.....

(Original Signature of Member)

111TH CONGRESS
1ST SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. POMEROY (for himself and Mr. TIBERI) introduced the following bill; which was referred to the Committee on _____

A BILL

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

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE, ETC.

(a) SHORT TITLE.—This Act may be cited as the ''Preserve Benefits and Jobs Act of 2009''.

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

Sec. 1. Short title, etc.

TITLE I—SINGLE EMPLOYER PLANS

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

TITLE II—MULTIEMPLOYER PLANS

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

TITLE I—SINGLE EMPLOYER PLANS

SEC. 101. EXTENDED PERIOD FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS TO AMORTIZE CERTAIN SHORTFALL AMORTIZATION BASES.

(a) AMENDMENTS TO ERISA.—

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

''(D) SPECIAL RULE.—

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

''(ii) 7-YEAR AMORTIZATION.—

''(I) IN GENERAL.—The shortfall amortization installments described in this clause are—

''(aa) in the case of the last 7 plan years in the 9-plan-year period beginning with the applicable plan year, the amounts necessary to amortize the shortfall amortization base of the plan for the applicable plan year in level annual installments over such last 7 plan years, and

''(bb) in the case of the first 2 plan years in such 9-plan-year period, interest on such shortfall amortization base (determined using the effective rate of inter-

est for the plan for the plan year).

''(II) SHORTFALL AMORTIZATION INSTALLMENT.—The shortfall amortization installment for any plan year in the 9-plan-year period under this clause with respect to such shortfall amortization base is the annual installment determined under this clause for that year for that base.

''(III) MINIMUM REQUIRED CONTRIBUTION FOR FIRST 2 YEARS.—Notwithstanding the preceding provisions of this clause, the minimum required contribution for the two plan years described in subclause (I)(bb) shall be increased to the extent necessary so that the minimum required contribution for such plan year is at least equal to the applicable percentage of the minimum required contribution for the plan year preceding the first applicable plan year. If the minimum required contribution is increased by reason of the preceding

sentence, the shortfall amortization installments with respect to the shortfall amortization base for any applicable plan year shall be reduced to take such increase into account, pursuant to rules issued by the Secretary of the Treasury, but only if the shortfall amortization installments with respect to the shortfall amortization base for such applicable plan year are determined under this clause. For purposes of this subclause, any reference to the minimum required contribution for any plan year shall be a reference to the minimum required contribution for such plan year prior to any reduction under subsection (f) and without taking into account any waiver under section 302(c). For purposes of this clause, the applicable percentage shall be determined as follows:

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

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments de-

scribed in this clause are the amounts necessary to amortize the shortfall amortization base of the plan for the applicable plan year in level annual installments over 15 years. The shortfall amortization installments for any plan year in the 15-plan-year period under this clause is the annual installment determined under this clause for that year for that base.

''(iv) ELECTION.—The plan sponsor may, with respect to a plan, elect whether to determine shortfall amortization installments under clause (ii), clause (iii), or without regard to this subparagraph. Such election shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury. In the absence of a timely election to determine shortfall amortization installments under such clause (ii) or clause (iii), such installments shall be determined without regard to this subparagraph.

''(E) FAILURE TO MAINTAIN ACTIVE PLAN.—

''(i) 2 AND 7 RULE.—If the shortfall amortization installments with respect to a shortfall amortization base for an applicable plan year are determined under subparagraph (D)(ii), the plan must remain an active plan for the subsequent plan year. If such plan fails to be an active plan in such plan year, the minimum required contribution for the plan year with respect to which a failure occurs shall be increased by all amounts by which the minimum required contribution for the current plan year or any prior plan year has been reduced by the application of subparagraph (D), plus interest on such amounts at the effective rate of interest for the plan for the plan year for which the increase applies. However, any such increase in the minimum required contribution shall not require a contribution to the extent that the contribution would cause the value of plan assets for the plan year to exceed the funding target of the plan for the plan

year (determined without regard to subsection (i)(1)). If the minimum required contribution is increased by reason of this clause, the shortfall amortization installments with respect to the shortfall amortization base for any applicable plan year shall be reduced to take such increase into account, pursuant to rules issued by the Secretary of the Treasury, but only if the shortfall amortization installments with respect to the shortfall amortization base for such applicable plan year are determined under subparagraph (D)(ii). For purposes of this clause, any reference to the minimum required contribution for any plan year shall be a reference to the minimum required contribution for such plan year prior to any reduction under subsection (f) and without taking into account any waiver under section 302(c).

''(ii) 15-YEAR RULE.—If the shortfall amortization installments with respect to a shortfall amortization base for an applicable plan year are determined under subparagraph (D)(iii), the plan must remain

an active plan for the 7 subsequent plan years. If such plan fails to be an active plan in any such plan year, the shortfall amortization base, reduced by the principal portion of prior shortfall amortization installments relating to that base, shall be amortized over 7 years.

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

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

''(II) clause (ii) shall be applied by substituting '8' for '7' the first place it appears and by substituting '6' for '7' the second place it appears.

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

prescribed by the Secretary of the Treasury, and may be revoked only with consent of the Secretary of the Treasury.

''(F) APPLICABLE PLAN YEAR.—For purposes of this paragraph, the term 'applicable plan year' means—

''(i) except as provided in clauses (ii) and (iii), any plan year beginning in 2009 or 2010,

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

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

''(G) ACTIVE PLAN.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'active plan' means a defined benefit plan that is described in clause (ii), (iii), or (iv). A defined benefit plan may satisfy different clauses in different years. Notwithstanding clause (ii), (iii), or (iv), a defined benefit

plan is not an active plan if an election under section 402(a)(1) of the Pension Protection Act of 2006 is in effect with respect to such plan, or if the plan is described under rules prescribed by the Secretary of the Treasury designed to prevent evasion of the purposes of this subparagraph.

''(ii) DEFINED BENEFIT PLAN.—

''(I) IN GENERAL.—A defined benefit plan is described in this clause if minimum benefit accruals are provided on behalf of all employees who have satisfied the plan's age and service requirements and who would, but for any prior amendment ceasing accruals, be eligible for an accrual under the plan.

''(II) SPECIAL RULE REGARDING MINIMUM BENEFIT ACCRUALS.—For purposes of this clause, the employees described in this clause shall be treated as receiving minimum benefit accruals for a plan year if all such employees are accruing a benefit and—

''(aa) the rate of benefit accrual for any such employee is not less than the greater of—

''(AA) the rate of benefit accrual that would have been applied to the employee under the benefit formula in effect on July 1, 2009, disregarding any amendments to the plan adopted after June 30, 2009, or

''(BB) the rate of benefit accrual that would have applied to the employee under the benefit formula in effect as of the last date prior to the effective date of any plan amendment adopted prior to July 1, 2009 that ceased providing benefit accruals based on additional service credit with respect to such employee, or

''(bb) the target normal cost (without regard to plan adminis-

trative expenses) for such plan year with respect to such employees is at least 3 percent of the aggregate compensation (as defined in section 415(c)(3) of the Internal Revenue Code of 1986) of such employees for such plan year. Solely for purposes of this paragraph, target normal cost shall be determined by using 5 percent in lieu of the interest rate applicable under subsection (h) and by using the mortality tables described in subsection (h)(3)(A).

''(iii) DEFINED CONTRIBUTION PLAN.—

''(I) IN GENERAL.—A defined benefit plan is described in this clause if—

''(aa) the defined benefit plan satisfies clause (ii) except with respect to employees whose failure to accrue a minimum benefit is attributable to a plan

amendment adopted prior to July 1, 2009, and

''(bb) the plan sponsor (or any member of such sponsor's controlled group) maintains a defined contribution plan under which allocations are made on behalf of each employee whose failure to accrue a benefit under the defined benefit plan causes the defined benefit plan not to be described in clause (ii).

''(II) MINIMUM ALLOCATIONS.—Such allocations shall not be less than 3 percent of an employee's compensation (as determined in accordance with section 414(s) of the Internal Revenue Code of 1986). A defined contribution plan shall not fail to satisfy the requirements of this clause solely by reason of the failure to make allocations on behalf of one or more highly compensated employees (as defined in section 414(q) of the Internal Revenue Code of 1986).

"(III) ALLOCATIONS TAKEN INTO ACCOUNT.—For purposes of this clause, only the following types of allocations may be taken into account:

"(aa) Employer contributions or forfeitures allocated without regard to whether an employee makes an elective contribution or an employee contribution.

"(bb) In the case of the first plan year ending after June 30, 2009, matching contributions (as defined in section 401(m)(4)(A) of the Internal Revenue Code of 1986).

"(iv) NONQUALIFIED PLAN.—

"(I) IN GENERAL.—A defined benefit plan is described in this clause if no key employee (as defined in section 416(i) of the Internal Revenue Code of 1986 without regard to paragraph (5) thereof) accrues any new benefits for the plan year under any nonqualified deferred compensation

plan (as defined in section 409A(d) of the Internal Revenue Code of 1986) maintained by the sponsor of the defined benefit plan or by any member of such sponsor's controlled group.

''(II) REVOCATION OF CERTAIN ELECTIONS.—The Secretary of the Treasury shall provide rules under section 409A of the Internal Revenue Code of 1986 under which elections to defer compensation made prior to the date of enactment of this clause may be revoked by an employee within 180 days after the date of enactment of this clause, but only to the extent that, pursuant to this clause, such elections could otherwise cause a failure of the employee to—

''(aa) earn compensation under an arrangement that, but for the election, is not a nonqualified deferred compensation plan (as defined in section 409A(d) of the Internal Revenue Code of 1986), and

''(bb) earn compensation that is not payable to the employee in another form or under a different arrangement.

''(v) MULTIPLE EMPLOYER PLANS.—In the case of a defined benefit plan described in section 413(c)(4)(B) of the Internal Revenue Code of 1986, such plan shall be treated as an active plan if such plan satisfies clause (ii), (iii), or (iv) with respect to at least 85 percent of the employers participating in such plan. In applying the 85 percent requirement, different employers may satisfy different clauses.

''(vi) CONTROLLED GROUP.—For purposes of this paragraph, the term 'controlled group' means all employers treated as a single employer pursuant to subsections (b) and (c) of section 414 of the Internal Revenue Code of 1986.''.

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

ing ''any shortfall amortization base which has not been fully amortized under this subsection''.

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

(1) IN GENERAL.—Paragraph (2) of section 430(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following subparagraphs:

''(D) SPECIAL RULE.—

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

''(ii) 7-YEAR AMORTIZATION.—

''(I) IN GENERAL.—The shortfall amortization installments described in this clause are—

''(aa) in the case of the last 7 plan years in the 9-plan-year period beginning with the applicable plan year, the amounts necessary to amortize the shortfall

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

''(bb) in the case of the first 2 plan years in such 9-plan-year period, interest on such shortfall amortization base (determined using the effective rate of interest for the plan for the plan year).

''(II) SHORTFALL AMORTIZATION INSTALLMENT.—The shortfall amortization installment for any plan year in the 9-plan-year period under this clause with respect to such shortfall amortization base is the annual installment determined under this clause for that year for that base.

''(III) MINIMUM REQUIRED CONTRIBUTION FOR FIRST 2 YEARS.—Notwithstanding the preceding provisions of this clause, the minimum required contribution for the two plan years described in subclause (I)(bb)

shall be increased to the extent necessary so that the minimum required contribution for such plan year is at least equal to the applicable percentage of the minimum required contribution for the plan year preceding the first applicable plan year. If the minimum required contribution is increased by reason of the preceding sentence, the shortfall amortization installments with respect to the shortfall amortization base for any applicable plan year shall be reduced to take such increase into account, pursuant to rules issued by the Secretary, but only if the shortfall amortization installments with respect to the shortfall amortization base for such applicable plan year are determined under this clause. For purposes of this subclause, any reference to the minimum required contribution for any plan year shall be a reference to the minimum required contribution for such plan year prior to any reduction under sub-

section (f) and without taking into account any waiver under section 412(c). For purposes of this clause, the applicable percentage shall be determined as follows:

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

''(iii) 15-YEAR AMORTIZATION.—The shortfall amortization installments described in this clause are the amounts necessary to amortize the shortfall amortization base of the plan for the applicable plan year in level annual installments over 15 years. The shortfall amortization installments for any plan year in the 15-plan-year period under this clause is the annual installment determined under this clause for that year for that base.

''(iv) ELECTION.—The plan sponsor may, with respect to a plan, elect whether to determine shortfall amortization installments under clause (ii), clause (iii), or without regard to this subparagraph. Such election shall be made at such times, and in such form and manner, as shall be pre-

scribed by the Secretary, and may be revoked only with the consent of the Secretary. In the absence of a timely election to determine shortfall amortization installments under such clause (ii) or clause (iii), such installments shall be determined without regard to this subparagraph.

''(E) FAILURE TO MAINTAIN ACTIVE PLAN.—

''(i) 2 AND 7 RULE.—If the shortfall amortization installments with respect to a shortfall amortization base for an applicable plan year are determined under subparagraph (D)(ii), the plan must remain an active plan for the subsequent plan year. If such plan fails to be an active plan in such plan year, the minimum required contribution for the plan year with respect to which a failure occurs shall be increased by all amounts by which the minimum required contribution for the current plan year or any prior plan year has been reduced by the application of subparagraph (D), plus interest on such amounts at the effective rate of interest for the plan for

the plan year for which the increase applies. However, any such increase in the minimum required contribution shall not require a contribution to the extent that the contribution would cause the value of plan assets for the plan year to exceed the funding target of the plan for the plan year (determined without regard to subsection (i)(1)). If the minimum required contribution is increased by reason of this clause, the shortfall amortization installments with respect to the shortfall amortization base for any applicable plan year shall be reduced to take such increase into account, pursuant to rules issued by the Secretary, but only if the shortfall amortization installments with respect to the shortfall amortization base for such applicable plan year are determined under subparagraph (D)(ii). For purposes of this clause, any reference to the minimum required contribution for any plan year shall be a reference to the minimum required contribution for such plan year prior to any reduction under subsection (f) and

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

''(ii) 15-YEAR RULE.—If the shortfall amortization installments with respect to a shortfall amortization base for an applicable plan year are determined under subparagraph (D)(iii), the plan must remain an active plan for the 7 subsequent plan years. If such plan fails to be an active plan in any such plan year, the shortfall amortization base, reduced by the principal portion of prior shortfall amortization installments relating to that base, shall be amortized over 7 years.

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

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

year) under rules prescribed by the Secretary, and

''(II) clause (ii) shall be applied by substituting '8' for '7' the first place it appears and by substituting '6' for '7' the second place it appears.

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

''(F) APPLICABLE PLAN YEAR.—For purposes of this paragraph, the term 'applicable plan year' shall mean—

''(i) except as provided in clauses (ii) and (iii), any plan year beginning in 2009 or 2010,

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

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

''(G) ACTIVE PLAN.—

''(i) IN GENERAL.—For purposes of this paragraph, the term 'active plan' means a defined benefit plan that is described in clause (ii), (iii), or (iv). A defined benefit plan may satisfy different clauses in different years. Notwithstanding clause (ii), (iii), or (iv), a defined benefit plan is not an active plan if an election under section 402(a)(1) of the Pension Protection Act of 2006 is in effect with respect to such plan, or if the plan is described under rules prescribed by the Secretary designed to prevent evasion of the purposes of this subparagraph.

''(ii) DEFINED BENEFIT PLAN.—

''(I) IN GENERAL.—A defined benefit plan is described in this clause if minimum benefit accruals are provided on behalf of all employees who have satisfied the plan's age and service requirements and who would, but for any prior amendment ceasing accruals, be eligible for an accrual under the plan.

''(II) SPECIAL RULE REGARDING MINIMUM BENEFIT ACCRUALS.—For purposes of this clause, the employees described in this clause shall be treated as receiving minimum benefit accruals for a plan year if all such employees are accruing a benefit and—

''(aa) the rate of benefit accrual for any such employee is not less than the greater of—

''(AA) the rate of benefit accrual that would have been applied to the employee under the benefit formula in effect on July 1, 2009, disregarding any amendments to the plan adopted after June 30, 2009, or

''(BB) the rate of benefit accrual that would have applied to the employee under the benefit formula in effect as of the last date prior to the effective date of any plan amendment adopt-

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

''(bb) the target normal cost (without regard to plan administrative expenses) for such plan year with respect to such employees is at least 3 percent of the aggregate compensation (as defined in section 415(c)(3)) of such employees for such plan year.

Solely for purposes of this paragraph, target normal cost shall be determined by using 5 percent in lieu of the interest rate applicable under subsection (h) and by using the mortality tables described in subsection (h)(3)(A).

''(iii) DEFINED CONTRIBUTION PLAN.—

''(I) IN GENERAL.—A defined benefit plan is described in this clause if—

''(aa) the defined benefit plan satisfies clause (ii) except with respect to employees whose failure to accrue a minimum benefit is attributable to a plan amendment adopted prior to July 1, 2009, and

''(bb) the plan sponsor (or any member of such sponsor's controlled group) maintains a defined contribution plan under which allocations are made on behalf of each employee whose failure to accrue a benefit under the defined benefit plan causes the defined benefit plan not to be described in clause (ii).

''(II) MINIMUM ALLOCATIONS.—Such allocations shall not be less than 3 percent of an employee's compensation (as determined in accordance with section 414(s)). A defined contribution plan shall not fail to satisfy the requirements of this clause solely by reason of the failure to make allo-

cations on behalf of one or more highly compensated employees (as defined in section 414(q)).

''(III) ALLOCATIONS TAKEN INTO ACCOUNT.—For purposes of this clause, only the following types of allocations may be taken into account:

''(aa) Employer contributions or forfeitures allocated without regard to whether an employee makes an elective contribution or an employee contribution.

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

''(iv) NONQUALIFIED PLAN.—

''(I) IN GENERAL.—A defined benefit plan is described in this clause if no key employee (as defined in section 416(i) without regard to paragraph (5) thereof) accrues any new benefits for the plan year under any nonqualified deferred compensation

plan (as defined in section 409A(d)) maintained by the sponsor of the defined benefit plan or by any member of such sponsor's controlled group.

''(II) REVOCATION OF CERTAIN ELECTIONS.—The Secretary shall provide rules under section 409A under which elections to defer compensation made prior to the date of enactment of this clause may be revoked by an employee within 180 days after the date of enactment of this clause, but only to the extent that, pursuant to this clause, such elections could otherwise cause a failure of the employee to—

''(aa) earn compensation under an arrangement that, but for the election, is not a nonqualified deferred compensation plan (as defined in section 409A(d)), and

''(bb) earn compensation that is not payable to the em-

ployee in another form or under a different arrangement.

''(v) MULTIPLE EMPLOYER PLANS.—In the case of a defined benefit plan described in section 413(c)(4)(B), such plan shall be treated as an active plan if such plan satisfies clause (ii), (iii), or (iv) with respect to at least 85 percent of the employers participating in such plan. In applying the 85 percent requirement, different employers may satisfy different clauses.

''(vi) CONTROLLED GROUP.—For purposes of this paragraph, the term 'controlled group' means all employers treated as a single employer pursuant to subsections (b) and (c) of section 414.''.

(2) CONFORMING AMENDMENT.—Paragraph (1) of section 430(c) of such Code is amended by striking ''the shortfall amortization bases for such plan year and each of the 6 preceding plan years'' and inserting ''any shortfall amortization base which has not been fully amortized under this subsection''.

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

''(3) ACCELERATION OF BENEFITS.—

''(A) IN GENERAL.—The requirements of this paragraph are met if the plan does not permit the acceleration of the time or schedule of any payment under the plan, except as provided in regulations by the Secretary. The requirements of this paragraph shall not be treated as satisfied if the plan makes any payment described in subparagraph (B) or (C).

''(B) EXCESS PAYMENTS FOR CERTAIN ADJUSTED FUNDING TARGET ATTAINMENT PERCENTAGES BY ACTIVE PLAN.—A payment is described in this subparagraph if—

''(i) such payment is made during a year in which a defined benefit plan maintained by the employer sponsoring a nonqualified deferred compensation plan is required to be an active plan under section 430(c)(2)(E) or section 107(e) of the Pension Protection Act of 2006, and such defined benefit plan has not otherwise failed

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

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

''(iii) such defined benefit plan is described in paragraph (1) or (3) of section 436(d)(or would be if section 430(g)(3)(C) did not apply), and

''(iv) the nonqualified deferred compensation plan makes any payment in excess of the amounts that would be permitted if the requirements of such paragraph (1) or (3), as applicable, applied to such plan.

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

satisfy the requirements of this subsection solely by reason of a modification with respect to the time and form of distribution that is consistent with the requirements of this subparagraph.

''(C) EXCESS PAYMENTS BY REASON OF CERTAIN INTEREST RATES AND MORTALITY ASSUMPTIONS.—A payment is described in this subparagraph if—

''(i) the requirements of clauses (i) and (ii) of subparagraph (B) are satisfied, and

''(ii) the nonqualified deferred compensation plan makes any payment in excess of the amount that would be payable if such plan used the interest rate and mortality assumptions from the defined benefit plan described in section 401(a) that would create the smallest payments, determined on a present value basis using the interest rate and mortality assumptions described in section 430(h).

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 102. EXPANSION OF CORRIDOR WITHIN WHICH SINGLE-EMPLOYER DEFINED BENEFIT PLANS ARE ALLOWED TO AVERAGE ASSET VALUES.

(a) AMENDMENT TO ERISA.—Paragraph (3) of section 303(g) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subparagraphs:

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

"(i) by substituting '80 percent' for '90 percent', and

"(ii) by substituting '120 percent' for '110 percent'.

"(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph, the term 'applicable plan year' means—

"(i) except as provided in clauses (ii) and (iii), any plan year beginning in 2009 or 2010,

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

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

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

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

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

''(i) by substituting '80 percent' for '90 percent', and

''(ii) by substituting '120 percent' for '110 percent'.

''(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph, the term 'applicable plan year' means—

''(i) except as provided in clauses (ii) and (iii), any plan year beginning in 2009 or 2010,

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

SEC. 103. LOOKBACK FOR BENEFIT ACCRUAL RESTRICTION.

(a) AMENDMENT TO ERISA.—Subsection (g) of section 206 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following:

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

''(A) IN GENERAL.—For plan years beginning after October 31, 2008, and before November 1, 2010, the adjusted funding target attainment percentage of a plan for purposes of paragraph (4) shall be the greater of—

''(i) such percentage, as determined without regard to this paragraph, or

''(ii) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 31, 2007, and before November 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

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

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

''(ii) subparagraph (A)(ii) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.''.

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

''(n) SPECIAL RULE FOR CERTAIN YEARS.—For purposes of subsection (e) only—

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

2010, the adjusted funding target attainment percentage of a plan for purposes of subsection (e) shall be the greater of—

''(A) such percentage, as determined without regard to this subsection, or

''(B) the adjusted funding target attainment percentage for such plan for the plan year beginning after October 31, 2007, and before November 1, 2008, as determined under rules prescribed by the Secretary.

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

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

''(B) paragraph (1)(B) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.''.

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

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

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after October 31, 2008.

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

SEC. 104. LOOKBACK FOR CREDIT BALANCE RULE.

(a) AMENDMENT TO ERISA.—Paragraph (3) of section 303(f) of the Employee Retirement Income Security Act of 1974 is amended by adding the following at the end thereof:

"(D) SPECIAL RULE FOR CERTAIN YEARS.—

"(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after October 31, 2009, and before November 1, 2011, the ratio determined under such subparagraph for the

preceding plan year shall be the greater of—

''(I) such ratio, as determined without regard to this subparagraph, or

''(II) the ratio for such plan for the plan year beginning after October 31, 2007, and before November 1, 2008, as determined under rules prescribed by the Secretary of the Treasury.

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

''(I) clause (i) shall apply to plan years beginning after December 31, 2008, and before January 1, 2011, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary of the Treasury.''.

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

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

"(D) SPECIAL RULE FOR CERTAIN YEARS.—

"(i) IN GENERAL.—For purposes of applying subparagraph (C) for plan years beginning after October 31, 2009, and before November 1, 2011, the ratio determined under such subparagraph for the preceding plan year of a plan shall be the greater of—

"(I) such ratio, as determined without regard to this subsection, or

"(II) the ratio for such plan for the plan year beginning after October 31, 2007 and before November 1, 2008, as determined under rules prescribed by the Secretary.

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

"(I) clause (i) shall apply to plan years beginning after December 31, 2007, and before January 1, 2010, and

''(II) clause (i)(II) shall apply based on the last plan year beginning before November 1, 2007, as determined under rules prescribed by the Secretary.''.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after October 31, 2009.

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

SEC. 105. CLARIFICATION OF TREATMENT OF EXPENSES.

(a) AMENDMENTS TO ERISA.—

(1) IN GENERAL.—Clause (ii) of section 303(b)(1)(A) of the Employee Retirement Income Security Act of 1974 is amended by striking ''plan-related expenses'' and inserting ''plan-related administrative expenses''.

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

striking ''plan-related expenses'' and inserting ''plan-related administrative expenses''.

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

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

(2) CONFORMING AMENDMENT.—Subclause (II) of section 430(i)(2)(A)(i) of such Code is amended by striking ''plan-related expenses'' and inserting ''plan-related administrative expenses''.

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

SEC. 106. INFORMATION REPORTING.

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

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

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

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

(1) by striking ''and no such information or documentary material may be made public,'', and

(2) by adding at the end the following: ''All parties, governmental or otherwise, receiving the information (or summary report of such information) required to be provided under this section shall be required to—

''(1) ensure that the information received will be kept confidential,

''(2) use the information only for the purpose for which it was requested, and

''(3) not further disclose the information except to accomplish that purpose, unless a separate consent from the taxpayer is obtained.

Such requirements shall not apply to information provided under this section that is otherwise publicly available. The corporation shall notify each person providing information under this section of any public disclosure of such information not permitted by this subsection within a reasonable time of such disclosure becoming known to the corporation. If any party, governmental or otherwise, makes

an unauthorized disclosure, the person required to provide such information under this section may bring suit against such party in Federal district court. No liability results from a disclosure based upon a good faith, but erroneous, interpretation of this section. Upon a finding of a liability, such person can recover an amount not to exceed $100,000 per act of unauthorized disclosure plus reasonable attorney fees. The person shall have two years from the date of discovery of the unauthorized disclosure to bring suit.''.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2009.

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

SEC. 107. BENEFIT RESTRICTION EFFECTIVE DATE FOR COLLECTIVELY BARGAINED PLANS.

(a) AMENDMENTS WITH RESPECT TO ERISA.—

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

(A) by striking ''In the case'' and inserting ''Except as provided in paragraph (3), in the case'', and

(B) by striking ''the amendments made by this section'' and inserting ''section 206(g)(2) of the Employee Retirement Income Security Act of 1974 (and other provisions of such section 206(g) to the extent that they apply to such section 206(g)(2)), as added by this section,''.

(2) OTHER BENEFIT RESTRICTIONS.—

(A) IN GENERAL.—Subsection (c) of section 103 of the Pension Protection Act of 2006 is amended by adding at the end thereof the following:

''(3) COLLECTIVE BARGAINING DELAY EXCEPT REGARDING CERTAIN PLAN AMENDMENTS.—

''(A) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the amendments made by this section shall apply to plan years beginning after December 31, 2011, except that paragraph (2) shall apply to plan amendments made pursuant to a collective bar-

gaining agreement ratified after the date of introduction of the Preserve Benefits and Jobs Act of 2009.

''(B) TRANSITION RULE.—

''(i) In the case of a plan described in clause (ii), such plan shall not be required to comply with this section and the amendments made by this section until the date that is 60 days after the date of the enactment of this paragraph, but such a plan may comply on any otherwise permitted earlier date.

''(ii) A plan is described in this clause if a limit on benefits or benefit accruals has been or is, pursuant to section 206(g) of the Employee Retirement Income Security Act of 1974 and section 436 of the Internal Revenue Code of 1986, in effect with respect to such plan as of the date of the enactment of this paragraph.''.

(3) CONFORMING AMENDMENT.—The heading of paragraph (2) of section 103(c) of the Pension Protection Act of 2006 is amended to read as follows: ''COLLECTIVE BARGAINING EXCEPTION REGARDING CERTAIN PLAN AMENDMENTS''.

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

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

(A) striking ''In the case'' and inserting ''Except as provided in paragraph (3), in the case'', and

(B) striking ''the amendments made by this section'' and inserting ''section 436(c) of the Internal Revenue Code of 1986 (and other provisions such section 436 to the extent that they apply to such section 436(c)), as added by this section,''.

(2) OTHER BENEFIT RESTRICTIONS.—

(A) IN GENERAL.—Subsection (b) of section 113 of the Pension Protection Act of 2006 is amended by adding at the end thereof the following:

''(3) COLLECTIVE BARGAINING DELAY EXCEPT REGARDING CERTAIN PLAN AMENDMENTS.—

''(A) IN GENERAL.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the

amendments made by this section shall apply to plan years beginning after December 31, 2011, except that paragraph (2) shall apply to plan amendments made pursuant to a collective bargaining agreement ratified after the date of introduction of the Preserve Benefits and Jobs Act of 2009.

''(B) TRANSITION RULE.—

''(i) In the case of a plan described in clause (ii), a plan shall not be required to comply with this section and the amendments made by this section until the date that is 60 days after the date of the enactment of this paragraph, but such a plan may comply on any otherwise permitted earlier date.

''(ii) A plan is described in this clause if a limit on benefits or benefit accruals has been or is, pursuant to section 206(g) of the Employee Retirement Income Security Act of 1974 and section 436 of the Internal Revenue Code of 1986, in effect with respect to such plan as of the date of the enactment of this paragraph.''.

(3) CONFORMING AMENDMENT.—The heading of paragraph (2) of section 103(b) of the Pension Protection Act of 2006 is amended to read as follows: ''COLLECTIVE BARGAINING EXCEPTION REGARDING CERTAIN PLAN AMENDMENTS''.

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

SEC. 108. SOCIAL SECURITY LEVEL-INCOME OPTIONS.

(a) AMENDMENT TO ERISA.—Subparagraph (E) of section 206(g)(3) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following:

''For purposes of this paragraph, any stream of payments that is structured to be similar in amount and duration to social security supplements described in the last sentence of section 204(b)(1)(G) shall be treated in the same manner as such supplements.''.

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

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

to social security supplements described in the last sentence of section 411(a)(9) shall be treated in the same manner as such supplements.''.

(c) EFFECTIVE DATE.—

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

(2) TRANSITION RULE.—

(A) In the case of a plan described in subparagraph (B), a plan shall not be required to comply with the amendments made by this section until the date that is 60 days after the date of enactment of this Act, but such a plan may comply on any otherwise permitted earlier date.

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

SEC. 109. PBGC GUARANTEE.

(a) GUARANTEE.—Section 4022 of the Employee retirement Income Security Act of 1974 is amended by striking subsection (g).

(b) ALLOCATION OF ASSETS AMONG PRIORITY GROUPS.—Section 4044 of such Act is amended by striking subsection (e).

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

SEC. 110. APPLICATION OF EXTENDED AMORTIZATION PERIOD TO PLANS SUBJECT TO PRIOR LAW FUNDING RULES.

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

"SEC. 107. APPLICATION OF EXTENDED AMORTIZATION PERIODS TO PLANS WITH DELAYED EFFECTIVE DATE.

''(a) IN GENERAL.—In the case of plans to which section 104, 105, or 106 of this Act apply, section 302 of

the Employee Retirement Income Security Act of 1974 and section 412 of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) shall apply in the manner described in this section. All references in this section to 'such Act' or 'such Code' shall be to such Act or such Code as in effect before the amendments made by this subtitle and subtitle B.

''(b) APPLICATION OF 2 AND 7 RULE.—

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

''(2) TWO YEAR SUSPENSION OF DEFICIT REDUCTION CONTRIBUTIONS FOR CERTAIN PLANS.—For purposes of applying section 302(d)(9) of such Act and section 412(l)(9) of such Code to a plan described in paragraph (1), the funded current liability percentage for such plan for any applicable plan year shall be the funded current liability percentage of such plan for the pre-applicable plan year.

''(3) CALCULATION OF DEFICIT REDUCTION CONTRIBUTION.—For purposes of applying section 302(d) of such Act and section 412(l) of such Code to a plan to which such subsections apply (after taking into account paragraph (2)), the applicable per-

centage described in section 302(d)(4)(C) of such Act and section 412(l)(4)(C) of such Code shall be the third segment rate described in sections 104(b), 105(b), and 106(b) of this Act, provided that such applicable percentage shall only apply to the increased unfunded new liability. The applicable percentage determined without regard to this section shall apply to the excess of the unfunded new liability over the increased unfunded new liability.

''(c) APPLICATION OF 15-YEAR AMORTIZATION.—

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

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

''(A) the annual installments payable in each year if the increased unfunded new liability for such plan year were amortized over 15 years, using an interest rate equal to the third

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

''(B) the increased unfunded new liability for such plan year.

However, such applicable percentage shall only apply to the increased unfunded new liability. The applicable percentage determined without regard to this section shall apply to the excess of the unfunded new liability over the increased unfunded new liability.

''(d) ELECTION.—The plan sponsor may, with respect to a plan, elect whether to apply subsection (b) or subsection (c) or whether neither subsection shall apply. Such election shall be made at such times, and in such form and manner, as shall be prescribed by the Secretary of the Treasury, and may be revoked only with the consent of the Secretary of the Treasury. In the absence of a timely election regarding which subsection shall apply to a plan, neither subsection shall apply to such plan.

''(e) FAILURE TO MAINTAIN ACTIVE PLAN.—If the minimum contribution required for a plan to avoid an accumulated funding deficiency under section 302 of such Act and section 412 of such Code is determined under subsection (b) or (c) for a plan year, the plan must remain an active plan for the subsequent plan year. If such plan fails to be an active plan in such plan year, the minimum

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

''(f) DEFINITIONS.—

''(1) APPLICABLE PLAN YEAR.—For purposes of this section, the term 'applicable plan year' means—

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

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

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

''(D) in the case of a plan to which section 106 of the Pension Protection Act of 2006 applies, subparagraphs (A), (B), and (C) shall be applied by inserting '2008', '2009', or '2010' for '2009', '2010', or '2011', respectively, each place such year is referenced.

''(2) PRE-APPLICABLE PLAN YEAR.—For purposes of this section, the term 'pre-applicable plan year' means, with respect to a plan, the second plan year preceding the first applicable plan year of such plan, except that in the case of a plan described in paragraph (1)(D), such term means the first plan year preceding the first applicable plan year of such plan.

''(3) PRE-EFFECTIVE DATE PLAN YEAR.—For purposes of this section, the term 'pre-effective date plan year' means, with respect to a plan, any plan year prior to the first year in which the amendments made by this subtitle and subtitle B apply to the plan, provided that the first pre-effective date plan year shall be the first applicable plan year with respect to the plan.

''(4) INCREASED UNFUNDED NEW LIABILITY.—For purposes of this section, the term 'increased unfunded new liability' means, with respect to a year,

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

''(5) ACTIVE PLAN.—For purposes of this section, the term 'active plan' shall have the meaning given such term by section 303(c)(2)(G) of the Employee Retirement Income Security Act of 1974 and in section 430(c)(2)(G) of the Internal Revenue Code of 1986, except that 'target normal cost' (without regard to plan administrative expenses) shall be determined as if section 303 of the Employee Retirement Income Security Act of 1974 and section 430 of the Internal Revenue Code of 1986 applied to such plan with the modification regarding the interest rate used, as set forth in section 303(c)(2)(G) of the Employee Retirement Income Security Act of 1974 and in section 430(c)(2)(G) of the Internal Revenue Code of 1986.

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

centage', 'unfunded new liability', and 'current liability' shall have the meanings set forth in section 302(d) of such Act and section 412(l) of such Code.''.

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

(1) striking ''eligible cooperative plan'' wherever it appears in subsections (a) and (b) and inserting ''eligible cooperative plan or an eligible charity plan'', and

(2) adding at the end the following new subsection:

''(d) ELIGIBLE CHARITY PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible charity plan for a plan year if the plan is maintained by more than one employer and 100 percent of the employers are described in section 501(c)(3) of such Code.''.

(c) EFFECTIVE DATE.—

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

(2) ELIGIBLE CHARITY PLAN.—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2008.

SEC. 111. ADDITIONS TO FUNDING-BASED LIMITS ON BENEFITS AND BENEFITS ACCRUALS UNDER SINGLE-EMPLOYER PLANS.

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

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

''(3) SPECIAL LIMITATIONS ON AD HOC AMENDMENTS.—

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

''(i) less than 120 percent, or

''(ii) would be less than 120 percent taking into account such amendment.

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

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

''(i) in the case of subparagraph (A)(i), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the amendment, and

''(ii) in the case of subparagraph (A)(ii), the amount sufficient to result in an adjusted funding target attainment percentage of 120 percent.

''(C) SPECIAL RULE.—An ad hoc amendment that is otherwise permitted to take effect under this subsection may not take effect unless the plan provides that the accrued pension benefits of any participant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated as of the effective date of such ad hoc amendment. This subparagraph shall not apply

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

''(D) AD HOC AMENDMENT.—For purposes of this paragraph, the term 'ad hoc amendment' means an amendment to a plan which—

''(i) increases the nonforfeitable benefits payable to one or more participants,

''(ii) applies only to a subset of the employees otherwise eligible to accrue benefits under the plan,

''(iii) applies by its terms only to employees who, during a limited period of time, terminate employment, and

''(iv) provides that the increase described in clause (i) is payable in the form of a prohibited payment (as defined in subsection (d)(5)).''.

(2) Paragraph (4) of section 436(c) of such Code, as redesignated by paragraph (1), is amended—

(A) by inserting ''(A)'' before ''Paragraph (1)'' and moving the text thereof 2 ems to the right, and

(B) by adding at the end the following:

''(B) Paragraph (3) shall not apply to any amendment of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers.''.

(b) AMENDMENTS TO ERISA.—

(1) Paragraph (2) of section 206(g) of the Employee Retirement Income Security Act of 1974 is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following:

''(C) SPECIAL LIMITATIONS ON AD HOC AMENDMENTS.—

''(i) IN GENERAL.—No ad hoc amendment to a defined benefit plan which is a single employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate of which benefits become nonforfeitable may take effect during the plan year if the adjusted funding target attainment percentage for such plan year is—

''(I) less than 120 percent, or

''(II) would be less than 120 percent taking into account such amendment.

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

''(I) in the case of clause (i)(I), the amount of the increase in the funding target of the plan (under section 303) for the plan year attributable to the amendment, and

''(II) in the case of clause (i)(II), the amount sufficient to result in an adjusted funding target attainment percentage of 120 percent.

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

pant or beneficiary under the plan become nonforfeitable in the same manner which would be required if the plan had terminated as of the effective date of such ad hoc amendment. This subparagraph shall not apply to an ad hoc amendment that takes effect by reason of clause (ii)(I).

''(iv) AD HOC AMENDMENT.—For purposes of this subparagraph, the term 'ad hoc amendment' means an amendment to a plan which—

''(I) increases the nonforfeitable benefits payable to one or more participants,

''(II) applies only to a subset of the employees otherwise eligible to accrue benefits under the plan,

''(III) applies by its terms only to employees who, during a limited period of time, terminate employment, and

''(IV) provides that the increase described in subclause (I) is payable in the form of a prohibited payment (as defined in paragraph (3)(E)).''.

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

(A) by inserting ''(i)'' before ''Subparagraph (A)'' and moving the text thereof 2 ems to the right, and

(B) by adding at the end the following:

''(ii) Subparagraph (C) shall not apply to any amendment of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers.''.

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

SEC. 112. REPORTABLE EVENTS.

(a) IN GENERAL.—Section 4043 of the Employee Retirement Income Security Act of 1974 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

''(f) SPECIAL RULE.—

''(1) IN GENERAL.—A reportable event described in paragraph (3) of subsection (c) (without regard to this subsection) shall not be treated as oc-

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

''(A) the number of employees of the contributing sponsor is at least 80 percent of the number of employees of the contributing sponsor at the beginning of the plan year, and is at least 75 percent of the number of employees of the contributing sponsor at the beginning of the previous plan year,

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

''(C) the contributing sponsor notifies the corporation of the use of the rule described in this subsection by the date that such contributing sponsor would (but for this subsection) be required to notify the corporation of an event described in subsection (c)(3).

''(2) DEFINITIONS.—For purposes of this subsection—

''(A) EMPLOYEE.—The term 'employee' means, in connection with a contributing sponsor, an employee of the contributing sponsor or

of any member of such sponsor's controlled group.

''(B) APPLICABLE PLAN YEAR.—The term 'applicable plan year' means—

''(i) except as provided in this subparagraph, any plan year beginning in 2010 or 2011,

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

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

''(C) PRE-APPLICABLE PLAN YEAR.—The term 'pre-applicable plan year' means, in connection with a plan, the second plan year preceding the first applicable plan year of such plan.''.

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

TITLE II—MULTIEMPLOYER PLANS

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

(a) AMORTIZATION PERIODS.—

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

''(8) ELECTIVE SPECIAL RELIEF RULES.—

''(A) PLAN SPONSOR ELECTION.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, effective with the actuarial valuation for either of the first two plan years beginning after August 31, 2008, the plan sponsor of a multiemployer plan that meets the solvency test in subparagraph (B) may elect to use either the rule in clause (ii) or the rule in clause (iii) in maintaining its funding standard account.

''(ii) COMBINED OUTSTANDING BALANCE.—Under this clause, the outstanding balances of all amounts required to be amortized under both paragraph (2) and

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

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

''(B) SOLVENCY TEST.—An election may be made under this paragraph if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended.

''(C) RESTRICTION ON BENEFIT INCREASES.—In the case of a plan for which a rule described in subparagraph (A) is elected, in addition to any other applicable restrictions on benefit increases, an amendment increasing

benefits may not go into effect during the period of two plan years immediately following the plan year for which the rule is first effective, unless—

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

''(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.''.

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

''(8) ELECTIVE SPECIAL RELIEF RULES.—

''(A) PLAN SPONSOR ELECTION.—

''(i) IN GENERAL.—Notwithstanding any other provision of this subsection, effective starting with the actuarial valuation for either of the first two plan years beginning after August 31, 2008, the plan sponsor of a multiemployer plan that meets the solvency test in subparagraph (B) may elect to use either the rule in clause (ii) or the rule in clause (iii) in maintaining its funding standard account.

''(ii) COMBINED OUTSTANDING BALANCE.—Under this clause, the outstanding balances of all amounts required to be amortized under both paragraph (2) and paragraph (3) may be combined into one amount under each such paragraph, to be amortized in equal annual installments (until fully amortized) over a period of 30 plan years.

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

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

''(B) SOLVENCY TEST.—An election may be made under this paragraph if the plan actuary certifies that the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended.

''(C) RESTRICTION ON BENEFIT INCREASES.—In the case of a plan for which a rule described in subparagraph (A) is elected, in addition to any other applicable restrictions on benefit increases, an amendment increasing benefits may not go into effect during the period of two plan years immediately following the plan year for which the rule is first effective, unless—

''(i) the plan actuary certifies that such increase is paid for out of additional contributions not allocated to the plan when the election was made and the plan's funded percentage and projected credit balances for those two plan years are reasonably expected to be generally at the same

levels as they would have been if the benefit increase had not been adopted, or

''(ii) the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law.''.

(b) AUTOMATIC AMORTIZATION EXTENSIONS.—

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

(A) by striking ''(not in excess of 5 years)'' and inserting ''(not in excess of 10 years)'', and

(B) by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

''(C) DEEMED APPROVAL.—

''(i) IN GENERAL.—An application under this paragraph shall be deemed approved unless, within 45 days after it is submitted, the Secretary notifies the plan sponsor that the actuary has failed to certify to one or more of the criteria listed in subparagraph (B).

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

subparagraph, the plan sponsor corrects any omissions identified in the notice under this subparagraph or otherwise demonstrates that the actuary's certification satisfies subparagraph (B), the application shall be deemed approved.''.

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 431(d)(1)(A) of the Internal Revenue Code of 1986 is amended—

(A) by striking ''(not in excess of 5 years)'' and inserting ''(not in excess of 10 years)'', and

(B) by redesignating subparagraph (C) as subparagraph (D) and inserting after subparagraph (B) the following new subparagraph:

''(C) DEEMED APPROVAL.—

''(i) IN GENERAL.—An application under this paragraph shall be deemed approved unless, within 45 days after it is submitted, the Secretary notifies the plan sponsor that the actuary has failed to certify to one or more of the criteria listed in subparagraph (B).

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

any omissions identified in the notice under this subparagraph or otherwise demonstrates that the actuary's certification satisfies subparagraph (B), the application shall be deemed approved.''.

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

(1) IN GENERAL.—

(A) The Secretary of the Treasury shall not treat the asset valuation method of a multiemployer plan as unreasonable solely because the plan elects to use either or both of the options described in subparagraph (B) or (C). A plan may elect to use any or all of such options. The election of such options shall apply for purposes of sections 431 and 432 of the Internal Revenue Code of 1986.

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

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

more than 130 percent of the current fair market value.

(2) DEEMED APPROVAL.—The election by a plan of either or both of the options described in paragraph (1) shall be deemed approved by the Secretary of the Treasury under section 412(d)(1) of the Internal Revenue Code of 1986.

(d) MODIFICATION OF CERTAIN AMORTIZATION EXTENSIONS UNDER PRIOR LAW.—Any amortization extensions under the terms of section 412(e) of the Internal Revenue Code of 1986 (prior to enactment of the Pension Protection Act of 2006) that were granted to multiemployer plans shall remain in effect notwithstanding the impact of investment losses incurred by the plans in 2008, 2009 or 2010, unless the plan sponsor elects otherwise.

(e) CLARIFICATION OF MULTIEMPLOYER REPORTING AND DISCLOSURE REQUIREMENTS.—Sections 103(f)(2)(C) and 104(d)(1)(D) of the Employee Retirement Income Security Act of 1974 are both amended by striking ''as an employer of the participant''.

(f) EFFECTIVE DATE.—

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

tion that affects the plan's funding standard account for the first plan year beginning after August 31, 2008 shall be disregarded for purposes of applying the provisions of section 305 of the Employee Retirement Income Security Act of 1974 and section 432 of the Internal Revenue Code of 1986 to that plan year.

(2) Notwithstanding paragraph (1), the restrictions on plan amendments increasing benefits in sections 304(b)(8)(C) of the ERISA and 431(b)(8)(C) of the Internal Revenue Code, as added by this section, shall be effective 30 days after the date of enactment of this Act.

SEC. 202. MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) OPTIONAL LONGER CORRECTION PERIODS.—

(1) AMENDMENT TO ERISA.—

(A) FUNDING IMPROVEMENT PERIOD.—Section 305(c)(4) of the Employee Retirement Income Security Act of 1974 is amended by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) ELECTION TO EXTEND PERIOD.—The plan sponsor of an endangered or seriously endangered plan may elect to extend the applicable funding improvement period by up to 5 years, including any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008.''.

(B) REHABILITATION PERIOD.—Section 305(e)(4) of such Act is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) ELECTION TO EXTEND PERIOD.—The plan sponsor of a plan in critical status may elect to extend the rehabilitation period by up to five years, including any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008.''.

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

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

graphs (C) and (D) as subparagraphs (D) and (E), respectively, and by inserting after subparagraph (B) the following new subparagraph:

''(C) ELECTION TO EXTEND PERIOD.—The plan sponsor of an endangered or seriously endangered plan may elect to extend the applicable funding improvement period by up to 5 years, including any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008.''.

(B) REHABILITATION PERIOD.—Section 432(e)(4) of such Code is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) ELECTION TO EXTEND PERIOD.—The plan sponsor of a plan in critical status may elect to extend the rehabilitation period by up to five years, including any extension of the period previously elected pursuant to section 205 of the Worker, Retiree and Employer Relief Act of 2008.''.

(b) SIMPLIFICATION OF THE FUNDING IMPROVEMENT PERIOD FOR CERTAIN SERIOUSLY ENDANGERED PLANS.—

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

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

(B) in paragraph (1) by striking ''(as modified by paragraph (5))''.

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

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

(B) in paragraph (1) by striking ''(as modified by paragraph (5))''.

(c) SOCIAL SECURITY LEVEL INCOME OPTION.—

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

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

(3) EFFECTIVE DATE.—

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

(B) TRANSITION RULE.—

(i) In the case of a plan described in clause (ii), a plan shall not be required to comply with the amendments made by this section until the date that is 60 days after the date of enactment of this Act, but such a plan may comply on any otherwise permitted earlier date.

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

security Act of 1974 and section 432(f) of the Internal Revenue Code of 1986, in effect with respect to such plan as of the date of enactment of this Act.

(d) TECHNICAL CORRECTIONS.—

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

(A) in paragraph (1)(B)(i)—

(i) by striking ''plan, including—'' and all that follows through ''one proposal for reductions'' and inserting ''plan, including one proposal for reductions'',

(ii) by striking '', and'' at the end of subclause (I) and inserting a period, and

(iii) by striking subclause (II),

(B) in paragraph (7)(A), by striking ''(1)(B)(i)(I)'' and inserting ''(1)(B)(i)'',

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

''(E) PLANS THAT ACHIEVE FUNDING IMPROVEMENT BENCHMARKS WHILE IN ENDANGERED OR SERIOUSLY ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) that the plan has achieved the appli-

cable increase in the funding percentage described in paragraph (3) of this subsection and that the plan is nevertheless still in endangered status, the provisions of this subsection and subsection (d) shall remain in effect until the earlier of the expiration of the funding improvement period or the last day preceding the plan year for which the actuary certifies that the plan is no longer in endangered status.'', and

(D) in paragraph (4)(C)(ii) by striking all that follows ''whichever is applicable,'' and inserting the following:

''shall end as of the close of the preceding plan year, except that, until the start of the rehabilitation plan adoption period—

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

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

plan was in the funding improvement period for the plan year.''.

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

(A) in paragraph (1)(B)(i)—

(i) by striking ''plan, including—'' and all that follows through ''one proposal for reductions'' and inserting ''plan, including one proposal for reductions'',

(ii) by striking '', and'' at the end of subclause (I) and inserting a period, and

(iii) by striking subclause (II),

(B) in paragraph (7)(A), by striking ''(1)(B)(i)(I)'' and inserting ''(1)(B)(i)'',

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

''(E) PLANS THAT ACHIEVE FUNDING IMPROVEMENT BENCHMARKS WHILE IN ENDANGERED OR SERIOUSLY ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) that the plan has achieved the applicable increase in the funding percentage described in paragraph (3) of this subsection and that the plan is nevertheless still in endangered

status, the provisions of this subsection and subsection (d) shall remain in effect until the earlier of the expiration of the funding improvement period or the last day preceding the plan year for which the actuary certifies that the plan is no longer in endangered status.'', and

(D) in paragraph (4)(C)(ii) by striking all that follows ''whichever is applicable,'' and inserting the following:

''shall end as of the close of the preceding plan year, except that, until the start of the rehabilitation plan adoption period—

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

''(II) the rules of subsection (d)(2) shall apply if, prior to the date of the critical-status certification, the plan was in the funding improvement period for the plan year.''.

SEC. 203. MULTIEMPLOYER PLAN MERGERS AND ALLIANCES.

(a) MULTIEMPLOYER PLAN ALLIANCES.—

(1) AMENDMENTS TO ERISA.—

(A) Section 4231 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subsection:

''(e) MULTIEMPLOYER PLAN ALLIANCES.—

''(1) IN GENERAL.—The plan sponsor of a multiemployer plan into which another multiemployer plan has been merged may designate the merger as an alliance to which the rules of this subsection apply by amending the plan—

''(A) to identify the allied plan, and

''(B) to delineate the terms of operation of the alliance, including the allocation of employer contributions and experience gains and losses between the merged plan and the partially separate frozen allied plan described in paragraphs (2) and (3).

''(2) APPLICABLE PROVISIONS.—Except to the extent otherwise provided in the plan amendment under paragraph (1), sections 302, 304 and 305 (minimum funding), Part 1 of Subtitle E (withdrawal liability), sections 4244A and 4281 (plan ter-

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

''(3) FROZEN ALLIED PLAN TREATED AS SEPARATE PLAN.—

''(A) ASSETS AND LIABILITIES.—The frozen allied plan that is treated in part as a separate plan pursuant to this paragraph comprises the assets and liabilities of the allied plan as if it had been amended, effective immediately before the effective date of the merger, to cease all benefit accruals.

''(B) EMPLOYERS MAINTAINING PLAN.—The employers that were obligated to contribute to the allied plan immediately before the effective date of the merger, and any successors thereto whether by sale, reorganization or otherwise, shall be considered to be the employers maintaining the partially separate frozen allied plan, to the extent they continue to have an obligation to contribute with respect to participants or facilities covered by the allied plan.

"(C) PARTICIPANTS AND BENEFICIARIES.—The participants and beneficiaries of the allied plan immediately before the effective date of the merger shall be considered to be the participants and beneficiaries of the partially separate frozen allied plan thereafter.

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

"(5) OTHER RULES.—

"(A) ADOPTION OF INITIAL PLAN AMENDMENT.—The plan amendment initially designating a merger as an alliance, identifying the allied plan and delineating the terms of the alliance must be adopted by no later than the last day of the plan year in which the merger takes effect.

"(B) SUBSEQUENT AMENDMENTS.—That initial plan amendment may subsequently be modified or repealed, except that the plan gives notice of the change to the employers and participants of the allied plan at least 15 days before the subsequent amendment takes effect.

''(C) DISCRETION TO TREAT MERGERS DIFFERENTLY.—The plan sponsor of a multiemployer plan may, in its discretion, treat some mergers as alliances and others as full mergers, and may prescribe different terms of operation for different alliances, if the basis for the distinctions is not unreasonable.''.

(B) Subsection (b) of section 4231 of such Act is amended by striking ''and'' at the end of paragraph (3), by striking the period at the end of paragraph (4) and inserting '', and'', and by inserting after paragraph (4) adding at the end the following:

''(5) a merger that is designated as an alliance under subsection (e) shall not be treated as failing to meet any of the criteria of this subsection solely because benefits under the allied plan are, or are expected to be, reduced or eliminated pursuant to section 305 as a result of the endangered or critical status of the frozen allied plan.''.

(C) Section 404(a) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new paragraph:

''(3) With respect to a merger of multiemployer plans, including a merger that is designated as an alliance under section 4231(e), the plan sponsors of the merging plans shall be considered to meet the requirements of paragraph (1)(A) if the plan sponsors determine that the merger is not reasonably likely to be adverse to the long-term interests of the participants and beneficiaries of the plan for which the plan sponsors are responsible prior to the merger.''.

(i) Section 4231(c) of the Employee Retirement Income Security Act of 1974 is amended by striking ''The merger of multiemployer plans or the transfer'' and inserting ''The merger of multiemployer plans, including a merger that is designated as an alliance, or the transfer''.

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

''(e) MULTIEMPLOYER PLAN ALLIANCES.—

''(1) IN GENERAL.—Except to the extent otherwise provided in the plan amendment under section 4231(e)(1) of the Employee Retirement Income Se-

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

''(2) EMPLOYERS MAINTAINING PLAN.—The employers that were obligated to contribute to the allied plan immediately before the effective date of the merger, and any successors thereto whether by sale, reorganization or otherwise, shall be considered to be the employers maintaining the partially separate frozen allied plan to the extent they continue to have an obligation to contribute with respect to participants or facilities covered by the allied plan.

''(3) PARTICIPANTS AND BENEFICIARIES.—The participants and beneficiaries of the allied plan immediately before the effective date of the merger shall be considered to be the participants and beneficiaries of the partially separate frozen allied plan thereafter.

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

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

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

(b) PBGC ASSISTANCE FOR MULTIEMPLOYER PLAN MERGERS.—Section 4231 of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following:

''(f) FACILITATED MERGERS.—

''(1) IN GENERAL.—When requested to do so by the plan sponsors, the corporation shall take reasonable actions to promote and facilitate the merger of two or more multiemployer plans, including a merger that is designated as an alliance, if it determines that the transaction is in the interests of the participants and beneficiaries of at least one of the plans, and is not reasonably expected to be adverse to the long-term interests of the participants and beneficiaries of the other plan or plans. Such facilitation may include training, technical assistance, mediation, communication with stakeholders and

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

''(2) FINANCIAL ASSISTANCE.—To facilitate mergers, including mergers designated as alliances, which it determines are reasonably necessary to enable one or more of the plans involved to avoid or postpone insolvency, the corporation may provide financial assistance to the merged plan if it reasonably expects that such financial assistance will reduce the corporation's likely long-term loss with respect to the plans involved.''.

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

SEC. 204. STRENGTHENING PARTICIPANTS' BENEFIT PROTECTIONS.

(a) INCREASE IN MULTIEMPLOYER BENEFIT GUARANTEE.—Paragraph (1) of section 4022A(c) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

''(1) Except as provided in subsection (g), the monthly benefit of a participant or a beneficiary which is guaranteed under this section by the corporation with respect to a plan is the product of the

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

"(A) 100 percent of the accrual rate up to $11, plus 75 percent of the lesser of—

"(i) $33, or

"(ii) the accrual rate, if any, in excess of $11, and

"(B) 50 percent of the lesser of—

"(i) $40 or

"(ii) the accrual rate, if any, in excess of $44.".

(b) QUALIFIED PARTITION OF ELIGIBLE MULTIEMPLOYER PLANS.—

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

"(g) QUALIFIED PARTITION OF ELIGIBLE MULTIEMPLOYER PLANS.—

"(1) IN GENERAL.—Notwithstanding subsections (a) through (f), upon the election by the plan sponsor of an eligible multiemployer plan of a qualified partition, the corporation shall order a partition of the electing multiemployer plan in accordance with this subsection, effective on the first day

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

''(2) ELIGIBLE MULTIEMPLOYER PLAN.—An eligible multiemployer plan is a multiemployer plan as to which—

''(A) the plan actuary has certified pursuant to section 305(c) that the plan is currently in critical status (within the meaning of section 305(b)(2));

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

''(i) cases or proceedings under title 11, United States Code, with respect to employers, or

''(ii) employers' ceasing to be in business, if such employers did not pay the full amount of withdrawal liability demanded by the plan under section 4219;

''(C) the plan sponsor has certified, consistent with projections provided by the plan actuary, that the plan is likely to become insolvent;

''(D) the plan sponsor has certified, consistent with projections provided by the plan actuary, that contributions will have to be increased significantly to prevent insolvency;

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

''(i) the ratio of the number of the plan's retirees, beneficiaries of deceased participants, and terminated vested participants to the number of the plan's active participants for each such year was at least 2 to 1; and

''(ii) the ratio of benefit payments made by the plan for each such year to contributions required to be made to the plan under section 304 or 305(e), as applicable, for each such year was at least 2 to 1; and

''(F) the plan sponsor has certified, consistent with projections provided by the plan actuary, that partition would significantly reduce the likelihood that the plan will become insolvent.

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

''(A) An initial transfer of—

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

''(ii) assets attributable to any withdrawal liability payments by such employers and, as adjusted by any gains or losses thereon, and reduced by any benefit payments made with regard to service with the employers.

''(B) As of the last day of each plan year following a plan year in which a qualified partition has occurred, the plan sponsor shall determine whether during such plan year, the aggregate contributions under the plan declined by 10 percent or more as a result of events described in paragraph (2)(ii); and if such decline has occurred, an additional transfer of –

''(i) no more than the nonforfeitable benefits directly attributable to service with employers that meets the requirements of

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

''(ii) assets attributable to any withdrawal liability payments by such employers, as adjusted by any gains or losses thereon, and reduced by any benefit payments made with regard to service with the employers.

''(4) PLAN CREATED BY QUALIFIED PARTITION.—The plan created by the qualified partition is—

''(A) a successor plan to which section 4022A applies, and

''(B) a terminated multiemployer plan to which section 4041A(d) applies, with respect to which only the employers described in paragraphs (2)(ii) and (3)(ii) have withdrawal liability.''.

(2) EFFECT OF QUALIFIED PARTITION ON PREMIUMS.—

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

''For purposes of this subparagraph, the value of assets held by the corporation and the basic benefits guaranteed for multiemployer plans shall not include assets and liabilities transferred pursuant to a qualified partition order under section 4233(g).''.

(B) Section 4022A(f) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

''(5) Basic benefits guaranteed in connection with assets and liabilities transferred to the corporation pursuant to a qualified partition order under section 4233(g) shall be disregarded under subparagraphs (1), (2), and (3)''.

(3) PBGC GUARANTEE OF PARTITIONED BENEFITS.—

(A) Section 4022A of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following:

''(i) The monthly benefit of a participant or a beneficiary whose benefit was transferred pursuant to a qualified partition which is guaranteed under this section by the corporation with respect to a plan is the nonforfeitable benefits of the participant or beneficiary transferred pursuant to the qualified partition.''.

(B) Section 4022A(c)(1) of the Employee Retirement Income Security Act of 1974 is amended by striking ''subsection (g)'' and inserting ''subsections (g) and (i)''.

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

(1) OBLIGATIONS OF THE CORPORATION.—The second sentence of section 4002(g)(2) of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

''The United States Government is not liable for any obligation or liability incurred by the corporation, except with respect to liabilities transferred pursuant to a qualified partition of a multiemployer plan under section 4233(g) and such other special matters as may be designated in legislation making funding available therefor.''.

(2) PBGC FUND ESTABLISHED.—

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

''(d) ESTABLISHMENT OF FIFTH FUND; PURPOSE; AVAILABILITY, ETC.—

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

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

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

ployer liability or withdrawal liability payments, the assets of terminated plans or repayments of financial assistance under section 4261 or other amounts received in connection with terminated or insolvent plans.

''(4) TRANSACTIONS WITH OTHER FUNDS.—Notwithstanding paragraph (3), this fund may engage in transactions with the other funds established under this section to the extent reasonable and necessary to meet liquidity demands and maximize the ability of the corporation to accomplish its mission under section 4002(a) without increasing the premiums payable under section 4006.

''(5) INVESTMENTS.—The corporation may invest amounts of the fund in such obligations as the corporation considers appropriate.

''(6) OBLIGATIONS OF UNITED STATES.—Notwithstanding any other provision of this title, obligations of the corporation that are financed by the fund created by this subsection shall be obligations of the United States.''.

(2) CONFORMING AMENDMENTS.—

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

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

(d) EFFECTIVE DATE.—

(1) The amendments made by subsection (a) shall apply with respect to plans that first apply for financial assistance from the Pension Benefit Guarantee Corporation after the date of enactment of this Act.

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