

AMENDMENT TO RULES COMMITTEE PRINT 113-

59

**OFFERED BY MR. KLINE OF MINNESOTA AND MR.
GEORGE MILLER OF CALIFORNIA**

At the end, add the following (and update the table of contents accordingly):

1 **DIVISION O—MULTIEMPLOYER**
2 **PENSION REFORM**

3 **SECTION 1. SHORT TITLE.**

4 This division may be cited as the “Multiemployer
5 Pension Reform Act of 2014”.

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this division is as follows:

Sec. 1. Short title.

Sec. 2. Table of Contents.

TITLE I—MODIFICATIONS TO MULTIEMPLOYER PLAN RULES

Subtitle A—Amendments to Pension Protection Act of 2006

Sec. 101. Repeal of sunset of PPA funding rules.

Sec. 102. Election to be in critical status.

Sec. 103. Clarification of rule for emergence from critical status.

Sec. 104. Endangered status not applicable if no additional action is required.

Sec. 105. Correct endangered status funding improvement plan target funded percentage.

Sec. 106. Conforming endangered status and critical status rules during funding improvement and rehabilitation plan adoption periods.

Sec. 107. Corrective plan schedules when parties fail to adopt in bargaining.

Sec. 108. Repeal of reorganization rules for multiemployer plans.

Sec. 109. Disregard of certain contribution increases for withdrawal liability purposes.

Sec. 110. Guarantee for pre-retirement survivor annuities under multiemployer pension plans.

Sec. 111. Required disclosure of multiemployer plan information.

Subtitle B—Multiemployer Plan Mergers and Partitions

Sec. 121. Mergers.

Sec. 122. Partitions of eligible multiemployer plans.

Subtitle C—Strengthening the Pension Benefit Guaranty Corporation

Sec. 131. Premium increases for multiemployer plans.

TITLE II—REMEDIAL MEASURES FOR DEEPLY TROUBLED PLANS

Sec. 201. Conditions, limitations, distribution and notice requirements, and approval process for benefit suspensions under multiemployer plans in critical and declining status.

1 **TITLE I—MODIFICATIONS TO**
2 **MULTIEMPLOYER PLAN RULES**
3 **Subtitle A—Amendments to**
4 **Pension Protection Act of 2006**

5 **SEC. 101. REPEAL OF SUNSET OF PPA FUNDING RULES.**

6 (a) IN GENERAL.—Subtitle C of title II of the Pen-
7 sion Protection Act of 2006 (26 U.S.C. 412 note) is re-
8 pealed.

9 (b) CONFORMING AMENDMENTS.—

10 (1) AMENDMENT TO EMPLOYEE RETIREMENT
11 INCOME SECURITY ACT OF 1974.—Section 304(d)(1)
12 of the Employee Retirement Income Security Act of
13 1974 (29 U.S.C. 1084) is amended by striking sub-
14 paragraph (C).

15 (2) AMENDMENT TO INTERNAL REVENUE
16 CODE.—Section 431(d)(1) of the Internal Revenue
17 Code of 1986 is amended by striking subparagraph
18 (C).

1 **SEC. 102. ELECTION TO BE IN CRITICAL STATUS.**

2 (a) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
3 COME SECURITY ACT OF 1974.—

4 (1) IN GENERAL.—Section 305(b) of the Em-
5 ployee Retirement Income Security Act of 1974 (29
6 U.S.C. 1085(b)) is amended by adding at the end
7 the following:

8 “(4) ELECTION TO BE IN CRITICAL STATUS.—
9 Notwithstanding paragraph (2) and subject to para-
10 graph (3)(B)(iv)—

11 “(A) the plan sponsor of a multiemployer
12 plan that is not in critical status for a plan year
13 but that is projected by the plan actuary, pur-
14 suant to the determination under paragraph
15 (3), to be in critical status in any of the suc-
16 ceeding 5 plan years may, not later than 30
17 days after the date of the certification under
18 paragraph (3)(A), elect to be in critical status
19 effective for the current plan year,

20 “(B) the plan year in which the plan spon-
21 sor elects to be in critical status under subpara-
22 graph (A) shall be treated for purposes of this
23 section as the first year in which the plan is in
24 critical status, regardless of the date on which
25 the plan first satisfies the criteria for critical
26 status under paragraph (2), and

1 “(C) a plan that is in critical status under
2 this paragraph shall not emerge from critical
3 status except in accordance with subsection
4 (e)(4)(B).”.

5 (2) ANNUAL CERTIFICATION.—

6 (A) IN GENERAL.—Section 305(b)(3)(A)(i)
7 of such Act (29 U.S.C. 1085(b)(3)(A)(i)) is
8 amended by striking “, and” and inserting “or
9 for any of the succeeding 5 plan years, and”.

10 (B) ACTUARIAL PROJECTIONS.—Section
11 305(b)(3)(B) of such Act (29 U.S.C.
12 1085(b)(3)(B)) is amended—

13 (i) in clause (i), by striking “In mak-
14 ing the determinations” and inserting “Ex-
15 cept as provided in clause (iv), in making
16 the determinations”; and

17 (ii) by adding at the end the fol-
18 lowing:

19 “(iv) PROJECTIONS RELATING TO
20 CRITICAL STATUS IN SUCCEEDING PLAN
21 YEARS.—Clauses (i) and (ii) (other than
22 the 2nd sentence of clause (i)) may be dis-
23 regarded by a plan actuary in the case of
24 any certification of whether a plan will be
25 in critical status in a succeeding plan year,

1 except that a plan sponsor may not elect to
2 be in critical status for a plan year under
3 paragraph (4) in any case in which the
4 certification upon which such election
5 would be based is made without regard to
6 such clauses.”.

7 (3) NOTICE.—

8 (A) OF ELECTION TO BE IN CRITICAL STA-
9 TUS.—Section 305(b)(3)(D)(i) of such Act (29
10 U.S.C. 1085(b)(3)(D)(i)) is amended—

11 (i) by inserting after “for a plan
12 year” the following: “or in which a plan
13 sponsor elects to be in critical status for a
14 plan year under paragraph (4)”;

15 (ii) by adding at the end the fol-
16 lowing: “In any case in which a plan spon-
17 sor elects to be in critical status for a plan
18 year under paragraph (4), the plan sponsor
19 shall notify the Secretary of the Treasury
20 of such election not later than 30 days
21 after the date of such certification or such
22 other time as the Secretary of the Treas-
23 ury may prescribe by regulations or other
24 guidance.”

1 (B) OF PROJECTION TO BE IN CRITICAL
2 STATUS IN A FUTURE PLAN YEAR.—Section
3 305(b)(3)(D) of such Act (29 U.S.C.
4 1085(b)(3)(D)) is amended by adding at the
5 end the following:

6 “(iv) NOTICE OF PROJECTION TO BE
7 IN CRITICAL STATUS IN A FUTURE PLAN
8 YEAR.—In any case in which it is certified
9 under subparagraph (A)(i) that a multiem-
10 ployer plan will be in critical status for any
11 of 5 succeeding plan years (but not for the
12 current plan year) and the plan sponsor of
13 such plan has not made an election to be
14 in critical status for the plan year under
15 paragraph (4), the plan sponsor shall, not
16 later than 30 days after the date of the
17 certification, provide notification of the
18 projected critical status to the Pension
19 Benefit Guaranty Corporation.”.

20 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

21 (1) IN GENERAL.—Section 432(b) of the Inter-
22 nal Revenue Code of 1986 is amended by adding at
23 the end the following:

1 “(4) ELECTION TO BE IN CRITICAL STATUS.—
2 Notwithstanding paragraph (2) and subject to para-
3 graph (3)(B)(iv)—

4 “(A) the plan sponsor of a multiemployer
5 plan that is not in critical status for a plan year
6 but that is projected by the plan actuary, pur-
7 suant to the determination under paragraph
8 (3), to be in critical status in any of the suc-
9 ceeding 5 plan years may, not later than 30
10 days after the date of the certification under
11 paragraph (3)(A), elect to be in critical status
12 effective for the current plan year,

13 “(B) the plan year in which the plan spon-
14 sor elects to be in critical status under subpara-
15 graph (A) shall be treated for purposes of this
16 section as the first year in which the plan is in
17 critical status, regardless of the date on which
18 the plan first satisfies the criteria for critical
19 status under paragraph (2), and

20 “(C) a plan that is in critical status under
21 this paragraph shall not emerge from critical
22 status except in accordance with subsection
23 (e)(4)(B).”.

24 (2) ANNUAL CERTIFICATION.—

1 (A) IN GENERAL.—Section 432(b)(3)(A)(i)
2 of such Code is amended by striking “, and”
3 and inserting “or for any of the succeeding 5
4 plan years, and”.

5 (B) ACTUARIAL PROJECTIONS.—Section
6 432(b)(3)(B) of such Code is amended—

7 (i) in clause (i), by striking “In mak-
8 ing the determinations” and inserting “Ex-
9 cept as provided in clause (iv), in making
10 the determinations”; and

11 (ii) by adding at the end the fol-
12 lowing:

13 “(iv) PROJECTIONS RELATING TO
14 CRITICAL STATUS IN SUCCEEDING PLAN
15 YEARS.—Clauses (i) and (ii) (other than
16 the 2nd sentence of clause (i)) may be dis-
17 regarded by a plan actuary in the case of
18 any certification of whether a plan will be
19 in critical status in a succeeding plan year,
20 except that a plan sponsor may not elect to
21 be in critical status for a plan year under
22 paragraph (4) in any case in which the
23 certification upon which such election
24 would be based is made without regard to
25 such clauses.”.

1 (3) NOTICE.—

2 (A) OF ELECTION TO BE IN CRITICAL STA-
3 TUS.—Section 432(b)(3)(D)(i) of such Code is
4 amended—

5 (i) by inserting after “for a plan
6 year” the following: “or in which a plan
7 sponsor elects to be in critical status for a
8 plan year under paragraph (4)”; and

9 (ii) by adding at the end the fol-
10 lowing: “In any case in which a plan spon-
11 sor elects to be in critical status for a plan
12 year under paragraph (4), the plan sponsor
13 shall notify the Secretary of such election
14 not later than 30 days after the date of
15 such certification or such other time as the
16 Secretary may prescribe by regulations or
17 other guidance.”.

18 (B) OF PROJECTION TO BE IN CRITICAL
19 STATUS IN A FUTURE PLAN YEAR.—Section
20 432(b)(3)(D) of such Code is amended by add-
21 ing at the end the following:

22 “(iv) NOTICE OF PROJECTION TO BE
23 IN CRITICAL STATUS IN A FUTURE PLAN
24 YEAR.—In any case in which it is certified
25 under subparagraph (A)(i) that a multiem-

1 “(I) the plan is not described in
2 one or more of the subparagraphs in
3 subsection (b)(2) as of the beginning
4 of the plan year;

5 “(II) the plan is not projected to
6 have an accumulated funding defi-
7 ciency for the plan year or any of the
8 9 succeeding plan years, without re-
9 gard to the use of the shortfall meth-
10 od but taking into account any exten-
11 sion of amortization periods under
12 section 304(d)(2) or section 304 (as
13 in effect prior to the enactment of the
14 Pension Protection Act of 2006); and

15 “(III) the plan is not projected to
16 become insolvent within the meaning
17 of section 4245 for any of the 30 suc-
18 ceeding plan years.

19 “(ii) PLANS WITH CERTAIN AMORTI-
20 ZATION EXTENSIONS.—

21 “(I) SPECIAL EMERGENCE
22 RULE.—Notwithstanding clause (i), a
23 plan in critical status that has an
24 automatic extension of amortization
25 periods under section 304(d)(1) shall

1 no longer be in critical status if the
2 plan actuary certifies for a plan year,
3 in accordance with subsection
4 (b)(3)(A), that—

5 “(aa) the plan is not pro-
6 jected to have an accumulated
7 funding deficiency for the plan
8 year or any of the 9 succeeding
9 plan years, without regard to the
10 use of the shortfall method but
11 taking into account any extension
12 of amortization periods under
13 section 304(d)(1); and

14 “(bb) the plan is not pro-
15 jected to become insolvent within
16 the meaning of section 4245 for
17 any of the 30 succeeding plan
18 years,

19 regardless of whether the plan is de-
20 scribed in one or more of the subpara-
21 graphs in subsection (b)(2) as of the
22 beginning of the plan year.

23 “(II) REENTRY INTO CRITICAL
24 STATUS.—A plan that emerges from
25 critical status under subclause (I)

1 shall not reenter critical status for
2 any subsequent plan year unless—

3 “(aa) the plan is projected
4 to have an accumulated funding
5 deficiency for the plan year or
6 any of the 9 succeeding plan
7 years, without regard to the use
8 of the shortfall method but tak-
9 ing into account any extension of
10 amortization periods under sec-
11 tion 304(d); or

12 “(bb) the plan is projected
13 to become insolvent within the
14 meaning of section 4245 for any
15 of the 30 succeeding plan
16 years.”.

17 (b) AMENDMENT TO THE INTERNAL REVENUE
18 CODE.—Section 432(e)(4)(B) of the Internal Revenue
19 Code of 1986 is amended to read as follows:

20 “(B) EMERGENCY.—

21 “(i) IN GENERAL.—A plan in critical
22 status shall remain in such status until a
23 plan year for which the plan actuary cer-
24 tifies, in accordance with subsection
25 (b)(3)(A), that—

1 “(I) the plan is not described in
2 one or more of the subparagraphs in
3 subsection (b)(2) as of the beginning
4 of the plan year,

5 “(II) the plan is not projected to
6 have an accumulated funding defi-
7 ciency for the plan year or any of the
8 9 succeeding plan years, without re-
9 gard to the use of the shortfall meth-
10 od but taking into account any exten-
11 sion of amortization periods under
12 section 431(d)(2) or section 412(e)
13 (as in effect prior to the enactment of
14 the Pension Protection Act of 2006),
15 and

16 “(III) the plan is not projected to
17 become insolvent within the meaning
18 of section 418E for any of the 30 suc-
19 ceeding plan years.

20 “(ii) PLANS WITH CERTAIN AMORTI-
21 ZATION EXTENSIONS.—

22 “(I) SPECIAL EMERGENCE
23 RULE.—Notwithstanding clause (i), a
24 plan in critical status that has an
25 automatic extension of amortization

1 periods under section 431(d)(1) shall
2 no longer be in critical status if the
3 plan actuary certifies for a plan year,
4 in accordance with subsection
5 (b)(3)(A), that—

6 “(aa) the plan is not pro-
7 jected to have an accumulated
8 funding deficiency for the plan
9 year or any of the 9 succeeding
10 plan years, without regard to the
11 use of the shortfall method but
12 taking into account any extension
13 of amortization periods under
14 section 431(d)(1), and

15 “(bb) the plan is not pro-
16 jected to become insolvent within
17 the meaning of section 418E for
18 any of the 30 succeeding plan
19 years,

20 regardless of whether the plan is de-
21 scribed in one or more of the subpara-
22 graphs in subsection (b)(2) as of the
23 beginning of the plan year.

24 “(II) REENTRY INTO CRITICAL
25 STATUS.—A plan that emerges from

1 critical status under subclause (I)
2 shall not reenter critical status for
3 any subsequent plan year unless—

4 “(aa) the plan is projected
5 to have an accumulated funding
6 deficiency for the plan year or
7 any of the 9 succeeding plan
8 years, without regard to the use
9 of the shortfall method but tak-
10 ing into account any extension of
11 amortization periods under sec-
12 tion 431(d), or

13 “(bb) the plan is projected
14 to become insolvent within the
15 meaning of section 418E for any
16 of the 30 succeeding plan
17 years.”.

18 (c) EFFECTIVE DATE.—The amendments made by
19 this section shall apply with respect to plan years begin-
20 ning after December 31, 2014.

21 **SEC. 104. ENDANGERED STATUS NOT APPLICABLE IF NO**
22 **ADDITIONAL ACTION IS REQUIRED.**

23 (a) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
24 COME SECURITY ACT OF 1974.—

1 (1) IN GENERAL.—Section 305(b) of the Em-
2 ployee Retirement Income Security Act of 1974 (29
3 U.S.C. 1085(b)), as amended by section 102, is fur-
4 ther amended—

5 (A) in paragraph (1), by striking “the plan
6 is not in critical status for the plan year” and
7 inserting “the plan is not in critical status for
8 the plan year and is not described in paragraph
9 (5),”; and

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

11 “(5) SPECIAL RULE.—A plan is described in
12 this paragraph if—

13 “(A) as part of the actuarial certification
14 of endangered status under paragraph (3)(A)
15 for the plan year, the plan actuary certifies that
16 the plan is projected to no longer be described
17 in either paragraph (1)(A) or paragraph (1)(B)
18 as of the end of the tenth plan year ending
19 after the plan year to which the certification re-
20 lates, and

21 “(B) the plan was not in critical or endan-
22 gered status for the immediately preceding plan
23 year.”.

24 (2) NOTICE.—Section 305(b)(3)(D) of such Act
25 (29 U.S.C. 1085(b)(3)(D)) is amended—

1 (A) by redesignating clause (iii) and clause
2 (iv) (as added by section 102(a)(3)(B)) as
3 clauses (iv) and (v), respectively; and

4 (B) by inserting after clause (ii) the fol-
5 lowing:

6 “(iii) In the case of a multiemployer
7 plan that would be in endangered status
8 but for paragraph (5), the plan sponsor
9 shall provide notice to the bargaining par-
10 ties and the Pension Benefit Guaranty
11 Corporation that the plan would be in en-
12 dangered status but for such paragraph.”.

13 (C) in clause (iv) (as redesignated by sub-
14 paragraph (A)), by striking “clause (ii)” and
15 inserting “clauses (ii) and (iii)”.

16 (3) CONFORMING AMENDMENT.—Section
17 305(b)(3)(A)(i) of such Act (29 U.S.C.
18 1085(b)(3)(A)(i)) is amended by inserting after “en-
19 dangered status for a plan year” the following: “, or
20 would be in endangered status for such plan year
21 but for paragraph (5),”.

22 (b) AMENDMENTS TO INTERNAL REVENUE CODE OF
23 1986.—

1 (1) IN GENERAL.—Section 432(b) of the Inter-
2 nal Revenue Code of 1986, as amended by section
3 102, is further amended—

4 (A) in paragraph (1), by striking “the plan
5 is not in critical status for the plan year” and
6 inserting “the plan is not in critical status for
7 the plan year and is not described in paragraph
8 (5),”; and

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

10 “(5) SPECIAL RULE.—A plan is described in
11 this paragraph if—

12 “(A) as part of the actuarial certification
13 of endangered status under paragraph (3)(A)
14 for the plan year, the plan actuary certifies that
15 the plan is projected to no longer be described
16 in either paragraph (1)(A) or paragraph (1)(B)
17 as of the end of the tenth plan year ending
18 after the plan year to which the certification re-
19 lates, and

20 “(B) the plan was not in critical or endan-
21 gered status for the immediately preceding plan
22 year.”.

23 (2) NOTICE.—Section 432(b)(3)(D) of such
24 Code is amended—

1 (A) by redesignating clause (iii) and clause
2 (iv) (as added by section 102(b)(3)(B)) as
3 clauses (iv) and (v), respectively; and

4 (B) by inserting after clause (ii) the fol-
5 lowing:

6 “(iii) In the case of a multiemployer
7 plan that would be in endangered status
8 but for paragraph (5), the plan sponsor
9 shall provide notice to the bargaining par-
10 ties and the Pension Benefit Guaranty
11 Corporation that the plan would be in en-
12 dangered status but for such paragraph.”.

13 (C) in clause (iv) (as redesignated by sub-
14 paragraph (A)), by striking “clause (ii)” and
15 inserting “clauses (ii) and (iii)”.

16 (3) CONFORMING AMENDMENT.—Section
17 432(b)(3)(A)(i) of such Code is amended by insert-
18 ing after “endangered status for a plan year” the
19 following: “, or would be in endangered status for
20 such plan year but for paragraph (5),”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to plan years begin-
23 ning after December 31, 2014.

1 **SEC. 105. CORRECT ENDANGERED STATUS FUNDING IM-**
2 **PROVEMENT PLAN TARGET FUNDED PER-**
3 **CENTAGE.**

4 (a) AMENDMENT TO EMPLOYEE RETIREMENT IN-
5 COME SECURITY ACT OF 1974.—Section 305(c)(3)(A) of
6 the Employee Retirement Income Security Act of 1974
7 (29 U.S.C. 1085(c)(3)(A)) is amended—

8 (1) in clause (i)(I), by striking “of such period”
9 and inserting “of the first plan year for which the
10 plan is certified to be in endangered status pursuant
11 to paragraph (b)(3)”; and

12 (2) in clause (ii), by striking “any plan year”
13 and inserting “the last plan year”.

14 (b) AMENDMENT TO INTERNAL REVENUE CODE.—
15 Section 432(c)(3)(A) of the Internal Revenue Code of
16 1986 is amended—

17 (1) in clause (i)(I), by striking “of such period”
18 and inserting “of the first plan year for which the
19 plan is certified to be in endangered status pursuant
20 to paragraph (b)(3)”; and

21 (2) in clause (ii), by striking “any plan year”
22 and inserting “the last plan year”.

23 (c) EFFECTIVE DATE.—The amendments made by
24 this section shall apply with respect to plan years begin-
25 ning after December 31, 2014.

1 **SEC. 106. CONFORMING ENDANGERED STATUS AND CRIT-**
2 **ICAL STATUS RULES DURING FUNDING IM-**
3 **PROVEMENT AND REHABILITATION PLAN**
4 **ADOPTION PERIODS.**

5 (a) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
6 COME SECURITY ACT OF 1974.—Section 305(d) of the
7 Employee Retirement Income Security Act of 1974 (29
8 U.S.C. 1085(d)) is amended to read as follows:

9 “(d) RULES FOR OPERATION OF PLAN DURING
10 ADOPTION AND IMPROVEMENT PERIODS.—

11 “(1) COMPLIANCE WITH FUNDING IMPROVE-
12 MENT PLAN.—

13 “(A) IN GENERAL.—A plan may not be
14 amended after the date of the adoption of a
15 funding improvement plan under subsection (c)
16 so as to be inconsistent with the funding im-
17 provement plan.

18 “(B) SPECIAL RULES FOR BENEFIT IN-
19 CREASES.—A plan may not be amended after
20 the date of the adoption of a funding improve-
21 ment plan under subsection (c) so as to in-
22 crease benefits, including future benefit accru-
23 als, unless the plan actuary certifies that such
24 increase is paid for out of additional contribu-
25 tions not contemplated by the funding improve-
26 ment plan, and, after taking into account the

1 benefit increase, the multiemployer plan still is
2 reasonably expected to meet the applicable
3 benchmark on the schedule contemplated in the
4 funding improvement plan.

5 “(2) SPECIAL RULES FOR PLAN ADOPTION PE-
6 RIOD.—During the period beginning on the date of
7 the certification under subsection (b)(3)(A) for the
8 initial determination year and ending on the date of
9 the adoption of a funding improvement plan—

10 “(A) the plan sponsor may not accept a
11 collective bargaining agreement or participation
12 agreement with respect to the multiemployer
13 plan that provides for—

14 “(i) a reduction in the level of con-
15 tributions for any participants,

16 “(ii) a suspension of contributions
17 with respect to any period of service, or

18 “(iii) any new direct or indirect exclu-
19 sion of younger or newly hired employees
20 from plan participation, and

21 “(B) no amendment of the plan which in-
22 creases the liabilities of the plan by reason of
23 any increase in benefits, any change in the ac-
24 crual of benefits, or any change in the rate at
25 which benefits become nonforfeitable under the

1 plan may be adopted unless the amendment is
2 required as a condition of qualification under
3 part I of subchapter D of chapter 1 of the In-
4 ternal Revenue Code of 1986 or to comply with
5 other applicable law.”.

6 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—
7 Section 432(d) of the Internal Revenue Code of 1986 is
8 amended to read as follows:

9 “(d) RULES FOR OPERATION OF PLAN DURING
10 ADOPTION AND IMPROVEMENT PERIODS.—

11 “(1) COMPLIANCE WITH FUNDING IMPROVE-
12 MENT PLAN.—

13 “(A) IN GENERAL.—A plan may not be
14 amended after the date of the adoption of a
15 funding improvement plan under subsection (c)
16 so as to be inconsistent with the funding im-
17 provement plan.

18 “(B) SPECIAL RULES FOR BENEFIT IN-
19 CREASES.—A plan may not be amended after
20 the date of the adoption of a funding improve-
21 ment plan under subsection (c) so as to in-
22 crease benefits, including future benefit accru-
23 als, unless the plan actuary certifies that such
24 increase is paid for out of additional contribu-
25 tions not contemplated by the funding improve-

1 ment plan, and, after taking into account the
2 benefit increase, the multiemployer plan still is
3 reasonably expected to meet the applicable
4 benchmark on the schedule contemplated in the
5 funding improvement plan.

6 “(2) SPECIAL RULES FOR PLAN ADOPTION PE-
7 RIOD.—During the period beginning on the date of
8 the certification under subsection (b)(3)(A) for the
9 initial determination year and ending on the date of
10 the adoption of a funding improvement plan—

11 “(A) the plan sponsor may not accept a
12 collective bargaining agreement or participation
13 agreement with respect to the multiemployer
14 plan that provides for—

15 “(i) a reduction in the level of con-
16 tributions for any participants,

17 “(ii) a suspension of contributions
18 with respect to any period of service, or

19 “(iii) any new direct or indirect exclu-
20 sion of younger or newly hired employees
21 from plan participation, and

22 “(B) no amendment of the plan which in-
23 creases the liabilities of the plan by reason of
24 any increase in benefits, any change in the ac-
25 crual of benefits, or any change in the rate at

1 “(ii) after receiving one or more
2 schedules from the plan sponsor under
3 paragraph (1)(B), the bargaining parties
4 with respect to such agreement fail to
5 adopt a contribution schedule with terms
6 consistent with the funding improvement
7 plan and a schedule from the plan sponsor,
8 the plan sponsor shall implement the schedule
9 described in paragraph (1)(B)(i)(I) beginning
10 on the date specified in subparagraph (C).

11 “(B) SUBSEQUENT CONTRIBUTION SCHED-
12 ULE.—If—

13 “(i) a collective bargaining agreement
14 providing for contributions under a multi-
15 employer plan in accordance with a sched-
16 ule provided by the plan sponsor pursuant
17 to a funding improvement plan (or im-
18 posed under subparagraph (A)) expires
19 while the plan is still in endangered status,
20 and

21 “(ii) after receiving one or more up-
22 dated schedules from the plan sponsor
23 under paragraph (6)(B), the bargaining
24 parties with respect to such agreement fail
25 to adopt a contribution schedule with

1 terms consistent with the updated funding
2 improvement plan and a schedule from the
3 plan sponsor,

4 then the contribution schedule applicable under
5 the expired collective bargaining agreement, as
6 updated and in effect on the date the collective
7 bargaining agreement expires, shall be imple-
8 mented by the plan sponsor beginning on the
9 date specified in subparagraph (C).

10 “(C) DATE OF IMPLEMENTATION.—The
11 date specified in this subparagraph is the date
12 which is 180 days after the date on which the
13 collective bargaining agreement described in
14 subparagraph (A) or (B) expires.

15 “(D) FAILURE TO MAKE SCHEDULED CON-
16 TRIBUTIONS.—Any failure to make a contribu-
17 tion under a schedule of contribution rates pro-
18 vided under this paragraph shall be treated as
19 a delinquent contribution under section 515 and
20 shall be enforceable as such.”,

21 (2) in subsection (e)(3), by amending subpara-
22 graph (C) to read as follows:

23 “(C) IMPOSITION OF SCHEDULE WHERE
24 FAILURE TO ADOPT REHABILITATION PLAN.—

1 “(i) INITIAL CONTRIBUTION SCHED-
2 ULE.—If—

3 “(I) a collective bargaining agree-
4 ment providing for contributions
5 under a multiemployer plan that was
6 in effect at the time the plan entered
7 critical status expires, and

8 “(II) after receiving one or more
9 schedules from the plan sponsor under
10 paragraph (1)(B), the bargaining par-
11 ties with respect to such agreement
12 fail to adopt a contribution schedule
13 with terms consistent with the reha-
14 bilitation plan and a schedule from
15 the plan sponsor under paragraph
16 (1)(B)(i),

17 the plan sponsor shall implement the
18 schedule described in the last sentence of
19 paragraph (1) beginning on the date speci-
20 fied in clause (iii).

21 “(ii) SUBSEQUENT CONTRIBUTION
22 SCHEDULE.—If—

23 “(I) a collective bargaining agree-
24 ment providing for contributions
25 under a multiemployer plan in accord-

1 ance with a schedule provided by the
2 plan sponsor pursuant to a rehabilita-
3 tion plan (or imposed under subpara-
4 graph (C)(i)) expires while the plan is
5 still in critical status, and

6 “(II) after receiving one or more
7 updated schedules from the plan spon-
8 sor under subparagraph (B)(ii), the
9 bargaining parties with respect to
10 such agreement fail to adopt a con-
11 tribution schedule with terms con-
12 sistent with the updated rehabilitation
13 plan and a schedule from the plan
14 sponsor,

15 then the contribution schedule applicable
16 under the expired collective bargaining
17 agreement, as updated and in effect on the
18 date the collective bargaining agreement
19 expires, shall be implemented by the plan
20 sponsor beginning on the date specified in
21 clause (iii).

22 “(iii) DATE OF IMPLEMENTATION.—
23 The date specified in this subparagraph is
24 the date which is 180 days after the date

1 on which the collective bargaining agree-
2 ment described in clause (i) or (ii) expires.

3 “(iv) FAILURE TO MAKE SCHEDULED
4 CONTRIBUTIONS.—Any failure to make a
5 contribution under a schedule of contribu-
6 tion rates provided under this subsection
7 shall be treated as a delinquent contribu-
8 tion under section 515 and shall be en-
9 forceable as such.”.

10 (b) AMENDMENTS TO THE INTERNAL REVENUE
11 CODE.—Section 432 of the Internal Revenue Code of
12 1986 is amended—

13 (1) in subsection (c), by amending paragraph
14 (7) to read as follows:

15 “(7) IMPOSITION OF SCHEDULE WHERE FAIL-
16 URE TO ADOPT FUNDING IMPROVEMENT PLAN.—

17 “(A) INITIAL CONTRIBUTION SCHEDULE.—
18 If—

19 “(i) a collective bargaining agreement
20 providing for contributions under a multi-
21 employer plan that was in effect at the
22 time the plan entered endangered status
23 expires, and

24 “(ii) after receiving one or more
25 schedules from the plan sponsor under

1 paragraph (1)(B), the bargaining parties
2 with respect to such agreement fail to
3 adopt a contribution schedule with terms
4 consistent with the funding improvement
5 plan and a schedule from the plan sponsor,
6 the plan sponsor shall implement the schedule
7 described in paragraph (1)(B)(i)(I) beginning
8 on the date specified in subparagraph (C).

9 “(B) SUBSEQUENT CONTRIBUTION SCHED-
10 ULE.—If—

11 “(i) a collective bargaining agreement
12 providing for contributions under a multi-
13 employer plan in accordance with a sched-
14 ule provided by the plan sponsor pursuant
15 to a funding improvement plan (or im-
16 posed under subparagraph (A)) expires
17 while the plan is still in endangered status,
18 and

19 “(ii) after receiving one or more up-
20 dated schedules from the plan sponsor
21 under paragraph (6)(B), the bargaining
22 parties with respect to such agreement fail
23 to adopt a contribution schedule with
24 terms consistent with the updated funding

1 improvement plan and a schedule from the
2 plan sponsor,
3 then the contribution schedule applicable under
4 the expired collective bargaining agreement, as
5 updated and in effect on the date the collective
6 bargaining agreement expires, shall be imple-
7 mented by the plan sponsor beginning on the
8 date specified in subparagraph (C).

9 “(C) DATE OF IMPLEMENTATION.—The
10 date specified in this subparagraph is the date
11 which is 180 days after the date on which the
12 collective bargaining agreement described in
13 subparagraph (A) or (B) expires.”, and
14 (2) in subsection (e)(3), by amending subpara-
15 graph (C) to read as follows:

16 “(C) IMPOSITION OF SCHEDULE WHERE
17 FAILURE TO ADOPT REHABILITATION PLAN.—

18 “(i) INITIAL CONTRIBUTION SCHED-
19 ULE.—If—

20 “(I) a collective bargaining agree-
21 ment providing for contributions
22 under a multiemployer plan that was
23 in effect at the time the plan entered
24 critical status expires, and

1 “(II) after receiving one or more
2 schedules from the plan sponsor under
3 paragraph (1)(B), the bargaining par-
4 ties with respect to such agreement
5 fail to adopt a contribution schedule
6 with terms consistent with the reha-
7 bilitation plan and a schedule from
8 the plan sponsor under paragraph
9 (1)(B)(i),
10 the plan sponsor shall implement the
11 schedule described in the last sentence of
12 paragraph (1) beginning on the date speci-
13 fied in clause (iii).

14 “(ii) SUBSEQUENT CONTRIBUTION
15 SCHEDULE.—If—

16 “(I) a collective bargaining agree-
17 ment providing for contributions
18 under a multiemployer plan in accord-
19 ance with a schedule provided by the
20 plan sponsor pursuant to a rehabilita-
21 tion plan (or imposed under subpara-
22 graph (C)(i)) expires while the plan is
23 still in critical status, and

24 “(II) after receiving one or more
25 updated schedules from the plan spon-

1 sor under subparagraph (B)(ii), the
2 bargaining parties with respect to
3 such agreement fail to adopt a con-
4 tribution schedule with terms con-
5 sistent with the updated rehabilitation
6 plan and a schedule from the plan
7 sponsor,

8 then the contribution schedule applicable
9 under the expired collective bargaining
10 agreement, as updated and in effect on the
11 date the collective bargaining agreement
12 expires, shall be implemented by the plan
13 sponsor beginning on the date specified in
14 clause (iii).

15 “(iii) DATE OF IMPLEMENTATION.—
16 The date specified in this subparagraph is
17 the date which is 180 days after the date
18 on which the collective bargaining agree-
19 ment described in clause (ii) or (iii) ex-
20 pires.”.

21 (c) EFFECTIVE DATE.—The amendments made by
22 this section shall apply with respect to plan years begin-
23 ning after December 31, 2014.

1 **SEC. 108. REPEAL OF REORGANIZATION RULES FOR MULTI-**
2 **EMPLOYER PLANS.**

3 (a) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
4 COME SECURITY ACT OF 1974.—

5 (1) IN GENERAL.—Sections 4241, 4242, 4243,
6 4244, and 4244A of the Employee Retirement In-
7 come Security Act of 1974 (29 U.S.C. 1421; 1422;
8 1423; 1424; 1425) are repealed.

9 (2) MODIFICATION OF INSOLVENCY RULES.—
10 Section 4245 of such Act (29 U.S.C. 1426) is
11 amended—

12 (A) by striking “reorganization” each place
13 it appears and inserting “critical status, as de-
14 scribed in subsection 305(b)(2),”;

15 (B) in subsection (c)(2)—

16 (i) by striking “The suspension” and
17 inserting “(A) The suspension”;

18 (ii) by striking “(within the meaning
19 of section 4241(b)(6))”; and

20 (iii) by adding at the end the fol-
21 lowing:

22 “(B) For purposes of this paragraph—

23 “(i) the term ‘person in pay status’
24 means—

25 “(I) a participant or beneficiary on
26 the last day of the base plan year who, at

1 any time during such year, was paid an
2 early, late, normal, or disability retirement
3 benefit (or a death benefit related to a re-
4 tirement benefit), and

5 “(II) to the extent provided in regula-
6 tions prescribed by the Secretary of the
7 Treasury, any other person who is entitled
8 to such a benefit under the plan.

9 “(ii) the base plan year for any plan year
10 is—

11 “(I) if there is a relevant collective
12 bargaining agreement, the last plan year
13 ending at least 6 months before the rel-
14 evant effective date, or

15 “(II) if there is no relevant collective
16 bargaining agreement, the last plan year
17 ending at least 12 months before the be-
18 ginning of the plan year.

19 “(iii) a relevant collective bargaining agree-
20 ment is a collective bargaining agreement—

21 “(I) which is in effect for at least 6
22 months during the plan year, and

23 “(II) which has not been in effect for
24 more than 36 months as of the end of the
25 plan year.

1 “(iv) the relevant effective date is the ear-
2 liest of the effective dates for the relevant col-
3 lective bargaining agreements.”;

4 (C) in subsection (d)—

5 (i) in paragraph (1), by striking “(de-
6 termined in accordance with section
7 4243(3)(B)(ii))”; and

8 (ii) by adding at the end the fol-
9 lowing:

10 “(4) For purposes of this subsection, the value of
11 plan assets shall be the value of the available plan assets
12 determined under regulations prescribed by the Secretary
13 of the Treasury.”;

14 (D) in subsection (e)(1)—

15 (i) in subparagraph (A), by striking
16 “the corporation, the parties described in
17 section 4242(a)(2), and the plan partici-
18 pants and beneficiaries” and inserting “the
19 parties described in section 101(f)(1)”; and

20 (ii) in subparagraph (B), by striking
21 “section 4242(a)(2) and the plan partici-
22 pants and beneficiaries” and inserting
23 “section 101(f)(1)”; and

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

1 “(g) Subsections (a) and (c) shall not apply to a plan
2 that, for the plan year, is operating under section
3 305(e)(9), regarding benefit suspensions by certain multi-
4 employer plans in critical and declining status.”.

5 (3) CONFORMING AMENDMENTS.—

6 (A) DEFINITION OF REORGANIZATION
7 INDEX.—Section 4001(a) of such Act (29
8 U.S.C. 1301(a)) is amended by striking para-
9 graph (9).

10 (B) MINIMUM FUNDING STANDARDS.—
11 Section 304(a) of such Act (29 U.S.C. 1084(a))
12 is amended to read as follows:

13 “(a) IN GENERAL.—For purposes of section 302, the
14 accumulated funding deficiency of a multiemployer plan
15 for any plan year is the amount, determined as of the end
16 of the plan year, equal to the excess (if any) of the total
17 charges to the funding standard account of the plan for
18 all plan years (beginning with the first plan year for which
19 this part applies to the plan) over the total credits to such
20 account for such years.”.

21 (C) MODIFICATION OF PART HEADING.—
22 Part 3 of subtitle D of title IV of such Act (29
23 U.S.C. 1421 et seq.) is amended by striking the
24 heading and inserting “**INSOLVENT PLANS**”.

1 (D) CONFORMING AMENDMENT TO TABLE
2 OF CONTENTS.—The table of contents in sec-
3 tion 1 of such Act (29 U.S.C. 1001 note) is
4 amended by striking the items relating to sec-
5 tions 4241 through 4244A.

6 (b) AMENDMENTS TO THE INTERNAL REVENUE
7 CODE.—

8 (1) IN GENERAL.—Sections 418, 418A, 418B,
9 418C, and 418D of the Internal Revenue Code of
10 1986 are repealed.

11 (2) MODIFICATION OF INSOLVENCY RULES.—
12 Section 418E of such Code is amended—

13 (A) by striking “reorganization” each place
14 it appears and inserting “critical status, as de-
15 scribed in subsection 432(b)(2),”;

16 (B) in subsection (c)(2)—

17 (i) by striking “The suspension” and
18 inserting “(A) The suspension”;

19 (ii) by striking “(within the meaning
20 of section 418(b)(6))”; and

21 (iii) by adding at the end the fol-
22 lowing:

23 “(B) For purposes of this paragraph—

24 “(i) the term ‘person in pay status’
25 means—

1 “(I) a participant or beneficiary on
2 the last day of the base plan year who, at
3 any time during such year, was paid an
4 early, late, normal, or disability retirement
5 benefit (or a death benefit related to a re-
6 tirement benefit), and

7 “(II) to the extent provided in regula-
8 tions prescribed by the Secretary of the
9 Treasury, any other person who is entitled
10 to such a benefit under the plan.

11 “(ii) the base plan year for any plan year
12 is—

13 “(I) if there is a relevant collective
14 bargaining agreement, the last plan year
15 ending at least 6 months before the rel-
16 evant effective date, or

17 “(II) if there is no relevant collective
18 bargaining agreement, the last plan year
19 ending at least 12 months before the be-
20 ginning of the plan year.

21 “(iii) a relevant collective bargaining agree-
22 ment is a collective bargaining agreement—

23 “(I) which is in effect for at least 6
24 months during the plan year, and

1 “(II) which has not been in effect for
2 more than 36 months as of the end of the
3 plan year.

4 “(iv) the relevant effective date is the ear-
5 liest of the effective dates for the relevant col-
6 lective bargaining agreements.”;

7 (C) in subsection (d)—

8 (i) in paragraph (1), by striking “(de-
9 termined in accordance with section
10 418B(3)(B)(ii))”;

11 (ii) by adding at the end the fol-
12 lowing:

13 “(4) For purposes of this subsection, the value
14 of plan assets shall be the value of the available plan
15 assets determined under regulations prescribed by
16 the Secretary of the Treasury.”;

17 (D) in subsection (e)(1)—

18 (i) in subparagraph (A), by striking
19 “the corporation, the parties described in
20 section 418A(a)(2), and the plan partici-
21 pants and beneficiaries” and inserting “the
22 parties described in section 101(f)(1) of
23 the Employee Retirement Income Security
24 Act of 1974”; and

1 (ii) in subparagraph (B), by striking
2 “section 418A(a)(2) and the plan partici-
3 pants and beneficiaries” and inserting
4 “section 101(f)(1) of the Employee Retire-
5 ment Income Security Act of 1974”; and
6 (E) by adding at the end the following:

7 “(h) Subsections (a) and (c) shall not apply to a plan
8 that, for the plan year, is operating under section
9 432(e)(9), regarding benefit suspensions by certain multi-
10 employer plans in critical and declining status.”.

11 (3) CONFORMING AMENDMENTS.—

12 (A) MINIMUM FUNDING STANDARDS.—Sec-
13 tion 431(a) of the Internal Revenue Code of
14 1986 is amended to read as follows:

15 “(a) IN GENERAL.—For purposes of section 412, the
16 accumulated funding deficiency of a multiemployer plan
17 for any plan year is the amount, determined as of the end
18 of the plan year, equal to the excess (if any) of the total
19 charges to the funding standard account of the plan for
20 all plan years (beginning with the first plan year for which
21 this part applies to the plan) over the total credits to such
22 account for such years.”.

23 (B) MODIFICATION OF SUBPART HEAD-
24 ING.—Subpart C of part I of subchapter D of
25 chapter 1 of such Code is amended by striking

1 the heading and inserting “**INSOLVENT**
2 **PLANS**”.

3 (C) CONFORMING AMENDMENT TO TABLE
4 OF CONTENTS.—The table of contents for such
5 subpart C is amended by striking the items re-
6 lating to sections 418 through 418D.

7 (D) CONFORMING AMENDMENT TO TABLE
8 OF SUBPARTS.—The table of subparts for part
9 I of subchapter D of chapter 1 of such Code is
10 amended by striking the heading and inserting
11 “**INSOLVENT PLANS**”.

12 (c) EFFECTIVE DATE.—The amendments made by
13 this section shall apply with respect to plan years begin-
14 ning after December 31, 2014.

15 **SEC. 109. DISREGARD OF CERTAIN CONTRIBUTION IN-**
16 **CREASES FOR WITHDRAWAL LIABILITY PUR-**
17 **POSES.**

18 (a) AMENDMENT TO EMPLOYEE RETIREMENT IN-
19 COME SECURITY ACT OF 1974.—Section 305 of the Em-
20 ployee Retirement Income Security Act of 1974 (29
21 U.S.C. 1085) is amended—

22 (1) in subsection (e), by striking paragraph (9);
23 (2) in subsection (f)—

24 (A) by striking paragraph (3) and redesign-
25 ating paragraph (4) as paragraph (3); and

1 (B) in paragraph (3) (as redesignated by
2 subparagraph (A)), by striking “During the re-
3 habilitation plan adoption period—” and insert-
4 ing “During the period beginning on the date
5 of the certification under subsection (b)(3)(A)
6 for the initial critical year and ending on the
7 date of the adoption of a rehabilitation plan—
8 ”;

9 (3) by redesignating subsections (g), (h), and
10 (i) as subsections (h), (i), and (j), respectively; and
11 (4) by inserting after subsection (f) the fol-
12 lowing:

13 “(g) ADJUSTMENTS DISREGARDED IN WITHDRAWAL
14 LIABILITY DETERMINATION.—

15 “(1) BENEFIT REDUCTION.—Any benefit reduc-
16 tions under subsection (e)(8) or (f) shall be dis-
17 regarded in determining a plan’s unfunded vested
18 benefits for purposes of determining an employer’s
19 withdrawal liability under section 4201.

20 “(2) SURCHARGES.—Any surcharges under
21 subsection (e)(7) shall be disregarded in determining
22 the allocation of unfunded vested benefits to an em-
23 ployer under section 4211 and in determining the
24 highest contribution rate under section 4219(c), ex-
25 cept for purposes of determining the unfunded vest-

1 ed benefits attributable to an employer under section
2 4211(c)(4) or a comparable method approved under
3 section 4211(c)(5).

4 “(3) CONTRIBUTION INCREASES REQUIRED BY
5 FUNDING IMPROVEMENT OR REHABILITATION
6 PLAN.—

7 “(A) IN GENERAL.—Any increase in the
8 contribution rate (or other increase in contribu-
9 tion requirements unless due to increased levels
10 of work, employment, or periods for which com-
11 pensation is provided) that is required or made
12 in order to enable the plan to meet the require-
13 ment of the funding improvement plan or reha-
14 bilitation plan shall be disregarded in deter-
15 mining the allocation of unfunded vested bene-
16 fits to an employer under section 4211 and in
17 determining the highest contribution rate under
18 section 4219(c), except for purposes of deter-
19 mining the unfunded vested benefits attrib-
20 utable to an employer under section 4211(c)(4)
21 or a comparable method approved under section
22 4211(c)(5).

23 “(B) SPECIAL RULES.—For purposes of
24 this paragraph, any increase in the contribution
25 rate (or other increase in contribution require-

1 ments) shall be deemed to be required or made
2 in order to enable the plan to meet the require-
3 ment of the funding improvement plan or reha-
4 bilitation plan except for increases in contribu-
5 tion requirements due to increased levels of
6 work, employment, or periods for which com-
7 pensation is provided or additional contribu-
8 tions are used to provide an increase in bene-
9 fits, including an increase in future benefit ac-
10 cruals, permitted by subsection (d)(1)(B) or
11 (f)(1)(B).

12 “(4) EMERGENCE FROM ENDANGERED OR CRIT-
13 ICAL STATUS.—In the case of increases in the con-
14 tribution rate (or other increases in contribution re-
15 quirements unless due to increased levels of work,
16 employment, or periods for which compensation is
17 provided) disregarded pursuant to paragraph (3),
18 this subsection shall cease to apply as of the expira-
19 tion date of the collective bargaining agreement in
20 effect when the plan emerges from endangered or
21 critical status. Notwithstanding the preceding sen-
22 tence, once the plan emerges from critical or endan-
23 gered status, increases in the contribution rate dis-
24 regarded pursuant to paragraph (3) shall continue
25 to be disregarded in determining the highest con-

1 tribution rate under section 4219(c) for plan years
2 during which the plan was in endangered or critical
3 status.

4 “(5) SIMPLIFIED CALCULATIONS.—The Pension
5 Benefit Guaranty Corporation shall prescribe sim-
6 plified methods for the application of this subsection
7 in determining withdrawal liability and payment
8 amounts under section 4219(c).”.

9 (b) AMENDMENTS TO INTERNAL REVENUE CODE.—
10 Section 432 of the Internal Revenue Code of 1986 is
11 amended—

12 (1) in subsection (e), by striking paragraph (9),

13 (2) in subsection (f)—

14 (A) by striking paragraph (3) and redesignig-
15 nating paragraph (4) as paragraph (3); and

16 (B) in paragraph (4) (as redesignated by
17 subparagraph (A)), striking “During the reha-
18 bilitation plan adoption period—” and inserting
19 “During the period beginning on the date of the
20 certification under subsection (b)(3)(A) for the
21 initial critical year and ending on the date of
22 the adoption of a rehabilitation plan—”;

23 (3) by redesignating subsections (g), (h), and

24 (i) as subsections (h), (i), and (j), respectively; and

1 (4) by inserting after subsection (f) the fol-
2 lowing:

3 “(g) ADJUSTMENTS DISREGARDED IN WITHDRAWAL
4 LIABILITY DETERMINATION.—

5 “(1) BENEFIT REDUCTION.—Any benefit reduc-
6 tions under subsection (e)(8) or (f) shall be dis-
7 regarded in determining a plan’s unfunded vested
8 benefits for purposes of determining an employer’s
9 withdrawal liability under section 4201 of the Em-
10 ployee Retirement Income Security Act of 1974.

11 “(2) SURCHARGES.—Any surcharges under
12 subsection (e)(7) shall be disregarded in determining
13 the allocation of unfunded vested benefits to an em-
14 ployer under section 4211 of the Employee Retire-
15 ment Income Security Act of 1974 and in deter-
16 mining the highest contribution rate under section
17 4219(c) of such Act, except for purposes of deter-
18 mining the unfunded vested benefits attributable to
19 an employer under section 4211(c)(4) of such Act or
20 a comparable method approved under section
21 4211(c)(5) of such Act.

22 “(3) CONTRIBUTION INCREASES REQUIRED BY
23 FUNDING IMPROVEMENT OR REHABILITATION
24 PLAN.—

1 “(A) IN GENERAL.—Any increase in the
2 contribution rate (or other increase in contribu-
3 tion requirements unless due to increased levels
4 of work, employment, or periods for which com-
5 pensation is provided) that is required or made
6 in order to enable the plan to meet the require-
7 ment of the funding improvement plan or reha-
8 bilitation plan shall be disregarded in deter-
9 mining the allocation of unfunded vested bene-
10 fits to an employer under section 4211 of such
11 Act and in determining the highest contribution
12 rate under section 4219(c) of such Act, except
13 for purposes of determining the unfunded vest-
14 ed benefits attributable to an employer under
15 section 4211(c)(4) of such Act or a comparable
16 method approved under section 4211(c)(5) of
17 such Act.

18 “(B) SPECIAL RULES.—For purposes of
19 this paragraph, any increase in the contribution
20 rate (or other increase in contribution require-
21 ments) shall be deemed to be required or made
22 in order to enable the plan to meet the require-
23 ment of the funding improvement plan or reha-
24 bilitation plan except for increases in contribu-
25 tion requirements due to increased levels of

1 work, employment, or periods for which com-
2 pensation is provided or additional contribu-
3 tions are used to provide an increase in bene-
4 fits, including an increase in future benefit ac-
5 cruals, permitted by subsection (d)(1)(B) or
6 (f)(1)(B).

7 “(4) EMERGENCE FROM ENDANGERED OR CRIT-
8 ICAL STATUS.—In the case of increases in the con-
9 tribution rate (or other increases in contribution re-
10 quirements unless due to increased levels of work,
11 employment, or periods for which compensation is
12 provided) disregarded pursuant to paragraph (3),
13 this subsection shall cease to apply as of the expira-
14 tion date of the collective bargaining agreement in
15 effect when the plan emerges from endangered or
16 critical status. Notwithstanding the preceding sen-
17 tence, once the plan emerges from critical or endan-
18 gered status, increases in the contribution rate dis-
19 regarded pursuant to paragraph (3) shall continue
20 to be disregarded in determining the highest con-
21 tribution rate under section 4219(c) of such Act for
22 plan years during which the plan was in endangered
23 or critical status.

24 “(5) SIMPLIFIED CALCULATIONS.—The Pension
25 Benefit Guaranty Corporation shall prescribe sim-

1 plified methods for the application of this subsection
2 in determining withdrawal liability and payment
3 amounts under section 4219(c) of such Act.”.

4 (c) **EFFECTIVE DATE.**—The amendments made by
5 this section shall apply to benefit reductions and increases
6 in the contribution rate or other required contribution in-
7 creases that go into effect during plan years beginning
8 after December 31, 2014 and to surcharges the obligation
9 for which accrue on or after December 31, 2014.

10 **SEC. 110. GUARANTEE FOR PRE-RETIREMENT SURVIVOR**
11 **ANNUITIES UNDER MULTIEMPLOYER PEN-**
12 **SION PLANS.**

13 (a) **IN GENERAL.**—Section 4022A(c) of the Employee
14 Retirement Income Security Act of 1974 (29 U.S.C.
15 1322a(c)) is amended by adding at the end the following:

16 “(4) For purposes of subsection (a), in the case
17 of a qualified preretirement survivor annuity (as de-
18 fined in section 205(e)(1)) payable to the surviving
19 spouse of a participant under a multiemployer plan
20 which becomes insolvent under section 4245(b) or
21 4281(d)(2) or is terminated, such annuity shall not
22 be treated as forfeitable solely because the partici-
23 pant has not died as of the date on which the plan
24 became so insolvent or the termination date.”.

1 (b) RETROACTIVE APPLICATION.—The amendment
2 made by this section shall apply with respect to multiem-
3 ployer plan benefit payments becoming payable on or after
4 January 1, 1985, except that the amendment shall not
5 apply in any case where the surviving spouse has died be-
6 fore the date of the enactment of this Act.

7 **SEC. 111. REQUIRED DISCLOSURE OF MULTIEMPLOYER**
8 **PLAN INFORMATION.**

9 (a) IN GENERAL.—Section 101(k)(1) of the Em-
10 ployee Retirement Income Security Act of 1974 (29
11 U.S.C. 1021(k)(1)) is amended to read as follows:

12 “(1) IN GENERAL.—Each administrator of a
13 defined benefit plan that is a multiemployer plan
14 shall, upon written request, furnish to any plan par-
15 ticipant or beneficiary, employee representative, or
16 any employer that has an obligation to contribute to
17 the plan a copy of—

18 “(A) the current plan document (including
19 any amendments thereto),

20 “(B) the latest summary plan description
21 of the plan,

22 “(C) the current trust agreement (includ-
23 ing any amendments thereto), or any other in-
24 strument or agreement under which the plan is
25 established or operated,

1 “(D) in the case of a request by an em-
2 ployer, any participation agreement with respect
3 to the plan for such employer that relates to the
4 employer’s plan participation during the current
5 or any of the 5 immediately preceding plan
6 years,

7 “(E) the annual report filed under section
8 104 for any plan year,

9 “(F) the plan funding notice provided
10 under subsection (f) for any plan year,

11 “(G) any periodic actuarial report (includ-
12 ing any sensitivity testing) received by the plan
13 for any plan year which has been in the plan’s
14 possession for at least 30 days,

15 “(H) any quarterly, semi-annual, or annual
16 financial report prepared for the plan by any
17 plan investment manager or advisor or other fi-
18 duciary which has been in the plan’s possession
19 for at least 30 days,

20 “(I) audited financial statements of the
21 plan for any plan year,

22 “(J) any application filed with the Sec-
23 retary of the Treasury requesting an extension
24 under section 304(d) of this Act or section
25 431(d) of the Internal Revenue Code of 1986

1 and the determination of such Secretary pursu-
2 ant to such application, and

3 “(K) in the case of a plan which was in
4 critical or endangered status under section 305
5 for a plan year, the latest funding improvement
6 or rehabilitation plan, and the contribution
7 schedules applicable with respect to such fund-
8 ing improvement or rehabilitation plan (other
9 than a contribution schedule applicable to a
10 specific employer).”.

11 (b) LIMITATIONS ON DISCLOSURE.—Section
12 101(k)(3) of such Act (29 U.S.C. 1021(k)(3)) is amended
13 by striking the 1st sentence and inserting the following:
14 “In no case shall a participant, beneficiary, employee rep-
15 resentative, or employer be entitled under this subsection
16 to receive more than one copy of any document described
17 in paragraph (1) during any one 12-month period, or, in
18 the case of any document described in subparagraph (E),
19 (F), (G), (H) or (I) of paragraph (1), a copy of any such
20 document that as of the date on which the request is re-
21 ceived by the administrator, has been in the administra-
22 tor’s possession for 6 years or more. If the administrator
23 provides a copy of a document described in paragraph (1)
24 to any person upon request, the administrator shall be
25 considered as having met any obligation the administrator

1 may have under any other provision of this title to furnish
2 a copy of the same document to such person upon re-
3 quest.”.

4 (c) RETENTION OF RECORDS.—Section 107 of such
5 Act (29 U.S.C. 1027) is amended—

6 (1) by inserting “(including the documents de-
7 scribed in subparagraphs (E) through (I) of section
8 101(k))” after “file any report”; and

9 (2) by inserting “a copy of such report and”
10 after “shall maintain”.

11 (d) CIVIL ENFORCEMENT.—Section 502(a) of such
12 Act (29 U.S.C. 1132(a)) is amended—

13 (1) in paragraph (9), by striking “or” at the
14 end;

15 (2) in paragraph (10), by striking the period at
16 the end and inserting “; or”; and

17 (3) by adding at the end the following:

18 “(11) in the case of a multiemployer plan, by
19 an employee representative, or any employer that
20 has an obligation to contribute to the plan, (A) to
21 enjoin any act or practice which violates subsection
22 (k) of section 101 (or, in the case of an employer,
23 subsection (l) of such section), or (B) to obtain ap-
24 propriate equitable relief (i) to redress such violation
25 or (ii) to enforce such subsection.”.

1 (e) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to plan years begin-
3 ning after December 31, 2014.

4 **Subtitle B—Multiemployer Plan**
5 **Mergers and Partitions**

6 **SEC. 121. MERGERS.**

7 (a) PBGC ASSISTANCE FOR MULTIEMPLOYER PLAN
8 MERGERS.—Section 4231 of the Employee Retirement In-
9 come Security Act of 1974 (29 U.S.C. 1411) is amended
10 by adding at the end the following:

11 “(e) FACILITATED MERGERS.—

12 “(1) IN GENERAL.—When requested to do so
13 by the plan sponsors, the corporation may take such
14 actions as it deems appropriate to promote and fa-
15 cilitate the merger of two or more multiemployer
16 plans if it determines, after consultation with the
17 Participant and Plan Sponsor Advocate selected
18 under section 4004, that the transaction is in the in-
19 terests of the participants and beneficiaries of at
20 least one of the plans and is not reasonably expected
21 to be adverse to the overall interests of the partici-
22 pants and beneficiaries of any of the plans. Such fa-
23 cilitation may include training, technical assistance,
24 mediation, communication with stakeholders, and

1 support with related requests to other government
2 agencies.

3 “(2) FINANCIAL ASSISTANCE.—In order to fa-
4 cilitate a merger which it determines is necessary to
5 enable one or more of the plans involved to avoid or
6 postpone insolvency, the corporation may provide fi-
7 nancial assistance (within the meaning of section
8 4261) to the merged plan if—

9 “(A) one or more of the multiemployer
10 plans participating in the merger is in critical
11 and declining status (as defined in section
12 305(b)(4));

13 “(B) the corporation reasonably expects
14 that—

15 “(i) such financial assistance will re-
16 duce the corporation’s expected long-term
17 loss with respect to the plans involved; and

18 “(ii) such financial assistance is nec-
19 essary for the merged plan to become or
20 remain solvent;

21 “(C) the corporation certifies that its abil-
22 ity to meet existing financial assistance obliga-
23 tions to other plans will not be impaired by
24 such financial assistance; and

1 cordance with this section. The corporation shall make a
2 determination regarding the application not later than 270
3 days after the date such application was filed (or, if later,
4 the date such application was completed) in accordance
5 with regulations promulgated by the corporation.

6 “(2) Not later than 30 days after submitting an ap-
7 plication for partition of a plan under paragraph (1), the
8 plan sponsor of the plan shall notify the participants and
9 beneficiaries of such application, in the form and manner
10 prescribed by regulations issued by the corporation.

11 “(b) For purposes of this section, a multiemployer
12 plan is an eligible multiemployer plan if—

13 “(1) the plan is in critical and declining status
14 (as defined in section 305(b)(4));

15 “(2) the corporation determines, after consulta-
16 tion with the Participant and Plan Sponsor Advo-
17 cate selected under section 4004, that the plan spon-
18 sor has taken (or is taking concurrently with an ap-
19 plication for partition) all reasonable measures to
20 avoid insolvency, including the maximum benefit
21 suspensions under section 305(e)(9), if applicable;

22 “(3) the corporation reasonably expects that—
23 “(A) a partition of the plan will reduce the
24 corporation’s expected long-term loss with re-
25 spect to the plan; and

1 “(B) a partition of the plan is necessary
2 for the plan to remain solvent;

3 “(4) the corporation certifies to Congress that
4 its ability to meet existing financial assistance obli-
5 gations to other plans (including any liabilities asso-
6 ciated with multiemployer plans that are insolvent or
7 that are projected to become insolvent within 10
8 years) will not be impaired by such partition; and

9 “(5) the cost to the corporation arising from
10 such partition is paid exclusively from the fund for
11 basic benefits guaranteed for multiemployer plans.

12 “(c) The corporation’s partition order shall provide
13 for a transfer to the plan referenced in subsection (d)(1)
14 of the minimum amount of the plan’s liabilities necessary
15 for the plan to remain solvent.

16 “(d)(1) The plan created by the partition order is a
17 successor plan to which section 4022A applies.

18 “(2) The plan sponsor of an eligible multiemployer
19 plan prior to the partition and the administrator of such
20 plan shall be the plan sponsor and the administrator, re-
21 spectively, of the plan created by the partition order.

22 “(3) In the event an employer withdraws from the
23 plan that was partitioned within ten years following the
24 date of the partition order, withdrawal liability shall be
25 computed under section 4201 with respect to both the plan

1 that was partitioned and the plan created by the partition
2 order. If the withdrawal occurs more than ten years after
3 the date of the partition order, withdrawal liability shall
4 be computed under section 4201 only with respect to the
5 plan that was partitioned (and not with respect to the plan
6 created by the partition order).

7 “(e)(1) For each participant or beneficiary of the
8 plan whose benefit was transferred to the plan created by
9 the partition order pursuant to a partition, the plan that
10 was partitioned shall pay a monthly benefit to such partic-
11 ipant or beneficiary for each month in which such benefit
12 is in pay status following the effective date of such parti-
13 tion in an amount equal to the excess of—

14 “(A) the monthly benefit that would be paid to
15 such participant or beneficiary for such month under
16 the terms of the plan (taking into account benefit
17 suspensions under section 305(e)(9) and any plan
18 amendments following the effective date of such par-
19 tion) if the partition had not occurred, over

20 “(B) the monthly benefit for such participant
21 or beneficiary which is guaranteed under section
22 4022A.

23 “(2) In any case in which a plan provides a benefit
24 improvement (as defined in section 305(e)(9)(E)(vi)) that
25 takes effect after the effective date of the partition, the

1 plan shall pay to the corporation for each year during the
2 10-year period following the partition effective date, an
3 annual amount equal to the lesser of—

4 “(A) the total value of the increase in benefit
5 payments for such year that is attributable to the
6 benefit improvement, or

7 “(B) the total benefit payments from the plan
8 created by the partition for such year.

9 Such payment shall be made at the time of, and in addi-
10 tion to, any other premium imposed by the corporation
11 under this title.

12 “(3) The plan that was partitioned shall pay the pre-
13 miums imposed by the corporation under this title with
14 respect to participants whose benefits were transferred to
15 the plan created by the partition order for each year dur-
16 ing the 10-year period following the partition effective
17 date.

18 “(f) Not later than 14 days after the partition order,
19 the corporation shall provide notice of such order to the
20 Committee on Education and the Workforce of the House
21 of Representatives, the Committee on Ways and Means
22 of the House of Representatives, the Committee on Fi-
23 nance of the Senate, the Committee on Health, Education,
24 Labor, and Pensions of the Senate, and any affected par-
25 ticipants or beneficiaries.”.

1 (b) EFFECTIVE DATE.—The amendments made by
2 this section shall apply with respect to plan years begin-
3 ning after December 31, 2014.

4 **Subtitle C—Strengthening the Pen-**
5 **sion Benefit Guaranty Corpora-**
6 **tion**

7 **SEC. 131. PREMIUM INCREASES FOR MULTIEMPLOYER**
8 **PLANS.**

9 (a) INCREASE IN PREMIUM RATE FOR MULTITEM-
10 PLOYER PLANS.—Section 4006(a)(3) of the Employee Re-
11 tirement Income Security Act of 1974 (29 U.S.C.
12 1306(a)(3)) is amended—

13 (1) in subparagraph (A)—

14 (A) in clause (iv), by striking “or” at the
15 end;

16 (B) in clause (v)—

17 (i) by inserting “and before January
18 1, 2015,” after “December 31, 2012,”;

19 and

20 (ii) by striking the period at the end
21 and inserting “, or”; and

22 (C) by adding at the end the following:

23 “(vi) in the case of a multiemployer plan, for
24 plan years beginning after December 31, 2014, \$26

1 for each individual who is a participant in such plan
2 during the applicable plan year.”; and

3 (2) by adding at the end the following:

4 “(M) For each plan year beginning in a calendar year
5 after 2015, there shall be substituted for the dollar
6 amount specified in clause (vi) of subparagraph (A) an
7 amount equal to the greater of—

8 “(i) the product derived by multiplying such
9 dollar amount by the ratio of—

10 “(I) the national average wage index (as
11 defined in section 209(k)(1) of the Social Secu-
12 rity Act) for the first of the 2 calendar years
13 preceding the calendar year in which such plan
14 year begins, to

15 “(II) the national average wage index (as
16 so defined) for 2013; and

17 “(ii) such dollar amount for plan years begin-
18 ning in the preceding calendar year.

19 If the amount determined under this subparagraph is not
20 a multiple of \$1, such product shall be rounded to the
21 nearest multiple of \$1.”.

22 (b) TREATMENT OF CERTAIN FUNDS.—Section
23 4005(b)(3) of such Act (29 U.S.C. 1305(b)(3)) is amend-
24 ed—

1 (1) by striking “Whenever” and inserting “(A)
2 Whenever”; and

3 (2) by adding at the end the following:

4 “(B) Notwithstanding subparagraph (A)—

5 “(i) the amounts of premiums received under
6 section 4006 with respect to the fund to be used for
7 basic benefits under section 4022A in a fiscal year
8 in the period beginning with fiscal year 2016 and
9 ending with fiscal year 2020 shall be placed in a
10 noninterest-bearing account within such fund in the
11 following amounts:

12 “(I) for fiscal year 2016, \$108,000,000;

13 “(II) for fiscal year 2017, \$111,000,000;

14 “(III) for fiscal year 2018, \$113,000,000;

15 “(IV) for fiscal year 2019, \$149,000,000;

16 and

17 “(V) for fiscal year 2020, \$296,000,000;

18 “(ii) premiums received in fiscal years specified
19 in subclauses (I) through (V) of clause (i) shall be
20 allocated in order first to the noninterest-bearing ac-
21 count in the amount specified and second to any
22 other accounts within such fund; and

23 “(iii) financial assistance, as provided under
24 section 4261, shall be withdrawn proportionately

1 from the noninterest-bearing and other accounts
2 within the fund.”.

3 (c) REPORT.—In addition to any other report re-
4 quired by section 4022A(f), not later than June 1, 2016,
5 the Pension Benefit Guaranty Corporation shall submit to
6 Congress a report that includes—

7 (1) an analysis of whether the premium levels
8 enacted under the amendment made by subsection
9 (a) are sufficient for the Pension Benefit Guaranty
10 Corporation to meet its projected mean stochastic
11 basic benefit guarantee obligations for the ten- and
12 twenty-year periods beginning with 2015, including
13 an explanation of the assumptions underlying this
14 analysis; and

15 (2) if the analysis under paragraph (1) con-
16 cludes that the premium levels are insufficient to
17 meet such obligations (or are in excess of the levels
18 sufficient to meet such obligations), a proposed
19 schedule of revised premiums sufficient to meet (but
20 not exceed) such obligations.

21 (d) EFFECTIVE DATE.—The amendments made by
22 subsection (a) shall apply with respect to plan years begin-
23 ning after December 31, 2014.

1 **TITLE II—REMEDATION MEAS-**
2 **URES FOR DEEPLY TROU-**
3 **BLED PLANS**

4 **SEC. 201. CONDITIONS, LIMITATIONS, DISTRIBUTION AND**
5 **NOTICE REQUIREMENTS, AND APPROVAL**
6 **PROCESS FOR BENEFIT SUSPENSIONS**
7 **UNDER MULTIEMPLOYER PLANS IN CRITICAL**
8 **AND DECLINING STATUS.**

9 (a) AMENDMENTS TO EMPLOYEE RETIREMENT IN-
10 COME SECURITY ACT OF 1974.—

11 (1) GENERAL RULE FOR PLAN IN CRITICAL AND
12 DECLINING STATUS.—Section 305(a) of the Em-
13 ployee Retirement Income Security Act of 1974 (29
14 U.S.C. 1085(a)) is amended—

15 (A) in paragraph (1)(B), by striking “and”
16 at the end;

17 (B) in paragraph (2)(B), by striking the
18 period at the end and inserting “, and”; and

19 (C) by adding at the end the following:

20 “(3) if the plan is in critical and declining sta-
21 tus—

22 “(A) the requirements of paragraph (2)
23 shall apply to the plan; and

1 “(B) the plan sponsor may, by plan
2 amendment, suspend benefits in accordance
3 with the requirements of subsection (e)(9).”.

4 (2) CRITICAL AND DECLINING STATUS DE-
5 FINED.—Section 305(b) of the Employee Retirement
6 Income Security Act of 1974 (29 U.S.C. 1085(b)),
7 as amended by sections 102 and 104, is further
8 amended by adding at the end the following:

9 “(6) CRITICAL AND DECLINING STATUS.—For
10 purposes of this section, a plan in critical status
11 shall be treated as in critical and declining status if
12 the plan is described in one or more of subpara-
13 graphs (A), (B), (C), and (D) of paragraph (2) and
14 the plan is projected to become insolvent within the
15 meaning of section 4245 during the current plan
16 year or any of the 14 succeeding plan years (19 suc-
17 ceeding plan years if the plan has a ratio of inactive
18 participants to active participants that exceeds 2 to
19 1 or if the funded percentage of the plan is less than
20 80 percent).”.

21 (3) ANNUAL CERTIFICATION.—Section
22 305(b)(3)(A)(i) of the Employee Retirement Income
23 Security Act of 1974 (29 U.S.C. 1085(b)(3)(A)(i)) is
24 amended—

1 (A) by striking “and whether” and insert-
2 ing “, whether”, and

3 (B) by inserting “, and whether or not the
4 plan is or will be in critical and declining status
5 for such plan year” before “, and” at the end.

6 (4) ANNUAL FUNDING NOTICES.—Section
7 101(f)(2)(B) of such Act (29 U.S.C. 1021(f)(2)(B))
8 is amended—

9 (A) by redesignating clauses (vi) through
10 (x) as clauses (vii) through (xi), respectively;
11 and

12 (B) by inserting after clause (v) the fol-
13 lowing:

14 “(vi) in the case of a multiemployer
15 plan, whether the plan was in critical and
16 declining status under section 305 for such
17 plan year and, if so—

18 “(I) the projected date of insol-
19 vency;

20 “(II) a clear statement that such
21 insolvency may result in benefit reduc-
22 tions; and

23 “(III) a statement describing
24 whether the plan sponsor has taken

1 legally permitted actions to prevent
2 insolvency.”.

3 (5) PROJECTIONS OF ASSETS AND LIABIL-
4 ITIES.—Section 305(b)(3)(B) of the Employee Re-
5 tirement Income Security Act of 1974 (29 U.S.C.
6 1085(b)(3)(B)) is amended by adding at the end the
7 following:

8 “**(iv) PROJECTIONS OF CRITICAL AND**
9 **DECLINING STATUS.**—In determining
10 whether a plan is in critical and declining
11 status as described in subsection (e)(9),
12 clauses (i), (ii), and (iii) shall apply, except
13 that—

14 “**(I)** if reasonable, the plan actu-
15 ary shall assume that each contrib-
16 uting employer in compliance con-
17 tinues to comply through the end of
18 the rehabilitation period or such later
19 time as provided in subsection
20 (e)(3)(A)(ii) with the terms of the re-
21 habilitation plan that correspond to
22 the schedule adopted or imposed
23 under subsection (e), and

24 “**(II)** the plan actuary shall take
25 into account any suspensions of bene-

1 fits described in subsection (e)(9)
2 adopted in a prior plan year that are
3 still in effect.”.

4 (6) BENEFIT SUSPENSIONS FOR MULTITEM-
5 PLOYER PLANS IN CRITICAL AND DECLINING STA-
6 TUS.—Section 305(e) of the Employee Retirement
7 Income Security Act of 1974 (29 U.S.C. 1085(e))
8 (as amended by section 109) is amended by insert-
9 ing after paragraph (8) the following:

10 “(9) BENEFIT SUSPENSIONS FOR MULTITEM-
11 PLOYER PLANS IN CRITICAL AND DECLINING STA-
12 TUS.—

13 “(A) IN GENERAL.—Notwithstanding sec-
14 tion 204(g) and subject to subparagraphs (B)
15 through (I), the plan sponsor of a plan in crit-
16 ical and declining status may, by plan amend-
17 ment, suspend benefits which the sponsor
18 deems appropriate.

19 “(B) SUSPENSION OF BENEFITS.—

20 “(i) SUSPENSION OF BENEFITS DE-
21 FINED.—For purposes of this subsection,
22 the term ‘suspension of benefits’ means the
23 temporary or permanent reduction of any
24 current or future payment obligation of the
25 plan to any participant or beneficiary

1 under the plan, whether or not in pay sta-
2 tus at the time of the suspension of bene-
3 fits.

4 “(ii) LENGTH OF SUSPENSIONS.—Any
5 suspension of benefits made under sub-
6 paragraph (A) shall remain in effect until
7 the earlier of when the plan sponsor pro-
8 vides benefit improvements in accordance
9 with subparagraph (E) or the suspension
10 of benefits expires by its own terms.

11 “(iii) NO LIABILITY.—The plan shall
12 not be liable for any benefit payments not
13 made as a result of a suspension of bene-
14 fits under this paragraph.

15 “(iv) APPLICABILITY.—For purposes
16 of this paragraph, all references to suspen-
17 sions of benefits, increases in benefits, or
18 resummptions of suspended benefits with re-
19 spect to participants shall also apply with
20 respect to benefits of beneficiaries or alter-
21 native payees of participants.

22 “(v) RETIREE REPRESENTATIVE.—

23 “(I) IN GENERAL.—In the case
24 of a plan with 10,000 or more partici-
25 pants, not later than 60 days prior to

1 the plan sponsor submitting an appli-
2 cation to suspend benefits, the plan
3 sponsor shall select a participant of
4 the plan in pay status to act as a re-
5 tiree representative. The retiree rep-
6 resentative shall advocate for the in-
7 terests of the retired and deferred
8 vested participants and beneficiaries
9 of the plan throughout the suspension
10 approval process.

11 “(II) REASONABLE EXPENSES
12 FROM PLAN.—The plan shall provide
13 for reasonable expenses by the retiree
14 representative, including reasonable
15 legal and actuarial support, commensurate
16 with the plan’s size and funded
17 status.

18 “(III) SPECIAL RULE RELATING
19 TO FIDUCIARY STATUS.—Duties per-
20 formed pursuant to subclause (I) shall
21 not be subject to section 404(a). The
22 preceding sentence shall not apply to
23 those duties associated with an appli-
24 cation to suspend benefits pursuant to
25 subparagraph (G) that are performed

1 by the retiree representative who is
2 also a plan trustee.

3 “(C) CONDITIONS FOR SUSPENSIONS.—
4 The plan sponsor of a plan in critical and de-
5 clining status for a plan year may suspend ben-
6 efits only if the following conditions are met:

7 “(i) Taking into account the proposed
8 suspensions of benefits (and, if applicable,
9 a proposed partition of the plan under sec-
10 tion 4233), the plan actuary certifies that
11 the plan is projected to avoid insolvency
12 within the meaning of section 4245, as-
13 suming the suspensions of benefits con-
14 tinue until the suspensions of benefits ex-
15 pire by their own terms or if no such expi-
16 ration date is set, indefinitely.

17 “(ii) The plan sponsor determines, in
18 a written record to be maintained through-
19 out the period of the benefit suspension,
20 that the plan is still projected to become
21 insolvent unless benefits are suspended
22 under this paragraph, although all reason-
23 able measures to avoid insolvency have
24 been taken (and continue to be taken dur-
25 ing the period of the benefit suspension).

1 In its determination, the plan sponsor may
2 take into account factors including the fol-
3 lowing:

4 “(I) Current and past contribu-
5 tion levels.

6 “(II) Levels of benefit accruals
7 (including any prior reductions in the
8 rate of benefit accruals).

9 “(III) Prior reductions (if any) of
10 adjustable benefits.

11 “(IV) Prior suspensions (if any)
12 of benefits under this subsection.

13 “(V) The impact on plan solvency
14 of the subsidies and ancillary benefits
15 available to active participants.

16 “(VI) Compensation levels of ac-
17 tive participants relative to employees
18 in the participants’ industry generally.

19 “(VII) Competitive and other
20 economic factors facing contributing
21 employers.

22 “(VIII) The impact of benefit
23 and contribution levels on retaining
24 active participants and bargaining
25 groups under the plan.

1 “(IX) The impact of past and
2 anticipated contribution increases
3 under the plan on employer attrition
4 and retention levels.

5 “(X) Measures undertaken by the
6 plan sponsor to retain or attract con-
7 tributing employers.

8 “(D) LIMITATIONS ON SUSPENSIONS.—
9 Any suspensions of benefits made by a plan
10 sponsor pursuant to this paragraph shall be
11 subject to the following limitations:

12 “(i) The monthly benefit of any par-
13 ticipant or beneficiary may not be reduced
14 below 110 percent of the monthly benefit
15 which is guaranteed by the Pension Ben-
16 efit Guaranty Corporation under section
17 4022A on the date of the suspension.

18 “(ii)(I) In the case of a participant or
19 beneficiary who has attained 75 years of
20 age as of the effective date of the suspen-
21 sion, not more than the applicable percent-
22 age of the maximum suspendable benefits
23 of such participant or beneficiary may be
24 suspended under this paragraph.

1 “(II) For purposes of subclause (I),
2 the maximum suspendable benefits of a
3 participant or beneficiary is the portion of
4 the benefits of such participant or bene-
5 ficiary that would be suspended pursuant
6 to this paragraph without regard to this
7 clause;

8 “(III) For purposes of subclause (I),
9 the applicable percentage is a percentage
10 equal to the quotient obtained by divid-
11 ing—

12 “(aa) the number of months dur-
13 ing the period beginning with the
14 month after the month in which oc-
15 curs the effective date of the suspen-
16 sion and ending with the month dur-
17 ing which the participant or bene-
18 ficiary attains the age of 80, by

19 “(bb) 60 months.

20 “(iii) No benefits based on disability
21 (as defined under the plan) may be sus-
22 pended under this paragraph.

23 “(iv) Any suspensions of benefits, in
24 the aggregate (and, if applicable, consid-
25 ered in combination with a partition of the

1 plan under section 4233), shall be reason-
2 ably estimated to achieve, but not materi-
3 ally exceed, the level that is necessary to
4 avoid insolvency.

5 “(v) In any case in which a suspen-
6 sion of benefits with respect to a plan is
7 made in combination with a partition of
8 the plan under section 4233, the suspen-
9 sion of benefits may not take effect prior
10 to the effective date of such partition.

11 “(vi) Any suspensions of benefits shall
12 be equitably distributed across the partici-
13 pant and beneficiary population, taking
14 into account factors, with respect to par-
15 ticipants and beneficiaries and their bene-
16 fits, that may include one or more of the
17 following:

18 “(I) Age and life expectancy.

19 “(II) Length of time in pay sta-
20 tus.

21 “(III) Amount of benefit.

22 “(IV) Type of benefit: survivor,
23 normal retirement, early retirement.

1 “(V) Extent to which participant
2 or beneficiary is receiving a subsidized
3 benefit.

4 “(VI) Extent to which partici-
5 pant or beneficiary has received post-
6 retirement benefit increases.

7 “(VII) History of benefit in-
8 creases and reductions.

9 “(VIII) Years to retirement for
10 active employees.

11 “(IX) Any discrepancies between
12 active and retiree benefits.

13 “(X) Extent to which active par-
14 ticipants are reasonably likely to with-
15 draw support for the plan, accel-
16 erating employer withdrawals from
17 the plan and increasing the risk of ad-
18 ditional benefit reductions for partici-
19 pants in and out of pay status.

20 “(XI) Extent to which benefits
21 are attributed to service with an em-
22 ployer that failed to pay its full with-
23 drawal liability.

24 “(vii) In the case of a plan that in-
25 cludes the benefits described in clause

1 (III), benefits suspended under this para-
2 graph shall—

3 “(I) first, be applied to the max-
4 imum extent permissible to benefits
5 attributable to a participant’s service
6 for an employer which withdrew from
7 the plan and failed to pay (or is delin-
8 quent with respect to paying) the full
9 amount of its withdrawal liability
10 under section 4201(b)(1) or an agree-
11 ment with the plan,

12 “(II) second, except as provided
13 by subclause (III), be applied to all
14 other benefits that may be suspended
15 under this paragraph, and

16 “(III) third, be applied to bene-
17 fits under a plan that are directly at-
18 tributable to a participant’s service
19 with any employer which has, prior to
20 the date of enactment of the Multiem-
21 ployer Pension Reform Act of 2014—

22 “(aa) withdrawn from the
23 plan in a complete withdrawal
24 under section 4203 and has paid
25 the full amount of the employer’s

1 withdrawal liability under section
2 4201(b)(1) or an agreement with
3 the plan, and

4 “(bb) pursuant to a collec-
5 tive bargaining agreement, as-
6 sumed liability for providing ben-
7 efits to participants and bene-
8 ficiaries of the plan under a sepa-
9 rate, single-employer plan spon-
10 sored by the employer, in an
11 amount equal to any amount of
12 benefits for such participants and
13 beneficiaries reduced as a result
14 of the financial status of the
15 plan.

16 “(E) BENEFIT IMPROVEMENTS.—

17 “(i) IN GENERAL.—The plan sponsor
18 may, in its sole discretion, provide benefit
19 improvements while any suspension of ben-
20 efits under the plan remains in effect, ex-
21 cept that the plan sponsor may not in-
22 crease the liabilities of the plan by reason
23 of any benefit improvement for any partici-
24 pant or beneficiary not in pay status by

1 the first day of the plan year for which the
2 benefit improvement takes effect, unless—

3 “(I) such action is accompanied
4 by equitable benefit improvements in
5 accordance with clause (ii) for all par-
6 ticipants and beneficiaries whose ben-
7 efit commencement dates were before
8 the first day of the plan year for
9 which the benefit improvement for
10 such participant or beneficiary not in
11 pay status took effect; and

12 “(II) the plan actuary certifies
13 that after taking into account such
14 benefits improvements the plan is pro-
15 jected to avoid insolvency indefinitely
16 under section 4245.

17 “(ii) **EQUITABLE DISTRIBUTION OF**
18 **BENEFIT IMPROVEMENTS.—**

19 “(I) **LIMITATION.—**The projected
20 value of the total liabilities for benefit
21 improvements for participants and
22 beneficiaries not in pay status by the
23 date of the first day of the plan year
24 in which the benefit improvements are
25 proposed to take effect, as determined

1 as of such date, may not exceed the
2 projected value of the liabilities aris-
3 ing from benefit improvements for
4 participants and beneficiaries with
5 benefit commencement dates prior to
6 the first day of such plan year, as so
7 determined.

8 “(II) EQUITABLE DISTRIBUTION
9 OF BENEFITS.—The plan sponsor
10 shall equitably distribute any increase
11 in total liabilities for benefit improve-
12 ments in clause (i) to some or all of
13 the participants and beneficiaries
14 whose benefit commencement date is
15 before the date of the first day of the
16 plan year in which the benefit im-
17 provements are proposed to take ef-
18 fect, taking into account the relevant
19 factors described in subparagraph
20 (D)(vi) and the extent to which the
21 benefits of the participants and bene-
22 ficiaries were suspended.

23 “(iii) SPECIAL RULE FOR RESUMP-
24 TIONS OF BENEFITS ONLY FOR PARTICI-
25 PANTS IN PAY STATUS.—The plan sponsor

1 may increase liabilities of the plan through
2 a resumption of benefits for participants
3 and beneficiaries in pay status only if the
4 plan sponsor equitably distributes the value
5 of resumed benefits to some or all of the
6 participants and beneficiaries in pay sta-
7 tus, taking into account the relevant fac-
8 tors described in subparagraph (D)(vi).

9 “(iv) SPECIAL RULE FOR CERTAIN
10 BENEFIT INCREASES.—This subparagraph
11 shall not apply to a resumption of sus-
12 pended benefits or plan amendment which
13 increases liabilities with respect to partici-
14 pants and beneficiaries not in pay status
15 by the first day of the plan year in which
16 the benefit improvements took effect
17 which—

18 “(I) the Secretary of the Treas-
19 ury, in consultation with the Pension
20 Benefit Guaranty Corporation and the
21 Secretary of Labor, determines to be
22 reasonable and which provides for
23 only de minimis increases in the liabil-
24 ities of the plan, or

1 “(II) is required as a condition of
2 qualification under part I of sub-
3 chapter D of chapter 1 of subtitle A
4 of the Internal Revenue Code of 1986
5 or to comply with other applicable
6 law, as determined by the Secretary of
7 the Treasury.

8 “(v) ADDITIONAL LIMITATIONS.—Ex-
9 cept for resumptions of suspended benefits
10 described in clause (iii), the limitations on
11 benefit improvements while a suspension of
12 benefits is in effect under this paragraph
13 shall be in addition to any other applicable
14 limitations on increases in benefits imposed
15 on a plan.

16 “(vi) DEFINITION OF BENEFIT IM-
17 PROVEMENT.—For purposes of this sub-
18 paragraph, the term ‘benefit improvement’
19 means, with respect to a plan, a resump-
20 tion of suspended benefits, an increase in
21 benefits, an increase in the rate at which
22 benefits accrue, or an increase in the rate
23 at which benefits become nonforfeitable
24 under the plan.

25 “(F) NOTICE REQUIREMENTS.—

1 “(i) IN GENERAL.—No suspension of
2 benefits may be made pursuant to this
3 paragraph unless notice of such proposed
4 suspension has been given by the plan
5 sponsor concurrently with an application
6 for approval of such suspension submitted
7 under subparagraph (G) to the Secretary
8 of the Treasury to—

9 “(I) such plan participants and
10 beneficiaries who may be contacted by
11 reasonable efforts,

12 “(II) each employer who has an
13 obligation to contribute (within the
14 meaning of section 4212(a)) under the
15 plan, and

16 “(III) each employee organization
17 which, for purposes of collective bar-
18 gaining, represents plan participants
19 employed by such an employer.

20 “(ii) CONTENT OF NOTICE.—The no-
21 tice under clause (i) shall contain—

22 “(I) sufficient information to en-
23 able participants and beneficiaries to
24 understand the effect of any suspen-
25 sions of benefits, including an individ-

1 ualized estimate (on an annual or
2 monthly basis) of such effect on each
3 participant or beneficiary,

4 “(II) a description of the factors
5 considered by the plan sponsor in de-
6 signing the benefit suspensions,

7 “(III) a statement that the appli-
8 cation for approval of any suspension
9 of benefits shall be available on the
10 website of the Department of the
11 Treasury and that comments on such
12 application will be accepted,

13 “(IV) information as to the
14 rights and remedies of plan partici-
15 pants and beneficiaries,

16 “(V) if applicable, a statement
17 describing the appointment of a re-
18 tiree representative, the date of ap-
19 pointment of such representative,
20 identifying information about the re-
21 tiree representative (including whether
22 the representative is a plan trustee),
23 and how to contact such representa-
24 tive, and

1 “(VI) information on how to con-
2 tact the Department of the Treasury
3 for further information and assistance
4 where appropriate.

5 “(iii) FORM AND MANNER.—Any no-
6 tice under clause (i)—

7 “(I) shall be provided in a form
8 and manner prescribed in guidance by
9 the Secretary of the Treasury, in con-
10 sultation with the Pension Benefit
11 Guaranty Corporation and the Sec-
12 retary of Labor, notwithstanding any
13 other provision of law,

14 “(II) shall be written in a man-
15 ner so as to be understood by the av-
16 erage plan participant, and

17 “(III) may be provided in writ-
18 ten, electronic, or other appropriate
19 form to the extent such form is rea-
20 sonably accessible to persons to whom
21 the notice is required to be provided.

22 “(iv) OTHER NOTICE REQUIRE-
23 MENT.—Any notice provided under clause
24 (i) shall fulfill the requirement for notice of

1 a significant reduction in benefits de-
2 scribed in section 204(h).

3 “(v) MODEL NOTICE.—The Secretary
4 of the Treasury, in consultation with the
5 Pension Benefit Guaranty Corporation and
6 the Secretary of Labor, shall in the guid-
7 ance prescribed under clause (iii)(I) estab-
8 lish a model notice that a plan sponsor
9 may use to meet the requirements of this
10 subparagraph.

11 “(G) APPROVAL PROCESS BY THE SEC-
12 RETARY OF THE TREASURY IN CONSULTATION
13 WITH THE PENSION BENEFIT GUARANTY COR-
14 PORATION AND THE SECRETARY OF LABOR.—

15 “(i) IN GENERAL.—The plan sponsor
16 of a plan in critical and declining status
17 for a plan year that seeks to suspend bene-
18 fits must submit an application to the Sec-
19 retary of the Treasury for approval of the
20 suspensions of benefits. If the plan sponsor
21 submits an application for approval of the
22 suspensions, the Secretary of the Treasury,
23 in consultation with the Pension Benefit
24 Guaranty Corporation and the Secretary of
25 Labor, shall approve the application upon

1 finding that the plan is eligible for the sus-
2 pensions and has satisfied the criteria of
3 subparagraphs (C), (D), (E), and (F).

4 “(ii) SOLICITATION OF COMMENTS.—
5 Not later than 30 days after receipt of the
6 application under clause (i), the Secretary
7 of the Treasury, in consultation with the
8 Pension Benefit Guaranty Corporation and
9 the Secretary of Labor, shall publish a no-
10 tice in the Federal Register soliciting com-
11 ments from contributing employers, em-
12 ployee organizations, and participants and
13 beneficiaries of the plan for which an ap-
14 plication was made and other interested
15 parties. The application for approval of the
16 suspension of benefits shall be published
17 on the website of the Secretary of the
18 Treasury.

19 “(iii) REQUIRED ACTION; DEEMED AP-
20 PROVAL.—The Secretary of the Treasury,
21 in consultation with the Pension Benefit
22 Guaranty Corporation and the Secretary of
23 Labor, shall approve or deny any applica-
24 tion for suspensions of benefits under this
25 paragraph within 225 days after the sub-

1 mission of such application. An application
2 for suspension of benefits shall be deemed
3 approved unless, within such 225 days, the
4 Secretary of the Treasury notifies the plan
5 sponsor that it has failed to satisfy one or
6 more of the criteria described in this para-
7 graph. If the Secretary of the Treasury, in
8 consultation with the Pension Benefit
9 Guaranty Corporation and the Secretary of
10 Labor, rejects a plan sponsor's application,
11 the Secretary of the Treasury shall provide
12 notice to the plan sponsor detailing the
13 specific reasons for the rejection, including
14 reference to the specific requirement not
15 satisfied. Approval or denial by the Sec-
16 retary of the Treasury of an application
17 shall be treated as a final agency action for
18 purposes of section 704 of title 5, United
19 States Code.

20 “(iv) AGENCY REVIEW.—In evaluating
21 whether the plan sponsor has met the cri-
22 teria specified in clause (ii) of subpara-
23 graph (C), the Secretary of the Treasury,
24 in consultation with the Pension Benefit
25 Guaranty Corporation and the Secretary of

1 Labor, shall review the plan sponsor's con-
2 sideration of factors under such clause.

3 “(v) STANDARD FOR ACCEPTING PLAN
4 SPONSOR DETERMINATIONS.—In evalu-
5 ating the plan sponsor's application, the
6 Secretary of the Treasury shall accept the
7 plan sponsor's determinations unless it
8 concludes, in consultation with the Pension
9 Benefit Guaranty Corporation and the Sec-
10 retary of Labor, that the plan sponsor's
11 determinations were clearly erroneous.

12 “(H) PARTICIPANT RATIFICATION PROC-
13 ESS.—

14 “(i) IN GENERAL.—No suspension of
15 benefits may take effect pursuant to this
16 paragraph prior to a vote of the partici-
17 pants of the plan with respect to the sus-
18 pension.

19 “(ii) ADMINISTRATION OF VOTE.—
20 Not later than 30 days after approval of
21 the suspension by the Secretary of the
22 Treasury, in consultation with the Pension
23 Benefit Guaranty Corporation and the Sec-
24 retary of Labor, under subparagraph (G),
25 the Secretary of the Treasury, in consulta-

1 tion with the Pension Benefit Guaranty
2 Corporation and the Secretary of Labor,
3 shall administer a vote of participants and
4 beneficiaries of the plan. Except as pro-
5 vided in clause (v), the suspension shall go
6 into effect following the vote unless a ma-
7 jority of all participants and beneficiaries
8 of the plan vote to reject the suspension.
9 The plan sponsor may submit a new sus-
10 pension application to the Secretary of the
11 Treasury for approval in any case in which
12 a suspension is prohibited from taking ef-
13 fect pursuant to a vote under this subpara-
14 graph.

15 “(iii) BALLOTS.—The plan sponsor
16 shall provide a ballot for the vote (subject
17 to approval by the Secretary of the Treas-
18 ury, in consultation with the Pension Ben-
19 efit Guaranty Corporation and the Sec-
20 retary of Labor) that includes the fol-
21 lowing:

22 “(I) A statement from the plan
23 sponsor in support of the suspension.

24 “(II) A statement in opposition
25 to the suspension compiled from com-

1 ments received pursuant to subpara-
2 graph (G)(ii).

3 “(III) A statement that the sus-
4 pension has been approved by the Sec-
5 retary of the Treasury, in consultation
6 with the Pension Benefit Guaranty
7 Corporation and the Secretary of
8 Labor.

9 “(IV) A statement that the plan
10 sponsor has determined that the plan
11 will become insolvent unless the sus-
12 pension takes effect.

13 “(V) A statement that insolvency
14 of the plan could result in benefits
15 lower than benefits paid under the
16 suspension.

17 “(VI) A statement that insol-
18 vency of the Pension Benefit Guar-
19 anty Corporation would result in ben-
20 efits lower than benefits paid in the
21 case of plan insolvency.

22 “(iv) COMMUNICATION BY PLAN SPON-
23 SOR.—It is the sense of Congress that, de-
24 pending on the size and resources of the
25 plan and geographic distribution of the

1 plan's participants, the plan sponsor
2 should take such steps as may be nec-
3 essary to inform participants about pro-
4 posed benefit suspensions through in-per-
5 son meetings, telephone or internet-based
6 communications, mailed information, or by
7 other means.

8 “(v) SYSTEMICALLY IMPORTANT
9 PLANS.—

10 “(I) IN GENERAL.—Not later
11 than 14 days after a vote under this
12 subparagraph rejecting a suspension,
13 the Secretary of the Treasury, in con-
14 sultation with the Pension Benefit
15 Guaranty Corporation and the Sec-
16 retary of Labor, shall determine
17 whether the plan is a systemically im-
18 portant plan. If the Secretary of the
19 Treasury, in consultation with the
20 Pension Benefit Guaranty Corpora-
21 tion and the Secretary of Labor, de-
22 termines that the plan is a system-
23 ically important plan, not later than
24 the end of the 90-day period begin-
25 ning on the date the results of the

1 vote are certified, the Secretary of the
2 Treasury shall, notwithstanding such
3 adverse vote—

4 “(aa) permit the implemen-
5 tation of the suspension proposed
6 by the plan sponsor; or

7 “(bb) permit the implemen-
8 tation of a modification by the
9 Secretary of the Treasury, in
10 consultation with the Pension
11 Benefit Guaranty Corporation
12 and the Secretary of Labor, of
13 such suspension (so long as the
14 plan is projected to avoid insol-
15 vency within the meaning of sec-
16 tion 4245 under such modifica-
17 tion).

18 “(II) RECOMMENDATIONS.—Not
19 later than 30 days after a determina-
20 tion by the Secretary of the Treasury,
21 in consultation with the Pension Ben-
22 efit Guaranty Corporation and the
23 Secretary of Labor, that the plan is
24 systemically important, the Partici-
25 pant and Plan Sponsor Advocate se-

1 lected under section 4004 may submit
2 recommendations to the Secretary of
3 the Treasury with respect to the sus-
4 pension or any revisions to the sus-
5 pension.

6 “(III) SYSTEMICALLY IMPOR-
7 TANT PLAN DEFINED.—

8 “(aa) IN GENERAL.—For
9 purposes of this subparagraph, a
10 systemically important plan is a
11 plan with respect to which the
12 Pension Benefit Guaranty Cor-
13 poration projects the present
14 value of projected financial as-
15 sistance payments exceeds
16 \$1,000,000,000 if suspensions
17 are not implemented.

18 “(bb) INDEXING.—For cal-
19 endar years beginning after
20 2015, there shall be substituted
21 for the dollar amount specified in
22 item (aa) an amount equal to the
23 product of such dollar amount
24 and a fraction, the numerator of
25 which is the contribution and

1 benefit base (determined under
2 section 230 of the Social Security
3 Act) for the preceding calendar
4 year and the denominator of
5 which is such contribution and
6 benefit base for calendar year
7 2014. If the amount otherwise
8 determined under this item is not
9 a multiple of \$1,000,000, such
10 amount shall be rounded to the
11 next lowest multiple of
12 \$1,000,000.

13 “(vi) FINAL AUTHORIZATION TO SUS-
14 PEND.—In any case in which a suspension
15 goes into effect following a vote pursuant
16 to clause (ii) (or following a determination
17 under clause (v) that the plan is a system-
18 ically important plan), the Secretary of the
19 Treasury, in consultation with the Pension
20 Benefit Guaranty Corporation and the Sec-
21 retary of Labor, shall issue a final author-
22 ization to suspend with respect to the sus-
23 pension not later than 7 days after such
24 vote (or, in the case of a suspension that
25 goes into effect under clause (v), at a time

1 sufficient to allow the implementation of
2 the suspension prior to the end of the 90-
3 day period described in clause (v)(I).

4 “(I) JUDICIAL REVIEW.—

5 “(i) DENIAL OF APPLICATION.—An
6 action by the plan sponsor challenging the
7 denial of an application for suspension of
8 benefits by the Secretary of the Treasury,
9 in consultation with the Pension Benefit
10 Guaranty Corporation and the Secretary of
11 Labor, may only be brought following such
12 denial.

13 “(ii) APPROVAL OF SUSPENSION OF
14 BENEFITS.—

15 “(I) TIMING OF ACTION.—An ac-
16 tion challenging a suspension of bene-
17 fits under this paragraph may only be
18 brought following a final authorization
19 to suspend by the Secretary of the
20 Treasury, in consultation with the
21 Pension Benefit Guaranty Corpora-
22 tion and the Secretary of Labor,
23 under subparagraph (H)(vi).

24 “(II) STANDARDS OF REVIEW.—

1 “(aa) IN GENERAL.—A
2 court shall review an action chal-
3 lenging a suspension of benefits
4 under this paragraph in accord-
5 ance with section 706 of title 5,
6 United States Code.

7 “(bb) TEMPORARY INJUNC-
8 TION.—A court reviewing an ac-
9 tion challenging a suspension of
10 benefits under this paragraph
11 may not grant a temporary in-
12 junction with respect to such sus-
13 pension unless the court finds a
14 clear and convincing likelihood
15 that the plaintiff will prevail on
16 the merits of the case.

17 “(iii) RESTRICTED CAUSE OF AC-
18 TION.—A participant or beneficiary af-
19 fected by a benefit suspension under this
20 paragraph shall not have a cause of action
21 under this title.

22 “(iv) LIMITATION ON ACTION TO SUS-
23 PEND BENEFITS.—No action challenging a
24 suspension of benefits following the final
25 authorization to suspend or the denial of

1 an application for suspension of benefits
2 pursuant to this paragraph may be
3 brought after one year after the earliest
4 date on which the plaintiff acquired or
5 should have acquired actual knowledge of
6 the existence of such cause of action.

7 “(J) SPECIAL RULE FOR EMERGENCE
8 FROM CRITICAL STATUS.—A plan certified to be
9 in critical and declining status pursuant to pro-
10 jections made under subsection (b)(3) for which
11 a suspension of benefits has been made by the
12 plan sponsor pursuant to this paragraph shall
13 not emerge from critical status under para-
14 graph (4)(B), until such time as—

15 “(i) the plan is no longer certified to
16 be in critical or endangered status under
17 paragraphs (1) and (2) of subsection (b),
18 and

19 “(ii) the plan is projected to avoid in-
20 solvency under section 4245.”.

21 (7) RULES RELATING TO WITHDRAWAL LIABIL-
22 ITY.—

23 (A) BENEFIT SUSPENSIONS DIS-
24 REGARDED.—Section 305(g)(1) of the Em-
25 ployee Retirement Income Security Act of 1974,

1 as added by section 109, is further amended by
2 inserting “or benefit reductions or suspensions
3 while in critical and declining status under sub-
4 section (e)(9)), unless the withdrawal occurs
5 more than ten years after the effective date of
6 a benefit suspension by a plan in critical and
7 declining status,” after “benefit reductions
8 under subsection (e)(8) or (f)”.

9 (B) AUTHORITY OF PLAN TO SUBORDI-
10 NATE WITHDRAWAL LIABILITY CLAIMS.—Sec-
11 tion 4219(d) of such Act (29 U.S.C. 1399(d))
12 is amended by striking the period at the end
13 and inserting “or to any arrangement relating
14 to withdrawal liability involving the plan.”.

15 (C) CIVIL ACTIONS.—Section 4003(f)(1) of
16 such Act (29 U.S.C. 1303)(f)(1)) is amended
17 by inserting “plan sponsor,” before “fiduciary”.

18 (8) GUIDANCE.—Not later than 180 days after
19 the date of the enactment of this Act, the Secretary
20 of the Treasury, in consultation with the Pension
21 Benefit Guaranty Corporation and the Secretary of
22 Labor, shall publish appropriate guidance to imple-
23 ment section 305(e)(9) of the Employee Retirement
24 Income Security Act of 1974 (29 U.S.C.
25 1085(e)(9)).

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

3 (1) GENERAL RULE FOR PLAN IN CRITICAL AND
4 DECLINING STATUS.—Section 432(a) of the Internal
5 Revenue Code of 1986 is amended—

6 (A) in paragraph (1)(B), by striking “and”
7 at the end;

8 (B) in paragraph (2)(B), by striking the
9 period at the end and inserting “, and”; and

10 (C) by adding at the end the following:

11 “(3) if the plan is in critical and declining sta-
12 tus—

13 “(A) the requirements of paragraph (2)
14 shall apply to the plan; and

15 “(B) the plan sponsor may, by plan
16 amendment, suspend benefits in accordance
17 with the requirements of subsection (e)(9).”.

18 (2) CRITICAL AND DECLINING STATUS DE-
19 FINED.—Section 432(b) of the Internal Revenue
20 Code of 1986, as amended by sections 102 and 104,
21 is further amended by adding at the end the fol-
22 lowing:

23 “(6) CRITICAL AND DECLINING STATUS.—For
24 purposes of this section, a plan in critical status
25 shall be treated as in critical and declining status if

1 the plan is described in one or more of subpara-
2 graphs (A), (B), (C), and (D) of paragraph (2) and
3 the plan is projected to become insolvent within the
4 meaning of section 418E during the current plan
5 year or any of the 14 succeeding plan years (19 suc-
6 ceeding plan years if the plan has a ratio of inactive
7 participants to active participants that exceeds 2 to
8 1 or if the funded percentage of the plan is less than
9 80 percent).”.

10 (3) ANNUAL CERTIFICATION.—Section
11 432(b)(3)(A)(i) of the Internal Revenue Code of
12 1986 is amended—

13 (A) by striking “and whether” and insert-
14 ing “, whether”, and

15 (B) by inserting “, and whether or not the
16 plan is or will be in critical and declining status
17 for such plan year” before “, and” at the end.

18 (4) PROJECTIONS OF ASSETS AND LIABIL-
19 ITIES.—Section 432(b)(3)(B) of the Internal Rev-
20 enue Code of 1986 is amended by adding at the end
21 the following:

22 “(iv) PROJECTIONS OF CRITICAL AND
23 DECLINING STATUS.—In determining
24 whether a plan is in critical and declining
25 status as described in subsection (e)(9),

1 clauses (i), (ii), and (iii) shall apply, except
2 that—

3 “(I) if reasonable, the plan actu-
4 ary shall assume that each contrib-
5 uting employer in compliance con-
6 tinues to comply through the end of
7 the rehabilitation period or such later
8 time as provided in subsection
9 (e)(3)(A)(ii) with the terms of the re-
10 habilitation plan that correspond to
11 the schedule adopted or imposed
12 under subsection (e), and

13 “(II) the plan actuary shall take
14 into account any suspensions of bene-
15 fits described in subsection (e)(9)
16 adopted in a prior plan year that are
17 still in effect.”.

18 (5) BENEFIT SUSPENSIONS FOR MULTIEM-
19 PLOYER PLANS IN CRITICAL AND DECLINING STA-
20 TUS.—Section 432(e) of the Internal Revenue Code
21 of 1986 (as amended by section 109) is amended by
22 inserting after paragraph (8) the following:

23 “(9) BENEFIT SUSPENSIONS FOR MULTIEM-
24 PLOYER PLANS IN CRITICAL AND DECLINING STA-
25 TUS.—

1 “(A) IN GENERAL.—Notwithstanding sec-
2 tion 411(d)(6) and subject to subparagraphs
3 (B) through (I), the plan sponsor of a plan in
4 critical and declining status may, by plan
5 amendment, suspend benefits which the sponsor
6 deems appropriate.

7 “(B) SUSPENSION OF BENEFITS.—

8 “(i) SUSPENSION OF BENEFITS DE-
9 FINED.—For purposes of this subsection,
10 the term ‘suspension of benefits’ means the
11 temporary or permanent reduction of any
12 current or future payment obligation of the
13 plan to any participant or beneficiary
14 under the plan, whether or not in pay sta-
15 tus at the time of the suspension of bene-
16 fits.

17 “(ii) LENGTH OF SUSPENSIONS.—Any
18 suspension of benefits made under sub-
19 paragraph (A) shall remain in effect until
20 the earlier of when the plan sponsor pro-
21 vides benefit improvements in accordance
22 with subparagraph (E) or the suspension
23 of benefits expires by its own terms.

24 “(iii) NO LIABILITY.—The plan shall
25 not be liable for any benefit payments not

1 made as a result of a suspension of bene-
2 fits under this paragraph.

3 “(iv) APPLICABILITY.—For purposes
4 of this paragraph, all references to suspen-
5 sions of benefits, increases in benefits, or
6 resumptions of suspended benefits with re-
7 spect to participants shall also apply with
8 respect to benefits of beneficiaries or alter-
9 native payees of participants.

10 “(v) RETIREE REPRESENTATIVE.—

11 “(I) IN GENERAL.—In the case
12 of a plan with 10,000 or more partici-
13 pants, not later than 60 days prior to
14 the plan sponsor submitting an appli-
15 cation to suspend benefits, the plan
16 sponsor shall select a participant of
17 the plan in pay status to act as a re-
18 tiree representative. The retiree rep-
19 resentative shall advocate for the in-
20 terests of the retired and deferred
21 vested participants and beneficiaries
22 of the plan throughout the suspension
23 approval process.

24 “(II) REASONABLE EXPENSES
25 FROM PLAN.—The plan shall provide

1 for reasonable expenses by the retiree
2 representative, including reasonable
3 legal and actuarial support, commensurate with the plan's size and funded
4 status.
5

6 “(III) SPECIAL RULE RELATING
7 TO FIDUCIARY STATUS.—Duties performed pursuant to subclause (I) shall
8 not be subject to section 4975. The
9 preceding sentence shall not apply to
10 those duties associated with an application to suspend benefits pursuant to
11 subparagraph (G) that are performed
12 by the retiree representative who is
13 also a plan trustee.
14
15

16 “(C) CONDITIONS FOR SUSPENSIONS.—
17 The plan sponsor of a plan in critical and declining status for a plan year may suspend benefits only if the following conditions are met:
18
19

20 “(i) Taking into account the proposed
21 suspensions of benefits (and, if applicable,
22 a proposed partition of the plan under section 4233 of the Employee Retirement Income Security Act of 1974), the plan actuary certifies that the plan is projected to
23
24
25

1 avoid insolvency within the meaning of sec-
2 tion 418E, assuming the suspensions of
3 benefits continue until the suspensions of
4 benefits expire by their own terms or if no
5 such expiration date is set, indefinitely.

6 “(ii) The plan sponsor determines, in
7 a written record to be maintained through-
8 out the period of the benefit suspension,
9 that the plan is still projected to become
10 insolvent unless benefits are suspended
11 under this paragraph, although all reason-
12 able measures to avoid insolvency have
13 been taken (and continue to be taken dur-
14 ing the period of the benefit suspension).
15 In its determination, the plan sponsor may
16 take into account factors including the fol-
17 lowing:

18 “(I) Current and past contribu-
19 tion levels.

20 “(II) Levels of benefit accruals
21 (including any prior reductions in the
22 rate of benefit accruals).

23 “(III) Prior reductions (if any) of
24 adjustable benefits.

1 “(IV) Prior suspensions (if any)
2 of benefits under this subsection.

3 “(V) The impact on plan solvency
4 of the subsidies and ancillary benefits
5 available to active participants.

6 “(VI) Compensation levels of ac-
7 tive participants relative to employees
8 in the participants’ industry generally.

9 “(VII) Competitive and other
10 economic factors facing contributing
11 employers.

12 “(VIII) The impact of benefit
13 and contribution levels on retaining
14 active participants and bargaining
15 groups under the plan.

16 “(IX) The impact of past and
17 anticipated contribution increases
18 under the plan on employer attrition
19 and retention levels.

20 “(X) Measures undertaken by the
21 plan sponsor to retain or attract con-
22 tributing employers.

23 “(D) LIMITATIONS ON SUSPENSIONS.—

24 Any suspensions of benefits made by a plan

1 sponsor pursuant to this paragraph shall be
2 subject to the following limitations:

3 “(i) The monthly benefit of any par-
4 ticipant or beneficiary may not be reduced
5 below 110 percent of the monthly benefit
6 which is guaranteed by the Pension Ben-
7 efit Guaranty Corporation under section
8 4022A of the Employee Retirement Income
9 Security Act of 1974 on the date of the
10 suspension.

11 “(ii)(I) In the case of a participant or
12 beneficiary who has attained 75 years of
13 age as of the effective date of the suspen-
14 sion, not more than the applicable percent-
15 age of the maximum suspendable benefits
16 of such participant or beneficiary may be
17 suspended under this paragraph.

18 “(II) For purposes of subclause (I),
19 the maximum suspendable benefits of a
20 participant or beneficiary is the portion of
21 the benefits of such participant or bene-
22 ficiary that would be suspended pursuant
23 to this paragraph without regard to this
24 clause;

1 “(III) For purposes of subclause (I),
2 the applicable percentage is a percentage
3 equal to the quotient obtained by divid-
4 ing—

5 “(aa) the number of months dur-
6 ing the period beginning with the
7 month after the month in which oc-
8 curs the effective date of the suspen-
9 sion and ending with the month dur-
10 ing which the participant or bene-
11 ficiary attains the age of 80, by

12 “(bb) 60 months.

13 “(iii) No benefits based on disability
14 (as defined under the plan) may be sus-
15 pended under this paragraph.

16 “(iv) Any suspensions of benefits, in
17 the aggregate (and, if applicable, consid-
18 ered in combination with a partition of the
19 plan under section 4233 of the Employee
20 Retirement Income Security Act of 1974),
21 shall be reasonably estimated to achieve,
22 but not materially exceed, the level that is
23 necessary to avoid insolvency.

24 “(v) In any case in which a suspen-
25 sion of benefits with respect to a plan is

1 made in combination with a partition of
2 the plan under section 4233 of the Em-
3 ployee Retirement Income Security Act of
4 1974, the suspension of benefits may not
5 take effect prior to the effective date of
6 such partition.

7 “(vi) Any suspensions of benefits shall
8 be equitably distributed across the partici-
9 pant and beneficiary population, taking
10 into account factors, with respect to par-
11 ticipants and beneficiaries and their bene-
12 fits, that may include one or more of the
13 following:

14 “(I) Age and life expectancy.

15 “(II) Length of time in pay sta-
16 tus.

17 “(III) Amount of benefit.

18 “(IV) Type of benefit: survivor,
19 normal retirement, early retirement.

20 “(V) Extent to which participant
21 or beneficiary is receiving a subsidized
22 benefit.

23 “(VI) Extent to which partici-
24 pant or beneficiary has received post-
25 retirement benefit increases.

1 “(VII) History of benefit in-
2 creases and reductions.

3 “(VIII) Years to retirement for
4 active employees.

5 “(IX) Any discrepancies between
6 active and retiree benefits.

7 “(X) Extent to which active par-
8 ticipants are reasonably likely to with-
9 draw support for the plan, accel-
10 erating employer withdrawals from
11 the plan and increasing the risk of ad-
12 ditional benefit reductions for partici-
13 pants in and out of pay status.

14 “(XI) Extent to which benefits
15 are attributed to service with an em-
16 ployer that failed to pay its full with-
17 drawal liability.

18 “(vii) In the case of a plan that in-
19 cludes the benefits described in clause
20 (III), benefits suspended under this para-
21 graph shall—

22 “(I) first, be applied to the max-
23 imum extent permissible to benefits
24 attributable to a participant’s service
25 for an employer which withdrew from

1 the plan and failed to pay (or is delin-
2 quent with respect to paying) the full
3 amount of its withdrawal liability
4 under section 4201(b)(1) of the Em-
5 ployee Retirement Income Security
6 Act of 1974 or an agreement with the
7 plan,

8 “(II) second, except as provided
9 by subclause (III), be applied to all
10 other benefits that may be suspended
11 under this paragraph, and

12 “(III) third, be applied to bene-
13 fits under a plan that are directly at-
14 tributable to a participant’s service
15 with any employer which has, prior to
16 the date of enactment of the Multiem-
17 ployer Pension Reform Act of 2014—

18 “(aa) withdrawn from the
19 plan in a complete withdrawal
20 under section 4203 of the Em-
21 ployee Retirement Income Secu-
22 rity Act of 1974 and has paid the
23 full amount of the employer’s
24 withdrawal liability under section

1 4201(b)(1) of such Act or an
2 agreement with the plan, and

3 “(bb) pursuant to a collec-
4 tive bargaining agreement, as-
5 sumed liability for providing ben-
6 efits to participants and bene-
7 ficiaries of the plan under a sepa-
8 rate, single-employer plan spon-
9 sored by the employer, in an
10 amount equal to any amount of
11 benefits for such participants and
12 beneficiaries reduced as a result
13 of the financial status of the
14 plan.

15 “(E) BENEFIT IMPROVEMENTS.—

16 “(i) IN GENERAL.—The plan sponsor
17 may, in its sole discretion, provide benefit
18 improvements while any suspension of ben-
19 efits under the plan remains in effect, ex-
20 cept that the plan sponsor may not in-
21 crease the liabilities of the plan by reason
22 of any benefit improvement for any partici-
23 pant or beneficiary not in pay status by
24 the first day of the plan year for which the
25 benefit improvement takes effect, unless—

1 “(I) such action is accompanied
2 by equitable benefit improvements in
3 accordance with clause (ii) for all par-
4 ticipants and beneficiaries whose ben-
5 efit commencement dates were before
6 the first day of the plan year for
7 which the benefit improvement for
8 such participant or beneficiary not in
9 pay status took effect; and

10 “(II) the plan actuary certifies
11 that after taking into account such
12 benefits improvements the plan is pro-
13 jected to avoid insolvency indefinitely
14 under section 418E.

15 “(ii) **EQUITABLE DISTRIBUTION OF**
16 **BENEFIT IMPROVEMENTS.—**

17 “(I) **LIMITATION.—**The projected
18 value of the total liabilities for benefit
19 improvements for participants and
20 beneficiaries not in pay status by the
21 date of the first day of the plan year
22 in which the benefit improvements are
23 proposed to take effect, as determined
24 as of such date, may not exceed the
25 projected value of the liabilities aris-

1 ing from benefit improvements for
2 participants and beneficiaries with
3 benefit commencement dates prior to
4 the first day of such plan year, as so
5 determined.

6 “(II) **EQUITABLE DISTRIBUTION**
7 **OF BENEFITS.**—The plan sponsor
8 shall equitably distribute any increase
9 in total liabilities for benefit improve-
10 ments in clause (i) to some or all of
11 the participants and beneficiaries
12 whose benefit commencement date is
13 before the date of the first day of the
14 plan year in which the benefit im-
15 provements are proposed to take ef-
16 fect, taking into account the relevant
17 factors described in subparagraph
18 (D)(vi) and the extent to which the
19 benefits of the participants and bene-
20 ficiaries were suspended.

21 “(iii) **SPECIAL RULE FOR RESUMP-**
22 **TIONS OF BENEFITS ONLY FOR PARTICI-**
23 **PANTS IN PAY STATUS.**—The plan sponsor
24 may increase liabilities of the plan through
25 a resumption of benefits for participants

1 and beneficiaries in pay status only if the
2 plan sponsor equitably distributes the value
3 of resumed benefits to some or all of the
4 participants and beneficiaries in pay sta-
5 tus, taking into account the relevant fac-
6 tors described in subparagraph (D)(vi).

7 “(iv) SPECIAL RULE FOR CERTAIN
8 BENEFIT INCREASES.—This subparagraph
9 shall not apply to a resumption of sus-
10 pended benefits or plan amendment which
11 increases liabilities with respect to partici-
12 pants and beneficiaries not in pay status
13 by the first day of the plan year in which
14 the benefit improvements took effect
15 which—

16 “(I) the Secretary of the Treas-
17 ury, in consultation with the Pension
18 Benefit Guaranty Corporation and the
19 Secretary of Labor, determines to be
20 reasonable and which provides for
21 only de minimis increases in the liabil-
22 ities of the plan, or

23 “(II) is required as a condition of
24 qualification under part I of sub-
25 chapter D of chapter 1 of subtitle A

1 or to comply with other applicable
2 law, as determined by the Secretary of
3 the Treasury.

4 “(v) ADDITIONAL LIMITATIONS.—Ex-
5 cept for resumptions of suspended benefits
6 described in clause (iii), the limitations on
7 benefit improvements while a suspension of
8 benefits is in effect under this paragraph
9 shall be in addition to any other applicable
10 limitations on increases in benefits imposed
11 on a plan.

12 “(vi) DEFINITION OF BENEFIT IM-
13 PROVEMENT.—For purposes of this sub-
14 paragraph, the term ‘benefit improvement’
15 means, with respect to a plan, a resump-
16 tion of suspended benefits, an increase in
17 benefits, an increase in the rate at which
18 benefits accrue, or an increase in the rate
19 at which benefits become nonforfeitable
20 under the plan.

21 “(F) NOTICE REQUIREMENTS.—

22 “(i) IN GENERAL.—No suspension of
23 benefits may be made pursuant to this
24 paragraph unless notice of such proposed
25 suspension has been given by the plan

1 sponsor concurrently with an application
2 for approval of such suspension submitted
3 under subparagraph (G) to the Secretary
4 of the Treasury to—

5 “(I) such plan participants and
6 beneficiaries who may be contacted by
7 reasonable efforts,

8 “(II) each employer who has an
9 obligation to contribute (within the
10 meaning of section 4212(a) of the
11 Employee Retirement Income Security
12 Act of 1974) under the plan, and

13 “(III) each employee organization
14 which, for purposes of collective bar-
15 gaining, represents plan participants
16 employed by such an employer.

17 “(ii) CONTENT OF NOTICE.—The no-
18 tice under clause (i) shall contain—

19 “(I) sufficient information to en-
20 able participants and beneficiaries to
21 understand the effect of any suspen-
22 sions of benefits, including an individ-
23 ualized estimate (on an annual or
24 monthly basis) of such effect on each
25 participant or beneficiary,

1 “(II) a description of the factors
2 considered by the plan sponsor in de-
3 signing the benefit suspensions,

4 “(III) a statement that the appli-
5 cation for approval of any suspension
6 of benefits shall be available on the
7 website of the Department of the
8 Treasury and that comments on such
9 application will be accepted,

10 “(IV) information as to the
11 rights and remedies of plan partici-
12 pants and beneficiaries,

13 “(V) if applicable, a statement
14 describing the appointment of a re-
15 tiree representative, the date of ap-
16 pointment of such representative,
17 identifying information about the re-
18 tiree representative (including whether
19 the representative is a plan trustee),
20 and how to contact such representa-
21 tive, and

22 “(VI) information on how to con-
23 tact the Department of the Treasury
24 for further information and assistance
25 where appropriate.

1 “(iii) FORM AND MANNER.—Any no-
2 tice under clause (i)—

3 “(I) shall be provided in a form
4 and manner prescribed in guidance by
5 the Secretary of the Treasury, in con-
6 sultation with the Pension Benefit
7 Guaranty Corporation and the Sec-
8 retary of Labor, notwithstanding any
9 other provision of law,

10 “(II) shall be written in a man-
11 ner so as to be understood by the av-
12 erage plan participant, and

13 “(III) may be provided in writ-
14 ten, electronic, or other appropriate
15 form to the extent such form is rea-
16 sonably accessible to persons to whom
17 the notice is required to be provided.

18 “(iv) OTHER NOTICE REQUIRE-
19 MENT.—Any notice provided under clause
20 (i) shall fulfill the requirement for notice of
21 a significant reduction in benefits de-
22 scribed in section 4980F.

23 “(v) MODEL NOTICE.—The Secretary
24 of the Treasury, in consultation with the
25 Pension Benefit Guaranty Corporation and

1 the Secretary of Labor, shall in the guid-
2 ance prescribed under clause (iii)(I) estab-
3 lish a model notice that a plan sponsor
4 may use to meet the requirements of this
5 subparagraph.

6 “(G) APPROVAL PROCESS BY THE SEC-
7 RETARY OF THE TREASURY IN CONSULTATION
8 WITH THE PENSION BENEFIT GUARANTY COR-
9 PORATION AND THE SECRETARY OF LABOR.—

10 “(i) IN GENERAL.—The plan sponsor
11 of a plan in critical and declining status
12 for a plan year that seeks to suspend bene-
13 fits must submit an application to the Sec-
14 retary of the Treasury for approval of the
15 suspensions of benefits. If the plan sponsor
16 submits an application for approval of the
17 suspensions, the Secretary of the Treasury
18 shall approve, in consultation with the
19 Pension Benefit Guaranty Corporation and
20 the Secretary of Labor, the application
21 upon finding that the plan is eligible for
22 the suspensions and has satisfied the cri-
23 teria of subparagraphs (C), (D), (E), and
24 (F).

1 “(ii) SOLICITATION OF COMMENTS.—
2 Not later than 30 days after receipt of the
3 application under clause (i), the Secretary
4 of the Treasury, in consultation with the
5 Pension Benefit Guaranty Corporation and
6 the Secretary of Labor, shall publish a no-
7 tice in the Federal Register soliciting com-
8 ments from contributing employers, em-
9 ployee organizations, and participants and
10 beneficiaries of the plan for which an ap-
11 plication was made and other interested
12 parties. The application for approval of the
13 suspension of benefits shall be published
14 on the website of the Department of the
15 Treasury.

16 “(iii) REQUIRED ACTION; DEEMED AP-
17 PROVAL.—The Secretary of the Treasury,
18 in consultation with the Pension Benefit
19 Guaranty Corporation and the Secretary of
20 Labor, shall approve or deny any applica-
21 tion for suspensions of benefits under this
22 paragraph within 225 days after the sub-
23 mission of such application. An application
24 for suspension of benefits shall be deemed
25 approved unless, within such 225 days, the

1 Secretary of the Treasury notifies the plan
2 sponsor that it has failed to satisfy one or
3 more of the criteria described in this para-
4 graph. If the Secretary of the Treasury, in
5 consultation with the Pension Benefit
6 Guaranty Corporation and the Secretary of
7 Labor, rejects a plan sponsor's application,
8 the Secretary of the Treasury shall provide
9 notice to the plan sponsor detailing the
10 specific reasons for the rejection, including
11 reference to the specific requirement not
12 satisfied. Approval or denial by the Sec-
13 retary of the Treasury, in consultation
14 with the Pension Benefit Guaranty Cor-
15 poration and the Secretary of Labor, of an
16 application shall be treated as final agency
17 action for purposes of section 704 of title
18 5, United States Code.

19 “(iv) AGENCY REVIEW.—In evaluating
20 whether the plan sponsor has met the cri-
21 teria specified in clause (ii) of subpara-
22 graph (C), the Secretary of the Treasury,
23 in consultation with the Pension Benefit
24 Guaranty Corporation and the Secretary of

1 Labor, shall review the plan sponsor's con-
2 sideration of factors under such clause.

3 “(v) STANDARD FOR ACCEPTING PLAN
4 SPONSOR DETERMINATIONS.—In evalu-
5 ating the plan sponsor's application, the
6 Secretary of the Treasury shall accept the
7 plan sponsor's determinations unless it
8 concludes, in consultation with the Pension
9 Benefit Guaranty Corporation and the Sec-
10 retary of Labor, that the plan sponsor's
11 determinations were clearly erroneous.

12 “(H) PARTICIPANT RATIFICATION PROC-
13 ESS.—

14 “(i) IN GENERAL.—No suspension of
15 benefits may take effect pursuant to this
16 paragraph prior to a vote of the partici-
17 pants of the plan with respect to the sus-
18 pension.

19 “(ii) ADMINISTRATION OF VOTE.—
20 Not later than 30 days after approval of
21 the suspension by the Secretary of the
22 Treasury, in consultation with the Pension
23 Benefit Guaranty Corporation and the Sec-
24 retary of Labor, under subparagraph (G),
25 the Secretary of the Treasury, in consulta-

1 tion with the Pension Benefit Guaranty
2 Corporation and the Secretary of Labor,
3 shall administer a vote of participants and
4 beneficiaries of the plan. Except as pro-
5 vided in clause (v), the suspension shall go
6 into effect following the vote unless a ma-
7 jority of all participants and beneficiaries
8 of the plan vote to reject the suspension.
9 The plan sponsor may submit a new sus-
10 pension application to the Secretary of the
11 Treasury for approval in any case in which
12 a suspension is prohibited from taking ef-
13 fect pursuant to a vote under this subpara-
14 graph.

15 “(iii) BALLOTS.—The plan sponsor
16 shall provide a ballot for the vote (subject
17 to approval by the Secretary of the Treas-
18 ury, in consultation with the Pension Ben-
19 efit Guaranty Corporation and the Sec-
20 retary of Labor) that includes the fol-
21 lowing:

22 “(I) A statement from the plan
23 sponsor in support of the suspension.

24 “(II) A statement in opposition
25 to the suspension compiled from com-

1 ments received pursuant to subpara-
2 graph (G)(ii).

3 “(III) A statement that the sus-
4 pension has been approved by the Sec-
5 retary of the Treasury, in consultation
6 with the Pension Benefit Guaranty
7 Corporation and the Secretary of
8 Labor.

9 “(IV) A statement that the plan
10 sponsor has determined that the plan
11 will become insolvent unless the sus-
12 pension takes effect.

13 “(V) A statement that insolvency
14 of the plan could result in benefits
15 lower than benefits paid under the
16 suspension.

17 “(VI) A statement that insol-
18 vency of the Pension Benefit Guar-
19 anty Corporation would result in ben-
20 efits lower than benefits paid in the
21 case of plan insolvency.

22 “(iv) COMMUNICATION BY PLAN SPON-
23 SOR.—It is the sense of Congress that, de-
24 pending on the size and resources of the
25 plan and geographic distribution of the

1 plan's participants, the plan sponsor
2 should take such steps as may be nec-
3 essary to inform participants about pro-
4 posed benefit suspensions through in-per-
5 son meetings, telephone or internet-based
6 communications, mailed information, or by
7 other means.

8 “(v) SYSTEMICALLY IMPORTANT
9 PLANS.—

10 “(I) IN GENERAL.—Not later
11 than 14 days after a vote under this
12 subparagraph rejecting a suspension,
13 the Secretary of the Treasury, in con-
14 sultation with the Pension Benefit
15 Guaranty Corporation and the Sec-
16 retary of Labor, shall determine
17 whether the plan is a systemically im-
18 portant plan. If the Secretary of the
19 Treasury, in consultation with the
20 Pension Benefit Guaranty Corpora-
21 tion and the Secretary of Labor, de-
22 termines that the plan is a system-
23 ically important plan, not later than
24 the end of the 90-day period begin-
25 ning on the date the results of the

1 vote are certified, the Secretary of the
2 Treasury shall, notwithstanding such
3 adverse vote—

4 “(aa) permit the implemen-
5 tation of the suspension proposed
6 by the plan sponsor; or

7 “(bb) permit the implemen-
8 tation of a modification by the
9 Secretary of the Treasury, in
10 consultation with the Pension
11 Benefit Guaranty Corporation
12 and the Secretary of Labor, of
13 such suspension (so long as the
14 plan is projected to avoid insol-
15 vency within the meaning of sec-
16 tion 4245 of the Employee Re-
17 tirement Income Security Act of
18 1974 under such modification).

19 “(II) RECOMMENDATIONS.—Not
20 later than 30 days after a determina-
21 tion by the Secretary of the Treasury,
22 in consultation with the Pension Ben-
23 efit Guaranty Corporation and the
24 Secretary of Labor, that the plan is
25 systemically important, the Partici-

1 pant and Plan Sponsor Advocate se-
2 lected under section 4004 of the Em-
3 ployee Retirement Income Security
4 Act of 1974 may submit recommenda-
5 tions to the Secretary of the Treasury
6 with respect to the suspension or any
7 revisions to the suspension.

8 “(III) SYSTEMICALLY IMPOR-
9 TANT PLAN DEFINED.—

10 “(aa) IN GENERAL.—For
11 purposes of this subparagraph, a
12 systemically important plan is a
13 plan with respect to which the
14 Pension Benefit Guaranty Cor-
15 poration projects the present
16 value of projected financial as-
17 sistance payments exceeds
18 \$1,000,000,000 if suspensions
19 are not implemented.

20 “(bb) INDEXING.—For cal-
21 endar years beginning after
22 2015, there shall be substituted
23 for the dollar amount specified in
24 item (aa) an amount equal to the
25 product of such dollar amount

1 and a fraction, the numerator of
2 which is the contribution and
3 benefit base (determined under
4 section 230 of the Social Security
5 Act) for the preceding calendar
6 year and the denominator of
7 which is such contribution and
8 benefit base for calendar year
9 2014. If the amount otherwise
10 determined under this item is not
11 a multiple of \$1,000,000, such
12 amount shall be rounded to the
13 next lowest multiple of
14 \$1,000,000.

15 “(vi) FINAL AUTHORIZATION TO SUS-
16 PEND.—In any case in which a suspension
17 goes into effect following a vote pursuant
18 to clause (ii) (or following a determination
19 under clause (v) that the plan is a system-
20 ically important plan), the Secretary of the
21 Treasury, in consultation with the Pension
22 Benefit Guaranty Corporation and the Sec-
23 retary of Labor, shall issue a final author-
24 ization to suspend with respect to the sus-
25 pension not later than 7 days after such

1 vote (or, in the case of a suspension that
2 goes into effect under clause (v), at a time
3 sufficient to allow the implementation of
4 the suspension prior to the end of the 90-
5 day period described in clause (v)(I)).

6 “(I) JUDICIAL REVIEW.—

7 “(i) DENIAL OF APPLICATION.—An
8 action by the plan sponsor challenging the
9 denial of an application for suspension of
10 benefits by the Secretary of the Treasury,
11 in consultation with the Pension Benefit
12 Guaranty Corporation and the Secretary of
13 Labor, may only be brought following such
14 denial.

15 “(ii) APPROVAL OF SUSPENSION OF
16 BENEFITS.—

17 “(I) TIMING OF ACTION.—An ac-
18 tion challenging a suspension of bene-
19 fits under this paragraph may only be
20 brought following a final authorization
21 to suspend by the Secretary of the
22 Treasury, in consultation with the
23 Pension Benefit Guaranty Corpora-
24 tion and the Secretary of Labor,
25 under subparagraph (H)(vi).

1 “(II) STANDARDS OF REVIEW.—

2 “(aa) IN GENERAL.—A
3 court shall review an action chal-
4 lenging a suspension of benefits
5 under this paragraph in accord-
6 ance with section 706 of title 5,
7 United States Code.

8 “(bb) TEMPORARY INJUNC-
9 TION.—A court reviewing an ac-
10 tion challenging a suspension of
11 benefits under this paragraph
12 may not grant a temporary in-
13 junction with respect to such sus-
14 pension unless the court finds a
15 clear and convincing likelihood
16 that the plaintiff will prevail on
17 the merits of the case.

18 “(iii) RESTRICTED CAUSE OF AC-
19 TION.—A participant or beneficiary af-
20 fected by a benefit suspension under this
21 paragraph shall not have a cause of action
22 under this title.

23 “(iv) LIMITATION ON ACTION TO SUS-
24 PEND BENEFITS.—No action challenging a
25 suspension of benefits following the final

1 authorization to suspend or the denial of
2 an application for suspension of benefits
3 pursuant to this paragraph may be
4 brought after one year after the earliest
5 date on which the plaintiff acquired or
6 should have acquired actual knowledge of
7 the existence of such cause of action.

8 “(J) SPECIAL RULE FOR EMERGENCE
9 FROM CRITICAL STATUS.—A plan certified to be
10 in critical and declining status pursuant to pro-
11 jections made under subsection (b)(3) for which
12 a suspension of benefits has been made by the
13 plan sponsor pursuant to this paragraph shall
14 not emerge from critical status under para-
15 graph (4)(B), until such time as—

16 “(i) the plan is no longer certified to
17 be in critical or endangered status under
18 paragraphs (1) and (2) of subsection (b),
19 and

20 “(ii) the plan is projected to avoid in-
21 solvency under section 418E.”.

22 (6) RULE RELATING TO WITHDRAWAL LIABIL-
23 ITY.—Section 432(g)(1) of the Internal Revenue
24 Code of 1986, as added by section 109, is further
25 amended by inserting “, or benefit reductions or sus-

1 pensions while in critical and declining status under
2 subsection (e)(9)), unless the withdrawal occurs
3 more than ten years after the effective date of a ben-
4 efit suspension by a plan in critical and declining
5 status,” after “benefit reductions under subsection
6 (e)(8) or (f)”.

7 (7) GUIDANCE.—Not later than 180 days after
8 the date of the enactment of this Act, the Secretary
9 of the Treasury, in consultation with the Pension
10 Benefit Guaranty Corporation and the Secretary of
11 Labor, shall publish appropriate guidance to imple-
12 ment section 432(e)(9) of the Internal Revenue Code
13 of 1986.

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

17 **DIVISION P—OTHER RETIRE-**
18 **MENT-RELATED MODIFICA-**
19 **TIONS**

20 **SECTION 1. SUBSTANTIAL CESSATION OF OPERATIONS.**

21 (a) IN GENERAL.—Subsection (e) of section 4062 of
22 the Employee Retirement Income Security Act of 1974
23 (29 U.S.C. 1362) is amended to read as follows:

24 “(e) TREATMENT OF SUBSTANTIAL CESSATION OF
25 OPERATIONS.—

1 “(1) GENERAL RULE.—Except as provided in
2 paragraphs (3) and (4), if there is a substantial ces-
3 sation of operations at a facility in any location, the
4 employer shall be treated with respect to any single
5 employer plan established and maintained by the
6 employer covering participants at such facility as if
7 the employer were a substantial employer under a
8 plan under which more than one employer makes
9 contributions and the provisions of sections 4063,
10 4064, and 4065 shall apply.

11 “(2) SUBSTANTIAL CESSATION OF OPER-
12 ATIONS.—For purposes of this subsection:

13 “(A) IN GENERAL.—The term ‘substantial
14 cessation of operations’ means a permanent ces-
15 sation of operations at a facility which results
16 in a workforce reduction of a number of eligible
17 employees at the facility equivalent to more
18 than 15 percent of the number of all eligible
19 employees of the employer, determined imme-
20 diately before the earlier of—

21 “(i) the date of the employer’s deci-
22 sion to implement such cessation, or

23 “(ii) in the case of a workforce reduc-
24 tion which includes 1 or more eligible em-
25 ployees described in paragraph (6)(B), the

1 earliest date on which any such eligible
2 employee was separated from employment.

3 “(B) WORKFORCE REDUCTION.—Subject
4 to subparagraphs (C) and (D), the term ‘work-
5 force reduction’ means the number of eligible
6 employees at a facility who are separated from
7 employment by reason of the permanent ces-
8 sation of operations of the employer at the fa-
9 cility.

10 “(C) RELOCATION OF WORKFORCE.—An
11 eligible employee separated from employment at
12 a facility shall not be taken into account in
13 computing a workforce reduction if, within a
14 reasonable period of time, the employee is re-
15 placed by the employer, at the same or another
16 facility located in the United States, by an em-
17 ployee who is a citizen or resident of the United
18 States.

19 “(D) DISPOSITIONS.—If, whether by rea-
20 son of a sale or other disposition of the assets
21 or stock of a contributing sponsor (or any mem-
22 ber of the same controlled group as such a
23 sponsor) of the plan relating to operations at a
24 facility or otherwise, an employer (the ‘trans-
25 feree employer’) other than the employer which

1 experiences the substantial cessation of oper-
2 ations (the ‘transferor employer’) conducts any
3 portion of such operations, then—

4 “(i) an eligible employee separated
5 from employment with the transferor em-
6 ployer at the facility shall not be taken
7 into account in computing a workforce re-
8 duction if—

9 “(I) within a reasonable period of
10 time, the employee is replaced by the
11 transferee employer by an employee
12 who is a citizen or resident of the
13 United States; and

14 “(II) in the case of an eligible
15 employee who is a participant in a
16 single employer plan maintained by
17 the transferor employer, the trans-
18 feree employer, within a reasonable
19 period of time, maintains a single em-
20 ployer plan which includes the assets
21 and liabilities attributable to the ac-
22 crued benefit of the eligible employee
23 at the time of separation from em-
24 ployment with the transferor em-
25 ployer; and

1 “(ii) an eligible employee who con-
2 tinues to be employed at the facility by the
3 transferee employer shall not be taken into
4 account in computing a workforce reduc-
5 tion if—

6 “(I) the eligible employee is not a
7 participant in a single employer plan
8 maintained by the transferor em-
9 ployer, or

10 “(II) in any other case, the
11 transferee employer, within a reason-
12 able period of time, maintains a single
13 employer plan which includes the as-
14 sets and liabilities attributable to the
15 accrued benefit of the eligible em-
16 ployee at the time of separation from
17 employment with the transferor em-
18 ployer.

19 “(3) EXEMPTION FOR PLANS WITH LIMITED
20 UNDERFUNDING.—Paragraph (1) shall not apply
21 with respect to a single employer plan if, for the
22 plan year preceding the plan year in which the ces-
23 sation occurred—

24 “(A) there were fewer than 100 partici-
25 pants with accrued benefits under the plan as

1 of the valuation date of the plan for the plan
2 year (as determined under section 303(g)(2));
3 or

4 “(B) the ratio of the market value of the
5 assets of the plan to the funding target of the
6 plan for the plan year was 90 percent or great-
7 er.

8 “(4) ELECTION TO MAKE ADDITIONAL CON-
9 TRIBUTIONS TO SATISFY LIABILITY.—

10 “(A) IN GENERAL.—An employer may
11 elect to satisfy the employer’s liability with re-
12 spect to a plan by reason of paragraph (1) by
13 making additional contributions to the plan in
14 the amount determined under subparagraph
15 (B) for each plan year in the 7-plan-year period
16 beginning with the plan year in which the ces-
17 sation occurred. Any such additional contribu-
18 tion for a plan year shall be in addition to any
19 minimum required contribution under section
20 303 for such plan year and shall be paid not
21 later than the earlier of—

22 “(i) the due date for the minimum re-
23 quired contribution for such year under
24 section 303(j); or

1 “(ii) in the case of the first such con-
2 tribution, the date that is 1 year after the
3 date on which the employer notifies the
4 Corporation of the substantial cessation of
5 operations or the date the Corporation de-
6 termines a substantial cessation of oper-
7 ations has occurred, and in the case of
8 subsequent contributions, the same date in
9 each succeeding year.

10 “(B) AMOUNT DETERMINED.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in clause (iii), the amount deter-
13 mined under this subparagraph with re-
14 spect to each plan year in the 7-plan-year
15 period is the product of—

16 “(I) $\frac{1}{7}$ of the unfunded vested
17 benefits determined under section
18 4006(a)(3)(E) as of the valuation
19 date of the plan (as determined under
20 section 303(g)(2)) for the plan year
21 preceding the plan year in which the
22 cessation occurred; and

23 “(II) the reduction fraction.

1 “(ii) REDUCTION FRACTION.—For
2 purposes of clause (i), the reduction frac-
3 tion of a single employer plan is equal to—

4 “(I) the number of participants
5 with accrued benefits in the plan who
6 were included in computing the work-
7 force reduction under paragraph
8 (2)(B) as a result of the cessation of
9 operations at the facility; divided by

10 “(II) the number of eligible em-
11 ployees of the employer who are par-
12 ticipants with accrued benefits in the
13 plan, determined as of the same date
14 the determination under paragraph
15 (2)(A) is made.

16 “(iii) LIMITATION.—The additional
17 contribution under this subparagraph for
18 any plan year shall not exceed the excess,
19 if any, of—

20 “(I) 25 percent of the difference
21 between the market value of the as-
22 sets of the plan and the funding tar-
23 get of the plan for the preceding plan
24 year; over

1 “(II) the minimum required con-
2 tribution under section 303 for the
3 plan year.

4 “(C) PERMITTED CESSATION OF ANNUAL
5 INSTALLMENTS WHEN PLAN BECOMES SUFFI-
6 CIENTLY FUNDED.—An employer’s obligation to
7 make additional contributions under this para-
8 graph shall not apply to—

9 “(i) the first plan year (beginning on
10 or after the first day of the plan year in
11 which the cessation occurs) for which the
12 ratio of the market value of the assets of
13 the plan to the funding target of the plan
14 for the plan year is 90 percent or greater,
15 or

16 “(ii) any plan year following such first
17 plan year.

18 “(D) COORDINATION WITH FUNDING WAIV-
19 ERS.—

20 “(i) IN GENERAL.—If the Secretary of
21 the Treasury issues a funding waiver
22 under section 302(c) with respect to the
23 plan for a plan year in the 7-plan-year pe-
24 riod under subparagraph (A), the addi-

1 tional contribution with respect to such
2 plan year shall be permanently waived.

3 “(ii) NOTICE.—An employer main-
4 taining a plan with respect to which such
5 a funding waiver has been issued or a re-
6 quest for such a funding waiver is pending
7 shall provide notice to the Secretary of the
8 Treasury, in such form and at such time
9 as the Secretary of the Treasury shall pro-
10 vide, of a cessation of operations to which
11 paragraph (1) applies.

12 “(E) ENFORCEMENT.—

13 “(i) NOTICE.—An employer making
14 the election under this paragraph shall
15 provide notice to the Corporation, in ac-
16 cordance with rules prescribed by the Cor-
17 poration, of—

18 “(I) such election, not later than
19 30 days after the earlier of the date
20 the employer notifies the Corporation
21 of the substantial cessation of oper-
22 ations or the date the Corporation de-
23 termines a substantial cessation of op-
24 erations has occurred;

1 “(II) the payment of each addi-
2 tional contribution, not later than 10
3 days after such payment;

4 “(III) any failure to pay the ad-
5 ditional contribution in the full
6 amount for any year in the 7-plan-
7 year period, not later than 10 days
8 after the due date for such payment;

9 “(IV) the waiver under subpara-
10 graph (D)(i) of the obligation to make
11 an additional contribution for any
12 year, not later than 30 days after the
13 funding waiver described in such sub-
14 paragraph is granted; and

15 “(V) the cessation of any obliga-
16 tion to make additional contributions
17 under subparagraph (C), not later
18 than 10 days after the due date for
19 payment of the additional contribution
20 for the first plan year to which such
21 cessation applies.

22 “(ii) ACCELERATION OF LIABILITY TO
23 THE PLAN FOR FAILURE TO PAY.—If an
24 employer fails to pay the additional con-
25 tribution in the full amount for any year in

1 the 7-plan-year period by the due date for
2 such payment, the employer shall, as of
3 such date, be liable to the plan in an
4 amount equal to the balance which remains
5 unpaid as of such date of the aggregate
6 amount of additional contributions re-
7 quired to be paid by the employer during
8 such 7-year-plan period. The Corporation
9 may waive or settle the liability described
10 in the preceding sentence, at the discretion
11 of the Corporation.

12 “(iii) CIVIL ACTION.—The Corpora-
13 tion may bring a civil action in the district
14 courts of the United States in accordance
15 with section 4003(e) to compel an em-
16 ployer making such election to pay the ad-
17 ditional contributions required under this
18 paragraph.

19 “(5) DEFINITIONS.—For purposes of this sub-
20 section:

21 “(A) ELIGIBLE EMPLOYEE.—The term ‘eli-
22 gible employee’ means an employee who is eligi-
23 ble to participate in an employee pension ben-
24 efit plan (as defined in section 3(2)) established
25 and maintained by the employer.

1 “(B) FUNDING TARGET.—The term ‘fund-
2 ing target’ means, with respect to any plan
3 year, the funding target as determined under
4 section 4006(a)(3)(E)(iii)(I) for purposes of de-
5 termining the premium paid to the Corporation
6 under section 4007 for the plan year.

7 “(C) MARKET VALUE.—The market value
8 of the assets of a plan shall be determined in
9 the same manner as for purposes of section
10 4006(a)(3)(E).

11 “(6) SPECIAL RULES.—

12 “(A) CHANGE IN OPERATION OF CERTAIN
13 FACILITIES AND PROPERTY.—For purposes of
14 paragraphs (1) and (2), an employer shall not
15 be treated as ceasing operations at a qualified
16 lodging facility (as defined in section
17 856(d)(9)(D) of the Internal Revenue Code of
18 1986) if such operations are continued by an el-
19 igible independent contractor (as defined in sec-
20 tion 856(d)(9)(A) of such Code) pursuant to an
21 agreement with the employer.

22 “(B) AGGREGATION OF PRIOR SEPARA-
23 TIONS.—The workforce reduction under para-
24 graph (2) with respect to any cessation of oper-
25 ations shall be determined by taking into ac-

1 count any separation from employment of any
2 eligible employee at the facility (other than a
3 separation which is not taken into account as
4 workforce reduction by reason of subparagraph
5 (C) or (D) of paragraph (2)) which—

6 “(i) is related to the permanent ces-
7 sation of operations of the employer at the
8 facility, and

9 “(ii) occurs during the 3-year period
10 preceding such cessation.

11 “(C) NO ADDITION TO PREFUNDING BAL-
12 ANCE.—For purposes of section 303(f)(6)(B)
13 and section 430(f)(6)(B) of the Internal Rev-
14 enue Code of 1986, any additional contribution
15 made under paragraph (4) shall be treated in
16 the same manner as a contribution an employer
17 is required to make in order to avoid a benefit
18 reduction under paragraph (1), (2), or (4) of
19 section 206(g) or subsection (b), (c), or (e) of
20 section 436 of the Internal Revenue Code of
21 1986 for the plan year.”.

22 (b) EFFECTIVE DATE.—

23 (1) IN GENERAL.—The amendment made by
24 this section shall apply to a cessation of operations

1 or other event at a facility occurring on or after the
2 date of enactment of this Act.

3 (2) TRANSITION RULE.—An employer that had
4 a cessation of operations before the date of enact-
5 ment of this Act (as determined under subsection
6 4062(e) of the Employee Retirement Income Secu-
7 rity Act of 1974 as in effect before the amendment
8 made by this section), but did not enter into an ar-
9 rangement with the Pension Benefit Guaranty Cor-
10 poration to satisfy the requirements of such sub-
11 section (as so in effect) before such date of enact-
12 ment, shall be permitted to make the election under
13 section 4062(e)(4) of such Act (as in effect after the
14 amendment made by this section) as if such ces-
15 sation had occurred on such date of enactment.
16 Such election shall be made not later than 30 days
17 after such Corporation issues, on or after such date
18 of the enactment, a final administrative determina-
19 tion that a substantial cessation of operations has
20 occurred.

21 (c) DIRECTION TO THE CORPORATION.—The Pension
22 Benefit Guaranty Corporation shall not take any enforce-
23 ment, administrative, or other action pursuant to section
24 4062(e) of the Employee Retirement Income Security Act
25 of 1974, or in connection with an agreement settling liabil-

1 ity arising under such section, that is inconsistent with
2 the amendment made by this section, without regard to
3 whether the action relates to a cessation or other event
4 that occurs before, on, or after the date of the enactment
5 of this Act, unless such action is in connection with a set-
6 tlement agreement that is in place before June 1, 2014.
7 The Pension Benefit Guaranty Corporation shall not ini-
8 tiate a new enforcement action with respect to section
9 4062(e) of such Act that is inconsistent with its enforce-
10 ment policy in effect on June 1, 2014.

11 **SEC. 2. CLARIFICATION OF THE NORMAL RETIREMENT**
12 **AGE.**

13 (a) AMENDMENTS TO THE EMPLOYEE RETIREMENT
14 INCOME SECURITY ACT OF 1974.—Section 204 of the
15 Employee Retirement Income Security Act of 1974 (29
16 U.S.C. 1054) is amended by redesignating subsection (k)
17 as subsection (l) and by inserting after subsection (j) the
18 following new subsection:

19 “(k) SPECIAL RULE FOR DETERMINING NORMAL
20 RETIREMENT AGE FOR CERTAIN EXISTING DEFINED
21 BENEFIT PLANS.—

22 “(1) IN GENERAL.—Notwithstanding section
23 3(24), an applicable plan shall not be treated as fail-
24 ing to meet any requirement of this title, or as fail-
25 ing to have a uniform normal retirement age for

1 purposes of this title, solely because the plan pro-
2 vides for a normal retirement age described in para-
3 graph (2).

4 “(2) APPLICABLE PLAN.—For purposes of this
5 subsection—

6 “(A) IN GENERAL.—The term ‘applicable
7 plan’ means a defined benefit plan the terms of
8 which, on or before December 8, 2014, provided
9 for a normal retirement age which is the earlier
10 of—

11 “(i) an age otherwise permitted under
12 section 3(24), or

13 “(ii) the age at which a participant
14 completes the number of years (not less
15 than 30 years) of benefit accrual service
16 specified by the plan.

17 A plan shall not fail to be treated as an applica-
18 ble plan solely because the normal retirement
19 age described in the preceding sentence only ap-
20 plied to certain participants or only applied to
21 employees of certain employers in the case of a
22 plan maintained by more than 1 employer.

23 “(B) EXPANDED APPLICATION.—Subject
24 to subparagraph (C), if, after December 8,
25 2014, an applicable plan is amended to expand

1 the application of the normal retirement age de-
2 scribed in subparagraph (A) to additional par-
3 ticipants or to employees of additional employ-
4 ers maintaining the plan, such plan shall also
5 be treated as an applicable plan with respect to
6 such participants or employees.

7 “(C) LIMITATION ON EXPANDED APPLICA-
8 TION.—A defined benefit plan shall be an appli-
9 cable plan only with respect to an individual
10 who—

11 “(i) is a participant in the plan on or
12 before January 1, 2017, or

13 “(ii) is an employee at any time on or
14 before January 1, 2017, of any employer
15 maintaining the plan, and who becomes a
16 participant in such plan after such date.”.

17 (b) AMENDMENT TO THE INTERNAL REVENUE CODE
18 OF 1986.—Section 411 of the Internal Revenue Code of
19 1986 is amended by adding at the end the following new
20 subsection:

21 “(f) SPECIAL RULE FOR DETERMINING NORMAL RE-
22 TIREMENT AGE FOR CERTAIN EXISTING DEFINED BEN-
23 EFIT PLANS.—

24 “(1) IN GENERAL.—Notwithstanding subsection
25 (a)(8), an applicable plan shall not be treated as

1 failing to meet any requirement of this subchapter,
2 or as failing to have a uniform normal retirement
3 age for purposes of this subchapter, solely because
4 the plan provides for a normal retirement age de-
5 scribed in paragraph (2).

6 “(2) APPLICABLE PLAN.—For purposes of this
7 subsection—

8 “(A) IN GENERAL.—The term ‘applicable
9 plan’ means a defined benefit plan the terms of
10 which, on or before December 8, 2014, provided
11 for a normal retirement age which is the earlier
12 of—

13 “(i) an age otherwise permitted under
14 subsection (a)(8), or

15 “(ii) the age at which a participant
16 completes the number of years (not less
17 than 30 years) of benefit accrual service
18 specified by the plan.

19 A plan shall not fail to be treated as an applica-
20 ble plan solely because the normal retirement
21 age described in the preceding sentence only ap-
22 plied to certain participants or only applied to
23 employees of certain employers in the case of a
24 plan maintained by more than 1 employer.

1 “(B) EXPANDED APPLICATION.—Subject
2 to subparagraph (C), if, after December 8,
3 2014, an applicable plan is amended to expand
4 the application of the normal retirement age de-
5 scribed in subparagraph (A) to additional par-
6 ticipants or to employees of additional employ-
7 ers maintaining the plan, such plan shall also
8 be treated as an applicable plan with respect to
9 such participants or employees.

10 “(C) LIMITATION ON EXPANDED APPLICA-
11 TION.—A defined benefit plan shall be an appli-
12 cable plan only with respect to an individual
13 who—

14 “(i) is a participant in the plan on or
15 before January 1, 2017, or

16 “(ii) is an employee at any time on or
17 before January 1, 2017, of any employer
18 maintaining the plan, and who becomes a
19 participant in such plan after such date.”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to all periods before, on, and after
22 the date of enactment of this Act.

1 **SEC. 3. APPLICATION OF COOPERATIVE AND SMALL EM-**
2 **PLOYER CHARITY PENSION PLAN RULES TO**
3 **CERTAIN CHARITABLE EMPLOYERS WHOSE**
4 **PRIMARY EXEMPT PURPOSE IS PROVIDING**
5 **SERVICES WITH RESPECT TO CHILDREN.**

6 (a) EMPLOYEE RETIREMENT INCOME AND SECURITY
7 ACT OF 1974.—

8 (1) IN GENERAL.—Section 210(f)(1) of the
9 Employee Retirement Income Security Act of 1974
10 (29 U.S.C. 1060(f)(1)) is amended by striking “or”
11 at the end of subparagraph (A), by striking the pe-
12 riod at the end of subparagraph (B) and inserting
13 “; or”, and by inserting after subparagraph (B) the
14 following new subparagraph:

15 “(C) that, as of June 25, 2010, was main-
16 tained by an employer—

17 “(i) described in section 501(c)(3) of
18 such Code,

19 “(ii) chartered under part B of sub-
20 title II of title 36, United States Code,

21 “(iii) with employees in at least 40
22 States, and

23 “(iv) whose primary exempt purpose
24 is to provide services with respect to chil-
25 dren.”.

1 (2) AGGREGATION RULES.—Section 210(f)(2)
2 of the Employee Retirement Income Security Act of
3 1974 (29 U.S.C. 1060(f)(2)) is amended by striking
4 “paragraph (1)(B)” and inserting “subparagraph
5 (B) and (C) of paragraph (1)”.

6 (b) INTERNAL REVENUE CODE OF 1986.—

7 (1) IN GENERAL.—Section 414(y)(1) of the In-
8 ternal Revenue Code of 1986 is amended by striking
9 “or” at the end of subparagraph (A), by striking the
10 period at the end of subparagraph (B) and inserting
11 “; or”, and by inserting after subparagraph (B) the
12 following new subparagraph:

13 “(C) that, as of June 25, 2010, was main-
14 tained by an employer—

15 “(i) described in section 501(c)(3) of
16 such Code,

17 “(ii) chartered under part B of sub-
18 title II of title 36, United States Code,

19 “(iii) with employees in at least 40
20 States, and

21 “(iv) whose primary exempt purpose
22 is to provide services with respect to chil-
23 dren.”.

24 (2) AGGREGATION RULES.—Section 414(y)(2)
25 of the Internal Revenue Code of 1986 is amended by

1 striking “paragraph (1)(B)” and inserting “subpara-
2 graph (B) and (C) of paragraph (1)”.

3 (c) EFFECTIVE DATE.—The amendments made by
4 this section shall take effect as if included in the amend-
5 ments made by the Cooperative and Small Employer Char-
6 ity Pension Flexibility Act (29 U.S.C. 401 note).

7 **DIVISION Q—BUDGETARY** 8 **EFFECTS**

9 **SEC. 1. BUDGETARY EFFECTS.**

10 (a) STATUTORY PAY-AS-YOU-GO SCORECARDS.—The
11 budgetary effects of divisions O and P shall not be entered
12 on either PAYGO scorecard maintained pursuant to sec-
13 tion 4(d) of the Statutory Pay-As-You-Go Act of 2010.

14 (b) SENATE PAY-AS-YOU-GO SCORECARDS.—The
15 budgetary effects of divisions O and P shall not be entered
16 on any PAYGO scorecard maintained for purposes of sec-
17 tion 201 of S. Con. Res. 21 (110th Congress).

18 (c) CLASSIFICATION OF BUDGETARY EFFECTS.—
19 Notwithstanding Rule 3 of the Budget Scorekeeping
20 Guidelines set forth in the joint explanatory statement of
21 the committee of conference accompanying Conference Re-
22 port 105-217 and section 250(c)(8) of the Balanced Budg-
23 et and Emergency Deficit Control Act of 1985, the budg-
24 etary effects of divisions O and P shall not be estimated—

1 (1) for purposes of section 251 of the such Act;
2 and
3 (2) for purposes of paragraph 4(C) of section 3
4 of the Statutory Pay-as-You-Go Act of 2010 as
5 being included in an appropriation Act.

◇