **may not waive under subparagraph**
25 **(A) any portion of the minimum fund-**

1 **ing standard under subsection (a) for**
2 **a plan year which is attributable to**
3 **any waived funding deficiency for**
4 **any preceding plan year.**

5 **“(2) DETERMINATION OF BUSINESS HARD-**
6 **SHIP.—For purposes of this subsection,**
7 **the factors taken into account in deter-**
8 **mining temporary substantial business**
9 **hardship (substantial business hardship**
10 **in the case of a multiemployer plan) shall**
11 **include (but shall not be limited to)**
12 **whether or not—**

13 **“(A) the employer is operating at**
14 **an economic loss,**

15 **“(B) there is substantial unem-**
16 **ployment or underemployment in the**
17 **trade or business and in the industry**
18 **concerned,**

19 **“(C) the sales and profits of the**
20 **industry concerned are depressed or**
21 **declining, and**

22 **“(D) it is reasonable to expect**
23 **that the plan will be continued only if**
24 **the waiver is granted.**

1 **“(3) WAIVED FUNDING DEFICIENCY.—For**
2 **purposes of this section and part III of**
3 **this subchapter, the term ‘waived funding**
4 **deficiency’ means the portion of the min-**
5 **imum funding standard under subsection**
6 **(a) (determined without regard to the**
7 **waiver) for a plan year waived by the**
8 **Secretary and not satisfied by employer**
9 **contributions.**

10 **“(4) SECURITY FOR WAIVERS FOR SINGLE-**
11 **EMPLOYER PLANS, CONSULTATIONS.—**

12 **“(A) SECURITY MAY BE REQUIRED.—**

13 **“(i) IN GENERAL.—Except as**
14 **provided in subparagraph (C), the**
15 **Secretary may require an em-**
16 **ployer maintaining a defined ben-**
17 **efit plan which is not a multiem-**
18 **ployer plan to provide security to**
19 **such plan as a condition for**
20 **granting or modifying a waiver**
21 **under paragraph (1).**

22 **“(ii) SPECIAL RULES.—Any secu-**
23 **rity provided under clause (i) may**
24 **be perfected and enforced only by**
25 **the Pension Benefit Guaranty**

1 **Corporation, or at the direction of**
2 **the Corporation, by a contrib-**
3 **uting sponsor (within the mean-**
4 **ing of section 4001(a)(13) of the**
5 **Employee Retirement Income Se-**
6 **curity Act of 1974), or a member**
7 **of such sponsor’s controlled**
8 **group (within the meaning of sec-**
9 **tion 4001(a)(14) of such Act).**

10 **“(B) CONSULTATION WITH THE PEN-**
11 **SION BENEFIT GUARANTY CORPORA-**
12 **TION.—Except as provided in subpara-**
13 **graph (C), the Secretary shall, before**
14 **granting or modifying a waiver under**
15 **this subsection with respect to a plan**
16 **described in subparagraph (A)(i)—**

17 **“(i) provide the Pension Ben-**
18 **efit Guaranty Corporation with—**

19 **“(I) notice of the com-**
20 **pleted application for any**
21 **waiver or modification, and**

22 **“(II) an opportunity to**
23 **comment on such application**
24 **within 30 days after receipt of**
25 **such notice, and**

1 “(ii) consider—

2 “(I) any comments of the
3 Corporation under clause
4 (i)(II), and

5 “(II) any views of any em-
6 ployee organization (within
7 the meaning of section 3(4) of
8 the Employee Retirement In-
9 come Security Act of 1974)
10 representing participants in
11 the plan which are submitted
12 in writing to the Secretary in
13 connection with such applica-
14 tion.

15 **Information provided to the Corpora-**
16 **tion under this subparagraph shall be**
17 **considered tax return information**
18 **and subject to the safeguarding and**
19 **reporting requirements of section**
20 **6103(p).**

21 “(C) EXCEPTION FOR CERTAIN WAIV-
22 ERS.—

23 “(i) IN GENERAL.—The pre-
24 ceding provisions of this para-
25 graph shall not apply to any plan

1 with respect to which the sum
2 of—

3 “(I) the aggregate unpaid
4 minimum required contribu-
5 tion (within the meaning of
6 section 4971(c)(4)) for the plan
7 year and all preceding plan
8 years, and

9 “(II) the present value of
10 all waiver amortization in-
11 stallments determined for the
12 plan year and succeeding
13 plan years under section
14 430(e)(2),
15 is less than \$1,000,000.

16 “(ii) TREATMENT OF WAIVERS
17 FOR WHICH APPLICATIONS ARE PEND-
18 ING.—The amount described in
19 clause (i)(I) shall include any in-
20 crease in such amount which
21 would result if all applications for
22 waivers of the minimum funding
23 standard under this subsection
24 which are pending with respect
25 to such plan were denied.

1 **“(5) SPECIAL RULES FOR SINGLE-EM-**
2 **PLOYER PLANS.—**

3 **“(A) APPLICATION MUST BE SUB-**
4 **MITTED BEFORE DATE 2¹/₂ MONTHS AFTER**
5 **CLOSE OF YEAR.—In the case of a de-**
6 **defined benefit plan which is not a mul-**
7 **tiemployer plan, no waiver may be**
8 **granted under this subsection with**
9 **respect to any plan for any plan year**
10 **unless an application therefor is sub-**
11 **mitted to the Secretary not later than**
12 **the 15th day of the 3rd month begin-**
13 **ning after the close of such plan year.**

14 **“(B) SPECIAL RULE IF EMPLOYER IS**
15 **MEMBER OF CONTROLLED GROUP.—In**
16 **the case of a defined benefit plan**
17 **which is not a multiemployer plan, if**
18 **an employer is a member of a con-**
19 **trolled group, the temporary substan-**
20 **tial business hardship requirements**
21 **of paragraph (1) shall be treated as**
22 **met only if such requirements are**
23 **met—**

24 **“(i) with respect to such em-**
25 **ployer, and**

1 “(ii) with respect to the con-
2 trolled group of which such em-
3 ployer is a member (determined
4 by treating all members of such
5 group as a single employer).

6 **The Secretary may provide that an**
7 **analysis of a trade or business or in-**
8 **dustry of a member need not be con-**
9 **ducted if the Secretary determines**
10 **such analysis is not necessary be-**
11 **cause the taking into account of such**
12 **member would not significantly affect**
13 **the determination under this para-**
14 **graph.**

15 **“(6) ADVANCE NOTICE.—**

16 **“(A) IN GENERAL.—The Secretary**
17 **shall, before granting a waiver under**
18 **this subsection, require each appli-**
19 **cant to provide evidence satisfactory**
20 **to the Secretary that the applicant**
21 **has provided notice of the filing of**
22 **the application for such waiver to to**
23 **each affected party (as defined in sec-**
24 **tion 4001(a)(21) of the Employee Re-**
25 **tirement Income Security Act of**

1 **1974). Such notice shall include a de-**
2 **scription of the extent to which the**
3 **plan is funded for benefits which are**
4 **guaranteed under title IV and for**
5 **benefit liabilities.**

6 **“(B) CONSIDERATION OF RELEVANT**
7 **INFORMATION.—The Secretary shall**
8 **consider any relevant information**
9 **provided by a person to whom notice**
10 **was given under subparagraph (A).**

11 **“(7) RESTRICTION ON PLAN AMEND-**
12 **MENTS.—**

13 **“(A) IN GENERAL.—No amendment**
14 **of a plan which increases the liabil-**
15 **ities of the plan by reason of any in-**
16 **crease in benefits, any change in the**
17 **accrual of benefits, or any change in**
18 **the rate at which benefits become**
19 **nonforfeitable under the plan shall be**
20 **adopted if a waiver under this sub-**
21 **section or an extension of time under**
22 **section 431(d) is in effect with respect**
23 **to the plan, or if a plan amendment**
24 **described in subsection (d)(2) has**
25 **been made at any time in the pre-**

1 ceding 12 months (24 months in the
2 case of a multiemployer plan). If a
3 plan is amended in violation of the
4 preceding sentence, any such waiver,
5 or extension of time, shall not apply
6 to any plan year ending on or after
7 the date on which such amendment is
8 adopted.

9 “(B) EXCEPTION.—Paragraph (1)
10 shall not apply to any plan amend-
11 ment which—

12 “(i) the Secretary determines
13 to be reasonable and which pro-
14 vides for only de minimis in-
15 creases in the liabilities of the
16 plan,

17 “(ii) only repeals an amend-
18 ment described in subsection
19 (d)(2), or

20 “(iii) is required as a condi-
21 tion of qualification under part I
22 of subchapter D, of chapter 1.

23 “(d) MISCELLANEOUS RULES.—

24 “(1) CHANGE IN METHOD OR YEAR.—If
25 the funding method, the valuation date,

1 or a plan year for a plan is changed, the
2 change shall take effect only if approved
3 by the Secretary.

4 “(2) CERTAIN RETROACTIVE PLAN
5 AMENDMENTS.—For purposes of this sec-
6 tion, any amendment applying to a plan
7 year which—

8 “(A) is adopted after the close of
9 such plan year but no later than 2½
10 months after the close of the plan
11 year (or, in the case of a multiem-
12 ployer plan, no later than 2 years
13 after the close of such plan year),

14 “(B) does not reduce the accrued
15 benefit of any participant determined
16 as of the beginning of the first plan
17 year to which the amendment ap-
18 plies, and

19 “(C) does not reduce the accrued
20 benefit of any participant determined
21 as of the time of adoption except to
22 the extent required by the cir-
23 cumstances,

24 shall, at the election of the plan adminis-
25 trator, be deemed to have been made on

1 the first day of such plan year. No
2 amendment described in this paragraph
3 which reduces the accrued benefits of
4 any participant shall take effect unless
5 the plan administrator files a notice with
6 the Secretary notifying him of such
7 amendment and the Secretary has ap-
8 proved such amendment, or within 90
9 days after the date on which such notice
10 was filed, failed to disapprove such
11 amendment. No amendment described in
12 this subsection shall be approved by the
13 Secretary unless the Secretary deter-
14 mines that such amendment is necessary
15 because of a substantial business hard-
16 ship (as determined under subsection
17 (c)(2)) and that a waiver under sub-
18 section (c) (or, in the case of a multiem-
19 ployer plan, any extension of the amorti-
20 zation period under section 431(d)) is un-
21 available or inadequate.

22 “(3) CONTROLLED GROUP.—For pur-
23 poses of this section, the term ‘controlled
24 group’ means any group treated as a sin-

1 **gle employer under subsection (b), (c),**
2 **(m), or (o) of section 414.**

3 **“(e) PLANS TO WHICH SECTION APPLIES.—**

4 **“(1) IN GENERAL.—Except as provided**
5 **in paragraph (2), this section applies to a**
6 **plan if, for any plan year beginning after**
7 **December 31, 2006—**

8 **“(A) such plan included a trust**
9 **which qualified (or was determined**
10 **by the Secretary to have qualified)**
11 **under section 401(a), or**

12 **“(B) such plan satisfied (or was**
13 **determined by the Secretary to have**
14 **satisfied) the requirements of section**
15 **403(a).**

16 **“(2) EXCEPTIONS.—This section shall**
17 **not apply to—**

18 **“(A) any profit-sharing or stock**
19 **bonus plan,**

20 **“(B) any insurance contract plan**
21 **described in paragraph (3),**

22 **“(C) any governmental plan (with-**
23 **in the meaning of section 414(d)),**

24 **“(D) any church plan (within the**
25 **meaning of section 414(e)) with re-**

1 spect to which the election provided
2 by section 410(d) has not been made,

3 “(E) any plan which has not, at
4 any time after September 2, 1974, pro-
5 vided for employer contributions, or

6 “(F) any plan established and
7 maintained by a society, order, or as-
8 sociation described in section
9 501(c)(8) or (9), if no part of the con-
10 tributions to or under such plan are
11 made by employers of participants in
12 such plan.

13 No plan described in subparagraph (C),
14 (D), or (F) shall be treated as a qualified
15 plan for purposes of section 401(a) unless
16 such plan meets the requirements of sec-
17 tion 401(a)(7) as in effect on September 1,
18 1974.

19 “(3) CERTAIN INSURANCE CONTRACT
20 PLANS.—A plan is described in this para-
21 graph if—

22 “(A) the plan is funded exclusively
23 by the purchase of individual insur-
24 ance contracts,

1 **“(B) such contracts provide for**
2 **level annual premium payments to be**
3 **paid extending not later than the re-**
4 **tirement age for each individual par-**
5 **ticipating in the plan, and com-**
6 **mencing with the date the individual**
7 **became a participant in the plan (or,**
8 **in the case of an increase in benefits,**
9 **commencing at the time such in-**
10 **crease becomes effective),**

11 **“(C) benefits provided by the plan**
12 **are equal to the benefits provided**
13 **under each contract at normal retire-**
14 **ment age under the plan and are**
15 **guaranteed by an insurance carrier**
16 **(licensed under the laws of a State to**
17 **do business with the plan) to the ex-**
18 **tent premiums have been paid,**

19 **“(D) premiums payable for the**
20 **plan year, and all prior plan years,**
21 **under such contracts have been paid**
22 **before lapse or there is reinstatement**
23 **of the policy,**

24 **“(E) no rights under such con-**
25 **tracts have been subject to a security**

1 interest at any time during the plan
2 year, and

3 “(F) no policy loans are out-
4 standing at any time during the plan
5 year.

6 A plan funded exclusively by the pur-
7 chase of group insurance contracts which
8 is determined under regulations pre-
9 scribed by the Secretary to have the same
10 characteristics as contracts described in
11 the preceding sentence shall be treated
12 as a plan described in this paragraph.”.

13 (b) **EFFECTIVE DATE.**—The amendments
14 made by this section shall apply to plan years
15 beginning after December 31, 2006.

16 **SEC. 112. FUNDING RULES FOR SINGLE-EMPLOYER DE-**
17 **FINED BENEFIT PENSION PLANS.**

18 (a) **IN GENERAL.**—Subchapter D of chapter
19 1 of the Internal Revenue Code of 1986 (relat-
20 ing to deferred compensation, etc.) is amend-
21 ed by adding at the end the following new
22 part:

1 **“PART III—MINIMUM FUNDING STANDARDS FOR**
2 **SINGLE-EMPLOYER DEFINED BENEFIT PEN-**
3 **SION PLANS**

4 **“SEC. 430. MINIMUM FUNDING STANDARDS FOR SINGLE-**
5 **EMPLOYER DEFINED BENEFIT PENSION**
6 **PLANS.**

7 **“(a) MINIMUM REQUIRED CONTRIBUTION.—**
8 **For purposes of this section and section**
9 **412(a)(2)(A), except as provided in subsection**
10 **(f), the term ‘minimum required contribution’**
11 **means, with respect to any plan year of a de-**
12 **fin ed benefit plan which is not a multiem-**
13 **ployer plan—**

14 **“(1) in any case in which the value of**
15 **plan assets of the plan (as reduced under**
16 **subsection (f)(4)(B)) is less than the fund-**
17 **ing target of the plan for the plan year,**
18 **the sum of—**

19 **“(A) the target normal cost of the**
20 **plan for the plan year,**

21 **“(B) the shortfall amortization**
22 **charge (if any) for the plan for the**
23 **plan year determined under sub-**
24 **section (c), and**

25 **“(C) the waiver amortization**
26 **charge (if any) for the plan for the**

1 **plan year as determined under sub-**
2 **section (e);**

3 **“(2) in any case in which the value of**
4 **plan assets of the plan (as reduced under**
5 **subsection (f)(4)(B)) exceeds the funding**
6 **target of the plan for the plan year, the**
7 **target normal cost of the plan for the**
8 **plan year reduced by such excess; or**

9 **“(3) in any other case, the target nor-**
10 **mal cost of the plan for the plan year.**

11 **“(b) TARGET NORMAL COST.—For purposes**
12 **of this section, except as provided in sub-**
13 **section (i)(2) with respect to plans in at-risk**
14 **status, the term ‘target normal cost’ means,**
15 **for any plan year, the present value of all ben-**
16 **efits which are expected to accrue or to be**
17 **earned under the plan during the plan year.**
18 **For purposes of this subsection, if any benefit**
19 **attributable to services performed in a pre-**
20 **ceding plan year is increased by reason of any**
21 **increase in compensation during the current**
22 **plan year, the increase in such benefit shall**
23 **be treated as having accrued during the cur-**
24 **rent plan year.**

25 **“(c) SHORTFALL AMORTIZATION CHARGE.—**

1 **“(1) IN GENERAL.—For purposes of this**
2 **section, the shortfall amortization charge**
3 **for a plan for any plan year is the aggre-**
4 **gate total of the shortfall amortization in-**
5 **stallments for such plan year with re-**
6 **spect to the shortfall amortization bases**
7 **for such plan year and each of the 6 pre-**
8 **ceding plan years.**

9 **“(2) SHORTFALL AMORTIZATION INSTALL-**
10 **MENT.—The plan sponsor shall determine,**
11 **with respect to the shortfall amortization**
12 **base of the plan for any plan year, the**
13 **amounts necessary to amortize such**
14 **shortfall amortization base, in level an-**
15 **nuual installments over a period of 7 plan**
16 **years beginning with such plan year. For**
17 **purposes of paragraph (1), the annual in-**
18 **stallment of such amortization for each**
19 **plan year in such 7-plan-year period is**
20 **the shortfall amortization installment for**
21 **such plan year with respect to such**
22 **shortfall amortization base. In deter-**
23 **mining any shortfall amortization install-**
24 **ment under this paragraph, the plan**
25 **sponsor shall use the segment rates de-**

1 **terminated under subparagraph (C) of sub-**
2 **section (h)(2), applied under rules similar**
3 **to the rules of subparagraph (B) of sub-**
4 **section (h)(2).**

5 **“(3) SHORTFALL AMORTIZATION BASE.—**
6 **For purposes of this section, the shortfall**
7 **amortization base of a plan for a plan**
8 **year is the excess (if any) of—**

9 **“(A) the funding shortfall of such**
10 **plan for such plan year, over**

11 **“(B) the sum of—**

12 **“(i) the present value (deter-**
13 **mined using the segment rates de-**
14 **termined under subparagraph (C)**
15 **of subsection (h)(2), applied**
16 **under rules similar to the rules of**
17 **subparagraph (B) of subsection**
18 **(h)(2)) of the aggregate total of**
19 **the shortfall amortization install-**
20 **ments, for such plan year and the**
21 **5 succeeding plan years, which**
22 **have been determined with re-**
23 **spect to the shortfall amortization**
24 **bases of the plan for each of the 6**

1 **plan years preceding such plan**
2 **year, and**

3 **“(ii) the present value (as so**
4 **determined) of the aggregate total**
5 **of the waiver amortization install-**
6 **ments for such plan year and the**
7 **5 succeeding plan years, which**
8 **have been determined with re-**
9 **spect to the waiver amortization**
10 **bases of the plan for each of the 5**
11 **plan years preceding such plan**
12 **year.**

13 **In any case in which the value of plan**
14 **assets of the plan (as reduced under**
15 **subsection (f)(4)(A)) is equal to or**
16 **greater than the funding target of the**
17 **plan for the plan year, the shortfall**
18 **amortization base of the plan for such**
19 **plan year shall be zero.**

20 **“(4) FUNDING SHORTFALL.—**

21 **“(A) IN GENERAL.—For purposes of**
22 **this section, except as provided in**
23 **subparagraph (B), the funding short-**
24 **fall of a plan for any plan year is the**
25 **excess (if any) of—**

1 “(i) the funding target of the
2 plan for the plan year, over

3 “(ii) the value of plan assets of
4 the plan (as reduced under sub-
5 section (f)(4)(B)) for the plan year
6 which are held by the plan on the
7 valuation date.

8 “(B) TRANSITION RULE.—

9 “(i) IN GENERAL.—For purposes
10 of paragraph (3), in the case of a
11 non-deficit reduction plan, sub-
12 paragraph (A) shall be applied to
13 plan years beginning after 2006
14 and before 2011 by substituting
15 for the amount described in sub-
16 paragraph (A)(i) the applicable
17 percentage of the funding target
18 of the plan for the plan year de-
19 termined under the following
20 table:

| “In the case of a plan year beginning in calendar year: | The appli- cable per- centage is: |
|--|---|
| 2007 | 92 percent |
| 2008 | 94 percent |
| 2009 | 96 percent |
| 2010 | 98 percent. |

1 **“(ii) NON-DEFICIT REDUCTION**
2 **PLAN.—For purposes of clause (i),**
3 **the term ‘non-deficit reduction**
4 **plan’ means any plan—**

5 **“(I) to which section 412**
6 **(as in effect on the day before**
7 **the date of the enactment of**
8 **the Pension Protection Act of**
9 **2005) applied for the plan**
10 **year beginning in 2006, and**

11 **“(II) to which subsection**
12 **(I) of such section (as so in ef-**
13 **fect) did not apply for such**
14 **plan year.**

15 **“(5) EARLY DEEMED AMORTIZATION UPON**
16 **ATTAINMENT OF FUNDING TARGET.—In any**
17 **case in which the funding shortfall of a**
18 **plan for a plan year is zero, for purposes**
19 **of determining the shortfall amortization**
20 **charge for such plan year and succeeding**
21 **plan years, the shortfall amortization**
22 **bases for all preceding plan years (and all**
23 **shortfall amortization installments deter-**
24 **mined with respect to such bases) shall**
25 **be reduced to zero.**

1 **“(d) RULES RELATING TO FUNDING TAR-**
2 **GET.—For purposes of this section—**

3 **“(1) FUNDING TARGET.—Except as pro-**
4 **vided in subsection (i)(1) with respect to**
5 **plans in at-risk status, the funding target**
6 **of a plan for a plan year is the present**
7 **value of all liabilities to participants and**
8 **their beneficiaries under the plan for the**
9 **plan year.**

10 **“(2) FUNDING TARGET ATTAINMENT PER-**
11 **CENTAGE.—The ‘funding target attainment**
12 **percentage’ of a plan for a plan year is**
13 **the ratio (expressed as a percentage)**
14 **which—**

15 **“(A) the value of plan assets for**
16 **the plan year (as reduced under sub-**
17 **section (f)(4)(B)), bears to**

18 **“(B) the funding target of the plan**
19 **for the plan year (determined without**
20 **regard to subsection (i)(1)).**

21 **“(e) WAIVER AMORTIZATION CHARGE.—**

22 **“(1) DETERMINATION OF WAIVER AMORTI-**
23 **ZATION CHARGE.—The waiver amortization**
24 **charge (if any) for a plan for any plan**
25 **year is the aggregate total of the waiver**

1 **amortization installments for such plan**
2 **year with respect to the waiver amortiza-**
3 **tion bases for each of the 5 preceding**
4 **plan years.**

5 **“(2) WAIVER AMORTIZATION INSTALL-**
6 **MENT.—The plan sponsor shall determine,**
7 **with respect to the waiver amortization**
8 **base of the plan for any plan year, the**
9 **amounts necessary to amortize such**
10 **waiver amortization base, in level annual**
11 **installments over a period of 5 plan years**
12 **beginning with the succeeding plan year.**
13 **For purposes of paragraph (1), the annual**
14 **installment of such amortization for each**
15 **plan year in such 5-plan year period is**
16 **the waiver amortization installment for**
17 **such plan year with respect to such waiv-**
18 **er amortization base.**

19 **“(3) INTEREST RATE.—In determining**
20 **any waiver amortization installment**
21 **under this subsection, the plan sponsor**
22 **shall use the segment rates determined**
23 **under subparagraph (C) of subsection**
24 **(h)(2), applied under rules similar to the**

1 rules of subparagraph (B) of subsection
2 (h)(2).

3 “(4) **WAIVER AMORTIZATION BASE.**—The
4 waiver amortization base of a plan for a
5 plan year is the amount of the waived
6 funding deficiency (if any) for such plan
7 year under section 412(c).

8 “(5) **EARLY DEEMED AMORTIZATION UPON**
9 **ATTAINMENT OF FUNDING TARGET.**—In any
10 case in which the funding shortfall of a
11 plan for a plan year is zero, for purposes
12 of determining the waiver amortization
13 charge for such plan year and succeeding
14 plan years, the waiver amortization base
15 for all preceding plan years shall be re-
16 duced to zero.

17 “(f) **REDUCTION OF MINIMUM REQUIRED CON-**
18 **TRIBUTION BY PRE-FUNDING BALANCE AND FUND-**
19 **ING STANDARD CARRYOVER BALANCE.**—

20 “(1) **ELECTION TO MAINTAIN BALANCES.**—

21 “(A) **PRE-FUNDING BALANCE.**—The
22 plan sponsor of a defined benefit plan
23 which is not a multiemployer plan
24 may elect to maintain a pre-funding
25 balance.

1 **“(B) FUNDING STANDARD CARRY-**
2 **OVER BALANCE.—**

3 **“(i) IN GENERAL.—In the case**
4 **of a defined benefit plan (other**
5 **than a multiemployer plan) de-**
6 **scribed in clause (ii), the plan**
7 **sponsor may elect to maintain a**
8 **funding standard carryover bal-**
9 **ance, until such balance is re-**
10 **duced to zero.**

11 **“(ii) PLANS MAINTAINING FUND-**
12 **ING STANDARD ACCOUNT IN 2006.—A**
13 **plan is described in this clause if**
14 **the plan—**

15 **“(I) was in effect for a**
16 **plan year beginning in 2006,**
17 **and**

18 **“(II) had a positive bal-**
19 **ance in the funding standard**
20 **account under section 412(b)**
21 **as in effect for such plan year**
22 **and determined as of the end**
23 **of such plan year.**

24 **“(2) APPLICATION OF BALANCES.—A pre-**
25 **funding balance and a funding standard**

1 **carryover balance maintained pursuant**
2 **to this paragraph—**

3 **“(A) shall be available for cred-**
4 **iting against the minimum required**
5 **contribution, pursuant to an election**
6 **under paragraph (3),**

7 **“(B) shall be applied as a reduc-**
8 **tion in the amount treated as the**
9 **value of plan assets for purposes of**
10 **this section, to the extent provided in**
11 **paragraph (4), and**

12 **“(C) may be reduced at any time,**
13 **pursuant to an election under para-**
14 **graph (5).**

15 **“(3) ELECTION TO APPLY BALANCES**
16 **AGAINST MINIMUM REQUIRED CONTRIBU-**
17 **TION.—**

18 **“(A) IN GENERAL.—Except as pro-**
19 **vided in subparagraphs (B) and (C),**
20 **in the case of any plan year in which**
21 **the plan sponsor elects to credit**
22 **against the minimum required con-**
23 **tribution for the current plan year all**
24 **or a portion of the pre-funding bal-**
25 **ance or the funding standard carry-**

1 over balance for the current plan
2 year (not in excess of such minimum
3 required contribution), the minimum
4 required contribution for the plan
5 year shall be reduced by the amount
6 so credited by the plan sponsor. For
7 purposes of the preceding sentence,
8 the minimum required contribution
9 shall be determined after taking into
10 account any waiver under section
11 412(c).

12 “(B) COORDINATION WITH FUNDING
13 STANDARD CARRYOVER BALANCE.—To
14 the extent that any plan has a fund-
15 ing standard carryover balance great-
16 er than zero, no amount of the pre-
17 funding balance of such plan may be
18 credited under this paragraph in re-
19 ducing the minimum required con-
20 tribution.

21 “(C) LIMITATION FOR UNDERFUNDED
22 PLANS.—The preceding provisions of
23 this paragraph shall not apply for
24 any plan year if the ratio (expressed
25 as a percentage) which—

1 “(i) the value of plan assets
2 for the preceding plan year (as re-
3 duced under paragraph (4)(C)),
4 bears to

5 “(ii) the funding target of the
6 plan for the preceding plan year
7 (determined without regard to
8 subsection (i)(1)),

9 is less than 80 percent.

10 “(4) EFFECT OF BALANCES ON AMOUNTS
11 TREATED AS VALUE OF PLAN ASSETS.—In the
12 case of any plan maintaining a pre-fund-
13 ing balance or a funding standard carry-
14 over balance pursuant to this subsection,
15 the amount treated as the value of plan
16 assets shall be deemed to be such
17 amount, reduced as provided in the fol-
18 lowing subparagraphs:

19 “(A) APPLICABILITY OF SHORTFALL
20 AMORTIZATION BASE.—For purposes of
21 subsection (c)(3), the value of plan as-
22 sets is deemed to be such amount, re-
23 duced by the amount of the pre-fund-
24 ing balance, but only if an election
25 under paragraph (2) applying any

1 **portion of the pre-funding balance in**
2 **reducing the minimum required con-**
3 **tribution is in effect for the plan year.**

4 **“(B) DETERMINATION OF EXCESS AS-**
5 **SETS, FUNDING SHORTFALL, AND FUND-**
6 **ING TARGET ATTAINMENT PERCENTAGE.—**
7 **For purposes of subsections (a),**
8 **(c)(4)(A)(ii), and (d)(2)(A), the value of**
9 **plan assets is deemed to be such**
10 **amount, reduced by the amount of**
11 **the pre-funding balance and the fund-**
12 **ing standard carryover balance.**

13 **“(C) AVAILABILITY OF BALANCES IN**
14 **PLAN YEAR FOR CREDITING AGAINST MIN-**
15 **IMUM REQUIRED CONTRIBUTION.—For**
16 **purposes of paragraph (3)(C)(i) of this**
17 **subsection, the value of plan assets is**
18 **deemed to be such amount, reduced**
19 **by the amount of the pre-funding bal-**
20 **ance.**

21 **“(5) ELECTION TO REDUCE BALANCE**
22 **PRIOR TO DETERMINATIONS OF VALUE OF**
23 **PLAN ASSETS AND CREDITING AGAINST MIN-**
24 **IMUM REQUIRED CONTRIBUTION.—**

1 **“(A) IN GENERAL.—**The plan spon-
2 **sor may elect to reduce by any**
3 **amount the balance of the pre-fund-**
4 **ing balance and the funding standard**
5 **carryover balance for any plan year**
6 **(but not below zero). Such reduction**
7 **shall be effective prior to any deter-**
8 **mination of the value of plan assets**
9 **for such plan year under this section**
10 **and application of the balance in re-**
11 **ducing the minimum required con-**
12 **tribution for such plan for such plan**
13 **year pursuant to an election under**
14 **paragraph (2).**

15 **“(B) COORDINATION BETWEEN PRE-**
16 **FUNDING BALANCE AND FUNDING STAND-**
17 **ARD CARRYOVER BALANCE.—**To the ex-
18 **tent that any plan has a funding**
19 **standard carryover balance greater**
20 **than zero, no election may be made**
21 **under subparagraph (A) with respect**
22 **to the pre-funding balance.**

23 **“(6) PRE-FUNDING BALANCE.—**

24 **“(A) IN GENERAL.—**A pre-funding
25 **balance maintained by a plan shall**

1 consist of a beginning balance of
2 zero, increased and decreased to the
3 extent provided in subparagraphs (B)
4 and (C), and adjusted further as pro-
5 vided in paragraph (8).

6 “(B) INCREASES.—As of the valu-
7 ation date for each plan year begin-
8 ning after 2007, the pre-funding bal-
9 ance of a plan shall be increased by
10 the amount elected by the plan spon-
11 sor for the plan year. Such amount
12 shall not exceed the excess (if any)
13 of—

14 “(i) the aggregate total of em-
15 ployer contributions to the plan
16 for the preceding plan year, over

17 “(ii) the minimum required
18 contribution for such preceding
19 plan year (increased by interest
20 on any portion of such minimum
21 required contribution remaining
22 unpaid as of the valuation date
23 for the current plan year, at the
24 effective interest rate for the plan
25 for the preceding plan year, for

1 the period beginning with the
2 first day of such preceding plan
3 year and ending on the date that
4 payment of such portion is made).

5 “(C) DECREASES.—As of the valu-
6 ation date for each plan year after
7 2007, the pre-funding balance of a
8 plan shall be decreased (but not
9 below zero) by the sum of—

10 “(i) the amount of such bal-
11 ance credited under paragraph
12 (2) (if any) in reducing the min-
13 imum required contribution of
14 the plan for the preceding plan
15 year, and

16 “(ii) any reduction in such
17 balance elected under paragraph
18 (5).

19 “(7) FUNDING STANDARD CARRYOVER
20 BALANCE.—

21 “(A) IN GENERAL.—A funding
22 standard carryover balance main-
23 tained by a plan shall consist of a be-
24 ginning balance determined under
25 subparagraph (B), decreased to the

1 extent provided in subparagraph (C),
2 and adjusted further as provided in
3 paragraph (8).

4 “(B) BEGINNING BALANCE.—The be-
5 ginning balance of the funding stand-
6 ard carryover balance shall be the
7 positive balance described in para-
8 graph (1)(B)(ii)(II).

9 “(C) DECREASES.—As of the valu-
10 ation date for each plan year after
11 2007, the funding standard carryover
12 balance of a plan shall be decreased
13 (but not below zero) by the sum of—

14 “(i) the amount of such bal-
15 ance credited under paragraph
16 (2) (if any) in reducing the min-
17 imum required contribution of
18 the plan for the preceding plan
19 year, and

20 “(ii) any reduction in such
21 balance elected under paragraph
22 (5).

23 “(8) ADJUSTMENTS TO BALANCES.—In
24 determining the pre-funding balance or
25 the funding standard carryover balance

1 of a plan as of the valuation date (before
2 applying any increase or decrease under
3 paragraph (6) or (7)), the plan sponsor
4 shall, in accordance with regulations
5 which shall be prescribed by the Sec-
6 retary, adjust such balance so as to re-
7 flect the rate of net gain or loss (deter-
8 mined, notwithstanding subsection (g)(3),
9 on the basis of fair market value) experi-
10 enced by all plan assets for the period be-
11 ginning with the valuation date for the
12 preceding plan year and ending with the
13 date preceding the valuation date for the
14 current plan year, properly taking into
15 account, in accordance with such regula-
16 tions, all contributions, distributions, and
17 other plan payments made during such
18 period.

19 “(9) ELECTIONS.—Elections under this
20 subsection shall be made at such times,
21 and in such form and manner, as shall be
22 prescribed in regulations of the Sec-
23 retary.

24 “(g) VALUATION OF PLAN ASSETS AND LIABIL-
25 ITIES.—

1 **“(1) TIMING OF DETERMINATIONS.—Ex-**
2 **cept as otherwise provided under this**
3 **subsection, all determinations under this**
4 **section for a plan year shall be made as**
5 **of the valuation date of the plan for such**
6 **plan year.**

7 **“(2) VALUATION DATE.—For purposes of**
8 **this section—**

9 **“(A) IN GENERAL.—Except as pro-**
10 **vided in subparagraph (B), the valu-**
11 **ation date of a plan for any plan year**
12 **shall be the first day of the plan year.**

13 **“(B) EXCEPTION FOR SMALL**
14 **PLANS.—If, on each day during the**
15 **preceding plan year, a plan had 500**
16 **or fewer participants, the plan may**
17 **designate any day during the plan**
18 **year as its valuation date for such**
19 **plan year and succeeding plan years.**
20 **For purposes of this subparagraph,**
21 **all defined benefit plans (other than**
22 **multiemployer plans) maintained by**
23 **the same employer (or any member of**
24 **such employer’s controlled group)**
25 **shall be treated as 1 plan, but only**

1 participants with respect to such em-
2 ployer or member shall be taken into
3 account.

4 “(C) APPLICATION OF CERTAIN
5 RULES IN DETERMINATION OF PLAN
6 SIZE.—For purposes of this para-
7 graph—

8 “(i) PLANS NOT IN EXISTENCE IN
9 PRECEDING YEAR.—In the case of
10 the first plan year of any plan,
11 subparagraph (B) shall apply to
12 such plan by taking into account
13 the number of participants that
14 the plan is reasonably expected to
15 have on days during such first
16 plan year.

17 “(ii) PREDECESSORS.—Any ref-
18 erence in subparagraph (B) to an
19 employer shall include a ref-
20 erence to any predecessor of such
21 employer.

22 “(3) AUTHORIZATION OF USE OF ACTU-
23 ARIAL VALUE.—For purposes of this sec-
24 tion, the value of plan assets shall be de-
25 termined on the basis of any reasonable

1 **actuarial method of valuation which**
2 **takes into account fair market value and**
3 **which is permitted under regulations**
4 **prescribed by the Secretary, except**
5 **that—**

6 **“(A) any such method providing**
7 **for averaging of fair market values**
8 **may not provide for averaging of**
9 **such values over more than the 3**
10 **most recent plan years (including the**
11 **current plan year), and**

12 **“(B) any such method may not re-**
13 **sult in a determination of the value of**
14 **plan assets which, at any time, is**
15 **lower than 90 percent or greater than**
16 **110 percent of the fair market value**
17 **of such assets at such time.**

18 **“(4) ACCOUNTING FOR CONTRIBUTION RE-**
19 **CEIPTS.—For purposes of this section—**

20 **“(A) CONTRIBUTIONS FOR PRIOR**
21 **PLAN YEARS TAKEN INTO ACCOUNT.—For**
22 **purposes of determining the value of**
23 **plan assets for any current plan year,**
24 **in any case in which a contribution**
25 **properly allocable to amounts owed**

1 **for a preceding plan year is made on**
2 **or after the valuation date of the plan**
3 **for such current plan year, such con-**
4 **tribution shall be taken into account,**
5 **except that any such contribution**
6 **made during any such current plan**
7 **year beginning after 2007 shall be**
8 **taken into account only in an amount**
9 **equal to its present value (deter-**
10 **mined using the effective rate of in-**
11 **terest for the plan for the preceding**
12 **plan year) as of the valuation date of**
13 **the plan for such current plan year.**

14 **“(B) CONTRIBUTIONS FOR CURRENT**
15 **PLAN YEAR DISREGARDED.—For pur-**
16 **poses of determining the value of**
17 **plan assets for any current plan year,**
18 **contributions which are properly al-**
19 **locable to amounts owed for such**
20 **plan year shall not be taken into ac-**
21 **count, and, in the case of any such**
22 **contribution made before the valu-**
23 **ation date of the plan for such plan**
24 **year, such value of plan assets shall**
25 **be reduced for interest on such**

1 amount determined using the effec-
2 tive rate of interest of the plan for
3 the current plan year for the period
4 beginning when such payment was
5 made and ending on the valuation
6 date of the plan.

7 **“(5) ACCOUNTING FOR PLAN LIABIL-**
8 **ITIES.—For purposes of this section—**

9 **“(A) LIABILITIES TAKEN INTO AC-**
10 **COUNT FOR CURRENT PLAN YEAR.—In**
11 **determining the value of liabilities**
12 **under a plan for a plan year, liabil-**
13 **ities shall be taken into account to**
14 **the extent attributable to benefits (in-**
15 **cluding any early retirement or simi-**
16 **lar benefit) accrued or earned as of**
17 **the beginning of the plan year.**

18 **“(B) ACCRUALS DURING CURRENT**
19 **PLAN YEAR DISREGARDED.—For pur-**
20 **poses of subparagraph (A), benefits**
21 **accrued or earned during such plan**
22 **year shall not be taken into account,**
23 **irrespective of whether the valuation**
24 **date of the plan for such plan year is**

1 later than the first day of such plan
2 year.

3 **“(h) ACTUARIAL ASSUMPTIONS AND METH-**
4 **ODS.—**

5 **“(1) IN GENERAL.—Subject to this sub-**
6 **section, the determination of any present**
7 **value or other computation under this**
8 **section shall be made on the basis of ac-**
9 **tuarial assumptions and methods—**

10 **“(A) each of which is reasonable**
11 **(taking into account the experience**
12 **of the plan and reasonable expecta-**
13 **tions), and**

14 **“(B) which, in combination, offer**
15 **the actuary’s best estimate of antici-**
16 **pated experience under the plan.**

17 **“(2) INTEREST RATES.—**

18 **“(A) EFFECTIVE INTEREST RATE.—**
19 **For purposes of this section, the term**
20 **‘effective interest rate’ means, with**
21 **respect to any plan for any plan year,**
22 **the single rate of interest which, if**
23 **used to determine the present value**
24 **of the plan’s liabilities referred to in**
25 **subsection (d)(1), would result in an**

1 **amount equal to the funding target of**
2 **the plan for such plan year.**

3 **“(B) INTEREST RATES FOR DETER-**
4 **MINING FUNDING TARGET.—For pur-**
5 **poses of determining the funding tar-**
6 **get of a plan for any plan year, the in-**
7 **terest rate used in determining the**
8 **present value of the liabilities of the**
9 **plan shall be—**

10 **“(i) in the case of liabilities**
11 **reasonably determined to be pay-**
12 **able during the 5-year period be-**
13 **ginning on the first day of the**
14 **plan year, the first segment rate**
15 **with respect to the applicable**
16 **month,**

17 **“(ii) in the case of liabilities**
18 **reasonably determined to be pay-**
19 **able during the 15-year period be-**
20 **ginning at the end of the period**
21 **described in clause (i), the second**
22 **segment rate with respect to the**
23 **applicable month, and**

24 **“(iii) in the case of liabilities**
25 **reasonably determined to be pay-**

1 able after the period described in
2 clause (ii), the third segment rate
3 with respect to the applicable
4 month.

5 “(C) SEGMENT RATES.—For pur-
6 poses of this paragraph—

7 “(i) FIRST SEGMENT RATE.—The
8 term ‘first segment rate’ means,
9 with respect to any month, the
10 single rate of interest which shall
11 be determined by the Secretary
12 for such month on the basis of the
13 corporate bond yield curve for
14 such month, taking into account
15 only that portion of such yield
16 curve which is based on bonds
17 maturing during the 5-year pe-
18 riod commencing with such
19 month.

20 “(ii) SECOND SEGMENT RATE.—
21 The term ‘second segment rate’
22 means, with respect to any
23 month, the single rate of interest
24 which shall be determined by the
25 Secretary for such month on the

1 **basis of the corporate bond yield**
2 **curve for such month, taking into**
3 **account only that portion of such**
4 **yield curve which is based on**
5 **bonds maturing during the 15-**
6 **year period beginning at the end**
7 **of the period described in clause**
8 **(i).**

9 **“(iii) THIRD SEGMENT RATE.—**
10 **The term ‘third segment rate’**
11 **means, with respect to any**
12 **month, the single rate of interest**
13 **which shall be determined by the**
14 **Secretary for such month on the**
15 **basis of the corporate bond yield**
16 **curve for such month, taking into**
17 **account only that portion of such**
18 **yield curve which is based on**
19 **bonds maturing during periods**
20 **beginning after the period de-**
21 **scribed in clause (ii).**

22 **“(D) CORPORATE BOND YIELD**
23 **CURVE.—For purposes of this para-**
24 **graph—**

1 “(i) IN GENERAL.—The term
2 ‘corporate bond yield curve’
3 means, with respect to any
4 month, a yield curve which is pre-
5 scribed by the Secretary for such
6 month and which reflects a 3-year
7 weighted average of yields on in-
8 vestment grade corporate bonds
9 with varying maturities.

10 “(ii) 3-YEAR WEIGHTED AVER-
11 AGE.—The term ‘3-year weighted
12 average’ means an average deter-
13 mined by using a methodology
14 under which the most recent year
15 is weighted 50 percent, the year
16 preceding such year is weighted
17 35 percent, and the second year
18 preceding such year is weighted
19 15 percent.

20 “(E) APPLICABLE MONTH.—For pur-
21 poses of this paragraph, the term ‘ap-
22 plicable month’ means, with respect
23 to any plan for any plan year, the
24 month which includes the valuation
25 date of such plan for such plan year

1 or, at the election of the plan sponsor,
2 any of the 4 months which precede
3 such month. Any election made under
4 this subparagraph shall apply to the
5 plan year for which the election is
6 made and all succeeding plan years,
7 unless the election is revoked with
8 the consent of the Secretary.

9 “(F) PUBLICATION REQUIREMENTS.—
10 The Secretary shall publish for each
11 month the corporate bond yield curve
12 (and the corporate bond yield curve
13 reflecting the modification described
14 in section 417(e)(3)(A)(iv)(I)) for such
15 month and each of the rates deter-
16 mined under subparagraph (B) for
17 such month. The Secretary shall also
18 publish a description of the method-
19 ology used to determine such yield
20 curve and such rates which is suffi-
21 ciently detailed to enable plans to
22 make reasonable projections regard-
23 ing the yield curve and such rates for
24 future months based on the plan’s
25 projection of future interest rates.

1 **“(G) TRANSITION RULE.—**

2 **“(i) IN GENERAL.—Notwith-**
3 **standing the preceding provisions**
4 **of this paragraph, for plan years**
5 **beginning in 2007 or 2008, the**
6 **first, second, or third segment**
7 **rate for a plan with respect to**
8 **any month shall be equal to the**
9 **sum of—**

10 **“(I) the product of such**
11 **rate for such month deter-**
12 **mined without regard to this**
13 **subparagraph, multiplied by**
14 **the applicable percentage,**
15 **and**

16 **“(II) the product of the**
17 **rate determined under the**
18 **rules of section**
19 **412(b)(5)(B)(ii)(II) (as in effect**
20 **for plan years beginning in**
21 **2006), multiplied by a percent-**
22 **age equal to 100 percent**
23 **minus the applicable percent-**
24 **age.**

1 “(ii) **APPLICABLE PERCENT-**
2 **AGE.—**For purposes of clause (i),
3 the applicable percentage is $33\frac{1}{3}$
4 percent for plan years beginning
5 in 2007 and $66\frac{2}{3}$ percent for plan
6 years beginning in 2008.

7 “(iii) **NEW PLANS INELIGIBLE.—**
8 Clause (i) shall not apply to any
9 plan if the first plan year of the
10 plan begins after December 31,
11 2006.

12 “(3) **MORTALITY TABLE.—**

13 “(A) **IN GENERAL.—**Except as pro-
14 vided in subparagraph (C), the mor-
15 tality table used in determining any
16 present value or making any com-
17 putation under this section shall be
18 the **RP-2000 Combined Mortality**
19 **Table, using Scale AA, as published**
20 **by the Society of Actuaries, as in ef-**
21 **fect on the date of the enactment of**
22 **the Pension Protection Act of 2005**
23 **and as revised from time to time**
24 **under subparagraph (B).**

1 **“(B) PERIODIC REVISION.—The Sec-**
2 **retary shall (at least every 10 years)**
3 **make revisions in any table in effect**
4 **under subparagraph (A) to reflect the**
5 **actual experience of pension plans**
6 **and projected trends in such experi-**
7 **ence.**

8 **“(C) SUBSTITUTE MORTALITY**
9 **TABLE.—**

10 **“(i) IN GENERAL.—Upon re-**
11 **quest by the plan sponsor and ap-**
12 **proval by the Secretary for a pe-**
13 **riod not to exceed 10 years, a**
14 **mortality table which meets the**
15 **requirements of clause (ii) shall**
16 **be used in determining any**
17 **present value or making any com-**
18 **putation under this section. A**
19 **mortality table described in this**
20 **clause shall cease to be in effect if**
21 **the plan actuary determines at**
22 **any time that such table does not**
23 **meet the requirements of sub-**
24 **clauses (I) and (II) of clause (ii).**

1 “(ii) **REQUIREMENTS.—A mor-**
2 **tality table meets the require-**
3 **ments of this clause if the Sec-**
4 **retary determines that—**

5 “(I) such table reflects the
6 **actual experience of the pen-**
7 **sion plan and projected**
8 **trends in such experience,**
9 **and**

10 “(II) such table is signifi-
11 **cantly different from the table**
12 **described in subparagraph**
13 **(A).**

14 “(iii) **DEADLINE FOR DISPOSI-**
15 **TION OF APPLICATION.—Any mor-**
16 **tality table submitted to the Sec-**
17 **retary for approval under this**
18 **subparagraph shall be treated as**
19 **in effect for the succeeding plan**
20 **year unless the Secretary, during**
21 **the 180-day period beginning on**
22 **the date of such submission, dis-**
23 **approves of such table and pro-**
24 **vides the reasons that such table**

1 **fails to meet the requirements of**
2 **clause (ii).**

3 **“(D) TRANSITION RULE.—Under reg-**
4 **ulations of the Secretary, any dif-**
5 **ference in assumptions as set forth in**
6 **the mortality table specified in sub-**
7 **paragraph (A) and assumptions as set**
8 **forth in the mortality table described**
9 **in section 412(l)(7)(C)(ii) (as in effect**
10 **for plan years beginning in 2006)**
11 **shall be phased in ratably over the**
12 **first period of 5 plan years beginning**
13 **in or after 2007 so as to be fully effec-**
14 **tive for the fifth plan year. The pre-**
15 **ceding sentence shall not apply to**
16 **any plan if the first plan year of the**
17 **plan begins after December 31, 2006.**

18 **“(4) PROBABILITY OF BENEFIT PAYMENTS**
19 **IN THE FORM OF LUMP SUMS OR OTHER OP-**
20 **TIONAL FORMS.—For purposes of deter-**
21 **mining any present value or making any**
22 **computation under this section, there**
23 **shall be taken into account—**

24 **“(A) the probability that future**
25 **benefit payments under the plan will**

1 **be made in the form of optional forms**
2 **of benefits provided under the plan**
3 **(including lump sum distributions,**
4 **determined on the basis of the plan’s**
5 **experience and other related assump-**
6 **tions), and**

7 **“(B) any difference in the present**
8 **value of such future benefit payments**
9 **resulting from the use of actuarial as-**
10 **sumptions, in determining benefit**
11 **payments in any such optional form**
12 **of benefits, which are different from**
13 **those specified in this subsection.**

14 **“(5) APPROVAL OF LARGE CHANGES IN**
15 **ACTUARIAL ASSUMPTIONS.—**

16 **“(A) IN GENERAL.—No actuarial as-**
17 **sumption used to determine the fund-**
18 **ing target for a plan to which this**
19 **paragraph applies may be changed**
20 **without the approval of the Sec-**
21 **retary.**

22 **“(B) PLANS TO WHICH PARAGRAPH**
23 **APPLIES.—This paragraph shall apply**
24 **to a plan only if—**

1 “(i) the plan is a defined ben-
2 efit plan (other than a multiem-
3 ployer plan) to which title IV of
4 the Employee Retirement Income
5 Security Act of 1974 applies,

6 “(ii) the aggregate unfunded
7 vested benefits as of the close of
8 the preceding plan year (as deter-
9 mined under section
10 4006(a)(3)(E)(iii) of the Employee
11 Retirement Income Security Act
12 of 1974) of such plan and all other
13 plans maintained by the contrib-
14 uting sponsors (as defined in sec-
15 tion 4001(a)(13) of such Act) and
16 members of such sponsors’ con-
17 trolled groups (as defined in sec-
18 tion 4001(a)(14) of such Act)
19 which are covered by title IV (dis-
20 regarding plans with no un-
21 funded vested benefits) exceed
22 \$50,000,000, and

23 “(iii) the change in assump-
24 tions (determined after taking
25 into account any changes in inter-

1 est rate and mortality table) re-
2 sults in a decrease in the funding
3 shortfall of the plan for the cur-
4 rent plan year that exceeds
5 \$50,000,000, or that exceeds
6 \$5,000,000 and that is 5 percent or
7 more of the funding target of the
8 plan before such change.

9 **“(i) SPECIAL RULES FOR AT-RISK PLANS.—**

10 **“(1) FUNDING TARGET FOR PLANS IN AT-**
11 **RISK STATUS.—**

12 **“(A) IN GENERAL.—**In any case in
13 which a plan is in at-risk status for a
14 plan year, the funding target of the
15 plan for the plan year is the sum of—

16 **“(i) the present value of all li-**
17 **abilities to participants and their**
18 **beneficiaries under the plan for**
19 **the plan year, as determined by**
20 **using, in addition to the actuarial**
21 **assumptions described in sub-**
22 **section (g), the supplemental ac-**
23 **tuarial assumptions described in**
24 **subparagraph (B), plus**

1 “(ii) a loading factor deter-
2 mined under subparagraph (C).

3 “(B) SUPPLEMENTAL ACTUARIAL AS-
4 SUMPTIONS.—The actuarial assump-
5 tions used in determining the valu-
6 ation of the funding target shall in-
7 clude, in addition to the actuarial as-
8 sumptions described in subsection
9 (h), an assumption that all partici-
10 pants will elect benefits at such times
11 and in such forms as will result in the
12 highest present value of liabilities
13 under subparagraph (A)(i).

14 “(C) LOADING FACTOR.—The load-
15 ing factor applied with respect to a
16 plan under this paragraph for any
17 plan year is the sum of—

18 “(i) \$700, times the number of
19 participants in the plan, plus

20 “(ii) 4 percent of the funding
21 target (determined without re-
22 gard to this paragraph) of the
23 plan for the plan year.

24 “(2) TARGET NORMAL COST OF AT-RISK
25 PLANS.—In any case in which a plan is in

1 **at-risk status for a plan year, the target**
2 **normal cost of the plan for such plan**
3 **year shall be the sum of—**

4 **“(A) the present value of all bene-**
5 **fits which are expected to accrue or**
6 **be earned under the plan during the**
7 **plan year, determined under the actu-**
8 **arial assumptions used under para-**
9 **graph (1), plus**

10 **“(B) the loading factor under**
11 **paragraph (1)(C), excluding the por-**
12 **tion of the loading factor described in**
13 **paragraph (1)(C)(i).**

14 **“(3) DETERMINATION OF AT-RISK STA-**
15 **TUS.—For purposes of this subsection, a**
16 **plan is in ‘at-risk status’ for a plan year**
17 **if the funding target attainment percent-**
18 **age of the plan for the preceding plan**
19 **year was less than 60 percent.**

20 **“(4) TRANSITION BETWEEN APPLICABLE**
21 **FUNDING TARGETS AND BETWEEN APPLICA-**
22 **BLE TARGET NORMAL COSTS.—**

23 **“(A) IN GENERAL.—In any case in**
24 **which a plan which is in at-risk sta-**
25 **tus for a plan year has been in such**

1 status for a consecutive period of
2 fewer than 5 plan years, the applica-
3 ble amount of the funding target and
4 of the target normal cost shall be, in
5 lieu of the amount determined with-
6 out regard to this paragraph, the sum
7 of—

8 “(i) the amount determined
9 under this section without regard
10 to this subsection, plus

11 “(ii) the transition percentage
12 for such plan year of the excess of
13 the amount determined under
14 this subsection (without regard to
15 this paragraph) over the amount
16 determined under this section
17 without regard to this subsection.

18 “(B) TRANSITION PERCENTAGE.—For
19 purposes of this paragraph, the ‘tran-
20 sition percentage’ for a plan year is
21 the product derived by multiplying—

22 “(i) 20 percent, by

23 “(ii) the number of plan years
24 during the period described in
25 subparagraph (A).

1 **“(j) PAYMENT OF MINIMUM REQUIRED CON-**
2 **TRIBUTIONS.—**

3 **“(1) IN GENERAL.—For purposes of this**
4 **section, the due date for any payment of**
5 **any minimum required contribution for**
6 **any plan year shall be 8½ months after**
7 **the close of the plan year.**

8 **“(2) INTEREST.—Any payment required**
9 **under paragraph (1) for a plan year that**
10 **is made on a date other than the valu-**
11 **ation date for such plan year shall be ad-**
12 **justed for interest accruing for the period**
13 **between the valuation date and the pay-**
14 **ment date, at the effective rate of interest**
15 **for the plan for such plan year.**

16 **“(3) ACCELERATED QUARTERLY CON-**
17 **TRIBUTION SCHEDULE FOR UNDERFUNDED**
18 **PLANS.—**

19 **“(A) INTEREST PENALTY FOR FAIL-**
20 **URE TO MEET ACCELERATED QUARTERLY**
21 **PAYMENT SCHEDULE.—In any case in**
22 **which the plan has a funding short-**
23 **fall for the preceding plan year, if the**
24 **required installment is not paid in**
25 **full, then the minimum required con-**

1 **tribution for the plan year (as in-**
2 **creased under paragraph (2)) shall be**
3 **further increased by an amount equal**
4 **to the interest on the amount of the**
5 **underpayment for the period of the**
6 **underpayment, using an interest rate**
7 **equal to the excess of—**

8 **“(i) 175 percent of the Federal**
9 **mid-term rate (as in effect under**
10 **section 1274 for the 1st month of**
11 **such plan year), over**

12 **“(ii) the effective rate of inter-**
13 **est for the plan for the plan year.**

14 **“(B) AMOUNT OF UNDERPAYMENT,**
15 **PERIOD OF UNDERPAYMENT.—For pur-**
16 **poses of subparagraph (A)—**

17 **“(i) AMOUNT.—The amount of**
18 **the underpayment shall be the ex-**
19 **cess of—**

20 **“(I) the required install-**
21 **ment, over**

22 **“(II) the amount (if any) of**
23 **the installment contributed to**
24 **or under the plan on or before**

1 the due date for the install-
2 ment.

3 “(ii) PERIOD OF UNDER-
4 PAYMENT.—The period for which
5 any interest is charged under this
6 paragraph with respect to any
7 portion of the underpayment
8 shall run from the due date for
9 the installment to the date on
10 which such portion is contributed
11 to or under the plan.

12 “(iii) ORDER OF CREDITING CON-
13 TRIBUTIONS.—For purposes of
14 clause (i)(II), contributions shall
15 be credited against unpaid re-
16 quired installments in the order
17 in which such installments are re-
18 quired to be paid.

19 “(C) NUMBER OF REQUIRED INSTALL-
20 MENTS; DUE DATES.—For purposes of
21 this paragraph—

22 “(i) PAYABLE IN 4 INSTALL-
23 MENTS.—There shall be 4 required
24 installments for each plan year.

1 **“(ii) TIME FOR PAYMENT OF IN-**
 2 **STALLMENTS.—The due dates for**
 3 **required installments are set**
 4 **forth in the following table:**

| “In the case of the following required installment: | The due date is: |
|--|-------------------------------------|
| 1st | April 15 |
| 2nd | July 15 |
| 3rd | October 15 |
| 4th | January 15 of the following year |

5 **“(D) AMOUNT OF REQUIRED INSTALL-**
 6 **MENT.—For purposes of this para-**
 7 **graph—**

8 **“(i) IN GENERAL.—The amount**
 9 **of any required installment shall**
 10 **be 25 percent of the required an-**
 11 **nual payment.**

12 **“(ii) REQUIRED ANNUAL PAY-**
 13 **MENT.—For purposes of clause (i),**
 14 **the term ‘required annual pay-**
 15 **ment’ means the lesser of—**

16 **“(I) 90 percent of the min-**
 17 **imum required contribution**
 18 **(without regard to any waiver**
 19 **under section 412(c)) to the**

1 **plan for the plan year under**
2 **this section, or**

3 **“(II) in the case of a plan**
4 **year beginning after 2007, 100**
5 **percent of the minimum re-**
6 **quired contribution (without**
7 **regard to any waiver under**
8 **section 412(c)) to the plan for**
9 **the preceding plan year.**

10 **Subclause (II) shall not apply if**
11 **the preceding plan year referred**
12 **to in such clause was not a year**
13 **of 12 months.**

14 **“(E) FISCAL YEARS AND SHORT**
15 **YEARS.—**

16 **“(i) FISCAL YEARS.—In applying**
17 **this paragraph to a plan year be-**
18 **ginning on any date other than**
19 **January 1, there shall be sub-**
20 **stituted for the months specified**
21 **in this paragraph, the months**
22 **which correspond thereto.**

23 **“(ii) SHORT PLAN YEAR.—This**
24 **subparagraph shall be applied to**
25 **plan years of less than 12 months**

1 in accordance with regulations
2 prescribed by the Secretary.

3 “(4) LIQUIDITY REQUIREMENT IN CON-
4 NECTION WITH QUARTERLY CONTRIBU-
5 TIONS.—

6 “(A) IN GENERAL.—A plan to which
7 this paragraph applies shall be treat-
8 ed as failing to pay the full amount of
9 any required installment under para-
10 graph (3) to the extent that the value
11 of the liquid assets paid in such in-
12 stallment is less than the liquidity
13 shortfall (whether or not such liquid-
14 ity shortfall exceeds the amount of
15 such installment required to be paid
16 but for this paragraph).

17 “(B) PLANS TO WHICH PARAGRAPH
18 APPLIES.—This paragraph shall apply
19 to a plan (other than a plan that
20 would be described in subsection
21 (f)(2)(B) if ‘100’ were substituted for
22 ‘500’ therein) which—

23 “(i) is required to pay install-
24 ments under paragraph (3) for a
25 plan year, and

1 “(ii) has a liquidity shortfall
2 for any quarter during such plan
3 year.

4 “(C) PERIOD OF UNDERPAYMENT.—
5 For purposes of paragraph (3)(A), any
6 portion of an installment that is
7 treated as not paid under subpara-
8 graph (A) shall continue to be treated
9 as unpaid until the close of the quar-
10 ter in which the due date for such in-
11 stallment occurs.

12 “(D) LIMITATION ON INCREASE.—If
13 the amount of any required install-
14 ment is increased by reason of sub-
15 paragraph (A), in no event shall such
16 increase exceed the amount which,
17 when added to prior installments for
18 the plan year, is necessary to increase
19 the funding target attainment per-
20 centage of the plan for the plan year
21 (taking into account the expected in-
22 crease in funding target due to bene-
23 fits accruing or earned during the
24 plan year) to 100 percent.

1 **“(E) DEFINITIONS.—For purposes**
2 **of this subparagraph:**

3 **“(i) LIQUIDITY SHORTFALL.—The**
4 **term ‘liquidity shortfall’ means,**
5 **with respect to any required in-**
6 **stallment, an amount equal to the**
7 **excess (as of the last day of the**
8 **quarter for which such install-**
9 **ment is made) of—**

10 **“(I) the base amount with**
11 **respect to such quarter, over**

12 **“(II) the value (as of such**
13 **last day) of the plan’s liquid**
14 **assets.**

15 **“(ii) BASE AMOUNT.—**

16 **“(I) IN GENERAL.—The term**
17 **‘base amount’ means, with re-**
18 **spect to any quarter, an**
19 **amount equal to 3 times the**
20 **sum of the adjusted disburse-**
21 **ments from the plan for the 12**
22 **months ending on the last day**
23 **of such quarter.**

24 **“(II) SPECIAL RULE.—If the**
25 **amount determined under**

1 subclause (I) exceeds an
2 amount equal to 2 times the
3 sum of the adjusted disburse-
4 ments from the plan for the 36
5 months ending on the last day
6 of the quarter and an enrolled
7 actuary certifies to the satis-
8 faction of the Secretary that
9 such excess is the result of
10 nonrecurring circumstances,
11 the base amount with respect
12 to such quarter shall be deter-
13 mined without regard to
14 amounts related to those non-
15 recurring circumstances.

16 “(iii) **DISBURSEMENTS FROM THE**
17 **PLAN.**—The term ‘disbursements
18 from the plan’ means all disburse-
19 ments from the trust, including
20 purchases of annuities, payments
21 of single sums and other benefits,
22 and administrative expenses.

23 “(iv) **ADJUSTED DISBURSE-**
24 **MENTS.**—The term ‘adjusted dis-
25 bursements’ means disbursements

1 from the plan reduced by the
2 product of—

3 “(I) the plan’s funding tar-
4 get attainment percentage for
5 the plan year, and

6 “(II) the sum of the pur-
7 chases of annuities, payments
8 of single sums, and such other
9 disbursements as the Sec-
10 retary shall provide in regula-
11 tions.

12 “(v) LIQUID ASSETS.—The term
13 ‘liquid assets’ means cash, mar-
14 ketable securities, and such other
15 assets as specified by the Sec-
16 retary in regulations.

17 “(vi) QUARTER.—The term
18 ‘quarter’ means, with respect to
19 any required installment, the 3-
20 month period preceding the
21 month in which the due date for
22 such installment occurs.

23 “(F) REGULATIONS.—The Secretary
24 may prescribe such regulations as are

1 **necessary to carry out this para-**
2 **graph.**

3 **“(k) IMPOSITION OF LIEN WHERE FAILURE TO**
4 **MAKE REQUIRED CONTRIBUTIONS.—**

5 **“(1) IN GENERAL.—In the case of a plan**
6 **to which this subsection applies, if—**

7 **“(A) any person fails to make a**
8 **contribution payment required by**
9 **section 412 and this section before**
10 **the due date for such payment, and**

11 **“(B) the unpaid balance of such**
12 **payment (including interest), when**
13 **added to the aggregate unpaid bal-**
14 **ance of all preceding such payments**
15 **for which payment was not made be-**
16 **fore the due date (including interest),**
17 **exceeds \$1,000,000,**

18 **then there shall be a lien in favor of the**
19 **plan in the amount determined under**
20 **paragraph (3) upon all property and**
21 **rights to property, whether real or per-**
22 **sonal, belonging to such person and any**
23 **other person who is a member of the**
24 **same controlled group of which such per-**
25 **son is a member.**

1 **“(2) PLANS TO WHICH SUBSECTION AP-**
2 **PLIES.—This subsection shall apply to a**
3 **defined benefit plan (other than a multi-**
4 **employer plan) for any plan year for**
5 **which the funding target attainment per-**
6 **centage (as defined in subsection (d)(2))**
7 **of such plan is less than 100 percent. This**
8 **subsection shall not apply to any plan to**
9 **which section 4021 of the Employee Re-**
10 **tirement Income Security Act of 1974**
11 **does not apply (as such section is in ef-**
12 **fect on the date of the enactment of the**
13 **Pension Protection Act of 2005).**

14 **“(3) AMOUNT OF LIEN.—For purposes of**
15 **paragraph (1), the amount of the lien**
16 **shall be equal to the aggregate unpaid**
17 **balance of contribution payments re-**
18 **quired under this section and section 412**
19 **for which payment has not been made be-**
20 **fore the due date.**

21 **“(4) NOTICE OF FAILURE; LIEN.—**

22 **“(A) NOTICE OF FAILURE.—A person**
23 **committing a failure described in**
24 **paragraph (1) shall notify the Pension**
25 **Benefit Guaranty Corporation of such**

1 failure within 10 days of the due date
2 for the required contribution pay-
3 ment.

4 “(B) PERIOD OF LIEN.—The lien im-
5 posed by paragraph (1) shall arise on
6 the due date for the required con-
7 tribution payment and shall continue
8 until the last day of the first plan
9 year in which the plan ceases to be
10 described in paragraph (1)(B). Such
11 lien shall continue to run without re-
12 gard to whether such plan continues
13 to be described in paragraph (2) dur-
14 ing the period referred to in the pre-
15 ceding sentence.

16 “(C) CERTAIN RULES TO APPLY.—
17 Any amount with respect to which a
18 lien is imposed under paragraph (1)
19 shall be treated as taxes due and
20 owing the United States and rules
21 similar to the rules of subsections (c),
22 (d), and (e) of section 4068 of the Em-
23 ployee Retirement Income Security
24 Act of 1974 shall apply with respect to

1 a lien imposed by subsection (a) and
2 the amount with respect to such lien.

3 **“(5) ENFORCEMENT.—Any lien created**
4 **under paragraph (1) may be perfected**
5 **and enforced only by the Pension Benefit**
6 **Guaranty Corporation, or at the direction**
7 **of the Pension Benefit Guaranty Corpora-**
8 **tion, by the contributing sponsor (or any**
9 **member of the controlled group of the**
10 **contributing sponsor).**

11 **“(6) DEFINITIONS.—For purposes of**
12 **this subsection—**

13 **“(A) CONTRIBUTION PAYMENT.—The**
14 **term ‘contribution payment’ means,**
15 **in connection with a plan, a contribu-**
16 **tion payment required to be made to**
17 **the plan, including any required in-**
18 **stallment under paragraphs (3) and**
19 **(4) of subsection (i).**

20 **“(B) DUE DATE; REQUIRED INSTALL-**
21 **MENT.—The terms ‘due date’ and ‘re-**
22 **quired installment’ have the mean-**
23 **ings given such terms by subsection**
24 **(j), except that in the case of a pay-**
25 **ment other than a required install-**

1 ment, the due date shall be the date
2 such payment is required to be made
3 under section 430.

4 “(C) CONTROLLED GROUP.—The
5 term ‘controlled group’ means any
6 group treated as a single employer
7 under subsections (b), (c), (m), and (o)
8 of section 414.

9 “(I) QUALIFIED TRANSFERS TO HEALTH BEN-
10 EFIT ACCOUNTS.—In the case of a qualified
11 transfer (as defined in section 420), any assets
12 so transferred shall not, for purposes of this
13 section, be treated as assets in the plan.”.

14 (b) EFFECTIVE DATE.—The amendments
15 made by this section shall apply with respect
16 to plan years beginning after December 31,
17 2006.

18 SEC. 113. BENEFIT LIMITATIONS UNDER SINGLE-EM-
19 PLOYER PLANS.

20 (a) PROHIBITION OF SHUTDOWN BENEFITS
21 AND OTHER UNPREDICTABLE CONTINGENT EVENT
22 BENEFITS UNDER SINGLE-EMPLOYER PLANS.—

23 (1) IN GENERAL.—Part III of sub-
24 chapter D of chapter 1 of the Internal

1 **Revenue Code of 1986 (relating to de-**
 2 **ferred compensation, etc.) is amended—**

3 **(A) by striking the heading and**
 4 **inserting the following:**

5 **“PART III—RULES RELATING TO MINIMUM FUND-**
 6 **ING STANDARDS AND BENEFIT LIMITATIONS**

“Subpart A. Minimum funding standards for pension plans.
 7 **“Subpart B. Benefit limitations under single-employer plans.**

8 **“Subpart A—Minimum Funding Standards for**
 9 **Pension Plans**

“Sec. 430. Minimum funding standards for single-employer de-
 10 **defined benefit pension plans.”, and**

11 **(B) by adding at the end the fol-**
 12 **lowing new subpart:**

13 **“Subpart B—Benefit Limitations Under Single-**
 14 **employer Plans**

“Sec. 436. Prohibition of shutdown benefits and other unpre-
 15 **dictable contingent event benefits under single-**
 16 **employer plans.**

17 **“SEC. 436. PROHIBITION OF SHUTDOWN BENEFITS AND**
 18 **OTHER UNPREDICTABLE CONTINGENT**
 19 **EVENT BENEFITS UNDER SINGLE-EMPLOYER**
 20 **PLANS.**

21 **“(a) IN GENERAL.—No pension plan which**
 22 **is defined benefit plan (other than a multiem-**
 23 **ployer plan) may provide benefits to which**

1 participants are entitled solely by reason of
2 the occurrence of—

3 “(1) a plant shutdown, or

4 “(2) any other unpredictable contin-
5 gent event.

6 “(b) UNPREDICTABLE CONTINGENT EVENT.—

7 For purposes of this subsection, the term ‘un-
8 predictable contingent event’ means an event
9 other than—

10 “(1) attainment of any age, perform-
11 ance of any service, receipt or derivation
12 of any compensation, or the occurrence
13 of death or disability, or

14 “(2) an event which is reasonably and
15 reliably predictable (as determined by
16 the Secretary).”.

17 (2) CLERICAL AMENDMENT.—The table
18 of parts for suchapter D of chapter 1 of
19 the Internal Revenue Code of 1986 is
20 amended by adding at the end the fol-
21 lowing new item:

“PART III_ RULES RELATING TO MINIMUM FUNDING STANDARDS
AND BENEFIT LIMITATIONS”.

22 (b) OTHER LIMITS ON BENEFITS AND BENEFIT
23 ACCRUALS.—

1 **(1) IN GENERAL.—Subpart B of part III**
2 **of subchapter D of chapter 1 of such**
3 **Code is amended by adding at the end**
4 **the following:**

5 **“SEC. 437. FUNDING-BASED LIMITS ON BENEFITS AND BEN-**
6 **EFIT ACCRUALS UNDER SINGLE-EMPLOYER**
7 **PLANS.**

8 **“(a) LIMITATIONS ON PLAN AMENDMENTS IN-**
9 **CREASING LIABILITY FOR BENEFITS.—**

10 **“(1) IN GENERAL.—No amendment to a**
11 **defined benefit plan (other than a multi-**
12 **employer plan) which has the effect of in-**
13 **creasing liabilities of the plan by reason**
14 **of increases in benefits, establishment of**
15 **new benefits, changing the rate of benefit**
16 **accrual, or changing the rate at which**
17 **benefits become nonforfeitable to the**
18 **plan may take effect during any plan**
19 **year if the funding target attainment per-**
20 **centage as of the valuation date of the**
21 **plan for such plan year is—**

22 **“(A) less than 80 percent, or**

23 **“(B) would be less than 80 percent**
24 **taking into account such amendment.**

1 **For purposes of this subparagraph, any**
2 **increase in benefits under the plan by**
3 **reason of an increase in the benefit rate**
4 **provided under the plan or on the basis**
5 **of an increase in compensation shall be**
6 **treated as effected by plan amendment.**

7 **“(2) EXEMPTION.—Paragraph (1) shall**
8 **cease to apply with respect to any plan**
9 **year, effective as of the first date of the**
10 **plan year (or if later, the effective date of**
11 **the amendment), upon payment by the**
12 **plan sponsor of a contribution (in addi-**
13 **tion to any minimum required contribu-**
14 **tion under section 430) equal to—**

15 **“(A) in the case of paragraph**
16 **(1)(A), the amount of the increase in**
17 **the funding target of the plan (under**
18 **section 430) for the plan year attrib-**
19 **utable to the amendment, and**

20 **“(B) in the case of paragraph**
21 **(1)(B), the amount sufficient to result**
22 **in a funding target attainment per-**
23 **centage of 80 percent.**

24 **“(b) FUNDING-BASED LIMITATION ON CER-**
25 **TAIN FORMS OF DISTRIBUTION.—**

1 **“(1) IN GENERAL.—A defined benefit**
2 **plan (other than a multiemployer plan)**
3 **shall provide that, in any case in which**
4 **the plan’s funding target attainment per-**
5 **centage as of the valuation date of the**
6 **plan for a plan year is less than 80 per-**
7 **cent, the plan may not after such date**
8 **pay any payment described in section**
9 **401(a)(32)(B).**

10 **“(2) EXCEPTION.—Paragraph (1) shall**
11 **not apply to any plan for any plan year if**
12 **the terms of such plan (as in effect for**
13 **the period beginning on June 29, 2005,**
14 **and ending with such plan year) provide**
15 **for no benefit accruals with respect to**
16 **any participant during such period.**

17 **“(c) LIMITATIONS ON BENEFIT ACCRUALS FOR**
18 **PLANS WITH SEVERE FUNDING SHORTFALLS.—A**
19 **defined benefit plan (other than a multiem-**
20 **ployer plan) shall provide that, in any case in**
21 **which the plan’s funding target attainment**
22 **percentage as of the valuation date of the**
23 **plan for a plan year is less than 60 percent,**
24 **all future benefit accruals under the plan**
25 **shall cease as of such date.**

1 “(d) **NEW PLANS.—**Subsections (a) and (c)
2 shall not apply to a plan for the first 5 plan
3 years of the plan. For purposes of this sub-
4 section, the reference in this subsection to a
5 plan shall include a reference to any prede-
6 cessor plan.

7 “(e) **PRESUMED UNDERFUNDING FOR PUR-**
8 **POSES OF BENEFIT LIMITATIONS BASED ON PRIOR**
9 **YEAR’S FUNDING STATUS.—**

10 “(1) **PRESUMPTION OF CONTINUED**
11 **UNDERFUNDING.—**In any case in which a
12 **benefit limitation under subsection (a),**
13 **(b), or (c) has been applied to a plan with**
14 **respect to the plan year preceding the**
15 **current plan year, the funding target at-**
16 **tainment percentage of the plan as of the**
17 **valuation date of the plan for the current**
18 **plan year shall be presumed to be equal**
19 **to the funding target attainment percent-**
20 **age of the plan as of the valuation date of**
21 **the plan for the preceding plan year until**
22 **the enrolled actuary of the plan certifies**
23 **the actual funding target attainment per-**
24 **centage of the plan as of the valuation**
25 **date of the plan for the current plan year.**

1 **“(2) PRESUMPTION OF UNDERFUNDING**
2 **AFTER 10TH MONTH.—In any case in which**
3 **no such certification is made with re-**
4 **spect to the plan before the first day of**
5 **the 10th month of the current plan year,**
6 **for purposes of subsections (a), (b), and**
7 **(c), the plan’s funding target attainment**
8 **percentage shall be conclusively pre-**
9 **sumed to be less than 60 percent as of the**
10 **first day of such 10th month, and such**
11 **day shall be deemed, for purposes of such**
12 **subsections, to be the valuation date of**
13 **the plan for the current plan year.**

14 **“(3) PRESUMPTION OF UNDERFUNDING**
15 **AFTER 4TH MONTH FOR NEARLY UNDER-**
16 **FUNDED PLANS.—In any case in which—**

17 **“(A) a benefit limitation under**
18 **subsection (a), (b), or (c) did not**
19 **apply to a plan with respect to the**
20 **plan year preceding the current plan**
21 **year, but the funding target attain-**
22 **ment percentage of the plan for such**
23 **preceding plan year was not more**
24 **than 10 percentage points greater**
25 **than the percentage which would**

1 **have caused such subsection to apply**
2 **to the plan with respect to such pre-**
3 **ceding plan year, and**

4 **“(B) as of the first day of the 4th**
5 **month of the current plan year, the**
6 **enrolled actuary of the plan has not**
7 **certified the actual funding target at-**
8 **tainment percentage of the plan as of**
9 **the valuation date of the plan for the**
10 **current plan year,**

11 **until the enrolled actuary so certifies,**
12 **such first day shall be deemed, for pur-**
13 **poses of such subsection, to be the valu-**
14 **ation date of the plan for the current**
15 **plan year and the funding target attain-**
16 **ment percentage of the plan as of such**
17 **first day shall, for purposes of such sub-**
18 **section, be presumed to be equal to 10**
19 **percentage points less than the funding**
20 **target attainment percentage of the plan**
21 **as of the valuation date of the plan for**
22 **such preceding plan year.**

23 **“(f) RESTORATION BY PLAN AMENDMENT OF**
24 **BENEFITS OR BENEFIT ACCRUAL.—In any case in**
25 **which a prohibition under subsection (b) of**

1 the payment of lump sum distributions or
2 benefits in any other accelerated form or a
3 cessation of benefit accruals under subsection
4 (c) is applied to a plan with respect to any
5 plan year and such prohibition or cessation,
6 as the case may be, ceases to apply to any sub-
7 sequent plan year, the plan may provide for
8 the resumption of such benefit payment or
9 such benefit accrual only by means of the
10 adoption of a plan amendment after the valu-
11 ation date of the plan for such subsequent
12 plan year. The preceding sentence shall not
13 apply to a prohibition or cessation required
14 by reason of subsection (e).

15 “(g) FUNDING TARGET ATTAINMENT PER-
16 CENTAGE.—

17 “(1) IN GENERAL.—For purposes of this
18 section, the term ‘funding target attain-
19 ment percentage’ means, with respect to
20 any plan for any plan year, the ratio (ex-
21 pressed as a percentage) which—

22 “(A) the value of plan assets for
23 the plan year (as determined under
24 section 430(g)) reduced by the pre-
25 funding balance and the funding

1 **standard carryover balance (within**
2 **the meaning of section 430(f)), bears**
3 **to**

4 **“(B) the funding target of the plan**
5 **for the plan year (as determined**
6 **under section 430(d)(1), but without**
7 **regard to section 430(i)(1)).**

8 **“(2) APPLICATION TO PLANS WHICH ARE**
9 **FULLY FUNDED WITHOUT REGARD TO REDUC-**
10 **TIONS FOR FUNDING BALANCES.—In the case**
11 **of a plan for any plan year, if the funding**
12 **target attainment percentage is 100 per-**
13 **cent or more (determined without regard**
14 **to this paragraph and without regard to**
15 **the reduction under paragraph (1)(A) for**
16 **the pre-funding balance and the funding**
17 **standard carryover balance), paragraph**
18 **(1) shall be applied without regard to**
19 **such reduction.”.**

20 **(2) CLERICAL AMENDMENT.—The table**
21 **of sections for such subpart is amended**
22 **by adding at the end the following new**
23 **item:**

“Sec. 437. Funding-based limits on benefits and benefit accru-
 als under single-employer plans.”.

1 **(c) SPECIAL RULE FOR PLAN AMENDMENTS.—**

2 **A plan shall not fail to meet the requirements**
3 **of section 411(d)(6) of the Internal Revenue**
4 **Code of 1986 or section 204(g) of the Employee**
5 **Retirement Income Security Act of 1974 solely**
6 **by reason of the adoption by the plan of an**
7 **amendment necessary to meet the require-**
8 **ments of the amendments made by this sec-**
9 **tion.**

10 **(d) EFFECTIVE DATE.—**

11 **(1) SHUTDOWN BENEFITS.—Except as**
12 **provided in paragraph (3), the amend-**
13 **ments made by subsection (a) shall apply**
14 **with respect to plant shutdowns, or other**
15 **unpredictable contingent events, occur-**
16 **ring after December 31, 2006.**

17 **(2) OTHER BENEFITS.—Except as pro-**
18 **vided in paragraph (3), the amendments**
19 **made by subsection (b) shall apply with**
20 **respect to plan years beginning after De-**
21 **cember 31, 2006.**

22 **(3) COLLECTIVE BARGAINING EXCEP-**
23 **TION.—In the case of a plan maintained**
24 **pursuant to 1 or more collective bar-**
25 **gaining agreements between employee**

1 **representatives and 1 or more employers**
2 **ratified before the date of the enactment**
3 **of this Act, the amendments made by this**
4 **subsection shall not apply to plan years**
5 **beginning before the earlier of—**

6 **(A) the later of—**

7 **(i) the date on which the last**
8 **collective bargaining agreement**
9 **relating to the plan terminates**
10 **(determined without regard to**
11 **any extension thereof agreed to**
12 **after the date of the enactment of**
13 **this Act), or**

14 **(ii) the first day of the first**
15 **plan year to which the amend-**
16 **ments made by this subsection**
17 **would (but for this subparagraph)**
18 **apply, or**

19 **(B) January 1, 2009.**

20 **For purposes of clause (i), any plan**
21 **amendment made pursuant to a collec-**
22 **tive bargaining agreement relating to the**
23 **plan which amends the plan solely to**
24 **conform to any requirement added by**
25 **this subsection shall not be treated as a**

1 **termination of such collective bargaining**
2 **agreement.**

3 **(e) SPECIAL RULE FOR 2007.—For purposes**
4 **of applying subsection (e) of section 437 of**
5 **such Code (as added by this section) to cur-**
6 **rent plan years (within the meaning of such**
7 **subsection) beginning in 2007, the modified**
8 **funded current liability percentage of the**
9 **plan for the preceding year shall be sub-**
10 **stituted for the funding target attainment**
11 **percentage of the plan for the preceding year.**
12 **For purposes of the preceding sentence, the**
13 **term “modified funded current liability per-**
14 **centage” means the funded current liability**
15 **percentage (as defined in section 412(l)(8) of**
16 **such Code), reduced as described in subpara-**
17 **graph (E) thereof in the case of a plan with**
18 **a funded current liability percentage (as so**
19 **defined and before such reduction) which is**
20 **less than 100 percent.**

21 **SEC. 114. TECHNICAL AND CONFORMING AMENDMENTS.**

22 **(a) AMENDMENTS RELATED TO QUALIFICA-**
23 **TION REQUIREMENTS.—**

1 **(1) Section 401(a)(29) of the Internal**
2 **Revenue Code of 1986 is amended to read**
3 **as follows:**

4 **“(29) BENEFIT LIMITATIONS ON PLANS IN**
5 **AT-RISK STATUS.—In the case of a defined**
6 **benefit plan (other than a multiemployer**
7 **plan) to which the requirements of sec-**
8 **tion 412 apply, the trust of which the**
9 **plan is a part shall not constitute a quali-**
10 **fied trust under this subsection unless**
11 **the plan meets the requirements of sec-**
12 **tions 436 and 437.”.**

13 **(2) Section 401(a)(32) of such Code is**
14 **amended—**

15 **(A) in subparagraph (A), by strik-**
16 **ing “412(m)(5)” each place it appears**
17 **and inserting “430(j)(4)”, and**

18 **(B) in subparagraph (C), by strik-**
19 **ing “section 412(m) by reason of para-**
20 **graph (5)(A) thereof” and inserting**
21 **“section 430(j)(3) by reason of section**
22 **430(j)(4)(A)”.**

23 **(3) Section 401(a)(33) of such Code is**
24 **amended—**

1 (A) in subparagraph (B)(i), by
2 striking “funded current liability per-
3 centage (as defined in section
4 412(l)(8))” and inserting “funding tar-
5 get attainment percentage (as defined
6 in section 430(d)(2))”,

7 (B) in subparagraph (B)(iii), by
8 striking “subsection 412(c)(8)” and in-
9 serting “section 412(d)(2)”, and

10 (C) in subparagraph (D), by strik-
11 ing “section 412(c)(11) (without re-
12 gard to subparagraph (B) thereof)”
13 and inserting “section 412(b) (without
14 regard to paragraph (2) thereof”).

15 (b) VESTING RULES.—Section 411 of such
16 Code is amended—

17 (1) by striking “section 412(c)(8)” in
18 subsection (a)(3)(C) and inserting “sec-
19 tion 412(d)(2)”,

20 (2) in subsection (b)(1)(F)—

21 (A) by striking “paragraphs (2)
22 and (3) of section 412(i)” in clause (ii)
23 and inserting “subparagraphs (B) and
24 (C) of section 412(e)(3)”, and

1 **(B) by striking “paragraphs (4),**
2 **(5), and (6) of section 412(i)” and in-**
3 **serting “subparagraphs (D), (E), and**
4 **(F) of section 412(e)(3)”, and**
5 **(3) by striking “section 412(c)(8)” in**
6 **subsection (d)(6)(A) and inserting “sec-**
7 **tion 412(d)(2)”.**

8 **(c) MERGERS AND CONSOLIDATIONS OF**
9 **PLANS.—Subclause (I) of section 414(l)(2)(B)(i)**
10 **of such Code is amended to read as follows:**

11 **“(I) the amount deter-**
12 **mined under section**
13 **431(c)(6)(A)(i) in the case of a**
14 **multiemployer plan (and the**
15 **sum of the target liability**
16 **amount and target normal**
17 **cost determined under section**
18 **430 in the case of any other**
19 **plan), over”.**

20 **(d) TRANSFER OF EXCESS PENSION ASSETS**
21 **TO RETIREE HEALTH ACCOUNTS.—**

22 **(1) Section 420(e)(2) of such Code is**
23 **amended to read as follows:**

1 **“(2) EXCESS PENSION ASSETS.—The**
2 **term ‘excess pension assets’ means the ex-**
3 **cess (if any) of—**

4 **“(A) the lesser of—**

5 **“(i) the fair market value of**
6 **the plan’s assets (reduced by the**
7 **pre-funding balance and the fund-**
8 **ing standard carryover balance,**
9 **as determined under section**
10 **430(f)), or**

11 **“(ii) the value of plan assets**
12 **as determined under section**
13 **430(g)(3) (reduced by the pre-**
14 **funding balance and the funding**
15 **standard carryover balance, as**
16 **determined under section 430(f)),**
17 **over**

18 **“(B) 125 percent of the sum of the**
19 **target liability amount and the target**
20 **normal cost determined under sec-**
21 **tion 430 for such plan year.”.**

22 **(2) Section 420(e)(4) of such Code is**
23 **amended to read as follows:**

24 **“(4) COORDINATION WITH SECTION 430.—**

25 **In the case of a qualified transfer, any as-**

1 sets so transferred shall not, for purposes
2 of this section, be treated as assets in the
3 plan.”.

4 (e) EXCISE TAXES.—

5 (1) IN GENERAL.—Subsections (a) and
6 (b) of section 4971 of such Code are
7 amended to read as follows:

8 “(a) INITIAL TAX.—If at any time during
9 any taxable year an employer maintains a
10 plan to which section 412 applies, there is
11 hereby imposed for the taxable year a tax
12 equal to—

13 “(1) in the case of a defined benefit
14 plan which is not a multiemployer plan,
15 10 percent of the aggregate unpaid min-
16 imum required contributions for all plan
17 years remaining unpaid as of the end of
18 any plan year ending with or within the
19 taxable year, and

20 “(2) in the case of a multiemployer
21 plan, 5 percent of the accumulated fund-
22 ing deficiency determined under section
23 431 as of the end of any plan year ending
24 with or within the taxable year.

25 “(b) ADDITIONAL TAX.—If—

1 **“(1) a tax is imposed under subsection**
2 **(a)(1) on any unpaid required minimum**
3 **contribution and such amount remains**
4 **unpaid as of the close of the taxable pe-**
5 **riod, or**

6 **“(2) a tax is imposed under subsection**
7 **(a)(2) on any accumulated funding defi-**
8 **ciency and the accumulated funding defi-**
9 **ciency is not corrected within the taxable**
10 **period,**

11 **there is hereby imposed a tax equal to 100**
12 **percent of the unpaid minimum required con-**
13 **tribution or accumulated funding deficiency,**
14 **whichever is applicable, to the extent not so**
15 **paid or corrected.”.**

16 **(2) Section 4971(c) of such Code is**
17 **amended—**

18 **(A) by striking “the last two sen-**
19 **tences of section 412(a)” in paragraph**
20 **(1) and inserting “section 431”, and**

21 **(B) by adding at the end the fol-**
22 **lowing new paragraph:**

23 **“(4) UNPAID MINIMUM REQUIRED CON-**
24 **TRIBUTION.—**

1 **“(A) IN GENERAL.—The term ‘un-**
2 **paid minimum required contribution’**
3 **means, with respect to any plan year,**
4 **any minimum required contribution**
5 **under section 430 for the plan year**
6 **which is not paid on or before the**
7 **due date (as determined under sec-**
8 **tion 430(j)(1)) for the plan year.**

9 **“(B) ORDERING RULE.—Any pay-**
10 **ment to or under a plan for any plan**
11 **year shall be allocated first to unpaid**
12 **minimum required contributions for**
13 **all preceding plan years in the order**
14 **in which such contributions became**
15 **due and then to the minimum re-**
16 **quired contribution under section 430**
17 **for the plan year.”.**

18 **(3) Section 4971(e)(1) of such Code is**
19 **amended by striking “section**
20 **412(b)(3)(A)” and inserting “section**
21 **412(a)(2)”.**

22 **(4) Section 4971(f)(1) of such Code is**
23 **amended—**

24 **(A) by striking “section 412(m)(5)”**
25 **and inserting “section 430(j)(4)”, and**

1 **(B) by striking “section 412(m)”**
2 **and inserting “section 430(j)(3)”.**

3 **(5) Section 4972(c)(7) of such Code is**
4 **amended by striking “except to the ex-**
5 **tent that such contributions exceed the**
6 **full-funding limitation (as defined in sec-**
7 **tion 412(c)(7), determined without regard**
8 **to subparagraph (A)(i)(I) thereof)” and in-**
9 **serting “except, in the case of a multiem-**
10 **ployer plan, to the extent that such con-**
11 **tributions exceed the full-funding limita-**
12 **tion (as defined in section 431(c)(6))”.**

13 **(f) REPORTING REQUIREMENTS.—Section**
14 **6059(b) of such Code is amended—**

15 **(1) by striking “the accumulated**
16 **funding deficiency (as defined in section**
17 **412(a))” in paragraph (2) and inserting**
18 **“the minimum required contribution de-**
19 **termined under section 430, or the accu-**
20 **mulated funding deficiency determined**
21 **under section 431,” and**

22 **(2) by striking paragraph (3)(B) and**
23 **inserting:**

24 **“(B) the requirements for reason-**
25 **able actuarial assumptions under sec-**

1 **tion 430(h)(1) or 431(c)(3), whichever**
2 **are applicable, have been complied**
3 **with,”.**

4 **(g) EFFECTIVE DATE.—The amendments**
5 **made by this section shall apply to years be-**
6 **ginning after December 31, 2006.**

7 **Subtitle C—Other Provisions**

8 **SEC. 121. MODIFICATION OF TRANSITION RULE TO PEN-**
9 **SION FUNDING REQUIREMENTS.**

10 **(a) IN GENERAL.—In the case of a plan**
11 **that—**

12 **(1) was not required to pay a variable**
13 **rate premium for the plan year beginning**
14 **in 1996,**

15 **(2) has not, in any plan year begin-**
16 **ning after 1995, merged with another**
17 **plan (other than a plan sponsored by an**
18 **employer that was in 1996 within the con-**
19 **trolled group of the plan sponsor); and**

20 **(3) is sponsored by a company that is**
21 **engaged primarily in the interurban or**
22 **interstate passenger bus service,**

23 **the rules described in subsection (b) shall**
24 **apply for any plan year beginning after De-**
25 **cember 31, 2006.**

1 **(b) MODIFIED RULES.—**The rules described
2 **in this subsection are as follows:**

3 **(1) For purposes of section 430(j)(3) of**
4 **the Internal Revenue Code of 1986 and**
5 **section 303(j)(3) of the Employee Retire-**
6 **ment Income Security Act of 1974, the**
7 **plan shall be treated as not having a**
8 **funding shortfall for any plan year.**

9 **(2) For purposes of—**

10 **(A) determining unfunded vested**
11 **benefits under section**
12 **4006(a)(3)(E)(iii) of such Act, and**

13 **(B) determining any present**
14 **value or making any computation**
15 **under section 412 of such Code or**
16 **section 302 of such Act,**

17 **the mortality table shall be the mortality**
18 **table used by the plan.**

19 **(3) Notwithstanding section**
20 **430(f)(4)(B) of such Code and section**
21 **303(f)(4)(B) of such Act, for purposes of**
22 **section 430(c)(4)(A)(ii) of such Code and**
23 **section 303(c)(4)(A)(ii) of such Act, the**
24 **value of plan assets is deemed to be such**
25 **amount, reduced by the amount of the**

1 **pre-funding balance if, pursuant to a**
 2 **binding written agreement with the Pen-**
 3 **sion Benefit Guaranty Corporation en-**
 4 **tered into before January 1, 2007, the**
 5 **funding standard carryover balance is**
 6 **not available to reduce the minimum re-**
 7 **quired contribution for the plan year.**

8 **(4) Section 430(c)(4)(B) of such Code**
 9 **and section 303(c)(4)(B) of such Act (relat-**
 10 **ing to phase-in of funding target for de-**
 11 **termination of funding shortfall) shall**
 12 **each be applied by substituting “2012” for**
 13 **“2011” therein and by substituting for the**
 14 **table therein the following:**

| In the case of a plan year beginning in calendar year: | The appli- cable per- centage is: |
|---|---|
| 2007 | 90 percent |
| 2008 | 92 percent |
| 2009 | 94 percent |
| 2010 | 96 percent |
| 2011 | 98 percent. |

15 **(c) DEFINITIONS.—Any term used in this**
 16 **section which is also used in section 430 of**
 17 **such Code or section 303 of such Act shall**
 18 **have the meaning provided such term in such**
 19 **section. If the same term has a different**
 20 **meaning in such Code and such Act, such**
 21 **term shall, for purposes of this section, have**

1 **the meaning provided by such Code when ap-**
2 **plied with respect to such Code and the mean-**
3 **ing provided by such Act when applied with**
4 **respect to such Act.**

5 **(d) SPECIAL RULE FOR 2006.—**

6 **(1) IN GENERAL.—Section 769(c)(3) of**
7 **the Retirement Protection Act of 1994, as**
8 **added by section 201 of the Pension**
9 **Funding Equity Act of 2004, is amended**
10 **by striking “and 2005” and inserting “,**
11 **2005, and 2006”.**

12 **(2) EFFECTIVE DATE.—The amendment**
13 **made by paragraph (1) shall apply to plan**
14 **years beginning after December 31, 2005.**

15 **(e) CONFORMING AMENDMENT.—**

16 **(1) Section 769 of the Retirement Pro-**
17 **tection Act of 1994 is amended by strik-**
18 **ing subsection (c).**

19 **(2) The amendment made by para-**
20 **graph (1) shall take effect on December**
21 **31, 2006, and shall apply to plan years be-**
22 **ginning after such date.**

1 SEC. 122. TREATMENT OF NONQUALIFIED DEFERRED COM-
2 PENSATION PLANS WHEN EMPLOYER DE-
3 FINED BENEFIT PLAN IN AT-RISK STATUS.

4 (a) IN GENERAL.—Subsection (b) of section
5 409A of the Internal Revenue Code of 1986
6 (providing rules relating to funding) is
7 amended by redesignating paragraphs (3) and
8 (4) as paragraphs (4) and (5), respectively, and
9 by inserting after paragraph (2) the following
10 new paragraph:

11 “(3) EMPLOYER’S DEFINED BENEFIT PLAN
12 IN AT-RISK STATUS.—If—

13 “(A) during any period in which a
14 defined benefit plan to which section
15 412 applies is in an at-risk status (as
16 defined in section 430(i)(3)), assets
17 are set aside (directly or indirectly)
18 in a trust (or other arrangement de-
19 termined by the Secretary), or trans-
20 ferred to such a trust or other ar-
21 rangement, for purposes of paying de-
22 ferred compensation under a non-
23 qualified deferred compensation plan
24 of the employer maintaining the de-
25 fined benefit plan, or

1 **“(B) a nonqualified deferred com-**
2 **pen- sation plan of the employer pro-**
3 **vides that assets will become re-**
4 **stricted to the provision of benefits**
5 **under the plan in connection with**
6 **such at-risk status (or other similar**
7 **financial measure determined by the**
8 **Secretary) of the defined benefit plan,**
9 **or assets are so restricted,**
10 **such assets shall for purposes of section**
11 **83 be treated as property transferred in**
12 **connection with the performance of serv-**
13 **ices whether or not such assets are avail-**
14 **able to satisfy claims of general creditors.**
15 **Subparagraph (A) shall not apply with re-**
16 **spect to any assets which are so set aside**
17 **before the defined benefit plan is in at-**
18 **risk status.”.**

19 **(b) CONFORMING AMENDMENTS.—Para-**
20 **graphs (4) and (5) of section 409A(b) of such**
21 **Code, as redesignated by subsection (a) of this**
22 **subsection, are each amended by striking**
23 **“paragraph (1) or (2)” each place it appears**
24 **and inserting “paragraph (1), (2), or (3)”.**

1 **(c) EFFECTIVE DATE.—The amendments**
2 **made by this section shall apply to transfers**
3 **or reservations of assets after December 31,**
4 **2005.**

5 **(d) SPECIAL RULE FOR 2006.—For purposes**
6 **of determining if a plan is in at-risk status**
7 **(within the meaning of section 409A of such**
8 **Code, as added by this section) for any plan**
9 **year beginning in 2006, such section shall be**
10 **applied by substituting the plan’s modified**
11 **funded current liability percentage for the**
12 **plan’s funding target attainment percentage.**
13 **For purposes of the preceding sentence, the**
14 **term “modified funded current liability per-**
15 **centage” means the funded current liability**
16 **percentage (as defined in section 412(l)(8) of**
17 **such Code), reduced as described in subpara-**
18 **graph (E) thereof.**

1 **TITLE II—FUNDING RULES FOR**
2 **MULTIEMPLOYER DEFINED**
3 **BENEFIT PLANS**

4 **Subtitle A—Amendments to Em-**
5 **ployee Retirement Income Secu-**
6 **rity Act of 1974**

7 **SEC. 201. FUNDING RULES FOR MULTIEMPLOYER DEFINED**
8 **BENEFIT PLANS.**

9 **[See section 201 of the bill as reported by**
10 **the Committee on Education and the Work-**
11 **force.]**

12 **SEC. 202. ADDITIONAL FUNDING RULES FOR MULTIEM-**
13 **PLOYER PLANS IN ENDANGERED OR CRIT-**
14 **ICAL STATUS.**

15 **[See section 202 of the bill as reported by**
16 **the Committee on Education and the Work-**
17 **force.]**

18 **SEC. 203. MEASURES TO FORESTALL INSOLVENCY OF MUL-**
19 **TIEMPLOYER PLANS.**

20 **[See section 203 of the bill as reported by**
21 **the Committee on Education and the Work-**
22 **force.]**

1 SEC. 204. WITHDRAWAL LIABILITY REFORMS.

2 [See section 204 of the bill as reported by
3 the Committee on Education and the Work-
4 force.]

5 SEC. 205. REMOVAL OF RESTRICTIONS WITH RESPECT TO
6 PROCEDURES APPLICABLE TO DISPUTES IN-
7 VOLVING WITHDRAWAL LIABILITY.

8 [See section 205 of the bill as reported by
9 the Committee on Education and the Work-
10 force.]

11 **Subtitle B—Amendments to**
12 **Internal Revenue Code of 1986**

13 SEC. 211. FUNDING RULES FOR MULTIEMPLOYER DEFINED
14 BENEFIT PLANS.

15 (a) IN GENERAL.—Subpart A of part III of
16 subchapter D of chapter 1 of the Internal Rev-
17 enue Code of 1986 (added by section 112 of
18 this Act) is amended by adding at the end the
19 following new section:

20 “SEC. 431. MINIMUM FUNDING STANDARDS FOR MULTIEM-
21 PLOYER PLANS.

22 “(a) IN GENERAL.—For purposes of section
23 412, the accumulated funding deficiency of a
24 multiemployer plan for any plan year is—

25 “(1) except as provided in paragraph
26 (2), the amount, determined as of the end

1 of the plan year, equal to the excess (if
2 any) of the total charges to the funding
3 standard account of the plan for all plan
4 years (beginning with the first plan year
5 for which section 412 applies to the plan)
6 over the total credits to such account for
7 such years, and

8 “(2) if the multiemployer plan is in re-
9 organization for any plan year, the accu-
10 mulated funding deficiency of the plan
11 determined under section 418B.

12 “(b) FUNDING STANDARD ACCOUNT.—

13 “(1) ACCOUNT REQUIRED.—Each multi-
14 employer plan to which section 412 ap-
15 plies shall establish and maintain a fund-
16 ing standard account. Such account shall
17 be credited and charged solely as pro-
18 vided in this section.

19 “(2) CHARGES TO ACCOUNT.—For a plan
20 year, the funding standard account shall
21 be charged with the sum of—

22 “(A) the normal cost of the plan
23 for the plan year,

1 **“(B) the amounts necessary to am-**
2 **ortize in equal annual installments**
3 **(until fully amortized)—**

4 **“(i) in the case of a plan in ex-**
5 **istence on January 1, 1974, the**
6 **unfunded past service liability**
7 **under the plan on the first day of**
8 **the first plan year to which sec-**
9 **tion 412 applies, over a period of**
10 **40 plan years,**

11 **“(ii) in the case of a plan**
12 **which comes into existence after**
13 **January 1, 1974, the unfunded**
14 **past service liability under the**
15 **plan on the first day of the first**
16 **plan year to which section 412 ap-**
17 **plies, over a period of 15 plan**
18 **years,**

19 **“(iii) separately, with respect**
20 **to each plan year, the net in-**
21 **crease (if any) in unfunded past**
22 **service liability under the plan**
23 **arising from plan amendments**
24 **adopted in such year, over a pe-**
25 **riod of 15 plan years,**

1 “(iv) separately, with respect
2 to each plan year, the net experi-
3 ence loss (if any) under the plan,
4 over a period of 15 plan years,
5 and

6 “(v) separately, with respect
7 to each plan year, the net loss (if
8 any) resulting from changes in ac-
9 tuarial assumptions used under
10 the plan, over a period of 15 plan
11 years,

12 “(C) the amount necessary to am-
13 ortize each waived funding deficiency
14 (within the meaning of section
15 412(c)(3)) for each prior plan year in
16 equal annual installments (until fully
17 amortized) over a period of 15 plan
18 years,

19 “(D) the amount necessary to am-
20 ortize in equal annual installments
21 (until fully amortized) over a period
22 of 5 plan years any amount credited
23 to the funding standard account
24 under section 412(b)(3)(D) (as in ef-
25 fect on the day before the date of the

1 enactment of the Pension Protection
2 Act of 2005), and

3 “(E) the amount necessary to am-
4 ortize in equal annual installments
5 (until fully amortized) over a period
6 of 20 years the contributions which
7 would be required to be made under
8 the plan but for the provisions of sec-
9 tion 412(c)(7)(A)(i)(I) (as in effect on
10 the day before the date of the enact-
11 ment of the Pension Protection Act of
12 2005).

13 “(3) CREDITS TO ACCOUNT.—For a plan
14 year, the funding standard account shall
15 be credited with the sum of—

16 “(A) the amount considered con-
17 tributed by the employer to or under
18 the plan for the plan year,

19 “(B) the amount necessary to am-
20 ortize in equal annual installments
21 (until fully amortized)—

22 “(i) separately, with respect to
23 each plan year, the net decrease
24 (if any) in unfunded past service
25 liability under the plan arising

1 from plan amendments adopted
2 in such year, over a period of 15
3 plan years,

4 “(ii) separately, with respect
5 to each plan year, the net experi-
6 ence gain (if any) under the plan,
7 over a period of 15 plan years,
8 and

9 “(iii) separately, with respect
10 to each plan year, the net gain (if
11 any) resulting from changes in ac-
12 tuarial assumptions used under
13 the plan, over a period of 15 plan
14 years,

15 “(C) the amount of the waived
16 funding deficiency (within the mean-
17 ing of section 412(c)(3)) for the plan
18 year, and

19 “(D) in the case of a plan year for
20 which the accumulated funding defi-
21 ciency is determined under the fund-
22 ing standard account if such plan
23 year follows a plan year for which
24 such deficiency was determined
25 under the alternative minimum fund-

1 ing standard under section 412(g) (as
2 in effect on the day before the date of
3 the enactment of the Pension Protec-
4 tion Act of 2005), the excess (if any) of
5 any debit balance in the funding
6 standard account (determined with-
7 out regard to this subparagraph) over
8 any debit balance in the alternative
9 minimum funding standard account.

10 “(4) SPECIAL RULE FOR AMOUNTS FIRST
11 AMORTIZED TO PLAN YEARS BEFORE 2007.—In
12 the case of any amount amortized under
13 section 412(b) (as in effect on the day be-
14 fore the date of the enactment of the Pen-
15 sion Protection Act of 2005) over any pe-
16 riod beginning with a plan year begin-
17 ning before 2007, in lieu of the amortiza-
18 tion described in paragraphs (2)(B) and
19 (3)(B), such amount shall continue to be
20 amortized under such section as so in ef-
21 fect.

22 “(5) COMBINING AND OFFSETTING
23 AMOUNTS TO BE AMORTIZED.—Under regula-
24 tions prescribed by the Secretary,
25 amounts required to be amortized under

1 paragraph (2) or paragraph (3), as the
2 case may be—

3 “(A) may be combined into one
4 amount under such paragraph to be
5 amortized over a period determined
6 on the basis of the remaining amorti-
7 zation period for all items entering
8 into such combined amount, and

9 “(B) may be offset against
10 amounts required to be amortized
11 under the other such paragraph, with
12 the resulting amount to be amortized
13 over a period determined on the basis
14 of the remaining amortization peri-
15 ods for all items entering into which-
16 ever of the two amounts being offset
17 is the greater.

18 “(6) INTEREST.—Except as provided in
19 subsection (c)(9), the funding standard
20 account (and items therein) shall be
21 charged or credited (as determined
22 under regulations prescribed by the Sec-
23 retary) with interest at the appropriate
24 rate consistent with the rate or rates of

1 interest used under the plan to determine
2 costs.

3 “(7) CERTAIN AMORTIZATION CHARGES
4 AND CREDITS.—In the case of a plan which,
5 immediately before the date of the enact-
6 ment of the Multiemployer Pension Plan
7 Amendments Act of 1980, was a multiem-
8 ployer plan (within the meaning of sec-
9 tion 414(f) as in effect immediately before
10 such date)—

11 “(A) any amount described in
12 paragraph (2)(B)(ii), (2)(B)(iii), or
13 (3)(B)(i) of this subsection which
14 arose in a plan year beginning before
15 such date shall be amortized in equal
16 annual installments (until fully amor-
17 tized) over 40 plan years, beginning
18 with the plan year in which the
19 amount arose,

20 “(B) any amount described in
21 paragraph (2)(B)(iv) or (3)(B)(ii) of
22 this subsection which arose in a plan
23 year beginning before such date shall
24 be amortized in equal annual install-
25 ments (until fully amortized) over 20

1 **plan years, beginning with the plan**
2 **year in which the amount arose,**

3 **“(C) any change in past service li-**
4 **ability which arises during the period**
5 **of 3 plan years beginning on or after**
6 **such date, and results from a plan**
7 **amendment adopted before such date,**
8 **shall be amortized in equal annual in-**
9 **stallments (until fully amortized) over**
10 **40 plan years, beginning with the**
11 **plan year in which the change arises,**
12 **and**

13 **“(D) any change in past service li-**
14 **ability which arises during the period**
15 **of 2 plan years beginning on or after**
16 **such date, and results from the**
17 **changing of a group of participants**
18 **from one benefit level to another ben-**
19 **efit level under a schedule of plan**
20 **benefits which—**

21 **“(i) was adopted before such**
22 **date, and**

23 **“(ii) was effective for any plan**
24 **participant before the beginning**

1 of the first plan year beginning
2 on or after such date,
3 shall be amortized in equal annual in-
4 stallments (until fully amortized) over
5 40 plan years, beginning with the
6 plan year in which the change arises.

7 “(8) SPECIAL RULES RELATING TO
8 CHARGES AND CREDITS TO FUNDING STAND-
9 ARD ACCOUNT.—For purposes of this sec-
10 tion—

11 “(A) WITHDRAWAL LIABILITY.—Any
12 amount received by a multiemployer
13 plan in payment of all or part of an
14 employer’s withdrawal liability under
15 part 1 of subtitle E of title IV of the
16 Employee Retirement Income Secu-
17 rity Act of 1974 shall be considered
18 an amount contributed by the em-
19 ployer to or under the plan. The Sec-
20 retary may prescribe by regulation
21 additional charges and credits to a
22 multiemployer plan’s funding stand-
23 ard account to the extent necessary
24 to prevent withdrawal liability pay-

1 **ments from being unduly reflected as**
2 **advance funding for plan liabilities.**

3 **“(B) ADJUSTMENTS WHEN A MULTI-**
4 **EMPLOYER PLAN LEAVES REORGANIZA-**
5 **TION.—If a multiemployer plan is not**
6 **in reorganization in the plan year but**
7 **was in reorganization in the imme-**
8 **diately preceding plan year, any bal-**
9 **ance in the funding standard account**
10 **at the close of such immediately pre-**
11 **ceding plan year—**

12 **“(i) shall be eliminated by an**
13 **offsetting credit or charge (as the**
14 **case may be), but**

15 **“(ii) shall be taken into ac-**
16 **count in subsequent plan years by**
17 **being amortized in equal annual**
18 **installments (until fully amor-**
19 **tized) over 30 plan years.**

20 **The preceding sentence shall not**
21 **apply to the extent of any accumu-**
22 **lated funding deficiency under sec-**
23 **tion 418B(a) as of the end of the last**
24 **plan year that the plan was in reorga-**
25 **nization.**

1 **“(C) PLAN PAYMENTS TO SUPPLE-**
2 **MENTAL PROGRAM OR WITHDRAWAL LI-**
3 **ABILITY PAYMENT FUND.—Any amount**
4 **paid by a plan during a plan year to**
5 **the Pension Benefit Guaranty Cor-**
6 **poration pursuant to section 4222 of**
7 **the Employee Retirement Income Se-**
8 **curity Act of 1974 or to a fund exempt**
9 **under section 501(c)(22) pursuant to**
10 **section 4223 of such Act shall reduce**
11 **the amount of contributions consid-**
12 **ered received by the plan for the plan**
13 **year.**

14 **“(D) INTERIM WITHDRAWAL LIABIL-**
15 **ITY PAYMENTS.—Any amount paid by**
16 **an employer pending a final deter-**
17 **mination of the employer’s with-**
18 **drawal liability under part 1 of sub-**
19 **title E of title IV of such Act and sub-**
20 **sequently refunded to the employer**
21 **by the plan shall be charged to the**
22 **funding standard account in accord-**
23 **ance with regulations prescribed by**
24 **the Secretary.**

1 **“(E) ELECTION FOR DEFERRAL OF**
2 **CHARGE FOR PORTION OF NET EXPERI-**
3 **ENCE LOSS.—If an election is in effect**
4 **under section 412(b)(7)(F) (as in effect**
5 **on the day before the date of the en-**
6 **actment of the Pension Protection**
7 **Act of 2005) for any plan year, the**
8 **funding standard account shall be**
9 **charged in the plan year to which the**
10 **portion of the net experience loss de-**
11 **ferred by such election was deferred**
12 **with the amount so deferred (and**
13 **paragraph (2)(B)(iv) shall not apply to**
14 **the amount so charged).**

15 **“(F) FINANCIAL ASSISTANCE.—Any**
16 **amount of any financial assistance**
17 **from the Pension Benefit Guaranty**
18 **Corporation to any plan, and any re-**
19 **payment of such amount, shall be**
20 **taken into account under this section**
21 **and section 412 in such manner as is**
22 **determined by the Secretary.**

23 **“(G) SHORT-TERM BENEFITS.—To**
24 **the extent that any plan amendment**
25 **increases the unfunded past service**

1 liability under the plan by reason of
2 an increase in benefits which are pay-
3 able under the plan during a period
4 that does not exceed 14 years, para-
5 graph (2)(B)(iii) shall be applied sepa-
6 rately with respect to such increase
7 in unfunded past service liability by
8 substituting the number of years of
9 the period during which such bene-
10 fits are payable for '15'.

11 **“(c) ADDITIONAL RULES.—**

12 **“(1) DETERMINATIONS TO BE MADE**
13 **UNDER FUNDING METHOD.—For purposes of**
14 **this section, normal costs, accrued liabil-**
15 **ity, past service liabilities, and experi-**
16 **ence gains and losses shall be determined**
17 **under the funding method used to deter-**
18 **mine costs under the plan.**

19 **“(2) VALUATION OF ASSETS.—**

20 **“(A) IN GENERAL.—For purposes of**
21 **this section, the value of the plan’s as-**
22 **sets shall be determined on the basis**
23 **of any reasonable actuarial method of**
24 **valuation which takes into account**
25 **fair market value and which is per-**

1 mitted under regulations prescribed
2 by the Secretary.

3 “(B) ELECTION WITH RESPECT TO
4 BONDS.—The value of a bond or other
5 evidence of indebtedness which is not
6 in default as to principal or interest
7 may, at the election of the plan ad-
8 ministrators, be determined on an am-
9 ortized basis running from initial cost
10 at purchase to par value at maturity
11 or earliest call date. Any election
12 under this subparagraph shall be
13 made at such time and in such man-
14 ner as the Secretary shall by regula-
15 tions provide, shall apply to all such
16 evidences of indebtedness, and may
17 be revoked only with the consent of
18 the Secretary.

19 “(3) ACTUARIAL ASSUMPTIONS MUST BE
20 REASONABLE.—For purposes of this sec-
21 tion, all costs, liabilities, rates of interest,
22 and other factors under the plan shall be
23 determined on the basis of actuarial as-
24 sumptions and methods—

1 “(A) each of which is reasonable
2 (taking into account the experience
3 of the plan and reasonable expecta-
4 tions), and

5 “(B) which, in combination, offer
6 the actuary’s best estimate of antici-
7 pated experience under the plan.

8 “(4) TREATMENT OF CERTAIN CHANGES
9 AS EXPERIENCE GAIN OR LOSS.—For pur-
10 poses of this section, if—

11 “(A) a change in benefits under
12 the Social Security Act or in other re-
13 tirement benefits created under Fed-
14 eral or State law, or

15 “(B) a change in the definition of
16 the term ‘wages’ under section 3121,
17 or a change in the amount of such
18 wages taken into account under regu-
19 lations prescribed for purposes of
20 section 401(a)(5),

21 results in an increase or decrease in ac-
22 crued liability under a plan, such in-
23 crease or decrease shall be treated as an
24 experience loss or gain.

1 **“(5) FULL FUNDING.—If, as of the close**
2 **of a plan year, a plan would (without re-**
3 **gard to this paragraph) have an accumu-**
4 **lated funding deficiency in excess of the**
5 **full funding limitation—**

6 **“(A) the funding standard account**
7 **shall be credited with the amount of**
8 **such excess, and**

9 **“(B) all amounts described in sub-**
10 **paragraphs (B), (C), and (D) of sub-**
11 **section (b)(2) and subparagraph (B) of**
12 **subsection (b)(3) which are required**
13 **to be amortized shall be considered**
14 **fully amortized for purposes of such**
15 **subparagraphs.**

16 **“(6) FULL-FUNDING LIMITATION.—**

17 **“(A) IN GENERAL.—For purposes of**
18 **paragraph (5), the term ‘full-funding**
19 **limitation’ means the excess (if any)**
20 **of—**

21 **“(i) the accrued liability (in-**
22 **cluding normal cost) under the**
23 **plan (determined under the entry**
24 **age normal funding method if**
25 **such accrued liability cannot be**

1 **directly calculated under the**
2 **funding method used for the**
3 **plan), over**

4 **“(ii) the lesser of—**

5 **“(I) the fair market value**
6 **of the plan’s assets, or**

7 **“(II) the value of such as-**
8 **sets determined under para-**
9 **graph (2).**

10 **“(B) MINIMUM AMOUNT.—**

11 **“(i) IN GENERAL.—In no event**
12 **shall the full-funding limitation**
13 **determined under subparagraph**
14 **(A) be less than the excess (if any)**
15 **of—**

16 **“(I) 90 percent of the cur-**
17 **rent liability of the plan (in-**
18 **cluding the expected increase**
19 **in current liability due to ben-**
20 **efits accruing during the plan**
21 **year), over**

22 **“(II) the value of the**
23 **plan’s assets determined**
24 **under paragraph (2).**

1 “(ii) **ASSETS.**—For purposes of
2 **clause (i), assets shall not be re-**
3 **duced by any credit balance in**
4 **the funding standard account.**

5 “(C) **FULL FUNDING LIMITATION.**—
6 **For purposes of this paragraph, un-**
7 **less otherwise provided by the plan,**
8 **the accrued liability under a multi-**
9 **employer plan shall not include bene-**
10 **fits which are not nonforfeitable**
11 **under the plan after the termination**
12 **of the plan (taking into consideration**
13 **section 411(d)(3)).**

14 “(D) **CURRENT LIABILITY.**—For pur-
15 **poses of this paragraph—**

16 “(i) **IN GENERAL.**—The term
17 **‘current liability’ means all liabil-**
18 **ities to employees and their bene-**
19 **ficiaries under the plan.**

20 “(ii) **TREATMENT OF UNPREDICT-**
21 **ABLE CONTINGENT EVENT BENE-**
22 **FITS.**—For purposes of clause (i),
23 **any benefit contingent on an**
24 **event other than—**

1 **“(I) age, service, com-**
2 **pensation, death, or disability,**
3 **or**

4 **“(II) an event which is**
5 **reasonably and reliably pre-**
6 **dictable (as determined by the**
7 **Secretary),**

8 **shall not be taken into account**
9 **until the event on which the ben-**
10 **efit is contingent occurs.**

11 **“(iii) INTEREST RATE USED.—**
12 **The rate of interest used to deter-**
13 **mine current liability under this**
14 **paragraph shall be the rate of in-**
15 **terest determined under subpara-**
16 **graph (E).**

17 **“(iv) MORTALITY TABLES.—**

18 **“(I) COMMISSIONERS’ STAND-**
19 **ARD TABLE.—In the case of**
20 **plan years beginning before**
21 **the first plan year to which**
22 **the first tables prescribed**
23 **under subclause (II) apply,**
24 **the mortality table used in de-**
25 **termining current liability**

1 under this paragraph shall be
2 the table prescribed by the
3 Secretary which is based on
4 the prevailing commissioners'
5 standard table (described in
6 section 807(d)(5)(A)) used to
7 determine reserves for group
8 annuity contracts issued on
9 January 1, 1993.

10 “(II) SECRETARIAL AUTHOR-
11 ITY.—The Secretary may by
12 regulation prescribe for plan
13 years beginning after Decem-
14 ber 31, 1999, mortality tables
15 to be used in determining cur-
16 rent liability under this sub-
17 section. Such tables shall be
18 based upon the actual experi-
19 ence of pension plans and
20 projected trends in such expe-
21 rience. In prescribing such ta-
22 bles, the Secretary shall take
23 into account results of avail-
24 able independent studies of

1 mortality of individuals cov-
2 ered by pension plans.

3 “(v) SEPARATE MORTALITY TA-
4 BLES FOR THE DISABLED.—Notwith-
5 standing clause (iv)—

6 “(I) IN GENERAL.—In the
7 case of plan years beginning
8 after December 31, 1995, the
9 Secretary shall establish mor-
10 tality tables which may be
11 used (in lieu of the tables
12 under clause (iv)) to deter-
13 mine current liability under
14 this subsection for individuals
15 who are entitled to benefits
16 under the plan on account of
17 disability. The Secretary shall
18 establish separate tables for
19 individuals whose disabilities
20 occur in plan years beginning
21 before January 1, 1995, and
22 for individuals whose disabil-
23 ities occur in plan years be-
24 ginning on or after such date.

1 **“(II) SPECIAL RULE FOR DIS-**
2 **ABILITIES OCCURRING AFTER**
3 **1994.—In the case of disabil-**
4 **ities occurring in plan years**
5 **beginning after December 31,**
6 **1994, the tables under sub-**
7 **clause (I) shall apply only**
8 **with respect to individuals**
9 **described in such subclause**
10 **who are disabled within the**
11 **meaning of title II of the So-**
12 **cial Security Act and the reg-**
13 **ulations thereunder.**

14 **“(vi) PERIODIC REVIEW.—The**
15 **Secretary shall periodically (at**
16 **least every 5 years) review any ta-**
17 **bles in effect under this subpara-**
18 **graph and shall, to the extent the**
19 **Secretary determines necessary,**
20 **by regulation update the tables to**
21 **reflect the actual experience of**
22 **pension plans and projected**
23 **trends in such experience.**

24 **“(E) REQUIRED CHANGE OF INTER-**
25 **EST RATE.—For purposes of deter-**

1 **mining a plan’s current liability for**
2 **purposes of this paragraph—**

3 **“(i) IN GENERAL.—If any rate of**
4 **interest used under the plan**
5 **under subsection (b)(6) to deter-**
6 **mine cost is not within the per-**
7 **missible range, the plan shall es-**
8 **tablish a new rate of interest**
9 **within the permissible range.**

10 **“(ii) PERMISSIBLE RANGE.—For**
11 **purposes of this subparagraph—**

12 **“(I) IN GENERAL.—Except**
13 **as provided in subclause (II),**
14 **the term ‘permissible range’**
15 **means a rate of interest which**
16 **is not more than 5 percent**
17 **above, and not more than 10**
18 **percent below, the weighted**
19 **average of the rates of inter-**
20 **est on 30-year Treasury secu-**
21 **rities during the 4-year period**
22 **ending on the last day before**
23 **the beginning of the plan**
24 **year.**

1 **“(II) SECRETARIAL AUTHOR-**
2 **ITY.—If the Secretary finds**
3 **that the lowest rate of inter-**
4 **est permissible under sub-**
5 **clause (I) is unreasonably**
6 **high, the Secretary may pre-**
7 **scribe a lower rate of interest,**
8 **except that such rate may not**
9 **be less than 80 percent of the**
10 **average rate determined**
11 **under such subclause.**

12 **“(iii) ASSUMPTIONS.—Notwith-**
13 **standing paragraph (3)(A), the in-**
14 **terest rate used under the plan**
15 **shall be—**

16 **“(I) determined without**
17 **taking into account the expe-**
18 **rience of the plan and reason-**
19 **able expectations, but**

20 **“(II) consistent with the**
21 **assumptions which reflect the**
22 **purchase rates which would**
23 **be used by insurance compa-**
24 **nies to satisfy the liabilities**
25 **under the plan.**

1 **“(7) ANNUAL VALUATION.—**

2 **“(A) IN GENERAL.—For purposes of**
3 **this section, a determination of expe-**
4 **rience gains and losses and a valu-**
5 **ation of the plan’s liability shall be**
6 **made not less frequently than once**
7 **every year, except that such deter-**
8 **mination shall be made more fre-**
9 **quently to the extent required in par-**
10 **ticular cases under regulations pre-**
11 **scribed by the Secretary.**

12 **“(B) VALUATION DATE.—**

13 **“(i) CURRENT YEAR.—Except as**
14 **provided in clause (ii), the valu-**
15 **ation referred to in subparagraph**
16 **(A) shall be made as of a date**
17 **within the plan year to which the**
18 **valuation refers or within one**
19 **month prior to the beginning of**
20 **such year.**

21 **“(ii) USE OF PRIOR YEAR VALU-**
22 **ATION.—The valuation referred to**
23 **in subparagraph (A) may be made**
24 **as of a date within the plan year**
25 **prior to the year to which the**

1 valuation refers if, as of such
2 date, the value of the assets of the
3 plan are not less than 100 percent
4 of the plan's current liability (as
5 defined in paragraph (6)(D) with-
6 out regard to clause (iv) thereof).

7 “(iii) ADJUSTMENTS.—Informa-
8 tion under clause (ii) shall, in ac-
9 cordance with regulations, be ac-
10 tuarially adjusted to reflect sig-
11 nificant differences in partici-
12 pants.

13 “(iv) LIMITATION.—A change in
14 funding method to use a prior
15 year valuation, as provided in
16 clause (ii), may not be made un-
17 less as of the valuation date with-
18 in the prior plan year, the value
19 of the assets of the plan are not
20 less than 125 percent of the plan's
21 current liability (as defined in
22 paragraph (6)(D) without regard
23 to clause (iv) thereof).

24 “(8) TIME WHEN CERTAIN CONTRIBU-
25 TIONS DEEMED MADE.—For purposes of this

1 section, any contributions for a plan year
2 made by an employer after the last day of
3 such plan year, but not later than two
4 and one-half months after such day, shall
5 be deemed to have been made on such
6 last day. For purposes of this subpara-
7 graph, such two and one-half month pe-
8 riod may be extended for not more than
9 six months under regulations prescribed
10 by the Secretary.

11 “(9) INTEREST RULE FOR WAIVERS AND
12 EXTENSIONS.—The interest rate applicable
13 for any plan year for purposes of com-
14 puting the amortization charge described
15 in subsection (b)(2)(C) and in connection
16 with an extension granted under sub-
17 section (d) shall be the greater of—

18 “(A) 150 percent of the Federal
19 mid-term rate (as in effect under sec-
20 tion 1274 for the 1st month of such
21 plan year), or

22 “(B) the rate of interest used
23 under the plan for determining costs.

1 **“(d) EXTENSION OF AMORTIZATION PERIODS**
2 **FOR MULTIEMPLOYER PLANS.—In the case of a**
3 **multiemployer plan—**

4 **“(1) EXTENSION.—The period of years**
5 **required to amortize any unfunded liabil-**
6 **ity (described in any clause of subsection**
7 **(b)(2)(B)) of any multiemployer plan shall**
8 **be extended by the Secretary for a period**
9 **of time (not in excess of 5 years) if the**
10 **Secretary determines that—**

11 **“(A) absent the extension, the**
12 **plan would have an accumulated**
13 **funding deficiency in any of the next**
14 **10 plan years,**

15 **“(B) the plan sponsor has adopted**
16 **a plan to improve the plan’s funding**
17 **status, and**

18 **“(C) taking into account the ex-**
19 **tension, the plan is projected to have**
20 **sufficient assets to timely pay its ex-**
21 **pected benefit liabilities and other**
22 **anticipated expenditures**

23 **“(2) ADDITIONAL EXTENSION.—The pe-**
24 **riod of years required to amortize any**
25 **unfunded liability (described in any**

1 **clause of subsection (b)(2)(B)) of any mul-**
2 **tiemployer plan may be extended (in ad-**
3 **dition to any extension under paragraph**
4 **(1)) by the Secretary for a period of time**
5 **(not in excess of 5 years) if the Secretary**
6 **determines that such extension would**
7 **carry out the purposes of the Employee**
8 **Retirement Income Security Act of 1974**
9 **and would provide adequate protection**
10 **for participants under the plan and their**
11 **beneficiaries and if the Secretary deter-**
12 **mines that the failure to permit such ex-**
13 **tension would—**

14 **“(A) result in—**

15 **“(i) a substantial risk to the**
16 **voluntary continuation of the**
17 **plan, or**

18 **“(ii) a substantial curtailment**
19 **of pension benefit levels or em-**
20 **ployee compensation, and**

21 **“(B) be adverse to the interests of**
22 **plan participants in the aggregate.**

23 **“(3) ADVANCE NOTICE.—**

24 **“(A) IN GENERAL.—The Secretary**
25 **shall, before granting an extension**

1 under this section, require each ap-
2 plicant to provide evidence satisfac-
3 tory to the Secretary that the appli-
4 cant has provided notice of the filing
5 of the application for such extension
6 to each affected party (as defined in
7 section 4001(a)(21) of the Employee
8 Retirement Income Security Act of
9 1974) with respect to the affected
10 plan. Such notice shall include a de-
11 scription of the extent to which the
12 plan is funded for benefits which are
13 guaranteed under title IV of such Act
14 and for benefit liabilities.

15 “(B) CONSIDERATION OF RELEVANT
16 INFORMATION.—The Secretary shall
17 consider any relevant information
18 provided by a person to whom notice
19 was given under paragraph (1).”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 418(b)(2) of such Code is
22 amended—

23 (A) by striking “section 412(b)(2)”
24 in subparagraph (A) and inserting
25 “section 431(b)(2)”, and

1 **(B) by striking “section**
2 **412(b)(3)(B)” in subparagraph (B) and**
3 **inserting “section 431(b)(3)(B)”.**

4 **(2) Section 418B of such Code is**
5 **amended—**

6 **(A) by striking “section**
7 **412(b)(2)(A) or (B)” in subsection**
8 **(d)(1)(B) and inserting “section**
9 **431(b)(2)(A) or (B)”,**

10 **(B) by striking “section 412(c)(8)”**
11 **in subsection (e) and inserting “sec-**
12 **tion 412(d)(2)”, and**

13 **(C) by striking “section 412(c)(3)”**
14 **in subsection (g) and inserting “sec-**
15 **tion 431(c)(3)”.**

16 **(3) Section 418D(a)(2) of such Code is**
17 **amended—**

18 **(A) by striking “section 412(c)(8)”**
19 **and inserting “section 412(d)(2)”, and**

20 **(B) by striking “section 412(c)(10)”**
21 **and inserting “section 431(c)(8)”.**

22 **(c) CLERICAL AMENDMENT.—The table of**
23 **sections for subpart A of part III of sub-**
24 **chapter D of chapter 1 of such Code is amend-**

1 ed by adding after the item relating to section
2 430 the following new item:

“Sec. 431. Minimum funding standards for multiemployer plans.”.

3 (d) **EFFECTIVE DATE.**—The amendments
4 made by this section shall apply to plan years
5 beginning after December 31, 2006.

6 **SEC. 212. ADDITIONAL FUNDING RULES FOR MULTIEM-**
7 **PLOYER PLANS IN ENDANGERED OR CRIT-**
8 **ICAL STATUS.**

9 (a) **IN GENERAL.**—Subpart A of part III of
10 subchapter D of chapter 1 of the Internal Rev-
11 enue Code of 1986 is amended by inserting
12 after section 431 the following new section:

13 **“SEC. 432. ADDITIONAL FUNDING RULES FOR MULTIEM-**
14 **PLOYER PLANS IN ENDANGERED STATUS OR**
15 **CRITICAL STATUS.**

16 **“(a) ANNUAL CERTIFICATION BY PLAN ACTU-**
17 **ARY.—**

18 **“(1) IN GENERAL.**—During the 90-day
19 period beginning on first day of each
20 plan year of a multiemployer plan, the
21 plan actuary shall certify to the Sec-
22 retary whether or not the plan is in en-
23 dangered status for such plan year and

1 **whether or not the plan is in critical sta-**
2 **tus for such plan year.**

3 **“(2) ACTUARIAL PROJECTIONS OF ASSETS**
4 **AND LIABILITIES.—**

5 **“(A) IN GENERAL.—In making the**
6 **determinations under paragraph (1),**
7 **the plan actuary shall make projec-**
8 **tions under subsections (b)(2) and**
9 **(c)(2) for the current and succeeding**
10 **plan years, using reasonable actu-**
11 **arial assumptions and methods, of the**
12 **current value of the assets of the plan**
13 **and the present value of all liabilities**
14 **to participants and beneficiaries**
15 **under the plan for the current plan**
16 **year as of the beginning of such year,**
17 **as based on the actuarial statement**
18 **prepared for the preceding plan year**
19 **under section 103(d) of the Employee**
20 **Retirement Income Security Act of**
21 **1974.**

22 **“(B) DETERMINATIONS OF FUTURE**
23 **CONTRIBUTIONS.—Any such actuarial**
24 **projection of plan assets shall as-**
25 **sume—**

1 “(i) reasonably anticipated
2 employer and employee contribu-
3 tions for the current and suc-
4 ceeding plan years, assuming that
5 the terms of the one or more col-
6 lective bargaining agreements
7 pursuant to which the plan is
8 maintained for the current plan
9 year continue in effect for suc-
10 ceeding plan years, or

11 “(ii) that employer and em-
12 ployee contributions for the most
13 recent plan year will continue in-
14 definitely, but only if the plan ac-
15 tuary determines there have been
16 no significant demographic
17 changes that would make contin-
18 ued application of such terms un-
19 reasonable.

20 “(3) PRESUMED STATUS IN ABSENCE OF
21 TIMELY ACTUARIAL CERTIFICATION.—If cer-
22 tification under this subsection is not
23 made before the end of the 90-day period
24 specified in paragraph (1), the plan shall
25 be presumed to be in critical status for

1 such plan year until such time as the
2 plan actuary makes a contrary certifi-
3 cation.

4 “(4) NOTICE.—In any case in which a
5 multiemployer plan is certified to be in
6 endangered status under paragraph (1)
7 or enters into critical status, the plan
8 sponsor shall, not later than 30 days after
9 the date of the certification or entry, pro-
10 vide notification of the endangered or
11 critical status to the participants and
12 beneficiaries, the bargaining parties, the
13 Pension Benefit Guaranty Corporation,
14 the Secretary of the Treasury, and the
15 Secretary of Labor.

16 “(b) FUNDING RULES FOR MULTIEMPLOYER
17 PLANS IN ENDANGERED STATUS.—

18 “(1) IN GENERAL.—In any case in
19 which a multiemployer plan is in endan-
20 gered status for a plan year and no fund-
21 ing improvement plan under this sub-
22 section with respect to such multiem-
23 ployer plan is in effect for the plan year,
24 the plan sponsor shall, in accordance
25 with this subsection, amend the multiem-

1 **employer plan to include a funding improve-**
2 **ment plan upon approval thereof by the**
3 **bargaining parties under this subsection.**
4 **The amendment shall be adopted not**
5 **later than 240 days after the date on**
6 **which the plan is certified to be in en-**
7 **dangered status under subsection (a)(1).**

8 **“(2) ENDANGERED STATUS.—A multiem-**
9 **ployer plan is in endangered status for a**
10 **plan year if, as determined by the plan**
11 **actuary under subsection (a)—**

12 **“(A) the plan’s funded percentage**
13 **for such plan year is less than 80 per-**
14 **cent, or**

15 **“(B) the plan has an accumulated**
16 **funding deficiency for such plan year**
17 **under section 431 or is projected to**
18 **have such an accumulated funding**
19 **deficiency for any of the 6 succeeding**
20 **plan years, taking into account any**
21 **extension of amortization periods**
22 **under section 431(d).**

23 **“(3) FUNDING IMPROVEMENT PLAN.—**

24 **“(A) BENCHMARKS.—A funding im-**
25 **provement plan shall consist of**

1 amendments to the plan formulated
2 to provide, under reasonable actu-
3 arial assumptions, for the attainment,
4 during the funding improvement pe-
5 riod under the funding improvement
6 plan, of the following benchmarks:

7 “(i) INCREASE IN FUNDED PER-
8 CENTAGE.—An increase in the
9 plan’s funded percentage such
10 that—

11 “(I) the difference be-
12 tween 100 percent and the
13 plan’s funded percentage for
14 the last year of the funding
15 improvement period, is not
16 more than

17 “(II) $\frac{2}{3}$ of the difference
18 between 100 percent and the
19 plan’s funded percentage for
20 the first year of the funding
21 improvement period.

22 “(ii) AVOIDANCE OF ACCUMU-
23 LATED FUNDING DEFICIENCIES.—No
24 accumulated funding deficiency
25 for any plan year during the

1 **funding improvement period (tak-**
2 **ing into account any extension of**
3 **amortization periods under sec-**
4 **tion 431(d)).**

5 **“(B) FUNDING IMPROVEMENT PE-**
6 **RIOD.—The funding improvement pe-**
7 **riod for any funding improvement**
8 **plan adopted pursuant to this sub-**
9 **section is the 10-year period begin-**
10 **ning on the earlier of—**

11 **“(i) the second anniversary of**
12 **the date of the adoption of the**
13 **funding improvement plan, or**

14 **“(ii) the first day of the first**
15 **plan year of the multiemployer**
16 **plan following the plan year in**
17 **which occurs the first date after**
18 **the day of the certification as of**
19 **which collective bargaining**
20 **agreements covering on the day**
21 **of such certification at least 75**
22 **percent of active participants in**
23 **such multiemployer plan have ex-**
24 **pired.**

1 **“(C) SPECIAL RULES FOR CERTAIN**
2 **SERIOUSLY UNDERFUNDED PLANS.—**

3 **“(i) In the case of a plan in**
4 **which the funded percentage of a**
5 **plan for the plan year is 70 per-**
6 **cent or less, subparagraph**
7 **(A)(i)(II) shall be applied by sub-**
8 **stituting ‘ $\frac{4}{5}$ ’ for ‘ $\frac{2}{3}$ ’ and subpara-**
9 **graph (B) shall be applied by sub-**
10 **stituting ‘the 15-year period’ for**
11 **‘the 10-year period’.**

12 **“(ii) In the case of a plan in**
13 **which the funded percentage of a**
14 **plan for the plan year is more**
15 **than 70 percent but less than 80**
16 **percent, and—**

17 **“(I) the plan actuary cer-**
18 **tifies within 30 days after cer-**
19 **tification under subsection**
20 **(a)(1) that the plan is not able**
21 **to attain the increase de-**
22 **scribed in subparagraph (A)(i)**
23 **over the period described in**
24 **subparagraph (B), and**

1 **“(II) the plan year is prior**
2 **to the day described in sub-**
3 **paragraph (B)(ii),**
4 **subparagraph (A)(i)(II) shall be**
5 **applied by substituting ‘ $\frac{4}{5}$ ’ for ‘ $\frac{2}{3}$ ’**
6 **and subparagraph (B) shall be ap-**
7 **plied by substituting ‘the 15-year**
8 **period’ for ‘the 10-year period’.**

9 **“(iii) For any plan year fol-**
10 **lowing the year described in**
11 **clause (ii)(II), subparagraph**
12 **(A)(i)(II) and subparagraph (B)**
13 **shall apply, except that for each**
14 **plan year ending after such date**
15 **for which the plan actuary cer-**
16 **tifies (at the time of the annual**
17 **certification under subsection**
18 **(a)(1) for such plan year) that the**
19 **plan is not able to attain the in-**
20 **crease described in subparagraph**
21 **(A)(i) over the period described in**
22 **subparagraph (B), subparagraph**
23 **(B) shall be applied by sub-**
24 **stituting ‘the 15-year period’ for**
25 **‘the 10-year period’.**

1 **“(D) REPORTING.—A summary of**
2 **any funding improvement plan or**
3 **modification thereto adopted during**
4 **any plan year, together with annual**
5 **updates regarding the funding ratio**
6 **of the plan, shall be included in the**
7 **annual report for such plan year**
8 **under section 104(a) of the Employee**
9 **Retirement Income Security Act of**
10 **1974 and in the summary annual re-**
11 **port described in section 104(b)(3) of**
12 **such Act.**

13 **“(4) DEVELOPMENT OF FUNDING IM-**
14 **PROVEMENT PLAN.—**

15 **“(A) ACTIONS BY PLAN SPONSOR**
16 **PENDING APPROVAL.—Pending the ap-**
17 **proval of a funding improvement plan**
18 **under this paragraph, the plan spon-**
19 **sor shall take all reasonable actions,**
20 **consistent with the terms of the plan**
21 **and applicable law, necessary to en-**
22 **sure—**

23 **“(i) an increase in the plan’s**
24 **funded percentage, and**

1 “(ii) postponement of an accu-
2 mulated funding deficiency for at
3 least 1 additional plan year.

4 Such actions include applications for
5 extensions of amortization periods
6 under section 431(d), use of the short-
7 fall funding method in making fund-
8 ing standard account computations,
9 amendments to the plan’s benefit
10 structure, reductions in future ben-
11 efit accruals, and other reasonable
12 actions consistent with the terms of
13 the plan and applicable law.

14 “(B) RECOMMENDATIONS BY PLAN
15 SPONSOR.—

16 “(i) IN GENERAL.—During the
17 period of 90 days following the
18 date on which a multiemployer
19 plan is certified to be in endan-
20 gered status, the plan sponsor
21 shall develop and provide to the
22 bargaining parties alternative
23 proposals for revised benefit
24 structures, contribution struc-
25 tures, or both, which, if adopted

1 as amendments to the plan, may
2 be reasonably expected to meet
3 the benchmarks described in
4 paragraph (3)(A). Such proposals
5 shall include—

6 “(I) at least one proposal
7 for reductions in the amount
8 of future benefit accruals nec-
9 essary to achieve the bench-
10 marks, assuming no amend-
11 ments increasing contribu-
12 tions under the plan (other
13 than amendments increasing
14 contributions necessary to
15 achieve the benchmarks after
16 amendments have reduced fu-
17 ture benefit accruals to the
18 maximum extent permitted by
19 law), and

20 “(II) at least one proposal
21 for increases in contributions
22 under the plan necessary to
23 achieve the benchmarks, as-
24 suming no amendments re-

1 **ducing future benefit accruals**
2 **under the plan.**

3 **“(ii) REQUESTS BY BARGAINING**
4 **PARTIES.—Upon the request of any**
5 **bargaining party who—**

6 **“(I) employs at least 5 per-**
7 **cent of the active partici-**
8 **pants, or**

9 **“(II) represents as an em-**
10 **ployee organization, for pur-**
11 **poses of collective bargaining,**
12 **at least 5 percent of the active**
13 **participants,**

14 **the plan sponsor shall provide all**
15 **such parties information as to**
16 **other combinations of increases**
17 **in contributions and reductions**
18 **in future benefit accruals which**
19 **would result in achieving the**
20 **benchmarks.**

21 **“(iii) OTHER INFORMATION.—**
22 **The plan sponsor may, as it**
23 **deems appropriate, prepare and**
24 **provide the bargaining parties**
25 **with additional information relat-**

1 **ing to contribution structures or**
2 **benefit structures or other infor-**
3 **mation relevant to the funding**
4 **improvement plan.**

5 **“(5) MAINTENANCE OF CONTRIBUTIONS**
6 **PENDING APPROVAL OF FUNDING IMPROVE-**
7 **MENT PLAN.—Pending approval of a fund-**
8 **ing improvement plan by the bargaining**
9 **parties with respect to a multiemployer**
10 **plan, the multiemployer plan may not be**
11 **amended so as to provide—**

12 **“(A) a reduction in the level of**
13 **contributions for participants who**
14 **are not in pay status,**

15 **“(B) a suspension of contributions**
16 **with respect to any period of service,**
17 **or**

18 **“(C) any new direct or indirect ex-**
19 **clusion of younger or newly hired em-**
20 **ployees from plan participation.**

21 **“(6) BENEFIT RESTRICTIONS PENDING AP-**
22 **PROVAL OF FUNDING IMPROVEMENT PLAN.—**
23 **Pending approval of a funding improve-**
24 **ment plan by the bargaining parties with**
25 **respect to a multiemployer plan—**

1 **“(A) RESTRICTIONS ON LUMP SUM**
2 **AND SIMILAR DISTRIBUTIONS.—In any**
3 **case in which the present value of a**
4 **participant’s accrued benefit under**
5 **the plan exceeds \$5,000, such benefit**
6 **may not be distributed as an imme-**
7 **diate distribution or in any other ac-**
8 **celerated form.**

9 **“(B) PROHIBITION ON BENEFIT IN-**
10 **CREASES.—**

11 **“(i) IN GENERAL.—No amend-**
12 **ment of the plan which increases**
13 **the liabilities of the plan by rea-**
14 **son of any increase in benefits,**
15 **any change in the accrual of ben-**
16 **efits, or any change in the rate at**
17 **which benefits become nonforfeit-**
18 **able under the plan may be**
19 **adopted.**

20 **“(ii) EXCEPTION.—Clause (i)**
21 **shall not apply to any plan**
22 **amendment which is required as**
23 **a condition of qualification under**
24 **part I of subchapter D of chapter**
25 **1 of subtitle A.**

1 **“(7) DEFAULT CRITICAL STATUS IF NO**
2 **FUNDING IMPROVEMENT PLAN ADOPTED.—If**
3 **no plan amendment adopting a funding**
4 **improvement plan has been adopted by**
5 **the end of the 240-day period referred to**
6 **in subsection (b)(1), the plan enters into**
7 **critical status as of the first day of the**
8 **succeeding plan year.**

9 **“(8) RESTRICTIONS UPON APPROVAL OF**
10 **FUNDING IMPROVEMENT PLAN.—Upon adop-**
11 **tion of a funding improvement plan with**
12 **respect to a multiemployer plan, the plan**
13 **may not be amended—**

14 **“(A) so as to be inconsistent with**
15 **the funding improvement plan, or**

16 **“(B) so as to increase future ben-**
17 **efit accruals, unless the plan actuary**
18 **certifies in advance that, after taking**
19 **into account the proposed increase,**
20 **the plan is reasonably expected to**
21 **meet the the benchmarks described**
22 **in paragraph (3)(A).**

23 **“(c) FUNDING RULES FOR MULTIEMPLOYER**
24 **PLANS IN CRITICAL STATUS.—**

1 **“(1) IN GENERAL.—In any case in**
2 **which a multiemployer plan is in critical**
3 **status for a plan year as described in**
4 **paragraph (2) (or otherwise enters into**
5 **critical status under this section) and no**
6 **rehabilitation plan under this subsection**
7 **with respect to such multiemployer plan**
8 **is in effect for the plan year, the plan**
9 **sponsor shall, in accordance with this**
10 **subsection, amend the multiemployer**
11 **plan to include a rehabilitation plan**
12 **under this subsection. The amendment**
13 **shall be adopted not later than 240 days**
14 **after the date on which the plan enters**
15 **into critical status.**

16 **“(2) CRITICAL STATUS.—A multiem-**
17 **ployer plan is in critical status for a plan**
18 **year if—**

19 **“(A) the plan is in endangered sta-**
20 **tus for the preceding plan year and**
21 **the requirements of subsection (b)(1)**
22 **were not met with respect to the plan**
23 **for such preceding plan year, or**

1 **“(B) as determined by the plan ac-**
2 **tuary under subsection (a), the plan**
3 **is described in paragraph (3).**

4 **“(3) CRITICALITY DESCRIPTION.—For**
5 **purposes of paragraph (2)(B), a plan is**
6 **described in this paragraph if the plan is**
7 **described in at least one of the following**
8 **subparagraphs:**

9 **“(A) A plan is described in this**
10 **subparagraph if, as of the beginning**
11 **of the current plan year—**

12 **“(i) the funded percentage of**
13 **the plan is less than 65 percent,**
14 **and**

15 **“(ii) the sum of—**

16 **“(I) the market value of**
17 **plan assets, plus**

18 **“(II) the present value of**
19 **the reasonably anticipated**
20 **employer and employee con-**
21 **tributions for the current**
22 **plan year and each of the 6**
23 **succeeding plan years, assum-**
24 **ing that the terms of the one**
25 **or more collective bargaining**

1 **agreements pursuant to**
2 **which the plan is maintained**
3 **for the current plan year con-**
4 **tinue in effect for succeeding**
5 **plan years,**

6 **is less than the present value of**
7 **all nonforfeitable benefits for all**
8 **participants and beneficiaries**
9 **projected to be payable under the**
10 **plan during the current plan year**
11 **and each of the 6 succeeding plan**
12 **years (plus administrative ex-**
13 **penses for such plan years).**

14 **“(B) A plan is described in this**
15 **subparagraph if, as of the beginning**
16 **of the current plan year, the sum of—**

17 **“(i) the market value of plan**
18 **assets, plus**

19 **“(ii) the present value of the**
20 **reasonably anticipated employer**
21 **and employee contributions for**
22 **the current plan year and each of**
23 **the 4 succeeding plan years, as-**
24 **suming that the terms of the one**
25 **or more collective bargaining**

1 **agreements pursuant to which**
2 **the plan is maintained for the**
3 **current plan year remain in effect**
4 **for succeeding plan years,**
5 **is less than the present value of all**
6 **nonforfeitable benefits for all partici-**
7 **pants and beneficiaries projected to**
8 **be payable under the plan during the**
9 **current plan year and each of the 4**
10 **succeeding plan years (plus adminis-**
11 **trative expenses for such plan years).**

12 **“(C) A plan is described in this**
13 **subparagraph if—**

14 **“(i) as of the beginning of the**
15 **current plan year, the funded per-**
16 **centage of the plan is less than 65**
17 **percent, and**

18 **“(ii) the plan has an accumu-**
19 **lated funding deficiency for the**
20 **current plan year or is projected**
21 **to have an accumulated funding**
22 **deficiency for any of the 4 suc-**
23 **ceeding plan years, not taking**
24 **into account any extension of am-**

1 ortization periods under section
2 431(d).

3 “(D) A plan is described in this
4 subparagraph if—

5 “(i)(I) the plan’s normal cost
6 for the current plan year, plus in-
7 terest (determined at the rate
8 used for determining cost under
9 the plan) for the current plan
10 year on the amount of unfunded
11 benefit liabilities under the plan
12 as of the last date of the pre-
13 ceding plan year, exceeds

14 “(II) the present value, as of
15 the beginning of the current plan
16 year, of the reasonably antici-
17 pated employer and employee
18 contributions for the current plan
19 year,

20 “(ii) the present value, as of
21 the beginning of the current plan
22 year, of nonforfeitable benefits of
23 inactive participants is greater
24 than the present value, as of the
25 beginning of the current plan

1 year, of nonforfeitable benefits of
2 active participants, and

3 “(iii) the plan is projected to
4 have an accumulated funding de-
5 ficiency for the current plan year
6 or any of the 4 succeeding plan
7 years, not taking into account any
8 extension of amortization periods
9 under section 431(d).

10 “(E) A plan is described in this
11 subparagraph if—

12 “(i) the funded percentage of
13 the plan is greater than 65 per-
14 cent for the current plan year,
15 and

16 “(ii) the plan is projected to
17 have an accumulated funding de-
18 ficiency during any of the suc-
19 ceeding 3 plan years, not taking
20 into account any extension of am-
21 ortization periods under section
22 431(d).

23 “(4) REHABILITATION PLAN.—

24 “(A) IN GENERAL.—A rehabilitation
25 plan shall consist of—

1 “(i) amendments to the plan
2 providing (under reasonable actu-
3 arial assumptions) for measures,
4 agreed to by the bargaining par-
5 ties, to increase contributions, re-
6 duce plan expenditures (includ-
7 ing plan mergers and consolida-
8 tions), or reduce future benefit
9 accruals, or to take any combina-
10 tion of such actions, determined
11 necessary to cause the plan to
12 cease, during the rehabilitation
13 period, to be in critical status, or

14 “(ii) reasonable measures to
15 forestall possible insolvency
16 (within the meaning of section
17 418E) if the plan sponsor deter-
18 mines that, upon exhaustion of all
19 reasonable measures, the plan
20 would not cease during the reha-
21 bilitation period to be in critical
22 status.

23 “(B) REHABILITATION PERIOD.—The
24 rehabilitation period for any rehabili-
25 tation plan adopted pursuant to this

1 subsection is the 10-year period be-
2 ginning on the earlier of—

3 “(i) the second anniversary of
4 the date of the adoption of the re-
5 habilitation plan, or

6 “(ii) the first day of the first
7 plan year of the multiemployer
8 plan following the plan year in
9 which occurs the first date, after
10 the date of the plan’s entry into
11 critical status, as of which collec-
12 tive bargaining agreements cov-
13 ering at least 75 percent of active
14 participants in such multiem-
15 ployer plan (determined as of
16 such date of entry) have expired.

17 “(C) REPORTING.—A summary of
18 any rehabilitation plan or modifica-
19 tion thereto adopted during any plan
20 year, together with annual updates
21 regarding the funding ratio of the
22 plan, shall be included in the annual
23 report for such plan year under sec-
24 tion 104(a) of the Employee Retire-
25 ment Income Security Act of 1974 and

1 **in the summary annual report de-**
2 **scribed in section 104(b)(3).**

3 **“(5) DEVELOPMENT OF REHABILITATION**
4 **PLAN.—**

5 **“(A) PROPOSALS BY PLAN SPON-**
6 **SOR.—**

7 **“(i) IN GENERAL.—Within 90**
8 **days after the date of entry into**
9 **critical status (or the date as of**
10 **which the requirements of sub-**
11 **section (b)(1) are not met with re-**
12 **spect to the plan), the plan spon-**
13 **sor shall propose to all bargaining**
14 **parties a range of alternative**
15 **schedules of increases in con-**
16 **tributions and reductions in fu-**
17 **ture benefit accruals that would**
18 **serve to carry out a rehabilitation**
19 **plan under this subsection.**

20 **“(ii) PROPOSAL ASSUMING NO**
21 **CONTRIBUTION INCREASES.—Such**
22 **proposals shall include, as one of**
23 **the proposed schedules, a sched-**
24 **ule of those reductions in future**
25 **benefit accruals that would be**

1 necessary to cause the plan to
2 cease to be in critical status if
3 there were no further increases
4 in rates of contribution to the
5 plan.

6 “(iii) PROPOSAL WHERE CON-
7 TRIBUTIONS ARE NECESSARY.—If the
8 plan sponsor determines that the
9 plan will not cease to be in crit-
10 ical status during the rehabilita-
11 tion period unless the plan is
12 amended to provide for an in-
13 crease in contributions, the plan
14 sponsor’s proposals shall include
15 a schedule of those increases in
16 contribution rates that would be
17 necessary to cause the plan to
18 cease to be in critical status if fu-
19 ture benefit accruals were re-
20 duced to the maximum extent
21 permitted by law.

22 “(B) REQUESTS FOR ADDITIONAL
23 SCHEDULES.—Upon the request of any
24 bargaining party who—

1 “(i) employs at least 5 percent
2 of the active participants, or

3 “(ii) represents as an em-
4 ployee organization, for purposes
5 of collective bargaining, at least 5
6 percent of active participants,

7 the plan sponsor shall include among
8 the proposed schedules such sched-
9 ules of increases in contributions and
10 reductions in future benefit accruals
11 as may be specified by the bargaining
12 parties.

13 “(C) SUBSEQUENT AMENDMENTS.—

14 Upon the adoption of a schedule of
15 increases in contributions or reduc-
16 tions in future benefit accruals as
17 part of the rehabilitation plan, the
18 plan sponsor may amend the plan
19 thereafter to update the schedule to
20 adjust for any experience of the plan
21 contrary to past actuarial assump-
22 tions, except that such an amendment
23 may be made not more than once in
24 any 3-year period.

1 **“(D) ALLOCATION OF REDUCTIONS IN**
2 **FUTURE BENEFIT ACCRUALS.—Any**
3 **schedule containing reductions in fu-**
4 **ture benefit accruals forming a part**
5 **of a rehabilitation plan shall be appli-**
6 **cable with respect to any group of ac-**
7 **tive participants who are employed**
8 **by any bargaining party (as an em-**
9 **ployer obligated to contribute under**
10 **the plan) in proportion to the extent**
11 **to which increases in contributions**
12 **under such schedule apply to such**
13 **bargaining party.**

14 **“(E) LIMITATION ON REDUCTION IN**
15 **RATES OF FUTURE ACCRUALS.—Any**
16 **schedule proposed under this para-**
17 **graph shall not reduce the rate of fu-**
18 **ture accruals below the lower of—**

19 **“(i) a monthly benefit equal to**
20 **1 percent of the contributions re-**
21 **quired to be made with respect to**
22 **a participant or the equivalent**
23 **standard accrual rate for a partic-**
24 **ipant or group of participants**
25 **under the collective bargaining**

1 **agreements in effect as of the first**
2 **day of the plan year in which the**
3 **plan enters critical status, or**

4 **“(ii) if lower, the accrual rate**
5 **under the plan on such date.**

6 **The equivalent standard accrual rate**
7 **shall be determined by the trustees**
8 **based on the standard or average**
9 **contribution base units that they de-**
10 **termine to be representative for ac-**
11 **tive participants and such other fac-**
12 **tors as they determine to be relevant.**

13 **“(6) MAINTENANCE OF CONTRIBUTIONS**
14 **AND RESTRICTIONS ON BENEFITS PENDING**
15 **ADOPTION OF REHABILITATION PLAN.—The**
16 **rules of paragraphs (5) and (6) of sub-**
17 **section (b) shall apply for purposes of**
18 **this subsection by substituting the term**
19 **‘rehabilitation plan’ for ‘funding improve-**
20 **ment plan’.**

21 **“(7) RESTRICTIONS UPON APPROVAL OF**
22 **REHABILITATION PLAN.—Upon adoption of**
23 **a rehabilitation plan with respect to a**
24 **multiemployer plan, the plan may not be**
25 **amended—**

1 “(A) so as to be inconsistent with
2 the rehabilitation plan, or

3 “(B) so as to increase future ben-
4 efit accruals, unless the plan actuary
5 certifies in advance that, after taking
6 into account the proposed increase,
7 the plan is reasonably expected to
8 cease to be in critical status.

9 “(8) IMPLEMENTATION OF DEFAULT
10 SCHEDULE UPON FAILURE TO ADOPT REHA-
11 BILITATION PLAN.—If the plan is not
12 amended by the end of the 240-day period
13 after entry into critical status to include
14 a rehabilitation plan, the plan sponsor
15 shall amend the plan to implement the
16 schedule required by paragraph (5)(A)(ii).

17 “(9) DEEMED WITHDRAWAL.—Upon the
18 failure of any employer who has an obli-
19 gation to contribute under the plan to
20 make contributions in compliance with
21 the schedule adopted under paragraph
22 (4) as part of the rehabilitation plan, the
23 failure of the employer may, at the dis-
24 cretion of the plan sponsor, be treated as
25 a withdrawal by the employer from the

1 plan under section 4203 of the Employee
2 Retirement Income Security Act of 1974
3 or a partial withdrawal by the employer
4 under section 4205 of such Act.

5 “(d) DEFINITIONS.—For purposes of this
6 section—

7 “(1) BARGAINING PARTY.—The term
8 ‘bargaining party’ means, in connection
9 with a multiemployer plan—

10 “(A) an employer who has an obli-
11 gation to contribute under the plan,
12 and

13 “(B) an employee organization
14 which, for purposes of collective bar-
15 gaining, represents plan participants
16 employed by such an employer.

17 “(2) FUNDED PERCENTAGE.—The term
18 ‘funded percentage’ means the percent-
19 age expressed as a ratio of which—

20 “(A) the numerator of which is
21 the value of the plan’s assets, as de-
22 termined under section 431(c)(2), and

23 “(B) the denominator of which is
24 the accrued liability of the plan.

1 **“(3) ACCUMULATED FUNDING DEFICIENCY.—**The term ‘accumulated funding
2 **deficiency’** has the meaning provided
3 **such term in section 431(a).**

4 **“(4) ACTIVE PARTICIPANT.—**The term
5 **‘active participant’** means, in connection
6 **with a multiemployer plan, a participant**
7 **who is in covered service under the plan.**

8 **“(5) INACTIVE PARTICIPANT.—**The term
9 **‘inactive participant’** means, in connec-
10 **tion with a multiemployer plan, a partici-**
11 **pant who—**

12 **“(A) is not in covered service**
13 **under the plan, and**

14 **“(B) is in pay status under the**
15 **plan or has a nonforfeitable right to**
16 **benefits under the plan.**

17 **“(6) PAY STATUS.—**A person is in ‘pay
18 **status’** under a multiemployer plan if—

19 **“(A) at any time during the cur-**
20 **rent plan year, such person is a par-**
21 **ticipant or beneficiary under the plan**
22 **and is paid an early, late, normal, or**
23 **disability retirement benefit under**
24 **the plan (or a death benefit under the**
25

1 **plan related to a retirement benefit),**
2 **or**

3 **“(B) to the extent provided in reg-**
4 **ulations of the Secretary, such person**
5 **is entitled to such a benefit under the**
6 **plan.**

7 **“(7) OBLIGATION TO CONTRIBUTE.—The**
8 **term ‘obligation to contribute’ has the**
9 **meaning provided such term under sec-**
10 **tion 4212(a) of the Employee Retirement**
11 **Income Security Act of 1974.**

12 **“(8) ENTRY INTO CRITICAL STATUS.—A**
13 **plan shall be treated as entering into crit-**
14 **ical status as of the date that such plan is**
15 **certified to be in critical status under**
16 **subsection (a)(1), is presumed to be in**
17 **critical status under subsection (a)(3), or**
18 **enters into critical status under sub-**
19 **section (b)(7).”.**

20 **(b) CLERICAL AMENDMENT.—The table of**
21 **sections for subpart A of part III of sub-**
22 **chapter D of chapter 1 of such Code is amend-**
23 **ed by adding at the end the following new**
24 **item:**

“Sec. 432. Additional funding rules for multiemployer plans in
 endangered status or critical status.”.

1 **(c) EFFECTIVE DATE.**—The amendment
2 made by this section shall apply with respect
3 to plan years beginning after December 31,
4 2005.

5 **(d) SPECIAL RULE FOR 2006.**—In the case of
6 any plan year beginning in 2006, any ref-
7 erence in section 432 of the Internal Revenue
8 Code of 1986 (as added by this section) to sec-
9 tion 431 of such Code (as added by this Act)
10 shall be treated as a reference to the cor-
11 responding provision of such Code as in effect
12 for plan years beginning in such year.

13 **SEC. 213. MEASURES TO FORESTALL INSOLVENCY OF MUL-**
14 **TIEMPLOYER PLANS.**

15 **(a) ADVANCE DETERMINATION OF IMPENDING**
16 **INSOLVENCY OVER 5 YEARS.**—Section 418E(d)(1)
17 of the Internal Revenue Code of 1986 is
18 amended—

19 (1) by striking “3 plan years” the sec-
20 ond place it appears and inserting “5
21 plan years”, and

22 (2) by adding at the end the following
23 new sentence: “If the plan sponsor makes
24 such a determination that the plan will
25 be insolvent in any of the next 5 plan

1 years, the plan sponsor shall make the
2 comparison under this paragraph at least
3 annually until the plan sponsor makes a
4 determination that the plan will not be
5 insolvent in any of the next 5 plan
6 years.”.

7 (b) **EFFECTIVE DATE.**—The amendments
8 made by this section shall apply with respect
9 to determinations made in plan years begin-
10 ning after December 31, 2005.

11 **TITLE III—OTHER PROVISIONS**

12 **SEC. 301. INTEREST RATE FOR 2006 FUNDING REQUIRE-** 13 **MENTS.**

14 (a) **IN GENERAL.**—Subclause (II) of section
15 412(b)(5)(B)(ii) of the Internal Revenue Code
16 of 1986 is amended—

17 (1) by striking “January 1, 2006” and
18 inserting “January 1, 2007”, and

19 (2) by striking “AND 2005” in the head-
20 ing and inserting “, 2005, AND 2006”.

21 (b) **CURRENT LIABILITY.**—Subclause (IV) of
22 section 412(l)(7)(C)(i) of such Code is amend-
23 ed—

24 (1) by striking “or 2005” and inserting
25 “, 2005, or 2006”, and

1 **rate’ means the adjusted first, sec-**
2 **ond, and third segment rates ap-**
3 **plied under rules similar to the**
4 **rules of section 430(h)(2)(C) for**
5 **the month before the date of the**
6 **distribution or such other time as**
7 **the Secretary may by regulations**
8 **prescribe.**

9 **“(iv) For purposes of clause**
10 **(iii), the adjusted first, second,**
11 **and third segment rates are the**
12 **first, second, and third segment**
13 **rates which would be determined**
14 **under section 430(h)(2)(C) if—**

15 **“(I) section 430(h)(2)(D)(i)**
16 **were applied by substituting**
17 **‘the yields’ for ‘a 3-year**
18 **weighted average of yields’,**

19 **“(II) section**
20 **430(h)(2)(G)(i)(II) were ap-**
21 **plied by substituting ‘section**
22 **417(e)(3)(A)(ii)(II)’ for ‘section**
23 **412(b)(5)(B)(ii)(II), and**

24 **“(III) the applicable per-**
25 **centage under section**

1 **430(h)(2)(G) were determined**
 2 **in accordance with the fol-**
 3 **lowing table:**

| “In the case of plan years beginning in: | The applicable percentage is: |
|---|--|
| 2007 | 20 percent |
| 2008 | 40 percent |
| 2009 | 60 percent |
| 2010 | 80 percent.”. |

4 **(c) SPECIAL RULE FOR PLAN AMENDMENTS.—**
 5 **A plan shall not fail to meet the requirements**
 6 **of section 411(d)(6) of the Internal Revenue**
 7 **Code of 1986 or section 204(g) of the Employee**
 8 **Retirement Income Security Act of 1974 solely**
 9 **by reason of the adoption by the plan of an**
 10 **amendment necessary to meet the require-**
 11 **ments of the amendments made by this sec-**
 12 **tion.**

13 **(d) EFFECTIVE DATE.—The amendments**
 14 **made by this section shall apply with respect**
 15 **to plan years beginning after December 31,**
 16 **2006.**

1 SEC. 303. INTEREST RATE ASSUMPTION FOR APPLYING
2 BENEFIT LIMITATIONS TO LUMP SUM DIS-
3 TRIBUTIONS.

4 (a) IN GENERAL.—Clause (ii) of section
5 415(b)(2)(E) of the Internal Revenue Code of
6 1986 is amended to read as follows:

7 “(ii) For purposes of adjusting
8 any benefit under subparagraph
9 (B) for any form of benefit subject
10 to section 417(e)(3), the interest
11 rate assumption shall not be less
12 than the greater of—

13 “(I) 5.5 percent,

14 “(II) the rate that provides
15 a benefit of not more than 105
16 percent of the benefit that
17 would be provided if the ap-
18 plicable interest rate (as de-
19 fined in section 417(e)(3))
20 were the interest rate as-
21 sumption, or

22 “(III) the rate specified
23 under the plan.”.

24 (b) EFFECTIVE DATE.—The amendment
25 made by subsection (a) shall apply to distribu-

1 **tions made in years beginning after December**
2 **31, 2005.**

3 **SEC. 304. DISTRIBUTIONS DURING WORKING RETIREMENT.**

4 **(a) AMENDMENT TO THE EMPLOYEE RETIRE-**
5 **MENT INCOME SECURITY ACT OF 1974.—[See sec-**
6 **tion 303(a) of the bill as reported by the Com-**
7 **mittee on Education and the Workforce.]**

8 **(b) AMENDMENT TO THE INTERNAL REVENUE**
9 **CODE OF 1986.—Subsection (a) of section 401**
10 **of the Internal Revenue Code of 1986 is**
11 **amended by inserting after paragraph (34)**
12 **the following new paragraph:**

13 **“(35) DISTRIBUTIONS DURING WORKING**
14 **RETIREMENT.—A trust forming part of a**
15 **pension plan shall not be treated as fail-**
16 **ing to constitute a qualified trust under**
17 **this section solely because a distribution**
18 **is made from such trust to an employee**
19 **who has attained age 62 and who is not**
20 **separated from employment at the time**
21 **of such distribution.”.**

22 **(c) EFFECTIVE DATE.—The amendments**
23 **made by this section shall apply to distribu-**
24 **tions in plan years beginning after December**
25 **31, 2005.**

1 SEC. 305. OTHER AMENDMENTS RELATING TO PROHIBITED
2 TRANSACTIONS.

3 [See section 304 of the bill as reported by
4 the Committee on Education and the Work-
5 force.]

6 SEC. 306. CORRECTION PERIOD FOR CERTAIN TRANS-
7 ACTIONS INVOLVING SECURITIES AND COM-
8 MODITIES.

9 [See section 305 of the bill as reported by
10 the Committee on Education and the Work-
11 force.]

12 SEC. 307. GOVERNMENT ACCOUNTABILITY OFFICE PEN-
13 SION FUNDING REPORT.

14 [See section 306 of the bill as reported by
15 the Committee on Education and the Work-
16 force.]

17 **TITLE IV—IMPROVEMENTS IN**
18 **PBGC GUARANTEE PROVISIONS**

19 SEC. 401. INCREASES IN PBGC PREMIUMS.

20 (a) **FLAT-RATE PREMIUMS.—Section**
21 **4006(a)(3) of the Employee Retirement Income**
22 **Security Act of 1974 (29 U.S.C. 1306(a)(3)) is**
23 **amended—**

24 (1) **by striking clause (i) of subpara-**
25 **graph (A) and inserting the following:**

1 “(i) in the case of a single-employer
2 plan, an amount equal to—

3 “(I) for plan years beginning after
4 December 31, 1990, and before Janu-
5 ary 1, 2006, \$19, or

6 “(II) for plan years beginning
7 after December 31, 2005, the amount
8 determined under subparagraph (F),
9 plus the additional premium (if any) de-
10 termined under subparagraph (E) for
11 each individual who is a participant in
12 such plan during the plan year;” and

13 (2) by adding at the end the following
14 new subparagraph:

15 “(F)(i) Except as otherwise provided in
16 this subparagraph, for purposes of deter-
17 mining the annual premium rate payable to
18 the corporation by a single-employer plan for
19 basic benefits guaranteed under this title, the
20 amount determined under this subparagraph
21 is the greater of \$30 or the adjusted amount
22 determined under clause (ii).

23 “(ii) For plan years beginning after 2006,
24 the adjusted amount determined under this

1 **clause is the product derived by multiplying**
2 **\$30 by the ratio of—**

3 **“(I) the national average wage index**
4 **(as defined in section 209(k)(1) of the So-**
5 **cial Security Act) for the first of the 2 cal-**
6 **endar years preceding the calendar year**
7 **in which the plan year begins, to**

8 **“(II) the national average wage index**
9 **(as so defined) for 2004,**

10 **with such product, if not a multiple of \$1,**
11 **being rounded to the next higher multiple of**
12 **\$1 where such product is a multiple of \$0.50**
13 **but not of \$1, and to the nearest multiple of**
14 **\$1 in any other case.**

15 **“(iii) For purposes of determining the an-**
16 **nual premium rate payable to the corporation**
17 **by a single-employer plan for basic benefits**
18 **guaranteed under this title for any plan year**
19 **beginning after 2005 and before 2010—**

20 **“(I) except as provided in subclause**
21 **(II), the premium amount referred to in**
22 **subparagraph (A)(i)(II) for any such plan**
23 **year is the amount set forth in connec-**
24 **tion with such plan year in the following**
25 **table:**

| “If the plan year begins in: | The amount is: |
|-------------------------------------|-----------------------|
| 2006 | \$21.20 |
| 2007 | \$23.40 |
| 2008 | \$25.60 |
| 2009 | \$27.80; or |

1 **“(II) if the plan’s funding target at-**
2 **tainment percentage for the plan year**
3 **preceding the current plan year was less**
4 **than 80 percent, the premium amount re-**
5 **ferred to in subparagraph (A)(i)(II) for**
6 **such current plan year is the amount set**
7 **forth in connection with such current**
8 **plan year in the following table:**

| “If the plan year begins in: | The amount is: |
|-------------------------------------|---|
| 2006 | \$22.67 |
| 2007 | \$26.33 |
| 2008 or 2009 | the amount pro- vided under clause (i). |

9 **“(iv) For purposes of this subparagraph,**
10 **the term ‘funding target attainment percent-**
11 **age’ has the meaning provided such term in**
12 **section 303(d)(2).”.**

13 **(b) PREMIUM RATE FOR CERTAIN TERMI-**
14 **NATED SINGLE-EMPLOYER PLANS.—Subsection**
15 **(a) of section 4006 of such Act (29 U.S.C. 1306)**
16 **is amended by adding at the end the fol-**
17 **lowing:**

1 **“(7) PREMIUM RATE FOR CERTAIN TERMI-**
2 **NATED SINGLE-EMPLOYER PLANS.—**

3 **“(A) IN GENERAL.—If there is a termi-**
4 **nation of a single-employer plan under**
5 **clause (ii) or (iii) of section 4041(c)(2)(B)**
6 **or section 4042, there shall be payable to**
7 **the corporation, with respect to each ap-**
8 **plicable 12-month period, a premium at a**
9 **rate equal to \$1,250 multiplied by the**
10 **number of individuals who were partici-**
11 **pants in the plan immediately before the**
12 **termination date. Such premium shall be**
13 **in addition to any other premium under**
14 **this section.**

15 **“(B) SPECIAL RULE FOR PLANS TERMI-**
16 **NATED IN BANKRUPTCY REORGANIZATION.—If**
17 **the plan is terminated under**
18 **4041(c)(2)(B)(ii) or under section 4042**
19 **and, as of the termination date, a person**
20 **who is (as of such date) a contributing**
21 **sponsor of the plan or a member of such**
22 **sponsor’s controlled group has filed or**
23 **has had filed against such person a peti-**
24 **tion seeking reorganization in a case**
25 **under title 11 of the United States Code,**

1 or under any similar law of a State or a
2 political subdivision of a State (or a case
3 described in section 4041(c)(2)(B)(i) filed
4 by or against such person has been con-
5 verted, as of such date, to such a case in
6 which reorganization is sought), subpara-
7 graph (A) shall not apply to such plan
8 until the date of the discharge of such
9 person in such case.

10 **“(C) APPLICABLE 12-MONTH PERIOD.—**
11 **For purposes of subparagraph (A)—**

12 **“(i) IN GENERAL.—The term ‘appli-**
13 **cable 12-month period’ means—**

14 **“(I) the 12-month period be-**
15 **ginning with the first month fol-**
16 **lowing the month in which the**
17 **termination date occurs, and**

18 **“(II) each of the first two 12-**
19 **month periods immediately fol-**
20 **lowing the period described in**
21 **subclause (I).**

22 **“(ii) PLANS TERMINATED IN BANK-**
23 **RUPTCY REORGANIZATION.—In any case**
24 **in which the requirements of sub-**
25 **paragraph (B) are met in connection**

1 **with the termination of the plan with**
2 **respect to 1 or more persons de-**
3 **scribed in such subparagraph, the 12-**
4 **month period described in clause**
5 **(i)(I) shall be the 12-month period be-**
6 **ginning with the first month fol-**
7 **lowing the month which includes the**
8 **earliest date as of which each such**
9 **person is discharged in the case de-**
10 **scribed in such clause in connection**
11 **with such person.**

12 **“(D) COORDINATION WITH SECTION**
13 **4007.—**

14 **“(i) Notwithstanding section**
15 **4007—**

16 **“(I) premiums under this**
17 **paragraph shall be due within 30**
18 **days after the beginning of any**
19 **applicable 12-month period, and**

20 **“(II) the designated payor**
21 **shall be the person who is the**
22 **contributing sponsor as of imme-**
23 **diately before the termination**
24 **date.**

1 “(ii) The fifth sentence of section
2 4007(a) shall not apply in connection
3 with premiums determined under
4 this paragraph.”.

5 **(c) RISK-BASED PREMIUMS.—**

6 **(1) EXTENSION THROUGH 2006.—Section**
7 **4006(a)(3)(E)(iii)(V) of such Act is amend-**
8 **ed by striking “January 1, 2006” and in-**
9 **serting “January 1, 2007”.**

10 **(2) CONFORMING AMENDMENTS RELATED**
11 **TO FUNDING RULES FOR SINGLE-EMPLOYER**
12 **PLANS.—Section 4006(a)(3)(E) of such Act**
13 **is amended by striking clauses (iii) and**
14 **(iv) and inserting the following:**

15 **“(iii)(I) For purposes of clause (ii), except**
16 **as provided in subclause (II), the term ‘un-**
17 **funded vested benefits’ means, for a plan year,**
18 **the amount which would be the plan’s fund-**
19 **ing shortfall (as defined in section 303(c)(4)),**
20 **if the value of plan assets of the plan were**
21 **equal to the fair market value of such assets**
22 **and only vested benefits were taken into ac-**
23 **count.**

24 **“(II) The interest rate used in valuing**
25 **vested benefits for purposes of subclause (I)**

1 shall be equal to the first, second, or third seg-
2 ment rate which would be determined under
3 section 303(h)(2)(C) if section 303(h)(2)(D)(i)
4 were applied by substituting ‘the yields’ for
5 ‘the 3-year weighted average of yields’, as ap-
6 plicable under rules similar to the rules under
7 section 303(h)(2)(B).”.

8 (d) EFFECTIVE DATES.—

9 (1) IN GENERAL.—The amendments
10 made by subsection (a) and (c)(1) shall
11 apply to plan years beginning after De-
12 cember 31, 2005.

13 (2) PREMIUM RATE FOR CERTAIN TERMI-
14 NATED SINGLE-EMPLOYER PLANS.—The
15 amendment made by subsection (b) shall
16 apply with respect to cases commenced
17 under title 11, United States Code, or
18 under any similar law of a State or polit-
19 ical subdivision of a State after October
20 26, 2005.

21 (3) CONFORMING AMENDMENTS RELATED
22 TO FUNDING RULES FOR SINGLE-EMPLOYER
23 PLANS.—The amendments made by sub-
24 section (c)(2) shall take effect on Decem-

1 **ber 31, 2006, and shall apply to plan years**
2 **beginning after such date.**

3 **TITLE V—DISCLOSURE**

4 **SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICES.**

5 **[See section 501 of the bill as reported by**
6 **the Committee on Education and the Work-**
7 **force.]**

8 **SEC. 502. ADDITIONAL DISCLOSURE REQUIREMENTS.**

9 **[See section 502 of the bill as reported by**
10 **the Committee on Education and the Work-**
11 **force.]**

12 **SEC. 503. SECTION 4010 FILINGS WITH THE PBGC.**

13 **(a) CHANGE IN CRITERIA FOR PERSONS RE-**
14 **QUIRED TO PROVIDE INFORMATION TO PBGC.—**
15 **Section 4010(b) of the Employee Retirement**
16 **Income Security Act of 1974 (29 U.S.C. 1310(b))**
17 **is amended by striking paragraph (1), by re-**
18 **designating paragraphs (2) and (3) as para-**
19 **graphs (3) and (4), respectively, and by insert-**
20 **ing before paragraph (3) (as so redesignated)**
21 **the following new paragraphs:**

22 **“(1) the aggregate funding target at-**
23 **tainment percentage of the plan (as de-**
24 **finied in subsection (d)(2)) is less than 60**
25 **percent;**

1 **“(2)(A) the aggregate funding target**
2 **attainment percentage of the plan (as de-**
3 **finied in subsection (d)(2)) is less than 75**
4 **percent, and**

5 **“(B) the plan sponsor is in an indus-**
6 **try with respect to which the corporation**
7 **determines that there is substantial un-**
8 **employment or underemployment and**
9 **the sales and profits are depressed or de-**
10 **clining;”.**

11 **(b) NOTICE TO PARTICIPANTS AND BENE-**
12 **FICIARIES.—Section 4010 of the Employee Re-**
13 **tirement Income Security Act of 1974 (29**
14 **U.S.C. 1310) is amended by adding at the end**
15 **the following new subsection:**

16 **“(d) NOTICE TO PARTICIPANTS AND BENE-**
17 **FICIARIES.—**

18 **“(1) IN GENERAL.—Not later than 90**
19 **days after the submission by any person**
20 **to the corporation of information or doc-**
21 **umentary material with respect to any**
22 **plan pursuant to subsection (a), such per-**
23 **son shall provide notice of such submis-**
24 **sion to each participant and beneficiary**
25 **under the plan (and under all plans**

1 maintained by members of the controlled
2 group of each contributing sponsor of the
3 plan). Such notice shall also set forth—

4 “(A) the number of single-em-
5 ployer plans covered by this title
6 which are in at-risk status and are
7 maintained by contributing sponsors
8 of such plan (and by members of their
9 controlled groups) with respect to
10 which the funding target attainment
11 percentage for the preceding plan
12 year of each plan is less than 60 per-
13 cent;

14 “(B) the value of the assets of
15 each of the plans described in sub-
16 paragraph (A) for the plan year, the
17 funding target for each of such plans
18 for the plan year, and the funding
19 target attainment percentage of each
20 of such plans for the plan year; and

21 “(C) taking into account all sin-
22 gle-employer plans maintained by the
23 contributing sponsor and the mem-
24 bers of its controlled group as of the
25 end of such plan year—

1 “(i) the aggregate total of the
2 values of plan assets of such plans
3 as of the end of such plan year,

4 “(ii) the aggregate total of the
5 funding targets of such plans, as
6 of the end of such plan year, tak-
7 ing into account only benefits to
8 which participants and bene-
9 ficiaries have a nonforfeitable
10 right, and

11 “(iii) the aggregate funding
12 targets attainment percentage
13 with respect to the contributing
14 sponsor for the preceding plan
15 year.

16 “(2) DEFINITIONS.—For purposes of
17 this subsection—

18 “(A) VALUE OF PLAN ASSETS.—The
19 term ‘value of plan assets’ means the
20 value of plan assets, as determined
21 under section 303(g)(3).

22 “(B) FUNDING TARGET.—The term
23 ‘funding target’ has the meaning pro-
24 vided under section 303(d)(1).

1 **“(C) FUNDING TARGET ATTAINMENT**
2 **PERCENTAGE.—The term ‘funding tar-**
3 **get attainment percentage’ has the**
4 **meaning provided in section**
5 **303(d)(2).**

6 **“(D) AGGREGATE FUNDING TARGETS**
7 **ATTAINMENT PERCENTAGE.—The term**
8 **‘aggregate funding targets attainment**
9 **percentage’ with respect to a contrib-**
10 **uting sponsor for a plan year is the**
11 **percentage, taking into account all**
12 **plans maintained by the contributing**
13 **sponsor and the members of its con-**
14 **trolled group as of the end of such**
15 **plan year, which**

16 **“(i) the aggregate total of the**
17 **values of plan assets, as of the**
18 **end of such plan year, of such**
19 **plans, is of**

20 **“(ii) the aggregate total of the**
21 **funding targets of such plans, as**
22 **of the end of such plan year, tak-**
23 **ing into account only benefits to**
24 **which participants and bene-**

1 **ficiaries have a nonforfeitable**
2 **right.**

3 **“(E) AT-RISK STATUS.—The term**
4 **‘at-risk status’ has the meaning pro-**
5 **vided in section 303(i)(3).**

6 **“(3) COMPLIANCE.—**

7 **“(A) IN GENERAL.—Any notice re-**
8 **quired to be provided under para-**
9 **graph (1) may be provided in written,**
10 **electronic, or other appropriate form**
11 **to the extent such form is reasonably**
12 **accessible to individuals to whom the**
13 **information is required to be pro-**
14 **vided.**

15 **“(B) LIMITATIONS.—In no case shall**
16 **a participant or beneficiary be enti-**
17 **tled under this subsection to receive**
18 **more than one notice described in**
19 **paragraph (1) during any one 12-**
20 **month period. The person required to**
21 **provide such notice may make a rea-**
22 **sonable charge to cover copying,**
23 **mailing, and other costs of furnishing**
24 **such notice pursuant to paragraph**
25 **(1). The corporation may by regula-**

1 **tions prescribe the maximum amount**
2 **which will constitute a reasonable**
3 **charge under the preceding sentence.**

4 **“(4) NOTICE TO CONGRESS.—Concurrent**
5 **with the provision of any notice under**
6 **paragraph (1), such person shall provide**
7 **such notice to the Committee on Edu-**
8 **cation and the Workforce and the Com-**
9 **mittee on Ways and Means of the House**
10 **of Representatives and the Committee on**
11 **Health, Education, Labor, and Pensions**
12 **and the Committee on Finance of the**
13 **Senate, which shall be treated as mate-**
14 **rials provided in executive session.”.**

15 **(c) EFFECTIVE DATE.—The amendment**
16 **made by this section shall apply with respect**
17 **to plan years beginning after December 31,**
18 **2006.**

1 **TITLE VI—INVESTMENT ADVICE**

2 **SEC. 601. AMENDMENTS TO EMPLOYEE RETIREMENT IN-**
3 **COME SECURITY ACT OF 1974 PROVIDING**
4 **PROHIBITED TRANSACTION EXEMPTION FOR**
5 **PROVISION OF INVESTMENT ADVICE.**

6 **[See section 601 of the bill as reported by**
7 **the Committee on Education and the Work-**
8 **force.]**

9 **SEC. 602. AMENDMENTS TO INTERNAL REVENUE CODE OF**
10 **1986 PROVIDING PROHIBITED TRANSACTION**
11 **EXEMPTION FOR PROVISION OF INVESTMENT**
12 **ADVICE.**

13 **(a) EXEMPTION FROM PROHIBITED TRANS-**
14 **ACTIONS.—Subsection (d) of section 4975 of the**
15 **Internal Revenue Code of 1986 (relating to ex-**
16 **emptions from tax on prohibited trans-**
17 **actions) is amended—**

18 **(1) in paragraph (15), by striking “or”**
19 **at the end;**

20 **(2) in paragraph (16), by striking the**
21 **period at the end and inserting “; or”;**
22 **and**

23 **(3) by adding at the end the following**
24 **new paragraph:**

1 “(17) any transaction described in
2 subsection (f)(8)(A) in connection with
3 the provision of investment advice de-
4 scribed in subsection (e)(3)(B)(i), in any
5 case in which—

6 “(A) the investment of assets of
7 the plan is subject to the direction of
8 plan participants or beneficiaries,

9 “(B) the advice is provided to the
10 plan or a participant or beneficiary of
11 the plan by a fiduciary adviser in
12 connection with any sale, acquisition,
13 or holding of a security or other
14 property for purposes of investment
15 of plan assets, and

16 “(C) the requirements of sub-
17 section (f)(8)(B) are met in connection
18 with the provision of the advice.”.

19 (b) **ALLOWED TRANSACTIONS AND REQUIRE-**
20 **MENTS.—**Subsection (f) of such section 4975
21 **(relating to other definitions and special**
22 **rules) is amended by adding at the end the fol-**
23 **lowing new paragraph:**

1 **“(8) PROVISIONS RELATING TO INVEST-**
2 **MENT ADVICE PROVIDED BY FIDUCIARY ADVIS-**
3 **ERS.—**

4 **“(A) TRANSACTIONS ALLOWABLE IN**
5 **CONNECTION WITH INVESTMENT ADVICE**
6 **PROVIDED BY FIDUCIARY ADVISERS.—The**
7 **transactions referred to in subsection**
8 **(d)(17), in connection with the provi-**
9 **sion of investment advice by a fidu-**
10 **ciary adviser, are the following:**

11 **“(i) the provision of the advice**
12 **to the plan, participant, or bene-**
13 **ficiary;**

14 **“(ii) the sale, acquisition, or**
15 **holding of a security or other**
16 **property (including any lending**
17 **of money or other extension of**
18 **credit associated with the sale,**
19 **acquisition, or holding of a secu-**
20 **rity or other property) pursuant**
21 **to the advice; and**

22 **“(iii) the direct or indirect re-**
23 **ceipt of fees or other compensa-**
24 **tion by the fiduciary adviser or**
25 **an affiliate thereof (or any em-**

1 **ployee, agent, or registered rep-**
2 **resentative of the fiduciary ad-**
3 **viser or affiliate) in connection**
4 **with the provision of the advice**
5 **or in connection with a sale, ac-**
6 **quisition, or holding of a security**
7 **or other property pursuant to the**
8 **advice.**

9 **“(B) REQUIREMENTS RELATING TO**
10 **PROVISION OF INVESTMENT ADVICE BY FI-**
11 **DUCIARY ADVISERS.—The requirements**
12 **of this subparagraph (referred to in**
13 **subsection (d)(17)(C)) are met in con-**
14 **nection with the provision of invest-**
15 **ment advice referred to in subsection**
16 **(e)(3)(B), provided to a plan or a par-**
17 **ticipant or beneficiary of a plan by a**
18 **fiduciary adviser with respect to the**
19 **plan in connection with any sale, ac-**
20 **quisition, or holding of a security or**
21 **other property for purposes of invest-**
22 **ment of amounts held by the plan,**
23 **if—**

24 **“(i) in the case of the initial**
25 **provision of the advice with re-**

1 **gard to the security or other**
2 **property by the fiduciary adviser**
3 **to the plan, participant, or bene-**
4 **ficiary, the fiduciary adviser pro-**
5 **vides to the recipient of the ad-**
6 **vice, at a time reasonably contem-**
7 **poraneous with the initial provi-**
8 **sion of the advice, a written noti-**
9 **fication (which may consist of no-**
10 **tification by means of electronic**
11 **communication)—**

12 **“(I) of all fees or other**
13 **compensation relating to the**
14 **advice that the fiduciary ad-**
15 **viser or any affiliate thereof is**
16 **to receive (including com-**
17 **penetration provided by any**
18 **third party) in connection**
19 **with the provision of the ad-**
20 **vice or in connection with the**
21 **sale, acquisition, or holding of**
22 **the security or other prop-**
23 **erty,**

24 **“(II) of any material affili-**
25 **ation or contractual relation-**

1 **ship of the fiduciary adviser**
2 **or affiliates thereof in the se-**
3 **curity or other property,**

4 **“(III) of any limitation**
5 **placed on the scope of the in-**
6 **vestment advice to be pro-**
7 **vided by the fiduciary adviser**
8 **with respect to any such sale,**
9 **acquisition, or holding of a se-**
10 **curity or other property,**

11 **“(IV) of the types of serv-**
12 **ices provided by the fiduciary**
13 **adviser in connection with**
14 **the provision of investment**
15 **advice by the fiduciary ad-**
16 **viser,**

17 **“(V) that the adviser is**
18 **acting as a fiduciary of the**
19 **plan in connection with the**
20 **provision of the advice, and**

21 **“(VI) that a recipient of**
22 **the advice may separately ar-**
23 **range for the provision of ad-**
24 **vice by another adviser, that**
25 **could have no material affili-**

1 **ation with and receive no fees**
2 **or other compensation in con-**
3 **nection with the security or**
4 **other property,**

5 **“(ii) the fiduciary adviser pro-**
6 **vides appropriate disclosure, in**
7 **connection with the sale, acquisi-**
8 **tion, or holding of the security or**
9 **other property, in accordance**
10 **with all applicable securities**
11 **laws,**

12 **“(iii) the sale, acquisition, or**
13 **holding occurs solely at the direc-**
14 **tion of the recipient of the advice,**

15 **“(iv) the compensation re-**
16 **ceived by the fiduciary adviser**
17 **and affiliates thereof in connec-**
18 **tion with the sale, acquisition, or**
19 **holding of the security or other**
20 **property is reasonable, and**

21 **“(v) the terms of the sale, ac-**
22 **quisition, or holding of the secu-**
23 **rity or other property are at least**
24 **as favorable to the plan as an**

1 arm's length transaction would
2 be.

3 **“(C) STANDARDS FOR PRESENTATION**
4 **OF INFORMATION.—The notification re-**
5 **quired to be provided to participants**
6 **and beneficiaries under subpara-**
7 **graph (B)(i) shall be written in a clear**
8 **and conspicuous manner and in a**
9 **manner calculated to be understood**
10 **by the average plan participant and**
11 **shall be sufficiently accurate and**
12 **comprehensive to reasonably apprise**
13 **such participants and beneficiaries of**
14 **the information required to be pro-**
15 **vided in the notification.**

16 **“(D) EXEMPTION CONDITIONED ON**
17 **MAKING REQUIRED INFORMATION AVAIL-**
18 **ABLE ANNUALLY, ON REQUEST, AND IN**
19 **THE EVENT OF MATERIAL CHANGE.—The**
20 **requirements of subparagraph (B)(i)**
21 **shall be deemed not to have been met**
22 **in connection with the initial or any**
23 **subsequent provision of advice de-**
24 **scribed in subparagraph (B) to the**
25 **plan, participant, or beneficiary if, at**

1 **any time during the provision of advisory services to the plan, participant,**
2 **or beneficiary, the fiduciary adviser**
3 **fails to maintain the information described in subclauses (I) through (IV)**
4 **of subparagraph (B)(i) in currently**
5 **accurate form and in the manner required by subparagraph (C), or fails—**

6 **“(i) to provide, without**
7 **charge, such currently accurate**
8 **information to the recipient of**
9 **the advice no less than annually,**

10 **“(ii) to make such currently**
11 **accurate information available,**
12 **upon request and without charge,**
13 **to the recipient of the advice, or**

14 **“(iii) in the event of a material**
15 **change to the information described in subclauses (I) through**
16 **(IV) of subparagraph (B)(i), to**
17 **provide, without charge, such**
18 **currently accurate information to**
19 **the recipient of the advice at a**
20 **time reasonably contemporaneous**
21
22
23
24

1 to the material change in infor-
2 mation.

3 “(E) MAINTENANCE FOR 6 YEARS OF
4 EVIDENCE OF COMPLIANCE.—A fiduciary
5 adviser referred to in subparagraph
6 (B) who has provided advice referred
7 to in such subparagraph shall, for a
8 period of not less than 6 years after
9 the provision of the advice, maintain
10 any records necessary for deter-
11 mining whether the requirements of
12 the preceding provisions of this para-
13 graph and of subsection (d)(17) have
14 been met. A transaction prohibited
15 under subsection (c)(1) shall not be
16 considered to have occurred solely
17 because the records are lost or de-
18 stroyed prior to the end of the 6-year
19 period due to circumstances beyond
20 the control of the fiduciary adviser.

21 “(F) EXEMPTION FOR PLAN SPONSOR
22 AND CERTAIN OTHER FIDUCIARIES.—A
23 plan sponsor or other person who is a
24 fiduciary (other than a fiduciary ad-
25 viser) shall not be treated as failing

1 **to meet the requirements of this sec-**
2 **tion solely by reason of the provision**
3 **of investment advice referred to in**
4 **subsection (e)(3)(B) (or solely by rea-**
5 **son of contracting for or otherwise**
6 **arranging for the provision of the ad-**
7 **vice), if—**

8 **“(i) the advice is provided by**
9 **a fiduciary adviser pursuant to an**
10 **arrangement between the plan**
11 **sponsor or other fiduciary and**
12 **the fiduciary adviser for the pro-**
13 **vision by the fiduciary adviser of**
14 **investment advice referred to in**
15 **such section,**

16 **“(ii) the terms of the arrange-**
17 **ment require compliance by the**
18 **fiduciary adviser with the re-**
19 **quirements of this paragraph,**

20 **“(iii) the terms of the arrange-**
21 **ment include a written acknowl-**
22 **edgment by the fiduciary adviser**
23 **that the fiduciary adviser is a fi-**
24 **duciary of the plan with respect**
25 **to the provision of the advice, and**

1 “(iv) the requirements of part
2 4 of subtitle B of title I of the Em-
3 ployee Retirement Income Secu-
4 rity Act of 1974 are met in connec-
5 tion with the provision of such
6 advice.

7 “(G) DEFINITIONS.—For purposes
8 of this paragraph and subsection
9 (d)(17)—

10 “(i) FIDUCIARY ADVISER.—The
11 term ‘fiduciary adviser’ means,
12 with respect to a plan, a person
13 who is a fiduciary of the plan by
14 reason of the provision of invest-
15 ment advice by the person to the
16 plan or to a participant or bene-
17 ficiary and who is—

18 “(I) registered as an in-
19 vestment adviser under the
20 Investment Advisers Act of
21 1940 (15 U.S.C. 80b-1 et seq.)
22 or under the laws of the State
23 in which the fiduciary main-
24 tains its principal office and
25 place of business,

1 **“(II) a bank or similar fi-**
2 **ncial institution referred to**
3 **in subsection (d)(4) or a sav-**
4 **ings association (as defined in**
5 **section 3(b)(1) of the Federal**
6 **Deposit Insurance Act (12**
7 **U.S.C. 1813(b)(1))), but only if**
8 **the advice is provided**
9 **through a trust department of**
10 **the bank or similar financial**
11 **institution or savings associa-**
12 **tion which is subject to peri-**
13 **odic examination and review**
14 **by Federal or State banking**
15 **authorities,**

16 **“(III) an insurance com-**
17 **pany qualified to do business**
18 **under the laws of a State,**

19 **“(IV) a person registered**
20 **as a broker or dealer under**
21 **the Securities Exchange Act**
22 **of 1934 (15 U.S.C. 78a et seq.),**

23 **“(V) an affiliate of a per-**
24 **son described in any of sub-**
25 **clauses (I) through (IV), or**

1 **“(VI) an employee, agent,**
2 **or registered representative**
3 **of a person described in any**
4 **of subclauses (I) through (V)**
5 **who satisfies the require-**
6 **ments of applicable insur-**
7 **ance, banking, and securities**
8 **laws relating to the provision**
9 **of the advice.**

10 **“(ii) AFFILIATE.—The term ‘af-**
11 **filiate’ of another entity means an**
12 **affiliated person of the entity (as**
13 **defined in section 2(a)(3) of the**
14 **Investment Company Act of 1940**
15 **(15 U.S.C. 80a-2(a)(3)).**

16 **“(iii) REGISTERED REPRESENTA-**
17 **TIVE.—The term ‘registered rep-**
18 **resentative’ of another entity**
19 **means a person described in sec-**
20 **tion 3(a)(18) of the Securities Ex-**
21 **change Act of 1934 (15 U.S.C.**
22 **78c(a)(18)) (substituting the entity**
23 **for the broker or dealer referred**
24 **to in such section) or a person de-**
25 **scribed in section 202(a)(17) of the**

1 **Investment Advisers Act of 1940**
2 **(15 U.S.C. 80b-2(a)(17)) (sub-**
3 **stituting the entity for the invest-**
4 **ment adviser referred to in such**
5 **section).”.**

6 **(c) EFFECTIVE DATE.—The amendments**
7 **made by this section shall apply with respect**
8 **to advice referred to in section 4975(c)(3)(B)**
9 **of the Internal Revenue Code of 1986 pro-**
10 **vided on or after January 1, 2006.**

11 **TITLE VII—BENEFIT ACCRUAL**
12 **STANDARDS**

13 **SEC. 701. IMPROVEMENTS IN BENEFIT ACCRUAL STAND-**
14 **ARDS.**

15 **(a) AMENDMENTS TO THE EMPLOYEE RETIRE-**
16 **MENT INCOME SECURITY ACT OF 1974.—[See sec-**
17 **tion 701(a) of the bill as reported by the Com-**
18 **mittee on Education and the Workforce.]**

19 **(b) AMENDMENTS TO THE INTERNAL REVENUE**
20 **CODE OF 1986.—**

21 **(1) RULES RELATING TO REDUCTION IN**
22 **ACCRUED BENEFITS BECAUSE OF ATTAINMENT**
23 **OF ANY AGE.—Subparagraph (H) of section**
24 **411(b)(1) of the Internal Revenue Code of**

1 **1986 is amended by adding at the end the**
2 **following new clauses:**

3 **“(vi) COMPARISON TO SIMILARLY**
4 **SITUATED YOUNGER INDIVIDUAL.—**

5 **“(I) IN GENERAL.—A plan**
6 **shall not be treated as failing**
7 **to meet the requirements of**
8 **clause (i) if a participant’s en-**
9 **tire accrued benefit, as deter-**
10 **mined as of any date under**
11 **the formula for determining**
12 **benefits as set forth in the**
13 **text of the plan documents,**
14 **would be equal to or greater**
15 **than that of any similarly sit-**
16 **uated, younger individual.**

17 **“(II) SIMILARLY SITUATED.—**
18 **For purposes of this clause,**
19 **an individual is similarly situ-**
20 **ated to a participant if such**
21 **individual is identical to such**
22 **participant in every respect**
23 **(including period of service,**
24 **compensation, position, date**

1 of hire, work history, and any
2 other respect) except for age.

3 **“(III) DISREGARD OF SUB-**
4 **SIDIZED EARLY RETIREMENT**
5 **BENEFITS.—In determining the**
6 **entire accrued benefit for**
7 **purposes of this clause, the**
8 **subsidized portion of any**
9 **early retirement benefit (in-**
10 **cluding any early retirement**
11 **subsidy that is fully or par-**
12 **tially included or reflected in**
13 **an employee’s opening bal-**
14 **ance or other transition bene-**
15 **fits) shall be disregarded.**

16 **“(vii) INTEREST ON HYPO-**
17 **THEITICAL ACCOUNTS.—A plan**
18 **under which the accrued benefit**
19 **payable under the plan upon dis-**
20 **tribution (or any portion thereof)**
21 **is expressed as the balance of a**
22 **hypothetical account maintained**
23 **for the participant shall not be**
24 **treated as failing to meet the re-**
25 **quirements of clause (i) solely be-**

1 **cause interest accruing on such**
2 **balance is taken into account.**

3 **“(viii) CERTAIN OFFSETS PER-**
4 **MITTED.—A plan shall not be treat-**
5 **ed as failing to meet the require-**
6 **ments of this subparagraph solely**
7 **because the plan provides allow-**
8 **able offsets against those benefits**
9 **under the plan which are attrib-**
10 **utable to employer contributions,**
11 **based on benefits which are pro-**
12 **vided under title II of the Social**
13 **Security Act, the Railroad Retire-**
14 **ment Act of 1974, another plan de-**
15 **scribed in section 401(a) main-**
16 **tained by the same employer, or**
17 **under any retirement program**
18 **for officers or employees of the**
19 **Federal Government or of the**
20 **government of any State or polit-**
21 **ical subdivision thereof. For pur-**
22 **poses of this clause, allowable off-**
23 **sets based on such benefits con-**
24 **sist of offsets equal to all or part**
25 **of the actual benefit payment**

1 **amounts, reasonable projections**
2 **or estimations of such benefit**
3 **payment amounts, or actuarial**
4 **equivalents of such actual benefit**
5 **payment amounts, projections, or**
6 **estimations (determined on the**
7 **basis of reasonable actuarial as-**
8 **sumptions).**

9 **“(ix) PERMITTED DISPARITIES IN**
10 **PLAN CONTRIBUTIONS OR BENE-**
11 **FITS.—A plan shall not be treated**
12 **as failing to meet the require-**
13 **ments of this subparagraph solely**
14 **because the plan provides a dis-**
15 **parity in contributions or benefits**
16 **with respect to which the require-**
17 **ments of section 401(l) are met.**

18 **“(x) PRE-RETIREMENT INDEXING**
19 **PERMITTED.—**

20 **“(I) IN GENERAL.—A plan**
21 **shall not be treated as failing**
22 **to meet the requirements of**
23 **this subparagraph solely be-**
24 **cause the plan provides for**

1 **pre-retirement indexing of ac-**
2 **crued benefits under the plan.**

3 **“(II) PRE-RETIREMENT IN-**
4 **DEXING.—For purposes of this**
5 **clause, the term ‘pre-retire-**
6 **ment indexing’ means, in con-**
7 **nection with an accrued ben-**
8 **efit, the periodic adjustment**
9 **of the accrued benefit by**
10 **means of the application of a**
11 **recognized index or method-**
12 **ology so as to protect the eco-**
13 **nomical value of the benefit**
14 **against inflation prior to dis-**
15 **tribution.”.**

16 **(2) DETERMINATIONS OF ACCRUED BEN-**
17 **EFIT AS BALANCE OF BENEFIT ACCOUNT.—**
18 **Subsection (a) of section 411 of such Code**
19 **is amended by adding at the end the fol-**
20 **lowing new paragraph:**

21 **“(13) DETERMINATIONS OF ACCRUED**
22 **BENEFIT AS BALANCE OF BENEFIT AC-**
23 **COUNT.—**

24 **“(A) IN GENERAL.—A defined ben-**
25 **efit plan under which the accrued**

1 **benefit payable under the plan upon**
2 **distribution (or any portion thereof)**
3 **is expressed as the balance of a hypo-**
4 **thetical account maintained for the**
5 **participant shall not be treated as**
6 **failing to meet the requirements of**
7 **subsection (a)(2) and section 417(e)**
8 **solely because of the amount actually**
9 **made available for such distribution**
10 **under the terms of the plan, in any**
11 **case in which the applicable interest**
12 **rate that would be used under the**
13 **terms of the plan to project the**
14 **amount of the participant's account**
15 **balance to normal retirement age is**
16 **not greater than a market rate of re-**
17 **turn.**

18 **“(B) REGULATIONS.—The Secretary**
19 **may provide by regulation for rules**
20 **governing the calculation of a market**
21 **rate of return for purposes of sub-**
22 **paragraph (A) and for permissible**
23 **methods of crediting interest to the**
24 **account (including variable interest**
25 **rates) resulting in effective rates of**

1 **return meeting the requirements of**
2 **subparagraph (A).”.**

3 **(c) EFFECTIVE DATE.—The amendments**
4 **made by this section shall apply to periods be-**
5 **ginning on or after June 29, 2005.**

6 **TITLE VIII—DEDUCTION**
7 **LIMITATIONS**

8 **SEC. 801. INCREASE IN DEDUCTION LIMITS.**

9 **(a) INCREASE IN DEDUCTION LIMIT FOR SIN-**
10 **GLE-EMPLOYER PLANS.—Section 404 of the In-**
11 **ternal Revenue Code of 1986 (relating to de-**
12 **duction for contributions of an employer to**
13 **an employees’ trust or annuity plan and com-**
14 **pensation under a deferred payment plan) is**
15 **amended—**

16 **(1) in subsection (a)(1)(A), by insert-**
17 **ing “in the case of a defined benefit plan**
18 **other than a multiemployer plan, in an**
19 **amount determined under subsection (o),**
20 **and in the case of any other plan” after**
21 **“section 501(a),”, and**

22 **(2) by inserting at the end the fol-**
23 **lowing new subsection:**

1 **“(o) DEDUCTION LIMIT FOR SINGLE-EM-**
2 **PLOYER PLANS.—For purposes of subsection**
3 **(a)(1)(A)—**

4 **“(1) IN GENERAL.—In the case of a de-**
5 **fin ed benefit plan to which subsection**
6 **(a)(1)(A) applies (other than a multiem-**
7 **ployer plan), the amount determined**
8 **under this subsection for any taxable**
9 **year shall be equal to the amount deter-**
10 **min ed under paragraph (2) with respect**
11 **to each plan year ending with or within**
12 **the taxable year.**

13 **“(2) DETERMINATION OF AMOUNT.—The**
14 **amount determined under this paragraph**
15 **for any plan year shall be equal to the ex-**
16 **cess (if any) of—**

17 **“(A) the greater of—**

18 **“(i) the sum of—**

19 **“(I) 150 percent of the**
20 **funding target applicable to**
21 **the plan for such plan year,**
22 **determined under section 430,**
23 **plus**

24 **“(II) the target normal**
25 **cost applicable to the plan for**

1 such plan year, determined
2 under section 430(b), or

3 “(ii) in the case of a plan that
4 is not in an at-risk status (as de-
5 termined under 430(i)), the sum
6 of—

7 “(I) the funding target
8 which would be applicable to
9 the plan for such plan year if
10 such plan were in an at-risk
11 status, determined under sec-
12 tion 430(d) (with regard to
13 section 430(i)), plus

14 “(II) the target normal
15 cost which would be applica-
16 ble to the plan for such plan
17 year if such plan were in an
18 at-risk status, determined
19 under section 430(d) (with re-
20 gard to section 430(i)), over

21 “(B) the value of the plan assets
22 (determined under section 430(g)).

23 “(3) SPECIAL RULE FOR TERMINATING
24 PLANS.—In the case of a plan which, sub-
25 ject to section 4041 of the Employee Re-

1 **tirement Income Security Act of 1974, ter-**
2 **minates during the plan year, the amount**
3 **determined under paragraph (2) shall not**
4 **be less than the amount required to make**
5 **the plan sufficient for benefit liabilities**
6 **(within the meaning of section 4041(d) of**
7 **such Act).**

8 **“(4) DEFINITIONS.—Any term used in**
9 **this subsection which is also used in sec-**
10 **tion 430 shall have the same meaning**
11 **given such term by section 430.”.**

12 **(b) INCREASE IN DEDUCTION LIMIT FOR MUL-**
13 **TIEMPLOYER PLANS.—Section 404(a)(1)(D) of**
14 **such Code is amended to read as follows:**

15 **“(D) MINIMUM DEDUCTION FOR MUL-**
16 **TIEMPLOYER PLANS.—In the case of a**
17 **defined benefit plan which is a multi-**
18 **employer plan, except as provided in**
19 **regulations, the maximum amount de-**
20 **ductible under the limitations of this**
21 **paragraph shall not be less than the**
22 **excess (if any) of—**

23 **“(i) 140 percent of the current**
24 **liability of the plan determined**
25 **under section 431(c)(6)(D), over**

1 “(ii) the value of the plan’s as-
2 sets determined under section
3 431(c)(2).”.

4 (c) TECHNICAL AND CONFORMING AMEND-
5 MENTS.—

6 (1) The last sentence of section
7 404(a)(1)(A) of such Code is amended by
8 striking “section 412” each place it ap-
9 pears and inserting “section 431”.

10 (2) Section 404(a)(1)(B) of such Code
11 is amended—

12 (A) by striking “In the case of a
13 plan” and inserting “In the case of a
14 multiemployer plan”,

15 (B) by striking “section 412(c)(7)”
16 each place it appears and inserting
17 “section 431(c)(6)”,

18 (C) by striking “section
19 412(c)(7)(B)” and inserting “section
20 431(c)(6)(D)”,

21 (D) by striking “section
22 412(c)(7)(A)” and inserting “section
23 431(c)(6)(A)”, and

24 (E) by striking “section 412” and
25 inserting “section 431”.

1 **(3) Section 404(a)(1) of such Code is**
2 **amended by striking subparagraph (F).**

3 **(4) Section 404(a)(7) of such Code is**
4 **amended—**

5 **(A) in subparagraph (A)(ii), by**
6 **striking “for the plan year” and all**
7 **that follows and inserting “which are**
8 **multiemployer plans for the plan year**
9 **which ends with or within such tax-**
10 **able year (or for any prior plan year)**
11 **and the maximum amount of em-**
12 **ployer contributions allowable under**
13 **subsection (o) with respect to any**
14 **such defined benefit plans which are**
15 **not multiemployer plans for the plan**
16 **year.”,**

17 **(B) by striking “section 412(l)” in**
18 **the last sentence of subparagraph (A)**
19 **and inserting “paragraph (1)(D)(ii),”**
20 **and**

21 **(C) by striking subparagraph (D)**
22 **and inserting:**

23 **“(D) INSURANCE CONTRACT PLANS.—**
24 **For purposes of this paragraph, a**
25 **plan described in section 412(e)(3)**

1 tion otherwise paid or accrued
2 during the taxable year to the
3 beneficiaries under such plans.
4 For purposes of this clause,
5 amounts carried over from pre-
6 ceding taxable years under sub-
7 paragraph (B) shall be treated as
8 employer contributions to 1 or
9 more defined contributions to the
10 extent attributable to employer
11 contributions to such plans in
12 such preceding taxable years.”.

13 (b) **CONFORMING AMENDMENTS.**—Subpara-
14 **graph (A) of section 4972(c)(6) of such Code**
15 **(relating to nondeductible contributions) is**
16 **amended to read as follows:**

17 “(A) so much of the contributions
18 to 1 or more defined contribution
19 plans which are not deductible when
20 contributed solely because of section
21 404(a)(7) as does not exceed the
22 amount of contributions described in
23 section 401(m)(4)(A), or”.

24 (c) **EFFECTIVE DATE.**—The amendments
25 **made by this section shall apply to contribu-**

1 tions for taxable years beginning after Decem-
2 ber 31, 2006.

3 **TITLE IX—ENHANCED RETIRE-**
4 **MENTS SAVINGS AND DE-**
5 **FINED CONTRIBUTION PLANS**

6 **SEC. 901. PENSIONS AND INDIVIDUAL RETIREMENT AR-**
7 **RANGEMENT PROVISIONS OF ECONOMIC**
8 **GROWTH AND TAX RELIEF RECONCILIATION**
9 **ACT OF 2001 MADE PERMANENT.**

10 **Title IX of the Economic Growth and Tax**
11 **Relief Reconciliation Act of 2001 shall not**
12 **apply to the provisions of, and amendments**
13 **made by, subtitles (A) through (F) of title VI**
14 **of such Act (relating to pension and indi-**
15 **vidual retirement arrangement provisions).**

16 **SEC. 902. SAVER'S CREDIT.**

17 **(a) PERMANENCY.—Section 25B of the In-**
18 **ternal Revenue Code of 1986 (relating to elec-**
19 **tive deferrals and IRA contributions by cer-**
20 **tain individuals) is amended by striking sub-**
21 **section (h).**

22 **(b) VOLUNTARY DEPOSIT INTO QUALIFIED**
23 **ACCOUNT.—**

24 **(1) Section 25B of such Code, as**
25 **amended by subsection (a), is further**

1 amended by adding at the end the fol-
2 lowing new subsection:

3 **“(h) VOLUNTARY DEPOSIT INTO QUALIFIED**
4 **ACCOUNT.—**

5 **“(1) IN GENERAL.—**So much of any
6 overpayment under section 6401(b) as
7 does not exceed the amount allowed as a
8 tax credit under subsection (a) shall, at
9 the election of the taxpayer, be paid on
10 behalf of the individual taxpayer to an
11 applicable retirement plan designated by
12 the individual, except that in the case of
13 a joint return, each spouse shall be enti-
14 tled to designate an applicable retire-
15 ment plan with respect to payments at-
16 tributable to such spouse.

17 **“(2) APPLICABLE RETIREMENT PLAN.—**
18 For purposes of this subsection, the term
19 ‘applicable retirement plan’ means any el-
20 igible retirement plan (as defined in sec-
21 tion 402(c)(8)(B)) that elects to accept de-
22 posits under this subsection.”.

23 **(2) EFFECTIVE DATE.—**The amendment
24 made by paragraph (1) shall apply to tax-

1 **able years beginning after December 31,**
2 **2006.**

3 **SEC. 903. INCREASING PARTICIPATION THROUGH AUTO-**
4 **MATIC CONTRIBUTION ARRANGEMENTS.**

5 **(a) IN GENERAL.—Section 401(k) of the In-**
6 **ternal Revenue Code of 1986 (relating to cash**
7 **or deferred arrangement) is amended by add-**
8 **ing at the end the following new paragraph:**

9 **“(13) ALTERNATIVE METHOD FOR AUTO-**
10 **MATIC CONTRIBUTION ARRANGEMENTS TO**
11 **MEET NONDISCRIMINATION REQUIREMENTS.—**

12 **“(A) IN GENERAL.—A qualified**
13 **automatic contribution arrangement**
14 **shall be treated as meeting the re-**
15 **quirements of paragraph (3)(A)(ii).**

16 **“(B) QUALIFIED AUTOMATIC CON-**
17 **TRIBUTION ARRANGEMENT.—For pur-**
18 **poses of this paragraph, the term**
19 **‘qualified automatic contribution ar-**
20 **rangement’ means any cash or de-**
21 **ferred arrangement which meets the**
22 **requirements of subparagraphs (C)**
23 **through (F).**

24 **“(C) AUTOMATIC DEFERRAL.—**

1 “(i) **IN GENERAL.**—The require-
2 ments of this subparagraph are
3 met if, under the arrangement,
4 each employee eligible to partici-
5 pate in the arrangement is treat-
6 ed as having elected to have the
7 employer make elective contribu-
8 tions in an amount equal to a
9 qualified percentage of compensa-
10 tion.

11 “(ii) **ELECTION OUT.**—The elec-
12 tion treated as having been made
13 under clause (i) shall cease to
14 apply with respect to any em-
15 ployee if such employee makes an
16 affirmative election—

17 “(I) to not have such con-
18 tributions made, or

19 “(II) to make elective con-
20 tributions at a level specified
21 in such affirmative election.

22 “(iii) **QUALIFIED PERCENTAGE.**—
23 For purposes of this subpara-
24 graph, the term ‘qualified per-
25 centage’ means, with respect to

1 **any employee, any percentage de-**
2 **termined under the arrangement**
3 **if such percentage is applied uni-**
4 **formly, does not exceed 10 per-**
5 **cent, and is at least—**

6 **“(I) 3 percent during the**
7 **period ending on the last day**
8 **of the first plan year which**
9 **begins after the date on which**
10 **the first elective contribution**
11 **described in clause (i) is made**
12 **with respect to such em-**
13 **ployee,**

14 **“(II) 4 percent during the**
15 **first plan year following the**
16 **plan year described in sub-**
17 **clause (I),**

18 **“(III) 5 percent during the**
19 **second plan year following**
20 **the plan year described in**
21 **subclause (I), and**

22 **“(IV) 6 percent during any**
23 **subsequent plan year.**

24 **“(iv) AUTOMATIC DEFERRAL FOR**
25 **CURRENT EMPLOYEES NOT RE-**

1 **REQUIRED.—**Clause (i) shall be ap-
2 plied without taking into account
3 any employee who was eligible to
4 participate in the arrangement
5 (or a predecessor arrangement)
6 immediately before the date on
7 which such arrangement becomes
8 a qualified automatic contribu-
9 tion arrangement (determined
10 after application of this clause).

11 **“(D) PARTICIPATION.—**

12 **“(i) IN GENERAL.—**An arrange-
13 ment meets the requirements of
14 this subparagraph for any year if,
15 during the plan year or the pre-
16 ceding plan year, elective con-
17 tributions are made on behalf of
18 at least 70 percent of the employ-
19 ees eligible to participate in the
20 arrangement other than—

21 **“(I) highly compensated**
22 **employees, and**

23 **“(II) at the election of the**
24 **plan administrator, employees**

1 **described in subparagraph**
2 **(C)(iv).**

3 **“(ii) FIRST PLAN YEAR.—An ar-**
4 **angement (other than a suc-**
5 **cessor arrangement) shall be**
6 **treated as meeting the require-**
7 **ments of this subparagraph with**
8 **respect to the first plan year with**
9 **respect to which such arrange-**
10 **ment is a qualified automatic con-**
11 **tribution arrangement (deter-**
12 **mined without regard to this sub-**
13 **paragraph).**

14 **“(E) MATCHING OR NONELECTIVE**
15 **CONTRIBUTIONS.—**

16 **“(i) IN GENERAL.—The require-**
17 **ments of this subparagraph are**
18 **met if, under the arrangement,**
19 **the employer—**

20 **“(I) makes matching con-**
21 **tributions on behalf of each**
22 **employee who is not a highly**
23 **compensated employee in an**
24 **amount equal to 50 percent of**
25 **the elective contributions of**

1 the employee to the extent
2 such elective contributions do
3 not exceed 6 percent of com-
4 pensation, or

5 “(II) is required, without
6 regard to whether the em-
7 ployee makes an elective con-
8 tribution or employee con-
9 tribution, to make a contribu-
10 tion to a defined contribution
11 plan on behalf of each em-
12 ployee who is not a highly
13 compensated employee and
14 who is eligible to participate
15 in the arrangement in an
16 amount equal to at least 2
17 percent of the employee’s
18 compensation.

19 “(ii) APPLICATION OF RULES FOR
20 MATCHING CONTRIBUTIONS.—The
21 rules of clauses (ii) and (iii) of
22 paragraph (12)(B) shall apply for
23 purposes of clause (i)(I).

24 “(iii) WITHDRAWAL AND VESTING
25 RESTRICTIONS.—An arrangement

1 shall not be treated as meeting
2 the requirements of clause (i) un-
3 less, with respect to employer
4 contributions (including match-
5 ing contributions) taken into ac-
6 count in determining whether the
7 requirements of clause (i) are
8 met—

9 “(I) any employee who has
10 completed at least 2 years of
11 service (within the meaning
12 of section 411(a)) has a non-
13 forfeitable right to 100 per-
14 cent of the employee’s ac-
15 crued benefit derived from
16 such employer contributions,
17 and

18 “(II) the requirements of
19 subparagraph (B) of para-
20 graph (2) are met with respect
21 to all such employer contribu-
22 tions.

23 “(iv) APPLICATION OF CERTAIN
24 OTHER RULES.—The rules of sub-
25 paragraphs (E)(ii) and (F) of para-

1 **graph (12) shall apply for pur-**
2 **poses of subclauses (I) and (II) of**
3 **clause (i).**

4 **“(F) NOTICE REQUIREMENTS.—**

5 **“(i) IN GENERAL.—The require-**
6 **ments of this subparagraph are**
7 **met if, within a reasonable period**
8 **before each plan year, each em-**
9 **ployee eligible to participate in**
10 **the arrangement for such year re-**
11 **ceives written notice of the em-**
12 **ployee’s rights and obligations**
13 **under the arrangement which—**

14 **“(I) is sufficiently accu-**
15 **rate and comprehensive to ap-**
16 **prise the employee of such**
17 **rights and obligations, and**

18 **“(II) is written in a man-**
19 **ner calculated to be under-**
20 **stood by the average em-**
21 **ployee to whom the arrange-**
22 **ment applies.**

23 **“(ii) TIMING AND CONTENT RE-**
24 **QUIREMENTS.—A notice shall not**
25 **be treated as meeting the require-**

1 **ments of clause (i) with respect to**
2 **an employee unless—**

3 **“(I) the notice explains the**
4 **employee’s right under the ar-**
5 **angement to elect not to**
6 **have elective contributions**
7 **made on the employee’s be-**
8 **half (or to elect to have such**
9 **contributions made at a dif-**
10 **ferent percentage),**

11 **“(II) in the case of an ar-**
12 **angement under which the**
13 **employee may elect among 2**
14 **or more investment options,**
15 **the notice explains how con-**
16 **tributions made under the ar-**
17 **angement will be invested in**
18 **the absence of any investment**
19 **election by the employee, and**

20 **“(III) the employee has a**
21 **reasonable period of time**
22 **after receipt of the notice de-**
23 **scribed in subclauses (I) and**
24 **(II) and before the first elec-**

1 **tive contribution is made to**
2 **make either such election.”.**

3 **(b) MATCHING CONTRIBUTIONS.—Section**
4 **401(m) of such Code (relating to non-**
5 **discrimination test for matching contribu-**
6 **tions and employee contributions) is amended**
7 **by redesignating paragraph (12) as paragraph**
8 **(13) and by inserting after paragraph (11) the**
9 **following new paragraph:**

10 **“(12) ALTERNATIVE METHOD FOR AUTO-**
11 **MATIC CONTRIBUTION ARRANGEMENTS.—A**
12 **defined contribution plan shall be treated**
13 **as meeting the requirements of para-**
14 **graph (2) with respect to matching con-**
15 **tributions if the plan—**

16 **“(A) is a qualified automatic con-**
17 **tribution arrangement (as defined in**
18 **subsection (k)(13)), and**

19 **“(B) meets the requirements of**
20 **paragraph (11)(B).”.**

21 **(c) EXCLUSION FROM DEFINITION OF TOP-**
22 **HEAVY PLANS.—**

23 **(1) ELECTIVE CONTRIBUTION RULE.—**
24 **Clause (i) of section 416(g)(4)(H) of such**

1 Code is amended by inserting “or
2 401(k)(13)” after “section 401(k)(12)”.

3 (2) MATCHING CONTRIBUTION RULE.—
4 Clause (ii) of section 416(g)(4)(H) of such
5 Code is amended by inserting “or
6 401(m)(12)” after “section 401(m)(11)”.

7 (d) CORRECTIVE DISTRIBUTIONS.—

8 (1) IN GENERAL.—Section 414 of the In-
9 ternal Revenue Code of 1986 (relating to
10 definitions and special rules) is amended
11 by adding at the end the following new
12 subsection:

13 “(w) AUTOMATIC CONTRIBUTION ARRANGE-
14 MENTS.—

15 “(1) IN GENERAL.—No tax shall be im-
16 posed under section 72(t) on a distribu-
17 tion from an applicable employer plan to
18 the employee with respect to whom such
19 contribution relates if such distribution
20 does not exceed the erroneous automatic
21 contribution amount and is made not
22 later than the 1st April 15 following the
23 close of the taxable year in which such
24 contribution was made.

1 **“(2) ERRONEOUS AUTOMATIC CONTRIBU-**
2 **TION AMOUNT.—For purposes of this sub-**
3 **section—**

4 **“(A) IN GENERAL.—The term ‘erro-**
5 **neous automatic contribution**
6 **amount’ means the lesser of—**

7 **“(i) the amount of automatic**
8 **contributions made during the**
9 **applicable period which the em-**
10 **ployee elects in a notice to the**
11 **plan administrator to treat as an**
12 **erroneous automatic contribution**
13 **amount for purposes of this sub-**
14 **section, or**

15 **“(ii) \$500.**

16 **“(B) AUTOMATIC CONTRIBUTION.—**
17 **The term ‘automatic contribution’**
18 **means contributions which, under**
19 **the terms of the plan—**

20 **“(i) the employee can elect to**
21 **be made as contributions under**
22 **the plan on behalf of the em-**
23 **ployee, or to the employee di-**
24 **rectly in cash, and**

1 “(ii) which are made on behalf
2 of the employee under the plan
3 pursuant to a plan provision
4 treating the employee as having
5 elected to have the employer
6 make such contributions on be-
7 half of the employee until the em-
8 ployee affirmatively elects not to
9 have such contribution made or
10 affirmatively elects to make con-
11 tributions as a specified level.

12 “(3) APPLICABLE EMPLOYER PLAN.—For
13 purposes of this subsection, the term ‘ap-
14 plicable employer plan’ means—

15 “(A) an employees’ trust described
16 in section 401(a) which is exempt
17 from tax under section 501(a), and

18 “(B) a plan under which amounts
19 are contributed by an individual’s
20 employer for an annuity contract de-
21 scribed in section 403(b).

22 “(4) APPLICABLE PERIOD.—For pur-
23 poses of this subsection, the term ‘appli-
24 cable period’ means, with respect to any
25 employee, the three month period that

1 begins on the first date that an automatic
2 contribution described in paragraph
3 (2)(B) is made with respect to such em-
4 ployee.”.

5 (2) VESTING CONFORMING AMEND-
6 MENTS.—

7 (A) Section 411(a)(3)(G) of such
8 Code is amended by inserting “an er-
9 roneous automatic contribution
10 under section 414(w),” after
11 “402(g)(2)(A),”.

12 (B) The heading of section
13 411(a)(3)(G) of such Code is amended
14 by inserting “OR ERRONEOUS AUTO-
15 MATIC CONTRIBUTION” before the pe-
16 riod.

17 (C) Section 401(k)(8)(E) of such
18 Code is amended by inserting “an er-
19 roneous automatic contribution
20 under section 414(w),” after
21 “402(g)(2)(A),”.

22 (D) The heading of section
23 401(k)(8)(E) of such Code is amended
24 by inserting “OR ERRONEOUS AUTO-

1 MATIC CONTRIBUTION” before the pe-
2 riod.

3 **(e) EFFECTIVE DATE.**—The amendments
4 made by this section shall apply to plan years
5 beginning after December 31, 2005.

6 **SEC. 904. PENALTY-FREE WITHDRAWALS FROM RETIRE-**
7 **MENT PLANS FOR INDIVIDUALS CALLED TO**
8 **ACTIVE DUTY FOR AT LEAST 179 DAYS.**

9 **(a) IN GENERAL.**—Paragraph (2) of section
10 **72(t) of the Internal Revenue Code of 1986 (re-**
11 **lating to 10-percent additional tax on early**
12 **distributions from qualified retirement plans)**
13 **is amended by adding at the end the following**
14 **new subparagraph:**

15 **“(G) DISTRIBUTIONS FROM RETIRE-**
16 **MENT PLANS TO INDIVIDUALS CALLED TO**
17 **ACTIVE DUTY.—**

18 **“(i) IN GENERAL.**—Any quali-
19 **fied reservist distribution.**

20 **“(ii) AMOUNT DISTRIBUTED MAY**
21 **BE REPAID.**—Any individual who
22 **receives a qualified reservist dis-**
23 **tribution may, at any time during**
24 **the 2-year period beginning on**
25 **the day after the end of the active**

1 duty period, make one or more
2 contributions to an individual re-
3 tirement plan of such individual
4 in an aggregate amount not to ex-
5 ceed the amount of such distribu-
6 tion. The dollar limitations other-
7 wise applicable to contributions
8 to individual retirement plans
9 shall not apply to any contribu-
10 tion made pursuant to the pre-
11 ceding sentence. No deduction
12 shall be allowed for any contribu-
13 tion pursuant to this clause.

14 “(iii) QUALIFIED RESERVIST DIS-
15 TRIBUTION.—For purposes of this
16 subparagraph, the term ‘qualified
17 reservist distribution’ means any
18 distribution to an individual if—

19 “(I) such distribution is
20 from an individual retirement
21 plan, or from amounts attrib-
22 utable to employer contribu-
23 tions made pursuant to elec-
24 tive deferrals described in
25 subparagraph (A) or (C) of

1 **section 402(g)(3) or section**
2 **501(c)(18)(D)(iii),**

3 **“(II) such individual was**
4 **(by reason of being a member**
5 **of a reserve component (as de-**
6 **defined in section 101 of title 37,**
7 **United States Code)), ordered**
8 **or called to active duty for a**
9 **period in excess of 179 days or**
10 **for an indefinite period, and**

11 **“(III) such distribution is**
12 **made during the period begin-**
13 **ning on the date of such order**
14 **or call and ending at the close**
15 **of the active duty period.**

16 **“(iv) APPLICATION OF SUBPARA-**
17 **GRAPH.—This subparagraph ap-**
18 **plies to individuals ordered or**
19 **called to active duty after Sep-**
20 **tember 11, 2001, and before Sep-**
21 **tember 12, 2007. In no event shall**
22 **the 2-year period referred to in**
23 **clause (ii) end before the date**
24 **which is 2-years after the date of**

1 the enactment of this subpara-
2 graph.”.

3 **(b) CONFORMING AMENDMENTS.—**

4 (1) Section 401(k)(2)(B)(i) of such
5 Code is amended by striking “or” at the
6 end of subclause (III), by striking “and”
7 at the end of subclause (IV) and inserting
8 “or”, and by inserting after subclause (IV)
9 the following new subclause:

10 “(V) in the case of a quali-
11 fied reservist distribution (as
12 defined in section
13 72(t)(2)(G)(iii)), the date on
14 which a period referred to in
15 subclause (III) of such section
16 begins, and”.

17 (2) Section 403(b)(7)(A)(ii) of such
18 Code is amended by inserting “(unless
19 such amount is a distribution to which
20 section 72(t)(2)(G) applies)” after “dis-
21 tributee”.

22 (3) Section 403(b)(11) of such Code is
23 amended by striking “or” at the end of
24 subparagraph (A), by striking the period
25 at the end of subparagraph (B) and in-

1 serting “, or”, and by inserting after sub-
2 paragraph (B) the following new subpara-
3 graph:

4 “(C) for distributions to which
5 section 72(t)(2)(G) applies.”.

6 (c) **EFFECTIVE DATE; WAIVER OF LIMITA-**
7 **TIONS.—**

8 (1) **EFFECTIVE DATE.—**The amendment
9 made by this section shall apply to dis-
10 tributions after September 11, 2001.

11 (2) **WAIVER OF LIMITATIONS.—**If refund
12 or credit of any overpayment of tax re-
13 sulting from the amendments made by
14 this section is prevented at any time be-
15 fore the close of the 1-year period begin-
16 ning on the date of the enactment of this
17 Act by the operation of any law or rule of
18 law (including *res judicata*), such refund
19 or credit may nevertheless be made or al-
20 lowed if claim therefor is filed before the
21 close of such period.

1 SEC. 905. WAIVER OF 10 PERCENT EARLY WITHDRAWAL
2 PENALTY TAX ON CERTAIN DISTRIBUTIONS
3 OF PENSION PLANS FOR PUBLIC SAFETY EM-
4 PLOYEES.

5 (a) IN GENERAL.—Section 72(t)(2) of the In-
6 ternal Revenue Code of 1986 (relating to sub-
7 section not to apply to certain distributions),
8 as amended by section 904, is amended by
9 adding at the end the following new sub-
10 section:

11 (H) DROP DISTRIBUTIONS TO
12 QUALIFIED PUBLIC SAFETY EMPLOYEES IN
13 GOVERNMENTAL PLANS.—

14 (i) IN GENERAL.—Distribu-
15 tions to an individual who is a
16 qualified public safety employee
17 from a governmental plan within
18 the meaning of section 414(d) to
19 the extent such distributions are
20 attributable to a DROP benefit.

21 (ii) DEFINITIONS.—For pur-
22 poses of this subparagraph—

23 (I) DROP BENEFIT.—The
24 term ‘DROP benefit’ means a
25 feature of a governmental
26 plan which is a defined ben-

1 **efit plan and under which an**
2 **employee elects to receive**
3 **credits to an account (includ-**
4 **ing a notional account) in the**
5 **plan which are not in excess**
6 **of the plan benefits (payable**
7 **in the form of an annuity)**
8 **that would have been pro-**
9 **vided if the employee had re-**
10 **tired under the plan at a spec-**
11 **ified earlier retirement date**
12 **and which are in lieu of in-**
13 **creases in the employee’s ac-**
14 **crued pension benefit based**
15 **on years of service after the**
16 **effective date of the DROP**
17 **election.**

18 **“(II) QUALIFIED PUBLIC**
19 **SAFETY EMPLOYEE.—The term**
20 **‘qualified public safety em-**
21 **ployee’ means any employee**
22 **of any police department or**
23 **fire department organized**
24 **and operated by a State or po-**
25 **litical subdivision of a State if**

1 the employee provides police
2 protection, firefighting serv-
3 ices, or emergency medical
4 services for any area within
5 the jurisdiction of such State
6 or political subdivision and if
7 the employee was eligible to
8 retire on or before the date of
9 such election and receive im-
10 mediate retirement benefits.”.

11 **(b) EFFECTIVE DATE.**—The amendments
12 made by this section shall apply to distribu-
13 tions after the date of the enactment of this
14 Act.

15 SEC. 906. COMBAT ZONE COMPENSATION TAKEN INTO AC-
16 COUNT FOR PURPOSES OF DETERMINING
17 LIMITATION AND DEDUCTIBILITY OF CON-
18 TRIBUTIONS TO INDIVIDUAL RETIREMENT
19 PLANS.

20 **(a) IN GENERAL.**—Subsection (f) of section
21 219 of the Internal Revenue Code of 1986 is
22 amended by redesignating paragraph (7) as
23 paragraph (8) and by inserting after para-
24 graph (6) the following new paragraph:

1 **“(7) SPECIAL RULE FOR COMPENSATION**
2 **EARNED BY MEMBERS OF THE ARMED FORCES**
3 **FOR SERVICE IN A COMBAT ZONE.—For pur-**
4 **poses of subsections (b)(1)(B) and (c), the**
5 **amount of compensation includible in an**
6 **individual’s gross income shall be deter-**
7 **mined without regard to section 112.”.**

8 **(b) EFFECTIVE DATE.—The amendments**
9 **made by this section shall apply to taxable**
10 **years beginning after December 31, 2005.**

11 **SEC. 907. DIRECT PAYMENT OF TAX REFUNDS TO INDI-**
12 **VIDUAL RETIREMENT PLANS.**

13 **(a) IN GENERAL.—The Secretary of the**
14 **Treasury (or the Secretary’s delegate) shall**
15 **make available a form (or modify existing**
16 **forms) for use by individuals to direct that a**
17 **portion of any refund of overpayment of tax**
18 **imposed by chapter 1 of the Internal Revenue**
19 **Code of 1986 be paid directly to an individual**
20 **retirement plan (as defined in section**
21 **7701(a)(37) of such Code) of such individual.**

22 **(b) EFFECTIVE DATE.—The form required**
23 **by subsection (a) shall be made available for**
24 **taxable years beginning after December 31,**
25 **2006.**

1 **SEC. 908. IRA ELIGIBILITY FOR THE DISABLED.**

2 **(a) IN GENERAL.—**Subsection (f) of section
3 **219 of the Internal Revenue Code of 1986 (re-**
4 **lating to other definitions and special rules),**
5 **as amended by this Act, is further amended by**
6 **redesignating paragraph (8) as paragraph (9)**
7 **and by inserting after paragraph (7) the fol-**
8 **lowing new paragraph:**

9 **“(8) SPECIAL RULE FOR CERTAIN DIS-**
10 **ABLED INDIVIDUALS.—**In the case of an in-
11 **dividual—**

12 **“(A) who is disabled (within the**
13 **meaning of section 72(m)(7)), and**

14 **“(B) who has not attained the ap-**
15 **plicable age (as defined in section**
16 **401(a)(9)(H)) before the close of the**
17 **taxable year,**

18 **subparagraph (B) of subsection (b)(1)**
19 **shall not apply.”.**

20 **(b) EFFECTIVE DATE.—**The amendment
21 **made by this section shall apply to taxable**
22 **years beginning after December 31, 2005.**

23 **SEC. 909. ALLOW ROLLOVERS BY NONSPOUSE BENE-**
24 **FICIARIES OF CERTAIN RETIREMENT PLAN**
25 **DISTRIBUTIONS.**

26 **(a) IN GENERAL.—**

1 **(1) QUALIFIED PLANS.—Section 402(c)**
2 **of the Internal Revenue Code of 1986 (re-**
3 **lating to rollovers from exempt trusts) is**
4 **amended by adding at the end the fol-**
5 **lowing new paragraph:**

6 **“(11) DISTRIBUTIONS TO INHERITED INDI-**
7 **VIDUAL RETIREMENT PLAN OF NONSPOUSE**
8 **BENEFICIARY.—**

9 **“(A) IN GENERAL.—If, with respect**
10 **to any portion of a distribution from**
11 **an eligible retirement plan of a de-**
12 **ceased employee, a direct trustee-to-**
13 **trustee transfer is made to an indi-**
14 **vidual retirement plan described in**
15 **clause (i) or (ii) of paragraph (8)(B)**
16 **established for the purposes of re-**
17 **ceiving the distribution on behalf of**
18 **an individual who is a designated**
19 **beneficiary (as defined by section**
20 **401(a)(9)(E)) of the employee and who**
21 **is not the surviving spouse of the em-**
22 **ployee—**

23 **“(i) the transfer shall be treat-**
24 **ed as an eligible rollover distribu-**

1 **tion for purposes of this sub-**
2 **section,**

3 **“(ii) the individual retirement**
4 **plan shall be treated as an inher-**
5 **ited individual retirement ac-**
6 **count or individual retirement**
7 **annuity (within the meaning of**
8 **section 408(d)(3)(C)) for purposes**
9 **of this title, and**

10 **“(iii) section 401(a)(9)(B)**
11 **(other than clause (iv) thereof)**
12 **shall apply to such plan.**

13 **“(B) CERTAIN TRUSTS TREATED AS**
14 **BENEFICIARIES.—For purposes of this**
15 **paragraph, to the extent provided in**
16 **rules prescribed by the Secretary, a**
17 **trust maintained for the benefit of**
18 **one or more designated beneficiaries**
19 **shall be treated in the same manner**
20 **as a trust designated beneficiary.”.**

21 **(2) SECTION 403(a) PLANS.—Subpara-**
22 **graph (B) of section 403(a)(4) of such**
23 **Code (relating to rollover amounts) is**
24 **amended by inserting “and (11)” after**
25 **“(7)”.**

1 **(3) SECTION 403(b) PLANS.**—Subpara-
2 **graph (B) of section 403(b)(8) of such**
3 **Code (relating to rollover amounts) is**
4 **amended by striking “and (9)” and insert-**
5 **ing “, (9), and (11)”.**

6 **(4) SECTION 457 PLANS.**—Subparagraph
7 **(B) of section 457(e)(16) of such Code (re-**
8 **lating to rollover amounts) is amended by**
9 **striking “and (9)” and inserting “, (9), and**
10 **(11)”.**

11 **(b) EFFECTIVE DATE.**—The amendments
12 **made by this section shall apply to distribu-**
13 **tions after December 31, 2005.**

14 **TITLE X—PROVISIONS TO EN-**
15 **HANCE HEALTH CARE AF-**
16 **FORDABILITY**

17 **SEC. 1001. TREATMENT OF ANNUITY AND LIFE INSURANCE**
18 **CONTRACTS WITH A LONG-TERM CARE IN-**
19 **SURANCE FEATURE.**

20 **(a) EXCLUSION FROM GROSS INCOME.**—Sub-
21 **section (e) of section 72 of the Internal Rev-**
22 **enue Code of 1986 (relating to amounts not re-**
23 **ceived as annuities) is amended by redesign-**
24 **ating paragraph (11) as paragraph (12) and**

1 by inserting after paragraph (10) the fol-
2 lowing new paragraph:

3 “(11) SPECIAL RULES FOR CERTAIN COM-
4 BINATION CONTRACTS PROVIDING LONG-TERM
5 CARE INSURANCE.—Notwithstanding para-
6 graphs (2), (5)(C), and (10), in the case of
7 any charge against the cash value of an
8 annuity contract or the cash surrender
9 value of a life insurance contract made as
10 payment for coverage under a qualified
11 long-term care insurance contract which
12 is part of or a rider on such annuity or
13 life insurance contract—

14 “(A) the investment in the con-
15 tract shall be reduced (but not below
16 zero) by such charge, and

17 “(B) such charge shall not be in-
18 cludible in gross income.”.

19 (b) TAX-FREE EXCHANGES AMONG CERTAIN
20 INSURANCE POLICIES.—

21 (1) ANNUITY CONTRACTS CAN INCLUDE
22 QUALIFIED LONG-TERM CARE INSURANCE RID-
23 ERS.—Paragraph (2) of section 1035(b) of
24 such Code is amended by adding at the
25 end the following new sentence: “For pur-

1 poses of the preceding sentence, a con-
2 tract shall not fail to be treated as an an-
3 nuity contract solely because a qualified
4 long-term care insurance contract is a
5 part of or a rider on such contract.”.

6 (2) LIFE INSURANCE CONTRACTS CAN IN-
7 CLUDE QUALIFIED LONG-TERM CARE INSUR-
8 ANCE RIDERS.—Paragraph (3) of section
9 1035(b) of such Code is amended by add-
10 ing at the end the following new sen-
11 tence: “For purposes of the preceding
12 sentence, a contract shall not fail to be
13 treated as a life insurance contract solely
14 because a qualified long-term care insur-
15 ance contract is a part of or a rider on
16 such contract.”.

17 (3) EXPANSION OF TAX-FREE EXCHANGES
18 OF LIFE INSURANCE, ENDOWMENT, AND ANNU-
19 ITY CONTRACTS FOR LONG-TERM CARE CON-
20 TRACTS.—Subsection (a) of section 1035 of
21 such Code (relating to certain exchanges
22 of insurance policies) is amended—

23 (A) in paragraph (1) by striking
24 “contract;” and inserting “contract or

1 **for a qualified long-term care insur-**
2 **ance contract;”,**

3 **(B) in paragraph (2) by striking**
4 **“contract;” and inserting “contract, or**
5 **(C) for a qualified long-term care in-**
6 **surance contract;”, and**

7 **(C) in paragraph (3) by striking**
8 **“contract.” and inserting “contract or**
9 **for a qualified long-term care insur-**
10 **ance contract.”.**

11 **(4) TAX-FREE EXCHANGES OF QUALIFIED**
12 **LONG-TERM CARE INSURANCE CONTRACT.—**
13 **Subsection (a) of section 1035 of such**
14 **Code (relating to certain exchanges of in-**
15 **surance policies) is amended by striking**
16 **“or” at the end of paragraph (2), by strik-**
17 **ing the period at the end of paragraph (3)**
18 **and inserting “; or”, and by inserting**
19 **after paragraph (3) the following new**
20 **paragraph:**

21 **“(4) a qualified long-term care insur-**
22 **ance contract for a qualified long-term**
23 **care insurance contract.”.**

24 **(c) TREATMENT OF COVERAGE PROVIDED AS**
25 **PART OF A LIFE INSURANCE OR ANNUITY CON-**

1 **TRACT.—Subsection (e) of section 7702B of**
2 **such Code (relating to treatment of qualified**
3 **long-term care insurance) is amended to read**
4 **as follows:**

5 **“(e) TREATMENT OF COVERAGE PROVIDED AS**
6 **PART OF A LIFE INSURANCE OR ANNUITY CON-**
7 **TRACT.—**

8 **“(1) COVERAGE TREATED AS CON-**
9 **TRACT.—Except as otherwise provided in**
10 **regulations prescribed by the Secretary,**
11 **in the case of any long-term care insur-**
12 **ance coverage (whether or not qualified)**
13 **provided by a rider on or as part of a life**
14 **insurance contract or an annuity con-**
15 **tract, this title shall apply as if the por-**
16 **tion of the contract providing such cov-**
17 **erage is a separate contract.**

18 **“(2) DENIAL OF DEDUCTION UNDER SEC-**
19 **TION 213.—No deduction shall be allowed**
20 **under section 213(a) for any payment**
21 **made for coverage under a qualified long-**
22 **term care insurance contract if such pay-**
23 **ment is made as a charge against the**
24 **cash value of an annuity contract or the**

1 **cash surrender value of a life insurance**
2 **contract.**

3 **“(3) APPLICATION OF SECTION 7702.—**
4 **Section 7702(c)(2) (relating to the guide-**
5 **line premium limitation) shall be applied**
6 **by increasing the guideline premium lim-**
7 **itation with respect to the life insurance**
8 **contract, as of any date—**

9 **“(A) by the sum of any charges**
10 **(but not premium payments) against**
11 **the life insurance contract’s cash sur-**
12 **render value (within the meaning of**
13 **section 7702(f)(2)(A)) for coverage**
14 **under the qualified long-term care in-**
15 **surance contract made to that date**
16 **under the life insurance contract, less**

17 **“(B) any such charges the imposi-**
18 **tion of which reduces the premiums**
19 **paid for the life insurance contract**
20 **(within the meaning of section**
21 **7702(f)(1)).**

22 **“(4) PORTION DEFINED.—For purposes**
23 **of this subsection, the term ‘portion’**
24 **means only the terms and benefits under**
25 **a life insurance contract or annuity con-**

1 tract that are in addition to the terms
2 and benefits under the contract without
3 regard to long-term care insurance cov-
4 erage.

5 “(5) ANNUITY CONTRACTS TO WHICH
6 PARAGRAPH (1) DOES NOT APPLY.—For pur-
7 poses of this subsection, none of the fol-
8 lowing shall be treated as an annuity
9 contract:

10 “(A) A trust described in section
11 401(a) which is exempt from tax
12 under section 501(a).

13 “(B) A contract—

14 “(i) purchased by a trust de-
15 scribed in subparagraph (A),

16 “(ii) purchased as part of a
17 plan described in section 403(a),

18 “(iii) described in section
19 403(b),

20 “(iv) provided for employees
21 of a life insurance company under
22 a plan described in section
23 818(a)(3), or

1 **“(v) from an individual retire-**
2 **ment account or an individual re-**
3 **tirement annuity.**

4 **“(C) A contract purchased by an**
5 **employer for the benefit of the em-**
6 **ployee (or the employee’s spouse).**

7 **Any dividend described in section 404(k)**
8 **which is received by a participant or ben-**
9 **eficiary shall, for purposes of this para-**
10 **graph, be treated as paid under a sepa-**
11 **rate contract to which subparagraph**
12 **(B)(i) applies.”.**

13 **(d) INFORMATION REPORTING.—**

14 **(1) Subpart B of part III of sub-**
15 **chapter A of chapter 61 of such Code (re-**
16 **lating to information concerning trans-**
17 **actions with other persons) is amended**
18 **by adding at the end the following new**
19 **section:**

20 **“SEC. 6050U. CHARGES OR PAYMENTS FOR QUALIFIED**
21 **LONG-TERM CARE INSURANCE CONTRACTS**
22 **UNDER COMBINED ARRANGEMENTS.**

23 **“(a) REQUIREMENT OF REPORTING.—Any**
24 **person who makes a charge against the cash**
25 **value of an annuity contract, or the cash sur-**

1 render value of a life insurance contract,
2 which is excludible from gross income under
3 section 72(e)(11) shall make a return, accord-
4 ing to the forms or regulations prescribed by
5 the Secretary, setting forth—

6 “(1) the amount of the aggregate of
7 such charges against each such contract
8 for the calendar year,

9 “(2) the amount of the reduction in
10 the investment in each such contract by
11 reason of such charges, and

12 “(3) the name, address, and TIN of the
13 individual who is the holder of each such
14 contract.

15 “(b) STATEMENTS TO BE FURNISHED TO PER-
16 SONS WITH RESPECT TO WHOM INFORMATION IS
17 REQUIRED.—Every person required to make a
18 return under subsection (a) shall furnish to
19 each individual whose name is required to be
20 set forth in such return a written statement
21 showing—

22 “(1) the name, address, and phone
23 number of the information contact of the
24 person making the payments, and

1 **“(2) the information required to be**
2 **shown on the return with respect to such**
3 **individual.**

4 **The written statement required under the**
5 **preceding sentence shall be furnished to the**
6 **individual on or before January 31 of the year**
7 **following the calendar year for which the re-**
8 **turn under subsection (a) was required to be**
9 **made.”.**

10 **(2) CLERICAL AMENDMENT.—The table**
11 **of sections for subpart B of part III of**
12 **subchapter A of such chapter 61 of such**
13 **Code is amended by adding at the end**
14 **the following new item:**

“Sec. 6050U. Charges or payments for qualified long-term care
 insurance contracts under combined arrange-
 ments.”.

15 **(e) TREATMENT OF POLICY ACQUISITION EX-**
16 **PENSES.—Subsection (e) of section 848 of such**
17 **Code (relating to classification of contracts) is**
18 **amended by adding at the end the following**
19 **new paragraph:**

20 **“(6) TREATMENT OF CERTAIN QUALIFIED**
21 **LONG-TERM CARE INSURANCE CONTRACT AR-**
22 **RANGEMENTS.—An annuity or life insur-**
23 **ance contract which includes a qualified**
24 **long-term care insurance contract as a**

1 part of or a rider on such annuity or life
2 insurance contract shall be treated as a
3 specified insurance contract not de-
4 scribed in subparagraph (A) or (B) of sub-
5 section (c)(1).”.

6 (f) TREATMENT AS QUALIFIED ADDITIONAL
7 BENEFIT.—Subparagraph (A) of section
8 7702(f)(5) of such Code (relating to qualified
9 additional benefits) is amended by striking
10 “or” at the end of clause (iv), by redesignating
11 clause (v) as clause (vi), and by inserting after
12 clause (iv) the following new clause:

13 “(v) qualified long-term care
14 insurance contract which is a
15 part of or a rider on the contract,
16 or”.

17 (g) EFFECTIVE DATES.—

18 (1) IN GENERAL.—Except as provided
19 by paragraph (2), the amendments made
20 by this section shall apply to contracts
21 issued before, on, or after December 31,
22 2006, but only with respect to periods be-
23 ginning after such date.

24 (2) SUBSECTION (b).—The amendments
25 made by subsection (b) shall apply with

1 **respect to exchanges occurring after De-**
2 **cember 31, 2006.**

3 **SEC. 1002. DISPOSITION OF UNUSED HEALTH BENEFITS IN**
4 **CAFETERIA PLANS AND FLEXIBLE SPENDING**
5 **ARRANGEMENTS.**

6 **(a) IN GENERAL.—Section 125 of the Inter-**
7 **nal Revenue Code of 1986 (relating to cafe-**
8 **teria plans) is amended by redesignating sub-**
9 **sections (h) and (i) as subsections (i) and (j),**
10 **respectively, and by inserting after sub-**
11 **section (g) the following:**

12 **“(h) CONTRIBUTIONS OF CERTAIN UNUSED**
13 **HEALTH BENEFITS.—**

14 **“(1) IN GENERAL.—For purposes of this**
15 **title, a plan or other arrangement shall**
16 **not fail to be treated as a cafeteria plan**
17 **solely because qualified benefits under**
18 **such plan include a health flexible spend-**
19 **ing arrangement under which not more**
20 **than \$500 of unused health benefits may**
21 **be—**

22 **“(A) carried forward to the suc-**
23 **ceeding plan year of such health**
24 **flexible spending arrangement, or**

1 “(B) to the extent permitted by
2 section 106(d), contributed by the em-
3 ployer to a health savings account (as
4 defined in section 223(d)) maintained
5 for the benefit of the employee.

6 “(2) HEALTH FLEXIBLE SPENDING AR-
7 RANGEMENT.—For purposes of this sub-
8 section, the term ‘health flexible spend-
9 ing arrangement’ means a flexible spend-
10 ing arrangement (as defined in section
11 106(c)) that is a qualified benefit and only
12 permits reimbursement for expenses for
13 medical care (as defined in section
14 213(d)(1), without regard to subpara-
15 graphs (C) and (D) thereof).

16 “(3) UNUSED HEALTH BENEFITS.—For
17 purposes of this subsection, with respect
18 to an employee, the term ‘unused health
19 benefits’ means the excess of—

20 “(A) the maximum amount of re-
21 imbursement allowable to the em-
22 ployee for a plan year under a health
23 flexible spending arrangement, over

1 **“(B) the actual amount of reim-**
2 **bursement for such year under such**
3 **arrangement.”.**

4 **(b) EFFECTIVE DATE.—The amendments**
5 **made by subsection (a) shall apply to taxable**
6 **years beginning after December 31, 2005.**

7 **SEC. 1003. DISTRIBUTIONS FROM GOVERNMENTAL RETIRE-**
8 **MENT PLANS FOR HEALTH AND LONG-TERM**
9 **CARE INSURANCE FOR PUBLIC SAFETY OFFI-**
10 **CERS.**

11 **(a) IN GENERAL.—Section 402 of the Inter-**
12 **nal Revenue Code of 1986 (relating to tax-**
13 **ability of beneficiary of employees’ trust) is**
14 **amended by adding at the end the following**
15 **new subsection:**

16 **“(1) DISTRIBUTIONS FROM GOVERNMENTAL**
17 **PLANS FOR HEALTH AND LONG-TERM CARE IN-**
18 **SURANCE.—**

19 **“(1) IN GENERAL.—In the case of an**
20 **employee who is an eligible retired pub-**
21 **lic safety officer who makes the election**
22 **described in paragraph (6) with respect**
23 **to any taxable year of such employee,**
24 **gross income of such employee for such**
25 **taxable year does not include any dis-**

1 **tribution from an eligible retirement plan**
2 **to the extent that the aggregate amount**
3 **of such distributions does not exceed the**
4 **amount paid by such employee for quali-**
5 **fied health insurance premiums of the**
6 **employee, his spouse, or dependents (as**
7 **defined in section 152) for such taxable**
8 **year.**

9 **“(2) LIMITATION.—The amount which**
10 **may be excluded from gross income for**
11 **the taxable year by reason of paragraph**
12 **(1) shall not exceed \$5,000.**

13 **“(3) DISTRIBUTIONS MUST OTHERWISE BE**
14 **INCLUDIBLE.—**

15 **“(A) IN GENERAL.—An amount**
16 **shall be treated as a distribution for**
17 **purposes of paragraph (1) only to the**
18 **extent that such amount would be in-**
19 **cludible in gross income without re-**
20 **gard to paragraph (1).**

21 **“(B) APPLICATION OF SECTION 72.—**
22 **Notwithstanding section 72, in deter-**
23 **mining the extent to which an**
24 **amount is treated as a distribution**
25 **for purposes of subparagraph (A), the**

1 **aggregate amounts distributed from**
2 **an eligible retirement plan in a tax-**
3 **able year (up to the amount excluded**
4 **under paragraph (1)) shall be treated**
5 **as includible in gross income (with-**
6 **out regard to subparagraph (A)) to**
7 **the extent that such amount does not**
8 **exceed the aggregate amount which**
9 **would have been so includible if all**
10 **amounts distributed from all eligible**
11 **retirement plans were treated as 1**
12 **contract for purposes of determining**
13 **the inclusion of such distribution**
14 **under section 72. Proper adjustments**
15 **shall be made in applying section 72**
16 **to other distributions in such taxable**
17 **year and subsequent taxable years.**

18 **“(4) DEFINITIONS.—For purposes of**
19 **this subsection—**

20 **“(A) ELIGIBLE RETIREMENT PLAN.—**
21 **For purposes of paragraph (1), the**
22 **term ‘eligible retirement plan’ means**
23 **a governmental plan (within the**
24 **meaning of section 414(d)) which is**

1 described in clause (iii), (iv), (v), or
2 (vi) of subsection (c)(8)(B).

3 “(B) ELIGIBLE RETIRED PUBLIC
4 SAFETY OFFICER.—The term ‘eligible
5 retired public safety officer’ means an
6 individual who, by reason of dis-
7 ability or attainment of normal retire-
8 ment age, is separated from service
9 as a public safety officer with the em-
10 ployer who maintains the eligible re-
11 tirement plan from which distribu-
12 tions subject to paragraph (1) are
13 made.

14 “(C) PUBLIC SAFETY OFFICER.—The
15 term ‘public safety officer’ shall have
16 the same meaning given such term by
17 section 1204(8)(A) of the Omnibus
18 Crime Control and Safe Streets Act of
19 1968 (42 U.S.C. 3796b(8)(A)).

20 “(D) QUALIFIED HEALTH INSURANCE
21 PREMIUMS.—The term ‘qualified health
22 insurance premiums’ means pre-
23 miums for coverage for the eligible
24 retired public safety officer, his
25 spouse, and dependents, by an acci-

1 dent or health insurance plan or
2 qualified long-term care insurance
3 contract (as defined in section
4 7702B(b)).

5 “(5) SPECIAL RULES.—For purposes of
6 this subsection—

7 “(A) DIRECT PAYMENT TO INSURER
8 REQUIRED.—Paragraph (1) shall only
9 apply to a distribution if payment of
10 the premiums is made directly to the
11 provider of the accident or health in-
12 surance plan or qualified long-term
13 care insurance contract by deduction
14 from a distribution from the eligible
15 retirement plan.

16 “(B) RELATED PLANS TREATED AS
17 1.—All eligible retirement plans of an
18 employer shall be treated as a single
19 plan.

20 “(6) ELECTION DESCRIBED.—

21 “(A) IN GENERAL.—For purposes of
22 paragraph (1), an election is de-
23 scribed in this paragraph if the elec-
24 tion is made by an employee after
25 separation from service with respect

1 to amounts not distributed from an
2 eligible retirement plan to have
3 amounts from such plan distributed
4 in order to pay for qualified health
5 insurance premiums.

6 “(B) SPECIAL RULE.—A plan shall
7 not be treated as violating the re-
8 quirements of section 401, or as en-
9 gaging in a prohibited transaction for
10 purposes of section 503(b), merely be-
11 cause it provides for an election with
12 respect to amounts that are otherwise
13 distributable under the plan or mere-
14 ly because of a distribution made pur-
15 suant to an election described in sub-
16 paragraph (A).

17 “(7) COORDINATION WITH MEDICAL EX-
18 PENSE DEDUCTION.—The amounts excluded
19 from gross income under paragraph (1)
20 shall not be taken into account under
21 section 213.

22 “(8) COORDINATION WITH DEDUCTION
23 FOR HEALTH INSURANCE COSTS OF SELF-EM-
24 PLOYED INDIVIDUALS.—The amounts ex-
25 cluded from gross income under para-

1 **graph (1) shall not be taken into account**
2 **under section 162(l).”.**

3 **(b) CONFORMING AMENDMENTS.—**

4 **(1) Section 403(a) of such Code (relat-**
5 **ing to taxability of beneficiary under a**
6 **qualified annuity plan) is amended by in-**
7 **serting after paragraph (1) the following**
8 **new paragraph:**

9 **“(2) SPECIAL RULE FOR HEALTH AND**
10 **LONG-TERM CARE INSURANCE.—To the ex-**
11 **tent provided in section 402(l), paragraph**
12 **(1) shall not apply to the amount distrib-**
13 **uted under the contract which is other-**
14 **wise includible in gross income under**
15 **this subsection.”.**

16 **(2) Section 403(b) of such Code (relat-**
17 **ing to taxability of beneficiary under an-**
18 **nuity purchased by section 501(c)(3) orga-**
19 **nization or public school) is amended by**
20 **inserting after paragraph (1) the fol-**
21 **lowing new paragraph:**

22 **“(2) SPECIAL RULE FOR HEALTH AND**
23 **LONG-TERM CARE INSURANCE.—To the ex-**
24 **tent provided in section 402(l), paragraph**
25 **(1) shall not apply to the amount distrib-**

1 **uted under the contract which is other-**
2 **wise includible in gross income under**
3 **this subsection.”.**

4 **(3) Section 457(a) of such Code (relat-**
5 **ing to year of inclusion in gross income)**
6 **is amended by adding at the end the fol-**
7 **lowing new paragraph:**

8 **“(3) SPECIAL RULE FOR HEALTH AND**
9 **LONG-TERM CARE INSURANCE.—In the case**
10 **of a plan of an eligible employer de-**
11 **scribed in subsection (e)(1)(A), to the ex-**
12 **tent provided in section 402(l), paragraph**
13 **(1) shall not apply to amounts otherwise**
14 **includible in gross income under this**
15 **subsection.”.**

16 **(c) EFFECTIVE DATE.—The amendments**
17 **made by this section shall apply to distribu-**
18 **tions in taxable years beginning after Decem-**
19 **ber 31, 2005.**

Union Calendar No. 172

109TH CONGRESS
1ST Session

H. R. 2830

[Report No. 109-232, Parts I and II]

A BILL

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.

DECEMBER 6, 2005

Reported from the Committee on Ways and Means with an amendment; committed to the Committee of the Whole House on the State of the Union and ordered to be printed