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109TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { 109–346

PROVIDING FOR CONSIDERATION OF H.R. 2830, PENSION PROTECTION ACT OF 2005

DECEMBER 14, 2005.—Referred to the House Calendar and ordered to be printed

Mr. HASTINGS of Washington, from the Committee on Rules, submitted the following

R E P O R T

[To accompany H. Res. 602]

The Committee on Rules, having had under consideration House Resolution 602, by a nonrecord vote, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for the consideration of H.R. 2830, the Pension Protection Act of 2005, under a closed rule, providing ninety minutes of debate in the House on the bill as amended equally divided among and controlled by the chairman and ranking minority member of the Committee on Education and the Workforce and the chairman and ranking minority member of the Committee on Ways and Means. The rule waives all points of order against consideration of the bill.

The rule provides that in lieu of the amendments recommended by the Committees on Education and the Workforce and Ways and Means now printed in the bill, the amendment in the nature of a substitute printed in part A of this report shall be considered as adopted. The rule waives all points of order against the bill, as amended. The rule provides one motion to recommit with or without instructions.

Finally, the rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

EXPLANATION OF WAIVERS

The Committee is not aware of any points of order against the bill or its consideration. The waivers of all points of against the bill or its consideration are prophylactic in nature.

COMMITTEE VOTES

Pursuant to clause 3(b) of House rule XIII the results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 137

Date: December 14, 2005.
Measure: H.R. 2830, Pension Protections Act of 2005.
Motion by: Mrs. Slaughter.
Summary of motion: To make in order and provide the appropriate waivers to the amendment offered by Representative George Miller of California which permits employers to value their pension liabilities by using the corporate bond interest rate in 2007 and 2008 and then returning to use of the 30-year Treasury bond interest rate. Requires companies to seek alternatives to termination before a pension plan could be terminated, permits the parties to restore a plan up to three years after a termination, and does not punish workers for employer funding decisions. The provisions would apply to companies still in bankruptcy, including United Airlines. Permits struggling airlines to freeze their pension plans and gives them up to 20 years to meet their pension obligations. Permits airline pilots who must retire at age 60 to receive unreduced PBGC pensions if their plan is terminated. Permits the United Airline employees to demand proof in bankruptcy that their pension plans cannot be maintained. Enables multiemployer pension plans to reorganize and agree to long term funding improvement plans to protect workers' pensions. Exempts military employees from being subject to withdrawal penalties if they need early access to their retirement funds and includes combat pay for purposes of IRA eligibility. Permits public safety officers to roll over lump sum distributions exempt from current law penalties. Permits disabled individuals to establish deductible IRAs to save for their retirement. Ensures that workers and executives equally be affected by pension benefit cuts. Encourages employers to automatically enroll their employees in the company 401(k) plans and expands the SAVER retirement savings tax credit for low and moderate savers. Imposes a surcharge on taxpayers earning over $1 million a year.
Results: Defeated 3 to 9.
Vote by Members: Diaz-Balart—Nay; Hastings (WA)—Nay; Sessions—Nay; Putnam—Nay; Capito—Nay; Cole—Nay; Bishop—Nay; Gingrey—Nay; Slaughter—Yea; McGovern—Yea; Hastings (FL)—Yea; Dreier—Nay.

PART A—SUMMARY OF AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BE CONSIDERED AS ADOPTED

Boehner/Thomas: Manager's Amendment. Treats plant shut down benefits as plan amendments. As a result, shutdown benefit cannot be paid out if the plan is less than 80 percent funded unless the full amount of the shutdown benefit is paid for. Provides for a 5-year phase-in for the rule that requires plans to be 100 percent funded in order to avoid any benefit restrictions. Requires collectively bargained plans to use any portion of the plan's credit balance to increase plan assets in order to avoid the benefit restriction rules. Requires plans to fund for projected mortality improvements

annually. Provides for employer surcharges and certain benefit cutbacks for plans that are severely underfunded. Imposes new penalties and excise taxes for failure to timely certify the funded status of a plan or comply with the contribution requirements of a plan. Waives the funding deficiency excise tax for severely underfunded plans provided that all interested parties are in compliance with the rehabilitation plan of improvement. Requires severely underfunded plans to implement annual standards for meeting the requirements of the rehabilitation plan of improvement. Grandfathers the interest rate used by plans that have existing or pending (as of 6/30/05) IRS waivers/amortization extensions. ERISA Modernization/Prohibited Transactions. Makes conforming IRC changes for the Block Trading and a Correction Period for certain Transactions. Requires plans to file a Form 5500 within 285 days after the end of the plan year. Modifies the general age discrimination rule for all defined benefit plans to provide that accrued benefits may be calculated as the balance of a hypothetical account or as the current value of the accumulated percentage of an employee's final average compensation. Permits the Treasury Department to approve certain types of plan offsets to defined benefit plans. Provides that the market rate for crediting benefits to participants can be a fixed or variable rate. Amends the withdrawal rules related to erroneous corrections. Provides Preemption from state wage laws. Requires the Secretary of Labor to issue regulations on default investments that provide long-term capital appreciation. Directs the Secretary of Labor to issue regulations to clarify that the selection of an annuity as a form of distribution from the plan is subject to the current applicable fiduciary standards under ERISA. To keep participants invested in funds that meet their investment needs, the amendment requires plans to inform participants that if no contrary instruction is given, the portion of their accounts invested in the fund being eliminated will be "mapped" to a designated fund with similar investment or risk/reward characteristics. If, in fact, no instruction is given, fiduciary protection is provided for when investment options are changed. Ensures that health plans and employers are able to enforce their routine reimbursement provisions with greater certainty and recover, as equitable relief, third party payments under ERISA.

PART A—TEXT OF AMENDMENT TO BE CONSIDERED AS ADOPTED

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pension Protection Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents 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. Recovery by reimbursement or subrogation with respect to provided benefits.
Sec. 308. Exercise of control over plan assets in connection with qualified changes in investment options.
Sec. 309. Clarification of fiduciary rules.
Sec. 310. 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. 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 and dependent care 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.

TITLE XI—GENERAL PROVISIONS

Sec. 1101. Provisions relating to plan amendments.

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.

(a) REPEAL OF EXISTING FUNDING RULES.—Sections 302 through 308 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082 through 1086) are repealed.

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

"MINIMUM FUNDING STANDARDS

"SEC. 302. (a) REQUIREMENT TO MEET MINIMUM FUNDING STANDARD.—

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

"(2) MINIMUM FUNDING STANDARD.—For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

"(A) in the case of a defined benefit plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 303 for the plan for the plan year,

"(B) in the case of a money purchase plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

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

"(b) LIABILITY FOR CONTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of any contribution required by this section (including any required installments under paragraphs (3) and (4) of section 303(j)) shall be paid by the employer responsible for making contributions to or under the plan.

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—In the case of a single-employer plan, if the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contributions.

"(c) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

"(1) WAIVER IN CASE OF BUSINESS HARDSHIP.—

"(A) IN GENERAL.—If—

"(i) an employer is (or in the case of a multiemployer plan, 10 percent or more of the number of employers contributing to or under the plan is) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

"(ii) application of the standard would be adverse to the interests of plan participants in the aggregate,

the Secretary of the Treasury may, subject to subparagraph (C), waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard. The Secretary of the Treasury shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years.

"(B) EFFECTS OF WAIVER.—If a waiver is granted under subparagraph (A) for any plan year—

"(i) in the case of a single-employer plan, the minimum required contribution under section 303 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 303(e), and

"(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 304(b)(3)(C) with the amount of the waived funding

deficiency and such amount shall be amortized as required under section 304(b)(2)(C).

"(C) WAIVER OF AMORTIZED PORTION NOT ALLOWED.—The Secretary of the Treasury may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

"(2) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

"(A) the employer is operating at an economic loss,

"(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

"(C) the sales and profits of the industry concerned are depressed or declining, and

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

"(3) WAIVED FUNDING DEFICIENCY.—For purposes of this part, the term 'waived funding deficiency' means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary of the Treasury and not satisfied by employer contributions.

"(4) SECURITY FOR WAIVERS FOR SINGLE-EMPLOYER PLANS, CONSULTATIONS.—

"(A) SECURITY MAY BE REQUIRED.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary of the Treasury may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15)) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1).

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13)), or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14)).

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

"(i) provide the Pension Benefit Guaranty Corporation with—

"(I) notice of the completed application for any waiver or modification, and

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

"(II) any views of any employee organization (within the meaning of section 3(4)) representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

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

"(C) EXCEPTION FOR CERTAIN WAIVERS.—

"(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the aggregate unpaid minimum required contribution for the plan year and all preceding plan years, and

"(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 303(e)(2),

is less than $1,000,000.

"(ii) TREATMENT OF WAIVERS FOR WHICH APPLICATIONS ARE PENDING.—The amount described in clause (i)(I) shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under this subsection which are pending with respect to such plan were denied.

"(iii) UNPAID MINIMUM REQUIRED CONTRIBUTION.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 303 for the plan year which is not paid on or before the due date (as determined under section 303(j)(1)) for the plan year.

"(II) ORDERING RULE.—For purposes of subclause (I), any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 303 for the plan year.

"(5) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

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

"(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a single-employer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary of the Treasury may provide that an analysis of a trade or business or industry of a member need not be conducted if such Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

"(6) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary of the Treasury shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to to each affected party (as defined in section 4001(a)(21)). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

"(7) RESTRICTION ON PLAN AMENDMENTS.—

"(A) IN GENERAL.—No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 304(d) is in effect with respect to the plan, or if a plan amendment described in subsection (d)(2) has been made at any time in the preceding 12 months (24 months in the case of a multiemployer plan). If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

"(B) EXCEPTION.—Paragraph (1) shall not apply to any plan amendment which—

"(i) the Secretary of the Treasury determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

"(ii) only repeals an amendment described in subsection (d)(2), or

"(iii) is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986.

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

"(d) MISCELLANEOUS RULES.—

"(1) CHANGE IN METHOD OR YEAR.—If the funding method, the valuation date, or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary of the Treasury.

"(2) CERTAIN RETROACTIVE PLAN AMENDMENTS.—For purposes of this section, any amendment applying to a plan year which—

"(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

"(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

"(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files a notice with the Secretary of the Treasury notifying him of such amendment and such Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary of the Treasury unless such Secretary determines that such amendment is necessary because of a substantial business hardship (as determined under subsection (c)(2)) and that a waiver under subsection (c) (or, in the case of a multiemployer plan, any extension of the amortization period under section 304(d)) is unavailable or inadequate.

"(3) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.".

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the items relating to sections 302 through 308 and inserting the following new item:

"Sec. 302. Minimum funding standards.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2006.

SEC. 102. FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by section 101 of this Act) is amended further by inserting after section 302 the following new section:

"MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

"SEC. 303. (a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section and section 302(a)(2)(A), except as provided in subsection (f), the term 'minimum required contribution' means, with respect to any plan year of a single-employer plan—

"(1) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) is less than the funding target of the plan for the plan year, the sum of—

"(A) the target normal cost of the plan for the plan year,

"(B) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and

"(C) the waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e);

"(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) exceeds the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced by such excess; or

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

"(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

"(c) SHORTFALL AMORTIZATION CHARGE.—

"(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

"(2) SHORTFALL AMORTIZATION INSTALLMENT.—The plan sponsor shall determine, with respect to the shortfall amortization base of the plan for any plan year, the amounts necessary to amortize such shortfall amortization base, in level annual installments over a period of 7 plan years beginning with such plan year. For purposes of paragraph (1), the annual installment of such amortization for each plan year in such 7-plan-year period is the shortfall amortization installment for such plan year with respect to such shortfall amortization base. In determining any shortfall amortization installment under this paragraph, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(3) SHORTFALL AMORTIZATION BASE.—For purposes of this section, the shortfall amortization base of a plan for a plan year is the excess (if any) of—

"(A) the funding shortfall of such plan for such plan year, over

"(B) the sum of—

"(i) the present value (determined using the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)) of the aggregate total of the shortfall amortization installments, for such plan year and the 5 succeeding plan years, which have been determined with respect to the shortfall amortization bases of the plan for each of the 6 plan years preceding such plan year, and

"(ii) the present value (as so determined) of the aggregate total of the waiver amortization installments for such plan year and the 5 succeeding plan years, which have been determined with respect to the waiver amortization bases of the plan for each of the 5 plan years preceding such plan year.

"(4) FUNDING SHORTFALL.—For purposes of this section, the funding shortfall of a plan for any plan year is the excess (if any) of—

"(A) the funding target of the plan for the plan year, over

"(B) the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) for the plan year which are held by the plan on the valuation date.

"(5) EXEMPTION FROM NEW SHORTFALL AMORTIZATION BASE.—

"(A) IN GENERAL.—In any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(A)) is equal to or greater than the funding target of the plan for the plan year, the shortfall amortization base of the plan for such plan year shall be zero.

"(B) TRANSITION RULE.—

"(i) IN GENERAL.—In the case of a non-deficit reduction plan, subparagraph (A) shall be applied to plan years beginning after 2006 and before 2011 by substituting, for the funding target of the plan for the plan year, the applicable percentage of such funding target determined under the following table:

"In the case of a plan year beginning in calendar year:	The applicable percentage is:
2007	92 percent
2008	94 percent
2009	96 percent
2010	98 percent.

"(ii) LIMITATION.—Clause (i) shall not apply with respect to any plan year after 2007 unless the ratio (expressed as a percentage) which—

"(I) the value of plan assets for each preceding plan year after 2006 (as reduced under subsection (f)(4)(A)), bears to

"(II) the funding target of the plan for such preceding plan year (determined without regard to subsection (i)(1)),

is not less than the applicable percentage with respect to such preceding plan determined under clause (i).

"(iii) NON-DEFICIT REDUCTION PLAN.—For purposes of clause (i), the term 'non-deficit reduction plan' means any plan—

"(I) to which this part (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005) applied for the plan year beginning in 2006, and

"(II) to which section 302(d) (as so in effect) did not apply for such plan year.

"(6) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the shortfall amortization charge for such plan year and succeeding plan years, the shortfall amortization bases for all preceding plan years (and all shortfall amortization installments determined with respect to such bases) shall be reduced to zero.

"(d) RULES RELATING TO FUNDING TARGET.—For purposes of this section—

"(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all liabilities to participants and their beneficiaries under the plan for the plan year.

"(2) FUNDING TARGET ATTAINMENT PERCENTAGE.—The 'funding target attainment percentage' of a plan for a plan year is the ratio (expressed as a percentage) which—

"(A) the value of plan assets for the plan year (as reduced under subsection (f)(4)(B)), bears to

"(B) the funding target of the plan for the plan year (determined without regard to subsection (i)(1)).

"(e) WAIVER AMORTIZATION CHARGE.—

"(1) DETERMINATION OF WAIVER AMORTIZATION CHARGE.—The waiver amortization charge (if any) for a plan for any plan year is the aggregate total of the waiver amortization installments for such plan year with respect to the waiver amortization bases for each of the 5 preceding plan years.

"(2) WAIVER AMORTIZATION INSTALLMENT.—The plan sponsor shall determine, with respect to the waiver amortization base of the plan for any plan year, the amounts necessary to amortize such waiver amortization base, in level annual installments over a period of 5 plan years beginning with the succeeding plan year. For purposes of paragraph (1), the annual installment of such amortization for each plan year in such 5-plan year period is the waiver amortization installment for such plan year with respect to such waiver amortization base.

"(3) INTEREST RATE.—In determining any waiver amortization installment under this subsection, the plan sponsor shall use the segment rates determined under subparagraph (C) of

subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

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

"(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the waiver amortization charge for such plan year and succeeding plan years, the waiver amortization base for all preceding plan years shall be reduced to zero.

"(f) REDUCTION OF MINIMUM REQUIRED CONTRIBUTION BY PRE-FUNDING BALANCE AND FUNDING STANDARD CARRYOVER BALANCE.—

"(1) ELECTION TO MAINTAIN BALANCES.—

"(A) PRE-FUNDING BALANCE.—The plan sponsor of a single-employer plan may elect to maintain a pre-funding balance.

"(B) FUNDING STANDARD CARRYOVER BALANCE.—

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

"(ii) PLANS MAINTAINING FUNDING STANDARD ACCOUNT IN 2006.—A plan is described in this clause if the plan—

"(I) was in effect for a plan year beginning in 2006, and

"(II) had a positive balance in the funding standard account under section 302(b) as in effect for such plan year and determined as of the end of such plan year.

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

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

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

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

"(3) ELECTION TO APPLY BALANCES AGAINST MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of any plan year in which the plan sponsor elects to credit against the minimum required contribution for the current plan year all or a portion of the pre-funding balance or the funding standard carryover balance for the current plan year (not in excess of such minimum required contribution), the minimum required contribution for the plan year shall be reduced by the amount so credited by the plan sponsor. For purposes of the pre-

ceding sentence, the minimum required contribution shall be determined after taking into account any waiver under section 302(c).

"(B) COORDINATION WITH FUNDING STANDARD CARRYOVER BALANCE.—To the extent that any plan has a funding standard carryover balance greater than zero, no amount of the pre-funding balance of such plan may be credited under this paragraph in reducing the minimum required contribution.

"(C) LIMITATION FOR UNDERFUNDED PLANS.—The preceding provisions of this paragraph shall not apply for any plan year if the ratio (expressed as a percentage) which—

"(i) the value of plan assets for the preceding plan year (as reduced under paragraph (4)(C)), bears to

"(ii) the funding target of the plan for the preceding plan year (determined without regard to subsection (i)(1)),

is less than 80 percent.

"(4) EFFECT OF BALANCES ON AMOUNTS TREATED AS VALUE OF PLAN ASSETS.—In the case of any plan maintaining a pre-funding balance or a funding standard carryover balance pursuant to this subsection, the amount treated as the value of plan assets shall be deemed to be such amount, reduced as provided in the following subparagraphs:

"(A) APPLICABILITY OF SHORTFALL AMORTIZATION BASE.—For purposes of subsection (c)(5), the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance, but only if an election under paragraph (2) applying any portion of the pre-funding balance in reducing the minimum required contribution is in effect for the plan year.

"(B) DETERMINATION OF EXCESS ASSETS, FUNDING SHORTFALL, AND FUNDING TARGET ATTAINMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subsections (a), (c)(4)(B), and (d)(2)(A), the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance and the funding standard carryover balance.

"(ii) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS WITH PBGC.—For purposes of subsection (c)(4)(B), the value of plan assets shall not be deemed to be reduced for a plan year by the amount of the specified balance if, with respect to such balance, there is in effect for a plan year a binding written agreement with the Pension Benefit Guaranty Corporation which provides that such balance is not available to reduce the minimum required contribution for the plan year. For purposes of the preceding sentence, the term 'specified balance' means the pre-funding balance or the funding standard carryover balance, as the case may be.

"(C) AVAILABILITY OF BALANCES IN PLAN YEAR FOR CREDITING AGAINST MINIMUM REQUIRED CONTRIBUTION.—For purposes of paragraph (3)(C)(i) of this subsection, the value

of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance.

"(5) ELECTION TO REDUCE BALANCE PRIOR TO DETERMINATIONS OF VALUE OF PLAN ASSETS AND CREDITING AGAINST MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—The plan sponsor may elect to reduce by any amount the balance of the pre-funding balance and the funding standard carryover balance for any plan year (but not below zero). Such reduction shall be effective prior to any determination of the value of plan assets for such plan year under this section and application of the balance in reducing the minimum required contribution for such plan for such plan year pursuant to an election under paragraph (2).

"(B) COORDINATION BETWEEN PRE-FUNDING BALANCE AND FUNDING STANDARD CARRYOVER BALANCE.—To the extent that any plan has a funding standard carryover balance greater than zero, no election may be made under subparagraph (A) with respect to the pre-funding balance.

"(6) PRE-FUNDING BALANCE.—

"(A) IN GENERAL.—A pre-funding balance maintained by a plan shall consist of a beginning balance of zero, increased and decreased to the extent provided in subparagraphs (B) and (C), and adjusted further as provided in paragraph (8).

"(B) INCREASES.—As of the valuation date for each plan year beginning after 2007, the pre-funding balance of a plan shall be increased by the amount elected by the plan sponsor for the plan year. Such amount shall not exceed the excess (if any) of—

"(i) the aggregate total of employer contributions to the plan for the preceding plan year, over

"(ii) the minimum required contribution for such preceding plan year (increased by interest on any portion of such minimum required contribution remaining unpaid as of the valuation date for the current plan year, at the effective interest rate for the plan for the preceding plan year, for the period beginning with the first day of such preceding plan year and ending on the date that payment of such portion is made).

"(C) DECREASES.—As of the valuation date for each plan year after 2007, the pre-funding balance of a plan shall be decreased (but not below zero) by the sum of—

"(i) the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) any reduction in such balance elected under paragraph (5).

"(7) FUNDING STANDARD CARRYOVER BALANCE.—

"(A) IN GENERAL.—A funding standard carryover balance maintained by a plan shall consist of a beginning balance determined under subparagraph (B), decreased to the extent provided in subparagraph (C), and adjusted further as provided in paragraph (8).

"(B) BEGINNING BALANCE.—The beginning balance of the funding standard carryover balance shall be the positive balance described in paragraph (1)(B)(ii)(II).

"(C) DECREASES.—As of the valuation date for each plan year after 2007, the funding standard carryover balance of a plan shall be decreased (but not below zero) by the sum of—

"(i) the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) any reduction in such balance elected under paragraph (5).

"(8) ADJUSTMENTS TO BALANCES.—In determining the prefunding balance or the funding standard carryover balance of a plan as of the valuation date (before applying any increase or decrease under paragraph (6) or (7)), the plan sponsor shall, in accordance with regulations which shall be prescribed by the Secretary of the Treasury, adjust such balance so as to reflect the rate of net gain or loss (determined, notwithstanding subsection (g)(3), on the basis of fair market value) experienced by all plan assets for the period beginning with the valuation date for the preceding plan year and ending with the date preceding the valuation date for the current plan year, properly taking into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

"(9) ELECTIONS.—Elections under this subsection shall be made at such times, and in such form and manner, as shall be prescribed in regulations of the Secretary of the Treasury.

"(g) VALUATION OF PLAN ASSETS AND LIABILITIES.—

"(1) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year.

"(2) VALUATION DATE.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

"(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 500 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans which are single-employer plans and are maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this paragraph—

"(i) PLANS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan is rea-

sonably expected to have on days during such first plan year.

"(ii) PREDECESSORS.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

"(3) AUTHORIZATION OF USE OF ACTUARIAL VALUE.—For purposes of this section, the value of plan assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary of the Treasury, except that—

"(A) any such method providing for averaging of fair market values may not provide for averaging of such values over more than the 36-month period ending with the month which includes the valuation date, and

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

"(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of this section—

"(A) CONTRIBUTIONS FOR PRIOR PLAN YEARS TAKEN INTO ACCOUNT.—For purposes of determining the value of plan assets for any current plan year, in any case in which a contribution properly allocable to amounts owed for a preceding plan year is made on or after the valuation date of the plan for such current plan year, such contribution shall be taken into account, except that any such contribution made during any such current plan year beginning after 2007 shall be taken into account only in an amount equal to its present value (determined using the effective rate of interest for the plan for the preceding plan year) as of the valuation date of the plan for such current plan year.

"(B) CONTRIBUTIONS FOR CURRENT PLAN YEAR DISREGARDED.—For purposes of determining the value of plan assets for any current plan year, contributions which are properly allocable to amounts owed for such plan year shall not be taken into account, and, in the case of any such contribution made before the valuation date of the plan for such plan year, such value of plan assets shall be reduced for interest on such amount determined using the effective rate of interest of the plan for the current plan year for the period beginning when such payment was made and ending on the valuation date of the plan.

"(5) ACCOUNTING FOR PLAN LIABILITIES.—For purposes of this section—

"(A) LIABILITIES TAKEN INTO ACCOUNT FOR CURRENT PLAN YEAR.—In determining the value of liabilities under a plan for a plan year, liabilities shall be taken into account to the extent attributable to benefits (including any early retirement or similar benefit) accrued or earned as of the beginning of the plan year.

"(B) ACCRUALS DURING CURRENT PLAN YEAR DISREGARDED.—For purposes of subparagraph (A), benefits ac-

crued or earned during such plan year shall not be taken into account, irrespective of whether the valuation date of the plan for such plan year is later than the first day of such plan year.

"(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

"(1) IN GENERAL.—Subject to this subsection, the determination of any present value or other computation under this section shall be made on the basis of actuarial assumptions and methods—

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

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

"(2) INTEREST RATES.—

"(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term 'effective interest rate' means, with respect to any plan for any plan year, the single rate of interest which, if used to determine the present value of the plan's liabilities referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

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

"(i) in the case of liabilities reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

"(ii) in the case of liabilities reasonably determined to be payable during the 15-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and

"(iii) in the case of liabilities reasonably determined to be payable after the period described in clause (ii), the third segment rate with respect to the applicable month.

"(C) SEGMENT RATES.—For purposes of this paragraph—

"(i) FIRST SEGMENT RATE.—The term 'first segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

"(ii) SECOND SEGMENT RATE.—The term 'second segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 15-year

period beginning at the end of the period described in clause (i).

"(iii) THIRD SEGMENT RATE.—The term 'third segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (ii).

"(D) CORPORATE BOND YIELD CURVE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'corporate bond yield curve' means, with respect to any month, a yield curve which is prescribed by the Secretary of the Treasury for such month and which reflects a 3-year weighted average of yields on investment grade corporate bonds with varying maturities.

"(ii) 3-YEAR WEIGHTED AVERAGE.—The term '3-year weighted average' means an average determined by using a methodology under which the most recent year is weighted 50 percent, the year preceding such year is weighted 35 percent, and the second year preceding such year is weighted 15 percent.

"(E) APPLICABLE MONTH.—For purposes of this paragraph, the term 'applicable month' means, with respect to any plan for any plan year, the month which includes the valuation date of such plan for such plan year or, at the election of the plan sponsor, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to the plan year for which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary of the Treasury.

"(F) PUBLICATION REQUIREMENTS.—The Secretary of the Treasury shall publish for each month the corporate bond yield curve (and the corporate bond yield curve reflecting the modification described in section 205(g)(3)(B)(iii)(I)) for such month and each of the rates determined under subparagraph (B) for such month. The Secretary of the Treasury shall also publish a description of the methodology used to determine such yield curve and such rates which is sufficiently detailed to enable plans to make reasonable projections regarding the yield curve and such rates for future months based on the plan's projection of future interest rates.

"(G) TRANSITION RULE.—

"(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2007 or 2008, the first, second, or third segment rate for a plan with respect to any month shall be equal to the sum of—

"(I) the product of such rate for such month determined without regard to this subparagraph, multiplied by the applicable percentage, and

"(II) the product of the rate determined under the rules of section 302(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2006), multiplied by a percentage equal to 100 percent minus the applicable percentage.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2007 and 66⅔ percent for plan years beginning in 2008.

"(iii) NEW PLANS INELIGIBLE.—Clause (i) shall not apply to any plan if the first plan year of the plan begins after December 31, 2006.

"(3) MORTALITY TABLE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the mortality table used in determining any present value or making any computation under this section shall be the RP–2000 Combined Mortality Table using Scale AA published by the Society of Actuaries (as in effect on the date of the enactment of the Pension Protection Act of 2005), projected as of the plan's valuation date.

"(B) SUBSTITUTE MORTALITY TABLE.—

"(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary of the Treasury for a period not to exceed 10 years, a mortality table which meets the requirements of clause (ii) shall be used in determining any present value or making any computation under this section. A mortality table described in this clause shall cease to be in effect if the plan actuary determines at any time that such table does not meet the requirements of subclauses (I) and (II) of clause (ii).

"(ii) REQUIREMENTS.—A mortality table meets the requirements of this clause if the Secretary of the Treasury determines that—

"(I) such table reflects the actual experience of the pension plan and projected trends in such experience, and

"(II) such table is significantly different from the table described in subparagraph (A).

"(iii) DEADLINE FOR DISPOSITION OF APPLICATION.—Any mortality table submitted to the Secretary of the Treasury for approval under this subparagraph shall be treated as in effect for the succeeding plan year unless such Secretary, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (ii).

"(C) TRANSITION RULE.—Under regulations of the Secretary of the Treasury, any difference in present value resulting from the difference in the assumptions as set forth in the mortality table specified in subparagraph (A) and the assumptions as set forth in the mortality table de-

scribed in section 302(d)(7)(C)(ii) (as in effect for plan years beginning in 2006) shall be phased in ratably over the first period of 5 plan years beginning in or after 2007 so as to be fully effective for the fifth plan year. The preceding sentence shall not apply to any plan if the first plan year of the plan begins after December 31, 2006.

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

"(A) the probability that future benefit payments under the plan will be made in the form of optional forms of benefits provided under the plan (including lump sum distributions, determined on the basis of the plan's experience and other related assumptions), and

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

"(5) APPROVAL OF LARGE CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(A) IN GENERAL.—No actuarial assumption used to determine the funding target for a plan to which this paragraph applies may be changed without the approval of the Secretary of the Treasury.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

"(i) the plan is a single-employer plan to which title IV applies,

"(ii) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13)) and members of such sponsors' controlled groups (as defined in section 4001(a)(14)) which are covered by title IV (disregarding plans with no unfunded vested benefits) exceed $50,000,000, and

"(iii) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the funding target of the plan before such change.

"(i) SPECIAL RULES FOR AT-RISK PLANS.—

"(1) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—

"(A) IN GENERAL.—In any case in which a plan is in at-risk status for a plan year, the funding target of the plan for the plan year is the sum of—

"(i) the present value of all liabilities to participants and their beneficiaries under the plan for the plan year, as determined by using, in addition to the actuarial assumptions described in subsection (h), the sup-

plemental actuarial assumptions described in subparagraph (B), plus

"(ii) a loading factor determined under subparagraph (C).

"(B) SUPPLEMENTAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions used in determining the valuation of the funding target shall include, in addition to the actuarial assumptions described in subsection (h), an assumption that all participants will elect benefits at such times and in such forms as will result in the highest present value of liabilities under subparagraph (A)(i).

"(C) LOADING FACTOR.—The loading factor applied with respect to a plan under this paragraph for any plan year is the sum of—

"(i) $700, times the number of participants in the plan, plus

"(ii) 4 percent of the funding target (determined without regard to this paragraph) of the plan for the plan year.

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

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

"(B) the loading factor under paragraph (1)(C), excluding the portion of the loading factor described in paragraph (1)(C)(i).

"(3) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection, a plan is in 'at-risk status' for a plan year if the funding target attainment percentage of the plan for the preceding plan year was less than 60 percent.

"(4) TRANSITION BETWEEN APPLICABLE FUNDING TARGETS AND BETWEEN APPLICABLE TARGET NORMAL COSTS.—

"(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of fewer than 5 plan years, the applicable amount of the funding target and of the target normal cost shall be, in lieu of the amount determined without regard to this paragraph, the sum of—

"(i) the amount determined under this section without regard to this subsection, plus

"(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined under this section without regard to this subsection.

"(B) TRANSITION PERCENTAGE.—For purposes of this paragraph, the 'transition percentage' for a plan year is the product derived by multiplying—

"(i) 20 percent, by

"(ii) the number of plan years during the period described in subparagraph (A).

"(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

"(2) INTEREST.—Any payment required under paragraph (1) for a plan year that is made on a date other than the valuation date for such plan year shall be adjusted for interest accruing for the period between the valuation date and the payment date, at the effective rate of interest for the plan for such plan year.

"(3) ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE FOR UNDERFUNDED PLANS.—

"(A) INTEREST PENALTY FOR FAILURE TO MEET ACCELERATED QUARTERLY PAYMENT SCHEDULE.—In any case in which the plan has a funding shortfall for the preceding plan year, if the required installment is not paid in full, then the minimum required contribution for the plan year (as increased under paragraph (2)) shall be further increased by an amount equal to the interest on the amount of the underpayment for the period of the underpayment, using an interest rate equal to the excess of—

"(i) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), over

"(ii) the effective rate of interest for the plan for the plan year.

"(B) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subparagraph (A)—

"(i) AMOUNT.—The amount of the underpayment shall be the excess of—

"(I) the required installment, over

"(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(ii) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

"(iii) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(C) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this paragraph—

"(i) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set 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

"(D) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this paragraph—

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

"(ii) REQUIRED ANNUAL PAYMENT.—For purposes of clause (i), the term 'required annual payment' means the lesser of—

"(I) 90 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the plan year under this section, or

"(II) in the case of a plan year beginning after 2007, 100 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year referred to in such clause was not a year of 12 months.

"(E) FISCAL YEARS AND SHORT YEARS.—

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

"(ii) SHORT PLAN YEAR.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury.

"(4) LIQUIDITY REQUIREMENT IN CONNECTION WITH QUARTERLY CONTRIBUTIONS.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan (other than a plan that would be described in subsection (f)(2)(B) if '100' were substituted for '500' therein) which—

"(i) is required to pay installments under paragraph (3) for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefits accruing or earned during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this subparagraph:

"(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of—

"(I) the base amount with respect to such quarter, over

"(II) the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary of the Treasury that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funding target attainment percentage for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary of the Treasury shall provide in regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities, and such other assets as specified by the Secretary of the Treasury in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

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

"(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this subsection applies (as provided under paragraph (2)), if—

"(A) any person fails to make a contribution payment required by section 302 and this section before the due date for such payment, and

"(B) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

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

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a single-employer plan for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent. This subsection shall not apply to any plan to which section 4021 does not apply (as such section is in effect on the date of the enactment of the Pension Protection Act of 2005).

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of contribution payments required under this section and section 302 for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in

paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION PAYMENT.—The term 'contribution payment' means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (i).

"(B) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (j), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 303.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

"(l) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—In the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.".

(b) CLERICAL AMENDMENT.—The table of sections in section 1 of such Act (as amended by section 101) is amended by inserting after the item relating to section 302 the following new item:

"Sec. 303. Minimum funding standards for single-employer defined benefit pension plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2006.

SEC. 103. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

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

"(g) FUNDING-BASED LIMITATION ON SHUTDOWN BENEFITS AND OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.—

"(1) IN GENERAL.—No defined benefit plan which is a single-employer plan may provide benefits to which participants are entitled solely by reason of the occurrence of a plant shutdown or any other unpredictable contingent event occurring during

any plan year if the funding target attainment percentage as of the valuation date of the plan for such plan year—

"(A) is less than 80 percent, or

"(B) would be less than 80 percent taking into account such occurrence.

"(2) EXEMPTION.—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first date of the plan year, upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to—

"(A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan (under section 303) for the plan year attributable to the occurrence referred to in paragraph (1), and

"(B) in the case of paragraph (1)(B), the amount sufficient to result in a funding target attainment percentage of 80 percent.

Rules similar to the rules of subsection (h)(6) shall apply for purposes of this paragraph.

"(3) UNPREDICTABLE CONTINGENT EVENT.—For purposes of this subsection, the term 'unpredictable contingent event' means an event other than—

"(A) attainment of any age, performance of any service, receipt or derivation of any compensation, or the occurrence of death or disability, or

"(B) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury).

"(4) NEW PLANS.—Paragraph (1) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this subsection, the reference in this subsection to a plan shall include a reference to any predecessor plan.

"(5) DEEMED REDUCTION OF FUNDING BALANCES.—A rule similar to the rule of subsection (h)(8) shall apply for purposes of this subsection.".

(b) OTHER LIMITS ON BENEFITS AND BENEFIT ACCRUALS.—

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

"(h) FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.—

"(1) LIMITATIONS ON PLAN AMENDMENTS INCREASING LIABILITY FOR BENEFITS.—

"(A) IN GENERAL.—No amendment to a defined benefit plan which is a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable to the plan may take effect during any plan year if the funding target attainment percentage as of the valuation date of the plan for such plan year is—

"(i) less than 80 percent, or

"(ii) would be less than 80 percent taking into account such amendment.

For purposes of this subparagraph, any increase in benefits under the plan by reason of an increase in the benefit rate provided under the plan or on the basis of an increase in compensation shall be treated as effected by plan amendment.

"(B) EXEMPTION.—Subparagraph (A) shall cease to apply with respect to any plan year, effective as of the first date of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to—

"(i) in the case of subparagraph (A)(i), the amount of the increase in the funding target of the plan (under section 303) for the plan year attributable to the amendment, and

"(ii) in the case of subparagraph (A)(ii), the amount sufficient to result in a funding target attainment percentage of 80 percent.

"(2) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—

"(A) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's funding target attainment percentage as of the valuation date of the plan for a plan year is less than 80 percent, the plan may not after such date pay any prohibited payment (as defined in section 206(e)).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan for any plan year if the terms of such plan (as in effect for the period beginning on June 29, 2005, and ending with such plan year) provide for no benefit accruals with respect to any participant during such period.

"(3) LIMITATIONS ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's funding target attainment percentage as of the valuation date of the plan for a plan year is less than 60 percent, all future benefit accruals under the plan shall cease as of such date.

"(4) NEW PLANS.—Paragraphs (1) and (3) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this subsection, the reference in this subsection to a plan shall include a reference to any predecessor plan.

"(5) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS BASED ON PRIOR YEAR'S FUNDING STATUS.—

"(A) PRESUMPTION OF CONTINUED UNDERFUNDING.—In any case in which a benefit limitation under paragraph (1), (2), or (3) has been applied to a plan with respect to the plan year preceding the current plan year, the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the preceding plan year until the enrolled actuary of the plan certifies the actual funding target attainment per-

centage of the plan as of the valuation date of the plan for the current plan year.

"(B) PRESUMPTION OF UNDERFUNDING AFTER 10TH MONTH.—In any case in which no such certification is made with respect to the plan before the first day of the 10th month of the current plan year, for purposes of paragraphs (1), (2), and (3), the plan's funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of the first day of such 10th month, and such day shall be deemed, for purposes of such subsections, to be the valuation date of the plan for the current plan year.

"(C) PRESUMPTION OF UNDERFUNDING AFTER 4TH MONTH FOR NEARLY UNDERFUNDED PLANS.—In any case in which—

"(i) a benefit limitation under paragraph (1), (2), or (3) did not apply to a plan with respect to the plan year preceding the current plan year, but the funding target attainment percentage of the plan for such preceding plan year was not more than 10 percentage points greater than the percentage which would have caused such subsection to apply to the plan with respect to such preceding plan year, and

"(ii) as of the first day of the 4th month of the current plan year, the enrolled actuary of the plan has not certified the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year,

until the enrolled actuary so certifies, such first day shall be deemed, for purposes of such subsection, to be the valuation date of the plan for the current plan year and the funding target attainment percentage of the plan as of such first day shall, for purposes of such paragraph, be presumed to be equal to 10 percentage points less than the funding target attainment percentage of the plan as of the valuation date of the plan for such preceding plan year.

"(6) RESTORATION BY PLAN AMENDMENT OF BENEFITS OR BENEFIT ACCRUAL.—In any case in which a prohibition under paragraph (2) of a payment described in paragraph (2)(A) or a cessation of benefit accruals under paragraph (3) is applied to a plan with respect to any plan year and such prohibition or cessation, as the case may be, ceases to apply to any subsequent plan year, the plan may provide for the resumption of such benefit payment or such benefit accrual only by means of the adoption of a plan amendment after the valuation date of the plan for such subsequent plan year. The preceding sentence shall not apply to a prohibition or cessation required by reason of paragraph (5).

"(7) FUNDING TARGET ATTAINMENT PERCENTAGE.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'funding target attainment percentage' means, with respect to any plan for any plan year, the ratio (expressed as a percentage) which—

"(i) the value of plan assets for the plan year (as determined under section 303(g)) reduced by the pre-

funding balance and the funding standard carryover balance (within the meaning of section 303(f)), bears to

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

"(B) APPLICATION TO PLANS WHICH ARE FULLY FUNDED WITHOUT REGARD TO REDUCTIONS FOR FUNDING BALANCES.—

"(i) IN GENERAL.—In the case of a plan for any plan year, if the funding target attainment percentage is 100 percent or more (determined without regard to this subparagraph and without regard to the reduction under subparagraph (A)(i) for the pre-funding balance and the funding standard carryover balance), subparagraph (A) shall be applied without regard to such reduction.

"(ii) TRANSITION RULE.—Clause (i) shall be applied to plan years beginning after 2006 and before 2011 by substituting for '100 percent' the applicable percentage determined in accordance with the following table:

"In the case of a plan year beginning in calendar year:	The applicable percentage is:
2007	92 percent
2008	94 percent
2009	96 percent
2010	98 percent.

"(iii) LIMITATION.—Clause (ii) shall not apply with respect to any plan year after 2007 unless the funding target attainment percentage (determined without regard to this subparagraph and without regard to the reduction under subparagraph (A)(i) for the pre-funding balance and the funding standard carryover balance) of the plan for each preceding plan year after 2006 was not less than the applicable percentage with respect to such preceding plan year determined under clause (ii).

"(8) DEEMED REDUCTION OF FUNDING BALANCES.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers—

"(A) IN GENERAL.—In any case in which a benefit limitation under paragraph (1), (2), or (3) would (but for this paragraph and determined without regard to paragraph (1)(B)) apply to such plan for the plan year, the plan sponsor of such plan shall be treated for purposes of this Act as having made an election under section 303(f)(5) to reduce the balance of the pre-funding balance and the funding standard carryover balance for the plan year (in a manner consistent with the requirements of section 303(f)(5)(B)) by such amount as is necessary for such benefit limitation to not apply to the plan for such plan year.

"(B) EXCEPTION FOR INSUFFICIENT FUNDING BALANCES.—Subparagraph (A) shall not apply with respect to a benefit limitation for any plan year if the application of subparagraph (A) would not result in the benefit limitation not applying for such plan year.".

(2) NOTICE REQUIREMENT.—

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

(i) by redesignating subsection (j) as subsection (k); and

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

"(j) NOTICE OF FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—The plan administrator of a defined benefit plan which is a single-employer plan shall provide a written notice to plan participants and beneficiaries within 30 days after the plan has become subject to the restriction described in section 206(h)(2) or at such other time as may be determined by the Secretary.".

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

(c) EFFECTIVE DATE.—

(1) SHUTDOWN BENEFITS.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply with respect to plant shutdowns, or other unpredictable contingent events, occurring after 2006.

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

(3) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this subsection shall not apply to plan years beginning before the earlier of—

(A) the later of—

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

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply, or

(B) January 1, 2009.

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

(d) SPECIAL RULE FOR 2007.—For purposes of applying paragraph (5) of section 206(h) of such Act (as added by this section) to current plan years (within the meaning of such paragraph) beginning in 2007, the modified funded current liability percentage of the plan for the preceding year shall be substituted for the funding tar-

get attainment percentage of the plan for the preceding year. For purposes of the preceding sentence, the term "modified funded current liability percentage" means the funded current liability percentage (as defined in section 302(l)(8) of such Act), reduced as described in subparagraph (E) thereof in the case of a plan with a funded current liability percentage (as so defined and before such reduction) which is less than 100 percent.

SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.

(a) MISCELLANEOUS AMENDMENTS TO TITLE I.—Subtitle B of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021 et seq.) is amended—

(1) in section 101(d)(3), by striking "section 302(e)" and inserting "section 303(j)";

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

"(i) a statement as to whether—

"(I) in the case of a defined benefit plan which is a single-employer plan, the plan's funding target attainment percentage (as defined in section 303(d)(2)), or

"(II) in the case of a defined benefit plan which is a multiemployer plan, the plan's funded percentage (as defined in section 305(d)(2)),

is at least 100 percent (and, if not, the actual percentage);";

(3) in section 103(d)(8)(B), by striking "the requirements of section 302(c)(3)" and inserting "the applicable requirements of sections 303(h) and 304(c)(3)";

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

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

"(A) in the case of a defined benefit plan which is a single-employer plan, the funding target (as defined in section 303(d)(1)) of the plan, or

"(B) in the case of a defined benefit plan which is a multiemployer plan, the current liability (as defined in section 304(c)(6)(D)) under the plan,

the percentage which such value is of the amount described in subparagraph (A) or (B).";

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

(6) in section 204(g)(1), by striking "section 302(c)(8)" and inserting "section 302(d)(2)";

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

(8) in section 204(i)(3), by striking "funded current liability percentage (within the meaning of section 302(d)(8) of this Act)" and inserting "funding target attainment percentage (as defined in section 303(d)(2))";

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

(10) in section 206(e)(1), by striking "section 302(d)" and inserting "section 303(j)(4)", and by striking "section 302(e)(5)" and inserting "section 303(j)(4)(E)(i)";

(11) in section 206(e)(3), by striking "section 302(e) by reason of paragraph (5)(A) thereof" and inserting "section 303(j)(3) by reason of section 303(j)(4)(A)"; and

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

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

(1) in section 4001(a)(13) (29 U.S.C. 1301(a)(13)), by striking "302(c)(11)(A)" and inserting "302(b)(1)", by striking "412(c)(11)(A)" and inserting "412(b)(1)", by striking "302(c)(11)(B)" and inserting "302(b)(2)", and by striking "412(c)(11)(B)" and inserting "412(b)(2)";

(2) in section 4003(e)(1) (29 U.S.C. 1303(e)(1)), by striking "302(f)(1)(A) and (B)" and inserting "303(k)(1)(A) and (B)", and by striking "412(n)(1)(A) and (B)" and inserting "430(k)(1)(A) and (B)";

(3) in section 4010(b)(2) (29 U.S.C. 1310(b)(2)), by striking "302(f)(1)(A) and (B)" and inserting "303(k)(1)(A) and (B)", and by striking "412(n)(1)(A) and (B)" and inserting "430(k)(1)(A) and (B)";

(4) in section 4011(b) (29 U.S.C. 1311(b)), by striking "to which" and all that follows and inserting "for any plan year for which the plan's funding target attainment percentage (as defined in section 303(d)(2)) is at least 90 percent.";

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

"(1)(A) in the case of a single-employer plan, the sum of the shortfall amortization charge (within the meaning of section 303(c)(1) of this Act and 430(c)(1) of the Internal Revenue Code of 1986) with respect to the plan (if any) for the plan year in which the termination date occurs, plus the aggregate total of shortfall amortization installments (if any) determined for succeeding plan years under section 303(c)(2) of this Act and section 430(c)(2) of such Code (which, for purposes of this subparagraph, shall include any increase in such sum which would result if all applications for waivers of the minimum funding standard under section 302(c) of this Act and section 412(c) of such Code which are pending with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year), or

"(B) in the case of a multiemployer plan, the outstanding balance of the accumulated funding deficiencies (within the meaning of section 304(a)(2) of this Act and section 431(a) of the Internal Revenue Code of 1986) of the plan (if any) (which, for purposes of this subparagraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all pending applications for waivers of the minimum funding standard under section 302(c) of this Act or section 412(c) of such Code and for extensions of the amorti-

zation period under section 304(d) of this Act or section 431(d) of such Code with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year),

"(2)(A) in the case of a single-employer plan, the sum of the waiver amortization charge (within the meaning of section 303(e)(1) of this Act and 430(j)(2) of the Internal Revenue Code of 1986) with respect to the plan (if any) for the plan year in which the termination date occurs, plus the aggregate total of waiver amortization installments (if any) determined for succeeding plan years under section 303(e)(2) of this Act and section 430(j)(3) of such Code, or

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

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

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

(7) in section 4243(a)(1)(B) (29 U.S.C. 1423(a)(1)(B)), by striking "302(a)" and inserting "304(a)", and, in clause (i), by striking "302(a)" and inserting "304(a)";

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

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

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

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

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

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

(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 207.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2006.

Subtitle B—Amendments to Internal Revenue Code of 1986

SEC. 111. MINIMUM FUNDING STANDARDS.

(a) NEW MINIMUM FUNDING STANDARDS.—Section 412 of the Internal Revenue Code of 1986 (relating to minimum funding standards) is amended to read as follows:

"SEC. 412. MINIMUM FUNDING STANDARDS.

"(a) REQUIREMENT TO MEET MINIMUM FUNDING STANDARD.—

"(1) IN GENERAL.—A plan to which this section applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

"(2) MINIMUM FUNDING STANDARD.—For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

"(A) in the case of a defined benefit plan which is not a multiemployer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 430 for the plan for the plan year,

"(B) in the case of a money purchase plan which is not a multiemployer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

"(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for any plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 431 as of the end of the plan year.

"(b) LIABILITY FOR CONTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of any contribution required by this section (including any required installments under paragraphs (3) and (4) of section 430(j)) shall be paid by the employer responsible for making contributions to or under the plan.

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—In the case of a defined benefit plan which is not a multiemployer plan, if the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contributions.

"(c) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

"(1) WAIVER IN CASE OF BUSINESS HARDSHIP.—

"(A) IN GENERAL.—If—

"(i) an employer is (or in the case of a multiemployer plan, 10 percent or more of the number of employers contributing to or under the plan is) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

"(ii) application of the standard would be adverse to the interests of plan participants in the aggregate,

the Secretary may, subject to subparagraph (C), waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard. The Secretary shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years.

"(B) EFFECTS OF WAIVER.—If a waiver is granted under subparagraph (A) for any plan year—

"(i) in the case of a defined benefit plan which is not a multiemployer plan, the minimum required contribution under section 430 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 430(e), and

"(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 431(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 431(b)(2)(C).

"(C) WAIVER OF AMORTIZED PORTION NOT ALLOWED.—The Secretary may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

"(2) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

"(A) the employer is operating at an economic loss,

"(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

"(C) the sales and profits of the industry concerned are depressed or declining, and

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

"(3) WAIVED FUNDING DEFICIENCY.—For purposes of this section and part III of this subchapter, the term 'waived funding deficiency' means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary and not satisfied by employer contributions.

"(4) SECURITY FOR WAIVERS FOR SINGLE-EMPLOYER PLANS, CONSULTATIONS.—

"(A) SECURITY MAY BE REQUIRED.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1).

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of the Employee Retirement Income Security Act of 1974), or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14) of such Act).

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under this subsection with respect to a plan described in subparagraph (A)(i)—

"(i) provide the Pension Benefit Guaranty Corporation with—

"(I) notice of the completed application for any waiver or modification, and

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

"(II) any views of any employee organization (within the meaning of section 3(4) of the Employee Retirement Income Security Act of 1974) representing participants in the plan which are submitted in writing to the Secretary in connection with such application.

Information provided to the Corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p).

"(C) EXCEPTION FOR CERTAIN WAIVERS.—

"(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the aggregate unpaid minimum required contribution (within the meaning of section 4971(c)(4)) for the plan year and all preceding plan years, and

"(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 430(e)(2),

is less than $1,000,000.

"(ii) TREATMENT OF WAIVERS FOR WHICH APPLICATIONS ARE PENDING.—The amount described in clause (i)(I) shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under this subsection which are pending with respect to such plan were denied.

"(5) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

"(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a defined benefit plan which is not a multiemployer plan, no waiver

may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year.

"(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a defined benefit plan which is not a multiemployer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

"(6) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such waiver to to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of the Employee Retirement Income Security Act of 1974 and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

"(7) RESTRICTION ON PLAN AMENDMENTS.—

"(A) IN GENERAL.—No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 431(d) is in effect with respect to the plan, or if a plan amendment described in subsection (d)(2) has been made at any time in the preceding 12 months (24 months in the case of a multiemployer plan). If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

"(B) EXCEPTION.—Paragraph (1) shall not apply to any plan amendment which—

"(i) the Secretary determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

"(ii) only repeals an amendment described in subsection (d)(2), or

"(iii) is required as a condition of qualification under part I of subchapter D, of chapter 1.

"(d) MISCELLANEOUS RULES.—

"(1) CHANGE IN METHOD OR YEAR.—If the funding method, the valuation date, or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary.

"(2) CERTAIN RETROACTIVE PLAN AMENDMENTS.—For purposes of this section, any amendment applying to a plan year which—

"(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

"(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

"(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files a notice with the Secretary notifying him of such amendment and the Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary unless the Secretary determines that such amendment is necessary because of a substantial business hardship (as determined under subsection (c)(2)) and that a waiver under subsection (c) (or, in the case of a multiemployer plan, any extension of the amortization period under section 431(d)) is unavailable or inadequate.

"(3) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

"(e) PLANS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section applies to a plan if, for any plan year beginning after December 31, 2006—

"(A) such plan included a trust which qualified (or was determined by the Secretary to have qualified) under section 401(a), or

"(B) such plan satisfied (or was determined by the Secretary to have satisfied) the requirements of section 403(a).

"(2) EXCEPTIONS.—This section shall not apply to—

"(A) any profit-sharing or stock bonus plan,

"(B) any insurance contract plan described in paragraph (3),

"(C) any governmental plan (within the meaning of section 414(d)),

"(D) any church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made,

"(E) any plan which has not, at any time after September 2, 1974, provided for employer contributions, or

"(F) any plan established and maintained by a society, order, or association described in section 501(c)(8) or (9), if no part of the contributions to or under such plan are made by employers of participants in such plan.

No plan described in subparagraph (C), (D), or (F) shall be treated as a qualified plan for purposes of section 401(a) unless such plan meets the requirements of section 401(a)(7) as in effect on September 1, 1974.

"(3) CERTAIN INSURANCE CONTRACT PLANS.—A plan is described in this paragraph if—

"(A) the plan is funded exclusively by the purchase of individual insurance contracts,

"(B) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

"(C) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

"(D) premiums payable for the plan year, and all prior plan years, under such contracts have been paid before lapse or there is reinstatement of the policy,

"(E) no rights under such contracts have been subject to a security interest at any time during the plan year, and

"(F) no policy loans are outstanding at any time during the plan year.

A plan funded exclusively by the purchase of group insurance contracts which is determined under regulations prescribed by the Secretary to have the same characteristics as contracts described in the preceding sentence shall be treated as a plan described in this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

SEC. 112. FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.

(a) IN GENERAL.—Subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation, etc.) is amended by adding at the end the following new part:

"PART III—MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

"SEC. 430. MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.

"(a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section and section 412(a)(2)(A), except as provided in subsection (f), the term 'minimum required contribution' means, with respect to any plan year of a defined benefit plan which is not a multiemployer plan—

"(1) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) is less than the funding target of the plan for the plan year, the sum of—

"(A) the target normal cost of the plan for the plan year,

"(B) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and

"(C) the waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e);

"(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) exceeds the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced by such excess; or

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

"(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

"(c) SHORTFALL AMORTIZATION CHARGE.—

"(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

"(2) SHORTFALL AMORTIZATION INSTALLMENT.—The plan sponsor shall determine, with respect to the shortfall amortization base of the plan for any plan year, the amounts necessary to amortize such shortfall amortization base, in level annual installments over a period of 7 plan years beginning with such plan year. For purposes of paragraph (1), the annual installment of such amortization for each plan year in such 7-plan-year period is the shortfall amortization installment for such plan year with respect to such shortfall amortization base. In determining any shortfall amortization installment under this paragraph, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied

under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(3) SHORTFALL AMORTIZATION BASE.—For purposes of this section, the shortfall amortization base of a plan for a plan year is the excess (if any) of—

"(A) the funding shortfall of such plan for such plan year, over

"(B) the sum of—

"(i) the present value (determined using the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)) of the aggregate total of the shortfall amortization installments, for such plan year and the 5 succeeding plan years, which have been determined with respect to the shortfall amortization bases of the plan for each of the 6 plan years preceding such plan year, and

"(ii) the present value (as so determined) of the aggregate total of the waiver amortization installments for such plan year and the 5 succeeding plan years, which have been determined with respect to the waiver amortization bases of the plan for each of the 5 plan years preceding such plan year.

"(4) FUNDING SHORTFALL.—For purposes of this section, the funding shortfall of a plan for any plan year is the excess (if any) of—

"(A) the funding target of the plan for the plan year, over

"(B) the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) for the plan year which are held by the plan on the valuation date.

"(5) EXEMPTION FROM NEW SHORTFALL AMORTIZATION BASE.—

"(A) IN GENERAL.—In any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(A)) is equal to or greater than the funding target of the plan for the plan year, the shortfall amortization base of the plan for such plan year shall be zero.

"(B) TRANSITION RULE.—

"(i) IN GENERAL.—In the case of a non-deficit reduction plan, subparagraph (A) shall be applied to plan years beginning after 2006 and before 2011 by substituting, for the funding target of the plan for the plan year, the applicable percentage of such funding target determined under the following table:

"In the case of a plan year beginning in calendar year:	The applicable percentage is:
2007	92 percent
2008	94 percent
2009	96 percent
2010	98 percent.

"(ii) LIMITATION.—Clause (i) shall not apply with respect to any plan year after 2007 unless the ratio (expressed as a percentage) which—

"(I) the value of plan assets for each preceding plan year after 2006 (as reduced under subsection (f)(4)(A)), bears to

"(II) the funding target of the plan for such preceding plan year (determined without regard to subsection (i)(1)),

is not less than the applicable percentage with respect to such preceding plan determined under clause (i).

"(iii) NON-DEFICIT REDUCTION PLAN.—For purposes of clause (i), the term 'non-deficit reduction plan' means any plan—

"(I) to which this part (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005) applied for the plan year beginning in 2006, and

"(II) to which section 412(d) (as so in effect) did not apply for such plan year.

"(6) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the shortfall amortization charge for such plan year and succeeding plan years, the shortfall amortization bases for all preceding plan years (and all shortfall amortization installments determined with respect to such bases) shall be reduced to zero.

"(d) RULES RELATING TO FUNDING TARGET.—For purposes of this section—

"(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all liabilities to participants and their beneficiaries under the plan for the plan year.

"(2) FUNDING TARGET ATTAINMENT PERCENTAGE.—The 'funding target attainment percentage' of a plan for a plan year is the ratio (expressed as a percentage) which—

"(A) the value of plan assets for the plan year (as reduced under subsection (f)(4)(B)), bears to

"(B) the funding target of the plan for the plan year (determined without regard to subsection (i)(1)).

"(e) WAIVER AMORTIZATION CHARGE.—

"(1) DETERMINATION OF WAIVER AMORTIZATION CHARGE.—The waiver amortization charge (if any) for a plan for any plan year is the aggregate total of the waiver amortization installments for such plan year with respect to the waiver amortization bases for each of the 5 preceding plan years.

"(2) WAIVER AMORTIZATION INSTALLMENT.—The plan sponsor shall determine, with respect to the waiver amortization base of the plan for any plan year, the amounts necessary to amortize such waiver amortization base, in level annual installments over a period of 5 plan years beginning with the succeeding plan year. For purposes of paragraph (1), the annual installment of such amortization for each plan year in such 5-

plan year period is the waiver amortization installment for such plan year with respect to such waiver amortization base.

"(3) INTEREST RATE.—In determining any waiver amortization installment under this subsection, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(4) WAIVER AMORTIZATION BASE.—The waiver amortization base of a plan for a plan year is the amount of the waived funding deficiency (if any) for such plan year under section 412(c).

"(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the waiver amortization charge for such plan year and succeeding plan years, the waiver amortization base for all preceding plan years shall be reduced to zero.

"(f) REDUCTION OF MINIMUM REQUIRED CONTRIBUTION BY PRE-FUNDING BALANCE AND FUNDING STANDARD CARRYOVER BALANCE.—

"(1) ELECTION TO MAINTAIN BALANCES.—

"(A) PRE-FUNDING BALANCE.—The plan sponsor of a defined benefit plan which is not a multiemployer plan may elect to maintain a pre-funding balance.

"(B) FUNDING STANDARD CARRYOVER BALANCE.—

"(i) IN GENERAL.—In the case of a defined benefit plan (other than a multiemployer plan) described in clause (ii), the plan sponsor may elect to maintain a funding standard carryover balance, until such balance is reduced to zero.

"(ii) PLANS MAINTAINING FUNDING STANDARD ACCOUNT IN 2006.—A plan is described in this clause if the plan—

"(I) was in effect for a plan year beginning in 2006, and

"(II) had a positive balance in the funding standard account under section 412(b) as in effect for such plan year and determined as of the end of such plan year.

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

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

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

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

"(3) ELECTION TO APPLY BALANCES AGAINST MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of any plan year in which the plan sponsor elects to credit against the minimum required con-

tribution for the current plan year all or a portion of the pre-funding balance or the funding standard carryover balance for the current plan year (not in excess of such minimum required contribution), the minimum required contribution for the plan year shall be reduced by the amount so credited by the plan sponsor. For purposes of the preceding sentence, the minimum required contribution shall be determined after taking into account any waiver under section 412(c).

"(B) COORDINATION WITH FUNDING STANDARD CARRYOVER BALANCE.—To the extent that any plan has a funding standard carryover balance greater than zero, no amount of the pre-funding balance of such plan may be credited under this paragraph in reducing the minimum required contribution.

"(C) LIMITATION FOR UNDERFUNDED PLANS.—The preceding provisions of this paragraph shall not apply for any plan year if the ratio (expressed as a percentage) which—

"(i) the value of plan assets for the preceding plan year (as reduced under paragraph (4)(C)), bears to

"(ii) the funding target of the plan for the preceding plan year (determined without regard to subsection (i)(1)),

is less than 80 percent.

"(4) EFFECT OF BALANCES ON AMOUNTS TREATED AS VALUE OF PLAN ASSETS.—In the case of any plan maintaining a pre-funding balance or a funding standard carryover balance pursuant to this subsection, the amount treated as the value of plan assets shall be deemed to be such amount, reduced as provided in the following subparagraphs:

"(A) APPLICABILITY OF SHORTFALL AMORTIZATION BASE.—For purposes of subsection (c)(5), the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance, but only if an election under paragraph (2) applying any portion of the pre-funding balance in reducing the minimum required contribution is in effect for the plan year.

"(B) DETERMINATION OF EXCESS ASSETS, FUNDING SHORTFALL, AND FUNDING TARGET ATTAINMENT PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subsections (a), (c)(4)(B), and (d)(2)(A), the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance and the funding standard carryover balance.

"(ii) SPECIAL RULE FOR CERTAIN BINDING AGREEMENTS WITH PBGC.—For purposes of subsection (c)(4)(B), the value of plan assets shall not be deemed to be reduced for a plan year by the amount of the specified balance if, with respect to such balance, there is in effect for a plan year a binding written agreement with the Pension Benefit Guaranty Corporation which provides that such balance is not available to reduce the minimum required contribution for the plan year. For purposes of the preceding sentence, the term 'specified balance' means the pre-funding bal-

ance or the funding standard carryover balance, as the case may be.

"(C) AVAILABILITY OF BALANCES IN PLAN YEAR FOR CREDITING AGAINST MINIMUM REQUIRED CONTRIBUTION.—For purposes of paragraph (3)(C)(i) of this subsection, the value of plan assets is deemed to be such amount, reduced by the amount of the pre-funding balance.

"(5) ELECTION TO REDUCE BALANCE PRIOR TO DETERMINATIONS OF VALUE OF PLAN ASSETS AND CREDITING AGAINST MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—The plan sponsor may elect to reduce by any amount the balance of the pre-funding balance and the funding standard carryover balance for any plan year (but not below zero). Such reduction shall be effective prior to any determination of the value of plan assets for such plan year under this section and application of the balance in reducing the minimum required contribution for such plan for such plan year pursuant to an election under paragraph (2).

"(B) COORDINATION BETWEEN PRE-FUNDING BALANCE AND FUNDING STANDARD CARRYOVER BALANCE.—To the extent that any plan has a funding standard carryover balance greater than zero, no election may be made under subparagraph (A) with respect to the pre-funding balance.

"(6) PRE-FUNDING BALANCE.—

"(A) IN GENERAL.—A pre-funding balance maintained by a plan shall consist of a beginning balance of zero, increased and decreased to the extent provided in subparagraphs (B) and (C), and adjusted further as provided in paragraph (8).

"(B) INCREASES.—As of the valuation date for each plan year beginning after 2007, the pre-funding balance of a plan shall be increased by the amount elected by the plan sponsor for the plan year. Such amount shall not exceed the excess (if any) of—

"(i) the aggregate total of employer contributions to the plan for the preceding plan year, over

"(ii) the minimum required contribution for such preceding plan year (increased by interest on any portion of such minimum required contribution remaining unpaid as of the valuation date for the current plan year, at the effective interest rate for the plan for the preceding plan year, for the period beginning with the first day of such preceding plan year and ending on the date that payment of such portion is made).

"(C) DECREASES.—As of the valuation date for each plan year after 2007, the pre-funding balance of a plan shall be decreased (but not below zero) by the sum of—

"(i) the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) any reduction in such balance elected under paragraph (5).

"(7) FUNDING STANDARD CARRYOVER BALANCE.—

"(A) IN GENERAL.—A funding standard carryover balance maintained by a plan shall consist of a beginning balance determined under subparagraph (B), decreased to the extent provided in subparagraph (C), and adjusted further as provided in paragraph (8).

"(B) BEGINNING BALANCE.—The beginning balance of the funding standard carryover balance shall be the positive balance described in paragraph (1)(B)(ii)(II).

"(C) DECREASES.—As of the valuation date for each plan year after 2007, the funding standard carryover balance of a plan shall be decreased (but not below zero) by the sum of—

"(i) the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) any reduction in such balance elected under paragraph (5).

"(8) ADJUSTMENTS TO BALANCES.—In determining the prefunding balance or the funding standard carryover balance of a plan as of the valuation date (before applying any increase or decrease under paragraph (6) or (7)), the plan sponsor shall, in accordance with regulations which shall be prescribed by the Secretary, adjust such balance so as to reflect the rate of net gain or loss (determined, notwithstanding subsection (g)(3), on the basis of fair market value) experienced by all plan assets for the period beginning with the valuation date for the preceding plan year and ending with the date preceding the valuation date for the current plan year, properly taking into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

"(9) ELECTIONS.—Elections under this subsection shall be made at such times, and in such form and manner, as shall be prescribed in regulations of the Secretary.

"(g) VALUATION OF PLAN ASSETS AND LIABILITIES.—

"(1) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year.

"(2) VALUATION DATE.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

"(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 500 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this paragraph—

"(i) PLANS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan is reasonably expected to have on days during such first plan year.

"(ii) PREDECESSORS.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

"(3) AUTHORIZATION OF USE OF ACTUARIAL VALUE.—For purposes of this section, the value of plan assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary, except that—

"(A) any such method providing for averaging of fair market values may not provide for averaging of such values over more than the 36-month period ending with the month which includes the valuation date, and

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

"(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of this section—

"(A) CONTRIBUTIONS FOR PRIOR PLAN YEARS TAKEN INTO ACCOUNT.—For purposes of determining the value of plan assets for any current plan year, in any case in which a contribution properly allocable to amounts owed for a preceding plan year is made on or after the valuation date of the plan for such current plan year, such contribution shall be taken into account, except that any such contribution made during any such current plan year beginning after 2007 shall be taken into account only in an amount equal to its present value (determined using the effective rate of interest for the plan for the preceding plan year) as of the valuation date of the plan for such current plan year.

"(B) CONTRIBUTIONS FOR CURRENT PLAN YEAR DISREGARDED.—For purposes of determining the value of plan assets for any current plan year, contributions which are properly allocable to amounts owed for such plan year shall not be taken into account, and, in the case of any such contribution made before the valuation date of the plan for such plan year, such value of plan assets shall be reduced for interest on such amount determined using the effective rate of interest of the plan for the current plan year for the period beginning when such payment was made and ending on the valuation date of the plan.

"(5) ACCOUNTING FOR PLAN LIABILITIES.—For purposes of this section—

"(A) LIABILITIES TAKEN INTO ACCOUNT FOR CURRENT PLAN YEAR.—In determining the value of liabilities under

a plan for a plan year, liabilities shall be taken into account to the extent attributable to benefits (including any early retirement or similar benefit) accrued or earned as of the beginning of the plan year.

"(B) ACCRUALS DURING CURRENT PLAN YEAR DISREGARDED.—For purposes of subparagraph (A), benefits accrued or earned during such plan year shall not be taken into account, irrespective of whether the valuation date of the plan for such plan year is later than the first day of such plan year.

"(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

"(1) IN GENERAL.—Subject to this subsection, the determination of any present value or other computation under this section shall be made on the basis of actuarial assumptions and methods—

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

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

"(2) INTEREST RATES.—

"(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term 'effective interest rate' means, with respect to any plan for any plan year, the single rate of interest which, if used to determine the present value of the plan's liabilities referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

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

"(i) in the case of liabilities reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

"(ii) in the case of liabilities reasonably determined to be payable during the 15-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and

"(iii) in the case of liabilities reasonably determined to be payable after the period described in clause (ii), the third segment rate with respect to the applicable month.

"(C) SEGMENT RATES.—For purposes of this paragraph—

"(i) FIRST SEGMENT RATE.—The term 'first segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

"(ii) SECOND SEGMENT RATE.—The term 'second segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 15-year period beginning at the end of the period described in clause (i).

"(iii) THIRD SEGMENT RATE.—The term 'third segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (ii).

"(D) CORPORATE BOND YIELD CURVE.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'corporate bond yield curve' means, with respect to any month, a yield curve which is prescribed by the Secretary for such month and which reflects a 3-year weighted average of yields on investment grade corporate bonds with varying maturities.

"(ii) 3-YEAR WEIGHTED AVERAGE.—The term '3-year weighted average' means an average determined by using a methodology under which the most recent year is weighted 50 percent, the year preceding such year is weighted 35 percent, and the second year preceding such year is weighted 15 percent.

"(E) APPLICABLE MONTH.—For purposes of this paragraph, the term 'applicable month' means, with respect to any plan for any plan year, the month which includes the valuation date of such plan for such plan year or, at the election of the plan sponsor, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to the plan year for which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary.

"(F) PUBLICATION REQUIREMENTS.—The Secretary shall publish for each month the corporate bond yield curve (and the corporate bond yield curve reflecting the modification described in section 417(e)(3)(D)(i) for such month and each of the rates determined under subparagraph (B) for such month. The Secretary shall also publish a description of the methodology used to determine such yield curve and such rates which is sufficiently detailed to enable plans to make reasonable projections regarding the yield curve and such rates for future months based on the plan's projection of future interest rates.

"(G) TRANSITION RULE.—

"(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2007 or 2008, the first, second, or third segment

rate for a plan with respect to any month shall be equal to the sum of—

"(I) the product of such rate for such month determined without regard to this subparagraph, multiplied by the applicable percentage, and

"(II) the product of the rate determined under the rules of section 412(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2006), multiplied by a percentage equal to 100 percent minus the applicable percentage.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2007 and 66⅔ percent for plan years beginning in 2008.

"(iii) NEW PLANS INELIGIBLE.—Clause (i) shall not apply to any plan if the first plan year of the plan begins after December 31, 2006.

"(3) MORTALITY TABLE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the mortality table used in determining any present value or making any computation under this section shall be the RP–2000 Combined Mortality Table using Scale AA published by the Society of Actuaries (as in effect on the date of the enactment of the Pension Protection Act of 2005), projected as of the plan's valuation date.

"(B) SUBSTITUTE MORTALITY TABLE.—

"(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary for a period not to exceed 10 years, a mortality table which meets the requirements of clause (ii) shall be used in determining any present value or making any computation under this section. A mortality table described in this clause shall cease to be in effect if the plan actuary determines at any time that such table does not meet the requirements of subclauses (I) and (II) of clause (ii).

"(ii) REQUIREMENTS.—A mortality table meets the requirements of this clause if the Secretary determines that—

"(I) such table reflects the actual experience of the pension plan and projected trends in such experience, and

"(II) such table is significantly different from the table described in subparagraph (A).

"(iii) DEADLINE FOR DISPOSITION OF APPLICATION.—Any mortality table submitted to the Secretary for approval under this subparagraph shall be treated as in effect for the succeeding plan year unless the Secretary, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (ii).

"(C) TRANSITION RULE.—Under regulations of the Secretary, any difference in present value resulting from the difference in the assumptions as set forth in the mortality table specified in subparagraph (A) and the assumptions

as set forth in the mortality table described in section 412(l)(7)(C)(ii) (as in effect for plan years beginning in 2006) shall be phased in ratably over the first period of 5 plan years beginning in or after 2007 so as to be fully effective for the fifth plan year. The preceding sentence shall not apply to any plan if the first plan year of the plan begins after December 31, 2006.

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

"(A) the probability that future benefit payments under the plan will be made in the form of optional forms of benefits provided under the plan (including lump sum distributions, determined on the basis of the plan's experience and other related assumptions), and

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

"(5) APPROVAL OF LARGE CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(A) IN GENERAL.—No actuarial assumption used to determine the funding target for a plan to which this paragraph applies may be changed without the approval of the Secretary.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

"(i) the plan is a defined benefit plan (other than a multiemployer plan) to which title IV of the Employee Retirement Income Security Act of 1974 applies,

"(ii) the aggregate unfunded vested benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13) of such Act) and members of such sponsors' controlled groups (as defined in section 4001(a)(14) of such Act) which are covered by title IV (disregarding plans with no unfunded vested benefits) exceed $50,000,000, and

"(iii) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the funding target of the plan before such change.

"(i) SPECIAL RULES FOR AT-RISK PLANS.—

"(1) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—

"(A) IN GENERAL.—In any case in which a plan is in at-risk status for a plan year, the funding target of the plan for the plan year is the sum of—

"(i) the present value of all liabilities to participants and their beneficiaries under the plan for the plan year, as determined by using, in addition to the actuarial assumptions described in subsection (h), the supplemental actuarial assumptions described in subparagraph (B), plus

"(ii) a loading factor determined under subparagraph (C).

"(B) SUPPLEMENTAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions used in determining the valuation of the funding target shall include, in addition to the actuarial assumptions described in subsection (h), an assumption that all participants will elect benefits at such times and in such forms as will result in the highest present value of liabilities under subparagraph (A)(i).

"(C) LOADING FACTOR.—The loading factor applied with respect to a plan under this paragraph for any plan year is the sum of—

"(i) $700, times the number of participants in the plan, plus

"(ii) 4 percent of the funding target (determined without regard to this paragraph) of the plan for the plan year.

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

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

"(B) the loading factor under paragraph (1)(C), excluding the portion of the loading factor described in paragraph (1)(C)(i).

"(3) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection, a plan is in 'at-risk status' for a plan year if the funding target attainment percentage of the plan for the preceding plan year was less than 60 percent.

"(4) TRANSITION BETWEEN APPLICABLE FUNDING TARGETS AND BETWEEN APPLICABLE TARGET NORMAL COSTS.—

"(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of fewer than 5 plan years, the applicable amount of the funding target and of the target normal cost shall be, in lieu of the amount determined without regard to this paragraph, the sum of—

"(i) the amount determined under this section without regard to this subsection, plus

"(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined under this section without regard to this subsection.

"(B) TRANSITION PERCENTAGE.—For purposes of this paragraph, the 'transition percentage' for a plan year is the product derived by multiplying—

"(i) 20 percent, by

"(ii) the number of plan years during the period described in subparagraph (A).

"(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

"(2) INTEREST.—Any payment required under paragraph (1) for a plan year that is made on a date other than the valuation date for such plan year shall be adjusted for interest accruing for the period between the valuation date and the payment date, at the effective rate of interest for the plan for such plan year.

"(3) ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE FOR UNDERFUNDED PLANS.—

"(A) INTEREST PENALTY FOR FAILURE TO MEET ACCELERATED QUARTERLY PAYMENT SCHEDULE.—In any case in which the plan has a funding shortfall for the preceding plan year, if the required installment is not paid in full, then the minimum required contribution for the plan year (as increased under paragraph (2)) shall be further increased by an amount equal to the interest on the amount of the underpayment for the period of the underpayment, using an interest rate equal to the excess of—

"(i) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), over

"(ii) the effective rate of interest for the plan for the plan year.

"(B) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subparagraph (A)—

"(i) AMOUNT.—The amount of the underpayment shall be the excess of—

"(I) the required installment, over

"(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(ii) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

"(iii) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(C) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this paragraph—

"(i) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set 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

"(D) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this paragraph—

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

"(ii) REQUIRED ANNUAL PAYMENT.—For purposes of clause (i), the term 'required annual payment' means the lesser of—

"(I) 90 percent of the minimum required contribution (without regard to any waiver under section 412(c)) to the plan for the plan year under this section, or

"(II) in the case of a plan year beginning after 2007, 100 percent of the minimum required contribution (without regard to any waiver under section 412(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year referred to in such clause was not a year of 12 months.

"(E) FISCAL YEARS AND SHORT YEARS.—

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

"(ii) SHORT PLAN YEAR.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary.

"(4) LIQUIDITY REQUIREMENT IN CONNECTION WITH QUARTERLY CONTRIBUTIONS.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan (other than a plan that would be described in subsection (f)(2)(B) if '100' were substituted for '500' therein) which—

"(i) is required to pay installments under paragraph (3) for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefits accruing or earned during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this subparagraph:

"(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of—

"(I) the base amount with respect to such quarter, over

"(II) the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funding target attainment percentage for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall provide in regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities, and such other assets as specified by the Secretary in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary may prescribe such regulations as are necessary to carry out this paragraph.

"(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this subsection applies, if—

"(A) any person fails to make a contribution payment required by section 412 and this section before the due date for such payment, and

"(B) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

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

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent. This subsection shall not apply to any plan to which section 4021 of the Employee Retirement Income Security Act of 1974 does not apply (as such section is in effect on the date of the enactment of the Pension Protection Act of 2005).

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of contribution payments required under this section and section 412 for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall

be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION PAYMENT.—The term 'contribution payment' means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (i).

"(B) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (j), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 430.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414.

"(l) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—In the case of a qualified transfer (as defined in section 420), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2006.

SEC. 113. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

(a) PROHIBITION OF SHUTDOWN BENEFITS AND OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.—

(1) IN GENERAL.—Part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation, etc.) is amended—

(A) by striking the heading and inserting the following:

"PART III—RULES RELATING TO MINIMUM FUNDING STANDARDS AND BENEFIT LIMITATIONS

"Subpart A. Minimum funding standards for pension plans.
"Subpart B. Benefit limitations under single-employer plans.

"Subpart A—Minimum Funding Standards for Pension Plans

"Sec. 430. Minimum funding standards for single-employer defined benefit pension plans.", and

(B) by adding at the end the following new subpart:

"Subpart B—Benefit Limitations Under Single-employer Plans

"Sec. 436. Funding-based limitation on shutdown benefits and other unpredictable contingent event benefits under single-employer plans.

"SEC. 436. FUNDING-BASED LIMITATION ON SHUTDOWN BENEFITS AND OTHER UNPREDICTABLE CONTINGENT EVENT BENEFITS UNDER SINGLE-EMPLOYER PLANS.

"(a) IN GENERAL.—No defined benefit plan (other than a multiemployer plan) may provide benefits to which participants are entitled solely by reason of the occurrence of a plant shutdown or any other unpredictable contingent event occurring during any plan year if the funding target attainment percentage as of the valuation date of the plan for such plan year—

"(1) is less than 80 percent, or

"(2) would be less than 80 percent taking into account such occurrence.

"(b) EXEMPTION.—Subsection (a) shall cease to apply with respect to any plan year, effective as of the first date of the plan year, upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 430) equal to—

"(1) in the case of subsection (a)(1), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the occurrence referred to in subsection (a), and

"(2) in the case of subsection (a)(2), the amount sufficient to result in a funding target attainment percentage of 80 percent.

Rules similar to the rules of section 437(f) shall apply for purposes of this subsection.

"(c) UNPREDICTABLE CONTINGENT EVENT.—For purposes of this section, the term 'unpredictable contingent event' means an event other than—

"(1) attainment of any age, performance of any service, receipt or derivation of any compensation, or the occurrence of death or disability, or

"(2) an event which is reasonably and reliably predictable (as determined by the Secretary).

"(d) NEW PLANS.—Subsection (a) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this subsection, the reference in this subsection to a plan shall include a reference to any predecessor plan.

"(e) DEEMED REDUCTION OF FUNDING BALANCES.—A rule similar to the rule of section 437(h) shall apply for purposes of this section.".

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

"PART III__RULES RELATING TO MINIMUM FUNDING STANDARDS AND BENEFIT LIMITATIONS".

(b) OTHER LIMITS ON BENEFITS AND BENEFIT ACCRUALS.—

(1) IN GENERAL.—Subpart B of part III of subchapter D of chapter 1 of such Code is amended by adding at the end the following:

"SEC. 437. FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.

"(a) LIMITATIONS ON PLAN AMENDMENTS INCREASING LIABILITY FOR BENEFITS.—

"(1) IN GENERAL.—No amendment to a defined benefit plan (other than a multiemployer plan) which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable to the plan may take effect during any plan year if the funding target attainment percentage as of the valuation date of the plan for such plan year is—

"(A) less than 80 percent, or

"(B) would be less than 80 percent taking into account such amendment.

For purposes of this paragraph, any increase in benefits under the plan by reason of an increase in the benefit rate provided under the plan or on the basis of an increase in compensation shall be treated as effected by plan amendment.

"(2) EXEMPTION.—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first date of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 430) equal to—

"(A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the amendment, and

"(B) in the case of paragraph (1)(B), the amount sufficient to result in a funding target attainment percentage of 80 percent.

"(b) FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—

"(1) IN GENERAL.—A defined benefit plan (other than a multiemployer plan) shall provide that, in any case in which the plan's funding target attainment percentage as of the valuation date of the plan for a plan year is less than 80 percent, the plan may not after such date pay any payment described in section 401(a)(32)(B).

"(2) EXCEPTION.—Paragraph (1) shall not apply to any plan for any plan year if the terms of such plan (as in effect for the period beginning on June 29, 2005, and ending with such plan year) provide for no benefit accruals with respect to any participant during such period.

"(c) LIMITATIONS ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.—A defined benefit plan (other than a multiemployer plan) shall provide that, in any case in which the plan's funding target attainment percentage as of the valuation date of the plan for a plan year is less than 60 percent, all future benefit accruals under the plan shall cease as of such date.

"(d) NEW PLANS.—Subsections (a) and (c) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this sub-

section, the reference in this subsection to a plan shall include a reference to any predecessor plan.

"(e) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS BASED ON PRIOR YEAR'S FUNDING STATUS.—

"(1) PRESUMPTION OF CONTINUED UNDERFUNDING.—In any case in which a benefit limitation under subsection (a), (b), or (c) has been applied to a plan with respect to the plan year preceding the current plan year, the funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the funding target attainment percentage of the plan as of the valuation date of the plan for the preceding plan year until the enrolled actuary of the plan certifies the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year.

"(2) PRESUMPTION OF UNDERFUNDING AFTER 10TH MONTH.—In any case in which no such certification is made with respect to the plan before the first day of the 10th month of the current plan year, for purposes of subsections (a), (b), and (c), the plan's funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of the first day of such 10th month, and such day shall be deemed, for purposes of such subsections, to be the valuation date of the plan for the current plan year.

"(3) PRESUMPTION OF UNDERFUNDING AFTER 4TH MONTH FOR NEARLY UNDERFUNDED PLANS.—In any case in which—

"(A) a benefit limitation under subsection (a), (b), or (c) did not apply to a plan with respect to the plan year preceding the current plan year, but the funding target attainment percentage of the plan for such preceding plan year was not more than 10 percentage points greater than the percentage which would have caused such subsection to apply to the plan with respect to such preceding plan year, and

"(B) as of the first day of the 4th month of the current plan year, the enrolled actuary of the plan has not certified the actual funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year,

until the enrolled actuary so certifies, such first day shall be deemed, for purposes of such subsection, to be the valuation date of the plan for the current plan year and the funding target attainment percentage of the plan as of such first day shall, for purposes of such subsection, be presumed to be equal to 10 percentage points less than the funding target attainment percentage of the plan as of the valuation date of the plan for such preceding plan year.

"(f) RESTORATION BY PLAN AMENDMENT OF BENEFITS OR BENEFIT ACCRUAL.—In any case in which a prohibition under subsection (b) of a payment described in subsection (b)(1) or a cessation of benefit accruals under subsection (c) is applied to a plan with respect to any plan year and such prohibition or cessation, as the case may be, ceases to apply to any subsequent plan year, the plan may provide for the resumption of such benefit payment or such benefit accrual only by means of the adoption of a plan amendment after the

valuation date of the plan for such subsequent plan year. The preceding sentence shall not apply to a prohibition or cessation required by reason of subsection (e).

"(g) FUNDING TARGET ATTAINMENT PERCENTAGE.—

"(1) IN GENERAL.—For purposes of this section, the term 'funding target attainment percentage' means, with respect to any plan for any plan year, the ratio (expressed as a percentage) which—

"(A) the value of plan assets for the plan year (as determined under section 430(g)) reduced by the pre-funding balance and the funding standard carryover balance (within the meaning of section 430(f)), bears to

"(B) the funding target of the plan for the plan year (as determined under section 430(d)(1), but without regard to section 430(i)(1)).

"(2) APPLICATION TO PLANS WHICH ARE FULLY FUNDED WITHOUT REGARD TO REDUCTIONS FOR FUNDING BALANCES.—

"(A) IN GENERAL.—In the case of a plan for any plan year, if the funding target attainment percentage is 100 percent or more (determined without regard to this subparagraph and without regard to the reduction under paragraph (1)(A) for the pre-funding balance and the funding standard carryover balance), paragraph (1) shall be applied without regard to such reduction.

"(B) TRANSITION RULE.—Subparagraph (A) shall be applied to plan years beginning after 2006 and before 2011 by substituting for '100 percent' the applicable percentage determined in accordance with the following table:

"In the case of a plan year beginning in calendar year:	The applicable percentage is:
2007	92 percent
2008	94 percent
2009	96 percent
2010	98 percent.

"(C) LIMITATION.—Subparagraph (B) shall not apply with respect to any plan year after 2007 unless the funding target attainment percentage (determined without regard to this paragraph and without regard to the reduction under paragraph (1)(A) for the pre-funding balance and the funding standard carryover balance) of the plan for each preceding plan year after 2006 was not less than the applicable percentage with respect to such preceding plan year determined under subparagraph (B).

"(h) DEEMED REDUCTION OF FUNDING BALANCES.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers—

"(1) IN GENERAL.—In any case in which a benefit limitation under subsection (a), (b), or (c) would (but for this subsection and determined without regard to subsection (a)(2)) apply to such plan for the plan year, the plan sponsor of such plan shall

be treated for purposes of this title as having made an election under section 430(f)(5) to reduce the balance of the pre-funding balance and the funding standard carryover balance for the plan year (in a manner consistent with the requirements of section 430(f)(5)(B)) by such amount as is necessary for such benefit limitation to not apply to the plan for such plan year.

"(2) EXCEPTION FOR INSUFFICIENT FUNDING BALANCES.—Paragraph (1) shall not apply with respect to a benefit limitation for any plan year if the application of paragraph (1) would not result in the benefit limitation not applying for such plan year.".

(2) CLERICAL AMENDMENT.—The table of sections for such subpart is amended by adding at the end the following new item:

"Sec. 437. Funding-based limits on benefits and benefit accruals under single-employer plans.".

(c) EFFECTIVE DATE.—

(1) SHUTDOWN BENEFITS.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply with respect to plant shutdowns, or other unpredictable contingent events, occurring after December 31, 2006.

(2) OTHER BENEFITS.—Except as provided in paragraph (3), the amendments made by subsection (b) shall apply with respect to plan years beginning after December 31, 2006.

(3) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, the amendments made by this subsection shall not apply to plan years beginning before the earlier of—

(A) the later of—

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

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply, or

(B) January 1, 2009.

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

(d) SPECIAL RULE FOR 2007.—For purposes of applying subsection (e) of section 437 of such Code (as added by this section) to current plan years (within the meaning of such subsection) beginning in 2007, the modified funded current liability percentage of the plan for the preceding year shall be substituted for the funding target attainment percentage of the plan for the preceding year. For purposes of the preceding sentence, the term "modified funded current liability percentage" means the funded current liability percentage (as defined in section 412(l)(8) of such Code), reduced as described in subparagraph (E) thereof in the case of a plan with a funded

current liability percentage (as so defined and before such reduction) which is less than 100 percent.

SEC. 114. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATED TO QUALIFICATION REQUIREMENTS.—

(1) Section 401(a)(29) of the Internal Revenue Code of 1986 is amended to read as follows:

"(29) BENEFIT LIMITATIONS ON PLANS IN AT-RISK STATUS.—In the case of a defined benefit plan (other than a multiemployer plan) to which the requirements of section 412 apply, the trust of which the plan is a part shall not constitute a qualified trust under this subsection unless the plan meets the requirements of sections 436 and 437.".

(2) Section 401(a)(32) of such Code is amended—

(A) in subparagraph (A), by striking "412(m)(5)" each place it appears and inserting "430(j)(4)", and

(B) in subparagraph (C), by striking "section 412(m) by reason of paragraph (5)(A) thereof" and inserting "section 430(j)(3) by reason of section 430(j)(4)(A)".

(3) Section 401(a)(33) of such Code is amended—

(A) in subparagraph (B)(i), by striking "funded current liability percentage (as defined in section 412(l)(8))" and inserting "funding target attainment percentage (as defined in section 430(d)(2))",

(B) in subparagraph (B)(iii), by striking "subsection 412(c)(8)" and inserting "section 412(d)(2)", and

(C) in subparagraph (D), by striking "section 412(c)(11) (without regard to subparagraph (B) thereof)" and inserting "section 412(b) (without regard to paragraph (2) thereof)".

(b) VESTING RULES.—Section 411 of such Code is amended—

(1) by striking "section 412(c)(8)" in subsection (a)(3)(C) and inserting "section 412(d)(2)",

(2) in subsection (b)(1)(F)—

(A) by striking "paragraphs (2) and (3) of section 412(i)" in clause (ii) and inserting "subparagraphs (B) and (C) of section 412(e)(3)", and

(B) by striking "paragraphs (4), (5), and (6) of section 412(i)" and inserting "subparagraphs (D), (E), and (F) of section 412(e)(3)", and

(3) by striking "section 412(c)(8)" in subsection (d)(6)(A) and inserting "section 412(d)(2)".

(c) MERGERS AND CONSOLIDATIONS OF PLANS.—Subclause (I) of section 414(l)(2)(B)(i) of such Code is amended to read as follows:

"(I) the amount determined under section 431(c)(6)(A)(i) in the case of a multiemployer plan (and the sum of the target liability amount and target normal cost determined under section 430 in the case of any other plan), over".

(d) TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.—

(1) Section 420(e)(2) of such Code is amended to read as follows:

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the lesser of—

"(i) the fair market value of the plan's assets (reduced by the pre-funding balance and the funding standard carryover balance, as determined under section 430(f)), or

"(ii) the value of plan assets as determined under section 430(g)(3) (reduced by the pre-funding balance and the funding standard carryover balance, as determined under section 430(f)), over

"(B) 125 percent of the sum of the target liability amount and the target normal cost determined under section 430 for such plan year.".

(2) Section 420(e)(4) of such Code is amended to read as follows:

"(4) COORDINATION WITH SECTION 430.—In the case of a qualified transfer, any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.".

(e) EXCISE TAXES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 4971 of such Code are amended to read as follows:

"(a) INITIAL TAX.—If at any time during any taxable year an employer maintains a plan to which section 412 applies, there is hereby imposed for the taxable year a tax equal to—

"(1) in the case of a defined benefit plan which is not a multiemployer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year, and

"(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year.

"(b) ADDITIONAL TAX.—If—

"(1) a tax is imposed under subsection (a)(1) on any unpaid required minimum contribution and such amount remains unpaid as of the close of the taxable period, or

"(2) a tax is imposed under subsection (a)(2) on any accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period,

there is hereby imposed a tax equal to 100 percent of the unpaid minimum required contribution or accumulated funding deficiency, whichever is applicable, to the extent not so paid or corrected.".

(2) Section 4971(c) of such Code is amended—

(A) by striking "the last two sentences of section 412(a)" in paragraph (1) and inserting "section 431", and

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

"(4) UNPAID MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 430 for the plan year which is not paid on or before the due date (as determined under section 430(j)(1)) for the plan year.

"(B) ORDERING RULE.—Any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years in the order in which such contributions became due and

then to the minimum required contribution under section 430 for the plan year.".

(3) Section 4971(e)(1) of such Code is amended by striking "section 412(b)(3)(A)" and inserting "section 412(a)(2)".

(4) Section 4971(f)(1) of such Code is amended—

(A) by striking "section 412(m)(5)" and inserting "section 430(j)(4)", and

(B) by striking "section 412(m)" and inserting "section 430(j)(3)".

(5) Section 4972(c)(7) of such Code is amended by striking "except to the extent that such contributions exceed the full-funding limitation (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof)" and inserting "except, in the case of a multiemployer plan, to the extent that such contributions exceed the full-funding limitation (as defined in section 431(c)(6))".

(f) REPORTING REQUIREMENTS.—Section 6059(b) of such Code is amended—

(1) by striking "the accumulated funding deficiency (as defined in section 412(a))" in paragraph (2) and inserting "the minimum required contribution determined under section 430, or the accumulated funding deficiency determined under section 431,", and

(2) by striking paragraph (3)(B) and inserting:

"(B) the requirements for reasonable actuarial assumptions under section 430(h)(1) or 431(c)(3), whichever are applicable, have been complied with,".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2006.

Subtitle C—Other Provisions

SEC. 121. MODIFICATION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS.

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

(1) was not required to pay a variable rate premium for the plan year beginning in 1996,

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

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

the rules described in subsection (b) shall apply for any plan year beginning after December 31, 2006.

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

(1) For purposes of section 430(j)(3) of the Internal Revenue Code of 1986 and section 303(j)(3) of the Employee Retirement Income Security Act of 1974, the plan shall be treated as not having a funding shortfall for any plan year.

(2) For purposes of—

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

(B) determining any present value or making any computation under section 412 of such Code or section 302 of such Act,

the mortality table shall be the mortality table used by the plan.

(3) Section 430(c)(5)(B) of such Code and section 303(c)(5)(B) of such Act (relating to phase-in of funding target for exemption from new shortfall amortization base) shall each be applied by substituting "2012" for "2011" therein and by substituting for the table therein the following:

In the case of a plan year beginning in calendar year:	The applicable percentage is:
2007	90 percent
2008	92 percent
2009	94 percent
2010	96 percent
2011	98 percent.

(c) DEFINITIONS.—Any term used in this section which is also used in section 430 of such Code or section 303 of such Act shall have the meaning provided such term in such section. If the same term has a different meaning in such Code and such Act, such term shall, for purposes of this section, have the meaning provided by such Code when applied with respect to such Code and the meaning provided by such Act when applied with respect to such Act.

(d) SPECIAL RULE FOR 2006.—

(1) IN GENERAL.—Section 769(c)(3) of the Retirement Protection Act of 1994, as added by section 201 of the Pension Funding Equity Act of 2004, is amended by striking "and 2005" and inserting ", 2005, and 2006".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to plan years beginning after December 31, 2005.

(e) CONFORMING AMENDMENT.—

(1) Section 769 of the Retirement Protection Act of 1994 is amended by striking subsection (c).

(2) The amendment made by paragraph (1) shall take effect on December 31, 2006, and shall apply to plan years beginning after such date.

SEC. 122. TREATMENT OF NONQUALIFIED DEFERRED COMPENSATION PLANS WHEN EMPLOYER DEFINED BENEFIT PLAN IN AT-RISK STATUS.

(a) IN GENERAL.—Subsection (b) of section 409A of the Internal Revenue Code of 1986 (providing rules relating to funding) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) EMPLOYER'S DEFINED BENEFIT PLAN IN AT-RISK STATUS.—If—

"(A) during any period in which a defined benefit plan to which section 412 applies is in an at-risk status (as defined in section 430(i)(3)), assets are set aside (directly or

indirectly) in a trust (or other arrangement determined by the Secretary), or transferred to such a trust or other arrangement, for purposes of paying deferred compensation under a nonqualified deferred compensation plan of the employer maintaining the defined benefit plan, or

"(B) a nonqualified deferred compensation plan of the employer provides that assets will become restricted to the provision of benefits under the plan in connection with such at-risk status (or other similar financial measure determined by the Secretary) of the defined benefit plan, or assets are so restricted,

such assets shall for purposes of section 83 be treated as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors. Subparagraph (A) shall not apply with respect to any assets which are so set aside before the defined benefit plan is in at-risk status.".

(b) CONFORMING AMENDMENTS.—Paragraphs (4) and (5) of section 409A(b) of such Code, as redesignated by subsection (a) of this subsection, are each amended by striking "paragraph (1) or (2)" each place it appears and inserting "paragraph (1), (2), or (3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers or reservations of assets after December 31, 2005.

(d) SPECIAL RULE FOR 2006.—For purposes of determining if a plan is in at-risk status (within the meaning of section 409A of such Code, as added by this section) for any plan year beginning in 2006, such section shall be applied by substituting the plan's modified funded current liability percentage for the plan's funding target attainment percentage. For purposes of the preceding sentence, the term "modified funded current liability percentage" means the funded current liability percentage (as defined in section 412(l)(8) of such Code), reduced as described in subparagraph (E) thereof.

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.

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

"MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS

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

"(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this part applies to the plan) over the total credits to such account for such years, and

"(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243.

"(b) FUNDING STANDARD ACCOUNT.—

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

"(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

"(A) the normal cost of the plan for the plan year,

"(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) in the case of a plan in existence on January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which this part applies, over a period of 40 plan years,

"(ii) in the case of a plan which comes into existence after January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which this part applies, over a period of 15 plan years,

"(iii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

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

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

"(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 302(c)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

"(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 302(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005), and

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 302(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005).

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

"(A) the amount considered contributed by the employer to or under the plan for the plan year,

"(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

"(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

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

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

"(C) the amount of the waived funding deficiency (within the meaning of section 302(c)(3)) for the plan year, and

"(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 305 (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

"(4) SPECIAL RULES FOR CERTAIN PRE-2007 AMORTIZATIONS.—

"(A) IN GENERAL.—In the case of any amount amortized under section 302(b) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005) over any period beginning with a plan year beginning before 2007, in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

"(B) INTEREST RATE.—For purposes of amortizations under section 302(b) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005), in the case of any waiver under section 303 (as so in effect) or extension under section 304 (as so in effect) with respect to which application has been made before June 30, 2005, the interest rate under section 303(a)(2) (as so in effect) or section 304(a) (as so in effect), as the case may be, shall apply.

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

"(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

"(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

"(6) INTEREST.—Except as provided in subsection (c)(9), the funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(7) CERTAIN AMORTIZATION CHARGES AND CREDITS.—In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 3(37) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose,

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose,

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises, and

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

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

"(8) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this section—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits

to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) as of the end of the last plan year that the plan was in reorganization.

"(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of this Act or to a fund exempt under section 501(c)(22) of the Internal Revenue Code of 1986 pursuant to section 4223 of this Act shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary of the Treasury.

"(E) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 302(b)(7)(F) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(iv) shall not apply to the amount so charged).

"(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 302 in such manner as is determined by the Secretary of the Treasury.

"(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are payable under the plan during a period that does not exceed 14 years, paragraph (2)(B)(iii) shall be applied separately with respect to such increase in unfunded

past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

"(c) ADDITIONAL RULES.—

"(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this section, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

"(2) VALUATION OF ASSETS.—

"(A) IN GENERAL.—For purposes of this section, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary of the Treasury.

"(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary of the Treasury shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of such Secretary.

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

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

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

"(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) a change in the definition of the term 'wages' under section 3121 of the Internal Revenue Code of 1986, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5) of such Code,

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

"(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b)(2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be

considered fully amortized for purposes of such subparagraphs.

"(6) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

"(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

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

"(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1986).

"(D) CURRENT LIABILITY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury),

shall not be taken into account until the event on which the benefit is contingent occurs.

"(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

"(iv) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan

year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary of the Treasury which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, such Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

"(I) IN GENERAL.—In the case of plan years beginning after December 31, 1995, the Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

"(vi) PERIODIC REVIEW.—The Secretary of the Treasury shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

"(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall estab-

lish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) SECRETARIAL AUTHORITY.—If the Secretary of the Treasury finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, such Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

"(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

"(7) ANNUAL VALUATION.—

"(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary of the Treasury.

"(B) VALUATION DATE.—

"(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

"(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii),

may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

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

"(9) INTEREST RULE FOR WAIVERS AND EXTENSIONS.—The interest rate applicable for any plan year for purposes of computing the amortization charge described in subsection (b)(2)(C) and in connection with an extension granted under subsection (d) shall be the greater of—

"(A) 150 percent of the Federal mid-term rate (as in effect under section 1274 of the Internal Revenue Code of 1986 for the 1st month of such plan year), or

"(B) the rate of interest used under the plan for determining costs.

"(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—In the case of a multiemployer plan—

"(1) EXTENSION.—The period of years required to amortize any unfunded liability (described in any clause of subsection (b)(2)(B)) of any multiemployer plan shall be extended by the Secretary of the Treasury for a period of time (not in excess of 5 years) if it is demonstrated to such Secretary that—

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

"(B) the plan sponsor has adopted a plan to improve the plan's funding status, and

"(C) taking into account the extension, the plan is projected to have sufficient assets to timely pay its expected benefit liabilities and other anticipated expenditures.

"(2) ADDITIONAL EXTENSION.—The period of years required to amortize any unfunded liability (described in any clause of subsection (b)(2)(B)) of any multiemployer plan may be extended (in addition to any extension under paragraph (1)) by the Secretary of the Treasury for a period of time (not in excess of 5 years) if such Secretary determines that such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries and if such Secretary determines that the failure to permit such extension would—

"(A) result in—

"(i) a substantial risk to the voluntary continuation of the plan, or

"(ii) a substantial curtailment of pension benefit levels or employee compensation, and

"(B) be adverse to the interests of plan participants in the aggregate.

"(3) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary of the Treasury shall, before granting an extension under this section, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 4001(a)(21)) with respect to the affected plan. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 301 of such Act (29 U.S.C. 1081) is amended by striking subsection (d).

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

"Sec. 304. Minimum funding standards for multiemployer plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

SEC. 202. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

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

"ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS

"SEC. 305. (a) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

"(1) IN GENERAL.—During the 90-day period beginning on first day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary of the Treasury whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year.

"(2) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—In making the determinations under paragraph (1), the plan actuary shall make projections under subsections (b)(2) and (c)(2) for the current and succeeding plan years, using reasonable actuarial assumptions and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year, as based on the actuarial statement prepared for the preceding plan year under section 103(d).

"(B) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any such actuarial projection of plan assets shall assume—

"(i) reasonably anticipated employer and employee contributions for the current and succeeding plan years, assuming that the terms of the one or more col-

lective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

"(ii) that employer and employee contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make continued application of such terms unreasonable.

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

"(4) NOTICE.—In any case in which a multiemployer plan is certified to be in endangered status under paragraph (1) or enters into critical status, the plan sponsor shall, not later than 30 days after the date of the certification or entry, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary of Labor.

"(b) FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

"(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year and no funding improvement plan under this subsection with respect to such multiemployer plan is in effect for the plan year, the plan sponsor shall, in accordance with this subsection, amend the multiemployer plan to include a funding improvement plan upon approval thereof by the bargaining parties under this subsection. The amendment shall be adopted not later than 240 days after the date on which the plan is certified to be in endangered status under subsection (a)(1).

"(2) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under subsection (a)—

"(A) the plan's funded percentage for such plan year is less than 80 percent, or

"(B) the plan has an accumulated funding deficiency for such plan year under section 304 or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 304(d).

"(3) FUNDING IMPROVEMENT PLAN.—

"(A) BENCHMARKS.—A funding improvement plan shall consist of amendments to the plan formulated to provide, under reasonable actuarial assumptions, for the attainment, during the funding improvement period under the funding improvement plan, of the following benchmarks:

"(i) INCREASE IN FUNDED PERCENTAGE.—An increase in the plan's funded percentage such that—

"(I) the difference between 100 percent and the plan's funded percentage for the last year of the funding improvement period, is not more than

"(II) ⅔ of the difference between 100 percent and the plan's funded percentage for the first year of the funding improvement period.

"(ii) AVOIDANCE OF ACCUMULATED FUNDING DEFICIENCIES.—No accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 304(d)).

"(B) FUNDING IMPROVEMENT PERIOD.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the earlier of—

"(i) the second anniversary of the date of the adoption of the funding improvement plan, or

"(ii) the first day of the first plan year of the multiemployer plan following the plan year in which occurs the first date after the day of the certification as of which collective bargaining agreements covering on the day of such certification at least 75 percent of active participants in such multiemployer plan have expired.

"(C) SPECIAL RULES FOR CERTAIN SERIOUSLY UNDERFUNDED PLANS.—

"(i) In the case of a plan in which the funded percentage of a plan for the plan year is 70 percent or less, subparagraph (A)(i)(II) shall be applied by substituting '⅘' for '⅔' and subparagraph (B) shall be applied by substituting 'the 15-year period' for 'the 10-year period'.

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

"(I) the plan actuary certifies within 30 days after certification under subsection (a)(1) that the plan is not able to attain the increase described in subparagraph (A)(i) over the period described in subparagraph (B), and

"(II) the plan year is prior to the day described in subparagraph (B)(ii),

subparagraph (A)(i)(II) shall be applied by substituting '⅘' for '⅔' and subparagraph (B) shall be applied by substituting 'the 15-year period' for 'the 10-year period'.

"(iii) For any plan year following the year described in clause (ii)(II), subparagraph (A)(i)(II) and subparagraph (B) shall apply, except that for each plan year ending after such date for which the plan actuary certifies (at the time of the annual certification under subsection (a)(1) for such plan year) that the plan is not able to attain the increase described in subparagraph (A)(i) over the period described in subparagraph

(B), subparagraph (B) shall be applied by substituting 'the 15-year period' for 'the 10-year period'.

"(D) REPORTING.—A summary of any funding improvement plan or modification thereto adopted during any plan year, together with annual updates regarding the funding ratio of the plan, shall be included in the annual report for such plan year under section 104(a) and in the summary annual report described in section 104(b)(3).

"(4) DEVELOPMENT OF FUNDING IMPROVEMENT PLAN.—

"(A) ACTIONS BY PLAN SPONSOR PENDING APPROVAL.—Pending the approval of a funding improvement plan under this paragraph, the plan sponsor shall take all reasonable actions, consistent with the terms of the plan and applicable law, necessary to ensure—

"(i) an increase in the plan's funded percentage, and

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

Such actions include applications for extensions of amortization periods under section 304(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

"(B) RECOMMENDATIONS BY PLAN SPONSOR.—

"(i) IN GENERAL.—During the period of 90 days following the date on which a multiemployer plan is certified to be in endangered status, the plan sponsor shall develop and provide to the bargaining parties alternative proposals for revised benefit structures, contribution structures, or both, which, if adopted as amendments to the plan, may be reasonably expected to meet the benchmarks described in paragraph (3)(A). Such proposals shall include—

"(I) at least one proposal for reductions in the amount of future benefit accruals necessary to achieve the benchmarks, assuming no amendments increasing contributions under the plan (other than amendments increasing contributions necessary to achieve the benchmarks after amendments have reduced future benefit accruals to the maximum extent permitted by law), and

"(II) at least one proposal for increases in contributions under the plan necessary to achieve the benchmarks, assuming no amendments reducing future benefit accruals under the plan.

"(ii) REQUESTS BY BARGAINING PARTIES.—Upon the request of any bargaining party who—

"(I) employs at least 5 percent of the active participants, or

"(II) represents as an employee organization, for purposes of collective bargaining, at least 5 percent of the active participants,

the plan sponsor shall provide all such parties information as to other combinations of increases in con-

tributions and reductions in future benefit accruals which would result in achieving the benchmarks.

"(iii) OTHER INFORMATION.—The plan sponsor may, as it deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution structures or benefit structures or other information relevant to the funding improvement plan.

"(5) MAINTENANCE OF CONTRIBUTIONS PENDING APPROVAL OF FUNDING IMPROVEMENT PLAN.—Pending approval of a funding improvement plan by the bargaining parties with respect to a multiemployer plan, the multiemployer plan may not be amended so as to provide—

"(A) a reduction in the level of contributions for participants who are not in pay status,

"(B) a suspension of contributions with respect to any period of service, or

"(C) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

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

"(A) RESTRICTIONS ON LUMP SUM AND SIMILAR DISTRIBUTIONS.—In any case in which the present value of a participant's accrued benefit under the plan exceeds $5,000, such benefit may not be distributed as an immediate distribution or in any other accelerated form.

"(B) PROHIBITION ON BENEFIT INCREASES.—

"(i) IN GENERAL.—No amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted.

"(ii) EXCEPTION.—Clause (i) shall not apply to any plan amendment which is required as a condition of qualification under part I of subchapter D of chapter 1 of subtitle A of the Internal Revenue Code of 1986.

"(7) DEFAULT CRITICAL STATUS IF NO FUNDING IMPROVEMENT PLAN ADOPTED.—If no plan amendment adopting a funding improvement plan has been adopted by the end of the 240-day period referred to in subsection (b)(1), the plan enters into critical status as of the first day of the succeeding plan year.

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

"(A) so as to be inconsistent with the funding improvement plan, or

"(B) so as to increase future benefit accruals, unless the plan actuary certifies in advance that, after taking into account the proposed increase, the plan is reasonably expected to meet the the benchmarks described in paragraph (3)(A).

"(c) FUNDING RULES FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

"(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year as described in paragraph (2) (or otherwise enters into critical status under this section) and no rehabilitation plan under this subsection with respect to such multiemployer plan is in effect for the plan year, the plan sponsor shall, in accordance with this subsection, amend the multiemployer plan to include a rehabilitation plan under this subsection. The amendment shall be adopted not later than 240 days after the date on which the plan enters into critical status.

"(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if—

"(A) the plan is in endangered status for the preceding plan year and the requirements of subsection (b)(1) were not met with respect to the plan for such preceding plan year, or

"(B) as determined by the plan actuary under subsection (a), the plan is described in paragraph (3).

"(3) CRITICALITY DESCRIPTION.—For purposes of paragraph (2)(B), a plan is described in this paragraph if the plan is described in at least one of the following subparagraphs:

"(A) A plan is described in this subparagraph if, as of the beginning of the current plan year—

"(i) the funded percentage of the plan is less than 65 percent, and

"(ii) the sum of—

"(I) the market value of plan assets, plus

"(II) the present value of the reasonably anticipated employer and employee contributions for the current plan year and each of the 6 succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

"(B) A plan is described in this subparagraph if, as of the beginning of the current plan year, the sum of—

"(i) the market value of plan assets, plus

"(ii) the present value of the reasonably anticipated employer and employee contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year remain in effect for succeeding plan years,

is less than the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

"(C) A plan is described in this subparagraph if—

"(i) as of the beginning of the current plan year, the funded percentage of the plan is less than 65 percent, and

"(ii) the plan has an accumulated funding deficiency for the current plan year or is projected to have an accumulated funding deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 304(d).

"(D) A plan is described in this subparagraph if—

"(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining cost under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

"(II) the present value, as of the beginning of the current plan year, of the reasonably anticipated employer and employee contributions for the current plan year,

"(ii) the present value, as of the beginning of the current plan year, of nonforfeitable benefits of inactive participants is greater than the present value, as of the beginning of the current plan year, of nonforfeitable benefits of active participants, and

"(iii) the plan is projected to have an accumulated funding deficiency for the current plan year or any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 304(d).

"(E) A plan is described in this subparagraph if—

"(i) the funded percentage of the plan is greater than 65 percent for the current plan year, and

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

"(4) REHABILITATION PLAN.—

"(A) IN GENERAL.—A rehabilitation plan shall consist of—

"(i) amendments to the plan providing (under reasonable actuarial assumptions) for measures, agreed to by the bargaining parties, to increase contributions, reduce plan expenditures (including plan mergers and consolidations), or reduce future benefit accruals, or to take any combination of such actions, determined necessary to cause the plan to cease, during the rehabilitation period, to be in critical status, or

"(ii) reasonable measures to forestall possible insolvency (within the meaning of section 4245) if the plan sponsor determines that, upon exhaustion of all reasonable measures, the plan would not cease during the rehabilitation period to be in critical status.

A rehabilitation must provide annual standards for meeting the requirements of such rehabilitation plan.

"(B) REHABILITATION PERIOD.—The rehabilitation period for any rehabilitation plan adopted pursuant to this subsection is the 10-year period beginning on the earlier of—

"(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

"(ii) the first day of the first plan year of the multiemployer plan following the plan year in which occurs the first date, after the date of the plan's entry into critical status, as of which collective bargaining agreements covering at least 75 percent of active participants in such multiemployer plan (determined as of such date of entry) have expired.

"(C) REPORTING.—A summary of any rehabilitation plan or modification thereto adopted during any plan year, together with annual updates regarding the funding ratio of the plan, shall be included in the annual report for such plan year under section 104(a) and in the summary annual report described in section 104(b)(3).

"(5) DEVELOPMENT OF REHABILITATION PLAN.—

"(A) PROPOSALS BY PLAN SPONSOR.—

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

"(ii) PROPOSAL ASSUMING NO CONTRIBUTION INCREASES.—Such proposals shall include, as one of the proposed schedules, a schedule of those reductions in future benefit accruals that would be necessary to cause the plan to cease to be in critical status if there were no further increases in rates of contribution to the plan.

"(iii) PROPOSAL WHERE CONTRIBUTIONS ARE NECESSARY.—If the plan sponsor determines that the plan will not cease to be in critical status during the rehabilitation period unless the plan is amended to provide for an increase in contributions, the plan sponsor's proposals shall include a schedule of those increases in contribution rates that would be necessary to cause the plan to cease to be in critical status if future benefit accruals were reduced to the maximum extent permitted by law.

"(B) REQUESTS FOR ADDITIONAL SCHEDULES.—Upon the request of any bargaining party who—

"(i) employs at least 5 percent of the active participants, or

"(ii) represents as an employee organization, for purposes of collective bargaining, at least 5 percent of active participants,

the plan sponsor shall include among the proposed schedules such schedules of increases in contributions and re-

ductions in future benefit accruals as may be specified by the bargaining parties.

"(C) SUBSEQUENT AMENDMENTS.—Upon the adoption of a schedule of increases in contributions or reductions in future benefit accruals as part of the rehabilitation plan, the plan sponsor may amend the plan thereafter to update the schedule to adjust for any experience of the plan contrary to past actuarial assumptions, except that such an amendment may be made not more than once in any 3-year period.

"(D) ALLOCATION OF REDUCTIONS IN FUTURE BENEFIT ACCRUALS.—Any schedule containing reductions in future benefit accruals forming a part of a rehabilitation plan shall be applicable with respect to any group of active participants who are employed by any bargaining party (as an employer obligated to contribute under the plan) in proportion to the extent to which increases in contributions under such schedule apply to such bargaining party.

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

"(i) a monthly benefit equal to 1 percent of the contributions required to be made with respect to a participant or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the plan year in which the plan enters critical status, or

"(ii) if lower, the accrual rate under the plan on such date.

The equivalent standard accrual rate shall be determined by the trustees based on the standard or average contribution base units that they determine to be representative for active participants and such other factors as they determine to be relevant.

"(F) PROTECTION OF RESTORED RATES OF ACCRUAL.—

"(i) IN GENERAL.—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below any restored accrual rate.

"(ii) RESTORED ACCRUAL RATE.—For purposes of clause (i), the term 'restored accrual rate' means a rate of benefit accruals which was reduced and subsequently restored before entry of the plan into critical status.

"(6) MAINTENANCE OF CONTRIBUTIONS AND RESTRICTIONS ON BENEFITS PENDING ADOPTION OF REHABILITATION PLAN.—The rules of paragraphs (5) and (6) of subsection (b) shall apply for purposes of this subsection by substituting the term 'rehabilitation plan' for 'funding improvement plan'.

"(7) SPECIAL RULES.—

"(A) AUTOMATIC EMPLOYER SURCHARGE.—

"(i) 5 PERCENT AND 10 PERCENT SURCHARGE.—For the first plan year in which the plan is in critical status, each employer otherwise obligated to make a contribu-

tion for that plan year shall be obligated to pay to the plan a surcharge equal to 5 percent of the contribution otherwise required under the respective collective bargaining agreement (or other agreement pursuant to which the employer contributes). For each consecutive plan year thereafter in which the plan is in critical status, the surcharge shall be 10 percent of the contribution otherwise required under the respective collective bargaining agreement (or other agreement pursuant to which the employer contributes).

"(ii) ENFORCEMENT OF SURCHARGE.—The surcharges under clause (i) shall be due and payable on the same schedule as the contributions on which they are based. Any failure to make a surcharge payment shall be treated as a delinquent contribution under section 515 and shall be enforceable as such.

"(iii) SURCHARGE TO TERMINATE UPON CBA RENEGOTIATION.—The surcharge under this paragraph shall cease to be effective with respect to employees covered by a collective bargaining agreement, beginning on the date on which that agreement is renegotiated to include—

"(I) a schedule of benefits and contributions published by the trustees pursuant to the plan's rehabilitation plan, or

"(II) otherwise collectively bargained benefit changes.

"(iv) SURCHARGE NOT TO APPLY UNTIL EMPLOYER RECEIVES 30-DAY NOTICE.—The surcharge under this subparagraph shall not apply to an employer until 30 days after the employer has been notified by the trustees that the plan is in critical status and that the surcharge is in effect.

"(v) SURCHARGE NOT TO GENERATE INCREASED BENEFIT ACCRUALS.—Notwithstanding any provision of a plan to the contrary, the amount of any surcharge shall not be the basis for any benefit accruals under the plan.

"(B) BENEFIT ADJUSTMENTS.—

"(i) IN GENERAL.—The trustees shall make appropriate reductions, if any, to adjustable benefits based upon the outcome of collective bargaining over the schedules provided under paragraph (5).

"(ii) RETIREE PROTECTION.—Except as provided in subparagraph (C), the trustees of a plan in critical status may not reduce adjustable benefits of any participant or beneficiary who was in pay status at least one year before the first day of the first plan year in which the plan enters into critical status.

"(iii) TRUSTEE FLEXIBILITY.—The trustees shall include in the schedules provided to the bargaining parties an allowance for funding the benefits of participants with respect to whom contributions are not currently required to be made, and shall reduce their benefits to the extent permitted under this title and con-

sidered appropriate based on the plan's then current overall funding status and its future prospects in light of the results of the parties' negotiations.

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

"(i) benefits, rights, and features, such as post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits,

"(ii) retirement-type subsidies, early retirement benefits, and benefit payment options (other than the 50 percent qualified joint-and-survivor benefit and single life annuity), and

"(iii) benefit increases that would not be eligible for a guarantee under section 4022A on the first day of the plan year in which the plan enters into critical status because they were adopted, or if later, took effect less than 60 months before reorganization.

"(D) NORMAL RETIREMENT BENEFITS PROTECTED.—Nothing in this paragraph shall be construed to permit a plan to reduce the level of a participant's accrued benefit payable at normal retirement age which is not an adjustable benefit.

"(E) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—

"(i) BENEFIT REDUCTIONS.—Any benefit reductions under this paragraph shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201.

"(ii) SURCHARGES.—Any surcharges under this paragraph shall be disregarded in determining an employer's withdrawal liability under section 4211, except for purposes of determining the unfunded vested benefits attributable to an employer or under a modified attributable method adopted with the approval of the Pension Benefit Guaranty Corporation under subsection (c)(5) of that section.

"(8) RESTRICTIONS UPON APPROVAL OF REHABILITATION PLAN.—Upon adoption of a rehabilitation plan with respect to a multiemployer plan, the plan may not be amended—

"(A) so as to be inconsistent with the rehabilitation plan, or

"(B) so as to increase future benefit accruals, unless the plan actuary certifies in advance that, after taking into account the proposed increase, the plan is reasonably expected to cease to be in critical status.

"(9) IMPLEMENTATION OF DEFAULT SCHEDULE UPON FAILURE TO ADOPT REHABILITATION PLAN.—If the plan is not amended by the end of the 240-day period after entry into critical status to include a rehabilitation plan, the plan sponsor shall amend the plan to implement the schedule required by paragraph (5)(A)(ii).

"(10) DEEMED WITHDRAWAL.—Upon the failure of any employer who has an obligation to contribute under the plan to

make contributions in compliance with the schedule adopted under paragraph (4) as part of the rehabilitation plan, the failure of the employer may, at the discretion of the plan sponsor, be treated as a withdrawal by the employer from the plan under section 4203 or a partial withdrawal by the employer under section 4205.

"(11) SPECIAL RULE FOR PLAN AMENDMENTS.—A multiemployer plan in critical status shall not fail to meet the requirements of section 204(g) or section 411(d)(6) of the Internal Revenue Code of 1986 solely by reason of the adoption by the plan of an amendment necessary to meet the requirements of this subsection.

"(d) DEFINITIONS.—For purposes of this section—

"(1) BARGAINING PARTY.—The term 'bargaining party' means, in connection with a multiemployer plan—

"(A) an employer who has an obligation to contribute under the plan, and

"(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage expressed as a ratio of which—

"(A) the numerator of which is the value of the plan's assets, as determined under section 304(c)(2), and

"(B) the denominator of which is the accrued liability of the plan.

"(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning provided such term in section 304(a).

"(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

"(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant who—

"(A) is not in covered service under the plan, and

"(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

"(6) PAY STATUS.—A person is in 'pay status' under a multiemployer plan if—

"(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

"(B) to the extent provided in regulations of the Secretary of the Treasury, such person is entitled to such a benefit under the plan.

"(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning provided such term under section 4212(a).

"(8) ENTRY INTO CRITICAL STATUS.—A plan shall be treated as entering into critical status as of the date that such plan is certified to be in critical status under subsection (a)(1), is pre-

sumed to be in critical status under subsection (a)(3), or enters into critical status under subsection (b)(7).".

(b) ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6) by striking "(6), or (7)" and inserting "(6), (7), or (8)";

(2) by redesignating subsection (c)(8) as subsection (c)(9); and

(3) by inserting after subsection (c)(7) the following new paragraph:

"(8) The Secretary may assess a civil penalty against—

"(A) any person of not more than $1,100 per day for each violation by such person of subsection (a)(1), (b)(1), or (c)(1) of section 305, or

"(B) any plan sponsor for failure by the plan sponsor to implement the terms of any funding improvement plan or rehabilitation plan adopted under section 305.".

(c) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this Act) is amended further by inserting after the item relating to section 304 the following new item:

"Sec. 305. Additional funding rules for multiemployer plans in endangered status or critical status.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2005.

(e) SPECIAL RULE FOR 2006.—In the case of any plan year beginning in 2006, any reference in section 305 of the Employee Retirement Income Security Act of 1974 (as added by this section) to section 304 of such Act (as added by this Act) shall be treated as a reference to the corresponding provision of the Employee Retirement Income Security Act of 1974 as in effect for plan years beginning in such year.

SEC. 203. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.

(a) ADVANCE DETERMINATION OF IMPENDING INSOLVENCY OVER 5 YEARS.—Section 4245(d)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1426(d)(1)) is amended—

(1) by striking "3 plan years" the second place it appears and inserting "5 plan years"; and

(2) by adding at the end the following new sentence: "If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor shall make the comparison under this paragraph at least annually until the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made in plan years beginning after December 31, 2005.

SEC. 204. WITHDRAWAL LIABILITY REFORMS.

(a) REPEAL OF LIMITATION ON WITHDRAWAL LIABILITY IN THE EVENT OF CERTAIN SALES OF EMPLOYER ASSETS TO UNRELATED PARTIES.—

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

(2) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the item relating to section 4225.

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

(b) REPEAL OF LIMITATION TO 20 ANNUAL PAYMENTS.—

(1) IN GENERAL.—Section 4219(c)(1) of such Act (29 U.S.C. 1399(c)(1)) is amended by striking subparagraph (B).

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

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

(1) IN GENERAL.—Clause (i) of section 4205(b)(2)(A) of such Act (29 U.S.C. 1385(b)(2)(A)) is amended by inserting "or to another party or parties" after "to another location".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to work transferred on or after the date of the enactment of this Act.

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

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

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

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

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

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

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

SEC. 205. REMOVAL OF RESTRICTIONS WITH RESPECT TO PROCEDURES APPLICABLE TO DISPUTES INVOLVING WITHDRAWAL LIABILITY.

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

(1) in subparagraph (A) by inserting "and" after "plan,", and

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

"(B) such determination is based in whole or in part on a finding by the plan sponsor under section 4212(c) that a principal purpose of any transaction which occurred at least 5 years (2 years in the case of a small employer) before the date of the complete or partial withdrawal was to evade or avoid withdrawal liability under this subtitle,".

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

"(C) SMALL EMPLOYER.—For purposes of paragraph (1)(B)—

"(i) IN GENERAL.—The term 'small employer' means any employer who (as of immediately before the transaction referred to in paragraph (1)(B))—

"(I) employs not more than 500 employees, and

"(II) is required to make contributions to the plan for not more than 250 employees.

"(ii) CONTROLLED GROUP.—Any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986 shall be treated as a single employer for purposes of this subparagraph.".

(c) ADDITIONAL AMENDMENTS.—

(1) Subparagraph (A) of section 4221(f)(2) of such Act (29 U.S.C. 1401(f)(2)) is amended by striking "Notwithstanding" and inserting "In the case of a transaction occurring before January 1, 1999, and at least 5 years before the date of the complete or partial withdrawal, notwithstanding".

(2) Section 4221(f)(2)(B) of such Act (29 U.S.C. 1401(f)(2)(B)) is amended—

(A) by inserting "with respect to withdrawal liability payments" after "determination" the first place it appears, and

(B) by striking "any" and inserting "the".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to any employer that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1974 on or after the date of the enactment of this Act.

Subtitle B—Amendments to Internal Revenue Code of 1986

SEC. 211. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (added by section 112 of this Act) is amended by adding at the end the following new section:

"SEC. 431. MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS.

"(a) IN GENERAL.—For purposes of section 412, the accumulated funding deficiency of a multiemployer plan for any plan year is—

"(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which section 412 applies to the plan) over the total credits to such account for such years, and

"(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 418B.

"(b) FUNDING STANDARD ACCOUNT.—

"(1) ACCOUNT REQUIRED.—Each multiemployer plan to which section 412 applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

"(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

"(A) the normal cost of the plan for the plan year,

"(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) in the case of a plan in existence on January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which section 412 applies, over a period of 40 plan years,

"(ii) in the case of a plan which comes into existence after January 1, 1974, the unfunded past service liability under the plan on the first day of the first plan year to which section 412 applies, over a period of 15 plan years,

"(iii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

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

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

"(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 412(c)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

"(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 412(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005), and

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 412(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005).

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

"(A) the amount considered contributed by the employer to or under the plan for the plan year,

"(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

"(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

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

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

"(C) the amount of the waived funding deficiency (within the meaning of section 412(c)(3)) for the plan year, and

"(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 412(g) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

"(4) SPECIAL RULES FOR PRE-2007 AMORTIZATIONS.—

"(A) IN GENERAL.—In the case of any amount amortized under section 412(b) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005) over any period beginning with a plan year beginning before 2007, in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

"(B) INTEREST RATE.—For purposes of amortizations under section 412(b) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005), in the case of any waiver under section 412(d) (as so in effect) or extension under section 412(e) (as so in effect) with respect to which application has been made before June 30, 2005, the interest rate under section 412(d)(1)(A) (as so in effect) or section 412(e) (as so in effect), as the case may be, shall apply.

"(5) COMBINING AND OFFSETTING AMOUNTS TO BE AMORTIZED.—Under regulations prescribed by the Secretary, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

"(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

"(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

"(6) INTEREST.—Except as provided in subsection (c)(9), the funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary) with interest at the appropriate rate consistent with

the rate or rates of interest used under the plan to determine costs.

"(7) CERTAIN AMORTIZATION CHARGES AND CREDITS.—In the case of a plan which, immediately before the date of the enactment of the Multiemployer Pension Plan Amendments Act of 1980, was a multiemployer plan (within the meaning of section 414(f) as in effect immediately before such date)—

"(A) any amount described in paragraph (2)(B)(ii), (2)(B)(iii), or (3)(B)(i) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the amount arose,

"(B) any amount described in paragraph (2)(B)(iv) or (3)(B)(ii) of this subsection which arose in a plan year beginning before such date shall be amortized in equal annual installments (until fully amortized) over 20 plan years, beginning with the plan year in which the amount arose,

"(C) any change in past service liability which arises during the period of 3 plan years beginning on or after such date, and results from a plan amendment adopted before such date, shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises, and

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

"(i) was adopted before such date, and

"(ii) was effective for any plan participant before the beginning of the first plan year beginning on or after such date,

shall be amortized in equal annual installments (until fully amortized) over 40 plan years, beginning with the plan year in which the change arises.

"(8) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this section—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the

funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 418B(a) as of the end of the last plan year that the plan was in reorganization.

"(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of the Employee Retirement Income Security Act of 1974 or to a fund exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 412(b)(7)(F) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2005) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(iv) shall not apply to the amount so charged).

"(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 412 in such manner as is determined by the Secretary.

"(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are payable under the plan during a period that does not exceed 14 years, paragraph (2)(B)(iii) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

"(c) ADDITIONAL RULES.—

"(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this section, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

"(2) VALUATION OF ASSETS.—

"(A) IN GENERAL.—For purposes of this section, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary.

"(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of the Secretary.

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

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

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

"(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) a change in the definition of the term 'wages' under section 3121, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5),

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

"(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b)(2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

"(6) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

"(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

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

"(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3)).

"(D) CURRENT LIABILITY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary),

shall not be taken into account until the event on which the benefit is contingent occurs.

"(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

"(iv) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this

subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

"(I) IN GENERAL.—In the case of plan years beginning after December 31, 1995, the Secretary shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

"(vi) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the extent the Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

"(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Sec-

retary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

"(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

"(7) ANNUAL VALUATION.—

"(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.

"(B) VALUATION DATE.—

"(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

"(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

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

"(9) INTEREST RULE FOR WAIVERS AND EXTENSIONS.—The interest rate applicable for any plan year for purposes of computing the amortization charge described in subsection

(b)(2)(C) and in connection with an extension granted under subsection (d) shall be the greater of—

"(A) 150 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), or

"(B) the rate of interest used under the plan for determining costs.

"(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—In the case of a multiemployer plan—

"(1) EXTENSION.—The period of years required to amortize any unfunded liability (described in any clause of subsection (b)(2)(B)) of any multiemployer plan shall be extended by the Secretary for a period of time (not in excess of 5 years) if it is demonstrated to the Secretary that—

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

"(B) the plan sponsor has adopted a plan to improve the plan's funding status, and

"(C) taking into account the extension, the plan is projected to have sufficient assets to timely pay its expected benefit liabilities and other anticipated expenditures.

"(2) ADDITIONAL EXTENSION.—The period of years required to amortize any unfunded liability (described in any clause of subsection (b)(2)(B)) of any multiemployer plan may be extended (in addition to any extension under paragraph (1)) by the Secretary for a period of time (not in excess of 5 years) if the Secretary determines that such extension would carry out the purposes of the Employee Retirement Income Security Act of 1974 and would provide adequate protection for participants under the plan and their beneficiaries and if the Secretary determines that the failure to permit such extension would—

"(A) result in—

"(i) a substantial risk to the voluntary continuation of the plan, or

"(ii) a substantial curtailment of pension benefit levels or employee compensation, and

"(B) be adverse to the interests of plan participants in the aggregate.

"(3) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary shall, before granting an extension under this section, require each applicant to provide evidence satisfactory to the Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974) with respect to the affected plan. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(b) CONFORMING AMENDMENTS.—

(1) Section 418(b)(2) of such Code is amended—

(A) by striking "section 412(b)(2)" in subparagraph (A) and inserting "section 431(b)(2)", and

(B) by striking "section 412(b)(3)(B)" in subparagraph (B) and inserting "section 431(b)(3)(B)".

(2) Section 418B of such Code is amended—

(A) by striking "section 412(b)(2)(A) or (B)" in subsection (d)(1)(B) and inserting "section 431(b)(2)(A) or (B)",

(B) by striking "section 412(c)(8)" in subsection (e) and inserting "section 412(d)(2)", and

(C) by striking "section 412(c)(3)" in subsection (g) and inserting "section 431(c)(3)".

(3) Section 418D(a)(2) of such Code is amended—

(A) by striking "section 412(c)(8)" and inserting "section 412(d)(2)", and

(B) by striking "section 412(c)(10)" and inserting "section 431(c)(8)".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter D of chapter 1 of such Code is amended by adding after the item relating to section 430 the following new item:

"Sec. 431. Minimum funding standards for multiemployer plans.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

SEC. 212. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after section 431 the following new section:

"SEC. 432. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS.

"(a) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

"(1) IN GENERAL.—During the 90-day period beginning on first day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year.

"(2) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

"(A) IN GENERAL.—In making the determinations under paragraph (1), the plan actuary shall make projections under subsections (b)(2) and (c)(2) for the current and succeeding plan years, using reasonable actuarial assumptions and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year, as based on the actuarial statement prepared for the preceding plan year under section 103(d) of the Employee Retirement Income Security Act of 1974.

"(B) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any such actuarial projection of plan assets shall assume—

"(i) reasonably anticipated employer and employee contributions for the current and succeeding plan years, assuming that the terms of the one or more col-

lective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

"(ii) that employer and employee contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make continued application of such terms unreasonable.

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

"(4) NOTICE.—In any case in which a multiemployer plan is certified to be in endangered status under paragraph (1) or enters into critical status, the plan sponsor shall, not later than 30 days after the date of the certification or entry, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary of Labor.

"(b) FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

"(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year and no funding improvement plan under this subsection with respect to such multiemployer plan is in effect for the plan year, the plan sponsor shall, in accordance with this subsection, amend the multiemployer plan to include a funding improvement plan upon approval thereof by the bargaining parties under this subsection. The amendment shall be adopted not later than 240 days after the date on which the plan is certified to be in endangered status under subsection (a)(1).

"(2) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under subsection (a)—

"(A) the plan's funded percentage for such plan year is less than 80 percent, or

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

"(3) FUNDING IMPROVEMENT PLAN.—

"(A) BENCHMARKS.—A funding improvement plan shall consist of amendments to the plan formulated to provide, under reasonable actuarial assumptions, for the attainment, during the funding improvement period under the funding improvement plan, of the following benchmarks:

"(i) INCREASE IN FUNDED PERCENTAGE.—An increase in the plan's funded percentage such that—

"(I) the difference between 100 percent and the plan's funded percentage for the last year of the funding improvement period, is not more than

"(II) ⅔ of the difference between 100 percent and the plan's funded percentage for the first year of the funding improvement period.

"(ii) AVOIDANCE OF ACCUMULATED FUNDING DEFICIENCIES.—No accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 431(d)).

"(B) FUNDING IMPROVEMENT PERIOD.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the earlier of—

"(i) the second anniversary of the date of the adoption of the funding improvement plan, or

"(ii) the first day of the first plan year of the multiemployer plan following the plan year in which occurs the first date after the day of the certification as of which collective bargaining agreements covering on the day of such certification at least 75 percent of active participants in such multiemployer plan have expired.

"(C) SPECIAL RULES FOR CERTAIN SERIOUSLY UNDERFUNDED PLANS.—

"(i) In the case of a plan in which the funded percentage of a plan for the plan year is 70 percent or less, subparagraph (A)(i)(II) shall be applied by substituting '⅘' for '⅔' and subparagraph (B) shall be applied by substituting 'the 15-year period' for 'the 10-year period'.

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

"(I) the plan actuary certifies within 30 days after certification under subsection (a)(1) that the plan is not able to attain the increase described in subparagraph (A)(i) over the period described in subparagraph (B), and

"(II) the plan year is prior to the day described in subparagraph (B)(ii),

subparagraph (A)(i)(II) shall be applied by substituting '⅘' for '⅔' and subparagraph (B) shall be applied by substituting 'the 15-year period' for 'the 10-year period'.

"(iii) For any plan year following the year described in clause (ii)(II), subparagraph (A)(i)(II) and subparagraph (B) shall apply, except that for each plan year ending after such date for which the plan actuary certifies (at the time of the annual certification under subsection (a)(1) for such plan year) that the plan is not able to attain the increase described in subparagraph (A)(i) over the period described in subparagraph

(B), subparagraph (B) shall be applied by substituting 'the 15-year period' for 'the 10-year period'.

"(D) REPORTING.—A summary of any funding improvement plan or modification thereto adopted during any plan year, together with annual updates regarding the funding ratio of the plan, shall be included in the annual report for such plan year under section 104(a) of the Employee Retirement Income Security Act of 1974 and in the summary annual report described in section 104(b)(3) of such Act.

"(4) DEVELOPMENT OF FUNDING IMPROVEMENT PLAN.—

"(A) ACTIONS BY PLAN SPONSOR PENDING APPROVAL.—Pending the approval of a funding improvement plan under this paragraph, the plan sponsor shall take all reasonable actions, consistent with the terms of the plan and applicable law, necessary to ensure—

"(i) an increase in the plan's funded percentage, and

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

Such actions include applications for extensions of amortization periods under section 431(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

"(B) RECOMMENDATIONS BY PLAN SPONSOR.—

"(i) IN GENERAL.—During the period of 90 days following the date on which a multiemployer plan is certified to be in endangered status, the plan sponsor shall develop and provide to the bargaining parties alternative proposals for revised benefit structures, contribution structures, or both, which, if adopted as amendments to the plan, may be reasonably expected to meet the benchmarks described in paragraph (3)(A). Such proposals shall include—

"(I) at least one proposal for reductions in the amount of future benefit accruals necessary to achieve the benchmarks, assuming no amendments increasing contributions under the plan (other than amendments increasing contributions necessary to achieve the benchmarks after amendments have reduced future benefit accruals to the maximum extent permitted by law), and

"(II) at least one proposal for increases in contributions under the plan necessary to achieve the benchmarks, assuming no amendments reducing future benefit accruals under the plan.

"(ii) REQUESTS BY BARGAINING PARTIES.—Upon the request of any bargaining party who—

"(I) employs at least 5 percent of the active participants, or

"(II) represents as an employee organization, for purposes of collective bargaining, at least 5 percent of the active participants,

the plan sponsor shall provide all such parties information as to other combinations of increases in contributions and reductions in future benefit accruals which would result in achieving the benchmarks.

"(iii) OTHER INFORMATION.—The plan sponsor may, as it deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution structures or benefit structures or other information relevant to the funding improvement plan.

"(5) MAINTENANCE OF CONTRIBUTIONS PENDING APPROVAL OF FUNDING IMPROVEMENT PLAN.—Pending approval of a funding improvement plan by the bargaining parties with respect to a multiemployer plan, the multiemployer plan may not be amended so as to provide—

"(A) a reduction in the level of contributions for participants who are not in pay status,

"(B) a suspension of contributions with respect to any period of service, or

"(C) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

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

"(A) RESTRICTIONS ON LUMP SUM AND SIMILAR DISTRIBUTIONS.—In any case in which the present value of a participant's accrued benefit under the plan exceeds $5,000, such benefit may not be distributed as an immediate distribution or in any other accelerated form.

"(B) PROHIBITION ON BENEFIT INCREASES.—

"(i) IN GENERAL.—No amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted.

"(ii) EXCEPTION.—Clause (i) shall not apply to any plan amendment which is required as a condition of qualification under part I of subchapter D of chapter 1 of subtitle A.

"(7) DEFAULT CRITICAL STATUS IF NO FUNDING IMPROVEMENT PLAN ADOPTED.—If no plan amendment adopting a funding improvement plan has been adopted by the end of the 240-day period referred to in subsection (b)(1), the plan enters into critical status as of the first day of the succeeding plan year.

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

"(A) so as to be inconsistent with the funding improvement plan, or

"(B) so as to increase future benefit accruals, unless the plan actuary certifies in advance that, after taking into account the proposed increase, the plan is reasonably expected to meet the the benchmarks described in paragraph (3)(A).

"(c) FUNDING RULES FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

"(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year as described in paragraph (2) (or otherwise enters into critical status under this section) and no rehabilitation plan under this subsection with respect to such multiemployer plan is in effect for the plan year, the plan sponsor shall, in accordance with this subsection, amend the multiemployer plan to include a rehabilitation plan under this subsection. The amendment shall be adopted not later than 240 days after the date on which the plan enters into critical status.

"(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if—

"(A) the plan is in endangered status for the preceding plan year and the requirements of subsection (b)(1) were not met with respect to the plan for such preceding plan year, or

"(B) as determined by the plan actuary under subsection (a), the plan is described in paragraph (3).

"(3) CRITICALITY DESCRIPTION.—For purposes of paragraph (2)(B), a plan is described in this paragraph if the plan is described in at least one of the following subparagraphs:

"(A) A plan is described in this subparagraph if, as of the beginning of the current plan year—

"(i) the funded percentage of the plan is less than 65 percent, and

"(ii) the sum of—

"(I) the market value of plan assets, plus

"(II) the present value of the reasonably anticipated employer and employee contributions for the current plan year and each of the 6 succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

"(B) A plan is described in this subparagraph if, as of the beginning of the current plan year, the sum of—

"(i) the market value of plan assets, plus

"(ii) the present value of the reasonably anticipated employer and employee contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year remain in effect for succeeding plan years,

is less than the present value of all nonforfeitable benefits for all participants and beneficiaries projected to be payable under the plan during the current plan year and each

of the 4 succeeding plan years (plus administrative expenses for such plan years).

"(C) A plan is described in this subparagraph if—

"(i) as of the beginning of the current plan year, the funded percentage of the plan is less than 65 percent, and

"(ii) the plan has an accumulated funding deficiency for the current plan year or is projected to have an accumulated funding deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

"(D) A plan is described in this subparagraph if—

"(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining cost under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

"(II) the present value, as of the beginning of the current plan year, of the reasonably anticipated employer and employee contributions for the current plan year,

"(ii) the present value, as of the beginning of the current plan year, of nonforfeitable benefits of inactive participants is greater than the present value, as of the beginning of the current plan year, of nonforfeitable benefits of active participants, and

"(iii) the plan is projected to have an accumulated funding deficiency for the current plan year or any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

"(E) A plan is described in this subparagraph if—

"(i) the funded percentage of the plan is greater than 65 percent for the current plan year, and

"(ii) the plan is projected to have an accumulated funding deficiency during any of the succeeding 3 plan years, not taking into account any extension of amortization periods under section 431(d).

"(4) REHABILITATION PLAN.—

"(A) IN GENERAL.—A rehabilitation plan shall consist of—

"(i) amendments to the plan providing (under reasonable actuarial assumptions) for measures, agreed to by the bargaining parties, to increase contributions, reduce plan expenditures (including plan mergers and consolidations), or reduce future benefit accruals, or to take any combination of such actions, determined necessary to cause the plan to cease, during the rehabilitation period, to be in critical status, or

"(ii) reasonable measures to forestall possible insolvency (within the meaning of section 418E) if the plan sponsor determines that, upon exhaustion of all reasonable measures, the plan would not cease during the rehabilitation period to be in critical status.

A rehabilitation must provide annual standards for meeting the requirements of such rehabilitation plan.

"(B) REHABILITATION PERIOD.—The rehabilitation period for any rehabilitation plan adopted pursuant to this subsection is the 10-year period beginning on the earlier of—

"(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

"(ii) the first day of the first plan year of the multiemployer plan following the plan year in which occurs the first date, after the date of the plan's entry into critical status, as of which collective bargaining agreements covering at least 75 percent of active participants in such multiemployer plan (determined as of such date of entry) have expired.

"(C) REPORTING.—A summary of any rehabilitation plan or modification thereto adopted during any plan year, together with annual updates regarding the funding ratio of the plan, shall be included in the annual report for such plan year under section 104(a) of the Employee Retirement Income Security Act of 1974 and in the summary annual report described in section 104(b)(3) of such Act.

"(5) DEVELOPMENT OF REHABILITATION PLAN.—

"(A) PROPOSALS BY PLAN SPONSOR.—

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

"(ii) PROPOSAL ASSUMING NO CONTRIBUTION INCREASES.—Such proposals shall include, as one of the proposed schedules, a schedule of those reductions in future benefit accruals that would be necessary to cause the plan to cease to be in critical status if there were no further increases in rates of contribution to the plan.

"(iii) PROPOSAL WHERE CONTRIBUTIONS ARE NECESSARY.—If the plan sponsor determines that the plan will not cease to be in critical status during the rehabilitation period unless the plan is amended to provide for an increase in contributions, the plan sponsor's proposals shall include a schedule of those increases in contribution rates that would be necessary to cause the plan to cease to be in critical status if future benefit accruals were reduced to the maximum extent permitted by law.

"(B) REQUESTS FOR ADDITIONAL SCHEDULES.—Upon the request of any bargaining party who—

"(i) employs at least 5 percent of the active participants, or

"(ii) represents as an employee organization, for purposes of collective bargaining, at least 5 percent of active participants,

the plan sponsor shall include among the proposed schedules such schedules of increases in contributions and reductions in future benefit accruals as may be specified by the bargaining parties.

"(C) SUBSEQUENT AMENDMENTS.—Upon the adoption of a schedule of increases in contributions or reductions in future benefit accruals as part of the rehabilitation plan, the plan sponsor may amend the plan thereafter to update the schedule to adjust for any experience of the plan contrary to past actuarial assumptions, except that such an amendment may be made not more than once in any 3-year period.

"(D) ALLOCATION OF REDUCTIONS IN FUTURE BENEFIT ACCRUALS.—Any schedule containing reductions in future benefit accruals forming a part of a rehabilitation plan shall be applicable with respect to any group of active participants who are employed by any bargaining party (as an employer obligated to contribute under the plan) in proportion to the extent to which increases in contributions under such schedule apply to such bargaining party.

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

"(i) a monthly benefit equal to 1 percent of the contributions required to be made with respect to a participant or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the plan year in which the plan enters critical status, or

"(ii) if lower, the accrual rate under the plan on such date.

The equivalent standard accrual rate shall be determined by the trustees based on the standard or average contribution base units that they determine to be representative for active participants and such other factors as they determine to be relevant.

"(F) PROTECTION OF RESTORED RATES OF ACCRUAL.—

"(i) IN GENERAL.—Any schedule proposed under this paragraph shall not reduce the rate of future accruals below any restored accrual rate.

"(ii) RESTORED ACCRUAL RATE.—For purposes of clause (i), the term 'restored accrual rate' means a rate of benefit accruals which was reduced and subsequently restored before entry of the plan into critical status.

"(6) MAINTENANCE OF CONTRIBUTIONS AND RESTRICTIONS ON BENEFITS PENDING ADOPTION OF REHABILITATION PLAN.—The rules of paragraphs (5) and (6) of subsection (b) shall apply for purposes of this subsection by substituting the term 'rehabilitation plan' for 'funding improvement plan'.

"(7) SPECIAL RULES.—

"(A) AUTOMATIC EMPLOYER SURCHARGE.—

"(i) 5 PERCENT AND 10 PERCENT SURCHARGE.—For the first plan year in which the plan is in critical status, each employer otherwise obligated to make a contribution for that plan year shall be obligated to pay to the plan a surcharge equal to 5 percent of the contribution otherwise required under the respective collective bargaining agreement (or other agreement pursuant to which the employer contributes). For each consecutive plan year thereafter in which the plan is in critical status, the surcharge shall be 10 percent of the contribution otherwise required under the respective collective bargaining agreement (or other agreement pursuant to which the employer contributes).

"(ii) ENFORCEMENT OF SURCHARGE.—The surcharges under clause (i) shall be due and payable on the same schedule as the contributions on which they are based. Any failure to make a surcharge payment shall be treated as a delinquent contribution under section 515 of the Employee Retirement Income Security Act of 1974 and shall be enforceable as such.

"(iii) SURCHARGE TO TERMINATE UPON CBA RENEGOTIATION.—The surcharge under this paragraph shall cease to be effective with respect to employees covered by a collective bargaining agreement, beginning on the date on which that agreement is renegotiated to include—

"(I) a schedule of benefits and contributions published by the trustees pursuant to the plan's rehabilitation plan, or

"(II) otherwise collectively bargained benefit changes.

"(iv) SURCHARGE NOT TO APPLY UNTIL EMPLOYER RECEIVES 30-DAY NOTICE.—The surcharge under this subparagraph shall not apply to an employer until 30 days after the employer has been notified by the trustees that the plan is in critical status and that the surcharge is in effect.

"(v) SURCHARGE NOT TO GENERATE INCREASED BENEFIT ACCRUALS.—Notwithstanding any provision of a plan to the contrary, the amount of any surcharge shall not be the basis for any benefit accruals under the plan.

"(B) BENEFIT ADJUSTMENTS.—

"(i) IN GENERAL.—The trustees shall make appropriate reductions, if any, to adjustable benefits based upon the outcome of collective bargaining over the schedules provided under paragraph (5).

"(ii) RETIREE PROTECTION.—Except as provided in subparagraph (C), the trustees of a plan in critical status may not reduce adjustable benefits of any participant or beneficiary who was in pay status at least one year before the first day of the first plan year in which the plan enters into critical status.

"(iii) TRUSTEE FLEXIBILITY.—The trustees shall include in the schedules provided to the bargaining par-

ties an allowance for funding the benefits of participants with respect to whom contributions are not currently required to be made, and shall reduce their benefits to the extent permitted under this title and considered appropriate based on the plan's then current overall funding status and its future prospects in light of the results of the parties' negotiations.

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

"(i) benefits, rights, and features, such as post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits,

"(ii) retirement-type subsidies, early retirement benefits, and benefit payment options (other than the 50 percent qualified joint-and-survivor benefit and single life annuity), and

"(iii) benefit increases that would not be eligible for a guarantee under section 4022A of the Employee Retirement Income Security Act of 1974 on the first day of the plan year in which the plan enters into critical status because they were adopted, or if later, took effect less than 60 months before reorganization.

"(D) NORMAL RETIREMENT BENEFITS PROTECTED.—Nothing in this paragraph shall be construed to permit a plan to reduce the level of a participant's accrued benefit payable at normal retirement age which is not an adjustable benefit.

"(E) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—

"(i) BENEFIT REDUCTIONS.—Any benefit reductions under this paragraph shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

"(ii) SURCHARGES.—Any surcharges under this paragraph shall be disregarded in determining an employer's withdrawal liability under section 4211 of the Employee Retirement Income Security Act of 1974, except for purposes of determining the unfunded vested benefits attributable to an employer or under a modified attributable method adopted with the approval of the Pension Benefit Guaranty Corporation under subsection (c)(5) of that section.

"(8) RESTRICTIONS UPON APPROVAL OF REHABILITATION PLAN.—Upon adoption of a rehabilitation plan with respect to a multiemployer plan, the plan may not be amended—

"(A) so as to be inconsistent with the rehabilitation plan, or

"(B) so as to increase future benefit accruals, unless the plan actuary certifies in advance that, after taking into account the proposed increase, the plan is reasonably expected to cease to be in critical status.

"(9) IMPLEMENTATION OF DEFAULT SCHEDULE UPON FAILURE TO ADOPT REHABILITATION PLAN.—If the plan is not amended by the end of the 240-day period after entry into critical status to include a rehabilitation plan, the plan sponsor shall amend the plan to implement the schedule required by paragraph (5)(A)(ii).

"(10) DEEMED WITHDRAWAL.—Upon the failure of any employer who has an obligation to contribute under the plan to make contributions in compliance with the schedule adopted under paragraph (4) as part of the rehabilitation plan, the failure of the employer may, at the discretion of the plan sponsor, be treated as a withdrawal by the employer from the plan under section 4203 of the Employee Retirement Income Security Act of 1974 or a partial withdrawal by the employer under section 4205 of such Act.

"(11) SPECIAL RULE FOR PLAN AMENDMENTS.—A multiemployer plan in critical status shall not fail to meet the requirements of section 204(g) of the Employee Retirement Income Security Act of 1974 or section 411(d)(6) solely by reason of the adoption by the plan of an amendment necessary to meet the requirements of this subsection.

"(d) DEFINITIONS.—For purposes of this section—

"(1) BARGAINING PARTY.—The term 'bargaining party' means, in connection with a multiemployer plan—

"(A) an employer who has an obligation to contribute under the plan, and

"(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage expressed as a ratio of which—

"(A) the numerator of which is the value of the plan's assets, as determined under section 431(c)(2), and

"(B) the denominator of which is the accrued liability of the plan.

"(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning provided such term in section 431(a).

"(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

"(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant who—

"(A) is not in covered service under the plan, and

"(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

"(6) PAY STATUS.—A person is in 'pay status' under a multiemployer plan if—

"(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

"(B) to the extent provided in regulations of the Secretary, such person is entitled to such a benefit under the plan.

"(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning provided such term under section 4212(a) of the Employee Retirement Income Security Act of 1974.

"(8) ENTRY INTO CRITICAL STATUS.—A plan shall be treated as entering into critical status as of the date that such plan is certified to be in critical status under subsection (a)(1), is presumed to be in critical status under subsection (a)(3), or enters into critical status under subsection (b)(7).".

(b) EXCISE TAX ON FAILURES TO ACT WITH RESPECT TO MULTIEMPLOYER PLANS IN CRITICAL STATUS.—Section 4971 of the Internal Revenue Code of 1986 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following:

"(g) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

"(1) SUBSTITUTION OF EXCISE TAX FOR INITIAL AND ADDITIONAL TAX.—In the case of a multiemployer plan to which section 432(c) applies for a period, subsections (a) and (b) shall not apply with respect to such period.

"(2) FAILURE TO ADOPT REHABILITATION PLAN.—

"(A) IN GENERAL.—In the case of a multiemployer plan to which section 432(c) applies, there is hereby imposed a tax on the failure of such plan to adopt a rehabilitation plan.

"(B) AMOUNT OF TAX.—The amount of the tax imposed under subparagraph (A) with respect to any plan sponsor shall be the greater of—

"(i) the amount of tax imposed under subsection (a) (determined without regard to this subsection), or

"(ii) the amount equal to $1,100 multiplied by the number of days in the period beginning on the first day of the 240-day period described in section 432(c)(1) and ending on the day on which the rehabilitation plan is adopted.

"(C) LIABILITY FOR TAX.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A) shall be paid by each plan sponsor.

"(ii) PLAN SPONSOR.—For purposes of clause (i), the term 'plan sponsor' in the case of a multiemployer plan means the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

"(3) FAILURE TO COMPLY WITH REHABILITATION PLAN.—

"(A) IN GENERAL.—In the case of a multiemployer plan to which section 432(c) applies, there is hereby imposed a tax on each failure to make a required contribution under the rehabilitation plan within the time required under such plan.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) shall be, with respect to each required contribution under the rehabilitation plan, the amount equal to the excess of the amount of such required contribution over the amount contributed.

"(C) LIABILITY FOR TAX.—The tax imposed by subparagraph (A) shall be paid by the employer responsible for contributing to or under the rehabilitation plan which fails to make the contribution.

"(4) REHABILITATION PLAN.—For purposes of this subsection, the term 'rehabilitation plan' means the plan required to be adopted under section 432(c).".

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter D of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 432. Additional funding rules for multiemployer plans in endangered status or critical status.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2005.

(e) SPECIAL RULE FOR 2006.—In the case of any plan year beginning in 2006, any reference in section 432 of the Internal Revenue Code of 1986 (as added by this section) to section 431 of such Code (as added by this Act) shall be treated as a reference to the corresponding provision of such Code as in effect for plan years beginning in such year.

SEC. 213. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.

(a) ADVANCE DETERMINATION OF IMPENDING INSOLVENCY OVER 5 YEARS.—Section 418E(d)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking "3 plan years" the second place it appears and inserting "5 plan years", and

(2) by adding at the end the following new sentence: "If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor shall make the comparison under this paragraph at least annually until the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made in plan years beginning after December 31, 2005.

TITLE III—OTHER PROVISIONS

SEC. 301. INTEREST RATE FOR 2006 FUNDING REQUIREMENTS.

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

(1) IN GENERAL.—Subclause (II) of section 302(b)(5)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(5)(B)(ii)) is amended—

(A) by striking "January 1, 2006" and inserting "January 1, 2007", and

(B) by striking "AND 2005" in the heading and inserting ", 2005, AND 2006".

(2) CURRENT LIABILITY.—Subclause (IV) of section 302(d)(7)(C)(i) of such Act (29 U.S.C. 1082(d)(7)(C)(i)) is amended—

(A) by striking "or 2005" and inserting ", 2005, or 2006", and

(B) by striking "AND 2005" in the heading and inserting ", 2005, AND 2006".

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

(1) IN GENERAL.—Subclause (II) of section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended—

(A) by striking "January 1, 2006" and inserting "January 1, 2007", and

(B) by striking "AND 2005" in the heading and inserting ", 2005, AND 2006".

(2) CURRENT LIABILITY.—Subclause (IV) of section 412(l)(7)(C)(i) of such Code is amended—

(A) by striking "or 2005" and inserting ", 2005, or 2006", and

(B) by striking "AND 2005" in the heading and inserting ", 2005, AND 2006".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 302. INTEREST RATE ASSUMPTION FOR DETERMINATION OF LUMP SUM DISTRIBUTIONS.

(a) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Paragraph (3) of section 205(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"(3)(A) For purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(B) For purposes of subparagraph (A)—

"(i) The term 'applicable mortality table' means a mortality table, modified as appropriate by the Secretary of the Treasury, based on the mortality table specified for the plan year under section 303(h)(3).

"(ii) The term 'applicable interest rate' means the adjusted first, second, and third segment rates applied under rules similar to the rules of section 303(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary of the Treasury may by regulations prescribe.

"(iii) For purposes of clause (ii), the adjusted first, second, and third segment rates are the first, second, and third segment rates which would be determined under section 303(h)(2)(C) if—

"(I) section 303(h)(2)(D)(i) were applied by substituting 'the yields' for 'a 3-year weighted average of yields',

"(II) section 303(h)(2)(G)(i)(II) were applied by substituting 'section 205(g)(3)(A)(ii)(II)' for 'section 302(b)(5)(B)(ii)(II)', and

"(III) the applicable percentage under section 303(h)(2)(G) were determined in accordance with the following 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.".

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (3) of section 417(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—For purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(B) APPLICABLE MORTALITY TABLE.—For purposes of subparagraph (A), the term 'applicable mortality table' means a mortality table, modified as appropriate by the Secretary, based on the mortality table specified for the plan year under section 430(h)(3).

"(C) APPLICABLE INTEREST RATE.—For purposes of subparagraph (A), the term 'applicable interest rate' means the adjusted first, second, and third segment rates applied under rules similar to the rules of section 430(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary may by regulations prescribe.

"(D) APPLICABLE SEGMENT RATES.—For purposes of subparagraph (C), the adjusted first, second, and third segment rates are the first, second, and third segment rates which would be determined under section 430(h)(2)(C) if—

"(i) section 430(h)(2)(D)(i) were applied by substituting 'the yields' for 'a 3-year weighted average of yields',

"(ii) section 430(h)(2)(G)(i)(II) were applied by substituting 'section 417(e)(3)(A)(ii)(II)' for 'section 412(b)(5)(B)(ii)(II)', and

"(iii) the applicable percentage under section 430(h)(2)(G) were determined in accordance with the following 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.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2006.

SEC. 303. INTEREST RATE ASSUMPTION FOR APPLYING BENEFIT LIMITATIONS TO LUMP SUM DISTRIBUTIONS.

(a) IN GENERAL.—Clause (ii) of section 415(b)(2)(E) of the Internal Revenue Code of 1986 is amended to read as follows:

"(ii) For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3), the interest rate assumption shall not be less than the greater of—

"(I) 5.5 percent,

"(II) the rate that provides a benefit of not more than 105 percent of the benefit that would be provided if the applicable interest rate (as defined in section 417(e)(3)) were the interest rate assumption, or

"(III) the rate specified under the plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions made in years beginning after December 31, 2005.

SEC. 304. DISTRIBUTIONS DURING WORKING RETIREMENT.

(a) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subparagraph (A) of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) is amended by adding at the end the following new sentence: "A distribution from a plan, fund, or program shall not be treated as made in a form other than retirement income or as a distribution prior to termination of covered employment solely because such distribution is made to an employee who has attained age 62 and who is not separated from employment at the time of such distribution.".

(b) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 is amended by inserting after paragraph (34) the following new paragraph:

"(35) DISTRIBUTIONS DURING WORKING RETIREMENT.—A trust forming part of a pension plan shall not be treated as failing to constitute a qualified trust under this section solely because a distribution is made from such trust to an employee who has attained age 62 and who is not separated from employment at the time of such distribution.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 2005.

SEC. 305. OTHER AMENDMENTS RELATING TO PROHIBITED TRANSACTIONS.

(a) DEFINITION OF AMOUNT INVOLVED.—Section 502(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(i)) is amended to read as follows:

"(i)(1) In the case of a transaction prohibited by section 406 by a party in interest with respect to a plan to which this part applies, the Secretary may assess a civil penalty against such party in interest. Except as provided in paragraph (2), the amount of such

penalty may not exceed 5 percent of the amount involved in each such transaction for each year or part thereof during which the prohibited transaction continues.

"(2) If the transaction is not corrected (in such manner as the Secretary shall prescribe in regulations) within 90 days after notice from the Secretary (or such longer period as the Secretary may permit), such penalty may be in an amount not more than 100 percent of the amount involved.

"(3) For purposes of paragraph (1)—

"(A) Except as provided in subparagraphs (C) and (D), the term 'amount involved' means, with respect to a prohibited transaction, the greater of—

"(i) the amount of money and the fair market value of the other property given, or

"(ii) the amount of money and the fair market value of the other property received.

"(B) For purposes of subparagraph (A), fair market value shall be determined as of the date on which the prohibited transaction occurs, except that in the case described in paragraph (2) fair market value shall be the highest fair market value during the period between the date of the transaction and the date of correction.

"(C) In the case of services described in subsection (b)(2) or (c)(2) of section 408, the term 'amount involved' means only the amount of excess compensation.

"(D) In the case of principal transactions prohibited under section 406(a) involving securities or commodities, the term 'amount involved' means only the amount received by the disqualified person in excess of the amount such person would have received in an arm's length transaction with an unrelated party as of the same date.

"(E) For the purposes of this paragraph—

"(i) the term 'security' has the meaning given such term by section 475(c)(2) of the Internal Revenue Code of 1986 (without regard to subparagraph (F)(iii) and the last sentence thereof), and

"(ii) the term 'commodity' has the meaning given such term by section 475(e)(2) of such Code (without regard to subparagraph (D)(iii) thereof).".

(b) EXEMPTION FOR BLOCK TRADING.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by section 601, is further amended by adding at the end the following new paragraph:

"(15)(A) Any transaction involving the purchase or sale of securities between a plan and a party in interest (other than a fiduciary described in section 3(21)(A)(ii)) with respect to a plan if—

"(i) the transaction involves a block trade,

"(ii) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor), does not exceed 10 percent of the aggregate size of the block trade, and

"(iii) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction.

"(B) For purposes of this paragraph, the term 'block trade' includes any trade which will be allocated across two or more client accounts of a fiduciary.".

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

(A) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions) is amended by striking "or" at the end of paragraph (15), by striking the period at the end of paragraph (16) and inserting ", or", and by adding at the end the following new paragraph:

"(17) any transaction involving the purchase or sale of securities between a plan and a party in interest (other than a fiduciary described in subsection (e)(3)(B)) with respect to a plan if—

"(A) the transaction involves a block trade,

"(B) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor), does not exceed 10 percent of the aggregate size of the block trade, and

"(C) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction.

"(D) For purposes of this paragraph, the term 'block trade' includes any trade which will be allocated across two or more client accounts of a fiduciary.".

(B) SPECIAL RULE RELATING TO BLOCK TRADE.—Subsection (f) of section 4975 of such Code (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

"(8) BLOCK TRADE.—For purposes of subsection (d)(17), the term 'block trade' includes any trade which will be allocated across two or more client accounts of a fiduciary.".

(c) BONDING RELIEF.— Section 412(a) of such Act (29 U.S.C. 1112(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3);

(2) by striking "and" at the end of paragraph (1); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) no bond shall be required of an entity which is subject to regulation as a broker or a dealer under section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or an entity registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.), including requirements imposed by a self-regulatory organization (within the meaning of section 3(a)(26) of such Act (15 U.S.C. 78c(a)(26)), or any affiliate with respect to which the broker or dealer agrees to be liable to the same extent as if they held the assets directly.".

(d) EXEMPTION FOR ELECTRONIC COMMUNICATION NETWORK.—

(1) IN GENERAL.—Section 408(b) of such Act (as amended by subsection (b)) is further amended by adding at the end the following:

"(16) Any transaction involving the purchase or sale of securities, or other property (as determined in regulations of the Secretary) between a plan and a fiduciary or a party in interest if—

"(A) the transaction is executed through an exchange, electronic communication network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by—

"(i) the applicable Federal regulating entity, or

"(ii) such other applicable governmental regulating agency as the Secretary may determine appropriate in the case of any fiduciary or party in interest or class of fiduciaries or parties in interest or any transaction or class of transactions,

"(B) neither the execution system nor the parties to the transaction take into account the identity of the parties in the execution of trades,

"(C) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the execution system,

"(D) the price and compensation associated with the purchase and sale are not greater than an arm's length transaction with an unrelated party,

"(E) if the fiduciary or party in interest has an ownership interest in the system or venue described in subparagraph (A), the system or venue has been authorized under the plan for transactions described in this paragraph, and

"(F) not less than 30 days prior to the initial transaction described in this paragraph executed through any system or venue described in subparagraph (A), the plan administrator is provided written notice of the execution of such transaction through such system or venue.".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall take effect 30 days after the date of the enactment of this Act.

(e) CONFORMING ERISA'S PROHIBITED TRANSACTION PROVISION TO FERSA.—Section 408(b) of such Act (29 U.S.C. 1106), as amended by subsection (d), is further amended by adding at the end the following new paragraph:

"(17)(A) transactions described in subparagraphs (A), (B), and (D) of section 406(a)(1) between a plan and a party that is a party in interest (under section 3(14)) solely by reason of providing services, but only if in connection with such transaction the plan receives no less, nor pays no more, than adequate consideration.

"(B) For purposes of this paragraph, the term 'adequate consideration' means—

"(i) in the case of a security for which there is a generally recognized market—

"(I) the price of the security prevailing on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934, taking into account factors such as the size of the transaction and marketability of the security, or

"(II) if the security is not traded on such a national securities exchange, a price not less favorable to the plan than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of the party in interest, taking into account factors such as the size of the transaction and marketability of the security, and

"(ii) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary.".

(f) RELIEF FOR FOREIGN EXCHANGE TRANSACTIONS.— Section 408(b) of such Act (as amended by the preceding provisions of this section) is further amended by adding at the end the following new paragraph:

"(18) Any foreign exchange transactions, between a bank or broker-dealer, or any affiliate of either thereof, and a plan with respect to which the bank or broker-dealer, or any affiliate, is a trustee, custodian, fiduciary, or other party in interest, if—

"(A) the transaction is in connection with the purchase or sale of securities,

"(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or the broker-dealer (or any affiliate thereof) in comparable arm's-length foreign exchange transactions involving unrelated parties, and

"(C) the exchange rate used by the bank or broker-dealer for a particular foreign exchange transaction may not deviate by more than 3 percent from the interbank bid and asked rates at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency.".

(g) DEFINITION OF PLAN ASSET VEHICLE.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) the term 'plan assets' means plan assets as defined by such regulations as the Secretary may prescribe, except that under such regulations the assets of any entity shall not be treated as plan assets if, immediately after the most recent acquisition of any equity interest in the entity, less than 50 percent of the total value of each class of equity interest in the entity is held by employee benefit plan investors. For purposes of determinations pursuant to this paragraph, the value of any equity interest owned by a person (other than such an employee benefit plan) who has discretionary authority or control with respect to the assets of the entity or any person who provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person, shall be disregarded for purposes of calculating the 50 percent threshold. An entity shall be considered to hold plan assets only to the extent of the percentage of the equity interest owned by benefit plan investors. For purposes of this paragraph, the term 'benefit plan in-

vestor' means an employee benefit plan subject to this part and any plan to which section 4975 of the Internal Revenue Code of 1986 applies.".

SEC. 306. CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.

(a) AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)), as amended by sections 304 and 601, is further amended by adding at the end the following new paragraph:

"(19)(A) Except as provided in subparagraphs (B) and (C), a transaction described in section 406(a) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.

"(B) Subparagraph (A) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1)) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2)).

"(C) In the case of any fiduciary or other party in interest (or any other person knowingly participating in such transaction), subparagraph (A) does not apply to any transaction if, at the time the transaction occurs, such fiduciary or party in interest (or other person) knew (or reasonably should have known) that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

"(D) For purposes of this paragraph, the term 'correction period' means, in connection with a fiduciary or party in interest (or other person knowingly participating in the transaction), the 14-day period beginning on the date on which such fiduciary or party in interest (or other person) discovers, or reasonably should have discovered, that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

"(E) For purposes of this paragraph—

"(i) The term 'security' has the meaning given such term by section 475(c)(2) of the Internal Revenue Code of 1986 (without regard to subparagraph (F)(iii) and the last sentence thereof).

"(ii) The term 'commodity' has the meaning given such term by section 475(e)(2) of such Code (without regard to subparagraph (D)(iii) thereof).

"(iii) The term 'correct' means, with respect to a transaction—

"(I) to undo the transaction to the extent possible and in any case to make good to the plan or affected account any losses resulting from the transaction, and

"(II) to restore to the plan or affected account any profits made through the use of assets of the plan.".

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

(1) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by this Act, is amended by striking "or" at the end of paragraph (16), by striking the period at the end of paragraph (17)

and inserting ", or", and by adding at the end the following new paragraph:

"(18) except as provided in subsection (f)(9), a transaction described in subparagraph (A), (B), (C), or (D) of subsection (c)(1) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.".

(2) SPECIAL RULES RELATING TO CORRECTION PERIOD.—Subsection (f) of section 4975 of such Code (relating to other definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(9) CORRECTION PERIOD.—

"(A) IN GENERAL.—For purposes of subsection (d)(18), the term 'correction period' means the 14-day period beginning on the date on which the disqualified person discovers, or reasonably should have discovered, that the transaction would (without regard to this paragraph and subsection (d)(18)) constitute a prohibited transaction.

"(B) EXCEPTIONS.—

"(i) EMPLOYER SECURITIES.—Subsection (d)(18) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1)) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2)).

"(ii) KNOWING PROHIBITED TRANSACTION.—In the case of any disqualified person, subsection (d)(18) does not apply to a transaction if, at the time the transaction is entered into, the disqualified person knew (or reasonably should have known) that the transaction would (without regard to this paragraph) constitute a prohibited transaction.

"(C) ABATEMENT OF TAX WHERE THERE IS A CORRECTION.—If a transaction is not treated as a prohibited transaction by reason of subsection (d)(18), then no tax under subsection (a) and (b) shall be assessed with respect to such transaction, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

"(D) DEFINITIONS.—For purposes of this paragraph and subsection (d)(18)—

"(i) SECURITY.—The term 'security' has the meaning given such term by section 475(c)(2) (without regard to subparagraph (F)(iii) and the last sentence thereof).

"(ii) COMMODITY.—The term 'commodity' has the meaning given such term by section 475(e)(2) (without regard to subparagraph (D)(iii) thereof).

"(iii) CORRECT.—The term 'correct' means, with respect to a transaction—

"(I) to undo the transaction to the extent possible and in any case to make good to the plan or affected account any losses resulting from the transaction, and

"(II) to restore to the plan or affected account any profits made through the use of assets of the plan.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any transaction which the fiduciary or disqualified person discovers, or reasonably should have discovered, after the date of the enactment of this Act constitutes a prohibited transaction.

SEC. 307. RECOVERY BY REIMBURSEMENT OR SUBROGATION WITH RESPECT TO PROVIDED BENEFITS.

(a) IN GENERAL.—Section 502(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(a)) is amended by adding, after and below paragraph (9), the following new sentence:

"Actions described under paragraph (3) include an action by a fiduciary for recovery of amounts on behalf of the plan enforcing terms of the plan that provide a right of recovery by reimbursement or subrogation with respect to benefits provided to or for a participant or beneficiary.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 2006.

SEC. 308. EXERCISE OF CONTROL OVER PLAN ASSETS IN CONNECTION WITH QUALIFIED CHANGES IN INVESTMENT OPTIONS.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end the following new paragraph:

"(4)(A) In any case in which a qualified change in investment options occurs in connection with an individual account plan, a participant or beneficiary shall not be treated for purposes of paragraph (1) as not exercising control over the assets in his account in connection with such change if the requirements of subparagraph (C) are met in connection with such change.

"(B) For purposes of subparagraph (A), the term 'qualified change in investment options' means, in connection with an individual account plan, a change in the investment options offered to the participant or beneficiary under the terms of the plan, under which—

"(i) the participant's account is reallocated among one or more new investment options which are offered in lieu of one or more investment options offered immediately prior to the effective date of the change, and

"(ii) the characteristics of the new investment options, including characteristics relating to risk and rate of return, are, as of immediately after the change, reasonably similar to those of the existing investment options as of immediately before the change.

"(C) The requirements of this subparagraph are met in connection with a qualified change in investment options if—

"(i) at least 60 days prior to the effective date of the change, the plan administrator furnishes written notice of the change to the participants and beneficiaries, including information comparing the existing and new investment options and an explanation that, in the absence of affirmative investment instructions from the participant or beneficiary to the contrary, the account of the participant or beneficiary will be invested in the manner described in subparagraph (B),

"(ii) the participant has not provided to the plan administrator, in advance of the effective date of the change, affirmative investment instructions contrary to the change, and

"(iii) the investments under the plan of the participant or beneficiary as in effect immediately prior to the effective date of the change was the product of the exercise by such participant or beneficiary of control over the assets of the account within the meaning of paragraph (1).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to changes in investment options taking effect on or after January 1, 2006.

SEC. 309. CLARIFICATION OF FIDUCIARY RULES.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall issue final regulations clarifying that the selection of an annuity contract as an optional form of distribution from an individual account plan to a participant or beneficiary—

(1) is not subject to the safest available annuity standard under Interpretive Bulletin 95–1 (29 C.F.R. 2509.95–1), and

(2) is subject to all otherwise applicable fiduciary standards.

SEC. 310. GOVERNMENT ACCOUNTABILITY OFFICE PENSION FUNDING REPORT.

(a) IN GENERAL.—The Comptroller General of the Government Accountability Office shall transmit to the Congress a pension funding report not later than one year after the date of the enactment of this Act.

(b) REPORT CONTENT.—The pension funding report required under subsection (a) shall include an analysis of the feasibility, advantages, and disadvantages of—

(1) requiring an employee pension benefit plan to insure a portion of such plan's total investments;

(2) requiring an employee pension benefit plan to adhere to uniform solvency standards set by the Pension Benefit Guaranty Corporation, which are similar to those applied on a State level in the insurance industry; and

(3) amortizing a single-employer defined benefit pension plan's shortfall amortization base (referred to in section 303(c)(3) of the Employee Retirement Income Security Act of 1974 (as amended by this Act)) over various periods of not more than 7 years.

TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS

SEC. 401. INCREASES IN PBGC PREMIUMS.

(a) FLAT-RATE PREMIUMS.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended—

(1) by striking clause (i) of subparagraph (A) and inserting the following:

"(i) in the case of a single-employer plan, an amount equal to—

"(I) for plan years beginning after December 31, 1990, and before January 1, 2006, $19, or

"(II) for plan years beginning after December 31, 2005, the amount determined under subparagraph (F),

plus the additional premium (if any) determined under subparagraph (E) for each individual who is a participant in such plan during the plan year;"; and

(2) by adding at the end the following new subparagraph:

"(F)(i) Except as otherwise provided in this subparagraph, for purposes of determining the annual premium rate payable to the corporation by a single-employer plan for basic benefits guaranteed under this title, the amount determined under this subparagraph is the greater of $30 or the adjusted amount determined under clause (ii).

"(ii) For plan years beginning after 2006, the adjusted amount determined under this clause is the product derived by multiplying $30 by the ratio of—

"(I) the national average wage index (as defined in section 209(k)(1) of the Social Security Act) for the first of the 2 calendar years preceding the calendar year in which the plan year begins, to

"(II) the national average wage index (as so defined) for 2004,

with such product, if not a multiple of $1, being rounded to the next higher multiple of $1 where such product is a multiple of $0.50 but not of $1, and to the nearest multiple of $1 in any other case.

"(iii) For purposes of determining the annual premium rate payable to the corporation by a single-employer plan for basic benefits guaranteed under this title for any plan year beginning after 2005 and before 2010—

"(I) except as provided in subclause (II), the premium amount referred to in subparagraph (A)(i)(II) for any such plan year is the amount set forth in connection with such plan year in the following table:

"**If the plan year begins in:**	**The amount is:**
2006	$21.20
2007	$23.40
2008	$25.60
2009	$27.80; or

"(II) if the plan's funding target attainment percentage for the plan year preceding the current plan year was less than 80 percent, the premium amount referred to in subparagraph (A)(i)(II) for such current plan year is the amount set forth in connection with such current 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 provided under clause (i).

"(iv) For purposes of this subparagraph, the term 'funding target attainment percentage' has the meaning provided such term in section 303(d)(2).".

(b) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—Subsection (a) of section 4006 of such Act (29 U.S.C. 1306) is amended by adding at the end the following:

"(7) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—

"(A) IN GENERAL.—If there is a termination of a single-employer plan under clause (ii) or (iii) of section 4041(c)(2)(B) or section 4042, there shall be payable to the corporation, with respect to each applicable 12-month period, a premium at a rate equal to $1,250 multiplied by the number of individuals who were participants in the plan immediately before the termination date. Such premium shall be in addition to any other premium under this section.

"(B) SPECIAL RULE FOR PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—If the plan is terminated under 4041(c)(2)(B)(ii) or under section 4042 and, as of the termination date, a person who is (as of such date) a contributing sponsor of the plan or a member of such sponsor's controlled group has filed or has had filed against such person a petition seeking reorganization in a case under title 11 of the United States Code, or under any similar law of a State or a political subdivision of a State (or a case described in section 4041(c)(2)(B)(i) filed by or against such person has been converted, as of such date, to such a case in which reorganization is sought), subparagraph (A) shall not apply to such plan until the date of the discharge of such person in such case.

"(C) APPLICABLE 12-MONTH PERIOD.—For purposes of subparagraph (A)—

"(i) IN GENERAL.—The term 'applicable 12-month period' means—

"(I) the 12-month period beginning with the first month following the month in which the termination date occurs, and

"(II) each of the first two 12-month periods immediately following the period described in subclause (I).

"(ii) PLANS TERMINATED IN BANKRUPTCY REORGANIZATION.—In any case in which the requirements of subparagraph (B) are met in connection with the termination of the plan with respect to 1 or more persons described in such subparagraph, the 12-month period described in clause (i)(I) shall be the 12-month period beginning with the first month following the month which includes the

earliest date as of which each such person is discharged in the case described in such clause in connection with such person.

"(D) COORDINATION WITH SECTION 4007.—

"(i) Notwithstanding section 4007—

"(I) premiums under this paragraph shall be due within 30 days after the beginning of any applicable 12-month period, and

"(II) the designated payor shall be the person who is the contributing sponsor as of immediately before the termination date.

"(ii) The fifth sentence of section 4007(a) shall not apply in connection with premiums determined under this paragraph.".

(c) RISK-BASED PREMIUMS.—

(1) EXTENSION THROUGH 2006.—Section 4006(a)(3)(E)(iii)(V) of such Act is amended by striking "January 1, 2006" and inserting "January 1, 2007".

(2) CONFORMING AMENDMENTS RELATED TO FUNDING RULES FOR SINGLE-EMPLOYER PLANS.—Section 4006(a)(3)(E) of such Act is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii)(I) For purposes of clause (ii), except as provided in subclause (II), the term 'unfunded vested benefits' means, for a plan year, the amount which would be the plan's funding shortfall (as defined in section 303(c)(4)), if the value of plan assets of the plan were equal to the fair market value of such assets and only vested benefits were taken into account.

"(II) The interest rate used in valuing vested benefits for purposes of subclause (I) shall be equal to the first, second, or third segment rate which would be determined under section 303(h)(2)(C) if section 303(h)(2)(D)(i) were applied by substituting 'the yields' for 'the 3-year weighted average of yields', as applicable under rules similar to the rules under section 303(h)(2)(B).".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsection (a) and (c)(1) shall apply to plan years beginning after December 31, 2005.

(2) PREMIUM RATE FOR CERTAIN TERMINATED SINGLE-EMPLOYER PLANS.—The amendment made by subsection (b) shall apply with respect to cases commenced under title 11, United States Code, or under any similar law of a State or political subdivision of a State after October 26, 2005.

(3) CONFORMING AMENDMENTS RELATED TO FUNDING RULES FOR SINGLE-EMPLOYER PLANS.—The amendments made by subsection (c)(2) shall take effect on December 31, 2006, and shall apply to plan years beginning after such date.

TITLE V—DISCLOSURE

SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICES.

(a) APPLICATION OF PLAN FUNDING NOTICE REQUIREMENTS TO ALL DEFINED BENEFIT PLANS.—Section 101(f) of the Employee Re-

tirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is amended—

(1) in the heading, by striking "MULTIEMPLOYER";

(2) in paragraph (1), by striking "which is a multiemployer plan"; and

(3) by striking paragraph (2)(B)(iii) and inserting the following:

"(iii)(I) in the case of a single-employer plan, a summary of the rules governing termination of single-employer plans under subtitle C of title IV, or

"(II) in the case of a multiemployer plan, a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and".

(b) INCLUSION OF STATEMENT OF THE RATIO OF INACTIVE PARTICIPANTS TO ACTIVE PARTICIPANTS.—Section 101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B)) is amended—

(1) in clause (iii)(II) (added by subsection (a)(3) of this section), by striking "and" at the end;

(2) in clause (iv), by striking "apply." and inserting "apply; and"; and

(3) by adding at the end the following new clause:

"(v) a statement of the ratio, as of the end of the plan year to which the notice relates, of—

"(I) the number of participants who are not in covered service under the plan and are in pay status under the plan or have a nonforfeitable right to benefits under the plan, to

"(II) the number of participants who are in covered service under the plan.".

(c) COMPARISON OF MONTHLY AVERAGE OF VALUE OF PLAN ASSETS TO PROJECTED CURRENT LIABILITIES.—Section 101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B)) (as amended by the preceding provisions of this section) is amended further—

(1) by striking clause (ii) and inserting the following:

"(ii) a statement of a reasonable estimate of—

"(I) the value of the plan's assets for the plan year to which the notice relates,

"(II) projected liabilities of the plan for the plan year to which the notice relates, and

"(III) the ratio of the estimated amount determined under subclause (I) to the estimated amount determined under subclause (II);"; and

(2) by adding at the end (after and below clause (v)) the following:

"For purposes of determining a plan's projected liabilities for a plan year under clause (ii)(II), such projected liabilities shall be determined by projecting forward in a reasonable manner to the end of the plan year the liabilities of the plan to participants and beneficiaries as of the first day of the plan year, taking into account any significant events that occur during the plan year and that have a

material effect on such liabilities, including any plan amendments in effect for the plan year.".

(d) STATEMENT OF PLAN'S FUNDING POLICY AND METHOD OF ASSET ALLOCATION.—Section 101(f)(2)(B) of such Act (as amended by the preceding provisions of this section) is amended further—

(1) in clause (iv), by striking "and" at the end;

(2) in clause (v), by striking the period and inserting "; and"; and

(3) by inserting after clause (v) the following new clause:

"(vi) a statement setting forth the funding policy of the plan and the asset allocation of investments under the plan (expressed as percentages of total assets) as of the end of the plan year to which the notice relates.".

(e) NOTICE OF FUNDING IMPROVEMENT PLAN OR REHABILITATION PLAN ADOPTED BY MULTIEMPLOYER PLAN.—Section 101(f)(2)(B) of such Act (as amended by the preceding provisions of this section) is amended further—

(1) in clause (v), by striking "and" at the end;

(2) in clause (vi), by striking the period and inserting "; and"; and

(3) by inserting after clause (vi) the following new clause:

"(vii) a summary of any funding improvement plan, rehabilitation plan, or modification thereof adopted under section 305 during the plan year to which the notice relates.".

(f) NOTICE DUE 90 DAYS AFTER PLAN'S VALUATION DATE.—

(1) IN GENERAL.—Section 101(f)(3) of such Act (29 U.S.C. 1021(f)(3)) is amended by striking "two months after the deadline (including extensions) for filing the annual report for the plan year" and inserting "90 days after the end of the plan year".

(2) MODEL NOTICE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall publish a model version of the notice required by section 101(f) of the Employee Retirement Income Security Act of 1974.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 502. ADDITIONAL DISCLOSURE REQUIREMENTS.

(a) ADDITIONAL ANNUAL REPORTING REQUIREMENTS.—Section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) is amended—

(1) in subsection (a)(1)(B), by striking "subsections (d) and (e)" and inserting "subsections (d), (e), and (f)"; and

(2) by adding at the end the following new subsection:

"(f)(1) With respect to any defined benefit plan, an annual report under this section for a plan year shall include the following:

"(A) The ratio, as of the end of such plan year, of—

"(i) the number of participants who, as of the end of such plan year, are not in covered service under the plan and are in pay status under the plan or have a nonforfeitable right to benefits under the plan, to

"(ii) the number of participants who are in covered service under the plan as of the end of such plan year.

"(B) In any case in which any liabilities to participants or their beneficiaries under such plan as of the end of such plan year consist (in whole or in part) of liabilities to such participants and beneficiaries borne by 2 or more pension plans as of immediately before such plan year, the funded ratio of each of such 2 or more pension plans as of immediately before such plan year and the funded ratio of the plan with respect to which the annual report is filed as of the end of such plan year.

"(C) For purposes of this paragraph, the term 'funded ratio' means, in connection with a plan, the percentage which—

"(i) the value of the plan's assets is of

"(ii) the liabilities to participants and beneficiaries under the plan.

"(2) With respect to any defined benefit plan which is a multiemployer plan, an annual report under this section for a plan year shall include the following:

"(A) The number of employers obligated to contribute to the plan as of the end of such plan year.

"(B) The number of participants under the plan on whose behalf no employer contributions have been made to the plan for such plan year. For purposes of this subparagraph, the term 'employer contribution' means, in connection with a participant, a contribution made by an employer as an employer of such participant.".

(b) ADDITIONAL INFORMATION IN ANNUAL ACTUARIAL STATEMENT REGARDING PLAN RETIREMENT PROJECTIONS.—Section 103(d) of such Act (29 U.S.C. 1023(d)) is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting after paragraph (11) the following new paragraph:

"(12) A statement explaining the actuarial assumptions and methods used in projecting future retirements and forms of benefit distributions under the plan.".

(c) FILING AFTER 285 DAYS AFTER PLAN YEAR ONLY IN CASES OF HARDSHIP.—Section 104(a)(1) of such Act (29 U.S.C. 1024(a)(1)) is amended by inserting after the first sentence the following new sentence: "In the case of a pension plan, the Secretary may extend the deadline for filing the annual report for any plan year past 285 days after the close of the plan year only on a case by case basis and only in cases of hardship, in accordance with regulations which shall be prescribed by the Secretary.".

(d) INTERNET DISPLAY OF INFORMATION.—Section 104(b) of such Act (29 U.S.C. 1024(b)) is amended by adding at the end the following:

"(5) Identification and basic plan information and actuarial information included in the annual report for any plan year shall be filed with the Secretary in an electronic format which accommodates display on the Internet, in accordance with regulations which shall be prescribed by the Secretary. The Secretary shall provide for display of such information included in the annual report, within 90 days after the date of the filing of the annual report, on a website maintained by the Secretary on the Internet and other appropriate media. Such information shall also be displayed on any

website maintained by the plan sponsor (or by the plan administrator on behalf of the plan sponsor) on the Internet, in accordance with regulations which shall be prescribed by the Secretary.".

(e) SUMMARY ANNUAL REPORT FILED WITHIN 15 DAYS AFTER DEADLINE FOR FILING OF ANNUAL REPORT.—Section 104(b)(3) of such Act (29 U.S.C. 1024(b)(3)) is amended—

(1) by striking "Within 210 days after the close of the fiscal year of the plan," and inserting "Within 15 business days after the due date under subsection (a)(1) for the filing of the annual report for the fiscal year of the plan,"; and

(2) by striking "the latest" and inserting "such".

(f) DISCLOSURE OF PLAN ASSETS AND LIABILITIES IN SUMMARY ANNUAL REPORT.—

(1) IN GENERAL.—Section 104(b)(3) of such Act (as amended by subsection (a)) is amended further—

(A) by inserting "(A)" after "(3)"; and

(B) by adding at the end the following:

"(B) The material provided pursuant to subparagraph (A) to summarize the latest annual report shall be written in a manner calculated to be understood by the average plan participant and shall set forth the total assets and liabilities of the plan for the plan year for which the latest annual report was filed and for each of the 2 preceding plan years, as reported in the annual report for each such plan year under this section.".

(g) INFORMATION MADE AVAILABLE TO PARTICIPANTS, BENEFICIARIES, AND EMPLOYERS WITH RESPECT TO MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) (as amended by section 103(b)(2)(A)) is further amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) MULTIEMPLOYER PLAN INFORMATION MADE AVAILABLE ON REQUEST.—

"(1) IN GENERAL.—Each administrator of a multiemployer plan shall furnish to any plan participant or beneficiary or any employer having an obligation to contribute to the plan, who so requests in writing—

"(A) a copy of any actuarial report received by the plan for any plan year which has been in receipt by the plan for at least 30 days, and

"(B) a copy of any financial report prepared for the plan by any plan investment manager or advisor or other person who is a plan fiduciary which has been in receipt by the plan for at least 30 days.

"(2) COMPLIANCE.—Information required to be provided under paragraph (1) —

"(A) shall be provided to the requesting participant, beneficiary, or employer within 30 days after the request in a form and manner prescribed in regulations of the Secretary, and

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably acces-

sible to persons to whom the information is required to be provided.

"(3) LIMITATIONS.—In no case shall a participant, beneficiary, or employer be entitled under this subsection to receive more than one copy of any report described in paragraph (1) during any one 12-month period. The administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) (as amended by section 103(b)(2)(B)) is further amended by striking "sections 101(j) and 302(b)(7)(F)(iv)" and inserting "sections 101(j), 101(k), and 302(b)(7)(F)(iv)".

(3) REGULATIONS.—The Secretary shall prescribe regulations under section 101(k)(2) of the Employee Retirement Income Security Act of 1974 (added by paragraph (1) of this subsection) not later than 90 days after the date of the enactment of this Act.

(h) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY TO MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Section 101 of such Act (as amended by subsection (g) of this section) is further amended—

(A) by redesignating subsection (l) as subsection (m); and

(B) by inserting after subsection (k) the following new subsection:

"(l) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY.—

"(1) IN GENERAL.—The plan sponsor or administrator of a multiemployer plan shall furnish to any employer who has an obligation to contribute under the plan and who so requests in writing notice of—

"(A) the amount which would be the amount of such employer's withdrawal liability under part 1 of subtitle E of title IV if such employer withdrew on the last day of the plan year preceding the date of the request, and

"(B) the average increase, per participant under the plan, in accrued liabilities under the plan as of the end of such plan year to participants under such plan on whose behalf no employer contributions are payable (or their beneficiaries), which would be attributable to such a withdrawal by such employer.

For purposes of subparagraph (B), the term 'employer contribution' means, in connection with a participant, a contribution made by an employer as an employer of such participant.

"(2) COMPLIANCE.—Any notice required to be provided under paragraph (1)—

"(A) shall be provided to the requesting employer within 180 days after the request in a form and manner prescribed in regulations of the Secretary, and

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to employers to whom the information is required to be provided.

"(3) LIMITATIONS.—In no case shall an employer be entitled under this subsection to receive more than one notice described in paragraph (1) during any one 12-month period. The person required to provide such notice may make a reasonable charge to cover copying, mailing, and other costs of furnishing such notice pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) (as amended by paragraph (1)) is further amended by striking "sections 101(j), 101(k), and 302(b)(7)(F)(iv)" and inserting "sections 101(j), 101(k), 101(l), and 302(b)(7)(F)(iv)".

(i) MODEL FORM.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall publish a model form for providing the statements, schedules, and other material required to be provided under section 104(b)(3) of the Employee Retirement Income Security Act of 1974, as amended by this section.

(j) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 503. SECTION 4010 FILINGS WITH THE PBGC.

(a) CHANGE IN CRITERIA FOR PERSONS REQUIRED TO PROVIDE INFORMATION TO PBGC.—Section 4010(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310(b)) is amended by striking paragraph (1), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting before paragraph (3) (as so redesignated) the following new paragraphs:

"(1) the aggregate funding target attainment percentage of the plan (as defined in subsection (d)(2)) is less than 60 percent;

"(2)(A) the aggregate funding target attainment percentage of the plan (as defined in subsection (d)(2)) is less than 75 percent, and

"(B) the plan sponsor is in an industry with respect to which the corporation determines that there is substantial unemployment or underemployment and the sales and profits are depressed or declining;".

(b) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—Section 4010 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310) is amended by adding at the end the following new subsection:

"(d) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—

"(1) IN GENERAL.—Not later than 90 days after the submission by any person to the corporation of information or documentary material with respect to any plan pursuant to subsection (a), such person shall provide notice of such submission to each participant and beneficiary under the plan (and under all plans maintained by members of the controlled group of each contributing sponsor of the plan). Such notice shall also set forth—

"(A) the number of single-employer plans covered by this title which are in at-risk status and are maintained by contributing sponsors of such plan (and by members of their controlled groups) with respect to which the funding target attainment percentage for the preceding plan year of each plan is less than 60 percent;

"(B) the value of the assets of each of the plans described in subparagraph (A) for the plan year, the funding target for each of such plans for the plan year, and the funding target attainment percentage of each of such plans for the plan year; and

"(C) taking into account all single-employer plans maintained by the contributing sponsor and the members of its controlled group as of the end of such plan year—

"(i) the aggregate total of the values of plan assets of such plans as of the end of such plan year,

"(ii) the aggregate total of the funding targets of such plans, as of the end of such plan year, taking into account only benefits to which participants and beneficiaries have a nonforfeitable right, and

"(iii) the aggregate funding targets attainment percentage with respect to the contributing sponsor for the preceding plan year.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) VALUE OF PLAN ASSETS.—The term 'value of plan assets' means the value of plan assets, as determined under section 303(g)(3).

"(B) FUNDING TARGET.—The term 'funding target' has the meaning provided under section 303(d)(1).

"(C) FUNDING TARGET ATTAINMENT PERCENTAGE.—The term 'funding target attainment percentage' has the meaning provided in section 303(d)(2).

"(D) AGGREGATE FUNDING TARGETS ATTAINMENT PERCENTAGE.—The term 'aggregate funding targets attainment percentage' with respect to a contributing sponsor for a plan year is the percentage, taking into account all plans maintained by the contributing sponsor and the members of its controlled group as of the end of such plan year, which

"(i) the aggregate total of the values of plan assets, as of the end of such plan year, of such plans, is of

"(ii) the aggregate total of the funding targets of such plans, as of the end of such plan year, taking into account only benefits to which participants and beneficiaries have a nonforfeitable right.

"(E) AT-RISK STATUS.—The term 'at-risk status' has the meaning provided in section 303(i)(3).

"(3) COMPLIANCE.—

"(A) IN GENERAL.—Any notice required to be provided under paragraph (1) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to individuals to whom the information is required to be provided.

"(B) LIMITATIONS.—In no case shall a participant or beneficiary be entitled under this subsection to receive more than one notice described in paragraph (1) during any one 12-month period. The person required to provide such notice may make a reasonable charge to cover copying, mailing, and other costs of furnishing such notice pursuant to paragraph (1). The corporation may by regulations pre-

scribe the maximum amount which will constitute a reasonable charge under the preceding sentence.

"(4) NOTICE TO CONGRESS.—Concurrent with the provision of any notice under paragraph (1), such person shall provide such notice to the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives and the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate, which shall be treated as materials provided in executive session.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to plan years beginning after December 31, 2006.

TITLE VI—INVESTMENT ADVICE

SEC. 601. AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 PROVIDING PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE.

(a) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

"(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

"(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

"(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

"(B) The transactions described in this subparagraph are the following:

"(i) the provision of the advice to the plan, participant, or beneficiary;

"(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.".

(b) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection:

"(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

"(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

"(A) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

"(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

"(iv) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

"(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

"(vi) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property,

"(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(E) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(2) STANDARDS FOR PRESENTATION OF INFORMATION.—

"(A) IN GENERAL.—The notification required to be provided to participants and beneficiaries under paragraph (1)(A) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(B) MODEL FORM FOR DISCLOSURE OF FEES AND OTHER COMPENSATION.—The Secretary shall issue a model form for the disclosure of fees and other compensation required in paragraph (1)(A)(i) which meets the requirements of subparagraph (A).

"(3) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in clauses (i) through (iv) of subparagraph (A) in currently accurate form and in the manner described in paragraph (2) or fails—

"(A) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

"(B) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

"(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

"(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

"(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

"(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

"(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

"(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

"(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

"(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

"(A) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

"(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

"(ii) a bank or similar financial institution referred to in section 408(b)(4) or a savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1))), but only if the advice is provided through a trust department of the bank or similar financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities,

"(iii) an insurance company qualified to do business under the laws of a State,

"(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(v) an affiliate of a person described in any of clauses (i) through (iv), or

"(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

"(B) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

"(C) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)) (substituting the entity for the investment adviser referred to in such section).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 provided on or after January 1, 2006.

SEC. 602. AMENDMENTS TO INTERNAL REVENUE CODE OF 1986 PROVIDING PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE.

(a) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions), as amended by this Act, is amended—

(1) in paragraph (17), by striking "or" at the end;

(2) in paragraph (18), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(19) any transaction described in subsection (f)(10)(A) in connection with the provision of investment advice described in subsection (e)(3)(B)(i), in any case in which—

"(A) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

"(B) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

"(C) the requirements of subsection (f)(10)(B) are met in connection with the provision of the advice.".

(b) ALLOWED TRANSACTIONS AND REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(10) PROVISIONS RELATING TO INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—

"(A) TRANSACTIONS ALLOWABLE IN CONNECTION WITH INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—The transactions referred to in subsection (d)(19), in connection with the provision of investment advice by a fiduciary adviser, are the following:

"(i) the provision of the advice to the plan, participant, or beneficiary;

"(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

"(B) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—The requirements of this subparagraph (referred to in subsection (d)(19)(C)) are met in connection with the provision of investment advice referred to in subsection (e)(3)(B), provided to a plan or a participant or beneficiary of a plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

"(i) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

"(I) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(II) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(III) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

"(IV) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

"(V) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

"(VI) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensa-

tion in connection with the security or other property,

"(ii) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(iii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(iv) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(v) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(C) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under subparagraph (B)(i) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(D) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in currently accurate form and in the manner required by subparagraph (C), or fails—

"(i) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

"(ii) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

"(iii) in the event of a material change to the information described in subclauses (I) through (IV) of subparagraph (B)(i), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

"(E) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in subparagraph (B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(19) have

been met. A transaction prohibited under subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(F) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—A plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this section solely by reason of the provision of investment advice referred to in subsection (e)(3)(B) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

"(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

"(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this paragraph,

"(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice, and

"(iv) the requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are met in connection with the provision of such advice.

"(G) DEFINITIONS.—For purposes of this paragraph and subsection (d)(19)—

"(i) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

"(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

"(II) a bank or similar financial institution referred to in subsection (d)(4) or a savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1))), but only if the advice is provided through a trust department of the bank or similar financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities,

"(III) an insurance company qualified to do business under the laws of a State,

"(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(V) an affiliate of a person described in any of subclauses (I) through (IV), or

"(VI) an employee, agent, or registered representative of a person described in any of subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

"(ii) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

"(iii) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)) (substituting the entity for the investment adviser referred to in such section).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to advice referred to in section 4975(c)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2006.

TITLE VII—BENEFIT ACCRUAL STANDARDS

SEC. 701. BENEFIT ACCRUAL STANDARDS.

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

(1) RULES RELATING TO REDUCTION IN RATE OF BENEFIT ACCRUAL.—Section 204(b)(1)(H) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)(1)(H)) is amended by adding at the end the following new clauses:

"(vii)(I) A plan shall not be treated as failing to meet the requirements of clause (i) if a participant's entire accrued benefit, as determined as of any date under the formula for determining benefits as set forth in the text of the plan documents, would be equal to or greater than that of any similarly situated, younger individual.

"(II) For purposes of this clause, an individual is similarly situated to a participant if such individual is identical to such participant in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

"(III) In determining the entire accrued benefit for purposes of this clause, the subsidized portion of any early retirement benefit (including any early retirement subsidy that is fully or partially included or reflected in an employee's opening balance or other transition benefits) shall be disregarded.

"(IV) In determining the entire accrued benefit for purposes of this clause, such benefit may be calculated as the present value of accrued benefits projected to normal retirement age, as an account

balance, or as the current value of the accumulated percentage of the employee's final average compensation.

"(viii) A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan provides allowable offsets against those benefits under the plan which are attributable to employer contributions, based on benefits which are provided under title II of the Social Security Act, under the Railroad Retirement Act of 1974, under another plan described in section 401(a) of the Internal Revenue Code of 1986 maintained by the same employer, under any retirement program for officers or employees of the Federal Government or of the government of any State or political subdivision thereof, or under such other arrangements as the Secretary of the Treasury may provide. For purposes of this clause, allowable offsets based on such benefits consist of offsets equal to all or part of the actual benefit payment amounts, reasonable projections or estimations of such benefit payment amounts, or actuarial equivalents of such actual benefit payment amounts, projections, or estimations (determined on the basis of reasonable actuarial assumptions).

"(ix) A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) of the Internal Revenue Code of 1986 are met.

"(x)(I) A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan provides for indexing of accrued benefits under the plan.

"(II) Except in the case of any benefit provided in the form of a variable annuity, subclause (I) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

"(III) For purposes of this clause, the term 'indexing' means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.".

(2) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT.—Section 203 of such Act (29 U.S.C. 1053) is amended by adding at the end the following new subsection:

"(f)(1) A defined benefit plan under which the accrued benefit payable under the plan upon distribution (or any portion thereof) is expressed as the balance of a hypothetical account maintained for the participant shall not be treated as failing to meet the requirements of subsection (a)(2), section 204(c) (but only in the case of a plan which does not provide for employee contributions), or section 205(g) solely because of the amount actually made available for such distribution under the terms of the plan, in any case in which the applicable interest rate that would be used under the terms of the plan to project the amount of the participant's account balance to normal retirement age is not greater than a market rate of return.

"(2) The Secretary of the Treasury may provide by regulation for rules governing the calculation of a market rate of return for purposes of paragraph (1) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) re-

sulting in effective rates of return meeting the requirements of paragraph (1).".

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

(1) RULES RELATING TO REDUCTION IN RATE OF BENEFIT ACCRUAL.—Subparagraph (H) of section 411(b)(1) of the Internal Revenue Code of 1986 is amended by adding at the end the following new clauses:

"(vi) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

"(I) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of clause (i) if a participant's entire accrued benefit, as determined as of any date under the formula for determining benefits as set forth in the text of the plan documents, would be equal to or greater than that of any similarly situated, younger individual.

"(II) SIMILARLY SITUATED.—For purposes of this clause, an individual is similarly situated to a participant if such individual is identical to such participant in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

"(III) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the entire accrued benefit for purposes of this clause, the subsidized portion of any early retirement benefit (including any early retirement subsidy that is fully or partially included or reflected in an employee's opening balance or other transition benefits) shall be disregarded.

"(IV) ENTIRE ACCRUED BENEFIT.—In determining the entire accrued benefit for purposes of this clause, such benefit may be calculated as the present value of accrued benefits projected to normal retirement age, as an account balance, or as the current value of the accumulated percentage of the employee's final average compensation.

"(vii) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan provides allowable offsets against those benefits under the plan which are attributable to employer contributions, based on benefits which are provided under title II of the Social Security Act, under the Railroad Retirement Act of 1974, under another plan described in section 401(a) maintained by the same employer, under any retirement program for officers or employees of the Federal Government or of the government of any State or political subdivision thereof, or under such other arrangements as the Secretary may provide. For purposes of this clause, allowable offsets based on such benefits consist of offsets equal to all or part of the actual benefit payment amounts, reasonable projections or estimations of such benefit payment amounts, or actuarial equivalents of such actual benefit payment

amounts, projections, or estimations (determined on the basis of reasonable actuarial assumptions).

"(viii) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) are met.

"(ix) INDEXING PERMITTED.—

"(I) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of this subparagraph solely because the plan provides for indexing of accrued benefits under the plan.

"(II) PROTECTION OF ECONOMIC VALUE.—Except in the case of any benefit provided in the form of a variable annuity, subclause (I) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

"(III) INDEXING.—For purposes of this clause, the term 'indexing' means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.".

(2) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT.—Subsection (a) of section 411 of such Code is amended by adding at the end the following new paragraph:

"(13) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT.—

"(A) IN GENERAL.—A defined benefit plan under which the accrued benefit payable under the plan upon distribution (or any portion thereof) is expressed as the balance of a hypothetical account maintained for the participant shall not be treated as failing to meet the requirements of subsection (a)(2), subsection (c) (but only in the case of a plan which does not provide for employee contributions), or section 417(e) solely because of the amount actually made available for such distribution under the terms of the plan, in any case in which the applicable interest rate that would be used under the terms of the plan to project the amount of the participant's account balance to normal retirement age is not greater than a market rate of return.

"(B) REGULATIONS.—The Secretary may provide by regulation for rules governing the calculation of a market rate of return for purposes of subparagraph (A) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subparagraph (A).".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to periods beginning on or after June 29, 2005.

TITLE VIII—DEDUCTION LIMITATIONS

SEC. 801. INCREASE IN DEDUCTION LIMITS.

(a) INCREASE IN DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.—Section 404 of the Internal Revenue Code of 1986 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan) is amended—

(1) in subsection (a)(1)(A), by inserting "in the case of a defined benefit plan other than a multiemployer plan, in an amount determined under subsection (o), and in the case of any other plan" after "section 501(a),", and

(2) by inserting at the end the following new subsection:

"(o) DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.—For purposes of subsection (a)(1)(A)—

"(1) IN GENERAL.—In the case of a defined benefit plan to which subsection (a)(1)(A) applies (other than a multiemployer plan), the amount determined under this subsection for any taxable year shall be equal to the amount determined under paragraph (2) with respect to each plan year ending with or within the taxable year.

"(2) DETERMINATION OF AMOUNT.—The amount determined under this paragraph for any plan year shall be equal to the excess (if any) of—

"(A) the greater of—

"(i) the sum of—

"(I) 150 percent of the funding target applicable to the plan for such plan year, determined under section 430, plus

"(II) the target normal cost applicable to the plan for such plan year, determined under section 430(b), or

"(ii) in the case of a plan that is not in an at-risk status (as determined under 430(i)), the sum of—

"(I) the funding target which would be applicable to the plan for such plan year if such plan were in an at-risk status, determined under section 430(d) (with regard to section 430(i)), plus

"(II) the target normal cost which would be applicable to the plan for such plan year if such plan were in an at-risk status, determined under section 430(d) (with regard to section 430(i)), over

"(B) the value of the plan assets (determined under section 430(g)).

"(3) SPECIAL RULE FOR TERMINATING PLANS.—In the case of a plan which, subject to section 4041 of the Employee Retirement Income Security Act of 1974, terminates during the plan year, the amount determined under paragraph (2) shall not be less than the amount required to make the plan sufficient for benefit liabilities (within the meaning of section 4041(d) of such Act).

"(4) DEFINITIONS.—Any term used in this subsection which is also used in section 430 shall have the same meaning given such term by section 430.".

(b) INCREASE IN DEDUCTION LIMIT FOR MULTIEMPLOYER PLANS.—Section 404(a)(1)(D) of such Code is amended to read as follows:

"(D) MINIMUM DEDUCTION FOR MULTIEMPLOYER PLANS.—In the case of a defined benefit plan which is a multiemployer plan, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the excess (if any) of—

"(i) 140 percent of the current liability of the plan determined under section 431(c)(6)(D), over

"(ii) the value of the plan's assets determined under section 431(c)(2).".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The last sentence of section 404(a)(1)(A) of such Code is amended by striking "section 412" each place it appears and inserting "section 431".

(2) Section 404(a)(1)(B) of such Code is amended—

(A) by striking "In the case of a plan" and inserting "In the case of a multiemployer plan",

(B) by striking "section 412(c)(7)" each place it appears and inserting "section 431(c)(6)",

(C) by striking "section 412(c)(7)(B)" and inserting "section 431(c)(6)(D)",

(D) by striking "section 412(c)(7)(A)" and inserting "section 431(c)(6)(A)", and

(E) by striking "section 412" and inserting "section 431".

(3) Section 404(a)(1) of such Code is amended by striking subparagraph (F).

(4) Section 404(a)(7) of such Code is amended—

(A) in subparagraph (A)(ii), by striking "for the plan year" and all that follows and inserting "which are multiemployer plans for the plan year which ends with or within such taxable year (or for any prior plan year) and the maximum amount of employer contributions allowable under subsection (o) with respect to any such defined benefit plans which are not multiemployer plans for the plan year.",

(B) by striking "section 412(l)" in the last sentence of subparagraph (A) and inserting "paragraph (1)(D)(ii)", and

(C) by striking subparagraph (D) and inserting:

"(D) INSURANCE CONTRACT PLANS.—For purposes of this paragraph, a plan described in section 412(e)(3) shall be treated as a defined benefit plan.".

(5) Section 404A(g)(3)(A) of such Code is amended by striking "paragraphs (3) and (7) of section 412(c)" and inserting "sections 430(h)(1) and 431(c)(3) and (6)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 2006.

SEC. 802. UPDATING DEDUCTION RULES FOR COMBINATION OF PLANS.

(a) IN GENERAL.—Subparagraph (C) of section 404(a)(7) of the Internal Revenue Code of 1986 (relating to limitation on deductions where combination of defined contribution plan and defined benefit plan) is amended by adding after clause (ii) the following new clause:

"(iii) LIMITATION.—In the case of employer contributions to 1 or more defined contribution plans, this paragraph shall only apply to the extent that such contributions exceed 6 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans. For purposes of this clause, amounts carried over from preceding taxable years under subparagraph (B) shall be treated as employer contributions to 1 or more defined contributions to the extent attributable to employer contributions to such plans in such preceding taxable years.".

(b) CONFORMING AMENDMENTS.—Subparagraph (A) of section 4972(c)(6) of such Code (relating to nondeductible contributions) is amended to read as follows:

"(A) so much of the contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the amount of contributions described in section 401(m)(4)(A), or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 2006.

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.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the provisions of, and amendments made by, subtitles (A) through (F) of title VI of such Act (relating to pension and individual retirement arrangement provisions).

SEC. 902. SAVER'S CREDIT.

(a) PERMANENCY.—Section 25B of the Internal Revenue Code of 1986 (relating to elective deferrals and IRA contributions by certain individuals) is amended by striking subsection (h).

(b) VOLUNTARY DEPOSIT INTO QUALIFIED ACCOUNT.—

(1) Section 25B of such Code, as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(h) VOLUNTARY DEPOSIT INTO QUALIFIED ACCOUNT.—

"(1) IN GENERAL.—So much of any overpayment under section 6401(b) as does not exceed the amount allowed as a tax credit under subsection (a) shall, at the election of the taxpayer, be paid on behalf of the individual taxpayer to an applicable retirement plan designated by the individual, except that in the case of a joint return, each spouse shall be entitled to designate an applicable retirement plan with respect to payments attributable to such spouse.

"(2) APPLICABLE RETIREMENT PLAN.—For purposes of this subsection, the term 'applicable retirement plan' means any el-

igible retirement plan (as defined in section 402(c)(8)(B)) that elects to accept deposits under this subsection.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 2006.

SEC. 903. INCREASING PARTICIPATION THROUGH AUTOMATIC CONTRIBUTION ARRANGEMENTS.

(a) IN GENERAL.—Section 401(k) of the Internal Revenue Code of 1986 (relating to cash or deferred arrangement) is amended by adding at the end the following new paragraph:

"(13) ALTERNATIVE METHOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS TO MEET NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A qualified automatic contribution arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii).

"(B) QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this paragraph, the term 'qualified automatic contribution arrangement' means any cash or deferred arrangement which meets the requirements of subparagraphs (C) through (F).

"(C) AUTOMATIC DEFERRAL.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to a qualified percentage of compensation.

"(ii) ELECTION OUT.—The election treated as having been made under clause (i) shall cease to apply with respect to any employee if such employee makes an affirmative election—

"(I) to not have such contributions made, or

"(II) to make elective contributions at a level specified in such affirmative election.

"(iii) QUALIFIED PERCENTAGE.—For purposes of this subparagraph, the term 'qualified percentage' means, with respect to any employee, any percentage determined under the arrangement if such percentage is applied uniformly, does not exceed 10 percent, and is at least—

"(I) 3 percent during the period ending on the last day of the first plan year which begins after the date on which the first elective contribution described in clause (i) is made with respect to such employee,

"(II) 4 percent during the first plan year following the plan year described in subclause (I),

"(III) 5 percent during the second plan year following the plan year described in subclause (I), and

"(IV) 6 percent during any subsequent plan year.

"(iv) AUTOMATIC DEFERRAL FOR CURRENT EMPLOYEES NOT REQUIRED.—Clause (i) shall be applied without taking into account any employee who was eligible to

participate in the arrangement (or a predecessor arrangement) immediately before the date on which such arrangement becomes a qualified automatic contribution arrangement (determined after application of this clause).

"(D) PARTICIPATION.—

"(i) IN GENERAL.—An arrangement meets the requirements of this subparagraph for any year if, during the plan year or the preceding plan year, elective contributions are made on behalf of at least 70 percent of the employees eligible to participate in the arrangement other than—

"(I) highly compensated employees, and

"(II) at the election of the plan administrator, employees described in subparagraph (C)(iv).

"(ii) FIRST PLAN YEAR.—An arrangement (other than a successor arrangement) shall be treated as meeting the requirements of this subparagraph with respect to the first plan year with respect to which such arrangement is a qualified automatic contribution arrangement (determined without regard to this subparagraph).

"(E) MATCHING OR NONELECTIVE CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer—

"(I) makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 6 percent of compensation, or

"(II) is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 2 percent of the employee's compensation.

"(ii) APPLICATION OF RULES FOR MATCHING CONTRIBUTIONS.—The rules of clauses (ii) and (iii) of paragraph (12)(B) shall apply for purposes of clause (i)(I).

"(iii) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of clause (i) unless, with respect to employer contributions (including matching contributions) taken into account in determining whether the requirements of clause (i) are met—

"(I) any employee who has completed at least 2 years of service (within the meaning of section 411(a)) has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from such employer contributions, and

"(II) the requirements of subparagraph (B) of paragraph (2) are met with respect to all such employer contributions.

"(iv) APPLICATION OF CERTAIN OTHER RULES.—The rules of subparagraphs (E)(ii) and (F) of paragraph (12) shall apply for purposes of subclauses (I) and (II) of clause (i).

"(F) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, within a reasonable period before each plan year, each employee eligible to participate in the arrangement for such year receives written notice of the employee's rights and obligations under the arrangement which—

"(I) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(II) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

"(ii) TIMING AND CONTENT REQUIREMENTS.—A notice shall not be treated as meeting the requirements of clause (i) with respect to an employee unless—

"(I) the notice explains the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

"(II) in the case of an arrangement under which the employee may elect among 2 or more investment options, the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee, and

"(III) the employee has a reasonable period of time after receipt of the notice described in subclauses (I) and (II) and before the first elective contribution is made to make either such election.".

(b) MATCHING CONTRIBUTIONS.—Section 401(m) of such Code (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

"(12) ALTERNATIVE METHOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) is a qualified automatic contribution arrangement (as defined in subsection (k)(13)), and

"(B) meets the requirements of paragraph (11)(B).".

(c) EXCLUSION FROM DEFINITION OF TOP-HEAVY PLANS.—

(1) ELECTIVE CONTRIBUTION RULE.—Clause (i) of section 416(g)(4)(H) of such Code is amended by inserting "or 401(k)(13)" after "section 401(k)(12)".

(2) MATCHING CONTRIBUTION RULE.—Clause (ii) of section 416(g)(4)(H) of such Code is amended by inserting "or 401(m)(12)" after "section 401(m)(11)".

(d) CORRECTIVE DISTRIBUTIONS.—

(1) IN GENERAL.—Section 414 of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new subsection:

"(w) AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

"(1) IN GENERAL.—No tax shall be imposed under section 72(t) on a distribution from an applicable employer plan to the employee with respect to whom such contribution relates if such distribution does not exceed the erroneous automatic contribution amount and is made not later than the 1st April 15 following the close of the taxable year in which such contribution was made.

"(2) ERRONEOUS AUTOMATIC CONTRIBUTION AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'erroneous automatic contribution amount' means the lesser of—

"(i) the amount of automatic contributions made during the applicable period which the employee elects in a notice to the plan administrator to treat as an erroneous automatic contribution amount for purposes of this subsection, or

"(ii) $500.

"(B) AUTOMATIC CONTRIBUTION.—The term 'automatic contribution' means contributions which, under the terms of the plan—

"(i) the employee can elect to be made as contributions under the plan on behalf of the employee, or to the employee directly in cash, and

"(ii) which are made on behalf of the employee under the plan pursuant to a plan provision treating the employee as having elected to have the employer make such contributions on behalf of the employee until the employee affirmatively elects not to have such contribution made or affirmatively elects to make contributions as a specified level.

"(3) APPLICABLE EMPLOYER PLAN.—For purposes of this subsection, the term 'applicable employer plan'means—

"(A) an employees' trust described in section 401(a) which is exempt from tax under section 501(a),

"(B) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b), and

"(C) an eligible deferred compensation plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A).

"(4) APPLICABLE PERIOD.—For purposes of this subsection, the term 'applicable period' means, with respect to any employee, the three month period that begins on the first date that an automatic contribution described in paragraph (2)(B) is made with respect to such employee.

"(5) SPECIAL RULES.—A distribution described in paragraph (1) (subject to the limitation of paragraph (2))—

"(A) shall not be treated as a distribution for purposes of sections 401(k)(2)(B)(i), 403(b)(7), 403(b)(11), and 457(d)(1)(A), and

"(B) shall not be taken into account for purposes of section 401(k)(3).".

(2) VESTING CONFORMING AMENDMENTS.—

(A) Section 411(a)(3)(G) of such Code is amended by inserting "an erroneous automatic contribution under section 414(w)," after "402(g)(2)(A),".

(B) The heading of section 411(a)(3)(G) of such Code is amended by inserting "OR ERRONEOUS AUTOMATIC CONTRIBUTION" before the period.

(C) Section 401(k)(8)(E) of such Code is amended by inserting "an erroneous automatic contribution under section 414(w)," after "402(g)(2)(A),".

(D) The heading of section 401(k)(8)(E) of such Code is amended by inserting "OR ERRONEOUS AUTOMATIC CONTRIBUTION" before the period.

(E) Section 203(a)(3)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(F)) is amended by inserting "an erroneous automatic contribution under section 414(w) of such Code," after "402(g)(2)(A) of such Code,".

(e) CONTROL OVER PLAN ASSETS DEEMED TO HAVE BEEN EXERCISED WITH RESPECT TO DEFAULT INVESTMENT ARRANGEMENTS.—Section 404(c) of the Employee Retirement Income Security Act of 1974, as amended by section 308, is further amended by adding at the end the following new paragraph:

"(5)(A) For purposes of paragraph (1), a participant in an individual account plan shall be treated as exercising control over the assets in the account with respect to the amount of contributions made under a default investment arrangement.

"(B)(i) For purposes of this paragraph, the term 'default investment arrangement' means an arrangement—

"(I) which meets the requirements of subparagraph (C),

"(II) under which the participant is treated as having elected to have the plan sponsor exercise control over the assets in the participant's account until the participant specifically elects to exercise such control, and

"(III) under which assets described in subclause (II) are invested in accordance with regulations prescribed by the Secretary.

"(ii) The regulations prescribed pursuant to clause (i)(III) shall provide guidance on the appropriateness of certain investments for designation as default investments under the arrangement, which shall include guidance regarding—

"(I) appropriate mixes of default investments and asset classes which the Secretary considers consistent with long-term capital appreciation, and

"(II) the designation of other default investments.

"(C)(i) For purposes of subparagraph (B)(i)(I), an arrangement meets the requirements of this subparagraph for any plan year if, within a reasonable period before such plan year, the plan administrator gives to each participant to whom the arrangement applies

for such plan year notice of the participant's rights and obligations under the arrangement which—

"(I) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

"(II) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

"(ii) A notice shall not be treated as meeting the requirements of clause (i) with respect to a participant unless—

"(I) the notice includes an explanation of the participant's right under the arrangement to specifically elect to exercise control over the assets in the participant's account,

"(II) the employee has a reasonable period of time, after receipt of the notice described in subclause (I) and before the assets are first invested, to specifically make such an election, and

"(III) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election specifically made by the employee.".

(f) PREEMPTION OF CONFLICTING STATE REGULATION.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of this section, this title shall supersede any law of a State which would directly or indirectly prohibit or restrict the inclusion in any plan of an automatic contribution arrangement. The Secretary may prescribe regulations which would establish minimum standards that such an arrangement would be required to satisfy in order for this subsection to apply in the case of such arrangement.

"(2)(A) For purposes of this subsection, the term 'automatic contribution arrangement' means an arrangement—

"(i) which meets the requirements of paragraph (3),

"(ii) under which a participant may elect to have the plan sponsor make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

"(iii) under which a participant is treated as having elected to have the plan sponsor make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage), and

"(iv) under which such contributions are invested in accordance with regulations prescribed by the Secretary.

"(B) The regulations prescribed pursuant to subparagraph (A)(iv) shall provide guidance on the appropriateness of certain investments for designation as default investments under the arrangement, which shall include guidance regarding appropriate mixes of default investments and asset classes which the Secretary considers consistent with long-term capital appreciation

"(3)(A) For purposes of paragraph (2)(A)(i), an arrangement meets the requirements of this paragraph for any plan year if, within a reasonable period before such plan year, the plan administrator gives to each participant to whom the arrangement applies for such plan year notice of the participant's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

"(B) A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to a participant unless—

"(i) the notice includes an explanation of the participant's right under the arrangement not to have elective contributions made on the participant's behalf (or to elect to have such contributions made at a different percentage),

"(ii) the participant has a reasonable period of time, after receipt of the notice described in clause (i) and before the first elective contribution is made, to make such election, and

"(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the participant.".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 904. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR INDIVIDUALS CALLED TO ACTIVE DUTY FOR AT LEAST 179 DAYS.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FROM RETIREMENT PLANS TO INDIVIDUALS CALLED TO ACTIVE DUTY.—

"(i) IN GENERAL.—Any qualified reservist distribution.

"(ii) AMOUNT DISTRIBUTED MAY BE REPAID.—Any individual who receives a qualified reservist distribution may, at any time during the 2-year period beginning on the day after the end of the active duty period, make one or more contributions to an individual retirement plan of such individual in an aggregate amount not to exceed the amount of such distribution. The dollar limitations otherwise applicable to contributions to individual retirement plans shall not apply to any contribution made pursuant to the preceding sentence. No deduction shall be allowed for any contribution pursuant to this clause.

"(iii) QUALIFIED RESERVIST DISTRIBUTION.—For purposes of this subparagraph, the term 'qualified reservist distribution' means any distribution to an individual if—

"(I) such distribution is from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii),

"(II) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)), ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and

"(III) such distribution is made during the period beginning on the date of such order or call and ending at the close of the active duty period.

"(iv) APPLICATION OF SUBPARAGRAPH.—This subparagraph applies to individuals ordered or called to active duty after September 11, 2001, and before September 12, 2007. In no event shall the 2-year period referred to in clause (ii) end before the date which is 2-years after the date of the enactment of this subparagraph.".

(b) CONFORMING AMENDMENTS.—

(1) Section 401(k)(2)(B)(i) of such Code is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) in the case of a qualified reservist distribution (as defined in section 72(t)(2)(G)(iii)), the date on which a period referred to in subclause (III) of such section begins, and".

(2) Section 403(b)(7)(A)(ii) of such Code is amended by inserting "(unless such amount is a distribution to which section 72(t)(2)(G) applies)" after "distributee".

(3) Section 403(b)(11) of such Code is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for distributions to which section 72(t)(2)(G) applies.".

(c) EFFECTIVE DATE; WAIVER OF LIMITATIONS.—

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 905. WAIVER OF 10 PERCENT EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR PUBLIC SAFETY EMPLOYEES.

(a) IN GENERAL.—Section 72(t)(2) of the Internal Revenue Code of 1986 (relating to subsection not to apply to certain distributions), as amended by section 904, is amended by adding at the end the following new subsection:

"(H) DROP DISTRIBUTIONS TO QUALIFIED PUBLIC SAFETY EMPLOYEES IN GOVERNMENTAL PLANS.—

"(i) IN GENERAL.—Distributions to an individual who is a qualified public safety employee from a governmental plan within the meaning of section 414(d) to the extent such distributions are attributable to a DROP benefit.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) DROP BENEFIT.—The term 'DROP benefit' means a feature of a governmental plan which is

a defined benefit plan and under which an employee elects to receive credits to an account (including a notional account) in the plan which are not in excess of the plan benefits (payable in the form of an annuity) that would have been provided if the employee had retired under the plan at a specified earlier retirement date and which are in lieu of increases in the employee's accrued pension benefit based on years of service after the effective date of the DROP election.

"(II) QUALIFIED PUBLIC SAFETY EMPLOYEE.—The term 'qualified public safety employee' means any employee of any police department or fire department organized and operated by a State or political subdivision of a State if the employee provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision and if the employee was eligible to retire on or before the date of such election and receive immediate retirement benefits.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 906. COMBAT ZONE COMPENSATION TAKEN INTO ACCOUNT FOR PURPOSES OF DETERMINING LIMITATION AND DEDUCTIBILITY OF CONTRIBUTIONS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—Subsection (f) of section 219 of the Internal Revenue Code of 1986 is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) SPECIAL RULE FOR COMPENSATION EARNED BY MEMBERS OF THE ARMED FORCES FOR SERVICE IN A COMBAT ZONE.—For purposes of subsections (b)(1)(B) and (c), the amount of compensation includible in an individual's gross income shall be determined without regard to section 112.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 907. DIRECT PAYMENT OF TAX REFUNDS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—The Secretary of the Treasury (or the Secretary's delegate) shall make available a form (or modify existing forms) for use by individuals to direct that a portion of any refund of overpayment of tax imposed by chapter 1 of the Internal Revenue Code of 1986 be paid directly to an individual retirement plan (as defined in section 7701(a)(37) of such Code) of such individual.

(b) EFFECTIVE DATE.—The form required by subsection (a) shall be made available for taxable years beginning after December 31, 2006.

SEC. 908. IRA ELIGIBILITY FOR THE DISABLED.

(a) IN GENERAL.—Subsection (f) of section 219 of the Internal Revenue Code of 1986 (relating to other definitions and special rules), as amended by this Act, is further amended by redesig-

nating paragraph (8) as paragraph (9) and by inserting after paragraph (7) the following new paragraph:

"(8) SPECIAL RULE FOR CERTAIN DISABLED INDIVIDUALS.—In the case of an individual—

"(A) who is disabled (within the meaning of section 72(m)(7)), and

"(B) who has not attained the applicable age (as defined in section 401(a)(9)(H)) before the close of the taxable year, subparagraph (B) of subsection (b)(1) shall not apply.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 909. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.

(a) IN GENERAL.—

(1) QUALIFIED PLANS.—Section 402(c) of the Internal Revenue Code of 1986 (relating to rollovers from exempt trusts) is amended by adding at the end the following new paragraph:

"(11) DISTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT PLAN OF NONSPOUSE BENEFICIARY.—

"(A) IN GENERAL.—If, with respect to any portion of a distribution from an eligible retirement plan of a deceased employee, a direct trustee-to-trustee transfer is made to an individual retirement plan described in clause (i) or (ii) of paragraph (8)(B) established for the purposes of receiving the distribution on behalf of an individual who is a designated beneficiary (as defined by section 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee—

"(i) the transfer shall be treated as an eligible rollover distribution for purposes of this subsection,

"(ii) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)) for purposes of this title, and

"(iii) section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such plan.

"(B) CERTAIN TRUSTS TREATED AS BENEFICIARIES.—For purposes of this paragraph, to the extent provided in rules prescribed by the Secretary, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust designated beneficiary.".

(2) SECTION 403(a) PLANS.—Subparagraph (B) of section 403(a)(4) of such Code (relating to rollover amounts) is amended by inserting "and (11)" after "(7)".

(3) SECTION 403(b) PLANS.—Subparagraph (B) of section 403(b)(8) of such Code (relating to rollover amounts) is amended by striking "and (9)" and inserting ", (9), and (11)".

(4) SECTION 457 PLANS.—Subparagraph (B) of section 457(e)(16) of such Code (relating to rollover amounts) is amended by striking "and (9)" and inserting ", (9), and (11)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2005.

TITLE X—PROVISIONS TO ENHANCE HEALTH CARE AFFORDABILITY

SEC. 1001. TREATMENT OF ANNUITY AND LIFE INSURANCE CONTRACTS WITH A LONG-TERM CARE INSURANCE FEATURE.

(a) EXCLUSION FROM GROSS INCOME.—Subsection (e) of section 72 of the Internal Revenue Code of 1986 (relating to amounts not received as annuities) is amended by redesignating paragraph (11) as paragraph (12) and by inserting after paragraph (10) the following new paragraph:

"(11) SPECIAL RULES FOR CERTAIN COMBINATION CONTRACTS PROVIDING LONG-TERM CARE INSURANCE.—Notwithstanding paragraphs (2), (5)(C), and (10), in the case of any charge against the cash value of an annuity contract or the cash surrender value of a life insurance contract made as payment for coverage under a qualified long-term care insurance contract which is part of or a rider on such annuity or life insurance contract—

"(A) the investment in the contract shall be reduced (but not below zero) by such charge, and

"(B) such charge shall not be includible in gross income.".

(b) TAX-FREE EXCHANGES AMONG CERTAIN INSURANCE POLICIES.—

(1) ANNUITY CONTRACTS CAN INCLUDE QUALIFIED LONG-TERM CARE INSURANCE RIDERS.—Paragraph (2) of section 1035(b) of such Code is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a contract shall not fail to be treated as an annuity contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.".

(2) LIFE INSURANCE CONTRACTS CAN INCLUDE QUALIFIED LONG-TERM CARE INSURANCE RIDERS.—Paragraph (3) of section 1035(b) of such Code is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a contract shall not fail to be treated as a life insurance contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.".

(3) EXPANSION OF TAX-FREE EXCHANGES OF LIFE INSURANCE, ENDOWMENT, AND ANNUITY CONTRACTS FOR LONG-TERM CARE CONTRACTS.—Subsection (a) of section 1035 of such Code (relating to certain exchanges of insurance policies) is amended—

(A) in paragraph (1) by striking "contract;" and inserting "contract or for a qualified long-term care insurance contract;",

(B) in paragraph (2) by striking "contract;" and inserting "contract, or (C) for a qualified long-term care insurance contract;", and

(C) in paragraph (3) by striking "contract." and inserting "contract or for a qualified long-term care insurance contract.".

(4) TAX-FREE EXCHANGES OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—Subsection (a) of section 1035 of such Code (relating to certain exchanges of insurance policies) is

amended by striking "or" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; or", and by inserting after paragraph (3) the following new paragraph:

"(4) a qualified long-term care insurance contract for a qualified long-term care insurance contract.".

(c) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE OR ANNUITY CONTRACT.—Subsection (e) of section 7702B of such Code (relating to treatment of qualified long-term care insurance) is amended to read as follows:

"(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE OR ANNUITY CONTRACT.—

"(1) COVERAGE TREATED AS CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract or an annuity contract, this title shall apply as if the portion of the contract providing such coverage is a separate contract.

"(2) DENIAL OF DEDUCTION UNDER SECTION 213.—No deduction shall be allowed under section 213(a) for any payment made for coverage under a qualified long-term care insurance contract if such payment is made as a charge against the cash value of an annuity contract or the cash surrender value of a life insurance contract.

"(3) APPLICATION OF SECTION 7702.—Section 7702(c)(2) (relating to the guideline premium limitation) shall be applied by increasing the guideline premium limitation with respect to the life insurance contract, as of any date—

"(A) by the sum of any charges (but not premium payments) against the life insurance contract's cash surrender value (within the meaning of section 7702(f)(2)(A)) for coverage under the qualified long-term care insurance contract made to that date under the life insurance contract, less

"(B) any such charges the imposition of which reduces the premiums paid for the life insurance contract (within the meaning of section 7702(f)(1)).

"(4) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract or annuity contract that are in addition to the terms and benefits under the contract without regard to long-term care insurance coverage.

"(5) ANNUITY CONTRACTS TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of this subsection, none of the following shall be treated as an annuity contract:

"(A) A trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) A contract—

"(i) purchased by a trust described in subparagraph (A),

"(ii) purchased as part of a plan described in section 403(a),

"(iii) described in section 403(b),

"(iv) provided for employees of a life insurance company under a plan described in section 818(a)(3), or

"(v) from an individual retirement account or an individual retirement annuity.

"(C) A contract purchased by an employer for the benefit of the employee (or the employee's spouse).

Any dividend described in section 404(k) which is received by a participant or beneficiary shall, for purposes of this paragraph, be treated as paid under a separate contract to which subparagraph (B)(i) applies.".

(d) INFORMATION REPORTING.—

(1) Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

"SEC. 6050U. CHARGES OR PAYMENTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS UNDER COMBINED ARRANGEMENTS.

"(a) REQUIREMENT OF REPORTING.—Any person who makes a charge against the cash value of an annuity contract, or the cash surrender value of a life insurance contract, which is excludible from gross income under section 72(e)(11) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the amount of the aggregate of such charges against each such contract for the calendar year,

"(2) the amount of the reduction in the investment in each such contract by reason of such charges, and

"(3) the name, address, and TIN of the individual who is the holder of each such contract.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person making the payments, and

"(2) the information required to be shown on the return with respect to such individual.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.".

(2) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of such chapter 61 of such Code is amended by adding at the end the following new item:

"Sec. 6050U. Charges or payments for qualified long-term care insurance contracts under combined arrangements.".

(e) TREATMENT OF POLICY ACQUISITION EXPENSES.—Subsection (e) of section 848 of such Code (relating to classification of contracts) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF CERTAIN QUALIFIED LONG-TERM CARE INSURANCE CONTRACT ARRANGEMENTS.—An annuity or life insurance contract which includes a qualified long-term care insur-

ance contract as a part of or a rider on such annuity or life insurance contract shall be treated as a specified insurance contract not described in subparagraph (A) or (B) of subsection (c)(1).".

(f) TREATMENT AS QUALIFIED ADDITIONAL BENEFIT.—Subparagraph (A) of section 7702(f)(5) of such Code (relating to qualified additional benefits) is amended by striking "or" at the end of clause (iv), by redesignating clause (v) as clause (vi), and by inserting after clause (iv) the following new clause:

"(v) qualified long-term care insurance contract which is a part of or a rider on the contract, or".

(g) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to contracts issued before, on, or after December 31, 2006, but only with respect to periods beginning after such date.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply with respect to exchanges occurring after December 31, 2006.

SEC. 1002. DISPOSITION OF UNUSED HEALTH AND DEPENDENT CARE BENEFITS IN CAFETERIA PLANS AND FLEXIBLE SPENDING ARRANGEMENTS.

(a) IN GENERAL.—Section 125 of the Internal Revenue Code of 1986 (relating to cafeteria plans) is amended by redesignating subsections (h) and (i) as subsections (i) and (j), respectively, and by inserting after subsection (g) the following:

"(h) CONTRIBUTIONS OF CERTAIN UNUSED HEALTH AND DEPENDENT CARE BENEFITS.—

"(1) IN GENERAL.—For purposes of this title, a plan or other arrangement shall not fail to be treated as a cafeteria plan solely because under such plan qualified benefits include—

"(A) a health flexible spending arrangement under which not more than $500 of unused benefits under such arrangement may be—

"(i) carried forward to the succeeding plan year of such health flexible spending arrangement, or

"(ii) to the extent permitted by section 106(d), contributed by the employer to a health savings account (as defined in section 223(d)) maintained for the benefit of the employee, and

"(B) a dependent care flexible spending arrangement under which not more than $500 of unused benefits under such arrangement may be carried forward to the succeeding plan year of such dependent care flexible spending arrangement.

"(2) HEALTH FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the term 'health flexible spending arrangement' means a flexible spending arrangement (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for medical care (as defined in section 213(d)(1), without regard to subparagraphs (C) and (D) thereof).

"(3) DEPENDENT CARE FLEXIBLE SPENDING ARRANGEMENT.—For purposes of this subsection, the term 'dependent care flexible spending arrangement' means a flexible spending arrange-

ment (as defined in section 106(c)) that is a qualified benefit and only permits reimbursement for expenses for dependent care assistance which meets the requirements of section 129(d).

"(4) UNUSED BENEFITS.—For purposes of this subsection, with respect to an employee, the term 'unused benefits' means the excess of—

"(A) the maximum amount of reimbursement allowable to the employee for a plan year under a health flexible spending arrangement or the dependent care flexible spending arrangement, as the case may be, over

"(B) the actual amount of reimbursement for such year under such arrangement.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 1003. DISTRIBUTIONS FROM GOVERNMENTAL RETIREMENT PLANS FOR HEALTH AND LONG-TERM CARE INSURANCE FOR PUBLIC SAFETY OFFICERS.

(a) IN GENERAL.—Section 402 of the Internal Revenue Code of 1986 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(l) DISTRIBUTIONS FROM GOVERNMENTAL PLANS FOR HEALTH AND LONG-TERM CARE INSURANCE.—

"(1) IN GENERAL.—In the case of an employee who is an eligible retired public safety officer who makes the election described in paragraph (6) with respect to any taxable year of such employee, gross income of such employee for such taxable year does not include any distribution from an eligible retirement plan to the extent that the aggregate amount of such distributions does not exceed the amount paid by such employee for qualified health insurance premiums of the employee, his spouse, or dependents (as defined in section 152) for such taxable year.

"(2) LIMITATION.—The amount which may be excluded from gross income for the taxable year by reason of paragraph (1) shall not exceed $5,000.

"(3) DISTRIBUTIONS MUST OTHERWISE BE INCLUDIBLE.—

"(A) IN GENERAL.—An amount shall be treated as a distribution for purposes of paragraph (1) only to the extent that such amount would be includible in gross income without regard to paragraph (1).

"(B) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which an amount is treated as a distribution for purposes of subparagraph (A), the aggregate amounts distributed from an eligible retirement plan in a taxable year (up to the amount excluded under paragraph (1)) shall be treated as includible in gross income (without regard to subparagraph (A)) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all eligible retirement plans were treated as 1 contract for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) ELIGIBLE RETIREMENT PLAN.—For purposes of paragraph (1), the term 'eligible retirement plan' means a governmental plan (within the meaning of section 414(d)) which is described in clause (iii), (iv), (v), or (vi) of subsection (c)(8)(B).

"(B) ELIGIBLE RETIRED PUBLIC SAFETY OFFICER.—The term 'eligible retired public safety officer' means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the employer who maintains the eligible retirement plan from which distributions subject to paragraph (1) are made.

"(C) PUBLIC SAFETY OFFICER.—The term 'public safety officer' shall have the same meaning given such term by section 1204(8)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(8)(A)).

"(D) QUALIFIED HEALTH INSURANCE PREMIUMS.—The term 'qualified health insurance premiums' means premiums for coverage for the eligible retired public safety officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in section 7702B(b)).

"(5) SPECIAL RULES.—For purposes of this subsection—

"(A) DIRECT PAYMENT TO INSURER REQUIRED.—Paragraph (1) shall only apply to a distribution if payment of the premiums is made directly to the provider of the accident or health insurance plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan.

"(B) RELATED PLANS TREATED AS 1.—All eligible retirement plans of an employer shall be treated as a single plan.

"(6) ELECTION DESCRIBED.—

"(A) IN GENERAL.—For purposes of paragraph (1), an election is described in this paragraph if the election is made by an employee after separation from service with respect to amounts not distributed from an eligible retirement plan to have amounts from such plan distributed in order to pay for qualified health insurance premiums.

"(B) SPECIAL RULE.—A plan shall not be treated as violating the requirements of section 401, or as engaging in a prohibited transaction for purposes of section 503(b), merely because it provides for an election with respect to amounts that are otherwise distributable under the plan or merely because of a distribution made pursuant to an election described in subparagraph (A).

"(7) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 213.

"(8) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 162(l).".

(b) CONFORMING AMENDMENTS.—

(1) Section 403(a) of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.".

(2) Section 403(b) of such Code (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.".

(3) Section 457(a) of such Code (relating to year of inclusion in gross income) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—In the case of a plan of an eligible employer described in subsection (e)(1)(A), to the extent provided in section 402(l), paragraph (1) shall not apply to amounts otherwise includible in gross income under this subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 2005.

TITLE XI—GENERAL PROVISIONS

SEC. 1101. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any pension plan or contract amendment—

(1) such pension plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) except as provided by the Secretary of the Treasury, such pension plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any pension plan or annuity contract which is made—

(A) pursuant to any amendment made by this Act or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this Act, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2008.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting "2010" for "2008".

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

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