

**[DISCUSSION DRAFT]**

AUGUST 25, 2009

111TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

To **[to be supplied]**.

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IN THE HOUSE OF REPRESENTATIVES

Mr. POMEROY introduced the following bill; which was referred to the  
Committee on \_\_\_\_\_

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**A BILL**

To **[to be supplied]**.

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

3 **SEC. 1. SHORT TITLE, ETC.**

4 (a) SHORT TITLE.—This Act may be cited as the  
5 “\_\_\_\_\_ Act of 2009”.

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

Sec. 1. Short title, etc.

TITLE I—SINGLE EMPLOYER PLANS

Sec. 101. Extended period for single-employer defined benefit plans to amortize  
certain shortfall amortization bases.



1 amounts described in clause (ii) or clause  
2 (iii), as applicable, determined pursuant to  
3 clause (iv).

4 “(ii) 7-YEAR AMORTIZATION.—

5 “(I) IN GENERAL.—The shortfall  
6 amortization installments described in  
7 this clause are—

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

17 “(bb) in the case of the first  
18 2 plan years in such 9-plan-year  
19 period, interest on such shortfall  
20 amortization base (determined  
21 using the effective rate of inter-  
22 est for the plan for the plan  
23 year).

24 “(II) SHORTFALL AMORTIZATION  
25 INSTALLMENT.—The shortfall amorti-

1 zation installment for any plan year in  
2 the 9-plan-year period under this  
3 clause with respect to such shortfall  
4 amortization base is the annual in-  
5 stallment determined under this  
6 clause for that year for that base.

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

1 such increase into account, pursuant  
 2 to rules issued by the Secretary of the  
 3 Treasury, but only if the shortfall am-  
 4 ortization installments with respect to  
 5 the shortfall amortization base for  
 6 such applicable plan year are deter-  
 7 mined under clause (i). For purposes  
 8 of this clause, the applicable percent-  
 9 age shall be determined as follows:

<b>“For the:</b>	<b>The applicable percentage is:</b>
First applicable plan year .....	105
Second applicable plan year .....	110
Plan year following the second applicable plan year .....	115

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

21 “(iv) ELECTION.—The plan sponsor  
 22 may, with respect to a plan, elect whether  
 23 to determine shortfall amortization install-

1           ments under clause (ii), clause (iii), or  
2           without regard to this subparagraph. Such  
3           election shall be made at such times, and  
4           in such form and manner, as shall be pre-  
5           scribed by the Secretary of the Treasury,  
6           and may be revoked only with the consent  
7           of the Secretary of the Treasury. In the  
8           absence of a timely election to determine  
9           shortfall amortization installments under  
10          such clause (ii) or clause (iii), such install-  
11          ments shall be determined without regard  
12          to this subparagraph.

13           “(E) FAILURE TO MAINTAIN ACTIVE  
14          PLAN.—

15           “(i) 2 AND 7 RULE.—If the shortfall  
16          amortization installments with respect to a  
17          shortfall amortization base for an applica-  
18          ble plan year are determined under sub-  
19          paragraph (D)(ii), the plan must remain  
20          an active plan for the 3 subsequent plan  
21          years. If such plan fails to be an active  
22          plan in any such plan year, the minimum  
23          required contribution for the first plan  
24          year with respect to which a failure occurs  
25          shall be increased by all amounts by which

1 the minimum required contribution for the  
2 current plan year or any prior plan year  
3 has been reduced by the application of sub-  
4 paragraph (D), plus interest on such  
5 amounts at the effective rate of interest for  
6 the plan for the plan year for which the in-  
7 crease applies. However, any such increase  
8 in the minimum required contribution shall  
9 not require a contribution to the extent  
10 that the contribution would cause the value  
11 of plan assets for the plan year to exceed  
12 the funding target of the plan for the plan  
13 year (determined without regard to sub-  
14 section (i)(1)). If the minimum required  
15 contribution is increased by reason of this  
16 clause, the shortfall amortization install-  
17 ments with respect to the shortfall amorti-  
18 zation base for any applicable plan year  
19 shall be reduced to take such increase into  
20 account, pursuant to rules issued by the  
21 Secretary of the Treasury, but only if the  
22 shortfall amortization installments with re-  
23 spect to the shortfall amortization base for  
24 such applicable plan year are determined  
25 under subparagraph (D)(i).

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

14                       “(I) 7, or

15                       “(II) the excess of 15 over the  
16                       number of shortfall amortization in-  
17                       stallments paid with respect to that  
18                       base.

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

1                   “(I) clause (i) shall be applied by  
2                   substituting ‘4 subsequent plan years’  
3                   for ‘3 subsequent plan years’, and

4                   “(II) clause (ii) shall be applied  
5                   by substituting ‘6’ for ‘7’ and by sub-  
6                   stituting ‘14’ for ‘15’.

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

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

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

18                  “(ii) in the case of a plan with a plan  
19                  year beginning after October 31 and before  
20                  January 1, any plan year beginning in  
21                  2008 or 2009, and

22                  “(iii) in the case of a plan for which  
23                  the valuation date is not the first day of  
24                  the plan year, any plan year beginning in  
25                  2008 or 2009.

1 “(G) ACTIVE PLAN.—

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

17 “(ii) DEFINED BENEFIT PLAN.—

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

1                   cruals, be eligible for an accrual under  
2                   the plan.

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

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

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

21                   “(BB) the rate of ben-  
22                   efit accrual that would have  
23                   applied to the employee  
24                   under the benefit formula in  
25                   effect as of the last date

1 prior to the effective date of  
2 any plan amendment adopt-  
3 ed prior to July 1, 2009  
4 that ceased providing benefit  
5 accruals based on additional  
6 service credit with respect to  
7 such employee, or  
8 “(bb) the target normal cost  
9 (without regard to plan adminis-  
10 trative expenses) for such plan  
11 year with respect to such employ-  
12 ees is at least 3 percent of the  
13 aggregate compensation (as de-  
14 fined in section 415(c)(3) of the  
15 Internal Revenue Code of 1986)  
16 of such employees for such plan  
17 year. Solely for purposes of this  
18 paragraph, target normal cost  
19 shall be determined by using 5  
20 percent in lieu of the interest  
21 rate applicable under subsection  
22 (h) and by using the mortality  
23 tables described in subsection  
24 (h)(3)(A).

1                   “(iii)     DEFINED     CONTRIBUTION  
2                   PLAN.—

3                   “(I)    IN    GENERAL.—A    defined  
4                   benefit plan is described in this clause  
5                   if—

6                   “(aa)   the    defined   benefit  
7                   plan satisfies clause (ii) except  
8                   with respect to employees whose  
9                   failure to accrue a minimum ben-  
10                  efit is attributable to a plan  
11                  amendment adopted prior to July  
12                  1, 2009, and

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

23                  “(II)   MINIMUM   ALLOCATIONS.—  
24                  Such allocations shall not be less than  
25                  3 percent of an employee’s compensa-

1           tion (as determined in accordance  
2           with section 414(s) of the Internal  
3           Revenue Code of 1986). A defined  
4           contribution plan shall not fail to sat-  
5           isfy the requirements of this clause  
6           solely by reason of the failure to make  
7           allocations on behalf of one or more  
8           highly compensated employees (as de-  
9           fined in section 414(q) of the Internal  
10          Revenue Code of 1986).

11                   “(III) ALLOCATIONS TAKEN INTO  
12                   ACCOUNT.—For purposes of this  
13                   clause, only the following types of al-  
14                   locations may be taken into account:

15                           “(aa) Employer contribu-  
16                           tions or forfeitures allocated  
17                           without regard to whether an em-  
18                           ployee makes an elective con-  
19                           tribution or an employee con-  
20                           tribution.

21                           “(bb) In the case of the first  
22                           plan year ending after June 30,  
23                           2009, matching contributions (as  
24                           defined in section 401(m)(4)(A)

1 of the Internal Revenue Code of  
2 1986).

3 “(iv) NONQUALIFIED PLAN.—

4 “(I) IN GENERAL.—A defined  
5 benefit plan is described in this clause  
6 if no designated employee accrues any  
7 new benefits for the plan year under  
8 any nonqualified deferred compensa-  
9 tion plan (as defined in section  
10 409A(d) of the Internal Revenue Code  
11 of 1986) maintained by the sponsor of  
12 the defined benefit plan or by any  
13 member of such sponsor’s controlled  
14 group.

15 “(II) DESIGNATED EMPLOYEE.—  
16 For the purposes of this clause, the  
17 term ‘designated employee’ means an  
18 employee within a select group of  
19 management or highly compensated  
20 employees, as described in section  
21 301(a)(3).

22 “(III) REVOCATION OF CERTAIN  
23 ELECTIONS.—The Secretary of the  
24 Treasury shall provide rules under  
25 section 409A of the Internal Revenue

1 Code of 1986 under which elections to  
2 defer compensation made prior to the  
3 date of enactment of this clause may  
4 be revoked by an employee within 180  
5 days after the date of enactment of  
6 this clause, but only to the extent  
7 that, pursuant to this clause, such  
8 elections could otherwise cause a fail-  
9 ure of the employee to—

10 “(aa) earn compensation  
11 under an arrangement that, but  
12 for the election, is not a non-  
13 qualified deferred compensation  
14 plan (as defined in section  
15 409A(d) of the Internal Revenue  
16 Code of 1986), and

17 “(bb) earn compensation  
18 that is not payable to the em-  
19 ployee in another form or under  
20 a different arrangement.

21 “(v) MULTIPLE EMPLOYER PLANS.—  
22 In the case of a defined benefit plan de-  
23 scribed in section 413(c)(4)(B) of the In-  
24 ternal Revenue Code of 1986, such plan  
25 shall be treated as an active plan if such

1 plan satisfies clause (ii), (iii), or (iv) with  
2 respect to at least 85 percent of the em-  
3 ployers participating in such plan. In ap-  
4 plying the 85 percent requirement, dif-  
5 ferent employers may satisfy different  
6 clauses.

7 “(vi) CONTROLLED GROUP.—For pur-  
8 poses of this paragraph, the term ‘con-  
9 trolled group’ means all employers treated  
10 as a single employer pursuant to sub-  
11 sections (b) and (c) of section 414 of the  
12 Internal Revenue Code of 1986.”

13 (2) CONFORMING AMENDMENT.—Paragraph (1)  
14 of section 303(c) of such Act is amended by striking  
15 “the shortfall amortization bases for such plan year  
16 and each of the 6 preceding plan years” and insert-  
17 ing “any shortfall amortization base which has not  
18 been fully amortized under this subsection”.

19 (b) AMENDMENTS TO IRC.—

20 (1) IN GENERAL.—Paragraph (2) of section  
21 430(c) of the Internal Revenue Code of 1986 is  
22 amended by adding at the end the following sub-  
23 paragraphs:

24 “(D) SPECIAL RULE.—

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

8           “(ii) 7-YEAR AMORTIZATION.—

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

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

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

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

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

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

1 sentence, the shortfall amortization  
 2 installments with respect to the short-  
 3 fall amortization base for any applica-  
 4 ble plan year shall be reduced to take  
 5 such increase into account, pursuant  
 6 to rules issued by the Secretary, but  
 7 only if the shortfall amortization in-  
 8 stallments with respect to the shortfall  
 9 amortization base for such applicable  
 10 plan year are determined under clause  
 11 (i). For purposes of this clause, the  
 12 applicable percentage shall be deter-  
 13 mined as follows:

<b>“For the:</b>	<b>The applicable percentage is:</b>
First applicable plan year .....	105
Second applicable plan year .....	110
Plan year following the second applicable plan year .....	115

14 “(iii) 15-YEAR AMORTIZATION.—The  
 15 shortfall amortization installments de-  
 16 scribed in this clause are the amounts nec-  
 17 essary to amortize the shortfall amortiza-  
 18 tion base of the plan for the applicable  
 19 plan year in level annual installments over  
 20 15 years. The shortfall amortization in-  
 21 stallments for any plan year in the 15-  
 22 plan-year period under this clause is the

1 annual installment determined under this  
2 clause for that year for that base.

3 “(iv) ELECTION.—The plan sponsor  
4 may, with respect to a plan, elect whether  
5 to determine shortfall amortization install-  
6 ments under clause (ii), clause (iii), or  
7 without regard to this subparagraph. Such  
8 election shall be made at such times, and  
9 in such form and manner, as shall be pre-  
10 scribed by the Secretary, and may be re-  
11 voked only with the consent of the Sec-  
12 retary. In the absence of a timely election  
13 to determine shortfall amortization install-  
14 ments under such clause (ii) or clause (iii),  
15 such installments shall be determined with-  
16 out regard to this subparagraph.

17 “(E) FAILURE TO MAINTAIN ACTIVE  
18 PLAN.—

19 “(i) 2 AND 7 RULE.—If the shortfall  
20 amortization installments with respect to a  
21 shortfall amortization base for an applica-  
22 ble plan year are determined under sub-  
23 paragraph (D)(ii), the plan must remain  
24 an active plan for the 3 subsequent plan  
25 years. If such plan fails to be an active

1 plan in any such plan year, the minimum  
2 required contribution for the first plan  
3 year with respect to which a failure occurs  
4 shall be increased by all amounts by which  
5 the minimum required contribution for the  
6 current plan year or any prior plan year  
7 has been reduced by the application of sub-  
8 paragraph (D), plus interest on such  
9 amounts at the effective rate of interest for  
10 the plan for the plan year for which the in-  
11 crease applies. However, any such increase  
12 in the minimum required contribution shall  
13 not require a contribution to the extent  
14 that the contribution would cause the value  
15 of plan assets for the plan year to exceed  
16 the funding target of the plan for the plan  
17 year (determined without regard to sub-  
18 section (i)(1)). If the minimum required  
19 contribution is increased by reason of this  
20 clause, the shortfall amortization install-  
21 ments with respect to the shortfall amorti-  
22 zation base for any applicable plan year  
23 shall be reduced to take such increase into  
24 account, pursuant to rules issued by the  
25 Secretary, but only if the shortfall amorti-

1                   zation installments with respect to the  
2                   shortfall amortization base for such appli-  
3                   cable plan year are determined under sub-  
4                   paragraph (D)(i).

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

18                                   “(I) 7, or

19                                   “(II) the excess of 15 over the  
20                                   number of shortfall amortization in-  
21                                   stallments paid with respect to that  
22                                   base.

23                   “(iii) SPECIAL RULE.—In the case of  
24                   an applicable plan year that ends before  
25                   July 1, 2009, the plan sponsor may elect

1 not to have the active plan requirement  
2 apply for such plan year. If such election  
3 is made—

4 “(I) clause (i) shall be applied by  
5 substituting ‘4 subsequent plan years’  
6 for ‘3 subsequent plan years’, and

7 “(II) clause (ii) shall be applied  
8 by substituting ‘6’ for ‘7’ and by sub-  
9 stituting ‘14’ for ‘15’;

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

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

17 “(i) except as provided in clauses (ii)  
18 and (iii), any plan year beginning in 2009  
19 or 2010,

20 “(ii) in the case of a plan with a plan  
21 year beginning after October 31 and before  
22 January 1, any plan year beginning in  
23 2008 or 2009, and

24 “(iii) in the case of a plan for which  
25 the valuation date is not the first day of

1 the plan year, any plan year beginning in  
2 2008 or 2009.

3 “(G) ACTIVE PLAN.—

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

18 “(ii) DEFINED BENEFIT PLAN.—

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

1                   cruals, be eligible for an accrual under  
2                   the plan.

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

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

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

21                   “(BB) the rate of ben-  
22                   efit accrual that would have  
23                   applied to the employee  
24                   under the benefit formula in  
25                   effect as of the last date

1 prior to the effective date of  
2 any plan amendment adopt-  
3 ed prior to July 1, 2009,  
4 that ceased providing benefit  
5 accruals based on additional  
6 service credit with respect to  
7 such employee, or

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

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

23 “(iii) DEFINED CONTRIBUTION  
24 PLAN.—

1                   “(I) IN GENERAL.—A defined  
2 benefit plan is described in this clause  
3 if—

4                   “(aa) the defined benefit  
5 plan satisfies clause (ii) except  
6 with respect to employees whose  
7 failure to accrue a minimum ben-  
8 efit is attributable to a plan  
9 amendment adopted prior to July  
10 1, 2009, and

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

21                   “(II) MINIMUM ALLOCATIONS.—  
22 Such allocations shall not be less than  
23 3 percent of an employee’s compensa-  
24 tion (as determined in accordance  
25 with section 414(s)). A defined con-

1           tribution plan shall not fail to satisfy  
2           the requirements of this clause solely  
3           by reason of the failure to make allo-  
4           cations on behalf of one or more high-  
5           ly compensated employees (as defined  
6           in section 414(q)).

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

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

17                           “(bb) In the case of the first  
18                           plan year ending after June 30,  
19                           2009, matching contributions (as  
20                           defined in section 401(m)(4)(A)).

21                           “(iv) NONQUALIFIED PLAN.—

22                           “(I) IN GENERAL.—A defined  
23                           benefit plan is described in this clause  
24                           if no designated employee accrues any  
25                           new benefits for the plan year under

1 any nonqualified deferred compensa-  
2 tion plan (as defined in section  
3 409A(d)) maintained by the sponsor  
4 of the defined benefit plan or by any  
5 member of such sponsor's controlled  
6 group.

7 “(II) DESIGNATED EMPLOYEE.—  
8 For the purposes of this clause, the  
9 term ‘designated employee’ means an  
10 employee within a select group of  
11 management or highly compensated  
12 employees, as described in section  
13 301(a)(3) of the Employee Retirement  
14 Income Security Act of 1974.

15 “(III) REVOCATION OF CERTAIN  
16 ELECTIONS.—The Secretary shall pro-  
17 vide rules under section 409A under  
18 which elections to defer compensation  
19 made prior to the date of enactment  
20 of this clause may be revoked by an  
21 employee within 180 days after the  
22 date of enactment of this clause, but  
23 only to the extent that, pursuant to  
24 this clause, such elections could other-

1 wise cause a failure of the employee  
2 to—

3 “(aa) earn compensation  
4 under an arrangement that, but  
5 for the election, is not a non-  
6 qualified deferred compensation  
7 plan (as defined in section  
8 409A(d)), and

9 “(bb) earn compensation  
10 that is not payable to the em-  
11 ployee in another form or under  
12 a different arrangement.

13 “(v) MULTIPLE EMPLOYER PLANS.—  
14 In the case of a defined benefit plan de-  
15 scribed in section 413(c)(4)(B), such plan  
16 shall be treated as an active plan if such  
17 plan satisfies clause (ii), (iii), or (iv) with  
18 respect to at least 85 percent of the em-  
19 ployers participating in such plan. In ap-  
20 plying the 85 percent requirement, dif-  
21 ferent employers may satisfy different  
22 clauses.

23 “(vi) CONTROLLED GROUP.—For pur-  
24 poses of this paragraph, the term ‘con-  
25 trolled group’ means all employers treated

1 as a single employer pursuant to sub-  
2 sections (b) and (c) of section 414.”.

3 (2) CONFORMING AMENDMENT.—Paragraph (1)  
4 of section 430(c) of such Code is amended by strik-  
5 ing “the shortfall amortization bases for such plan  
6 year and each of the 6 preceding plan years” and in-  
7 serting “any shortfall amortization base which has  
8 not been fully amortized under this subsection”.

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

12 “(3) ACCELERATION OF BENEFITS.—

13 “(A) IN GENERAL.—The requirements of  
14 this paragraph are met if the plan does not per-  
15 mit the acceleration of the time or schedule of  
16 any payment under the plan, except as provided  
17 in regulations by the Secretary. The require-  
18 ments of this paragraph shall not be treated as  
19 satisfied if the plan makes any payment de-  
20 scribed in subparagraph (B) or (C).

21 “(B) EXCESS PAYMENTS FOR CERTAIN AD-  
22 JUSTED FUNDING TARGET ATTAINMENT PER-  
23 CENTAGES BY ACTIVE PLAN.—A payment is de-  
24 scribed in this subparagraph if—

1           “(i) such payment is made during a  
2           year in which a defined benefit plan is re-  
3           quired to be an active plan under section  
4           430(c)(2)(E) or section 107(e) of the Pen-  
5           sion Protection Act of 2006, and such de-  
6           fined benefit plan has not otherwise failed  
7           to be an active plan in such plan year or  
8           any prior plan year,

9           “(ii) such defined benefit plan is not  
10          described in clause (ii) or (iii) of section  
11          430(c)(2)(G) (modified, if applicable by  
12          section 107(f)(5) of the Pension Protection  
13          Act of 2006),

14          “(iii) such defined benefit plan is de-  
15          scribed in paragraph (1) or (3) of section  
16          436(d)(or would be if section 430(g)(3)(C)  
17          did not apply), and

18          “(iv) the nonqualified deferred com-  
19          pensation plan makes any payment in ex-  
20          cess of the amounts that would be per-  
21          mitted if the requirements of such para-  
22          graph (1) or (3), as applicable, applied to  
23          such plan.

24                 In the case of a defined benefit plan to which  
25                 section 107 of the Pension Protection Act of

1           2006 applies, clauses (iii) and (iv) shall apply  
2           based on rules similar to the rules of section  
3           436, as prescribed by the Secretary, except that  
4           the     parenthetical     regarding     section  
5           430(g)(3)(C) shall not apply. Under rules pre-  
6           scribed by the Secretary, a plan shall not fail to  
7           satisfy the requirements of this subsection sole-  
8           ly by reason of a modification with respect to  
9           the time and form of distribution that is con-  
10          sistent with the requirements of this subpara-  
11          graph.

12                 “(C) EXCESS PAYMENTS BY REASON OF  
13                 CERTAIN INTEREST RATES AND MORTALITY AS-  
14                 SUMPTIONS.—A payment is described in this  
15                 subparagraph if—

16                         “(i) the requirements of clauses (i)  
17                         and (ii) of subparagraph (B) are satisfied,  
18                         and

19                         “(ii) the plan makes any payment in  
20                         excess of the amount that would be pay-  
21                         able if the plan used the interest rate and  
22                         mortality assumptions from the defined  
23                         benefit plan described in section 401(a)  
24                         that would create the smallest payments,  
25                         determined on a present value basis using

1           the interest rate and mortality assump-  
2           tions described in section 430(h).

3           For purposes of this subparagraph, all defined  
4           benefit plans maintained by the employer shall  
5           be taken into account.”.

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

9           **SEC. 102. EXPANSION OF CORRIDOR WITHIN WHICH SIN-**  
10           **GLE-EMPLOYER DEFINED BENEFIT PLANS**  
11           **ARE ALLOWED TO AVERAGE ASSET VALUES.**

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

16                   “(C) SPECIAL RULE.—In the case of any  
17                   applicable plan year, subparagraph (B)(iii) shall  
18                   be applied—

19                           “(i) by substituting ‘80 percent’ for  
20                           ‘90 percent’, and

21                           “(ii) by substituting ‘120 percent’ for  
22                           ‘110 percent’.

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

1           “(i) except as provided in clauses (ii)  
2           and (iii), any plan year beginning in 2009  
3           or 2010,

4           “(ii) in the case of a plan with a plan  
5           year beginning after October 31 and before  
6           January 1, any plan year beginning in  
7           2008 or 2009, and

8           “(iii) in the case of a plan for which  
9           the valuation date is not the first day of  
10          the plan year, any plan year beginning in  
11          2008 or 2009.”.

12          (b) AMENDMENT TO IRC.—Paragraph (3) of section  
13          430(g) of the Internal Revenue Code of 1986 is amended  
14          by adding at the end the following new subparagraphs:

15                 “(C) SPECIAL RULE.—In the case of any  
16                 applicable plan year, subparagraph (B)(iii) shall  
17                 be applied—

18                         “(i) by substituting ‘80 percent’ for  
19                         ‘90 percent’, and

20                         “(ii) by substituting ‘120 percent’ for  
21                         ‘110 percent’.

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

1 “(i) except as provided in clauses (ii)  
2 and (iii), any plan year beginning in 2009  
3 or 2010,

4 “(ii) in the case of a plan with a plan  
5 year beginning after October 31 and before  
6 January 1, any plan year beginning in  
7 2008 or 2009, and

8 “(iii) in the case of a plan for which  
9 the valuation date is not the first day of  
10 the plan year, any plan year beginning in  
11 2008 or 2009.”.

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

15 **SEC. 103. ELECTION TO USE YIELD CURVE.**

16 (a) AMENDMENT TO ERISA.—The last sentence of  
17 clause (ii) of section 303(h)(2)(D) of the Employee Retire-  
18 ment Income Security Act of 1974 is amended to read  
19 as follows: “Such election, once made, may be revoked only  
20 with the consent of the Secretary, except that any election  
21 in effect with respect to a plan year beginning in 2009  
22 may be revoked, without the consent of the Secretary, for  
23 the plan year beginning in 2010.”.

24 (b) AMENDMENT TO IRC.—The last sentence of  
25 clause (ii) of section 430(h)(2)(D) of the Internal Revenue

1 Code of 1986 is amended to read as follows: “Such elec-  
2 tion, once made, may be revoked only with the consent  
3 of the Secretary, except that any election in effect with  
4 respect to a plan year beginning in 2009 may be revoked,  
5 without the consent of the Secretary, for the plan year  
6 beginning in 2010.”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to plan years beginning after De-  
9 cember 31, 2009.

10 **SEC. 104. LOOKBACK FOR BENEFIT ACCRUAL RESTRIC-**  
11 **TION.**

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

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

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

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

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

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

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

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

18           (b) AMENDMENT TO IRC.—Section 436 of the Inter-  
19           nal Revenue Code of 1986 is amended by adding the fol-  
20           lowing at the end thereof:

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

23           “(1) IN GENERAL.—For plan years beginning  
24           after October 31, 2008, and before November 1,  
25           2010, the adjusted funding target attainment per-

1           centage of a plan for purposes of subsection (e) shall  
2           be the greater of—

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

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

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

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

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

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

1 all other cases, such section shall not be applicable to any  
2 plan.

3 (d) EFFECTIVE DATE.—

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

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

13 **SEC. 105. LOOKBACK FOR CREDIT BALANCE RULE.**

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

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

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

1 preceding plan year shall be the greater  
2 of—

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

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

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

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

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

1 (b) AMENDMENT TO IRC.—Paragraph (3) of section  
2 430(f) of the Internal Revenue Code of 1986 is amended  
3 by adding the following at the end thereof:

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

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

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

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

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

23 “(I) clause (i) shall apply to plan  
24 years beginning after December 31,

1 2007, and before January 1, 2010,  
2 and

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

8 (c) EFFECTIVE DATE.—

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

13 (2) SPECIAL RULE.—In the case of a plan for  
14 which the valuation date is not the first day of the  
15 plan year, the amendments made by this section  
16 shall apply to plan years beginning after December  
17 31, 2008.

18 **SEC. 106. CLARIFICATION OF TREATMENT OF EXPENSES.**

19 (a) AMENDMENTS TO ERISA.—

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

1           (2) CONFORMING AMENDMENT.—Subclause (II)  
2           of section 303(i)(2)(A)(i) of such Act is amended by  
3           striking “plan-related expenses” and inserting  
4           “plan-related administrative expenses”.

5           (b) AMENDMENTS TO IRC.—

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

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

14          (c) EFFECTIVE DATE.—The amendments made by  
15          this section shall take effect as if included in paragraphs  
16          (1)(A), (1)(F)(i), (2)(A), and (2)(F)(i) of section 101(b)  
17          of the Worker, Retiree, and Employer Recovery Act of  
18          2008.

19          **SEC. 107. INFORMATION REPORTING.**

20          (a) IN GENERAL.—Paragraph (1) of section 4010(b)  
21          of the Employee Retirement Security Act of 1974 is  
22          amended to read as follows:

23                 “(1) the aggregate unfunded vested benefits at  
24                 the end of the preceding plan year (as determined  
25                 under section 4006(a)(3)(E)(iii)) of plans main-

1       tained by the contributing sponsor and the members  
2       of its controlled group exceed \$100,000,000 (dis-  
3       regarding plans with a funding target attainment  
4       percentage (as defined in subsection (d)) of 90 per-  
5       cent or higher);”.

6       (b) **FUNDING TARGET ATTAINMENT PERCENTAGE.**—  
7       Subparagraph (B) of section 4010(d)(2) of such Act is  
8       amended by striking “303(d)(2).” and inserting  
9       “303(d)(2), without regard to the reduction under section  
10      303(f)(4)(B).”.

11      (d) **CONFIDENTIALITY.**—Subsection (c) of section  
12      4010 of such Act is amended—

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

15           (2) by adding at the end the following: “All  
16           parties, governmental or otherwise, receiving the in-  
17           formation (or summary report of such information)  
18           required to be provided under this section shall be  
19           required to—

20                   “(1) ensure that the information received will  
21                   be kept confidential,

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

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

4 Such requirements shall not apply to information provided  
5 under this section that is otherwise publicly available. The  
6 corporation shall notify each person providing information  
7 under this section of any public disclosure of such infor-  
8 mation not permitted by this subsection within a reason-  
9 able time of such disclosure becoming known to the cor-  
10 poration. If any party, governmental or otherwise, makes  
11 an unauthorized disclosure, the person required to provide  
12 such information under this section may bring suit against  
13 such party in Federal district court. No liability results  
14 from a disclosure based upon a good faith, but erroneous,  
15 interpretation of this section. Upon a finding of a liability,  
16 such person can recover an amount not to exceed  
17 \$100,000 per act of unauthorized disclosure plus reason-  
18 able attorney fees. The person shall have two years from  
19 the date of discovery of the unauthorized disclosure to  
20 bring suit.”.

21           (e) EFFECTIVE DATE.—

22           (1) IN GENERAL.—The amendments made by  
23           this section shall apply to plan years beginning after  
24           December 31, 2009.

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

4 **SEC. 108. BENEFIT RESTRICTION EFFECTIVE DATE FOR**  
5 **COLLECTIVELY BARGAINED PLANS.**

6           (a) AMENDMENTS WITH RESPECT TO ERISA.—

7           (1) PLAN AMENDMENTS.—Paragraph (2) of  
8           section 103(c) of the Pension Protection Act of 2006  
9           is amended by striking “the amendments made by  
10          this section” and inserting “section 206(g)(2) of the  
11          Employee Retirement Income Security Act of 1974  
12          (and other provisions of such section 206(g) to the  
13          extent that they apply to such section 206(g)(2)), as  
14          added by this section,”.

15          (2) OTHER BENEFIT RESTRICTIONS.—

16                 (A) IN GENERAL.—Subsection (c) of sec-  
17                 tion 103 of the Pension Protection Act of 2006  
18                 is amended by adding at the end thereof the  
19                 following:

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

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

1 amendments made by this section shall, except  
2 to the extent that such amendments are subject  
3 to paragraph (2), apply to plan years beginning  
4 after December 31, 2011.

5 “(B) TRANSITION RULE.—

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

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

22 (3) CONFORMING AMENDMENT.—The heading  
23 of paragraph (2) of section 103(c) of the Pension  
24 Protection Act of 2006 is amended to read as fol-

1        lows: “COLLECTIVE BARGAINING EXCEPTION RE-  
2        GARDING PLAN AMENDMENTS”.

3        (b) AMENDMENTS WITH RESPECT TO IRC.—

4            (1) PLAN AMENDMENTS.—Paragraph (2) of  
5        section 113(b) of the Pension Protection Act of  
6        2006 is amended by striking “the amendments made  
7        by this section” and inserting “section 436(c) of the  
8        Internal Revenue Code of 1986 (and other provi-  
9        sions such section 436 to the extent that they apply  
10       to such section 436(c)), as added by this section,”.

11          (2) OTHER BENEFIT RESTRICTIONS.—

12            (A) IN GENERAL.—Subsection (b) of sec-  
13        tion 113 of the Pension Protection Act of 2006  
14        is amended by adding at the end thereof the  
15        following:

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

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

1 “(B) TRANSITION RULE.—

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

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

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

23 (c) EFFECTIVE DATE.—Except as provided in the  
24 amendments made by this section, the amendments made

1 by this section shall apply as if included in sections 103(c)  
2 and 113(b) of such Act.

3 **SEC. 109. SOCIAL SECURITY LEVEL-INCOME OPTIONS.**

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

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

13 (b) AMENDMENT TO IRC.—Paragraph (5) of section  
14 436(d) of the Internal Revenue Code of 1986 is amended  
15 by adding at the end thereof the following:

16 “For purposes of this subsection, any stream of payments  
17 that is structured to be similar in amount and duration  
18 to social security supplements described in the last sen-  
19 tence of section 411(a)(9) shall be treated in the same  
20 manner as such supplements.”.

21 (c) EFFECTIVE DATE.—

22 (1) IN GENERAL.—Except as provided in para-  
23 graph (2), the amendments made by this section  
24 shall apply as if included in sections 103(a) and  
25 113(a)(1) of the Pension Protection Act of 2006.

1 (2) TRANSITION RULE.—

2 (A) In the case of a plan described in sub-  
3 paragraph (B), a plan shall not be required to  
4 comply with the amendments made by this sec-  
5 tion until the date that is 60 days after the  
6 date of enactment of this Act, but such a plan  
7 may comply on any otherwise permitted earlier  
8 date.

9 (B) A plan is described in this subpara-  
10 graph (B) if a limit on prohibited payments is  
11 or has been, pursuant to section 206(g) of the  
12 Employee Retirement Income Security Act of  
13 1974 and section 436 of the Internal Revenue  
14 Code of 1986, in effect with respect to such  
15 plan as of the date of enactment of this Act.

16 **SEC. 110. PBGC GUARANTEE.**

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

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

23 (c) EFFECTIVE DATE.—The amendments made by  
24 this section shall be as if included in section 404 of the  
25 Pension Protection Act of 2006, except that such amend-

1 ments shall not apply to proceedings initiated under title  
2 11, United States Code, or under any similar Federal law  
3 or law of a State or political subdivision, on or before the  
4 date of enactment of this Act.

5 **SEC. 111. APPLICATION OF EXTENDED AMORTIZATION PE-**  
6 **RIOD TO PLANS SUBJECT TO PRIOR LAW**  
7 **FUNDING RULES.**

8 Title I of the Pension Protection Act of 2006 is  
9 amended by redesignating section 107 as section 108 and  
10 by inserting the following after section 106:

11 **“SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PE-**  
12 **RIODS TO PLANS WITH DELAYED EFFECTIVE**  
13 **DATE.**

14 “(a) IN GENERAL.—In the case of plans to which sec-  
15 tion 104, 105, or 106 of this Act apply, section 302 of  
16 the Employee Retirement Income Security Act of 1974  
17 and section 412 of the Internal Revenue Code of 1986  
18 (as in effect before the amendments made by this subtitle  
19 and subtitle B) shall apply in the manner described in this  
20 section. All references in this section to ‘such Act’ or ‘such  
21 Code’ shall be to such Act or such Code as in effect before  
22 the amendments made by this subtitle and subtitle B.

23 “(b) APPLICATION OF 2 AND 7 RULE.—

24 “(1) IN GENERAL.—In the case of an active  
25 plan to which this subsection applies, section 302 of

1 such Act and section 412 of such Code shall apply  
2 in the manner described in this subsection.

3 “(2) TWO YEAR SUSPENSION OF DEFICIT RE-  
4 DUCATION CONTRIBUTIONS FOR CERTAIN PLANS.—  
5 For purposes of applying section 302(d)(9) of such  
6 Act and section 412(l)(9) of such Code to a plan de-  
7 scribed in paragraph (1), the funded current liability  
8 percentage for such plan for any applicable plan  
9 year shall be the funded current liability percentage  
10 of such plan for the pre-applicable plan year.

11 “(3) CALCULATION OF DEFICIT REDUCTION  
12 CONTRIBUTION.—For purposes of applying section  
13 302(d) of such Act and section 412(l) of such Code  
14 to a plan to which such subsections apply (after tak-  
15 ing into account paragraph (2)), the applicable per-  
16 centage described in section 302(d)(4)(C) of such  
17 Act and section 412(l)(4)(C) of such Code shall be  
18 the third segment rate described in sections 104(b),  
19 105(b), and 106(b) of this Act, provided that such  
20 applicable percentage shall only apply to the in-  
21 creased unfunded new liability. The applicable per-  
22 centage determined without regard to this section  
23 shall apply to the excess of the unfunded new liabil-  
24 ity over the increased unfunded new liability.

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

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

5           “(2) CALCULATION OF DEFICIT REDUCTION  
6           CONTRIBUTION.—For purposes of applying section  
7           302(d) of such Act and section 412(l) of such Code  
8           to a plan described in paragraph (1), the applicable  
9           percentage described in section 302(d)(4)(C) of such  
10          Act and section 412(l)(4)(C) of such Code for any  
11          pre-effective date plan year shall be the ratio of—

12                   “(A) the annual installments payable in  
13                   each year if the increased unfunded new liabil-  
14                   ity for such plan year were amortized over 15  
15                   years, using an interest rate equal to the third  
16                   segment rate described in sections 104(b),  
17                   105(b), and 106(b) of this Act, to

18                   “(B) the increased unfunded new liability  
19                   for such plan year.

20          However, such applicable percentage shall only apply  
21          to the increased unfunded new liability. The applica-  
22          ble percentage determined without regard to this  
23          section shall apply to the excess of the unfunded new  
24          liability over the increased unfunded new liability.

1           “(d) ELECTION.—The plan sponsor may, with re-  
2 spect to a plan, elect whether to apply subsection (b) or  
3 subsection (c) or whether neither subsection shall apply.  
4 Such election shall be made at such times, and in such  
5 form and manner, as shall be prescribed by the Secretary  
6 of the Treasury, and may be revoked only with the consent  
7 of the Secretary of the Treasury. In the absence of a time-  
8 ly election regarding which subsection shall apply to a  
9 plan, neither subsection shall apply to such plan.

10           “(e) FAILURE TO MAINTAIN ACTIVE PLAN.—If the  
11 minimum contribution required for a plan to avoid an ac-  
12 cumulated funding deficiency under section 302 of such  
13 Act and section 412 of such Code is determined under  
14 subsection (b) or (c) for a plan year, the plan must remain  
15 an active plan for 3 subsequent years. If such plan fails  
16 to be an active plan in any such plan year, the minimum  
17 contribution requirement to avoid an accumulated funding  
18 deficiency shall be increased by all amounts by which such  
19 minimum contribution was reduced by the application of  
20 subsection (b) or (c), plus interest on such amounts at  
21 the third segment rate described in sections 104(b),  
22 105(b), and 106(b) of this Act. However, any such in-  
23 crease in such minimum contribution shall not require a  
24 contribution to the extent that the contribution would  
25 cause the value of plan assets (determined under section

1 302(c)(2) of such Act and section 412(c)(2) of such Code)  
2 to exceed the current liability of such plan for such year.

3 “(f) DEFINITIONS.—

4 “(1) APPLICABLE PLAN YEAR.—For purposes  
5 of this section, the term ‘applicable plan year’  
6 means—

7 “(A) except as provided in subparagraphs  
8 (B) and (C), any plan year beginning in 2010  
9 or 2011,

10 “(B) in the case of a plan with a plan year  
11 beginning after October 31 and before January  
12 1, any plan year beginning in 2009 or 2010,  
13 and

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

17 “(2) PRE-APPLICABLE PLAN YEAR.—For pur-  
18 poses of this section, the term ‘pre-applicable plan  
19 year’ means, with respect to a plan, the second plan  
20 year preceding the first applicable plan year of such  
21 plan.

22 “(3) PRE-EFFECTIVE DATE PLAN YEAR.—For  
23 purposes of this section, the term ‘pre-effective date  
24 plan year’ means, with respect to a plan, any plan  
25 year prior to the first year in which the amendments

1 made by this subtitle and subtitle B apply to the  
2 plan, provided that the first pre-effective date plan  
3 year shall be the first applicable plan year with re-  
4 spect to the plan.

5 “(4) INCREASED UNFUNDED NEW LIABILITY.—  
6 For purposes of this section, the term ‘increased un-  
7 funded new liability’ means, with respect to a year,  
8 the excess (if any) of the unfunded new liability over  
9 the amount of unfunded new liability determined as  
10 if the value of the plan’s assets determined under  
11 subsection 302(c)(2) of such Act and section  
12 412(c)(2) of such Code equaled the product of the  
13 current liability of the plan for the year multiplied  
14 by the funded current liability percentage of the plan  
15 for the pre-applicable plan year.

16 “(5) ACTIVE PLAN.—For purposes of this sec-  
17 tion, the term ‘active plan’ shall have the meaning  
18 given such term by section 303(c)(2)(G) of the Em-  
19 ployee Retirement Income Security Act of 1974 and  
20 in section 430(c)(2)(G) of the Internal Revenue  
21 Code of 1986, except that ‘target normal cost’ (with-  
22 out regard to plan administrative expenses) shall be  
23 determined as if section 303 of the Employee Retirement  
24 Income Security Act of 1974 and section 430  
25 of the Internal Revenue Code of 1986 applied to

1 such plan with the modification regarding the inter-  
2 est rate used, as set forth in section 303(e)(2)(G) of  
3 the Employee Retirement Income Security Act of  
4 1974 and in section 430(e)(2)(G) of the Internal  
5 Revenue Code of 1986.

6 “(6) OTHER DEFINITIONS.—For purposes of  
7 this section, the terms ‘funded current liability per-  
8 centage’, ‘unfunded new liability’, and ‘current liabil-  
9 ity’ shall have the meanings set forth in section  
10 302(d) of such Act and section 412(l) of such  
11 Code.”.

12 **SEC. 112. ADDITIONS TO FUNDING-BASED LIMITS ON BENE-**  
13 **FITS AND BENEFITS ACCRUALS UNDER SIN-**  
14 **GLE-EMPLOYER PLANS.**

15 (a) AMENDMENTS TO IRC.—

16 (1) Subsection (c) of section 436 of the Internal  
17 Revenue Code of 1986 is amended by redesignating  
18 paragraph (3) as paragraph (4) and by inserting  
19 after paragraph (2) the following:

20 “(3) SPECIAL LIMITATIONS ON AD HOC AMEND-  
21 MENTS.—

22 “(A) IN GENERAL.—No ad hoc amendment  
23 to a defined benefit plan which is a single em-  
24 ployer plan which has the effect of increasing li-  
25 abilities of the plan by reason of increases in

1 benefits, establishment of new benefits, chang-  
2 ing the rate of benefit accrual, or changing the  
3 rate of which benefits become nonforfeitable  
4 may take effect during the plan year if the ad-  
5 justed funding target attainment percentage for  
6 such plan year is—

7 “(i) less than 120 percent, or

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

10 “(B) EXEMPTION.—Subparagraph (A)  
11 shall cease to apply with respect to any plan  
12 year, effective as of the first day of the plan  
13 year (or if later, the effective date of the  
14 amendment), upon payment by the plan sponsor  
15 of a contribution (in addition to any minimum  
16 required contribution under section 430) equal  
17 to—

18 “(i) in the case of subparagraph  
19 (A)(i), the amount of the increase in the  
20 funding target of the plan (under section  
21 430) for the plan year attributable to the  
22 amendment, and

23 “(ii) in the case of subparagraph  
24 (A)(ii), the amount sufficient to result in

1           an adjusted funding target attainment per-  
2           centage of 80 percent.

3           “(C) SPECIAL RULE.—An ad hoc amend-  
4           ment that is otherwise permitted to take effect  
5           under this subsection may not take effect unless  
6           the plan provides that the accrued pension ben-  
7           efits of any participant or beneficiary under the  
8           plan become nonforfeitable in the same manner  
9           which would be required if the plan had termi-  
10          nated as of the effective date of such ad hoc  
11          amendment.

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

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

17                 “(ii) applies only to a subset of the  
18                 employees otherwise eligible to accrue ben-  
19                 efits under the plan,

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

23                 “(iv) provides that the increase de-  
24                 scribed in clause (i) is payable in the form

1 of a prohibited payment (as defined in sub-  
2 section (d)(5)).”.

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

6 (A) by inserting “(A)” before “Paragraph  
7 (1)” and moving the text thereof 2 ems to the  
8 right, and

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

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

15 (b) AMENDMENTS TO ERISA.—

16 (1) Paragraph (2) of section 206(g) of the Em-  
17 ployee Retirement Income Security Act of 1974 is  
18 amended by redesignating subparagraph (C) as sub-  
19 paragraph (D) and by inserting after subparagraph  
20 (B) the following:

21 “(C) SPECIAL LIMITATIONS ON AD HOC  
22 AMENDMENTS.—

23 “(i) IN GENERAL.—No ad hoc amend-  
24 ment to a defined benefit plan which is a  
25 single employer plan which has the effect

1 of increasing liabilities of the plan by rea-  
2 son of increases in benefits, establishment  
3 of new benefits, changing the rate of ben-  
4 efit accrual, or changing the rate of which  
5 benefits become nonforfeitable may take ef-  
6 fect during the plan year if the adjusted  
7 funding target attainment percentage for  
8 such plan year is—

9 “(I) less than 120 percent, or

10 “(II) would be less than 120 per-  
11 cent taking into account such amend-  
12 ment.

13 “(ii) EXEMPTION.—Clause (i) shall  
14 cease to apply with respect to any plan  
15 year, effective as of the first day of the  
16 plan year (or if later, the effective date of  
17 the amendment), upon payment by the  
18 plan sponsor of a contribution (in addition  
19 to any minimum required contribution  
20 under section 303) equal to—

21 “(I) in the case of clause (i)(I),  
22 the amount of the increase in the  
23 funding target of the plan (under sec-  
24 tion 303) for the plan year attrib-  
25 utable to the amendment, and

1                   “(II) in the case of clause (i)(II),  
2                   the amount sufficient to result in an  
3                   adjusted funding target attainment  
4                   percentage of 80 percent.

5                   “(iii) SPECIAL RULE.—An ad hoc  
6                   amendment that is otherwise permitted to  
7                   take effect under this paragraph may not  
8                   take effect unless the plan provides that  
9                   the accrued pension benefits of any partici-  
10                  pant or beneficiary under the plan become  
11                  nonforfeitable in the same manner which  
12                  would be required if the plan had termi-  
13                  nated as of the effective date of such ad  
14                  hoc amendment.

15                  “(iv) AD HOC AMENDMENT.—For  
16                  purposes of this subparagraph, the term  
17                  ‘ad hoc amendment’ means an amendment  
18                  to a plan which—

19                         “(I) increases the nonforfeitable  
20                         benefits payable to one or more par-  
21                         ticipants,

22                         “(II) applies only to a subset of  
23                         the employees otherwise eligible to ac-  
24                         cruer benefits under the plan,

1 “(III) applies by its terms only to  
2 employees who, during a limited pe-  
3 riod of time, terminate employment,  
4 and

5 “(IV) provides that the increase  
6 described in subclause (I) is payable  
7 in the form of a prohibited payment  
8 (as defined in paragraph (3)(E)).”.

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

12 (A) by inserting “(i)” before “Subpara-  
13 graph (A)” and moving the text thereof 2 ems  
14 to the right, and

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

16 “(ii) Subparagraph (C) shall not  
17 apply to any amendment of a plan main-  
18 tained pursuant to 1 or more collective  
19 bargaining agreements between employee  
20 representatives and 1 or more employers.”.

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

1 **SEC. 113. REPORTABLE EVENTS.**

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

6 “(f) SPECIAL RULE.—

7 “(1) IN GENERAL.—A reportable event de-  
8 scribed in paragraph (3) of subsection (c) (without  
9 regard to this subsection) shall not be treated as oc-  
10 ccurring with respect to a plan for an applicable plan  
11 year if—

12 “(A) the number of employees of the con-  
13 tributing sponsor is at least 80 percent of the  
14 number of employees of the contributing spon-  
15 sor at the beginning of the plan year, and is at  
16 least 75 percent of the number of employees of  
17 the contributing sponsor at the beginning of the  
18 previous plan year,

19 “(B) the funded vested benefit percentage  
20 (as defined for purposes of subsection  
21 (b)(1)(B)) for the pre-applicable plan year was  
22 at least 80 percent, and

23 “(C) the contributing sponsor notifies the  
24 corporation of the use of the rule described in  
25 this subsection by the date that such contrib-  
26 uting sponsor would (but for this subsection) be

1 required to notify the corporation of an event  
2 described in subsection (c)(3).

3 “(2) DEFINITIONS.—For purposes of this sub-  
4 section—

5 “(A) EMPLOYEE.—The term ‘employee’  
6 means, in connection with a contributing spon-  
7 sor, an employee of the contributing sponsor or  
8 of any member of such sponsor’s controlled  
9 group.

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

12 “(i) except as provided in this sub-  
13 paragraph, any plan year beginning in  
14 2010 or 2011,

15 “(ii) in the case of a plan with a plan  
16 year beginning after October 31 and before  
17 January 1, any plan year beginning in  
18 2009 or 2010, and

19 “(iii) in the case of a plan for which  
20 the valuation date is not the first day of  
21 the plan year, any plan year beginning in  
22 2009 or 2010.

23 “(C) PRE-APPLICABLE PLAN YEAR.—The  
24 term ‘pre-applicable plan year’ means, in con-  
25 nection with a plan, the second plan year pre-

1 ceding the first applicable plan year of such  
2 plan.”.

3 (b) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the date of the enactment  
5 of this Act.

## 6 **TITLE II—MULTIEMPLOYER** 7 **PLANS**

### 8 **SEC. 201. ADJUSTMENTS TO FUNDING STANDARD ACCOUNT** 9 **RULES.**

10 (a) AMORTIZATION PERIODS.—

11 (1) AMENDMENT TO ERISA.—Section 304(b) of  
12 the Employee Retirement Income Security Act of  
13 1974 is amended by adding at the end the following  
14 new paragraph:

15 “(8) ELECTIVE SPECIAL RELIEF RULES.—

16 “(A) PLAN SPONSOR ELECTION.—

17 “(i) IN GENERAL.—Notwithstanding  
18 any other provision of this subsection, ef-  
19 fective starting with the actuarial valuation  
20 for the plan year beginning in either 2009  
21 or 2010, the plan sponsor of a multiem-  
22 ployer plan that meets the solvency test in  
23 subparagraph (B) may elect to use the rule  
24 in either clause (ii) or clause (iii), in main-  
25 taining its funding standard account. 【Q:

1           Shouldn't a year be chosen with the option  
2           of the sponsor to elect the other year? The  
3           'or' leaves uncertainty.】

4           “(ii) COMBINED OUTSTANDING BAL-  
5           ANCE.—Under this clause, the outstanding  
6           balances of all amounts required to be am-  
7           ortized under paragraph (2) and para-  
8           graph (3) may be combined into one  
9           amount under each such paragraph, to be  
10          amortized in equal annual installments  
11          (until fully amortized) over a period of 30  
12          plan years.

13          “(iii) INVESTMENT RETURN ACTU-  
14          ARIAL LOSS.—Under this clause, the actu-  
15          arial loss, if any, due to investment return  
16          that is first recognized in the funding  
17          standard account for the two plan years  
18          beginning after August 31, 2008, and be-  
19          fore September 1, 2010, may be charged  
20          under paragraph (2) as an item separate  
21          from other experience losses and amortized  
22          in equal annual installments (until fully  
23          amortized) over a period of 30 plan years.

24          “(B) SOLVENCY TEST.—An election may  
25          be made under this paragraph if the plan actu-

1           ary certifies that the plan is projected to have  
2           sufficient assets to timely pay expected benefits  
3           and anticipated expenditures over the amortiza-  
4           tion period as extended.”.

5           (2) AMENDMENT TO IRC.—Section 431(b) of  
6           the Internal Revenue Code of 1986 is amended by  
7           adding at the end the following new paragraph:

8           “(8) ELECTIVE SPECIAL RELIEF RULES.—

9           “(A) PLAN SPONSOR ELECTION.—

10           “(i) IN GENERAL.—Notwithstanding  
11           any other provision of this subsection, ef-  
12           fective starting with the actuarial valuation  
13           for the plan year beginning in either 2009  
14           or 2010, the plan sponsor of a multiem-  
15           ployer plan that meets the solvency test in  
16           subparagraph (B) may elect to use the rule  
17           in either clause (ii) or clause (iii), in main-  
18           taining its funding standard account. **【Q:**  
19           Shouldn’t a year be chosen with the option  
20           of the sponsor to elect the other year? The  
21           ‘or’ leaves uncertainty.**】**

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

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

6 “(iii) INVESTMENT RETURN ACTU-  
7 ARIAL LOSS.—Under this clause, the actu-  
8 arial loss, if any, due to investment return  
9 that is first recognized in the funding  
10 standard account for the two plan years  
11 beginning after August 31, 2008, and be-  
12 fore September 1, 2010, may be charged  
13 under paragraph (2) as an item separate  
14 from other experience losses and amortized  
15 in equal annual installments (until fully  
16 amortized) over a period of 30 plan years.

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

23 (b) AUTOMATIC AMORTIZATION EXTENSIONS.—

1           (1)    AMENDMENT    TO    ERISA.—Section  
2    304(d)(1)(A) of the Employee Retirement Income  
3    Security Act of 1974 is amended—

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

6           (B) by redesignating subparagraph (C) as  
7    subparagraph (D) and inserting after subpara-  
8    graph (B) the following new subparagraph:

9           “(C) DEEMED APPROVAL.—

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

17           “(ii) CORRECTIONS.—If, within 30  
18    days after receiving a notice under this  
19    subparagraph, the plan sponsor corrects  
20    any omissions identified in the notice  
21    under this subparagraph or otherwise dem-  
22    onstrates that the actuary’s certification  
23    satisfies subparagraph (B), the application  
24    shall be deemed approved.”.

1           (2)       AMENDMENT       TO       IRC.—Section  
2       431(d)(1)(A) of the Internal Revenue Code of 1986  
3       is amended—

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

6                   (B) by redesignating subparagraph (C) as  
7       subparagraph (D) and inserting after subpara-  
8       graph (B) the following new subparagraph:

9                   “(C) DEEMED APPROVAL.—

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

17                   “(ii) CORRECTIONS.—If, within 30  
18       days after receiving a notice under this  
19       subparagraph, the plan sponsor corrects  
20       any omissions identified in the notice  
21       under this subparagraph or otherwise dem-  
22       onstrates that the actuary’s certification  
23       satisfies subparagraph (B), the application  
24       shall be deemed approved.”.

1 (c) WIDER ASSET VALUATION CORRIDOR FOR CER-  
2 TAIN LOSSES.—

3 (1) IN GENERAL.—The Secretary [of the  
4 Treasury] shall not treat a multiemployer plan's  
5 asset valuation method as unreasonable solely be-  
6 cause, with respect to investment gains and losses  
7 recognized in the funding standard account for the  
8 two plan years beginning after August 31, 2008,  
9 and before September 1, 2010, the value reflected is  
10 no more than 130 percent and no less than 70 per-  
11 cent of the current fair market value.

12 (2) DEEMED APPROVAL.—A multiemployer  
13 plan's adoption of a wider asset-valuation corridor  
14 under paragraph (1) shall be deemed approved by  
15 the Secretary of the Treasury under section  
16 412(d)(1) of the Internal Revenue Code of 1986.

17 (d) MODIFICATION OF CERTAIN AMORTIZATION EX-  
18 TENSIONS UNDER PRIOR LAW.—Any amortization exten-  
19 sions under the terms of section 412(e) of the Internal  
20 Revenue Code of 1986 (prior to enactment of the Pension  
21 Protection Act of 2006) that were granted to multiem-  
22 ployer plans shall remain in effect notwithstanding the im-  
23 pact of investment losses incurred by the plans in 2008,  
24 2009 or 2010, unless the plan sponsor elects otherwise.

1 (e) EFFECTIVE DATE.—The amendments made by  
2 this section shall take effect as of the first day of the first  
3 plan year beginning on or after August 31, 2008.

4 **SEC. 202. MULTIEMPLOYER PLANS IN ENDANGERED OR**  
5 **CRITICAL STATUS.**

6 (a) OPTIONAL LONGER CORRECTION PERIODS.—

7 (1) AMENDMENT TO ERISA.—

8 (A) FUNDING IMPROVEMENT PERIOD.—  
9 Section 305(c)(4) of the Employee Retirement  
10 Income Security Act of 1974 is amended by re-  
11 designating subparagraphs (C) and (D) as sub-  
12 paragraphs (D) and (E), respectively, and by  
13 inserting after subparagraph (B) the following  
14 new subparagraph:

15 “(C) ELECTION TO EXTEND PERIOD.—The  
16 plan sponsor of an endangered or seriously en-  
17 dangered plan may elect to extend the applica-  
18 ble funding improvement period by up to 5  
19 years, including any extension of the period pre-  
20 viously elected pursuant to section 205 of the  
21 Worker, Retiree and Employer Relief Act of  
22 2008.”.

23 (B) REHABILITATION PERIOD.—Section  
24 305(e)(4) of such Act is amended by redesignig-  
25 nating subparagraph (B) as subparagraph (C)

1 and by inserting after subparagraph (A) the fol-  
2 lowing new subparagraph:

3 “(B) ELECTION TO EXTEND PERIOD.—The  
4 plan sponsor of a plan in critical status may  
5 elect to extend the rehabilitation period by up  
6 to five years, including any extension of the pe-  
7 riod previously elected pursuant to section 205  
8 of the Worker, Retiree and Employer Relief Act  
9 of 2008.”.

10 (2) AMENDMENT TO IRC.—

11 (A) FUNDING IMPROVEMENT PERIOD.—  
12 Section 432(c)(4) of the Internal Revenue Code  
13 of 1986 is amended by redesignating subpara-  
14 graphs (C) and (D) as subparagraphs (D) and  
15 (E), respectively, and by inserting after sub-  
16 paragraph (B) the following new subparagraph:

17 “(C) ELECTION TO EXTEND PERIOD.—The  
18 plan sponsor of an endangered or seriously en-  
19 dangered plan may elect to extend the applica-  
20 ble funding improvement period by up to 5  
21 years, including any extension of the period pre-  
22 viously elected pursuant to section 205 of the  
23 Worker, Retiree and Employer Relief Act of  
24 2008.”.

1           (B) REHABILITATION PERIOD.—Section  
2           432(e)(4) of such Code is amended by redesignig-  
3           nating subparagraph (B) as subparagraph (C)  
4           and by inserting after subparagraph (A) the fol-  
5           lowing new subparagraph:

6           “(B) ELECTION TO EXTEND PERIOD.—The  
7           plan sponsor of a plan in critical status may  
8           elect to extend the rehabilitation period by up  
9           to five years, including any extension of the pe-  
10          riod previously elected pursuant to section 205  
11          of the Worker, Retiree and Employer Relief Act  
12          of 2008.”.

13          (b) SIMPLIFICATION OF THE FUNDING IMPROVE-  
14          MENT PERIOD FOR CERTAIN SERIOUSLY ENDANGERED  
15          PLANS.—

16           (1) AMENDMENT TO ERISA.—Section 305(c) of  
17          the Employee Retirement Income Security Act of  
18          1974 is amended—

19           (A) by striking paragraph (5) and redesignig-  
20          nating paragraph (6) as paragraph (5), and

21           (B) in paragraph (1) by striking “(as  
22          modified by paragraph (5))”.

23           (2) AMENDMENT TO IRC.—Section 432(c) of  
24          the Internal Revenue Code of 1986 is amended—

1 (A) by striking paragraph (5) and redesignating paragraph (6) as paragraph (5), and

2  
3 (B) in paragraph (1) by striking “(as modified by paragraph (5))”.

4  
5 (c) ALTERNATIVE DEFAULT SCHEDULE FOR CERTAIN ENDANGERED AND CRITICAL-STATUS PLANS.—

6  
7 (1) AMENDMENT TO ERISA.—

8 (A) Paragraph (7) of section 305(c) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

9  
10  
11  
12 “(D) ALTERNATIVE DEFAULT SCHEDULE.—A plan sponsor may designate a schedule of contribution rates and related benefit changes as the default schedule, in lieu of the schedule described in paragraph (1)(B)(i), after the alternative schedule so designated has been adopted in collective bargaining agreements covering at least 75 percent of the active participants as of the date of the designation.”.

13  
14  
15  
16  
17  
18  
19  
20  
21 (B) Paragraph (3) of section 305(e) of such Act is amended by adding at the end the following:

22  
23  
24 “(D) ALTERNATIVE DEFAULT SCHEDULE.—A plan sponsor may designate a schedule

1 of contribution rates and related benefit  
2 changes as the default schedule, in lieu of the  
3 default schedule described in paragraph  
4 (1)(B)(ii), after the alternative schedule so des-  
5 ignated has been adopted in collective bar-  
6 gaining agreements covering at least 75 percent  
7 of the active participants as of the date of the  
8 designation.”.

9 (2) AMENDMENT TO IRC.—

10 (A) Paragraph (7) of section 432(c) of the  
11 Internal Revenue Code of 1986 is amended by  
12 adding at the end the following:

13 “(D) ALTERNATIVE DEFAULT SCHED-  
14 ULE.—A plan sponsor may designate a schedule  
15 of contribution rates and related benefit  
16 changes as the default schedule, in lieu of the  
17 schedule described in paragraph (1)(B)(i), after  
18 the alternative schedule so designated has been  
19 adopted in collective bargaining agreements cov-  
20 ering at least 75 percent of the active partici-  
21 pants as of the date of the designation.”.

22 (B) Paragraph (3) of section 432(e) of  
23 such Code is amended by adding at the end the  
24 following:

1           “(D) ALTERNATIVE DEFAULT SCHED-  
2           ULE.—A plan sponsor may designate a schedule  
3           of contribution rates and related benefit  
4           changes as the default schedule, in lieu of the  
5           default schedule described in paragraph  
6           (1)(B)(ii), after the alternative schedule so des-  
7           ignated has been adopted in collective bar-  
8           gaining agreements covering at least 75 percent  
9           of the active participants as of the date of the  
10          designation.”.

11       (d) TECHNICAL CORRECTIONS.—

12           (1) AMENDMENTS TO ERISA.—Section 305(c) of  
13       the Employee Retirement Income Security Act of  
14       1974 is amended—

15           (A) in paragraph (1)(B)(i)—

16               (i) by striking “plan, including—”  
17               and all that follows through “one proposal  
18               for reductions” and inserting “plan, in-  
19               cluding one proposal for reductions”,

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

22               (iii) by striking subclause (II),

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

1 (C) in paragraph (4) by adding at the end  
2 the following:

3 “(E) PLANS THAT ACHIEVE FUNDING IM-  
4 PROVEMENT BENCHMARKS WHILE IN ENDAN-  
5 GERED OR SERIOUSLY ENDANGERED STATUS.—  
6 If the plan’s actuary certifies under subsection  
7 (b)(3)(A) that the plan has achieved the appli-  
8 cable increase in the funding percentage de-  
9 scribed in paragraph (3) of this subsection and  
10 that the plan is nevertheless still in endangered  
11 status, the provisions of this subsection and  
12 subsection (d) shall remain in effect until the  
13 earlier of the expiration of the funding improve-  
14 ment period or the last day preceding the plan  
15 year for which the actuary certifies that the  
16 plan is no longer in endangered status.”, and

17 (D) in paragraph (4)(C)(ii) by striking all  
18 that follows “whichever is applicable,” and in-  
19 serting the following:

20 “shall end as of the close of the preceding plan year,  
21 except that, until the start of the rehabilitation plan adop-  
22 tion period—

23 “(I) the rules of subparagraphs  
24 (A) and (B) of subsection (d)(1) shall  
25 apply if, prior to the date the of the

1 critical-status certification, the plan  
2 was in the funding improvement plan  
3 adoption period for the plan year, and  
4 “(II) the rules of subsection  
5 (d)(2) shall apply if, prior to the date  
6 of the critical-status certification, the  
7 plan was in the funding improvement  
8 period for the plan year.”.

9 (2) AMENDMENTS TO IRC.—Section 432(c) of  
10 the Internal Revenue Code of 1986 is amended—

11 (A) in paragraph (1)(B)(i)—

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

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

18 (iii) by striking subclause (II),

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

21 (C) in paragraph (4) by adding at the end  
22 the following:

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

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

12                   (D) in paragraph (4)(C)(ii) by striking all  
13                   that follows “whichever is applicable,” and in-  
14                   serting the following:

15           “shall end as of the close of the preceding plan year,  
16          except that, until the start of the rehabilitation plan adop-  
17          tion period—

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

24                   “(II) the rules of subsection  
25                   (d)(2) shall apply if, prior to the date

1 of the critical-status certification, the  
2 plan was in the funding improvement  
3 period for the plan year.”.

4 **SEC. 203. MULTIEMPLOYER PLAN MERGERS AND ALLI-**  
5 **ANCES.**

6 (a) MULTIEMPLOYER PLAN ALLIANCES.—

7 (1) AMENDMENTS TO ERISA.—

8 (A) Section 4231 of the Employee Retire-  
9 ment Income Security Act of 1974 is amended  
10 by adding at the end the following new sub-  
11 section:

12 “(e) MULTIEMPLOYER PLAN ALLIANCES.—

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

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

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

1           “(2) APPLICABLE PROVISIONS.—Except to the  
2 extent otherwise provided in the plan amendment  
3 under paragraph (1), sections 302, 304 and 305  
4 (minimum funding), Part 1 of Subtitle E (with-  
5 drawal liability), sections 4244A and 4281 (plan ter-  
6 mination), part 3 of subtitle E (plan reorganization  
7 and insolvency) and section 4261 (financial assist-  
8 ance from the corporation) shall apply to the frozen  
9 allied plan and the plan into which the allied plan  
10 was merged as if they were separate plans.

11           “(3) FROZEN ALLIED PLAN TREATED AS SEPA-  
12 RATE PLAN.—

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

20           “(B) EMPLOYERS MAINTAINING PLAN.—  
21 The employers that were obligated to contribute  
22 to the allied plan immediately before the effec-  
23 tive date of the merger, and any successors  
24 thereto whether by sale, reorganization or oth-  
25 erwise, shall be considered to be the employers

1 maintaining the partially separate frozen allied  
2 plan, to the extent they continue to have an ob-  
3 ligation to contribute with respect to partici-  
4 pants or facilities covered by the allied plan.

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

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

15 “(5) OTHER RULES.—

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

23 “(B) SUBSEQUENT AMENDMENTS.—That  
24 initial plan amendment may subsequently be  
25 modified or repealed, except that the plan gives

1 notice of the change to the employers and par-  
2 ticipants of the allied plan at least 15 days be-  
3 fore the subsequent amendment takes effect.

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

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

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

24 (C) Section 404(a) of the Employee Retire-  
25 ment Income Security Act of 1974 is amended

1 by adding at the end the following new para-  
2 graph:

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

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

20 (2) AMENDMENTS TO IRC.—Section 412 of the  
21 Internal Revenue Code of 1986 is amended by add-  
22 ing at the end the following:

23 “(e) MULTIEMPLOYER PLAN ALLIANCES.—

24 “(1) IN GENERAL.—Except to the extent other-  
25 wise provided in the plan amendment under section

1       4231(e)(1) of the Employee Retirement Income Se-  
2       curity Act of 1974 designating a multiemployer plan  
3       merger as an alliance, this section and sections 431  
4       and 432 shall apply to the frozen allied plan and the  
5       plan into which the allied plan was merged as if they  
6       were separate plans.

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

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

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

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

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

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

12 “(f) FACILITATED MERGERS.—

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

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

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

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

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

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

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

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

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

5 “(i) \$33, or

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

8 “(B) 50 percent of the lesser of—

9 “(i) \$40 or

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

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

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

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

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

1 of the first month that begins at least 90 days after  
2 the date the multiemployer plan made the qualified  
3 partition election.

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

7 “(A) the plan actuary has certified pursu-  
8 ant to section 305(c) that the plan is currently  
9 in critical status (within the meaning of section  
10 305(b)(2));

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

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

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

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

1           “(D) the plan sponsor has certified, con-  
2           sistent with projections provided by the plan ac-  
3           tuary, that contributions will have to be in-  
4           creased significantly to prevent insolvency;

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

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

14                   “(ii) the ratio of benefit payments  
15                  made by the plan for each such year to  
16                  contributions required to be made to the  
17                  plan under section 304 or 305(e), as appli-  
18                  cable, for each such year was at least 2 to  
19                  1; and

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

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

4           “(A) An initial transfer of—

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

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

15           “(B) As of the last day of each plan year  
16 following a plan year in which a qualified parti-  
17 tion has occurred, the plan sponsor shall deter-  
18 mine whether during such plan year, the aggre-  
19 gate contributions under the plan declined by  
20 10 percent or more as a result of events de-  
21 scribed in paragraph (2)(ii); and if such decline  
22 has occurred, an additional transfer of –

23                   “(i) no more than the nonforfeitable  
24 benefits directly attributable to service with  
25 employers that meets the requirements of

1 paragraph (2)(ii) after the election of a  
2 qualified partition, and

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

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

12 “(A) a successor plan to which section  
13 4022A applies, and

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

19 (2) EFFECT OF QUALIFIED PARTITION ON PRE-  
20 MIUMS.—

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

1           “For purposes of this subparagraph, the value of as-  
2 sets held by the corporation and the basic benefits guaran-  
3 teed for multiemployer plans shall not include assets and  
4 liabilities transferred pursuant to a qualified partition  
5 order under section 4233(g).”.

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

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

14                      (3) PBGC GUARANTEE OF PARTITIONED BENE-  
15 FITS.—

16                      (A) Section 4022A of the Employee Retire-  
17 ment Income Security Act of 1974 is amended  
18 by adding at the end the following:

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

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

5 (c) FINANCING FOR QUALIFIED PARTITIONS AND  
6 OTHER SPECIAL MATTERS.—

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

11 “The United States Government is not liable for any  
12 obligation or liability incurred by the corporation, except  
13 with respect to liabilities transferred pursuant to a quali-  
14 fied partition of a multiemployer plan under section  
15 4233(g) and such other special matters as may be des-  
16 ignated in legislation making funding available therefor.”.

17 (2) PBGC FUND ESTABLISHED.—

18 (A) Fund Established. Section 4005 of the  
19 Employee Retirement Income Security Act of  
20 1974 is amended by deleting subsections (d)  
21 and (e), redesignating existing subsections (f)  
22 through (h) as subsections (e) through (g), and  
23 inserting a new subsection (d), as follows:

24 “(d) ESTABLISHMENT OF FIFTH FUND; PURPOSE;  
25 AVAILABILITY, ETC.—

1           “(1) IN GENERAL.—A fifth fund is hereby es-  
2           tablished on the books of the Treasury of the United  
3           States. Such fund shall be for the support of special  
4           matters undertaken by the corporation to minimize  
5           its reasonably expected long-term risk of loss with  
6           respect to a plan and protect the reasonable benefit  
7           expectations of plan participants and beneficiaries  
8           pursuant to its responsibilities under section 4002(a)  
9           to encourage the continuation and maintenance of  
10          voluntary private pension plans for the benefit of  
11          their participants while maintaining premiums at the  
12          lowest level consistent with that objective.

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

19          “(3) CREDITS TO FUND.—The fund established  
20          under this subsection shall be credited with funds  
21          made available to the corporation that are des-  
22          ignated for special matters and the earnings thereon,  
23          including any amounts received in connection with a  
24          qualified partition under section 4233(g), and shall  
25          not include premiums paid under section 4007, em-

1        ployer liability or withdrawal liability payments, the  
2        assets of terminated plans or repayments of finan-  
3        cial assistance under section 4261 or other amounts  
4        received in connection with terminated or insolvent  
5        plans.

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

14           “(5) INVESTMENTS.—The corporation may in-  
15       vest amounts of the fund in such obligations as the  
16       corporation considers appropriate.

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

22           (2) CONFORMING AMENDMENTS.—

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

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

5 (d) EFFECTIVE DATE.—

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

11 (2) The amendments made by subsections (b)  
12 and (c) shall take effect on the date of enactment  
13 of this Act.