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PUBLIC LAW 109–280—AUG. 17, 2006

PENSION PROTECTION ACT OF 2006

Public Law 109–280
109th Congress

An Act

Aug. 17, 2006
[H.R. 4]

To provide economic security for all Americans, and for other purposes.

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

Pension Protection Act of 2006.
29 USC 1001 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pension Protection Act of 2006".

(b) TABLE OF CONTENTS.—The table of contents for this Act (other than so much of title XIV as follows section 1401) is as follows:

Sec. 1. Short title and table of contents.

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

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

Sec. 101. Minimum funding standards.
Sec. 102. Funding rules for single-employer defined benefit pension plans.
Sec. 103. Benefit limitations under single-employer plans.
Sec. 104. Special rules for multiple employer plans of certain cooperatives.
Sec. 105. Temporary relief for certain PBGC settlement plans.
Sec. 106. Special rules for plans of certain government contractors.
Sec. 107. Technical and conforming amendments.

Subtitle B—Amendments to Internal Revenue Code of 1986

Sec. 111. Minimum funding standards.
Sec. 112. Funding rules for single-employer defined benefit pension plans.
Sec. 113. Benefit limitations under single-employer plans.
Sec. 114. Technical and conforming amendments.
Sec. 115. Modification of transition rule to pension funding requirements.
Sec. 116. Restrictions on funding of nonqualified deferred compensation plans by employers maintaining underfunded or terminated single-employer plans.

TITLE II—FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

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

Sec. 201. Funding rules for multiemployer defined benefit plans.
Sec. 202. Additional funding rules for multiemployer plans in endangered or critical status.
Sec. 203. Measures to forestall insolvency of multiemployer plans.
Sec. 204. Withdrawal liability reforms.
Sec. 205. Prohibition on retaliation against employers exercising their rights to petition the Federal Government.
Sec. 206. Special rule for certain benefits funded under an agreement approved by the Pension Benefit Guaranty Corporation.

Subtitle B—Amendments to Internal Revenue Code of 1986

Sec. 211. Funding rules for multiemployer defined benefit plans.
Sec. 212. Additional funding rules for multiemployer plans in endangered or critical status.

Sec. 213. Measures to forestall insolvency of multiemployer plans.
Sec. 214. Exemption from excise taxes for certain multiemployer pension plans.

Subtitle C—Sunset of Additional Funding Rules

Sec. 221. Sunset of additional funding rules.

TITLE III—INTEREST RATE ASSUMPTIONS

Sec. 301. Extension of replacement of 30-year Treasury rates.
Sec. 302. Interest rate assumption for determination of lump sum distributions.
Sec. 303. Interest rate assumption for applying benefit limitations to lump sum distributions.

TITLE IV—PBGC GUARANTEE AND RELATED PROVISIONS

Sec. 401. PBGC premiums.
Sec. 402. Special funding rules for certain plans maintained by commercial airlines.
Sec. 403. Limitation on PBGC guarantee of shutdown and other benefits.
Sec. 404. Rules relating to bankruptcy of employer.
Sec. 405. PBGC premiums for small plans.
Sec. 406. Authorization for PBGC to pay interest on premium overpayment refunds.
Sec. 407. Rules for substantial owner benefits in terminated plans.
Sec. 408. Acceleration of PBGC computation of benefits attributable to recoveries from employers.
Sec. 409. Treatment of certain plans where cessation or change in membership of a controlled group.
Sec. 410. Missing participants.
Sec. 411. Director of the Pension Benefit Guaranty Corporation.
Sec. 412. Inclusion of information in the PBGC annual report.

TITLE V—DISCLOSURE

Sec. 501. Defined benefit plan funding notice.
Sec. 502. Access to multiemployer pension plan information.
Sec. 503. Additional annual reporting requirements.
Sec. 504. Electronic display of annual report information.
Sec. 505. Section 4010 filings with the PBGC.
Sec. 506. Disclosure of termination information to plan participants.
Sec. 507. Notice of freedom to divest employer securities.
Sec. 508. Periodic pension benefit statements.
Sec. 509. Notice to participants or beneficiaries of blackout periods.

TITLE VI—INVESTMENT ADVICE, PROHIBITED TRANSACTIONS, AND FIDUCIARY RULES

Subtitle A—Investment Advice

Sec. 601. Prohibited transaction exemption for provision of investment advice.

Subtitle B—Prohibited Transactions

Sec. 611. Prohibited transaction rules relating to financial investments.
Sec. 612. Correction period for certain transactions involving securities and commodities.

Subtitle C—Fiduciary and Other Rules

Sec. 621. Inapplicability of relief from fiduciary liability during suspension of ability of participant or beneficiary to direct investments.
Sec. 622. Increase in maximum bond amount.
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TITLE VII—BENEFIT ACCRUAL STANDARDS

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Sec. 702. Regulations relating to mergers and acquisitions.

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Subtitle F—Other Provisions

Sec. 861. Extension to all governmental plans of current moratorium on application of certain nondiscrimination rules applicable to State and local plans.
Sec. 862. Elimination of aggregate limit for usage of excess funds from black lung disability trusts.
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Sec. 865. Grandfather rule for church plans which self-annuitize.
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TITLE IX—INCREASE IN PENSION PLAN DIVERSIFICATION AND PARTICIPATION AND OTHER PENSION PROVISIONS

Sec. 901. Defined contribution plans required to provide employees with freedom to invest their plan assets.

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Sec. 1214. Charitable contributions of taxidermy property.
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PART 2—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

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

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

SEC. 101. MINIMUM FUNDING STANDARDS.

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

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

29 USC 1082.

"SEC. 302. MINIMUM FUNDING STANDARDS.

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

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

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

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

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

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

"(b) LIABILITY FOR CONTRIBUTIONS.—

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

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

"(c) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

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

"(A) IN GENERAL.—If—

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

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

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

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

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

"(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 304(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 304(b)(2)(C).

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

"(2) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business

hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

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

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

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

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

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

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

"(A) SECURITY MAY BE REQUIRED.—

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

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

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

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

Notice.

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

Deadline.

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

"(ii) consider—

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

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

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

"(C) EXCEPTION FOR CERTAIN WAIVERS.—

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

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

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

is less than $1,000,000.

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

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

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

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

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

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

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

"(i) with respect to such employer, and

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

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

"(6) ADVANCE NOTICE.—

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

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

"(7) RESTRICTION ON PLAN AMENDMENTS.—

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

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan amendment which—

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

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

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

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

"(d) MISCELLANEOUS RULES.—

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

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

Deadlines.

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

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

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

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

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

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

"Sec. 302. Minimum funding standards.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2007. 29 USC 1082 note.

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

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

"SEC. 303. MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS. 29 USC 1083.

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

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

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

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

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

"(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) equals or exceeds

the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced (but not below zero) by such excess.

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

"(c) SHORTFALL AMORTIZATION CHARGE.—

"(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total (not less than zero) of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

"(2) SHORTFALL AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The shortfall amortization installments are the amounts necessary to amortize the shortfall amortization base of the plan for any plan year in level annual installments over the 7-plan-year period beginning with such plan year.

"(B) SHORTFALL INSTALLMENT.—The shortfall amortization installment for any plan year in the 7-plan-year period under subparagraph (A) with respect to any shortfall amortization base is the annual installment determined under subparagraph (A) for that year for that base.

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

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

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

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

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

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

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

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

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

"(B) TRANSITION RULE.—

"(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), in the case of plan years beginning after 2007 and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for the plan year for purposes of subparagraph (A).

"(ii) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

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

"(iii) LIMITATION.—Clause (i) shall not apply with respect to any plan year after 2008 unless the shortfall amortization base for each of the preceding years beginning after 2007 was zero (determined after application of this subparagraph).

"(iv) TRANSITION RELIEF NOT AVAILABLE FOR NEW OR DEFICIT REDUCTION PLANS.—Clause (i) shall not apply to a plan—

"(I) which was not in effect for a plan year beginning in 2007, or

"(II) which was in effect for a plan year beginning in 2007 and which was subject to section 302(d) (as in effect for plan years beginning in 2007), determined after the application of paragraphs (6) and (9) thereof.

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

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

"(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

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

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

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

"(e) WAIVER AMORTIZATION CHARGE.—

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

"(2) WAIVER AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The waiver amortization installments are the amounts necessary to amortize the waiver amortization base of the plan for any plan year in level annual installments over a period of 5 plan years beginning with the succeeding plan year.

"(B) WAIVER INSTALLMENT.—The waiver amortization installment for any plan year in the 5-year period under subparagraph (A) with respect to any waiver amortization base is the annual installment determined under subparagraph (A) for that year for that base.

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

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

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

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

"(1) ELECTION TO MAINTAIN BALANCES.—

"(A) PREFUNDING BALANCE.—The plan sponsor of a single-employer plan may elect to maintain a prefunding balance.

"(B) FUNDING STANDARD CARRYOVER BALANCE.—

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

"(ii) PLANS MAINTAINING FUNDING STANDARD ACCOUNT IN 2007.—A plan is described in this clause if the plan—

"(I) was in effect for a plan year beginning in 2007, and

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

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

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

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

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

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

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of any plan year in which the plan sponsor elects to credit against the minimum required contribution for the current plan year all or a portion of the prefunding balance or the funding standard carryover balance for the current plan year (not in excess of such minimum required contribution), the minimum required contribution for the plan year shall be reduced as of the first day of the plan year by the amount so credited by the plan sponsor. For purposes of the preceding sentence, the minimum required contribution shall be determined after taking into account any waiver under section 302(c).

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

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

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

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

is less than 80 percent. In the case of plan years beginning in 2008, the ratio under this subparagraph may be determined using such methods of estimation as the Secretary of the Treasury may prescribe.

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

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

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

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

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

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

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

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

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

"(6) PREFUNDING BALANCE.—

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

"(B) INCREASES.—

"(i) IN GENERAL.—As of the first day of each plan year beginning after 2008, the prefunding balance of a plan shall be increased by the amount elected by the plan sponsor for the plan year. Such amount shall not exceed the excess (if any) of—

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

"(II) the minimum required contribution for such preceding plan year.

"(ii) ADJUSTMENTS FOR INTEREST.—Any excess contributions under clause (i) shall be properly adjusted for interest accruing for the periods between the first day of the current plan year and the dates on which the excess contributions were made, determined by using the effective interest rate for the preceding plan year and by treating contributions as being first used to satisfy the minimum required contribution.

"(iii) CERTAIN CONTRIBUTIONS NECESSARY TO AVOID BENEFIT LIMITATIONS DISREGARDED.—The excess described in clause (i) with respect to any preceding plan year shall be reduced (but not below zero) by the amount of contributions an employer would be required to make under paragraph (1), (2), or (4) of section 206(g) to avoid a benefit limitation which would otherwise be imposed under such paragraph for the preceding plan year. Any contribution which may be taken into account in satisfying the requirements of more than 1 of such paragraphs shall be taken into account only once for purposes of this clause.

"(C) DECREASE.—The prefunding balance of a plan shall be decreased (but not below zero) by—

"(i) as of the first day of each plan year after 2008, the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) as of the time specified in paragraph (5)(A), any reduction in such balance elected under paragraph (5).

"(7) FUNDING STANDARD CARRYOVER BALANCE.—

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

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

"(C) DECREASES.—The funding standard carryover balance of a plan shall be decreased (but not below zero) by—

"(i) as of the first day of each plan year after 2008, the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) as of the time specified in paragraph (5)(A), any reduction in such balance elected under paragraph (5).

Regulations.

"(8) ADJUSTMENTS FOR INVESTMENT EXPERIENCE.—In determining the prefunding balance or the funding standard carryover balance of a plan as of the first day of the plan year, the plan sponsor shall, in accordance with regulations prescribed by the Secretary of the Treasury, adjust such balance to reflect the rate of return on plan assets for the preceding plan year. Notwithstanding subsection (g)(3), such rate of return shall be determined on the basis of fair market value and shall properly take into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

Regulations.

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

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

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

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

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

"(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 100 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans which are single-employer plans and are maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account.

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

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

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

"(3) DETERMINATION OF VALUE OF PLAN ASSETS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the value of plan assets shall be the fair market value of the assets.

"(B) AVERAGING ALLOWED.—A plan may determine the value of plan assets on the basis of the averaging of fair market values, but only if such method—

"(i) is permitted under regulations prescribed by the Secretary of the Treasury,

"(ii) does not provide for averaging of such values over more than the period beginning on the last day of the 25th month preceding the month in which the valuation date occurs and ending on the valuation date (or a similar period in the case of a valuation date which is not the 1st day of a month), and

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

Any such averaging shall be adjusted for contributions and distributions (as provided by the Secretary of the Treasury).

"(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of determining the value of assets under paragraph (3)—

"(A) PRIOR YEAR CONTRIBUTIONS.—If—

"(i) an employer makes any contribution to the plan after the valuation date for the plan year in which the contribution is made, and

"(ii) the contribution is for a preceding plan year, the contribution shall be taken into account as an asset of the plan as of the valuation date, except that in the case of any plan year beginning after 2008, only the present value (determined as of the valuation date) of such contribution may be taken into account. For purposes of the preceding sentence, present value shall be determined using the effective interest rate for the preceding plan year to which the contribution is properly allocable.

"(B) SPECIAL RULE FOR CURRENT YEAR CONTRIBUTIONS MADE BEFORE VALUATION DATE.—If any contributions for any plan year are made to or under the plan during the plan year but before the valuation date for the plan year, the assets of the plan as of the valuation date shall not include—

"(i) such contributions, and

"(ii) interest on such contributions for the period between the date of the contributions and the valuation date, determined by using the effective interest rate for the plan year.

"(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

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

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

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

"(2) INTEREST RATES.—

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

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

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

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

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

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

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

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

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

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

"(i) IN GENERAL.—The term 'corporate bond yield curve' means, with respect to any month, a yield curve which is prescribed by the Secretary of the Treasury for such month and which reflects the average, for the 24-month period ending with the month preceding such month, of monthly yields on investment grade corporate bonds with varying maturities and that are in the top 3 quality levels available.

"(ii) ELECTION TO USE YIELD CURVE.—Solely for purposes of determining the minimum required contribution under this section, the plan sponsor may, in lieu of the segment rates determined under subparagraph (C), elect to use interest rates under the corporate bond yield curve. For purposes of the preceding sentence such curve shall be determined without regard to the 24-month averaging described in clause (i). Such election, once made, may be revoked only with the consent of the Secretary of the Treasury.

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

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

"(G) TRANSITION RULE.—

"(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2008 or 2009, the first, second, or third segment rate for a plan with respect to any month shall be equal to the sum of—

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

"(II) the product of the rate determined under the rules of section 302(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2007), multiplied by a percentage equal to 100 percent minus the applicable percentage.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2008 and 66⅔ percent for plan years beginning in 2009.

"(iii) NEW PLANS INELIGIBLE.—Clause (i) shall not apply to any plan if the first plan year of the plan begins after December 31, 2007.

"(iv) ELECTION.—The plan sponsor may elect not to have this subparagraph apply. Such election, once made, may be revoked only with the consent of the Secretary of the Treasury.

Regulations.

"(3) MORTALITY TABLES.—

"(A) IN GENERAL.—Except as provided in subparagraph (C) or (D), the Secretary of the Treasury shall by regulation prescribe mortality tables to be used in determining any present value or making any computation under this section. Such tables shall be based on the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary of the Treasury shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(B) PERIODIC REVISION.—The Secretary of the Treasury shall (at least every 10 years) make revisions in any table in effect under subparagraph (A) to reflect the actual experience of pension plans and projected trends in such experience.

"(C) SUBSTITUTE MORTALITY TABLE.—

"(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary of the Treasury, a mortality table which meets the requirements of clause (iii) shall be used in determining any present value or making any computation under this section during the period of consecutive plan years (not to exceed 10) specified in the request.

"(ii) EARLY TERMINATION OF PERIOD.—Notwithstanding clause (i), a mortality table described in clause (i) shall cease to be in effect as of the earliest of—

"(I) the date on which there is a significant change in the participants in the plan by reason of a plan spinoff or merger or otherwise, or

"(II) the date on which the plan actuary determines that such table does not meet the requirements of clause (iii).

"(iii) REQUIREMENTS.—A mortality table meets the requirements of this clause if—

"(I) there is a sufficient number of plan participants, and the pension plans have been maintained for a sufficient period of time, to have credible information necessary for purposes of subclause (II), and

"(II) such table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience.

"(iv) ALL PLANS IN CONTROLLED GROUP MUST USE SEPARATE TABLE.—Except as provided by the Secretary of the Treasury, a plan sponsor may not use a mortality table under this subparagraph for any plan maintained by the plan sponsor unless—

"(I) a separate mortality table is established and used under this subparagraph for each other plan maintained by the plan sponsor and if the plan sponsor is a member of a controlled group, each member of the controlled group, and

"(II) the requirements of clause (iii) are met separately with respect to the table so established for each such plan, determined by only taking into account the participants of such plan, the

time such plan has been in existence, and the actual experience of such plan.

"(v) DEADLINE FOR SUBMISSION AND DISPOSITION OF APPLICATION.—

"(I) SUBMISSION.—The plan sponsor shall submit a mortality table to the Secretary of the Treasury for approval under this subparagraph at least 7 months before the 1st day of the period described in clause (i).

"(II) DISPOSITION.—Any mortality table submitted to the Secretary of the Treasury for approval under this subparagraph shall be treated as in effect as of the 1st day of the period described in clause (i) unless the Secretary of the Treasury, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (iii). The 180-day period shall be extended upon mutual agreement of the Secretary of the Treasury and the plan sponsor.

"(D) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding subparagraph (A)—

"(i) IN GENERAL.—The Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under subparagraph (A)) under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary of the Treasury shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(ii) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under clause (i) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder. Applicability.

"(iii) PERIODIC REVISION.—The Secretary of the Treasury shall (at least every 10 years) make revisions in any table in effect under clause (i) to reflect the actual experience of pension plans and projected trends in such experience.

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

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

"(B) any difference in the present value of such future benefit payments resulting from the use of actuarial assumptions, in determining benefit payments in any such

optional form of benefits, which are different from those specified in this subsection.

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

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

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

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

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

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

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

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

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

"(i) the present value of all benefits accrued or earned under the plan as of the beginning of the plan year, as determined by using the additional actuarial assumptions described in subparagraph (B), and

"(ii) in the case of a plan which also has been in at-risk status for at least 2 of the 4 preceding plan years, a loading factor determined under subparagraph (C).

"(B) ADDITIONAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions described in this subparagraph are as follows:

"(i) All employees who are not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the 10 succeeding plan years shall be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the at-risk funding target and at-risk target normal cost are being determined.

"(ii) All employees shall be assumed to elect the retirement benefit available under the plan at the assumed retirement age (determined after application of clause (i)) which would result in the highest present value of benefits.

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

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

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

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

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

"(B) in the case of a plan which also has been in at-risk status for at least 2 of the 4 preceding plan years, a loading factor equal to 4 percent of the target normal cost (determined without regard to this paragraph) of the plan for the plan year.

"(3) MINIMUM AMOUNT.—In no event shall—

"(A) the at-risk funding target be less than the funding target, as determined without regard to this subsection, or

"(B) the at-risk target normal cost be less than the target normal cost, as determined without regard to this subsection.

"(4) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection—

"(A) IN GENERAL.—A plan is in at-risk status for a plan year if—

"(i) the funding target attainment percentage for the preceding plan year (determined under this section without regard to this subsection) is less than 80 percent, and

"(ii) the funding target attainment percentage for the preceding plan year (determined under this section by using the additional actuarial assumptions described in paragraph (1)(B) in computing the funding target) is less than 70 percent.

"(B) TRANSITION RULE.—In the case of plan years beginning in 2008, 2009, and 2010, subparagraph (A)(i) shall be applied by substituting the following percentages for '80 percent': Applicability.

"(i) 65 percent in the case of 2008.

"(ii) 70 percent in the case of 2009.

"(iii) 75 percent in the case of 2010.

In the case of plan years beginning in 2008, the funding target attainment percentage for the preceding plan year under subparagraph (A)(ii) may be determined using such methods of estimation as the Secretary of the Treasury may provide.

"(C) SPECIAL RULE FOR EMPLOYEES OFFERED EARLY RETIREMENT IN 2006.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the additional actuarial assumptions described

in paragraph (1)(B) shall not be taken into account with respect to any employee if—

"(I) such employee is employed by a specified automobile manufacturer,

Deadline.

"(II) such employee is offered a substantial amount of additional cash compensation, substantially enhanced retirement benefits under the plan, or materially reduced employment duties on the condition that by a specified date (not later than December 31, 2010) the employee retires (as defined under the terms of the plan),

Deadline.

"(III) such offer is made during 2006 and pursuant to a bona fide retirement incentive program and requires, by the terms of the offer, that such offer can be accepted not later than a specified date (not later than December 31, 2006), and

"(IV) such employee does not elect to accept such offer before the specified date on which the offer expires.

"(ii) SPECIFIED AUTOMOBILE MANUFACTURER.—For purposes of clause (i), the term 'specified automobile manufacturer' means—

"(I) any manufacturer of automobiles, and

"(II) any manufacturer of automobile parts which supplies such parts directly to a manufacturer of automobiles and which, after a transaction or series of transactions ending in 1999, ceased to be a member of a controlled group which included such manufacturer of automobiles.

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

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

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

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

"(B) TRANSITION PERCENTAGE.—For purposes of subparagraph (A), the transition percentage shall be determined in accordance with the following table:

"If the consecutive number of years (including the plan year) the plan is in at-risk status is—	The transition percentage is—
1	20
2	40
3	60
4	80.

"(C) YEARS BEFORE EFFECTIVE DATE.—For purposes of this paragraph, plan years beginning before 2008 shall not be taken into account.

"(6) SMALL PLAN EXCEPTION.—If, on each day during the preceding plan year, a plan had 500 or fewer participants, the plan shall not be treated as in at-risk status for the plan year. For purposes of this paragraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account and the rules of subsection (g)(2)(C) shall apply.

Applicability.

"(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

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

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

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

"(A) FAILURE TO TIMELY MAKE REQUIRED INSTALLMENT.—In any case in which the plan has a funding shortfall for the preceding plan year, the employer maintaining the plan shall make the required installments under this paragraph and if the employer fails to pay the full amount of a required installment for the plan year, then the amount of interest charged under paragraph (2) on the underpayment for the period of underpayment shall be determined by using a rate of interest equal to the rate otherwise used under paragraph (2) plus 5 percentage points.

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

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

"(I) the required installment, over

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

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

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

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

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

"(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set forth in the following table:

"In the case of the following required installment:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

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

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

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

"(I) 90 percent of the minimum required contribution (determined without regard to this subsection) to the plan for the plan year under this section, or

"(II) 100 percent of the minimum required contribution (determined without regard to this subsection or to any waiver under section 302(c)) to the plan for the preceding plan year.

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

"(E) FISCAL YEARS AND SHORT YEARS.—

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

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

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

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

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan (other than a plan described in subsection (g)(2)(B)) which—

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

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

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

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

"(E) DEFINITIONS.—For purposes of this paragraph—

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

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

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

"(ii) BASE AMOUNT.—

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

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

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

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

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

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

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities, and such other

assets as specified by the Secretary of the Treasury in regulations.

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

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

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

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

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

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

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

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a single-employer plan covered under section 4021 for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent.

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

"(4) NOTICE OF FAILURE; LIEN.—

Deadline.

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

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

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

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

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

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

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

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

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

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

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

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2007. 29 USC 1083 note.

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

(a) FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.—Section 206 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1056) is amended by adding at the end the following new subsection:

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

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

"(A) IN GENERAL.—If a participant of a defined benefit plan which is a single-employer plan is entitled to an unpredictable contingent event benefit payable with respect to any event occurring during any plan year, the plan shall provide that such benefit may not be provided if the adjusted funding target attainment percentage for such plan year—

"(i) is less than 60 percent, or

"(ii) would be less than 60 percent taking into account such occurrence.

"(B) EXEMPTION.—Subparagraph (A) shall cease to apply with respect to any plan year, effective as of the first day of the plan year, upon payment by the plan Effective date.

sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to—

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

"(ii) in the case of subparagraph (A)(ii), the amount sufficient to result in a funding target attainment percentage of 60 percent.

"(C) UNPREDICTABLE CONTINGENT EVENT.—For purposes of this paragraph, the term 'unpredictable contingent event benefit' means any benefit payable solely by reason of—

"(i) a plant shutdown (or similar event, as determined by the Secretary of the Treasury), or

"(ii) an event other than the attainment of any age, performance of any service, receipt or derivation of any compensation, or occurrence of death or disability.

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

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

"(i) less than 80 percent, or

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

Effective date.

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

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

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

"(C) EXCEPTION FOR CERTAIN BENEFIT INCREASES.—Subparagraph (A) shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment.

"(3) LIMITATIONS ON ACCELERATED BENEFIT DISTRIBUTIONS.—

"(A) FUNDING PERCENTAGE LESS THAN 60 PERCENT.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted

funding target attainment percentage for a plan year is less than 60 percent, the plan may not pay any prohibited payment after the valuation date for the plan year.

Certification.

"(B) BANKRUPTCY.—A defined benefit plan which is a single-employer plan shall provide that, during any period in which the plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law, the plan may not pay any prohibited payment. The preceding sentence shall not apply on or after the date on which the enrolled actuary of the plan certifies that the adjusted funding target attainment percentage of such plan is not less than 100 percent.

"(C) LIMITED PAYMENT IF PERCENTAGE AT LEAST 60 PERCENT BUT LESS THAN 80 PERCENT.—

"(i) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is 60 percent or greater but less than 80 percent, the plan may not pay any prohibited payment after the valuation date for the plan year to the extent the amount of the payment exceeds the lesser of—

"(I) 50 percent of the amount of the payment which could be made without regard to this subsection, or

"(II) the present value (determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under section 205(g)) of the maximum guarantee with respect to the participant under section 4022.

"(ii) ONE-TIME APPLICATION.—

"(I) IN GENERAL.—The plan shall also provide that only 1 prohibited payment meeting the requirements of clause (i) may be made with respect to any participant during any period of consecutive plan years to which the limitations under either subparagraph (A) or (B) or this subparagraph applies.

"(II) TREATMENT OF BENEFICIARIES.—For purposes of this clause, a participant and any beneficiary on his behalf (including an alternate payee, as defined in section 206(d)(3)(K)) shall be treated as 1 participant. If the accrued benefit of a participant is allocated to such an alternate payee and 1 or more other persons, the amount under clause (i) shall be allocated among such persons in the same manner as the accrued benefit is allocated unless the qualified domestic relations order (as defined in section 206(d)(3)(B)(i)) provides otherwise.

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

"(E) PROHIBITED PAYMENT.—For purpose of this paragraph, the term 'prohibited payment' means—

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)), to a participant or beneficiary whose annuity starting date (as defined in section 205(h)(2)) occurs during any period a limitation under subparagraph (A) or (B) is in effect,

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

Regulations.

"(iii) any other payment specified by the Secretary of the Treasury by regulations.

"(4) LIMITATION ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.—

"(A) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is less than 60 percent, benefit accruals under the plan shall cease as of the valuation date for the plan year.

Effective date.

"(B) EXEMPTION.—Subparagraph (A) shall cease to apply with respect to any plan year, effective as of the first day of the plan year, upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to the amount sufficient to result in an adjusted funding target attainment percentage of 60 percent.

"(5) RULES RELATING TO CONTRIBUTIONS REQUIRED TO AVOID BENEFIT LIMITATIONS.—

"(A) SECURITY MAY BE PROVIDED.—

"(i) IN GENERAL.—For purposes of this subsection, the adjusted funding target attainment percentage shall be determined by treating as an asset of the plan any security provided by a plan sponsor in a form meeting the requirements of clause (ii).

"(ii) FORM OF SECURITY.—The security required under clause (i) shall consist of—

"(I) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act,

"(II) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(III) such other form of security as is satisfactory to the Secretary of the Treasury and the parties involved.

"(iii) ENFORCEMENT.—Any security provided under clause (i) may be perfected and enforced at any time after the earlier of—

"(I) the date on which the plan terminates,

"(II) if there is a failure to make a payment of the minimum required contribution for any plan year beginning after the security is provided, the due date for the payment under section 303(j), or

"(III) if the adjusted funding target attainment percentage is less than 60 percent for a consecutive period of 7 years, the valuation date for the last year in the period.

"(iv) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at such time as the Secretary of the Treasury may prescribe in regulations, including regulations for partial releases of the security by reason of increases in the funding target attainment percentage.

"(B) PREFUNDING BALANCE OR FUNDING STANDARD CARRYOVER BALANCE MAY NOT BE USED.—No prefunding balance or funding standard carryover balance under section 303(f) may be used under paragraph (1), (2), or (4) to satisfy any payment an employer may make under any such paragraph to avoid or terminate the application of any limitation under such paragraph.

"(C) DEEMED REDUCTION OF FUNDING BALANCES.—

"(i) IN GENERAL.—Subject to clause (iii), in any case in which a benefit limitation under paragraph (1), (2), (3), or (4) would (but for this subparagraph and determined without regard to paragraph (1)(B), (2)(B), or (4)(B)) apply to such plan for the plan year, the plan sponsor of such plan shall be treated for purposes of this Act as having made an election under section 303(f) to reduce the prefunding balance or funding standard carryover balance by such amount as is necessary for such benefit limitation to not apply to the plan for such plan year.

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

"(iii) RESTRICTIONS OF CERTAIN RULES TO COLLECTIVELY BARGAINED PLANS.—With respect to any benefit limitation under paragraph (1), (2), or (4), clause (i) shall only apply in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers. Applicability.

"(6) NEW PLANS.—Paragraphs (1), (2), and (4) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this paragraph, the reference in this paragraph to a plan shall include a reference to any predecessor plan.

"(7) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS.—

"(A) PRESUMPTION OF CONTINUED UNDERFUNDING.—In any case in which a benefit limitation under paragraph (1), (2), (3), or (4) has been applied to a plan with respect to the plan year preceding the current plan year, the adjusted funding target attainment percentage of the plan for the current plan year shall be presumed to be equal to the adjusted funding target attainment percentage of the plan for the preceding plan year until the enrolled actuary of the plan certifies the actual adjusted funding Certification.

target attainment percentage of the plan for the current plan year.

"(B) PRESUMPTION OF UNDERFUNDING AFTER 10TH MONTH.—In any case in which no certification of the adjusted funding target attainment percentage for the current plan year is made with respect to the plan before the first day of the 10th month of such year, for purposes of paragraphs (1), (2), (3), and (4), such first day shall be deemed, for purposes of such paragraph, to be the valuation date of the plan for the current plan year and the plan's adjusted funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of such first day.

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

"(i) a benefit limitation under paragraph (1), (2), (3), or (4) did not apply to a plan with respect to the plan year preceding the current plan year, but the adjusted funding target attainment percentage of the plan for such preceding plan year was not more than 10 percentage points greater than the percentage which would have caused such paragraph to apply to the plan with respect to such preceding plan year, and

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

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

"(8) TREATMENT OF PLAN AS OF CLOSE OF PROHIBITED OR CESSATION PERIOD.—For purposes of applying this part—

Effective date.

"(A) OPERATION OF PLAN AFTER PERIOD.—Unless the plan provides otherwise, payments and accruals will resume effective as of the day following the close of the period for which any limitation of payment or accrual of benefits under paragraph (3) or (4) applies.

"(B) TREATMENT OF AFFECTED BENEFITS.—Nothing in this paragraph shall be construed as affecting the plan's treatment of benefits which would have been paid or accrued but for this subsection.

"(9) TERMS RELATING TO FUNDING TARGET ATTAINMENT PERCENTAGE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'funding target attainment percentage' has the same meaning given such term by section 303(d)(2).

"(B) ADJUSTED FUNDING TARGET ATTAINMENT PERCENTAGE.—The term 'adjusted funding target attainment

percentage' means the funding target attainment percentage which is determined under subparagraph (A) by increasing each of the amounts under subparagraphs (A) and (B) of section 303(d)(2) by the aggregate amount of purchases of annuities for employees other than highly compensated employees (as defined in section 414(q) of the Internal Revenue Code of 1986) which were made by the plan during the preceding 2 plan years.

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

"(i) IN GENERAL.—In the case of a plan for any plan year, if the funding target attainment percentage is 100 percent or more (determined without regard to this subparagraph and without regard to the reduction in the value of assets under section 303(f)(4)), the funding target attainment percentage for purposes of subparagraphs (A) and (B) shall be determined without regard to such reduction.

"(ii) TRANSITION RULE.—Clause (i) shall be applied to plan years beginning after 2007 and before 2011 by substituting for '100 percent' the applicable percentage determined in accordance with the following table:

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

"(iii) LIMITATION.—Clause (ii) shall not apply with respect to any plan year after 2008 unless the funding target attainment percentage (determined without regard to this subparagraph) of the plan for each preceding plan year after 2007 was not less than the applicable percentage with respect to such preceding plan year determined under clause (ii).

"(10) SPECIAL RULE FOR 2008.—For purposes of this subsection, in the case of plan years beginning in 2008, the funding target attainment percentage for the preceding plan year may be determined using such methods of estimation as the Secretary of the Treasury may provide.".

(b) NOTICE REQUIREMENT.—

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

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

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

"(j) NOTICE OF FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—The plan administrator of a single-employer plan shall provide a written notice to plan participants and beneficiaries within 30 days— Deadline.

"(1) after the plan has become subject to a restriction described in paragraph (1) or (3) of section 206(g)),

"(2) in the case of a plan to which section 206(g)(4) applies, after the valuation date for the plan year described in section 206(g)(4)(B) for which the plan's adjusted funding target attainment percentage for the plan year is less than 60 percent

(or, if earlier, the date such percentage is deemed to be less than 60 percent under section 206(g)(7)), and

"(3) at such other time as may be determined by the Secretary of the Treasury.

The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.".

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

29 USC 1021 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

(2) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before January 1, 2008, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

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

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

(B) January 1, 2010.

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

26 USC 401 note.

SEC. 104. SPECIAL RULES FOR MULTIPLE EMPLOYER PLANS OF CERTAIN COOPERATIVES.

(a) GENERAL RULE.—Except as provided in this section, if a plan in existence on July 26, 2005, was an eligible cooperative plan for its plan year which includes such date, the amendments made by this subtitle and subtitle B shall not apply to plan years beginning before the earlier of—

(1) the first plan year for which the plan ceases to be an eligible cooperative plan, or

(2) January 1, 2017.

(b) INTEREST RATE.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) to an eligible cooperative plan for plan years beginning after December 31, 2007, and before the first plan year to which such amendments apply, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) ELIGIBLE COOPERATIVE PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible cooperative

plan for a plan year if the plan is maintained by more than 1 employer and at least 85 percent of the employers are—

(1) rural cooperatives (as defined in section 401(k)(7)(B) of such Code without regard to clause (iv) thereof), or

(2) organizations which are—

(A) cooperative organizations described in section 1381(a) of such Code which are more than 50-percent owned by agricultural producers or by cooperatives owned by agricultural producers, or

(B) more than 50-percent owned, or controlled by, one or more cooperative organizations described in subparagraph (A).

A plan shall also be treated as an eligible cooperative plan for any plan year for which it is described in section 210(a) of the Employee Retirement Income Security Act of 1974 and is maintained by a rural telephone cooperative association described in section 3(40)(B)(v) of such Act.

SEC. 105. TEMPORARY RELIEF FOR CERTAIN PBGC SETTLEMENT PLANS. 26 USC 401 note.

(a) GENERAL RULE.—Except as provided in this section, if a plan in existence on July 26, 2005, was a PBGC settlement plan as of such date, the amendments made by this subtitle and subtitle B shall not apply to plan years beginning before January 1, 2014.

(b) INTEREST RATE.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B), to a PBGC settlement plan for plan years beginning after December 31, 2007, and before January 1, 2014, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) PBGC SETTLEMENT PLAN.—For purposes of this section, the term "PBGC settlement plan" means a defined benefit plan (other than a multiemployer plan) to which section 302 of such Act and section 412 of such Code apply and—

(1) which was sponsored by an employer which was in bankruptcy, giving rise to a claim by the Pension Benefit Guaranty Corporation of not greater than $150,000,000, and the sponsorship of which was assumed by another employer that was not a member of the same controlled group as the bankrupt sponsor and the claim of the Pension Benefit Guaranty Corporation was settled or withdrawn in connection with the assumption of the sponsorship, or

(2) which, by agreement with the Pension Benefit Guaranty Corporation, was spun off from a plan subsequently terminated by such Corporation under section 4042 of the Employee Retirement Income Security Act of 1974.

SEC. 106. SPECIAL RULES FOR PLANS OF CERTAIN GOVERNMENT CONTRACTORS. 26 USC 401 note.

(a) GENERAL RULE.—Except as provided in this section, if a plan is an eligible government contractor plan, this subtitle and subtitle B shall not apply to plan years beginning before the earliest of—

(1) the first plan year for which the plan ceases to be an eligible government contractor plan,

(2) the effective date of the Cost Accounting Standards Pension Harmonization Rule, or

(3) January 1, 2011.

(b) INTEREST RATE.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) to an eligible government contractor plan for plan years beginning after December 31, 2007, and before the first plan year to which such amendments apply, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) ELIGIBLE GOVERNMENT CONTRACTOR PLAN DEFINED.—For purposes of this section, a plan shall be treated as an eligible government contractor plan if it is maintained by a corporation or a member of the same affiliated group (as defined by section 1504(a) of the Internal Revenue Code of 1986), whose primary source of revenue is derived from business performed under contracts with the United States that are subject to the Federal Acquisition Regulations (chapter 1 of title 48, CFR) and that are also subject to the Defense Federal Acquisition Regulation Supplement (chapter 2 of title 48, CFR), and whose revenue derived from such business in the previous fiscal year exceeded $5,000,000,000, and whose pension plan costs that are assignable under those contracts are subject to sections 412 and 413 of the Cost Accounting Standards (48 CFR 9904.412 and 9904.413).

Deadline.

(d) COST ACCOUNTING STANDARDS PENSION HARMONIZATION RULE.—The Cost Accounting Standards Board shall review and revise sections 412 and 413 of the Cost Accounting Standards (48 CFR 9904.412 and 9904.413) to harmonize the minimum required contribution under the Employee Retirement Income Security Act of 1974 of eligible government contractor plans and government reimbursable pension plan costs not later than January 1, 2010. Any final rule adopted by the Cost Accounting Standards Board shall be deemed the Cost Accounting Standards Pension Harmonization Rule.

SEC. 107. TECHNICAL AND CONFORMING AMENDMENTS.

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

29 USC 1021.

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

29 USC 1023.

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

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

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

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

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

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

(4) in section 203(a)(3)(C), by striking "section 302(c)(8)" and inserting "section 302(d)(2)"; 29 USC 1053.

(5) in section 204(g)(1), by striking "section 302(c)(8)" and inserting "section 302(d)(2)"; 29 USC 1054.

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

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

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

(9) in section 206(e)(1), by striking "section 302(d)" and inserting "section 303(j)(4)", and by striking "section 302(e)(5)" and inserting "section 303(j)(4)(E)(i)"; 29 USC 1056.

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

(11) in sections 101(e)(3), 403(c)(1), and 408(b)(13), by striking "American Jobs Creation Act of 2004" and inserting "Pension Protection Act of 2006". 29 USC 1021, 1103, 1108.

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

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

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

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

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

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

"(2) the sum of the waiver amortization charge (within the meaning of section 303(e)(1) of this Act and 430(e)(1) of the Internal Revenue Code of 1986) with respect to the plan

(if any) for the plan year in which the termination date occurs, plus the aggregate total of waiver amortization installments (if any) determined for succeeding plan years under section 303(e)(2) of this Act and section 430(e)(2) of such Code,";

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

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

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

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

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

29 USC 1001 note.

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

(d) REPEAL OF EXPIRED AUTHORITY FOR TEMPORARY VARIANCES.—Section 207 of such Act (29 U.S.C. 1057) is repealed.

29 USC 1021 note.

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

Subtitle B—Amendments to Internal Revenue Code of 1986

SEC. 111. MINIMUM FUNDING STANDARDS.

26 USC 412.

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

"SEC. 412. MINIMUM FUNDING STANDARDS.

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

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

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

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

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

"(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for any plan year which, in the aggregate, are sufficient to ensure that the

plan does not have an accumulated funding deficiency under section 431 as of the end of the plan year.

"(b) LIABILITY FOR CONTRIBUTIONS.—

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

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

"(c) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

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

"(A) IN GENERAL.—If—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"(A) SECURITY MAY BE REQUIRED.—

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

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

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

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

Notice.

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

Deadline.

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

"(ii) consider—

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

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

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

"(C) EXCEPTION FOR CERTAIN WAIVERS.—

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

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

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

is less than $1,000,000.

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

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

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

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

"(i) with respect to such employer, and

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

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

"(6) ADVANCE NOTICE.—

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

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided

by a person to whom notice was given under subparagraph (A).

"(7) RESTRICTION ON PLAN AMENDMENTS.—

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

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan amendment which—

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

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

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

"(d) MISCELLANEOUS RULES.—

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

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

Deadline.

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

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

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

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

Notices.
Deadline.

(c) (or, in the case of a multiemployer plan, any extension of the amortization period under section 431(d)) is unavailable or inadequate.

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

"(e) PLANS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), this section applies to a plan if, for any plan year beginning on or after the effective date of this section for such plan under the Employee Retirement Income Security Act of 1974—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Applicability.

"(4) CERTAIN TERMINATED MULTIEMPLOYER PLANS.—This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 applies until the last day of the plan year in which the plan terminates (within the meaning of section 4041A(a)(2) of such Act).".

26 USC 412 note.

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

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

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

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

26 USC 430.

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

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

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

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

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

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

"(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)(B)) equals or exceeds the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced (but not below zero) by such excess.

"(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the present value of all benefits which are expected to accrue

or to be earned under the plan during the plan year. For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

"(c) SHORTFALL AMORTIZATION CHARGE.—

"(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total (not less than zero) of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

"(2) SHORTFALL AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The shortfall amortization installments are the amounts necessary to amortize the shortfall amortization base of the plan for any plan year in level annual installments over the 7-plan-year period beginning with such plan year.

"(B) SHORTFALL INSTALLMENT.—The shortfall amortization installment for any plan year in the 7-plan-year period under subparagraph (A) with respect to any shortfall amortization base is the annual installment determined under subparagraph (A) for that year for that base.

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

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

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

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

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

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

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

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

"(A) IN GENERAL.—In any case in which the value of plan assets of the plan (as reduced under subsection

(f)(4)(A)) is equal to or greater than the funding target of the plan for the plan year, the shortfall amortization base of the plan for such plan year shall be zero.

"(B) TRANSITION RULE.—

"(i) IN GENERAL.—Except as provided in clauses (iii) and (iv), in the case of plan years beginning after 2007 and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for the plan year for purposes of subparagraph (A).

"(ii) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined in accordance with the following table:

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

"(iii) LIMITATION.—Clause (i) shall not apply with respect to any plan year after 2008 unless the shortfall amortization base for each of the preceding years beginning after 2007 was zero (determined after application of this subparagraph).

"(iv) TRANSITION RELIEF NOT AVAILABLE FOR NEW OR DEFICIT REDUCTION PLANS.—Clause (i) shall not apply to a plan—

"(I) which was not in effect for a plan year beginning in 2007, or

"(II) which was in effect for a plan year beginning in 2007 and which was subject to section 412(l) (as in effect for plan years beginning in 2007), determined after the application of paragraphs (6) and (9) thereof.

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

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

"(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

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

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

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

"(e) WAIVER AMORTIZATION CHARGE.—

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

"(2) WAIVER AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The waiver amortization installments are the amounts necessary to amortize the waiver amortization base of the plan for any plan year in level annual installments over a period of 5 plan years beginning with the succeeding plan year.

"(B) WAIVER INSTALLMENT.—The waiver amortization installment for any plan year in the 5-year period under subparagraph (A) with respect to any waiver amortization base is the annual installment determined under subparagraph (A) for that year for that base.

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

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

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

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

"(1) ELECTION TO MAINTAIN BALANCES.—

"(A) PREFUNDING BALANCE.—The plan sponsor of a defined benefit plan which is not a multiemployer plan may elect to maintain a prefunding balance.

"(B) FUNDING STANDARD CARRYOVER BALANCE.—

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

"(ii) PLANS MAINTAINING FUNDING STANDARD ACCOUNT IN 2007.—A plan is described in this clause if the plan—

"(I) was in effect for a plan year beginning in 2007, and

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

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

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

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

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

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

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), in the case of any plan year in which the plan sponsor elects to credit against the minimum required contribution for the current plan year all or a portion of the prefunding balance or the funding standard carryover balance for the current plan year (not in excess of such minimum required contribution), the minimum required contribution for the plan year shall be reduced as of the first day of the plan year by the amount so credited by the plan sponsor as of the first day of the plan year. For purposes of the preceding sentence, the minimum required contribution shall be determined after taking into account any waiver under section 412(c).

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

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

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

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

is less than 80 percent. In the case of plan years beginning in 2008, the ratio under this subparagraph may be determined using such methods of estimation as the Secretary may prescribe.

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

"(A) APPLICABILITY OF SHORTFALL AMORTIZATION BASE.—For purposes of subsection (c)(5), the value of plan assets is deemed to be such amount, reduced by the amount of the prefunding balance, but only if an election under

paragraph (2) applying any portion of the prefunding balance in reducing the minimum required contribution is in effect for the plan year.

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

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

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

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

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

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

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

"(6) PREFUNDING BALANCE.—

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

"(B) INCREASES.—

"(i) IN GENERAL.—As of the first day of each plan year beginning after 2008, the prefunding balance of a plan shall be increased by the amount elected by Effective date.

the plan sponsor for the plan year. Such amount shall not exceed the excess (if any) of—

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

"(II) the minimum required contribution for such preceding plan year.

"(ii) ADJUSTMENTS FOR INTEREST.—Any excess contributions under clause (i) shall be properly adjusted for interest accruing for the periods between the first day of the current plan year and the dates on which the excess contributions were made, determined by using the effective interest rate for the preceding plan year and by treating contributions as being first used to satisfy the minimum required contribution.

"(iii) CERTAIN CONTRIBUTIONS NECESSARY TO AVOID BENEFIT LIMITATIONS DISREGARDED.—The excess described in clause (i) with respect to any preceding plan year shall be reduced (but not below zero) by the amount of contributions an employer would be required to make under paragraph (1), (2), or (4) of section 206(g) to avoid a benefit limitation which would otherwise be imposed under such paragraph for the preceding plan year. Any contribution which may be taken into account in satisfying the requirements of more than 1 of such paragraphs shall be taken into account only once for purposes of this clause.

"(C) DECREASES.—The prefunding balance of a plan shall be decreased (but not below zero) by the sum of—

"(i) as of the first day of each plan year after 2008, the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) as of the time specified in paragraph (5)(A), any reduction in such balance elected under paragraph (5).

"(7) FUNDING STANDARD CARRYOVER BALANCE.—

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

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

"(C) DECREASES.—The funding standard carryover balance of a plan shall be decreased (but not below zero) by—

"(i) as of the first day of each plan year after 2008, the amount of such balance credited under paragraph (2) (if any) in reducing the minimum required contribution of the plan for the preceding plan year, and

"(ii) as of the time specified in paragraph (5)(A), any reduction in such balance elected under paragraph (5).

"(8) ADJUSTMENTS FOR INVESTMENT EXPERIENCE.—In determining the prefunding balance or the funding standard carryover balance of a plan as of the first day of the plan year, the plan sponsor shall, in accordance with regulations prescribed by the Secretary of the Treasury, adjust such balance to reflect the rate of return on plan assets for the preceding plan year. Notwithstanding subsection (g)(3), such rate of return shall be determined on the basis of fair market value and shall properly take into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

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

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

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

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

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

"(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 100 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account.

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

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

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

"(3) DETERMINATION OF VALUE OF PLAN ASSETS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the value of plan assets shall be the fair market value of the assets.

"(B) AVERAGING ALLOWED.—A plan may determine the value of plan assets on the basis of the averaging of fair market values, but only if such method—

"(i) is permitted under regulations prescribed by the Secretary,

"(ii) does not provide for averaging of such values over more than the period beginning on the last day of the 25th month preceding the month in which the

valuation date occurs and ending on the valuation date (or a similar period in the case of a valuation date which is not the 1st day of a month), and

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

Any such averaging shall be adjusted for contributions and distributions (as provided by the Secretary).

"(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of determining the value of assets under paragraph (3)—

"(A) PRIOR YEAR CONTRIBUTIONS.—If—

"(i) an employer makes any contribution to the plan after the valuation date for the plan year in which the contribution is made, and

"(ii) the contribution is for a preceding plan year, the contribution shall be taken into account as an asset of the plan as of the valuation date, except that in the case of any plan year beginning after 2008, only the present value (determined as of the valuation date) of such contribution may be taken into account. For purposes of the preceding sentence, present value shall be determined using the effective interest rate for the preceding plan year to which the contribution is properly allocable.

"(B) SPECIAL RULE FOR CURRENT YEAR CONTRIBUTIONS MADE BEFORE VALUATION DATE.—If any contributions for any plan year are made to or under the plan during the plan year but before the valuation date for the plan year, the assets of the plan as of the valuation date shall not include—

"(i) such contributions, and

"(ii) interest on such contributions for the period between the date of the contributions and the valuation date, determined by using the effective interest rate for the plan year.

"(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

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

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

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

"(2) INTEREST RATES.—

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

"(B) INTEREST RATES FOR DETERMINING FUNDING TARGET.—For purposes of determining the funding target of

a plan for any plan year, the interest rate used in determining the present value of the liabilities of the plan shall be—

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

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

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

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

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

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

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

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

"(i) IN GENERAL.—The term 'corporate bond yield curve' means, with respect to any month, a yield curve which is prescribed by the Secretary for such month and which reflects the average, for the 24-month period ending with the month preceding such month, of monthly yields on investment grade corporate bonds with varying maturities and that are in the top 3 quality levels available.

"(ii) ELECTION TO USE YIELD CURVE.—Solely for purposes of determining the minimum required contribution under this section, the plan sponsor may,

in lieu of the segment rates determined under subparagraph (C), elect to use interest rates under the corporate bond yield curve. For purposes of the preceding sentence such curve shall be determined without regard to the 24-month averaging described in clause (i). Such election, once made, may be revoked only with the consent of the Secretary.

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

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

"(G) TRANSITION RULE.—

"(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2008 or 2009, the first, second, or third segment rate for a plan with respect to any month shall be equal to the sum of—

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

"(II) the product of the rate determined under the rules of section 412(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2007), multiplied by a percentage equal to 100 percent minus the applicable percentage.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2008 and 66⅔ percent for plan years beginning in 2009.

"(iii) NEW PLANS INELIGIBLE.—Clause (i) shall not apply to any plan if the first plan year of the plan begins after December 31, 2007.

"(iv) ELECTION.—The plan sponsor may elect not to have this subparagraph apply. Such election, once made, may be revoked only with the consent of the Secretary.

"(3) MORTALITY TABLES.—

Regulations.

"(A) IN GENERAL.—Except as provided in subparagraph (C) or (D), the Secretary shall by regulation prescribe mortality tables to be used in determining any present value or making any computation under this section. Such tables

shall be based on the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(B) PERIODIC REVISION.—The Secretary shall (at least every 10 years) make revisions in any table in effect under subparagraph (A) to reflect the actual experience of pension plans and projected trends in such experience.

"(C) SUBSTITUTE MORTALITY TABLE.—

"(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary, a mortality table which meets the requirements of clause (iii) shall be used in determining any present value or making any computation under this section during the period of consecutive plan years (not to exceed 10) specified in the request.

"(ii) EARLY TERMINATION OF PERIOD.—Notwithstanding clause (i), a mortality table described in clause (i) shall cease to be in effect as of the earliest of—

"(I) the date on which there is a significant change in the participants in the plan by reason of a plan spinoff or merger or otherwise, or

"(II) the date on which the plan actuary determines that such table does not meet the requirements of clause (iii).

"(iii) REQUIREMENTS.—A mortality table meets the requirements of this clause if—

"(I) there is a sufficient number of plan participants, and the pension plans have been maintained for a sufficient period of time, to have credible information necessary for purposes of subclause (II), and

"(II) such table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience.

"(iv) ALL PLANS IN CONTROLLED GROUP MUST USE SEPARATE TABLE.—Except as provided by the Secretary, a plan sponsor may not use a mortality table under this subparagraph for any plan maintained by the plan sponsor unless—

"(I) a separate mortality table is established and used under this subparagraph for each other plan maintained by the plan sponsor and if the plan sponsor is a member of a controlled group, each member of the controlled group, and

"(II) the requirements of clause (iii) are met separately with respect to the table so established for each such plan, determined by only taking into account the participants of such plan, the time such plan has been in existence, and the actual experience of such plan.

"(v) DEADLINE FOR SUBMISSION AND DISPOSITION OF APPLICATION.—

"(I) SUBMISSION.—The plan sponsor shall submit a mortality table to the Secretary for

approval under this subparagraph at least 7 months before the 1st day of the period described in clause (i).

"(II) DISPOSITION.—Any mortality table submitted to the Secretary for approval under this subparagraph shall be treated as in effect as of the 1st day of the period described in clause (i) unless the Secretary, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (iii). The 180-day period shall be extended upon mutual agreement of the Secretary and the plan sponsor.

Extension.

"(D) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding subparagraph (A)—

"(i) IN GENERAL.—The Secretary shall establish mortality tables which may be used (in lieu of the tables under subparagraph (A)) under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(ii) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under clause (i) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

Applicability.

"(iii) PERIODIC REVISION.—The Secretary shall (at least every 10 years) make revisions in any table in effect under clause (i) to reflect the actual experience of pension plans and projected trends in such experience.

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

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

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

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

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

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

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

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

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

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

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

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

"(i) the present value of all benefits accrued or earned under the plan as of the beginning of the plan year, as determined by using the additional actuarial assumptions described in subparagraph (B), and

"(ii) in the case of a plan which also has been in at-risk status for at least 2 of the 4 preceding plan years, a loading factor determined under subparagraph (C).

"(B) ADDITIONAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions described in this subparagraph are as follows:

"(i) All employees who are not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the 10 succeeding plan years shall be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the at-risk funding target and at-risk target normal cost are being determined.

"(ii) All employees shall be assumed to elect the retirement benefit available under the plan at the assumed retirement age (determined after application of clause (i)) which would result in the highest present value of benefits.

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

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

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

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

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

"(B) in the case of a plan which also has been in at-risk status for at least 2 of the 4 preceding plan years, a loading factor equal to 4 percent of the target normal cost (determined without regard to this paragraph) of the plan for the plan year.

"(3) MINIMUM AMOUNT.—In no event shall—

"(A) the at-risk funding target be less than the funding target, as determined without regard to this subsection, or

"(B) the at-risk target normal cost be less than the target normal cost, as determined without regard to this subsection.

"(4) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection—

"(A) IN GENERAL.—A plan is in at-risk status for a plan year if—

"(i) the funding target attainment percentage for the preceding plan year (determined under this section without regard to this subsection) is less than 80 percent, and

"(ii) the funding target attainment percentage for the preceding plan year (determined under this section by using the additional actuarial assumptions described in paragraph (1)(B) in computing the funding target) is less than 70 percent.

Applicability.

"(B) TRANSITION RULE.—In the case of plan years beginning in 2008, 2009, and 2010, subparagraph (A)(i) shall be applied by substituting the following percentages for '80 percent':

"(i) 65 percent in the case of 2008.

"(ii) 70 percent in the case of 2009.

"(iii) 75 percent in the case of 2010.

In the case of plan years beginning in 2008, the funding target attainment percentage for the preceding plan year under subparagraph (A)(ii) may be determined using such methods of estimation as the Secretary may provide.

"(C) SPECIAL RULE FOR EMPLOYEES OFFERED EARLY RETIREMENT IN 2006.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the additional actuarial assumptions described in paragraph (1)(B) shall not be taken into account with respect to any employee if—

"(I) such employee is employed by a specified automobile manufacturer,

"(II) such employee is offered a substantial amount of additional cash compensation, substantially enhanced retirement benefits under the plan, or materially reduced employment duties on the condition that by a specified date (not later than December 31, 2010) the employee retires (as defined under the terms of the plan), Deadline.

"(III) such offer is made during 2006 and pursuant to a bona fide retirement incentive program and requires, by the terms of the offer, that such offer can be accepted not later than a specified date (not later than December 31, 2006), and Deadline.

"(IV) such employee does not elect to accept such offer before the specified date on which the offer expires.

"(ii) SPECIFIED AUTOMOBILE MANUFACTURER.—For purposes of clause (i), the term 'specified automobile manufacturer' means—

"(I) any manufacturer of automobiles, and

"(II) any manufacturer of automobile parts which supplies such parts directly to a manufacturer of automobiles and which, after a transaction or series of transactions ending in 1999, ceased to be a member of a controlled group which included such manufacturer of automobiles.

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

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

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

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

"(B) TRANSITION PERCENTAGE.—For purposes of subparagraph (A), the transition percentage shall be determined in accordance with the following table:

"If the consecutive number of years (including the plan year) the plan is in at-risk status is—	The transition percentage is—
1	20
2	40
3	60
4	80.

"(C) YEARS BEFORE EFFECTIVE DATE.—For purposes of this paragraph, plan years beginning before 2008 shall not be taken into account.

"(6) SMALL PLAN EXCEPTION.—If, on each day during the preceding plan year, a plan had 500 or fewer participants, the plan shall not be treated as in at-risk status for the plan

Applicability.

year. For purposes of this paragraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only participants with respect to such employer or member shall be taken into account and the rules of subsection (g)(2)(C) shall apply.

"(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

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

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

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

"(A) FAILURE TO TIMELY MAKE REQUIRED INSTALLMENT.—In any case in which the plan has a funding shortfall for the preceding plan year, the employer maintaining the plan shall make the required installments under this paragraph and if the employer fails to pay the full amount of a required installment for the plan year, then the amount of interest charged under paragraph (2) on the underpayment for the period of underpayment shall be determined by using a rate of interest equal to the rate otherwise used under paragraph (2) plus 5 percentage points.

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

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

"(I) the required installment, over

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

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

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

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

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

"(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set forth in the following table:

"In the case of the following required installment:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

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

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

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

"(I) 90 percent of the minimum required contribution (determined without regard to this subsection) to the plan for the plan year under this section, or

"(II) 100 percent of the minimum required contribution (determined without regard to this subsection or to any waiver under section 302(c)) to the plan for the preceding plan year.

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

"(E) FISCAL YEARS AND SHORT YEARS.—

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

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

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

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

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan (other than a plan described in subsection (g)(2)(B)) which—

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

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

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be

treated as unpaid until the close of the quarter in which the due date for such installment occurs.

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

"(E) DEFINITIONS.—For purposes of this paragraph—

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

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

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

"(ii) BASE AMOUNT.—

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

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

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

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

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

Regulations.

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

Regulations.

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

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period

preceding the month in which the due date for such installment occurs.

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

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

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

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

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

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

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan (other than a multiemployer plan) covered under section 4021 of the Employee Retirement Income Security Act of 1974 for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent.

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

"(4) NOTICE OF FAILURE; LIEN.—

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

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

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

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

Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

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

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

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

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

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

26 USC 430 note.

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

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

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

26 USC prec. 430.

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

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

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

"SUBPART A. MINIMUM FUNDING STANDARDS FOR PENSION PLANS.

"SUBPART B. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

"Subpart A—Minimum Funding Standards for Pension Plans

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

and

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

"Subpart B—Benefit Limitations Under Single-Employer Plans

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

"SEC. 436. FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS. 26 USC 436.

"(a) GENERAL RULE.—For purposes of section 401(a)(29), a defined benefit plan which is a single-employer plan shall be treated as meeting the requirements of this section if the plan meets the requirements of subsections (b), (c), (d), and (e).

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

"(1) IN GENERAL.—If a participant of a defined benefit plan which is a single-employer plan is entitled to an unpredictable contingent event benefit payable with respect to any event occurring during any plan year, the plan shall provide that such benefit may not be provided if the adjusted funding target attainment percentage for such plan year—

"(A) is less than 60 percent, or

"(B) would be less than 60 percent taking into account such occurrence.

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

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

"(B) in the case of paragraph (1)(B), the amount sufficient to result in a funding target attainment percentage of 60 percent.

"(3) UNPREDICTABLE CONTINGENT EVENT.—For purposes of this subsection, the term 'unpredictable contingent event benefit' means any benefit payable solely by reason of—

"(A) a plant shutdown (or similar event, as determined by the Secretary), or

"(B) any event other than the attainment of any age, performance of any service, receipt or derivation of any compensation, or occurrence of death or disability.

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

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

"(A) less than 80 percent, or

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

Effective date.

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

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

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

"(3) EXCEPTION FOR CERTAIN BENEFIT INCREASES.—Paragraph (1) shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment.

"(d) LIMITATIONS ON ACCELERATED BENEFIT DISTRIBUTIONS.—

"(1) FUNDING PERCENTAGE LESS THAN 60 PERCENT.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is less than 60 percent, the plan may not pay any prohibited payment after the valuation date for the plan year.

"(2) BANKRUPTCY.—A defined benefit plan which is a single-employer plan shall provide that, during any period in which the plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law, the plan may not pay any prohibited payment. The preceding sentence shall not apply on or after the date on which the enrolled actuary of the plan certifies that the adjusted funding target attainment percentage of such plan is not less than 100 percent.

Effective date.

"(3) LIMITED PAYMENT IF PERCENTAGE AT LEAST 60 PERCENT BUT LESS THAN 80 PERCENT.—

"(A) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is 60 percent or greater but less than 80 percent, the plan may not pay any prohibited payment after the valuation date for the plan year to the extent the amount of the payment exceeds the lesser of—

"(i) 50 percent of the amount of the payment which could be made without regard to this section, or

"(ii) the present value (determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under section 417(e)) of the maximum guarantee with respect to the participant under section 4022 of the Employee Retirement Income Security Act of 1974.

"(B) ONE-TIME APPLICATION.—

"(i) IN GENERAL.—The plan shall also provide that only 1 prohibited payment meeting the requirements of subparagraph (A) may be made with respect to any participant during any period of consecutive plan

years to which the limitations under either paragraph (1) or (2) or this paragraph applies.

"(ii) TREATMENT OF BENEFICIARIES.—For purposes of this subparagraph, a participant and any beneficiary on his behalf (including an alternate payee, as defined in section 414(p)(8)) shall be treated as 1 participant. If the accrued benefit of a participant is allocated to such an alternate payee and 1 or more other persons, the amount under subparagraph (A) shall be allocated among such persons in the same manner as the accrued benefit is allocated unless the qualified domestic relations order (as defined in section 414(p)(1)(A)) provides otherwise.

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

"(5) PROHIBITED PAYMENT.—For purpose of this subsection, the term 'prohibited payment' means—

"(A) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(a)(9)), to a participant or beneficiary whose annuity starting date (as defined in section 417(f)(2)) occurs during any period a limitation under paragraph (1) or (2) is in effect,

"(B) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(C) any other payment specified by the Secretary by regulations.

"(e) LIMITATION ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.— Effective dates.

"(1) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, in any case in which the plan's adjusted funding target attainment percentage for a plan year is less than 60 percent, benefit accruals under the plan shall cease as of the valuation date for the plan year.

"(2) EXEMPTION.—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first day of the plan year, upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 430) equal to the amount sufficient to result in an adjusted funding target attainment percentage of 60 percent.

"(f) RULES RELATING TO CONTRIBUTIONS REQUIRED TO AVOID BENEFIT LIMITATIONS.—

"(1) SECURITY MAY BE PROVIDED.—

"(A) IN GENERAL.—For purposes of this section, the adjusted funding target attainment percentage shall be determined by treating as an asset of the plan any security provided by a plan sponsor in a form meeting the requirements of subparagraph (B).

"(B) FORM OF SECURITY.—The security required under subparagraph (A) shall consist of—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section

412 of the Employee Retirement Income Security Act of 1974,

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(iii) such other form of security as is satisfactory to the Secretary and the parties involved.

"(C) ENFORCEMENT.—Any security provided under subparagraph (A) may be perfected and enforced at any time after the earlier of—

"(i) the date on which the plan terminates,

"(ii) if there is a failure to make a payment of the minimum required contribution for any plan year beginning after the security is provided, the due date for the payment under section 430(j), or

"(iii) if the adjusted funding target attainment percentage is less than 60 percent for a consecutive period of 7 years, the valuation date for the last year in the period.

Regulations.

"(D) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at such time as the Secretary may prescribe in regulations, including regulations for partial releases of the security by reason of increases in the funding target attainment percentage.

"(2) PREFUNDING BALANCE OR FUNDING STANDARD CARRYOVER BALANCE MAY NOT BE USED.—No prefunding balance under section 430(f) or funding standard carryover balance may be used under subsection (b), (c), or (e) to satisfy any payment an employer may make under any such subsection to avoid or terminate the application of any limitation under such subsection.

"(3) DEEMED REDUCTION OF FUNDING BALANCES.—

"(A) IN GENERAL.—Subject to subparagraph (C), in any case in which a benefit limitation under subsection (b), (c), (d), or (e) would (but for this subparagraph and determined without regard to subsection (b)(2), (c)(2), or (e)(2)) apply to such plan for the plan year, the plan sponsor of such plan shall be treated for purposes of this title as having made an election under section 430(f) to reduce the prefunding balance or funding standard carryover balance by such amount as is necessary for such benefit limitation to not apply to the plan for such plan year.

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

"(C) RESTRICTIONS OF CERTAIN RULES TO COLLECTIVELY BARGAINED PLANS.—With respect to any benefit limitation under subsection (b), (c), or (e), subparagraph (A) shall only apply in the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers.

"(g) NEW PLANS.—Subsections (b), (c), and (e) shall not apply to a plan for the first 5 plan years of the plan. For purposes

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

"(h) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS.— Certification.

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

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

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

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

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

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

"(i) TREATMENT OF PLAN AS OF CLOSE OF PROHIBITED OR CESSATION PERIOD.—For purposes of applying this title—

"(1) OPERATION OF PLAN AFTER PERIOD.—Unless the plan provides otherwise, payments and accruals will resume effective as of the day following the close of the period for which any limitation of payment or accrual of benefits under subsection (d) or (e) applies. Effective date.

"(2) TREATMENT OF AFFECTED BENEFITS.—Nothing in this subsection shall be construed as affecting the plan's treatment of benefits which would have been paid or accrued but for this section.

"(j) TERMS RELATING TO FUNDING TARGET ATTAINMENT PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'funding target attainment percentage' has the same meaning given such term by section 430(d)(2).

"(2) ADJUSTED FUNDING TARGET ATTAINMENT PERCENTAGE.—The term 'adjusted funding target attainment percentage' means the funding target attainment percentage which is determined under paragraph (1) by increasing each of the amounts under subparagraphs (A) and (B) of section 430(d)(2) by the aggregate amount of purchases of annuities for employees other than highly compensated employees (as defined in section 414(q)) which were made by the plan during the preceding 2 plan years.

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

"(A) IN GENERAL.—In the case of a plan for any plan year, if the funding target attainment percentage is 100 percent or more (determined without regard to this paragraph and without regard to the reduction in the value of assets under section 430(f)(4)(A)), the funding target attainment percentage for purposes of paragraph (1) shall be determined without regard to such reduction.

Applicability.

"(B) TRANSITION RULE.—Subparagraph (A) shall be applied to plan years beginning after 2007 and before 2011 by substituting for '100 percent' the applicable percentage determined in accordance with the following table:

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

"(C) LIMITATION.—Subparagraph (B) shall not apply with respect to any plan year after 2008 unless the funding target attainment percentage (determined without regard to this paragraph) of the plan for each preceding plan year after 2007 was not less than the applicable percentage with respect to such preceding plan year determined under subparagraph (B).

"(k) SPECIAL RULE FOR 2008.—For purposes of this section, in the case of plan years beginning in 2008, the funding target attainment percentage for the preceding plan year may be determined using such methods of estimation as the Secretary may provide.".

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

26 USC prec. 401.

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

26 USC 436 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

(2) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before January 1, 2008, the amendments

made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

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

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

(B) January 1, 2010.

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

SEC. 114. TECHNICAL AND CONFORMING AMENDMENTS.

(a) AMENDMENTS RELATED TO QUALIFICATION REQUIREMENTS.—

(1) Section 401(a)(29) of the Internal Revenue Code of 1986 is amended to read as follows: 26 USC 401.

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

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

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

(B) in subparagraph (C), by striking "section 412(m)" and inserting "section 430(j)".

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

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

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

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

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

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

(2) in subsection (b)(1)(F)—

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

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

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

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

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

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

26 USC 420.

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

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

"(A) the lesser of—

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

"(ii) the value of plan assets as determined under section 430(g)(3) after reduction under section 430(f), over

"(B) 125 percent of the sum of the funding shortfall and the target normal cost determined under section 430 for such plan year.".

(2) Section 420(e)(4) of such Code is amended to read as follows:

"(4) COORDINATION WITH SECTION 430.—In the case of a qualified transfer, any assets so transferred shall not, for purposes of this section and section 430, be treated as assets in the plan.".

(e) EXCISE TAXES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 4971 of such Code are amended to read as follows:

"(a) INITIAL TAX.—If at any time during any taxable year an employer maintains a plan to which section 412 applies, there is hereby imposed for the taxable year a tax equal to—

"(1) in the case of a single-employer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year, and

"(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year.

"(b) ADDITIONAL TAX.—If—

"(1) a tax is imposed under subsection (a)(1) on any unpaid required minimum contribution and such amount remains unpaid as of the close of the taxable period, or

"(2) a tax is imposed under subsection (a)(2) on any accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period,

there is hereby imposed a tax equal to 100 percent of the unpaid minimum required contribution or accumulated funding deficiency, whichever is applicable, to the extent not so paid or corrected.".

(2) Section 4971(c) of such Code is amended—

(A) by striking "the last two sentences of section 412(a)" in paragraph (1) and inserting "section 431", and

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

"(4) UNPAID MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 430 for the plan year which is not paid on or before the due date (as determined under section 430(j)(1)) for the plan year.

"(B) ORDERING RULE.—Any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.".

(3) Section 4971(e)(1) of such Code is amended by striking "section 412(b)(3)(A)" and inserting "section 412(a)(1)(A)". 26 USC 4971.

(4) Section 4971(f)(1) of such Code is amended—

(A) by striking "section 412(m)(5)" and inserting "section 430(j)(4)", and

(B) by striking "section 412(m)" and inserting "section 430(j)".

(5) Section 4972(c)(7) of such Code is amended by striking "except to the extent that such contributions exceed the full-funding limitation (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof)" and inserting "except, in the case of a multiemployer plan, to the extent that such contributions exceed the full-funding limitation (as defined in section 431(c)(6))".

(f) REPORTING REQUIREMENTS.—Section 6059(b) of such Code is amended—

(1) by striking "the accumulated funding deficiency (as defined in section 412(a))" in paragraph (2) and inserting "the minimum required contribution determined under section 430, or the accumulated funding deficiency determined under section 431,", and

(2) by striking paragraph (3)(B) and inserting:

"(B) the requirements for reasonable actuarial assumptions under section 430(h)(1) or 431(c)(3), whichever are applicable, have been complied with.".

SEC. 115. MODIFICATION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS. 26 USC 430 note.

(a) IN GENERAL.—In the case of a plan that— Applicability. Effective date.

(1) was not required to pay a variable rate premium for the plan year beginning in 1996,

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

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

the rules described in subsection (b) shall apply for any plan year beginning after December 31, 2007.

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

(1) For purposes of section 430(j)(3) of the Internal Revenue Code of 1986 and section 303(j)(3) of the Employee Retirement Income Security Act of 1974, the plan shall be treated as not having a funding shortfall for any plan year.

(2) For purposes of—

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

(B) determining any present value or making any computation under section 412 of such Code or section 302 of such Act,

the mortality table shall be the mortality table used by the plan.

(3) Section 430(c)(5)(B) of such Code and section 303(c)(5)(B) of such Act (relating to phase-in of funding target for exemption from new shortfall amortization base) shall each be applied by substituting "2012" for "2011" therein and by substituting for the table therein the following:

"In the case of a plan year beginning in calendar year:	The applicable percentage is:
2008	90 percent
2009	92 percent
2010	94 percent
2011	96 percent.

(c) DEFINITIONS.—Any term used in this section which is also used in section 430 of such Code or section 303 of such Act shall have the meaning provided such term in such section. If the same term has a different meaning in such Code and such Act, such term shall, for purposes of this section, have the meaning provided by such Code when applied with respect to such Code and the meaning provided by such Act when applied with respect to such Act.

(d) SPECIAL RULE FOR 2006 AND 2007.—

(1) IN GENERAL.—Section 769(c)(3) of the Retirement Protection Act of 1994, as added by section 201 of the Pension Funding Equity Act of 2004, is amended by striking "and 2005" and inserting ", 2005, 2006, and 2007".

26 USC 412 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to plan years beginning after December 31, 2005.

26 USC 412 note.

(e) CONFORMING AMENDMENT.—

(1) Section 769 of the Retirement Protection Act of 1994 is amended by striking subsection (c).

(2) The amendment made by paragraph (1) shall take effect on December 31, 2007, and shall apply to plan years beginning after such date.

Effective date.
26 USC 412 note.

SEC. 116. RESTRICTIONS ON FUNDING OF NONQUALIFIED DEFERRED COMPENSATION PLANS BY EMPLOYERS MAINTAINING UNDERFUNDED OR TERMINATED SINGLE-EMPLOYER PLANS.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—Subsection (b) of section 409A of the Internal Revenue Code of 1986 (providing rules relating to funding) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

26 USC 409A.

"(3) TREATMENT OF EMPLOYER'S DEFINED BENEFIT PLAN DURING RESTRICTED PERIOD.—

"(A) IN GENERAL.—If—

"(i) during any restricted period with respect to a single-employer defined benefit plan, assets are set

aside or reserved (directly or indirectly) in a trust (or other arrangement as determined by the Secretary) or transferred to such a trust or other arrangement for purposes of paying deferred compensation of an applicable covered employee under a nonqualified deferred compensation plan of the plan sponsor or member of a controlled group which includes the plan sponsor, or

"(ii) a nonqualified deferred compensation plan of the plan sponsor or member of a controlled group which includes the plan sponsor provides that assets will become restricted to the provision of benefits under the plan in connection with such restricted period (or other similar financial measure determined by the Secretary) with respect to the defined benefit plan, or assets are so restricted,

such assets shall, for purposes of section 83, be treated as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors. Clause (i) shall not apply with respect to any assets which are so set aside before the restricted period with respect to the defined benefit plan.

"(B) RESTRICTED PERIOD.—For purposes of this section, the term 'restricted period' means, with respect to any plan described in subparagraph (A)—

"(i) any period during which the plan is in at-risk status (as defined in section 430(i));

"(ii) any period the plan sponsor is a debtor in a case under title 11, United States Code, or similar Federal or State law, and

"(iii) the 12-month period beginning on the date which is 6 months before the termination date of the plan if, as of the termination date, the plan is not sufficient for benefit liabilities (within the meaning of section 4041 of the Employee Retirement Income Security Act of 1974).

"(C) SPECIAL RULE FOR PAYMENT OF TAXES ON DEFERRED COMPENSATION INCLUDED IN INCOME.—If an employer provides directly or indirectly for the payment of any Federal, State, or local income taxes with respect to any compensation required to be included in gross income by reason of this paragraph—

"(i) interest shall be imposed under subsection (a)(1)(B)(i)(I) on the amount of such payment in the same manner as if such payment was part of the deferred compensation to which it relates,

"(ii) such payment shall be taken into account in determining the amount of the additional tax under subsection (a)(1)(B)(i)(II) in the same manner as if such payment was part of the deferred compensation to which it relates, and

"(iii) no deduction shall be allowed under this title with respect to such payment.

"(D) OTHER DEFINITIONS.—For purposes of this section—

"(i) APPLICABLE COVERED EMPLOYEE.—The term 'applicable covered employee' means any—

"(I) covered employee of a plan sponsor,

"(II) covered employee of a member of a controlled group which includes the plan sponsor, and

"(III) former employee who was a covered employee at the time of termination of employment with the plan sponsor or a member of a controlled group which includes the plan sponsor.

"(ii) COVERED EMPLOYEE.—The term 'covered employee' means an individual described in section 162(m)(3) or an individual subject to the requirements of section 16(a) of the Securities Exchange Act of 1934.".

(b) CONFORMING AMENDMENTS.—Paragraphs (4) and (5) of section 409A(b) of such Code, as redesignated by subsection (a) of this subsection, are each amended by striking "paragraph (1) or (2)" each place it appears and inserting "paragraph (1), (2), or (3)".

26 USC 409A note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers or other reservation of assets after the date of the enactment of this Act.

TITLE II—FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

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

SEC. 201. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

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

"MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS

29 USC 1084.

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

"(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this part applies to the plan) over the total credits to such account for such years, and

"(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243.

"(b) FUNDING STANDARD ACCOUNT.—

"(1) ACCOUNT REQUIRED.—Each multiemployer plan to which this part applies shall establish and maintain a funding

standard account. Such account shall be credited and charged solely as provided in this section.

"(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

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

"(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) in the case of a plan which comes into existence on or after January 1, 2008, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 15 plan years,

"(ii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

"(iii) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

"(iv) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

"(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 302(c)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

"(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 302(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006), and

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 302(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006).

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

"(A) the amount considered contributed by the employer to or under the plan for the plan year,

"(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

"(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

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

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

"(C) the amount of the waived funding deficiency (within the meaning of section 302(c)(3)) for the plan year, and

"(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 305 (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

"(4) SPECIAL RULE FOR AMOUNTS FIRST AMORTIZED IN PLAN YEARS BEFORE 2008.—In the case of any amount amortized under section 302(b) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006) over any period beginning with a plan year beginning before 2008, in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

Regulations.

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

"(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

"(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

Regulations.

"(6) INTEREST.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(7) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this part—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in

the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) as of the end of the last plan year that the plan was in reorganization.

"(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of this Act or to a fund exempt under section 501(c)(22) of the Internal Revenue Code of 1986 pursuant to section 4223 of this Act shall reduce the amount of contributions considered received by the plan for the plan year.

"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary of the Treasury. Regulations.

"(E) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 302(b)(7)(F) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(iii) shall not apply to the amount so charged).

"(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 302 in such manner as is determined by the Secretary of the Treasury.

"(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are not payable as a life annuity but are payable under the terms of the plan for a period that does not exceed 14 years from the effective date of the amendment, paragraph (2)(B)(ii) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

"(c) ADDITIONAL RULES.—

"(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

Regulations.

"(2) VALUATION OF ASSETS.—

"(A) IN GENERAL.—For purposes of this part, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary of the Treasury.

"(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary of the Treasury shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of such Secretary.

Applicability.
Regulations.

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

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

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

"(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) a change in the definition of the term 'wages' under section 3121 of the Internal Revenue Code of 1986, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5) of such Code,

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

"(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b) (2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

"(6) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

"(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be

directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

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

"(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1986).

"(D) CURRENT LIABILITY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

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

shall not be taken into account until the event on which the benefit is contingent occurs.

"(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

"(iv) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary of the Treasury which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986)

used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, such Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

"(I) IN GENERAL.—The Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

Applicability.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

Regulations.

"(vi) PERIODIC REVIEW.—The Secretary of the Treasury shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

"(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period

ending on the last day before the beginning of the plan year.

"(II) SECRETARIAL AUTHORITY.—If the Secretary of the Treasury finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, such Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

"(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

"(7) ANNUAL VALUATION.—

"(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary of the Treasury. Regulations.

"(B) VALUATION DATE.—

"(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year. Deadline.

"(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(8) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month

Regulations.

period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury.

"(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—

"(1) AUTOMATIC EXTENSION UPON APPLICATION BY CERTAIN PLANS.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan—

"(i) submits to the Secretary of the Treasury an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), and

"(ii) includes with the application a certification by the plan's actuary described in subparagraph (B),

the Secretary of the Treasury shall extend the amortization period for the period of time (not in excess of 5 years) specified in the application. Such extension shall be in addition to any extension under paragraph (2).

"(B) CRITERIA.—A certification with respect to a multiemployer plan is described in this subparagraph if the plan's actuary certifies that, based on reasonable assumptions—

"(i) absent the extension under subparagraph (A), the plan would have an accumulated funding deficiency in the current plan year or any of the 9 succeeding plan years,

"(ii) the plan sponsor has adopted a plan to improve the plan's funding status,

"(iii) the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended, and

Notification.

"(iv) the notice required under paragraph (3)(A) has been provided.

"(C) TERMINATION.—The preceding provisions of this paragraph shall not apply with respect to any application submitted after December 31, 2014.

"(2) ALTERNATIVE EXTENSION.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan submits to the Secretary of the Treasury an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), the Secretary of the Treasury may extend the amortization period for a period of time (not in excess of 10 years reduced by the number of years of any extension under paragraph (1) with respect to such unfunded liability) if the Secretary of the Treasury makes the determination described in subparagraph (B). Such extension shall be in addition to any extension under paragraph (1).

"(B) DETERMINATION.—The Secretary of the Treasury may grant an extension under subparagraph (A) if such Secretary determines that—

"(i) such extension would carry out the purposes of this Act and would provide adequate protection for

participants under the plan and their beneficiaries, and

"(ii) the failure to permit such extension would—

"(I) result in a substantial risk to the voluntary continuation of the plan, or a substantial curtailment of pension benefit levels or employee compensation, and

"(II) be adverse to the interests of plan participants in the aggregate.

"(C) ACTION BY SECRETARY OF THE TREASURY.—The Secretary of the Treasury shall act upon any application for an extension under this paragraph within 180 days of the submission of such application. If such Secretary rejects the application for an extension under this paragraph, such Secretary shall provide notice to the plan detailing the specific reasons for the rejection, including references to the criteria set forth above.

Deadline. Notification.

"(3) ADVANCE NOTICE.—

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

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(b) SHORTFALL FUNDING METHOD.—

29 USC 1084 note.

(1) IN GENERAL.—A multiemployer plan meeting the criteria of paragraph (2) may adopt, use, or cease using, the shortfall funding method and such adoption, use, or cessation of use of such method, shall be deemed approved by the Secretary of the Treasury under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(d)(1) of the Internal Revenue Code of 1986.

(2) CRITERIA.—A multiemployer pension plan meets the criteria of this clause if—

(A) the plan has not used the shortfall funding method during the 5-year period ending on the day before the date the plan is to use the method under paragraph (1); and

(B) the plan is not operating under an amortization period extension under section 304(d) of such Act and did not operate under such an extension during such 5-year period.

(3) SHORTFALL FUNDING METHOD DEFINED.—For purposes of this subsection, the term "shortfall funding method" means the shortfall funding method described in Treasury Regulations section 1.412(c)(1)–2 (26 CFR 1.412(c)(1)–2).

(4) BENEFIT RESTRICTIONS TO APPLY.—The benefit restrictions under section 302(c)(7) of such Act and section 412(c)(7) of such Code shall apply during any period a multiemployer

plan is on the shortfall funding method pursuant to this subsection.

(5) USE OF SHORTFALL METHOD NOT TO PRECLUDE OTHER OPTIONS.—Nothing in this subsection shall be construed to affect a multiemployer plan's ability to adopt the shortfall funding method with the Secretary's permission under otherwise applicable regulations or to affect a multiemployer plan's right to change funding methods, with or without the Secretary's consent, as provided in applicable rules and regulations.

(c) CONFORMING AMENDMENTS.—

(1) Section 301 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1081) is amended by striking subsection (d).

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

"Sec. 304. Minimum funding standards for multiemployer plans.".

29 USC 1081 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after 2007.

Applicability.

(2) SPECIAL RULE FOR CERTAIN AMORTIZATION EXTENSIONS.—If the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension (and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act, including the use of the rate of interest determined under section 6621(b) of such Code.

SEC. 202. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this Act) is amended by inserting after section 304 the following new section:

"ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS

29 USC 1085.

"SEC. 305. (a) GENERAL RULE.—For purposes of this part, in the case of a multiemployer plan in effect on July 16, 2006—

"(1) if the plan is in endangered status—

"(A) the plan sponsor shall adopt and implement a funding improvement plan in accordance with the requirements of subsection (c), and

Applicability.

"(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and

"(2) if the plan is in critical status—

"(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (e), and

Applicability.

"(B) the requirements of subsection (f) shall apply during the rehabilitation plan adoption period and the rehabilitation period.

"(b) DETERMINATION OF ENDANGERED AND CRITICAL STATUS.—For purposes of this section—

"(1) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and, as of the beginning of the plan year, either—

"(A) the plan's funded percentage for such plan year is less than 80 percent, or

"(B) the plan has an accumulated funding deficiency for such plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 304(d).

For purposes of this section, a plan shall be treated as in seriously endangered status for a plan year if the plan is described in both subparagraphs (A) and (B).

"(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

"(A) A plan is described in this subparagraph if—

"(i) the funded percentage of the plan is less than 65 percent, and

"(ii) the sum of—

"(I) the fair market value of plan assets, plus

"(II) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 6 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all nonforfeitable benefits projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

"(B) A plan is described in this subparagraph if—

"(i) the plan has an accumulated funding deficiency for the current plan year, not taking into account any extension of amortization periods under section 304(d), or

"(ii) the plan is projected to have an accumulated funding deficiency for any of the 3 succeeding plan years (4 succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any extension of amortization periods under section 304(d).

"(C) A plan is described in this subparagraph if—

"(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining costs under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

"(II) the present value of the reasonably anticipated employer and employee contributions for the current plan year,

"(ii) the present value, as of the beginning of the current plan year, of nonforfeitable benefits of inactive participants is greater than the present value of nonforfeitable benefits of active participants, and

"(iii) the plan has an accumulated funding deficiency for the current plan year, or is projected to have such a deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 304(d).

"(D) A plan is described in this subparagraph if the sum of—

"(i) the fair market value of plan assets, plus

"(ii) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

"(3) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

Deadline.

"(A) IN GENERAL.—Not later than the 90th day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary of the Treasury and to the plan sponsor—

"(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is or will be in critical status for such plan year, and

"(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

"(B) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

"(i) IN GENERAL.—In making the determinations and projections under this subsection, the plan actuary shall make projections required for the current and succeeding plan years of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The actuary's projections shall be based on reasonable actuarial estimates, assumptions, and methods that, except as provided in clause (iii), offer the actuary's best estimate of anticipated experience under the plan. The projected present value of liabilities as of the beginning of such year shall be determined based on the most recent of either—

"(I) the actuarial statement required under section 103(d) with respect to the most recently filed annual report, or

"(II) the actuarial valuation for the preceding plan year.

"(ii) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any actuarial projection of plan assets shall assume—

"(I) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

"(II) that employer contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make such assumption unreasonable.

"(iii) PROJECTED INDUSTRY ACTIVITY.—Any projection of activity in the industry or industries covered by the plan, including future covered employment and contribution levels, shall be based on information provided by the plan sponsor, which shall act reasonably and in good faith.

"(C) PENALTY FOR FAILURE TO SECURE TIMELY ACTUARIAL CERTIFICATION.—Any failure of the plan's actuary to certify the plan's status under this subsection by the date specified in subparagraph (A) shall be treated for purposes of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4). Reports.

"(D) NOTICE.—

"(i) IN GENERAL.—In any case in which it is certified under subparagraph (A) that a multiemployer plan is or will be in endangered or critical status for a plan year, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, and the Secretary. Deadline.

"(ii) PLANS IN CRITICAL STATUS.—If it is certified under subparagraph (A) that a multiemployer plan is or will be in critical status, the plan sponsor shall include in the notice under clause (i) an explanation of the possibility that—

"(I) adjustable benefits (as defined in subsection (e)(8)) may be reduced, and

"(II) such reductions may apply to participants and beneficiaries whose benefit commencement date is on or after the date such notice is provided for the first plan year in which the plan is in critical status.

"(iii) MODEL NOTICE.—The Secretary shall prescribe a model notice that a multiemployer plan may use to satisfy the requirements under clause (ii).

"(c) FUNDING IMPROVEMENT PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

Deadlines.

"(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor, in accordance with this subsection—

"(A) shall adopt a funding improvement plan not later than 240 days following the required date for the actuarial certification of endangered status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the funding improvement plan—

"(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the applicable benchmarks in accordance with the funding improvement plan, including—

"(I) one proposal for reductions in the amount of future benefit accruals necessary to achieve the applicable benchmarks, assuming no amendments increasing contributions under the plan (other than amendments increasing contributions necessary to achieve the applicable benchmarks after amendments have reduced future benefit accruals to the maximum extent permitted by law), and

"(II) one proposal for increases in contributions under the plan necessary to achieve the applicable benchmarks, assuming no amendments reducing future benefit accruals under the plan, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to achieving the applicable benchmarks in accordance with the funding improvement plan.

For purposes of this section, the term 'applicable benchmarks' means the requirements applicable to the multiemployer plan under paragraph (3) (as modified by paragraph (5)).

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a funding plan adoption period or funding improvement period by reason of the plan being in endangered status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial determination year with respect to the funding improvement plan to which it relates.

"(3) FUNDING IMPROVEMENT PLAN.—For purposes of this section—

"(A) IN GENERAL.—A funding improvement plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, formulated to provide, based on reasonably anticipated experience and reasonable actuarial assumptions, for the attainment by the plan during the funding improvement period of the following requirements:

"(i) INCREASE IN PLAN'S FUNDING PERCENTAGE.—The plan's funded percentage as of the close of the funding improvement period equals or exceeds a percentage equal to the sum of—

"(I) such percentage as of the beginning of such period, plus

"(II) 33 percent of the difference between 100 percent and the percentage under subclause (I).

"(ii) AVOIDANCE OF ACCUMULATED FUNDING DEFICIENCIES.—No accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 304(d)).

"(B) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, except as provided in paragraph (5), subparagraph (A)(i)(II) shall be applied by substituting '20 percent' for '33 percent'. Applicability.

"(4) FUNDING IMPROVEMENT PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

"(i) the second anniversary of the date of the adoption of the funding improvement plan, or

"(ii) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of endangered status for the initial determination year under subsection (b)(3)(A) and covering, as of such due date, at least 75 percent of the active participants in such multiemployer plan.

"(B) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, except as provided in paragraph (5), subparagraph (A) shall be applied by substituting '15-year period' for '10-year period'. Applicability.

"(C) COORDINATION WITH CHANGES IN STATUS.—

"(i) PLANS NO LONGER IN ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is no longer in endangered status and is not in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.

"(ii) PLANS IN CRITICAL STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the plan year preceding the first plan year in the rehabilitation period with respect to such status.

"(D) PLANS IN ENDANGERED STATUS AT END OF PERIOD.—If the plan's actuary certifies under subsection (b)(3)(A) for the first plan year following the close of the

period described in subparagraph (A) that the plan is in endangered status, the provisions of this subsection and subsection (d) shall be applied as if such first plan year were an initial determination year, except that the plan may not be amended in a manner inconsistent with the funding improvement plan in effect for the preceding plan year until a new funding improvement plan is adopted.

"(5) SPECIAL RULES FOR SERIOUSLY ENDANGERED PLANS MORE THAN 70 PERCENT FUNDED.—

"(A) IN GENERAL.—If the funded percentage of a plan in seriously endangered status was more than 70 percent as of the beginning of the initial determination year—

Applicability. Deadline.

"(i) paragraphs (3)(B) and (4)(B) shall apply only if the plan's actuary certifies, within 30 days after the certification under subsection (b)(3)(A) for the initial determination year, that, based on the terms of the plan and the collective bargaining agreements in effect at the time of such certification, the plan is not projected to meet the requirements of paragraph (3)(A) (without regard to paragraphs (3)(B) and (4)(B)), and

"(ii) if there is a certification under clause (i), the plan may, in formulating its funding improvement plan, only take into account the rules of paragraph (3)(B) and (4)(B) for plan years in the funding improvement period beginning on or before the date on which the last of the collective bargaining agreements described in paragraph (4)(A)(ii) expires.

"(B) SPECIAL RULE AFTER EXPIRATION OF AGREEMENTS.—Notwithstanding subparagraph (A)(ii), if, for any plan year ending after the date described in subparagraph (A)(ii), the plan actuary certifies (at the time of the annual certification under subsection (b)(3)(A) for such plan year) that, based on the terms of the plan and collective bargaining agreements in effect at the time of that annual certification, the plan is not projected to be able to meet the requirements of paragraph (3)(A) (without regard to paragraphs (3)(B) and (4)(B)), paragraphs (3)(B) and (4)(B) shall continue to apply for such year.

"(6) UPDATES TO FUNDING IMPROVEMENT PLAN AND SCHEDULES.—

"(A) FUNDING IMPROVEMENT PLAN.—The plan sponsor shall annually update the funding improvement plan and shall file the update with the plan's annual report under section 104.

"(B) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

"(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(7) IMPOSITION OF DEFAULT SCHEDULE WHERE FAILURE TO ADOPT FUNDING IMPROVEMENT PLAN.—

"(A) IN GENERAL.—If—

"(i) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered endangered status expires, and

"(ii) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to agree on changes to contribution or benefit schedules necessary to meet the applicable benchmarks in accordance with the funding improvement plan,

the plan sponsor shall implement the schedule described in paragraph (1)(B)(i)(I) beginning on the date specified in subparagraph (B).

"(B) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the earlier of the date—

"(i) on which the Secretary certifies that the parties are at an impasse, or

"(ii) which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) expires.

"(8) FUNDING PLAN ADOPTION PERIOD.—For purposes of this section, the term 'funding plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial determination year and ending on the day before the first day of the funding improvement period.

"(d) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS.—

"(1) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the funding plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law, and

"(C) in the case of a plan in seriously endangered status, the plan sponsor shall take all reasonable actions which are consistent with the terms of the plan and applicable law and which are expected, based on reasonable assumptions, to achieve—

"(i) an increase in the plan's funded percentage, and

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

Actions under subparagraph (C) include applications for extensions of amortization periods under section 304(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

"(2) COMPLIANCE WITH FUNDING IMPROVEMENT PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a funding improvement plan so as to be inconsistent with the funding improvement plan.

"(B) NO REDUCTION IN CONTRIBUTIONS.—A plan sponsor may not during any funding improvement period accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

"(C) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a funding improvement plan so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that the benefit increase is consistent with the funding improvement plan and is paid for out of contributions not required by the funding improvement plan to meet the applicable benchmark in accordance with the schedule contemplated in the funding improvement plan.

"(e) REHABILITATION PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

Deadlines.

"(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year, the plan sponsor, in accordance with this subsection—

"(A) shall adopt a rehabilitation plan not later than 240 days following the required date for the actuarial certification of critical status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the rehabilitation plan—

"(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to emerge from critical status in accordance with the rehabilitation plan, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to emerging from critical status in accordance with the rehabilitation plan.

The schedule or schedules described in subparagraph (B)(i) shall reflect reductions in future benefit accruals and adjustable

benefits, and increases in contributions, that the plan sponsor determines are reasonably necessary to emerge from critical status. One schedule shall be designated as the default schedule and such schedule shall assume that there are no increases in contributions under the plan other than the increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under section 204(g)) have been reduced to the maximum extent permitted by law.

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

"(3) REHABILITATION PLAN.—For purposes of this section—

"(A) IN GENERAL.—A rehabilitation plan is a plan which consists of—

"(i) actions, including options or a range of options to be proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures (including plan mergers and consolidations), reductions in future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

"(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures to emerge from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245).

Standards.

A rehabilitation plan must provide annual standards for meeting the requirements of such rehabilitation plan. Such plan shall also include the schedules required to be provided under paragraph (1)(B)(i) and if clause (ii) applies, shall set forth the alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

"(B) UPDATES TO REHABILITATION PLAN AND SCHEDULES.—

"(i) REHABILITATION PLAN.—The plan sponsor shall annually update the rehabilitation plan and shall file the update with the plan's annual report under section 104.

"(ii) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

"(iii) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(C) IMPOSITION OF DEFAULT SCHEDULE WHERE FAILURE TO ADOPT REHABILITATION PLAN.—

"(i) IN GENERAL.—If—

"(I) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered critical status expires, and

"(II) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to adopt a contribution or benefit schedules with terms consistent with the rehabilitation plan and the schedule from the plan sponsor under paragraph (1)(B)(i),

the plan sponsor shall implement the default schedule described in the last sentence of paragraph (1) beginning on the date specified in clause (ii).

"(ii) DATE OF IMPLEMENTATION.—The date specified in this clause is the earlier of the date—

"(I) on which the Secretary certifies that the parties are at an impasse, or

"(II) which is 180 days after the date on which the collective bargaining agreement described in clause (i) expires.

"(4) REHABILITATION PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multiemployer plan following the earlier of—

"(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

"(ii) the expiration of the collective bargaining agreements in effect on the date of the due date for the actuarial certification of critical status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

If a plan emerges from critical status as provided under subparagraph (B) before the end of such 10-year period, the rehabilitation period shall end with the plan year preceding the plan year for which the determination under subparagraph (B) is made.

"(B) EMERGENCE.—A plan in critical status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(3)(A), that the plan is not projected to have an accumulated funding deficiency for the plan year or any of the 9 succeeding plan years, without regard to the use of the shortfall method and taking into account any extension of amortization periods under section 304(d).

"(5) REHABILITATION PLAN ADOPTION PERIOD.—For purposes of this section, the term 'rehabilitation plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial critical year and ending on the day before the first day of the rehabilitation period.

"(6) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any reduction in the rate of future accruals under the default schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accruals below—

"(A) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

"(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the bargaining parties with alternative schedules to the default schedule that established lower or higher accrual and contribution rates than the rates otherwise described in this paragraph.

"(7) AUTOMATIC EMPLOYER SURCHARGE.—

"(A) IMPOSITION OF SURCHARGE.—Each employer otherwise obligated to make contributions for the initial critical year shall be obligated to pay to the plan for such year a surcharge equal to 5 percent of the contributions otherwise required under the applicable collective bargaining agreement (or other agreement pursuant to which the employer contributes). For each succeeding plan year in which the plan is in critical status for a consecutive period of years beginning with the initial critical year, the surcharge shall be 10 percent of the contributions otherwise so required.

"(B) ENFORCEMENT OF SURCHARGE.—The surcharges under subparagraph (A) shall be due and payable on the same schedule as the contributions on which the surcharges are based. Any failure to make a surcharge payment shall be treated as a delinquent contribution under section 515 and shall be enforceable as such.

"(C) SURCHARGE TO TERMINATE UPON COLLECTIVE BARGAINING AGREEMENT RENEGOTIATION.—The surcharge under this paragraph shall cease to be effective with respect to employees covered by a collective bargaining agreement (or other agreement pursuant to which the employer contributes), beginning on the effective date of a collective bargaining agreement (or other such agreement) that includes terms consistent with a schedule presented by the plan sponsor under paragraph (1)(B)(i), as modified under subparagraph (B) of paragraph (3).

"(D) SURCHARGE NOT TO APPLY UNTIL EMPLOYER RECEIVES NOTICE.—The surcharge under this paragraph shall not apply to an employer until 30 days after the employer has been notified by the plan sponsor that the plan is in critical status and that the surcharge is in effect.

"(E) SURCHARGE NOT TO GENERATE INCREASED BENEFIT ACCRUALS.—Notwithstanding any provision of a plan to the contrary, the amount of any surcharge under this paragraph shall not be the basis for any benefit accrual under the plan.

"(8) BENEFIT ADJUSTMENTS.—

"(A) ADJUSTABLE BENEFITS.—

"(i) IN GENERAL.—Notwithstanding section 204(g), the plan sponsor shall, subject to the notice requirements in subparagraph (C), make any reductions to adjustable benefits which the plan sponsor deems appropriate, based upon the outcome of collective bargaining over the schedule or schedules provided under paragraph (1)(B)(i).

"(ii) EXCEPTION FOR RETIREES.—Except in the case of adjustable benefits described in clause (iv)(III), the plan sponsor of a plan in critical status shall not reduce adjustable benefits of any participant or beneficiary whose benefit commencement date is before the date on which the plan provides notice to the participant or beneficiary under subsection (b)(3)(D) for the initial critical year.

"(iii) PLAN SPONSOR FLEXIBILITY.—The plan sponsor shall include in the schedules provided to the bargaining parties an allowance for funding the benefits of participants with respect to whom contributions are not currently required to be made, and shall reduce their benefits to the extent permitted under this title and considered appropriate by the plan sponsor based on the plan's then current overall funding status.

"(iv) ADJUSTABLE BENEFIT DEFINED.—For purposes of this paragraph, the term 'adjustable benefit' means—

"(I) benefits, rights, and features under the plan, including post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits,

"(II) any early retirement benefit or retirement-type subsidy (within the meaning of section 204(g)(2)(A)) and any benefit payment option (other than the qualified joint and survivor annuity), and

"(III) benefit increases that would not be eligible for a guarantee under section 4022A on the first day of initial critical year because the increases were adopted (or, if later, took effect) less than 60 months before such first day.

"(B) NORMAL RETIREMENT BENEFITS PROTECTED.—Except as provided in subparagraph (A)(iv)(III), nothing in this paragraph shall be construed to permit a plan

to reduce the level of a participant's accrued benefit payable at normal retirement age.

"(C) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—No reduction may be made to adjustable benefits under subparagraph (A) unless notice of such reduction has been given at least 30 days before the general effective date of such reduction for all participants and beneficiaries to— Deadline.

"(I) plan participants and beneficiaries,

"(II) each employer who has an obligation to contribute (within the meaning of section 4212(a)) under the plan, and

"(III) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(ii) CONTENT OF NOTICE.—The notice under clause (i) shall contain—

"(I) sufficient information to enable participants and beneficiaries to understand the effect of any reduction on their benefits, including an estimate (on an annual or monthly basis) of any affected adjustable benefit that a participant or beneficiary would otherwise have been eligible for as of the general effective date described in clause (i), and

"(II) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(iii) FORM AND MANNER.—Any notice under clause (i)—

"(I) shall be provided in a form and manner prescribed in regulations of the Secretary, Regulations.

"(II) shall be written in a manner so as to be understood by the average plan participant, and

"(III) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.

The Secretary shall in the regulations prescribed under subclause (I) establish a model notice that a plan sponsor may use to meet the requirements of this subparagraph. Regulations.

"(9) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—

"(A) BENEFIT REDUCTIONS.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201.

"(B) SURCHARGES.—Any surcharges under paragraph (7) shall be disregarded in determining an employer's withdrawal liability under section 4211, except for purposes of determining the unfunded vested benefits attributable to an employer under section 4211(c)(4) or a comparable method approved under section 4211(c)(5).

"(C) SIMPLIFIED CALCULATIONS.—The Pension Benefit Guaranty Corporation shall prescribe simplified methods for the application of this paragraph in determining withdrawal liability.

"(f) RULES FOR OPERATION OF PLAN DURING ADOPTION AND REHABILITATION PERIOD.—

"(1) COMPLIANCE WITH REHABILITATION PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

"(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

"(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

Effective date.

"(A) IN GENERAL.—Effective on the date the notice of certification of the plan's critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 204(g), the plan shall not pay—

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)),

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(iii) any other payment specified by the Secretary of the Treasury by regulations.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 203(e) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

"(3) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201.

"(4) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the rehabilitation plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation, and

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

"(g) EXPEDITED RESOLUTION OF PLAN SPONSOR DECISIONS.—If, within 60 days of the due date for adoption of a funding improvement plan or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not agreed on a funding improvement plan or rehabilitation plan, then any member of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan.

"(h) NONBARGAINED PARTICIPATION.—

"(1) BOTH BARGAINED AND NONBARGAINED EMPLOYEE-PARTICIPANTS.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are covered by one or more collective bargaining agreements and employees who are not so covered, if the plan is in endangered status or in critical status, benefits of and contributions for the nonbargained employees, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the first to expire of the employer's collective bargaining agreements in effect when the plan entered endangered or critical status.

"(2) NONBARGAINED EMPLOYEES ONLY.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining party, and its participation agreement with the plan were a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e).

"(i) DEFINITIONS; ACTUARIAL METHOD.—For purposes of this section—

"(1) BARGAINING PARTY.—The term 'bargaining party' means—

"(A)(i) except as provided in clause (ii), an employer who has an obligation to contribute under the plan; or

"(ii) in the case of a plan described under section 404(c) of the Internal Revenue Code of 1986, or a continuation of such a plan, the association of employers that is the employer settlor of the plan; and

"(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer who has an obligation to contribute under the plan.

"(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage equal to a fraction—

"(A) the numerator of which is the value of the plan's assets, as determined under section 304(c)(2), and

"(B) the denominator of which is the accrued liability of the plan, determined using actuarial assumptions described in section 304(c)(3).

"(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given such term in section 304(a).

"(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

"(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant, or the beneficiary or alternate payee of a participant, who—

"(A) is not in covered service under the plan, and

"(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

"(6) PAY STATUS.—A person is in pay status under a multiemployer plan if—

"(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

"(B) to the extent provided in regulations of the Secretary of the Treasury, such person is entitled to such a benefit under the plan.

"(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning given such term under section 4212(a).

"(8) ACTUARIAL METHOD.—Notwithstanding any other provision of this section, the actuary's determinations with respect to a plan's normal cost, actuarial accrued liability, and improvements in a plan's funded percentage under this section shall be based upon the unit credit funding method (whether or not that method is used for the plan's actuarial valuation).

"(9) PLAN SPONSOR.—In the case of a plan described under section 404(c) of the Internal Revenue Code of 1986, or a continuation of such a plan, the term 'plan sponsor' means the bargaining parties described under paragraph (1).

"(10) BENEFIT COMMENCEMENT DATE.—The term 'benefit commencement date' means the annuity starting date (or in the case of a retroactive annuity starting date, the date on which benefit payments begin).".

(b) ENFORCEMENT.—Section 502 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6) by striking "(6), or (7)" and inserting "(6), (7), or (8)";

(2) by redesignating subsection (c)(8) as subsection (c)(9); and

(3) by inserting after subsection (c)(7) the following new paragraph:

"(8) The Secretary may assess against any plan sponsor of a multiemployer plan a civil penalty of not more than $1,100 per day—

"(A) for each violation by such sponsor of the requirement under section 305 to adopt by the deadline established

in that section a funding improvement plan or rehabilitation plan with respect to a multiemployer which is in endangered or critical status, or

"(B) in the case of a plan in endangered status which is not in seriously endangered status, for failure by the plan to meet the applicable benchmarks under section 305 by the end of the funding improvement period with respect to the plan.".

(c) CAUSE OF ACTION TO COMPEL ADOPTION OR IMPLEMENTATION OF FUNDING IMPROVEMENT OR REHABILITATION PLAN.—Section 502(a) of the Employee Retirement Income Security Act of 1974 is amended by striking "or" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting "; or" and by adding at the end the following: 29 USC 1132.

"(10) in the case of a multiemployer plan that has been certified by the actuary to be in endangered or critical status under section 305, if the plan sponsor—

"(A) has not adopted a funding improvement or rehabilitation plan under that section by the deadline established in such section, or

"(B) fails to update or comply with the terms of the funding improvement or rehabilitation plan in accordance with the requirements of such section,

by an employer that has an obligation to contribute with respect to the multiemployer plan or an employee organization that represents active participants in the multiemployer plan, for an order compelling the plan sponsor to adopt a funding improvement or rehabilitation plan or to update or comply with the terms of the funding improvement or rehabilitation plan in accordance with the requirements of such section and the funding improvement or rehabilitation plan.".

(d) NO ADDITIONAL CONTRIBUTIONS REQUIRED.—Section 302(b) of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following new paragraph: 29 USC 1082.

"(3) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—Paragraph (1) shall not apply in the case of a multiemployer plan for any plan year in which the plan is in critical status pursuant to section 305. This paragraph shall only apply if the plan adopts a rehabilitation plan in accordance with section 305(e) and complies with the terms of such rehabilitation plan (and any updates or modifications of the plan).".

(e) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this Act) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Additional funding rules for multiemployer plans in endangered status or critical status.".

(f) EFFECTIVE DATES.— 29 USC 1082 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after 2007.

(2) SPECIAL RULE FOR CERTAIN NOTICES.—In any case in which a plan's actuary certifies that it is reasonably expected that a multiemployer plan will be in critical status under section 305(b)(3) of the Employee Retirement Income Security Act of 1974, as added by this section, with respect to the first plan year beginning after 2007, the notice required under

subparagraph (D) of such section may be provided at any time after the date of enactment, so long as it is provided on or before the last date for providing the notice under such subparagraph.

(3) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits,

the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on the providing or accrual of such benefits would otherwise apply by reason of such amendments.

SEC. 203. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.

(a) ADVANCE DETERMINATION OF IMPENDING INSOLVENCY OVER 5 YEARS.—Section 4245(d)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1426(d)(1)) is amended—

(1) by striking "3 plan years" the second place it appears and inserting "5 plan years"; and

(2) by adding at the end the following new sentence: "If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor shall make the comparison under this paragraph at least annually until the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.".

29 USC 1426 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to determinations made in plan years beginning after 2007.

SEC. 204. WITHDRAWAL LIABILITY REFORMS.

(a) UPDATE OF RULES RELATING TO LIMITATIONS ON WITHDRAWAL LIABILITY.—

(1) INCREASE IN LIMITS.—Section 4225(a)(2) of such Act (29 U.S.C. 1405(a)(2)) is amended by striking the table contained therein and inserting the following new table:

"If the liquidation or distribution value of the employer after the sale or exchange is—	The portion is—
Not more than $5,000,000	30 percent of the amount.
More than $5,000,000, but not more than $10,000,000	$1,500,000, plus 35 percent of the amount in excess of $5,000,000.
More than $10,000,000, but not more than $15,000,000	$3,250,000, plus 40 percent of the amount in excess of $10,000,000.
More than $15,000,000, but not more than $17,500,000	$5,250,000, plus 45 percent of the amount in excess of $15,000,000.
More than $17,500,000, but not more than $20,000,000	$6,375,000, plus 50 percent of the amount in excess of $17,500,000.

"If the liquidation or distribution value of the employer after the sale or exchange is—	The portion is—
More than $20,000,000, but not more than $22,500,000	$7,625,000, plus 60 percent of the amount in excess of $20,000,000.
More than $22,500,000, but not more than $25,000,000	$9,125,000, plus 70 percent of the amount in excess of $22,500,000.
More than $25,000,000	$10,875,000, plus 80 percent of the amount in excess of $25,000,000.".

(2) PLANS USING ATTRIBUTABLE METHOD.—Section 4225(a)(1)(B) of such Act (29 U.S.C. 1405(a)(1)(B)) is amended to read as follows:

"(B) in the case of a plan using the attributable method of allocating withdrawal liability, the unfunded vested benefits attributable to employees of the employer.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to sales occurring on or after January 1, 2007. 29 USC 1405 note.

(b) WITHDRAWAL LIABILITY CONTINUES IF WORK CONTRACTED OUT.—

(1) IN GENERAL.—Clause (i) of section 4205(b)(2)(A) of such Act (29 U.S.C. 1385(b)(2)(A)) is amended by inserting "or to an entity or entities owned or controlled by the employer" after "to another location".

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply with respect to work transferred on or after the date of the enactment of this Act. 29 USC 1385 note.

(c) APPLICATION OF RULES TO PLANS PRIMARILY COVERING EMPLOYEES IN THE BUILDING AND CONSTRUCTION INDUSTRY.—

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

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(2) FRESH START OPTION.—Section 4211(c)(5) of such Act (29 U.S.C. 1391(c)(5)) is amended by adding at the end the following new subparagraph:

"(E) FRESH START OPTION.—Notwithstanding paragraph (1), a plan may be amended to provide that the withdrawal liability method described in subsection (b) shall be applied by substituting the plan year which is specified in the amendment and for which the plan has no unfunded vested benefits for the plan year ending before September 26, 1980.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to plan withdrawals occurring on or after January 1, 2007. 29 USC 1390 note.

(d) PROCEDURES APPLICABLE TO DISPUTES INVOLVING PENSION PLAN WITHDRAWAL LIABILITY.—

(1) IN GENERAL.—Section 4221 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1401) is amended by adding at the end the following:

"(g) PROCEDURES APPLICABLE TO CERTAIN DISPUTES.—

"(1) IN GENERAL.—If—

"(A) a plan sponsor of a plan determines that—

"(i) a complete or partial withdrawal of an employer has occurred, or

"(ii) an employer is liable for withdrawal liability payments with respect to such complete or partial withdrawal, and

"(B) such determination is based in whole or in part on a finding by the plan sponsor under section 4212(c) that a principal purpose of any transaction which occurred after December 31, 1998, and at least 5 years (2 years in the case of a small employer) before the date of the complete or partial withdrawal was to evade or avoid withdrawal liability under this subtitle,

then the person against which the withdrawal liability is assessed based solely on the application of section 4212(c) may elect to use the special rule under paragraph (2) in applying subsection (d) of this section and section 4219(c) to such person.

"(2) SPECIAL RULE.—Notwithstanding subsection (d) and section 4219(c), if an electing person contests the plan sponsor's determination with respect to withdrawal liability payments under paragraph (1) through an arbitration proceeding pursuant to subsection (a), through an action brought in a court of competent jurisdiction for review of such an arbitration decision, or as otherwise permitted by law, the electing person shall not be obligated to make the withdrawal liability payments until a final decision in the arbitration proceeding, or in court, upholds the plan sponsor's determination, but only if the electing person—

"(A) provides notice to the plan sponsor of its election to apply the special rule in this paragraph within 90 days after the plan sponsor notifies the electing person of its liability by reason of the application of section 4212(c); and

"(B) if a final decision in the arbitration proceeding, or in court, of the withdrawal liability dispute has not been rendered within 12 months from the date of such notice, the electing person provides to the plan, effective as of the first day following the 12-month period, a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act, or an amount held in escrow by a bank or similar financial institution satisfactory to the plan, in an amount equal to the sum of the withdrawal liability payments that would otherwise be due under subsection (d) and section 4219(c) for the 12-month period beginning with the first anniversary of such notice. Such bond or escrow shall remain in effect until there is a final decision in the arbitration proceeding, or in court, of the withdrawal liability dispute, at which time such bond or escrow shall be paid to the plan if such final decision upholds the plan sponsor's determination.

"(3) DEFINITION OF SMALL EMPLOYER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'small employer' means any employer which, for the calendar year in which the transaction referred to in paragraph (1)(B) occurred and for each of the 3 preceding years, on average—

"(i) employs not more than 500 employees, and

"(ii) is required to make contributions to the plan for not more than 250 employees.

"(B) CONTROLLED GROUP.—Any group treated as a single employer under subsection (b)(1) of section 4001, without regard to any transaction that was a basis for the plan's finding under section 4212, shall be treated as a single employer for purposes of this subparagraph.

"(4) ADDITIONAL SECURITY PENDING RESOLUTION OF DISPUTE.—If a withdrawal liability dispute to which this subsection applies is not concluded by 12 months after the electing person posts the bond or escrow described in paragraph (2), the electing person shall, at the start of each succeeding 12-month period, provide an additional bond or amount held in escrow equal to the sum of the withdrawal liability payments that would otherwise be payable to the plan during that period.

"(5) The liability of the party furnishing a bond or escrow under this subsection shall be reduced, upon the payment of the bond or escrow to the plan, by the amount thereof.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any person that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1974 on or after the date of enactment of this Act with respect to a transaction that occurred after December 31, 1998. 29 USC 1401 note.

SEC. 205. PROHIBITION ON RETALIATION AGAINST EMPLOYERS EXERCISING THEIR RIGHTS TO PETITION THE FEDERAL GOVERNMENT.

Section 510 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1140) is amended by inserting before the last sentence thereof the following new sentence: "In the case of a multiemployer plan, it shall be unlawful for the plan sponsor or any other person to discriminate against any contributing employer for exercising rights under this Act or for giving information or testifying in any inquiry or proceeding relating to this Act before Congress.".

SEC. 206. SPECIAL RULE FOR CERTAIN BENEFITS FUNDED UNDER AN AGREEMENT APPROVED BY THE PENSION BENEFIT GUARANTY CORPORATION. 26 USC 412 note.

In the case of a multiemployer plan that is a party to an agreement that was approved by the Pension Benefit Guaranty Corporation prior to June 30, 2005, and that—

(1) increases benefits, and

(2) provides for special withdrawal liability rules under section 4203(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1383),

the amendments made by sections 201, 202, 211, and 212 of this Act shall not apply to the benefit increases under any plan amendment adopted prior to June 30, 2005, that are funded pursuant to such agreement if the plan is funded in compliance with such agreement (and any amendments thereto).

Subtitle B—Amendments to Internal Revenue Code of 1986

SEC. 211. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (as added by this Act) is amended by inserting after section 430 the following new section:

26 USC 431.

"SEC. 431. MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS.

"(a) IN GENERAL.—For purposes of section 412, the accumulated funding deficiency of a multiemployer plan for any plan year is—

"(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this part applies to the plan) over the total credits to such account for such years, and

"(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243 of the Employee Retirement Income Security Act of 1974.

"(b) FUNDING STANDARD ACCOUNT.—

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

"(2) CHARGES TO ACCOUNT.—For a plan year, the funding standard account shall be charged with the sum of—

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

"(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) in the case of a plan which comes into existence on or after January 1, 2008, the unfunded past service liability under the plan on the first day of the first plan year to which this section applies, over a period of 15 plan years,

"(ii) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

"(iii) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

"(iv) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

"(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 412(c)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

"(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan

years any amount credited to the funding standard account under section 412(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006), and

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 412(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006).

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

"(A) the amount considered contributed by the employer to or under the plan for the plan year,

"(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

"(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

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

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

"(C) the amount of the waived funding deficiency (within the meaning of section 412(c)(3)) for the plan year, and

"(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 412(g) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

"(4) SPECIAL RULE FOR AMOUNTS FIRST AMORTIZED IN PLAN YEARS BEFORE 2008.—In the case of any amount amortized under section 412(b) (as in effect on the day before the date of the enactment of the Pension Protection Act of 2006) over any period beginning with a plan year beginning before 2008 in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

"(5) COMBINING AND OFFSETTING AMOUNTS TO BE AMORTIZED.—Under regulations prescribed by the Secretary, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be— Regulations.

"(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

"(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

"(6) INTEREST.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(7) SPECIAL RULES RELATING TO CHARGES AND CREDITS TO FUNDING STANDARD ACCOUNT.—For purposes of this part—

"(A) WITHDRAWAL LIABILITY.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) ADJUSTMENTS WHEN A MULTIEMPLOYER PLAN LEAVES REORGANIZATION.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) of such Act as of the end of the last plan year that the plan was in reorganization.

"(C) PLAN PAYMENTS TO SUPPLEMENTAL PROGRAM OR WITHDRAWAL LIABILITY PAYMENT FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

Regulations.

"(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

"(E) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 412(b)(7)(F) (as in effect on the day before the

date of the enactment of the Pension Protection Act of 2006) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(iii) shall not apply to the amount so charged).

"(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 412 in such manner as is determined by the Secretary.

Applicability.

"(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are not payable as a life annuity but are payable under the terms of the plan for a period that does not exceed 14 years from the effective date of the amendment, paragraph (2)(B)(ii) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

"(c) ADDITIONAL RULES.—

"(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan. I22

"(2) VALUATION OF ASSETS.—

Regulations.

"(A) IN GENERAL.—For purposes of this part, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary.

Regulations.
Applicability.

"(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of the Secretary.

"(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

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

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

"(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) a change in the definition of the term 'wages' under section 3121, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5),

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

"(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b)(2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

"(6) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

"(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

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

"(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3)).

"(D) CURRENT LIABILITY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

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

shall not be taken into account until the event on which the benefit is contingent occurs.

"(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

"(iv) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

"(I) IN GENERAL.—The Secretary shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder. Applicability.

"(vi) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the Regulations.

extent such Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

"(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

"(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

"(7) ANNUAL VALUATION.—

Regulations.

"(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.

"(B) VALUATION DATE.—

"(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

"(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100

percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(8) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary. Deadline.

"(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—

"(1) AUTOMATIC EXTENSION UPON APPLICATION BY CERTAIN PLANS.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan—

"(i) submits to the Secretary an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), and

"(ii) includes with the application a certification by the plan's actuary described in subparagraph (B),

the Secretary shall extend the amortization period for the period of time (not in excess of 5 years) specified in the application. Such extension shall be in addition to any extension under paragraph (2).

"(B) CRITERIA.—A certification with respect to a multiemployer plan is described in this subparagraph if the plan's actuary certifies that, based on reasonable assumptions— Certification.

"(i) absent the extension under subparagraph (A), the plan would have an accumulated funding deficiency in the current plan year or any of the 9 succeeding plan years,

"(ii) the plan sponsor has adopted a plan to improve the plan's funding status,

"(iii) the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended, and

"(iv) the notice required under paragraph (3)(A) has been provided.

"(C) TERMINATION.—The preceding provisions of this paragraph shall not apply with respect to any application submitted after December 31, 2014.

"(2) ALTERNATIVE EXTENSION.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan submits to the Secretary an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), the Secretary may extend the amortization period for a period of time (not in excess of 10 years reduced by the number of years of any extension under paragraph (1) with respect to such unfunded liability) if the Secretary makes the determination described in subparagraph (B). Such extension shall be in addition to any extension under paragraph (1).

"(B) DETERMINATION.—The Secretary may grant an extension under subparagraph (A) if the Secretary determines that—

"(i) such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries, and

"(ii) the failure to permit such extension would—

"(I) result in a substantial risk to the voluntary continuation of the plan, or a substantial curtailment of pension benefit levels or employee compensation, and

"(II) be adverse to the interests of plan participants in the aggregate.

Deadline.

"(C) ACTION BY SECRETARY.—The Secretary shall act upon any application for an extension under this paragraph within 180 days of the submission of such application. If the Secretary rejects the application for an extension under this paragraph, the Secretary shall provide notice to the plan detailing the specific reasons for the rejection, including references to the criteria set forth above.

"(3) ADVANCE NOTICE.—

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

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

26 USC 431 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after 2007.

Deadline.
Applicability.

(2) SPECIAL RULE FOR CERTAIN AMORTIZATION EXTENSIONS.—If the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension

(and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act, including the use of the rate of interest determined under section 6621(b) of such Code.

SEC. 212. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (as amended by this Act) is amended by inserting after section 431 the following new section:

"SEC. 432. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS. 26 USC 432.

"(a) GENERAL RULE.—For purposes of this part, in the case of a multiemployer plan in effect on July 16, 2006—

"(1) if the plan is in endangered status—

"(A) the plan sponsor shall adopt and implement a funding improvement plan in accordance with the requirements of subsection (c), and

"(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and Applicability.

"(2) if the plan is in critical status—

"(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (e), and

"(B) the requirements of subsection (f) shall apply during the rehabilitation plan adoption period and the rehabilitation period. Applicability.

"(b) DETERMINATION OF ENDANGERED AND CRITICAL STATUS.—For purposes of this section—

"(1) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and, as of the beginning of the plan year, either—

"(A) the plan's funded percentage for such plan year is less than 80 percent, or

"(B) the plan has an accumulated funding deficiency for such plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 431(d).

For purposes of this section, a plan shall be treated as in seriously endangered status for a plan year if the plan is described in both subparagraphs (A) and (B).

"(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

"(A) A plan is described in this subparagraph if—

"(i) the funded percentage of the plan is less than 65 percent, and

"(ii) the sum of—

"(I) the fair market value of plan assets, plus

"(II) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 6 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all nonforfeitable benefits projected to be payable under the plan during the current plan year and each of the 6 succeeding plan years (plus administrative expenses for such plan years).

"(B) A plan is described in this subparagraph if—

"(i) the plan has an accumulated funding deficiency for the current plan year, not taking into account any extension of amortization periods under section 431(d), or

"(ii) the plan is projected to have an accumulated funding deficiency for any of the 3 succeeding plan years (4 succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any extension of amortization periods under section 431(d).

"(C) A plan is described in this subparagraph if—

"(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining costs under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

"(II) the present value of the reasonably anticipated employer and employee contributions for the current plan year,

"(ii) the present value, as of the beginning of the current plan year, of nonforfeitable benefits of inactive participants is greater than the present value of nonforfeitable benefits of active participants, and

"(iii) the plan has an accumulated funding deficiency for the current plan year, or is projected to have such a deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

"(D) A plan is described in this subparagraph if the sum of—

"(i) the fair market value of plan assets, plus

"(ii) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

"(3) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

"(A) IN GENERAL.—Not later than the 90th day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary and to the plan sponsor— Deadline.

"(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is or will be in critical status for such plan year, and

"(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

"(B) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

"(i) IN GENERAL.—In making the determinations and projections under this subsection, the plan actuary shall make projections required for the current and succeeding plan years of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The actuary's projections shall be based on reasonable actuarial estimates, assumptions, and methods that, except as provided in clause (iii), offer the actuary's best estimate of anticipated experience under the plan. The projected present value of liabilities as of the beginning of such year shall be determined based on the most recent of either—

"(I) the actuarial statement required under section 103(d) of the Employee Retirement Income Security Act of 1974 with respect to the most recently filed annual report, or

"(II) the actuarial valuation for the preceding plan year.

"(ii) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any actuarial projection of plan assets shall assume—

"(I) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

"(II) that employer contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make such assumption unreasonable.

"(iii) PROJECTED INDUSTRY ACTIVITY.—Any projection of activity in the industry or industries covered by the plan, including future covered employment and contribution levels, shall be based on information provided by the plan sponsor, which shall act reasonably and in good faith.

"(C) PENALTY FOR FAILURE TO SECURE TIMELY ACTUARIAL CERTIFICATION.—Any failure of the plan's actuary to certify the plan's status under this subsection by the date specified in subparagraph (A) shall be treated for

purposes of section 502(c)(2) of the Employee Retirement Income Security Act of 1974 as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4) of such Act.

"(D) NOTICE.—

Deadline.

"(i) IN GENERAL.—In any case in which it is certified under subparagraph (A) that a multiemployer plan is or will be in endangered or critical status for a plan year, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, and the Secretary of Labor.

"(ii) PLANS IN CRITICAL STATUS.—If it is certified under subparagraph (A) that a multiemployer plan is or will be in critical status, the plan sponsor shall include in the notice under clause (i) an explanation of the possibility that—

"(I) adjustable benefits (as defined in subsection (e)(8)) may be reduced, and

"(II) such reductions may apply to participants and beneficiaries whose benefit commencement date is on or after the date such notice is provided for the first plan year in which the plan is in critical status.

"(iii) MODEL NOTICE.—The Secretary of Labor shall prescribe a model notice that a multiemployer plan may use to satisfy the requirements under clause (ii).

"(c) FUNDING IMPROVEMENT PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

Deadlines.

"(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor, in accordance with this subsection—

"(A) shall adopt a funding improvement plan not later than 240 days following the required date for the actuarial certification of endangered status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the funding improvement plan—

"(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the applicable benchmarks in accordance with the funding improvement plan, including—

"(I) one proposal for reductions in the amount of future benefit accruals necessary to achieve the applicable benchmarks, assuming no amendments increasing contributions under the plan (other than amendments increasing contributions necessary to achieve the applicable benchmarks after amendments have reduced future benefit accruals to the maximum extent permitted by law), and

"(II) one proposal for increases in contributions under the plan necessary to achieve the applicable benchmarks, assuming no amendments reducing future benefit accruals under the plan, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to achieving the applicable benchmarks in accordance with the funding improvement plan.

For purposes of this section, the term 'applicable benchmarks' means the requirements applicable to the multiemployer plan under paragraph (3) (as modified by paragraph (5)).

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a funding plan adoption period or funding improvement period by reason of the plan being in endangered status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial determination year with respect to the funding improvement plan to which it relates.

"(3) FUNDING IMPROVEMENT PLAN.—For purposes of this section—

"(A) IN GENERAL.—A funding improvement plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, formulated to provide, based on reasonably anticipated experience and reasonable actuarial assumptions, for the attainment by the plan during the funding improvement period of the following requirements:

"(i) INCREASE IN PLAN'S FUNDING PERCENTAGE.—The plan's funded percentage as of the close of the funding improvement period equals or exceeds a percentage equal to the sum of—

"(I) such percentage as of the beginning of such period, plus

"(II) 33 percent of the difference between 100 percent and the percentage under subclause (I).

"(ii) AVOIDANCE OF ACCUMULATED FUNDING DEFICIENCIES.—No accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 304(d)).

"(B) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, except as provided in paragraph (5), subparagraph (A)(i)(II) shall be applied by substituting '20 percent' for '33 percent'.

"(4) FUNDING IMPROVEMENT PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

"(i) the second anniversary of the date of the adoption of the funding improvement plan, or

Expiration date.

"(ii) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of endangered status for the initial determination year under subsection (b)(3)(A) and covering, as of such due date, at least 75 percent of the active participants in such multiemployer plan.

Applicability.

"(B) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, except as provided in paragraph (5), subparagraph (A) shall be applied by substituting '15-year period' for '10-year period'.

Termination dates.

"(C) COORDINATION WITH CHANGES IN STATUS.—

"(i) PLANS NO LONGER IN ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is no longer in endangered status and is not in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.

"(ii) PLANS IN CRITICAL STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the plan year preceding the first plan year in the rehabilitation period with respect to such status.

"(D) PLANS IN ENDANGERED STATUS AT END OF PERIOD.—If the plan's actuary certifies under subsection (b)(3)(A) for the first plan year following the close of the period described in subparagraph (A) that the plan is in endangered status, the provisions of this subsection and subsection (d) shall be applied as if such first plan year were an initial determination year, except that the plan may not be amended in a manner inconsistent with the funding improvement plan in effect for the preceding plan year until a new funding improvement plan is adopted.

"(5) SPECIAL RULES FOR SERIOUSLY ENDANGERED PLANS MORE THAN 70 PERCENT FUNDED.—

"(A) IN GENERAL.—If the funded percentage of a plan in seriously endangered status was more than 70 percent as of the beginning of the initial determination year—

"(i) paragraphs (3)(B) and (4)(B) shall apply only if the plan's actuary certifies, within 30 days after the certification under subsection (b)(3)(A) for the initial determination year, that, based on the terms of the plan and the collective bargaining agreements in effect at the time of such certification, the plan is not projected to meet the requirements of paragraph (3)(A) (without regard to paragraphs (3)(B) and (4)(B)), and

"(ii) if there is a certification under clause (i), the plan may, in formulating its funding improvement plan, only take into account the rules of paragraph (3)(B) and (4)(B) for plan years in the funding improvement period beginning on or before the date on which

the last of the collective bargaining agreements described in paragraph (4)(A)(ii) expires.

"(B) SPECIAL RULE AFTER EXPIRATION OF AGREEMENTS.—Notwithstanding subparagraph (A)(ii), if, for any plan year ending after the date described in subparagraph (A)(ii), the plan actuary certifies (at the time of the annual certification under subsection (b)(3)(A) for such plan year) that, based on the terms of the plan and collective bargaining agreements in effect at the time of that annual certification, the plan is not projected to be able to meet the requirements of paragraph (3)(A) (without regard to paragraphs (3)(B) and (4)(B)), paragraphs (3)(B) and (4)(B) shall continue to apply for such year.

"(6) UPDATES TO FUNDING IMPROVEMENT PLANS AND SCHEDULES.—

"(A) FUNDING IMPROVEMENT PLAN.—The plan sponsor shall annually update the funding improvement plan and shall file the update with the plan's annual report under section 104 of the Employee Retirement Income Security Act of 1974.

"(B) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

"(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(7) IMPOSITION OF DEFAULT SCHEDULE WHERE FAILURE TO ADOPT FUNDING IMPROVEMENT PLAN.—

"(A) IN GENERAL.—If—

"(i) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered endangered status expires, and

"(ii) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to agree on changes to contribution or benefit schedules necessary to meet the applicable benchmarks in accordance with the funding improvement plan,

the plan sponsor shall implement the schedule described in paragraph (1)(B)(i)(I) beginning on the date specified in subparagraph (B).

"(B) DATE OF IMPLEMENTATION.—The date specified in this subparagraph is the earlier of the date—

"(i) on which the Secretary of Labor certifies that the parties are at an impasse, or

"(ii) which is 180 days after the date on which the collective bargaining agreement described in subparagraph (A) expires.

"(8) FUNDING PLAN ADOPTION PERIOD.—For purposes of this section, the term 'funding plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial determination year and ending on the day before the first day of the funding improvement period.

"(d) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS.—

"(1) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the funding plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law, and

"(C) in the case of a plan in seriously endangered status, the plan sponsor shall take all reasonable actions which are consistent with the terms of the plan and applicable law and which are expected, based on reasonable assumptions, to achieve—

"(i) an increase in the plan's funded percentage, and

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

Actions under subparagraph (C) include applications for extensions of amortization periods under section 431(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

"(2) COMPLIANCE WITH FUNDING IMPROVEMENT PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a funding improvement plan so as to be inconsistent with the funding improvement plan.

"(B) NO REDUCTION IN CONTRIBUTIONS.—A plan sponsor may not during any funding improvement period accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

"(C) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of

a funding improvement plan so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that the benefit increase is consistent with the funding improvement plan and is paid for out of contributions not required by the funding improvement plan to meet the applicable benchmark in accordance with the schedule contemplated in the funding improvement plan.

"(e) REHABILITATION PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

"(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year, the plan sponsor, in accordance with this subsection— Deadlines.

"(A) shall adopt a rehabilitation plan not later than 240 days following the required date for the actuarial certification of critical status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the rehabilitation plan—

"(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to emerge from critical status in accordance with the rehabilitation plan, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to emerging from critical status in accordance with the rehabilitation plan.

The schedule or schedules described in subparagraph (B)(i) shall reflect reductions in future benefit accruals and adjustable benefits, and increases in contributions, that the plan sponsor determines are reasonably necessary to emerge from critical status. One schedule shall be designated as the default schedule and such schedule shall assume that there are no increases in contributions under the plan other than the increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under section 411(d)(6)) have been reduced to the maximum extent permitted by law.

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

"(3) REHABILITATION PLAN.—For purposes of this section—

"(A) IN GENERAL.—A rehabilitation plan is a plan which consists of—

"(i) actions, including options or a range of options to be proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures

(including plan mergers and consolidations), reductions in future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

"(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures to emerge from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245 of the Employee Retirement Income Security Act of 1974).

A rehabilitation plan must provide annual standards for meeting the requirements of such rehabilitation plan. Such plan shall also include the schedules required to be provided under paragraph (1)(B)(i) and if clause (ii) applies, shall set forth the alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

"(B) UPDATES TO REHABILITATION PLAN AND SCHEDULES.—

"(i) REHABILITATION PLAN.—The plan sponsor shall annually update the rehabilitation plan and shall file the update with the plan's annual report under section 104 of the Employee Retirement Income Security Act of 1974.

"(ii) SCHEDULES.—The plan sponsor shall annually update any schedule of contribution rates provided under this subsection to reflect the experience of the plan.

"(iii) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(C) IMPOSITION OF DEFAULT SCHEDULE WHERE FAILURE TO ADOPT REHABILITATION PLAN.—

"(i) IN GENERAL.—If—

"(I) a collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered critical status expires, and

"(II) after receiving one or more schedules from the plan sponsor under paragraph (1)(B), the bargaining parties with respect to such agreement fail to adopt a contribution or benefit schedules with terms consistent with the rehabilitation plan and the schedule from the plan sponsor under paragraph (1)(B)(i),

the plan sponsor shall implement the default schedule described in the last sentence of paragraph (1) beginning on the date specified in clause (ii).

"(ii) DATE OF IMPLEMENTATION.—The date specified in this clause is the earlier of the date—

"(I) on which the Secretary of Labor certifies that the parties are at an impasse, or

"(II) which is 180 days after the date on which the collective bargaining agreement described in clause (i) expires.

"(4) REHABILITATION PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multiemployer plan following the earlier of—

"(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

"(ii) the expiration of the collective bargaining agreements in effect on the date of the due date for the actuarial certification of critical status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

If a plan emerges from critical status as provided under subparagraph (B) before the end of such 10-year period, the rehabilitation period shall end with the plan year preceding the plan year for which the determination under subparagraph (B) is made.

"(B) EMERGENCE.—A plan in critical status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(3)(A), that the plan is not projected to have an accumulated funding deficiency for the plan year or any of the 9 succeeding plan years, without regard to the use of the shortfall method and taking into account any extension of amortization periods under section 431(d).

"(5) REHABILITATION PLAN ADOPTION PERIOD.—For purposes of this section, the term 'rehabilitation plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial critical year and ending on the day before the first day of the rehabilitation period.

"(6) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any reduction in the rate of future accruals under the default schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accruals below—

"(A) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

"(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the bargaining parties with alternative

schedules to the default schedule that established lower or higher accrual and contribution rates than the rates otherwise described in this paragraph.

"(7) AUTOMATIC EMPLOYER SURCHARGE.—

"(A) IMPOSITION OF SURCHARGE.—Each employer otherwise obligated to make a contribution for the initial critical year shall be obligated to pay to the plan for such year a surcharge equal to 5 percent of the contribution otherwise required under the applicable collective bargaining agreement (or other agreement pursuant to which the employer contributes). For each succeeding plan year in which the plan is in critical status for a consecutive period of years beginning with the initial critical year, the surcharge shall be 10 percent of the contribution otherwise so required.

"(B) ENFORCEMENT OF SURCHARGE.—The surcharges under subparagraph (A) shall be due and payable on the same schedule as the contributions on which the surcharges are based. Any failure to make a surcharge payment shall be treated as a delinquent contribution under section 515 of the Employee Retirement Income Security Act of 1974 and shall be enforceable as such.

Termination date.

"(C) SURCHARGE TO TERMINATE UPON COLLECTIVE BARGAINING AGREEMENT RENEGOTIATION.—The surcharge under this paragraph shall cease to be effective with respect to employees covered by a collective bargaining agreement (or other agreement pursuant to which the employer contributes), beginning on the effective date of a collective bargaining agreement (or other such agreement) that includes terms consistent with a schedule presented by the plan sponsor under paragraph (1)(B)(i), as modified under subparagraph (B) of paragraph (3).

Effective date.

"(D) SURCHARGE NOT TO APPLY UNTIL EMPLOYER RECEIVES NOTICE.—The surcharge under this paragraph shall not apply to an employer until 30 days after the employer has been notified by the plan sponsor that the plan is in critical status and that the surcharge is in effect.

"(E) SURCHARGE NOT TO GENERATE INCREASED BENEFIT ACCRUALS.—Notwithstanding any provision of a plan to the contrary, the amount of any surcharge under this paragraph shall not be the basis for any benefit accrual under the plan.

"(8) BENEFIT ADJUSTMENTS.—

"(A) ADJUSTABLE BENEFITS.—

"(i) IN GENERAL.—Notwithstanding section 204(g), the plan sponsor shall, subject to the notice requirement under subparagraph (C), make any reductions to adjustable benefits which the plan sponsor deems appropriate, based upon the outcome of collective bargaining over the schedule or schedules provided under paragraph (1)(B)(i).

"(ii) EXCEPTION FOR RETIREES.—Except in the case of adjustable benefits described in clause (iv)(III), the plan sponsor of a plan in critical status shall not reduce adjustable benefits of any participant or beneficiary whose benefit commencement date is before the date on which the plan provides notice to the participant

or beneficiary under subsection (b)(3)(D) for the initial critical year.

"(iii) PLAN SPONSOR FLEXIBILITY.—The plan sponsor shall include in the schedules provided to the bargaining parties an allowance for funding the benefits of participants with respect to whom contributions are not currently required to be made, and shall reduce their benefits to the extent permitted under this title and considered appropriate by the plan sponsor based on the plan's then current overall funding status.

"(iv) ADJUSTABLE BENEFIT DEFINED.—For purposes of this paragraph, the term 'adjustable benefit' means—

"(I) benefits, rights, and features under the plan, including post-retirement death benefits, 60-month guarantees, disability benefits not yet in pay status, and similar benefits,

"(II) any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)) and any benefit payment option (other than the qualified joint and survivor annuity), and

"(III) benefit increases that would not be eligible for a guarantee under section 4022A of the Employee Retirement Income Security Act of 1974 on the first day of initial critical year because the increases were adopted (or, if later, took effect) less than 60 months before such first day.

"(B) NORMAL RETIREMENT BENEFITS PROTECTED.—Except as provided in subparagraph (A)(iv)(III), nothing in this paragraph shall be construed to permit a plan to reduce the level of a participant's accrued benefit payable at normal retirement age.

"(C) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—No reduction may be made to adjustable benefits under subparagraph (A) unless notice of such reduction has been given at least 30 days before the general effective date of such reduction for all participants and beneficiaries to—

"(I) plan participants and beneficiaries,

"(II) each employer who has an obligation to contribute (within the meaning of section 4212(a)) under the plan, and

"(III) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

"(ii) CONTENT OF NOTICE.—The notice under clause (i) shall contain—

"(I) sufficient information to enable participants and beneficiaries to understand the effect of any reduction on their benefits, including an estimate (on an annual or monthly basis) of any affected adjustable benefit that a participant or beneficiary would otherwise have been eligible for as of the general effective date described in clause (i), and

"(II) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

"(iii) FORM AND MANNER.—Any notice under clause (i)—

"(I) shall be provided in a form and manner prescribed in regulations of the Secretary of Labor,

"(II) shall be written in a manner so as to be understood by the average plan participant, and

"(III) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.

The Secretary of Labor shall in the regulations prescribed under subclause (I) establish a model notice that a plan sponsor may use to meet the requirements of this subparagraph.

"(9) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—

"(A) BENEFIT REDUCTIONS.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

"(B) SURCHARGES.—Any surcharges under paragraph (7) shall be disregarded in determining an employer's withdrawal liability under section 4211 of such Act, except for purposes of determining the unfunded vested benefits attributable to an employer under section 4211(c)(4) of such Act or a comparable method approved under section 4211(c)(5) of such Act.

Applicability.

"(C) SIMPLIFIED CALCULATIONS.—The Pension Benefit Guaranty Corporation shall prescribe simplified methods for the application of this paragraph in determining withdrawal liability.

"(f) RULES FOR OPERATION OF PLAN DURING ADOPTION AND REHABILITATION PERIOD.—

"(1) COMPLIANCE WITH REHABILITATION PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

"(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

"(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

"(A) IN GENERAL.—Effective on the date the notice of certification of the plan's critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 411(d)(6), the plan shall not pay— Effective date.

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(b)(1)(A)),

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(iii) any other payment specified by the Secretary by regulations.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 411(a)(11) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

"(3) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

"(4) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the rehabilitation plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation, and

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law.

"(g) EXPEDITED RESOLUTION OF PLAN SPONSOR DECISIONS.—If, within 60 days of the due date for adoption of a funding improvement plan or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not agreed on a funding improvement plan or rehabilitation plan, then any member of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan. Deadline.

"(h) NONBARGAINED PARTICIPATION.—

"(1) BOTH BARGAINED AND NONBARGAINED EMPLOYEE-PARTICIPANTS.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are covered by one or more collective bargaining agreements

and employees who are not so covered, if the plan is in endangered status or in critical status, benefits of and contributions for the nonbargained employees, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the first to expire of the employer's collective bargaining agreements in effect when the plan entered endangered or critical status.

"(2) NONBARGAINED EMPLOYEES ONLY.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining party, and its participation agreement with the plan were a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e).

"(i) DEFINITIONS; ACTUARIAL METHOD.—For purposes of this section—

"(1) BARGAINING PARTY.—The term 'bargaining party' means—

"(A)(i) except as provided in clause (ii), an employer who has an obligation to contribute under the plan; or

"(ii) in the case of a plan described under section 404(c), or a continuation of such a plan, the association of employers that is the employer settlor of the plan; and

"(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer who has an obligation to contribute under the plan.

"(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage equal to a fraction—

"(A) the numerator of which is the value of the plan's assets, as determined under section 431(c)(2), and

"(B) the denominator of which is the accrued liability of the plan, determined using actuarial assumptions described in section 431(c)(3).

"(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given such term in section 412(a).

"(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

"(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant, or the beneficiary or alternate payee of a participant, who—

"(A) is not in covered service under the plan, and

"(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

"(6) PAY STATUS.—A person is in pay status under a multiemployer plan if—

"(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

"(B) to the extent provided in regulations of the Secretary, such person is entitled to such a benefit under the plan.

"(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning given such term under section 4212(a) of the Employee Retirement Income Security Act of 1974.

"(8) ACTUARIAL METHOD.—Notwithstanding any other provision of this section, the actuary's determinations with respect to a plan's normal cost, actuarial accrued liability, and improvements in a plan's funded percentage under this section shall be based upon the unit credit funding method (whether or not that method is used for the plan's actuarial valuation).

"(9) PLAN SPONSOR.—In the case of a plan described under section 404(c), or a continuation of such a plan, the term 'plan sponsor' means the bargaining parties described under paragraph (1).

"(10) BENEFIT COMMENCEMENT DATE.—The term 'benefit commencement date' means the annuity starting date (or in the case of a retroactive annuity starting date, the date on which benefit payments begin)."

(b) EXCISE TAXES ON FAILURES RELATING TO MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.—

(1) IN GENERAL.—Section 4971 of the Internal Revenue Code of 1986 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following: 26 USC 4971.

"(g) MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.—

"(1) IN GENERAL.—Except as provided in this subsection—

"(A) no tax shall be imposed under this section for a taxable year with respect to a multiemployer plan if, for the plan years ending with or within the taxable year, the plan is in critical status pursuant to section 432, and

"(B) any tax imposed under this subsection for a taxable year with respect to a multiemployer plan if, for the plan years ending with or within the taxable year, the plan is in endangered status pursuant to section 432 shall be in addition to any other tax imposed by this section.

"(2) FAILURE TO COMPLY WITH FUNDING IMPROVEMENT OR REHABILITATION PLAN.—

"(A) IN GENERAL.—If any funding improvement plan or rehabilitation plan in effect under section 432 with respect to a multiemployer plan requires an employer to make a contribution to the plan, there is hereby imposed a tax on each failure of the employer to make the required contribution within the time required under such plan.

"(B) AMOUNT OF TAX.—The amount of the tax imposed by subparagraph (A) shall be equal to the amount of the required contribution the employer failed to make in a timely manner.

"(C) LIABILITY FOR TAX.—The tax imposed by subparagraph (A) shall be paid by the employer responsible for contributing to or under the rehabilitation plan which fails to make the contribution.

"(3) FAILURE TO MEET REQUIREMENTS FOR PLANS IN ENDANGERED OR CRITICAL STATUS.—If—

"(A) a plan which is in seriously endangered status fails to meet the applicable benchmarks by the end of the funding improvement period, or

"(B) a plan which is in critical status either—

"(i) fails to meet the requirements of section 432(e) by the end of the rehabilitation period, or

"(ii) has received a certification under section 432(b)(3)(A)(ii) for 3 consecutive plan years that the plan is not making the scheduled progress in meeting its requirements under the rehabilitation plan,

the plan shall be treated as having an accumulated funding deficiency for purposes of this section for the last plan year in such funding improvement, rehabilitation, or 3-consecutive year period (and each succeeding plan year until such benchmarks or requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such benchmarks or requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

"(4) FAILURE TO ADOPT REHABILITATION PLAN.—

"(A) IN GENERAL.—In the case of a multiemployer plan which is in critical status, there is hereby imposed a tax on the failure of such plan to adopt a rehabilitation plan within the time prescribed under section 432.

"(B) AMOUNT OF TAX.—The amount of the tax imposed under subparagraph (A) with respect to any plan sponsor for any taxable year shall be the greater of—

"(i) the amount of tax imposed under subsection (a) for the taxable year (determined without regard to this subsection), or

"(ii) the amount equal to $1,100 multiplied by the number of days during the taxable year which are included in the period beginning on the first day of the 240-day period described in section 432(e)(1)(A) and ending on the day on which the rehabilitation plan is adopted.

"(C) LIABILITY FOR TAX.—

"(i) IN GENERAL.—The tax imposed by subparagraph (A) shall be paid by each plan sponsor.

"(ii) PLAN SPONSOR.—For purposes of clause (i), the term 'plan sponsor' in the case of a multiemployer plan means the association, committee, joint board of trustees, or other similar group of representatives of the parties who establish or maintain the plan.

"(5) WAIVER.—In the case of a failure described in paragraph (2) or (3) which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by this subsection. For purposes of this paragraph, reasonable cause includes unanticipated and material market fluctuations, the loss of a significant contributing employer, or other factors to the extent that the payment of tax under this subsection with respect to the failure would be excessive or otherwise inequitable relative to the failure involved.

"(6) TERMS USED IN SECTION 432.—For purposes of this subsection, any term used in this subsection which is also used in section 432 shall have the meaning given such term by section 432.".

(2) CONTROLLED GROUPS.—Section 4971(c)(2) of such Code is amended— 26 USC 4971.

(A) by striking "In the case of a plan other than a multiemployer plan, if the" and inserting "If an", and

(B) by striking "or (f)" and inserting "(f), or (g)".

(c) NO ADDITIONAL CONTRIBUTION REQUIRED.—Section 412(b) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph: 26 USC 412.

"(3) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—Paragraph (1) shall not apply in the case of a multiemployer plan for any plan year in which the plan is in critical status pursuant to section 432. This paragraph shall only apply if the plan adopts a rehabilitation plan in accordance with section 432(e) and complies with such rehabilitation plan (and any modifications of the plan).".

(d) CLERICAL AMENDMENT.—The table of sections for subpart A of part III of subchapter D of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 432. Additional funding rules for multiemployer plans in endangered status or critical status.".

(e) EFFECTIVE DATES.— 26 USC 412 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to plan years beginning after 2007.

(2) SPECIAL RULE FOR CERTAIN NOTICES.—In any case in which a plan's actuary certifies that it is reasonably expected that a multiemployer plan will be in critical status under section 305(b)(3) of the Employee Retirement Income Security Act of 1974, as added by this section, with respect to the first plan year beginning after 2007, the notice required under subparagraph (D) of such section may be provided at any time after the date of enactment, so long as it is provided on or before the last date for providing the notice under such subparagraph.

(3) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits,

the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on the providing or accrual of such benefits would otherwise apply by reason of such amendments.

SEC. 213. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.

(a) ADVANCE DETERMINATION OF IMPENDING INSOLVENCY OVER 5 YEARS.—Section 418E(d)(1) of the Internal Revenue Code of 1986 is amended—

(1) by striking "3 plan years" the second place it appears and inserting "5 plan years"; and

(2) by adding at the end the following new sentence: "If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan

sponsor shall make the comparison under this paragraph at least annually until the plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.".

26 USC 418E note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the determinations made in plan years beginning after 2007.

26 USC 4971 note.

SEC. 214. EXEMPTION FROM EXCISE TAXES FOR CERTAIN MULTIEMPLOYER PENSION PLANS.

(a) IN GENERAL.—Notwithstanding any other provision of law, no tax shall be imposed under subsection (a) or (b) of section 4971 of the Internal Revenue Code of 1986 with respect to any accumulated funding deficiency of a plan described in subsection (b) of this section for any taxable year beginning before the earlier of—

(1) the taxable year in which the plan sponsor adopts a rehabilitation plan under section 305(e) of the Employee Retirement Income Security Act of 1974 and section 432(e) of such Code (as added by this Act); or

(2) the taxable year that contains January 1, 2009.

(b) PLAN DESCRIBED.—A plan described under this subsection is a multiemployer pension plan—

(1) with less than 100 participants;

(2) with respect to which the contributing employers participated in a Federal fishery capacity reduction program;

(3) with respect to which employers under the plan participated in the Northeast Fisheries Assistance Program; and

(4) with respect to which the annual normal cost is less than $100,000 and the plan is experiencing a funding deficiency on the date of enactment of this Act.

Subtitle C—Sunset of Additional Funding Rules

SEC. 221. SUNSET OF ADDITIONAL FUNDING RULES.

(a) REPORT.—Not later than December 31, 2011, the Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall conduct a study of the effect of the amendments made by this subtitle on the operation and funding status of multiemployer plans and shall report the results of such study, including any recommendations for legislation, to the Congress.

(b) MATTERS INCLUDED IN STUDY.—The study required under subsection (a) shall include—

(1) the effect of funding difficulties, funding rules in effect before the date of the enactment of this Act, and the amendments made by this subtitle on small businesses participating in multiemployer plans,

(2) the effect on the financial status of small employers of—

(A) funding targets set in funding improvement and rehabilitation plans and associated contribution increases,

(B) funding deficiencies,

(C) excise taxes,

(D) withdrawal liability,

(E) the possibility of alternative schedules and procedures for financially troubled employers, and

(F) other aspects of the multiemployer system, and

(3) the role of the multiemployer pension plan system in helping small employers to offer pension benefits.

(c) SUNSET.— 26 USC 412 note.

(1) IN GENERAL.—Except as provided in this subsection, notwithstanding any other provision of this Act, the provisions of, and the amendments made by, sections 201(b), 202, and 212 shall not apply to plan years beginning after December 31, 2014.

(2) FUNDING IMPROVEMENT AND REHABILITATION PLANS.—If a plan is operating under a funding improvement or rehabilitation plan under section 305 of such Act or 432 of such Code for its last year beginning before January 1, 2015, such plan shall continue to operate under such funding improvement or rehabilitation plan during any period after December 31, 2014, such funding improvement or rehabilitation plan is in effect and all provisions of such Act or Code relating to the operation of such funding improvement or rehabilitation plan shall continue in effect during such period.

TITLE III—INTEREST RATE ASSUMPTIONS

SEC. 301. EXTENSION OF REPLACEMENT OF 30-YEAR TREASURY RATES.

(a) AMENDMENTS OF ERISA.—

(1) DETERMINATION OF RANGE.—Subclause (II) of section 302(b)(5)(B)(ii) of the Employee Retirement Income Security Act of 1974 is amended— 29 USC 1082.

(A) by striking "2006" and inserting "2008", and

(B) by striking "**AND 2005**" in the heading and inserting "**, 2005, 2006, AND 2007**".

(2) DETERMINATION OF CURRENT LIABILITY.—Subclause (IV) of section 302(d)(7)(C)(i) of such Act is amended—

(A) by striking "or 2005" and inserting ", 2005, 2006, or 2007", and

(B) by striking "**AND 2005**" in the heading and inserting "**, 2005, 2006, AND 2007**".

(3) PBGC PREMIUM RATE.—Subclause (V) of section 4006(a)(3)(E)(iii) of such Act is amended by striking "2006" and inserting "2008". 29 USC 1306.

(b) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) DETERMINATION OF RANGE.—Subclause (II) of section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended— 26 USC 412.

(A) by striking "2006" and inserting "2008", and

(B) by striking "**AND 2005**" in the heading and inserting "**, 2005, 2006, AND 2007**".

(2) DETERMINATION OF CURRENT LIABILITY.—Subclause (IV) of section 412(l)(7)(C)(i) of such Code is amended—

(A) by striking "or 2005" and inserting ", 2005, 2006, or 2007", and

(B) by striking "**AND 2005**" in the heading and inserting "**, 2005, 2006, AND 2007**".

29 USC 1082.

(c) PLAN AMENDMENTS.—Clause (ii) of section 101(c)(2)(A) of the Pension Funding Equity Act of 2004 is amended by striking "2006" and inserting "2008".

SEC. 302. INTEREST RATE ASSUMPTION FOR DETERMINATION OF LUMP SUM DISTRIBUTIONS.

(a) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Paragraph (3) of section 205(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(g)(3)) is amended to read as follows:

"(3)(A) For purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(B) For purposes of subparagraph (A)—

"(i) The term 'applicable mortality table' means a mortality table, modified as appropriate by the Secretary of the Treasury, based on the mortality table specified for the plan year under subparagraph (A) of section 303(h)(3) (without regard to subparagraph (C) or (D) of such section).

"(ii) The term 'applicable interest rate' means the adjusted first, second, and third segment rates applied under rules similar to the rules of section 303(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary of the Treasury may by regulations prescribe.

"(iii) For purposes of clause (ii), the adjusted first, second, and third segment rates are the first, second, and third segment rates which would be determined under section 303(h)(2)(C) if—

"(I) section 303(h)(2)(D) were applied by substituting the average yields for the month described in clause (ii) for the average yields for the 24-month period described in such section,

"(II) section 303(h)(2)(G)(i)(II) were applied by substituting 'section 205(g)(3)(B)(iii)(II)' for 'section 302(b)(5)(B)(ii)(II)', and

"(III) the applicable percentage under section 303(h)(2)(G) were determined in accordance with the following table:

"In the case of plan years beginning in:	The applicable percentage is:
2008	20 percent
2009	40 percent
2010	60 percent
2011	80 percent.".

26 USC 417.

(b) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Paragraph (3) of section 417(e) of the Internal Revenue Code of 1986 is amended to read as follows:

"(3) DETERMINATION OF PRESENT VALUE.—

"(A) IN GENERAL.—For purposes of paragraphs (1) and (2), the present value shall not be less than the present value calculated by using the applicable mortality table and the applicable interest rate.

"(B) APPLICABLE MORTALITY TABLE.—For purposes of subparagraph (A), the term 'applicable mortality table' means a mortality table, modified as appropriate by the

Secretary, based on the mortality table specified for the plan year under subparagraph (A) of section 430(h)(3) (without regard to subparagraph (C) or (D) of such section).

"(C) APPLICABLE INTEREST RATE.—For purposes of subparagraph (A), the term 'applicable interest rate' means the adjusted first, second, and third segment rates applied under rules similar to the rules of section 430(h)(2)(C) for the month before the date of the distribution or such other time as the Secretary may by regulations prescribe.

"(D) APPLICABLE SEGMENT RATES.—For purposes of subparagraph (C), the adjusted first, second, and third segment rates are the first, second, and third segment rates which would be determined under section 430(h)(2)(C) if—

"(i) section 430(h)(2)(D) were applied by substituting the average yields for the month described in clause (ii) for the average yields for the 24-month period described in such section,

"(ii) section 430(h)(2)(G)(i)(II) were applied by substituting 'section 417(e)(3)(A)(ii)(II)' for 'section 412(b)(5)(B)(ii)(II)', and

"(iii) the applicable percentage under section 430(h)(2)(G) were determined in accordance with the following table:

"In the case of plan years beginning in:	The applicable percentage is:
2008	20 percent
2009	40 percent
2010	60 percent
2011	80 percent.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after December 31, 2007. 26 USC 417 note.

SEC. 303. INTEREST RATE ASSUMPTION FOR APPLYING BENEFIT LIMITATIONS TO LUMP SUM DISTRIBUTIONS.

(a) IN GENERAL.—Clause (ii) of section 415(b)(2)(E) of the Internal Revenue Code of 1986 is amended to read as follows: 26 USC 415.

"(ii) For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3), the interest rate assumption shall not be less than the greatest of—

"(I) 5.5 percent,

"(II) the rate that provides a benefit of not more than 105 percent of the benefit that would be provided if the applicable interest rate (as defined in section 417(e)(3)) were the interest rate assumption, or

"(III) the rate specified under the plan.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to distributions made in years beginning after December 31, 2005. 26 USC 415 note.

TITLE IV—PBGC GUARANTEE AND RELATED PROVISIONS

SEC. 401. PBGC PREMIUMS.

(a) VARIABLE-RATE PREMIUMS.—

(1) CONFORMING AMENDMENTS RELATED TO FUNDING RULES FOR SINGLE-EMPLOYER PLANS.—Section 4006(a)(3)(E) of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1306(a)(3)(E)) is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii) For purposes of clause (ii), the term 'unfunded vested benefits' means, for a plan year, the excess (if any) of—

"(I) the funding target of the plan as determined under section 303(d) for the plan year by only taking into account vested benefits and by using the interest rate described in clause (iv), over

"(II) the fair market value of plan assets for the plan year which are held by the plan on the valuation date.

"(iv) The interest rate used in valuing benefits for purposes of subclause (I) of clause (iii) shall be equal to the first, second, or third segment rate for the month preceding the month in which the plan year begins, which would be determined under section 303(h)(2)(C) if section 303(h)(2)(D) were applied by using the monthly yields for the month preceding the month in which the plan year begins on investment grade corporate bonds with varying maturities and in the top 3 quality levels rather than the average of such yields for a 24-month period.".

29 USC 1306 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to plan years beginning after 2007.

(b) TERMINATION PREMIUMS.—

(1) REPEAL OF SUNSET PROVISION.—Subparagraph (E) of section 4006(a)(7) of such Act is repealed.

(2) TECHNICAL CORRECTION.—

(A) IN GENERAL.—Section 4006(a)(7)(C)(ii) of such Act is amended by striking "subparagraph (B)(i)(I)" and inserting "subparagraph (B)".

29 USC 1306 note.

(B) EFFECTIVE DATE.—The amendment made by this paragraph shall take effect as if included in the provision of the Deficit Reduction Act of 2005 to which it relates.

26 USC 430 note.

SEC. 402. SPECIAL FUNDING RULES FOR CERTAIN PLANS MAINTAINED BY COMMERCIAL AIRLINES.

(a) IN GENERAL.—The plan sponsor of an eligible plan may elect to either—

(1) have the rules of subsection (b) apply, or

(2) have section 303 of the Employee Retirement Income Security Act of 1974 and section 430 of the Internal Revenue Code of 1986 applied to its first taxable year beginning in 2008 by amortizing the shortfall amortization base for such taxable year over a period of 10 plan years (rather than 7 plan years) beginning with such plan year.

(b) ALTERNATIVE FUNDING SCHEDULE.—

(1) IN GENERAL.—If an election is made under subsection (a)(1) to have this subsection apply to an eligible plan and the requirements of paragraphs (2) and (3) are met with respect to the plan—

(A) in the case of any applicable plan year beginning before January 1, 2008, the plan shall not have an accumulated funding deficiency for purposes of section 302 of the Employee Retirement Income Security Act of 1974 and sections 412 and 4971 of the Internal Revenue Code of 1986 if contributions to the plan for the plan year are not less than the minimum required contribution determined under subsection (e) for the plan for the plan year, and

(B) in the case of any applicable plan year beginning on or after January 1, 2008, the minimum required contribution determined under sections 303 of such Act and 430 of such Code shall, for purposes of sections 302 and 303 of such Act and sections 412, 430, and 4971 of such Code, be equal to the minimum required contribution determined under subsection (e) for the plan for the plan year.

(2) ACCRUAL RESTRICTIONS.—

(A) IN GENERAL.—The requirements of this paragraph are met if, effective as of the first day of the first applicable plan year and at all times thereafter while an election under this section is in effect, the plan provides that—

(i) the accrued benefit, any death or disability benefit, and any social security supplement described in the last sentence of section 411(a)(9) of such Code and section 204(b)(1)(G) of such Act, of each participant are frozen at the amount of such benefit or supplement immediately before such first day, and

(ii) all other benefits under the plan are eliminated,

but only to the extent the freezing or elimination of such benefits would have been permitted under section 411(d)(6) of such Code and section 204(g) of such Act if they had been implemented by a plan amendment adopted immediately before such first day.

(B) INCREASES IN SECTION 415 LIMITS.—If a plan provides that an accrued benefit of a participant which has been subject to any limitation under section 415 of such Code will be increased if such limitation is increased, the plan shall not be treated as meeting the requirements of this section unless, effective as of the first day of the first applicable plan year (or, if later, the date of the enactment of this Act) and at all times thereafter while an election under this section is in effect, the plan provides that any such increase shall not take effect. A plan shall not fail to meet the requirements of section 411(d)(6) of such Code and section 204(g) of such Act solely because the plan is amended to meet the requirements of this subparagraph.

(3) RESTRICTION ON APPLICABLE BENEFIT INCREASES.—

(A) IN GENERAL.—The requirements of this paragraph are met if no applicable benefit increase takes effect at any time during the period beginning on July 26, 2005, and ending on the day before the first day of the first applicable plan year.

(B) APPLICABLE BENEFIT INCREASE.—For purposes of this paragraph, the term "applicable benefit increase" means, with respect to any plan year, any increase in

liabilities of the plan by plan amendment (or otherwise provided in regulations provided by the Secretary) which, but for this paragraph, would occur during the plan year by reason of—

(i) any increase in benefits,

(ii) any change in the accrual of benefits, or

(iii) any change in the rate at which benefits become nonforfeitable under the plan.

(4) EXCEPTION FOR IMPUTED DISABILITY SERVICE.—Paragraphs (2) and (3) shall not apply to any accrual or increase with respect to imputed service provided to a participant during any period of the participant's disability occurring on or after the effective date of the plan amendment providing the restrictions under paragraph (2) (or on or after July 26, 2005, in the case of the restrictions under paragraph (3)) if the participant—

(A) was receiving disability benefits as of such date, or

(B) was receiving sick pay and subsequently determined to be eligible for disability benefits as of such date.

(c) DEFINITIONS.—For purposes of this section—

(1) ELIGIBLE PLAN.—The term "eligible plan" means a defined benefit plan (other than a multiemployer plan) to which sections 302 of such Act and 412 of such Code applies which is sponsored by an employer—

(A) which is a commercial airline passenger airline, or

(B) the principal business of which is providing catering services to a commercial passenger airline.

(2) APPLICABLE PLAN YEAR.—The term "applicable plan year" means each plan year to which the election under subsection (a)(1) applies under subsection (d)(1)(A).

(d) ELECTIONS AND RELATED TERMS.—

Deadlines.

(1) YEARS FOR WHICH ELECTION MADE.—

(A) ALTERNATIVE FUNDING SCHEDULE.—If an election under subsection (a)(1) was made with respect to an eligible plan, the plan sponsor may select either a plan year beginning in 2006 or a plan year beginning in 2007 as the first plan year to which such election applies. The election shall apply to such plan year and all subsequent years. The election shall be made—

(i) not later than December 31, 2006, in the case of an election for a plan year beginning in 2006, or

(ii) not later than December 31, 2007, in the case of an election for a plan year beginning in 2007.

(B) 10 YEAR AMORTIZATION.—An election under subsection (a)(2) shall be made not later than December 31, 2007.

(C) ELECTION OF NEW PLAN YEAR FOR ALTERNATIVE FUNDING SCHEDULE.—In the case of an election under subsection (a)(1), the plan sponsor may specify a new plan year in such election and the plan year of the plan may be changed to such new plan year without the approval of the Secretary of the Treasury.

(2) MANNER OF ELECTION.—A plan sponsor shall make any election under subsection (a) in such manner as the Secretary

of the Treasury may prescribe. Such election, once made, may be revoked only with the consent of such Secretary.

(e) MINIMUM REQUIRED CONTRIBUTION.—In the case of an eligible plan with respect to which an election is made under subsection (a)(1)—

(1) IN GENERAL.—In the case of any applicable plan year during the amortization period, the minimum required contribution shall be the amount necessary to amortize the unfunded liability of the plan, determined as of the first day of the plan year, in equal annual installments (until fully amortized) over the remainder of the amortization period. Such amount shall be separately determined for each applicable plan year.

(2) YEARS AFTER AMORTIZATION PERIOD.—In the case of any plan year beginning after the end of the amortization period, section 302(a)(2)(A) of such Act and section 412(a)(2)(A) of such Code shall apply to such plan, but the prefunding balance and funding standard carryover balance as of the first day of the first of such years under section 303(f) of such Act and section 430(f) of such Code shall be zero.

(3) DEFINITIONS.—For purposes of this section—

(A) UNFUNDED LIABILITY.—The term "unfunded liability" means the unfunded accrued liability under the plan, determined under the unit credit funding method.

(B) AMORTIZATION PERIOD.—The term "amortization period" means the 17-plan year period beginning with the first applicable plan year.

(4) OTHER RULES.—In determining the minimum required contribution and amortization amount under this subsection—

Applicability.

(A) the provisions of section 302(c)(3) of such Act and section 412(c)(3) of such Code, as in effect before the date of enactment of this section, shall apply,

(B) a rate of interest of 8.85 percent shall be used for all calculations requiring an interest rate, and

(C) the value of plan assets shall be equal to their fair market value.

(5) SPECIAL RULE FOR CERTAIN PLAN SPINOFFS.—For purposes of subsection (b), if, with respect to any eligible plan to which this subsection applies—

(A) any applicable plan year includes the date of the enactment of this Act,

(B) a plan was spun off from the eligible plan during the plan year but before such date of enactment,

the minimum required contribution under paragraph (1) for the eligible plan for such applicable plan year shall be an aggregate amount determined as if the plans were a single plan for that plan year (based on the full 12-month plan year in effect prior to the spin-off). The employer shall designate the allocation of such aggregate amount between such plans for the applicable plan year.

(f) SPECIAL RULES FOR CERTAIN BALANCES AND WAIVERS.—In the case of an eligible plan with respect to which an election is made under subsection (a)(1)—

(1) FUNDING STANDARD ACCOUNT AND CREDIT BALANCES.—Any charge or credit in the funding standard account under section 302 of such Act or section 412 of such Code, and any prefunding balance or funding standard carryover balance

under section 303 of such Act or section 430 of such Code, as of the day before the first day of the first applicable plan year, shall be reduced to zero.

(2) WAIVED FUNDING DEFICIENCIES.—Any waived funding deficiency under sections 302 and 303 of such Act or section 412 of such Code, as in effect before the date of enactment of this section, shall be deemed satisfied as of the first day of the first applicable plan year and the amount of such waived funding deficiency shall be taken into account in determining the plan's unfunded liability under subsection (e)(3)(A). In the case of a plan amendment adopted to satisfy the requirements of subsection (b)(2), the plan shall not be deemed to violate section 304(b) of such Act or section 412(f) of such Code, as so in effect, by reason of such amendment or any increase in benefits provided to such plan's participants under a separate plan that is a defined contribution plan or a multiemployer plan.

(g) OTHER RULES FOR PLANS MAKING ELECTION UNDER THIS SECTION.—

(1) SUCCESSOR PLANS TO CERTAIN PLANS.—If—

(A) an election under paragraph (1) or (2) of subsection (a) is in effect with respect to any eligible plan, and

(B) the eligible plan is maintained by an employer that establishes or maintains 1 or more other defined benefit plans (other than any multiemployer plan), and such other plans in combination provide benefit accruals to any substantial number of successor employees,

the Secretary of the Treasury may, in the Secretary's discretion, determine that any trust of which any other such plan is a part does not constitute a qualified trust under section 401(a) of the Internal Revenue Code of 1986 unless all benefit obligations of the eligible plan have been satisfied. For purposes of this paragraph, the term "successor employee" means any employee who is or was covered by the eligible plan and any employees who perform substantially the same type of work with respect to the same business operations as an employee covered by such eligible plan.

(2) SPECIAL RULES FOR TERMINATIONS.—

(A) PBGC LIABILITY LIMITED.—Section 4022 of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following new subsection:

29 USC 1322.

"(h) SPECIAL RULE FOR PLANS ELECTING CERTAIN FUNDING REQUIREMENTS.—If any plan makes an election under section 402(a)(1) of the Pension Protection Act of 2006 and is terminated effective before the end of the 10-year period beginning on the first day of the first applicable plan year—

"(1) this section shall be applied—

"(A) by treating the first day of the first applicable plan year as the termination date of the plan, and

"(B) by determining the amount of guaranteed benefits on the basis of plan assets and liabilities as of such assumed termination date, and

"(2) notwithstanding section 4044(a), plan assets shall first be allocated to pay the amount, if any, by which—

"(A) the amount of guaranteed benefits under this section (determined without regard to paragraph (1) and on

the basis of plan assets and liabilities as of the actual date of plan termination), exceeds

"(B) the amount determined under paragraph (1).".

(B) TERMINATION PREMIUM.—In applying section 4006(a)(7)(A) of the Employee Retirement Income Security Act of 1974 to an eligible plan during any period in which an election under subsection (a)(1) is in effect—

(i) "$2,500" shall be substituted for "$1,250" in such section if such plan terminates during the 5-year period beginning on the first day of the first applicable plan year with respect to such plan, and

(ii) such section shall be applied without regard to subparagraph (B) of section 8101(d)(2) of the Deficit Reduction Act of 2005 (relating to special rule for plans terminated in bankruptcy). Applicability.

The substitution described in clause (i) shall not apply with respect to any plan if the Secretary of Labor determines that such plan terminated as a result of extraordinary circumstances such as a terrorist attack or other similar event.

(3) LIMITATION ON DEDUCTIONS UNDER CERTAIN PLANS.—Section 404(a)(7)(C)(iv) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to any taxable year of a plan sponsor of an eligible plan if any applicable plan year with respect to such plan ends with or within such taxable year.

(4) NOTICE.—In the case of a plan amendment adopted in order to comply with this section, any notice required under section 204(h) of such Act or section 4980F(e) of such Code shall be provided within 15 days of the effective date of such plan amendment. This subsection shall not apply to any plan unless such plan is maintained pursuant to one or more collective bargaining agreements between employee representatives and 1 or more employers. Deadline.

(h) EXCLUSION OF CERTAIN EMPLOYEES FROM MINIMUM COVERAGE REQUIREMENTS.—

(1) IN GENERAL.—Section 410(b)(3) of such Code is amended by striking the last sentence and inserting the following: "For purposes of subparagraph (B), management pilots who are not represented in accordance with title II of the Railway Labor Act shall be treated as covered by a collective bargaining agreement described in such subparagraph if the management pilots manage the flight operations of air pilots who are so represented and the management pilots are, pursuant to the terms of the agreement, included in the group of employees benefitting under the trust described in such subparagraph. Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees whose principal duties are not customarily performed aboard an aircraft in flight (other than management pilots described in the preceding sentence)." 26 USC 410.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning before, on, or after the date of the enactment of this Act.

(i) EXTENSION OF SPECIAL RULE FOR ADDITIONAL FUNDING REQUIREMENTS.—In the case of an employer which is a commercial passenger airline, section 302(d)(12) of the Employee Retirement Income Security Act of 1974 and section 412(l)(12) of the Internal

Revenue Code of 1986, as in effect before the date of the enactment of this Act, shall each be applied—

(1) by substituting "December 28, 2007" for "December 28, 2005" in subparagraph (D)(i) thereof, and

(2) without regard to subparagraph (D)(ii).

(j) EFFECTIVE DATE.—Except as otherwise provided in this section, the provisions of and amendments made by this section shall apply to plan years ending after the date of the enactment of this Act.

SEC. 403. LIMITATION ON PBGC GUARANTEE OF SHUTDOWN AND OTHER BENEFITS.

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

"(8) If an unpredictable contingent event benefit (as defined in section 206(g)(1)) is payable by reason of the occurrence of any event, this section shall be applied as if a plan amendment had been adopted on the date such event occurred.".

29 USC 1322 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits that become payable as a result of an event which occurs after July 26, 2005.

SEC. 404. RULES RELATING TO BANKRUPTCY OF EMPLOYER.

(a) GUARANTEE.—Section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322) is amended by adding at the end the following:

"(g) BANKRUPTCY FILING SUBSTITUTED FOR TERMINATION DATE.—If a contributing sponsor of a plan has filed or has had filed against such person a petition seeking liquidation or reorganization in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, and the case has not been dismissed as of the termination date of the plan, then this section shall be applied by treating the date such petition was filed as the termination date of the plan.".

(b) ALLOCATION OF ASSETS AMONG PRIORITY GROUPS IN BANKRUPTCY PROCEEDINGS.—Section 4044 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344) is amended by adding at the end the following:

"(e) BANKRUPTCY FILING SUBSTITUTED FOR TERMINATION DATE.—If a contributing sponsor of a plan has filed or has had filed against such person a petition seeking liquidation or reorganization in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, and the case has not been dismissed as of the termination date of the plan, then subsection (a)(3) shall be applied by treating the date such petition was filed as the termination date of the plan.".

29 USC 1322 note.

(c) EFFECTIVE DATE.—The amendments made this section shall apply with respect to proceedings initiated under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, on or after the date that is 30 days after the date of enactment of this Act.

SEC. 405. PBGC PREMIUMS FOR SMALL PLANS.

(a) SMALL PLANS.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)) is amended—

(1) by striking "The additional" in subparagraph (E)(i) and inserting "Except as provided in subparagraph (H), the additional", and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H)(i) In the case of an employer who has 25 or fewer employees on the first day of the plan year, the additional premium determined under subparagraph (E) for each participant shall not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

"(ii) For purposes of clause (i), whether an employer has 25 or fewer employees on the first day of the plan year is determined by taking into consideration all of the employees of all members of the contributing sponsor's controlled group. In the case of a plan maintained by two or more contributing sponsors, the employees of all contributing sponsors and their controlled groups shall be aggregated for purposes of determining whether the 25-or-fewer-employees limitation has been satisfied."

(b) EFFECTIVE DATES.—The amendment made by this section shall apply to plan years beginning after December 31, 2006. 29 USC 1306 note.

SEC. 406. AUTHORIZATION FOR PBGC TO PAY INTEREST ON PREMIUM OVERPAYMENT REFUNDS.

(a) IN GENERAL.—Section 4007(b) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)) is amended—

(1) by striking "(b)" and inserting "(b)(1)", and

(2) by inserting at the end the following new paragraph:

"(2) The corporation is authorized to pay, subject to regulations prescribed by the corporation, interest on the amount of any overpayment of premium refunded to a designated payor. Interest under this paragraph shall be calculated at the same rate and in the same manner as interest is calculated for underpayments under paragraph (1)." Regulations.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to interest accruing for periods beginning not earlier than the date of the enactment of this Act. 29 USC 1307 note.

SEC. 407. RULES FOR SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS.

(a) MODIFICATION OF PHASE-IN OF GUARANTEE.—Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:

"(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(i) owns the entire interest in an unincorporated trade or business,

"(ii) in the case of a partnership, is a partner who owns, directly or indirectly, 50 percent or more of either the capital interest or the profits interest in such partnership, or

"(iii) in the case of a corporation, owns, directly or indirectly, 50 percent or more in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of clause (iii), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 (other than paragraph (3)(C) thereof) shall apply, including the application of such rules under section 414(c) of such Code.

"(B) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall equal the product of—

"(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10, and

"(ii) the amount of benefits that would be guaranteed under this section if the participant were not a majority owner."

(b) MODIFICATION OF ALLOCATION OF ASSETS.—

(1) Section 4044(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a)(4)(B)) is amended by striking "section 4022(b)(5)" and inserting "section 4022(b)(5)(B)".

(2) Section 4044(b) of such Act (29 U.S.C. 1344(b)) is amended—

(A) by striking "(5)" in paragraph (2) and inserting "(4), (5),", and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to benefits described in subparagraph (B) of that paragraph. If assets allocated to such subparagraph (B) are insufficient to satisfy in full the benefits described in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph.".

(c) CONFORMING AMENDMENTS.—

(1) Section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended—

(A) in subsection (b)(9), by striking "as defined in section 4022(b)(6)", and

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

"(d) For purposes of subsection (b)(9), the term 'substantial owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(1) owns the entire interest in an unincorporated trade or business,

"(2) in the case of a partnership, is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or the profits interest in such partnership, or

"(3) in the case of a corporation, owns, directly or indirectly, more than 10 percent in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of paragraph (3), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 (other than paragraph (3)(C) thereof) shall apply, including the application of such rules under section 414(c) of such Code.".

(2) Section 4043(c)(7) of such Act (29 U.S.C. 1343(c)(7)) is amended by striking "section 4022(b)(6)" and inserting "section 4021(d)".

(d) EFFECTIVE DATES.— 29 USC 1321 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) after December 31, 2005, and

(B) under section 4042 of such Act (29 U.S.C. 1342) with respect to which notices of determination are provided under such section after such date.

(2) CONFORMING AMENDMENTS.—The amendments made by subsection (c) shall take effect on January 1, 2006. Effective date.

SEC. 408. ACCELERATION OF PBGC COMPUTATION OF BENEFITS ATTRIBUTABLE TO RECOVERIES FROM EMPLOYERS.

(a) MODIFICATION OF AVERAGE RECOVERY PERCENTAGE OF OUTSTANDING AMOUNT OF BENEFIT LIABILITIES PAYABLE BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.—Section 4022(c)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)(ii)) is amended to read as follows:

"(ii) notices of intent to terminate were provided (or in the case of a termination by the corporation, a notice of determination under section 4042 was issued) during the 5-Federal fiscal year period ending with the third fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate (or the notice of determination under section 4042) with respect to the plan termination for which the recovery ratio is being determined."

(b) VALUATION OF SECTION 4062(c) LIABILITY FOR DETERMINING AMOUNTS PAYABLE BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.—

(1) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 13) is amended to read as follows: 29 USC 1322.

"(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'recovery ratio' means the ratio which—

"(i) the sum of the values of all recoveries under section 4062, 4063, or 4064, determined by the corporation in connection with plan terminations described under subparagraph (B), bears to

"(ii) the sum of all unfunded benefit liabilities under such plans as of the termination date in connection with any such prior termination.".

(2) ALLOCATION OF ASSETS.—Section 4044 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection: 29 USC 1344.

"(e) VALUATION OF SECTION 4062(c) LIABILITY FOR DETERMINING AMOUNTS PAYABLE BY CORPORATION TO PARTICIPANTS AND BENEFICIARIES.—

"(1) IN GENERAL.—In the case of a terminated plan, the value of the recovery of liability under section 4062(c) allocable as a plan asset under this section for purposes of determining the amount of benefits payable by the corporation shall be determined by multiplying—

"(A) the amount of liability under section 4062(c) as of the termination date of the plan, by

"(B) the applicable section 4062(c) recovery ratio.

"(2) SECTION 4062(c) RECOVERY RATIO.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (C), the term 'section 4062(c) recovery ratio' means the ratio which—

"(i) the sum of the values of all recoveries under section 4062(c) determined by the corporation in connection with plan terminations described under subparagraph (B), bears to

"(ii) the sum of all the amounts of liability under section 4062(c) with respect to such plans as of the termination date in connection with any such prior termination.

"(B) PRIOR TERMINATIONS.—A plan termination described in this subparagraph is a termination with respect to which—

"(i) the value of recoveries under section 4062(c) have been determined by the corporation, and

"(ii) notices of intent to terminate were provided (or in the case of a termination by the corporation, a notice of determination under section 4042 was issued) during the 5-Federal fiscal year period ending with the third fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate (or the notice of determination under section 4042) with respect to the plan termination for which the recovery ratio is being determined.

"(C) EXCEPTION.—In the case of a terminated plan with respect to which the outstanding amount of benefit liabilities exceeds $20,000,000, the term 'section 4062(c) recovery ratio' means, with respect to the termination of such plan, the ratio of—

"(i) the value of the recoveries on behalf of the plan under section 4062(c), to

"(ii) the amount of the liability owed under section 4062(c) as of the date of plan termination to the trustee appointed under section 4042 (b) or (c).

"(3) SUBSECTION NOT TO APPLY.—This subsection shall not apply with respect to the determination of—

"(A) whether the amount of outstanding benefit liabilities exceeds $20,000,000, or

"(B) the amount of any liability under section 4062 to the corporation or the trustee appointed under section 4042 (b) or (c).

"(4) DETERMINATIONS.—Determinations under this subsection shall be made by the corporation. Such determinations shall be binding unless shown by clear and convincing evidence to be unreasonable.".

29 USC 1322 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for any termination for which notices of intent to terminate are provided (or in the case of a termination by the corporation, a notice of determination under section 4042 under the Employee Retirement Income Security Act of 1974 is issued) on or after

the date which is 30 days after the date of enactment of this section.

SEC. 409. TREATMENT OF CERTAIN PLANS WHERE CESSATION OR CHANGE IN MEMBERSHIP OF A CONTROLLED GROUP.

(a) IN GENERAL.—Section 4041(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(b)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR CERTAIN PLANS WHERE CESSATION OR CHANGE IN MEMBERSHIP OF A CONTROLLED GROUP.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) there is transaction or series of transactions which result in a person ceasing to be a member of a controlled group, and

"(ii) such person immediately before the transaction or series of transactions maintained a single-employer plan which is a defined benefit plan which is fully funded,

then the interest rate used in determining whether the plan is sufficient for benefit liabilities or to otherwise assess plan liabilities for purposes of this subsection or section 4042(a)(4) shall be not less than the interest rate used in determining whether the plan is fully funded.

"(B) LIMITATIONS.—Subparagraph (A) shall not apply to any transaction or series of transactions unless—

"(i) any employer maintaining the plan immediately before or after such transaction or series of transactions—

"(I) has an outstanding senior unsecured debt instrument which is rated investment grade by each of the nationally recognized statistical rating organizations for corporate bonds that has issued a credit rating for such instrument, or

"(II) if no such debt instrument of such employer has been rated by such an organization but 1 or more of such organizations has made an issuer credit rating for such employer, all such organizations which have so rated the employer have rated such employer investment grade, and

"(ii) the employer maintaining the plan after the transaction or series of transactions employs at least 20 percent of the employees located in the United States who were employed by such employer immediately before the transaction or series of transactions.

"(C) FULLY FUNDED.—For purposes of subparagraph (A), a plan shall be treated as fully funded with respect to any transaction or series of transactions if—

"(i) in the case of a transaction or series of transactions which occur in a plan year beginning before January 1, 2008, the funded current liability percentage determined under section 302(d) for the plan year is at least 100 percent, and

"(ii) in the case of a transaction or series of transactions which occur in a plan year beginning on or

after such date, the funding target attainment percentage determined under section 303 is, as of the valuation date for such plan year, at least 100 percent.

"(D) 2 YEAR LIMITATION.—Subparagraph (A) shall not apply to any transaction or series of transactions if the plan referred to in subparagraph (A)(ii) is terminated under section 4041(c) or 4042 after the close of the 2-year period beginning on the date on which the first such transaction occurs.".

29 USC 1341 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any transaction or series of transactions occurring on and after the date of the enactment of this Act.

SEC. 410. MISSING PARTICIPANTS.

(a) IN GENERAL.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

Regulations.

"(c) MULTIEMPLOYER PLANS.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

"(d) PLANS NOT OTHERWISE SUBJECT TO TITLE.—

"(1) TRANSFER TO CORPORATION.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

"(2) INFORMATION TO THE CORPORATION.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

"(A) to the corporation, or

"(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

"(3) PAYMENT BY THE CORPORATION.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

"(A) the plan is a pension plan (within the meaning of section 3(2))—

"(i) to which the provisions of this section do not apply (without regard to this subsection), and

"(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

"(B) at the time the assets are to be distributed upon termination, the plan—

"(i) has missing participants, and

"(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to

another pension plan (within the meaning of section 3(2)).

"(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4).".

(b) CONFORMING AMENDMENTS.—Section 206(f) of such Act (29 U.S.C. 1056(f)) is amended—

(1) by striking "title IV" and inserting "section 4050"; and

(2) by striking "the plan shall provide that,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

Regulations. 29 USC 1056 note.

SEC. 411. DIRECTOR OF THE PENSION BENEFIT GUARANTY CORPORATION.

(a) IN GENERAL.—Title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) is amended—

(1) by striking the second sentence of section 4002(a) and inserting the following: "In carrying out its functions under this title, the corporation shall be administered by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall act in accordance with the policies established by the board."; and

29 USC 1302.

(2) in section 4003(b), by—

29 USC 1303.

(A) striking "under this title, any member" and inserting "under this title, the Director, any member"; and

(B) striking "designated by the chairman" and inserting "designated by the Director or chairman".

(b) COMPENSATION OF DIRECTOR.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

"Director, Pension Benefit Guaranty Corporation.".

(c) JURISDICTION OF NOMINATION.—

(1) IN GENERAL.—The Committee on Finance of the Senate and the Committee on Health, Education, Labor, and Pensions of the Senate shall have joint jurisdiction over the nomination of a person nominated by the President to fill the position of Director of the Pension Benefit Guaranty Corporation under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) (as amended by this Act), and if one committee votes to order reported such a nomination, the other shall report within 30 calendar days, or be automatically discharged.

(2) RULEMAKING OF THE SENATE.—This subsection is enacted by Congress—

(A) as an exercise of rulemaking power of the Senate, and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a nomination described in such sentence, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same

manner and to the same extent as in the case of any other rule of the Senate.

Termination date. 29 USC 1302 note.

(d) TRANSITION.—The term of the individual serving as Executive Director of the Pension Benefit Guaranty Corporation on the date of enactment of this Act shall expire on such date of enactment. Such individual, or any other individual, may serve as interim Director of such Corporation until an individual is appointed as Director of such Corporation under section 4002 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1302) (as amended by this Act).

SEC. 412. INCLUSION OF INFORMATION IN THE PBGC ANNUAL REPORT.

Section 4008 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1308) is amended by—

(1) striking "As soon as practicable" and inserting "(a) As soon as practicable"; and

(2) adding at the end the following:

"(b) The report under subsection (a) shall include—

"(1) a summary of the Pension Insurance Modeling System microsimulation model, including the specific simulation parameters, specific initial values, temporal parameters, and policy parameters used to calculate the financial statements for the corporation;

"(2) a comparison of—

"(A) the average return on investments earned with respect to assets invested by the corporation for the year to which the report relates; and

"(B) an amount equal to 60 percent of the average return on investment for such year in the Standard & Poor's 500 Index, plus 40 percent of the average return on investment for such year in the Lehman Aggregate Bond Index (or in a similar fixed income index); and

"(3) a statement regarding the deficit or surplus for such year that the corporation would have had if the corporation had earned the return described in paragraph (2)(B) with respect to assets invested by the corporation.".

TITLE V—DISCLOSURE

SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICE.

(a) IN GENERAL.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is amended to read as follows:

"(f) DEFINED BENEFIT PLAN FUNDING NOTICES.—

"(1) IN GENERAL.—The administrator of a defined benefit plan to which title IV applies shall for each plan year provide a plan funding notice to the Pension Benefit Guaranty Corporation, to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan.

"(2) INFORMATION CONTAINED IN NOTICES.—

"(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal

administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

"(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

"(i)(I) in the case of a single-employer plan, a statement as to whether the plan's funding target attainment percentage (as defined in section 303(d)(2)) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages), or

"(II) in the case of a multiemployer plan, a statement as to whether the plan's funded percentage (as defined in section 305(i)) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages),

"(ii)(I) in the case of a single-employer plan, a statement of—

"(aa) the total assets (separately stating the prefunding balance and the funding standard carryover balance) and liabilities of the plan, determined in the same manner as under section 303, for the plan year for which the latest annual report filed under section 104(a) was filed and for the 2 preceding plan years, as reported in the annual report for each such plan year, and

"(bb) the value of the plan's assets and liabilities for the plan year to which the notice relates as of the last day of the plan year to which the notice relates determined using the asset valuation under subclause (II) of section 4006(a)(3)(E)(iii) and the interest rate under section 4006(a)(3)(E)(iv), and

"(II) in the case of a multiemployer plan, a statement of the value of the plan's assets and liabilities for the plan year to which the notice relates as the last day of such plan year and the preceding 2 plan years,

"(iii) a statement of the number of participants who are—

"(I) retired or separated from service and are receiving benefits,

"(II) retired or separated participants entitled to future benefits, and

"(III) active participants under the plan,

"(iv) a statement setting forth the funding policy of the plan and the asset allocation of investments under the plan (expressed as percentages of total assets) as of the end of the plan year to which the notice relates,

"(v) in the case of a multiemployer plan, whether the plan was in critical or endangered status under section 305 for such plan year and, if so—

"(I) a statement describing how a person may obtain a copy of the plan's funding improvement or rehabilitation plan, as appropriate, adopted under section 305 and the actuarial and financial

data that demonstrate any action taken by the plan toward fiscal improvement, and

"(II) a summary of any funding improvement plan, rehabilitation plan, or modification thereof adopted under section 305 during the plan year to which the notice relates,

"(vi) in the case of any plan amendment, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year (as defined in regulations by the Secretary), an explanation of the amendment, schedule increase or reduction, or event, and a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities,

"(vii)(I) in the case of a single-employer plan, a summary of the rules governing termination of single-employer plans under subtitle C of title IV, or

"(II) in the case of a multiemployer plan, a summary of the rules governing reorganization or insolvency, including the limitations on benefit payments,

"(viii) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply,

"(ix) a statement that a person may obtain a copy of the annual report of the plan filed under section 104(a) upon request, through the Internet website of the Department of Labor, or through an Intranet website maintained by the applicable plan sponsor (or plan administrator on behalf of the plan sponsor), and

"(x) if applicable, a statement that each contributing sponsor, and each member of the contributing sponsor's controlled group, of the single-employer plan was required to provide the information under section 4010 for the plan year to which the notice relates.

"(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include—

Reports.

"(i) in the case of a multiemployer plan, a statement that the plan administrator shall provide, upon written request, to any labor organization representing plan participants and beneficiaries and any employer that has an obligation to contribute to the plan, a copy of the annual report filed with the Secretary under section 104(a), and

"(ii) any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.

"(3) TIME FOR PROVIDING NOTICE.—

"(A) IN GENERAL.—Any notice under paragraph (1) shall be provided not later than 120 days after the end of the plan year to which the notice relates.

"(B) EXCEPTION FOR SMALL PLANS.—In the case of a small plan (as such term is used under section 303(g)(2)(B)) any notice under paragraph (1) shall be provided upon filing of the annual report under section 104(a).

"(4) FORM AND MANNER.—Any notice under paragraph (1)—

"(A) shall be provided in a form and manner prescribed in regulations of the Secretary, Regulations.

"(B) shall be written in a manner so as to be understood by the average plan participant, and

"(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.".

(b) REPEAL OF NOTICE TO PARTICIPANTS OF FUNDING STATUS.—

(1) IN GENERAL.—Title IV of such Act (29 U.S.C. 1301 et seq.) is amended by striking section 4011. 29 USC 1311.

(2) CLERICAL AMENDMENT.—Section 1 of such Act is amended in the table of contents by striking the item relating to section 4011.

(c) MODEL NOTICE.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall publish a model version of the notice required by section 101(f) of the Employee Retirement Income Security Act of 1974. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection. Deadline. 29 USC 1021 note.

(d) EFFECTIVE DATE.— 29 USC 1021 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007, except that the amendment made by subsection (b) shall apply to plan years beginning after December 31, 2006.

(2) TRANSITION RULE.—Any requirement under section 101(f) of the Employee Retirement Income Security Act of 1974 (as amended by this section) to report the funding target attainment percentage or funded percentage of a plan with respect to any plan year beginning before January 1, 2008, shall be treated as met if the plan reports—

(A) in the case of a plan year beginning in 2006, the funded current liability percentage (as defined in section 302(d)(8) of such Act) of the plan for such plan year, and

(B) in the case of a plan year beginning in 2007, the funding target attainment percentage or funded percentage as determined using such methods of estimation as the Secretary of the Treasury may provide.

SEC. 502. ACCESS TO MULTIEMPLOYER PENSION PLAN INFORMATION.

(a) FINANCIAL INFORMATION WITH RESPECT TO MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021), as amended by section 103, is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) MULTIEMPLOYER PLAN INFORMATION MADE AVAILABLE ON REQUEST.—

"(1) IN GENERAL.—Each administrator of a multiemployer plan shall, upon written request, furnish to any plan participant Reports.

or beneficiary, employee representative, or any employer that has an obligation to contribute to the plan—

"(A) a copy of any periodic actuarial report (including any sensitivity testing) received by the plan for any plan year which has been in the plan's possession for at least 30 days,

"(B) a copy of any quarterly, semi-annual, or annual financial report prepared for the plan by any plan investment manager or advisor or other fiduciary which has been in the plan's possession for at least 30 days, and

"(C) a copy of any application filed with the Secretary of the Treasury requesting an extension under section 304 of this Act or section 431(d) of the Internal Revenue Code of 1986 and the determination of such Secretary pursuant to such application.

"(2) COMPLIANCE.—Information required to be provided under paragraph (1)—

Deadline.
Regulations.

"(A) shall be provided to the requesting participant, beneficiary, or employer within 30 days after the request in a form and manner prescribed in regulations of the Secretary,

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the information is required to be provided, and

"(C) shall not—

"(i) include any individually identifiable information regarding any plan participant, beneficiary, employee, fiduciary, or contributing employer, or

"(ii) reveal any proprietary information regarding the plan, any contributing employer, or entity providing services to the plan.

"(3) LIMITATIONS.—In no case shall a participant, beneficiary, or employer be entitled under this subsection to receive more than one copy of any report or application described in paragraph (1) during any one 12-month period. The administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking "section 101(j)" and inserting "subsection (j) or (k) of section 101".

29 USC 1021 note.

(3) REGULATIONS.—The Secretary shall prescribe regulations under section 101(k)(2) of the Employee Retirement Income Security Act of 1974 (as added by paragraph (1)) not later than 1 year after the date of the enactment of this Act.

(b) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY TO MULTIEMPLOYER PLANS.—

29 USC 1021.

(1) IN GENERAL.—Section 101 of such Act (as amended by subsection (a)) is amended—

(A) by redesignating subsection (l) as subsection (m); and

(B) by inserting after subsection (k) the following new subsection:

"(l) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY.—

"(1) IN GENERAL.—The plan sponsor or administrator of a multiemployer plan shall, upon written request, furnish to any employer who has an obligation to contribute to the plan a notice of—

"(A) the estimated amount which would be the amount of such employer's withdrawal liability under part 1 of subtitle E of title IV if such employer withdrew on the last day of the plan year preceding the date of the request, and

"(B) an explanation of how such estimated liability amount was determined, including the actuarial assumptions and methods used to determine the value of the plan liabilities and assets, the data regarding employer contributions, unfunded vested benefits, annual changes in the plan's unfunded vested benefits, and the application of any relevant limitations on the estimated withdrawal liability.

For purposes of subparagraph (B), the term 'employer contribution' means, in connection with a participant, a contribution made by an employer as an employer of such participant.

"(2) COMPLIANCE.—Any notice required to be provided under paragraph (1)—

"(A) shall be provided in a form and manner prescribed in regulations of the Secretary to the requesting employer within— Regulations.

"(i) 180 days after the request, or Deadline.

"(ii) subject to regulations of the Secretary, such longer time as may be necessary in the case of a plan that determines withdrawal liability based on any method described under paragraph (4) or (5) of section 4211(c); and

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to employers to whom the information is required to be provided.

"(3) LIMITATIONS.—In no case shall an employer be entitled under this subsection to receive more than one notice described in paragraph (1) during any one 12-month period. The person required to provide such notice may make a reasonable charge to cover copying, mailing, and other costs of furnishing such notice pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking "section 101(j) or (k)" and inserting "subsection (j), (k), or (l) of section 101".

(c) NOTICE OF AMENDMENT REDUCING FUTURE ACCRUALS.—

(1) AMENDMENT OF ERISA.—Section 204(h)(1) of such Act (29 U.S.C. 1054(h)(1)) is amended by inserting at the end before the period the following: "and to each employer who has an obligation to contribute to the plan".

(2) AMENDMENT OF INTERNAL REVENUE CODE.—Section 4980F(e)(1) of such Code is amended by adding at the end before the period the following: "and to each employer who has an obligation to contribute to the plan". 26 USC 4980F.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007. 26 USC 4980F note.

SEC. 503. ADDITIONAL ANNUAL REPORTING REQUIREMENTS.

(a) ADDITIONAL ANNUAL REPORTING REQUIREMENTS WITH RESPECT TO DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) is amended—

(A) in subsection (a)(1)(B), by striking "subsections (d) and (e)" and inserting "subsections (d), (e), and (f)"; and

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

"(f) ADDITIONAL INFORMATION WITH RESPECT TO DEFINED BENEFIT PLANS.—

"(1) LIABILITIES UNDER 2 OR MORE PLANS.—

"(A) IN GENERAL.—In any case in which any liabilities to participants or their beneficiaries under a defined benefit plan as of the end of a plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under 2 or more pension plans as of immediately before such plan year, an annual report under this section for such plan year shall include the funded percentage of each of such 2 or more pension plans as of the last day of such plan year and the funded percentage of the plan with respect to which the annual report is filed as of the last day of such plan year.

"(B) FUNDED PERCENTAGE.—For purposes of this paragraph, the term 'funded percentage'—

"(i) in the case of a single-employer plan, means the funding target attainment percentage, as defined in section 303(d)(2), and

"(ii) in the case of a multiemployer plan, has the meaning given such term in section 305(i)(2).

"(2) ADDITIONAL INFORMATION FOR MULTIEMPLOYER PLANS.—With respect to any defined benefit plan which is a multiemployer plan, an annual report under this section for a plan year shall include, in addition to the information required under paragraph (1), the following, as of the end of the plan year to which the report relates:

"(A) The number of employers obligated to contribute to the plan.

"(B) A list of the employers that contributed more than 5 percent of the total contributions to the plan during such plan year.

"(C) The number of participants under the plan on whose behalf no contributions were made by an employer as an employer of the participant for such plan year and for each of the 2 preceding plan years.

"(D) The ratios of—

"(i) the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the plan year, to

"(ii) the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during each of the 2 preceding plan years.

"(E) Whether the plan received an amortization extension under section 304(d) of this Act or section 431(d) of the Internal Revenue Code of 1986 for such plan year

and, if so, the amount of the difference between the minimum required contribution for the year and the minimum required contribution which would have been required without regard to the extension, and the period of such extension.

"(F) Whether the plan used the shortfall funding method (as such term is used in section 305) for such plan year and, if so, the amount of the difference between the minimum required contribution for the year and the minimum required contribution which would have been required without regard to the use of such method, and the period of use of such method.

"(G) Whether the plan was in critical or endangered status under section 305 for such plan year, and if so, a summary of any funding improvement or rehabilitation plan (or modification thereto) adopted during the plan year, and the funded percentage of the plan.

"(H) The number of employers that withdrew from the plan during the preceding plan year and the aggregate amount of withdrawal liability assessed, or estimated to be assessed, against such withdrawn employers.

"(I) In the case of a multiemployer plan that has merged with another plan or to which assets and liabilities have been transferred, the actuarial valuation of the assets and liabilities of each affected plan during the year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the first day of the plan year, or other valuation method performed under standards and procedures as the Secretary may prescribe by regulation.".

(2) GUIDANCE BY SECRETARY OF LABOR.—Not later than 1 year after the date of enactment of this Act, the Secretary of Labor shall publish guidance to assist multiemployer defined benefit plans to— Deadline. 29 USC 1023 note.

(A) identify and enumerate plan participants for whom there is no employer with an obligation to make an employer contribution under the plan; and

(B) report such information under section 103(f)(2)(D) of the Employee Retirement Income Security Act of 1974 (as added by this section).

(b) ADDITIONAL INFORMATION IN ANNUAL ACTUARIAL STATEMENT REGARDING PLAN RETIREMENT PROJECTIONS.—Section 103(d) of such Act (29 U.S.C. 1023(d)) is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting after paragraph (11) the following new paragraph:

"(12) A statement explaining the actuarial assumptions and methods used in projecting future retirements and forms of benefit distributions under the plan.".

(c) REPEAL OF SUMMARY ANNUAL REPORT REQUIREMENT FOR DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 104(b)(3) of such Act (29 U.S.C. 1024(b)(3)) is amended by inserting "(other than an administrator of a defined benefit plan to which the requirements of section 103(f) applies)" after "the administrators".

(2) CONFORMING AMENDMENT.—Section 101(a)(2) of such Act (29 U.S.C. 1021(a)(2)) is amended by inserting "subsection (f) and" before "sections 104(b)(3) and 105(a) and (c)".

(d) FURNISHING SUMMARY PLAN INFORMATION TO EMPLOYERS AND EMPLOYEE REPRESENTATIVES OF MULTIEMPLOYER PLANS.—Section 104 of such Act (29 U.S.C. 1024) is amended—

(1) in the header, by striking "**PARTICIPANTS**" and inserting "**PARTICIPANTS AND CERTAIN EMPLOYERS**";

(2) by redesignating subsection (d) as subsection (e); and

(3) by inserting after subsection (c) the following:

"(d) FURNISHING SUMMARY PLAN INFORMATION TO EMPLOYERS AND EMPLOYEE REPRESENTATIVES OF MULTIEMPLOYER PLANS.—

Deadline.

"(1) IN GENERAL.—With respect to a multiemployer plan subject to this section, within 30 days after the due date under subsection (a)(1) for the filing of the annual report for the fiscal year of the plan, the administrators shall furnish to each employee organization and to each employer with an obligation to contribute to the plan a report that contains—

"(A) a description of the contribution schedules and benefit formulas under the plan, and any modification to such schedules and formulas, during such plan year;

"(B) the number of employers obligated to contribute to the plan;

"(C) a list of the employers that contributed more than 5 percent of the total contributions to the plan during such plan year;

"(D) the number of participants under the plan on whose behalf no contributions were made by an employer as an employer of the participant for such plan year and for each of the 2 preceding plan years;

"(E) whether the plan was in critical or endangered status under section 305 for such plan year and, if so, include—

"(i) a list of the actions taken by the plan to improve its funding status; and

"(ii) a statement describing how a person may obtain a copy of the plan's improvement or rehabilitation plan, as applicable, adopted under section 305 and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement;

"(F) the number of employers that withdrew from the plan during the preceding plan year and the aggregate amount of withdrawal liability assessed, or estimated to be assessed, against such withdrawn employers, as reported on the annual report for the plan year to which the report under this subsection relates;

"(G) in the case of a multiemployer plan that has merged with another plan or to which assets and liabilities have been transferred, the actuarial valuation of the assets and liabilities of each affected plan during the year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the first day of the plan year, or other valuation method performed under standards and procedures as the Secretary may prescribe by regulation;

"(H) a description as to whether the plan—

"(i) sought or received an amortization extension under section 304(d) of this Act or section 431(d) of the Internal Revenue Code of 1986 for such plan year; or

"(ii) used the shortfall funding method (as such term is used in section 305) for such plan year; and

"(I) notification of the right under this section of the recipient to a copy of the annual report filed with the Secretary under subsection (a), summary plan description, summary of any material modification of the plan, upon written request, but that— Notification.

"(i) in no case shall a recipient be entitled to receive more than one copy of any such document described during any one 12-month period; and

"(ii) the administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to this subparagraph.

"(2) EFFECT OF SUBSECTION.—Nothing in this subsection waives any other provision under this title requiring plan administrators to provide, upon request, information to employers that have an obligation to contribute under the plan.".

(e) MODEL FORM.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall publish a model form for providing the statements, schedules, and other material required to be provided under section 101(f) of the Employee Retirement Income Security Act of 1974, as amended by this section. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection. Deadline. 29 USC 1021 note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007. 29 USC 1021 note.

SEC. 504. ELECTRONIC DISPLAY OF ANNUAL REPORT INFORMATION.

(a) ELECTRONIC DISPLAY OF INFORMATION.—Section 104(b) of such Act (29 U.S.C. 1024(b)) is amended by adding at the end the following:

"(5) Identification and basic plan information and actuarial information included in the annual report for any plan year shall be filed with the Secretary in an electronic format which accommodates display on the Internet, in accordance with regulations which shall be prescribed by the Secretary. The Secretary shall provide for display of such information included in the annual report, within 90 days after the date of the filing of the annual report, on an Internet website maintained by the Secretary and other appropriate media. Such information shall also be displayed on any Intranet website maintained by the plan sponsor (or by the plan administrator on behalf of the plan sponsor) for the purpose of communicating with employees and not the public, in accordance with regulations which shall be prescribed by the Secretary.". Regulations.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 2007. 29 USC 1024 note.

SEC. 505. SECTION 4010 FILINGS WITH THE PBGC.

(a) CHANGE IN CRITERIA FOR PERSONS REQUIRED TO PROVIDE INFORMATION TO PBGC.—Section 4010(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310(b)) is amended by striking paragraph (1) and inserting the following:

"(1) the funding target attainment percentage (as defined in subsection (d)) at the end of the preceding plan year of a plan maintained by the contributing sponsor or any member of its controlled group is less than 80 percent;".

(b) ADDITIONAL INFORMATION REQUIRED.—Section 4010 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310) is amended by adding at the end the following new subsection:

"(d) ADDITIONAL INFORMATION REQUIRED.—

"(1) IN GENERAL.—The information submitted to the corporation under subsection (a) shall include—

"(A) the amount of benefit liabilities under the plan determined using the assumptions used by the corporation in determining liabilities;

"(B) the funding target of the plan determined as if the plan has been in at-risk status for at least 5 plan years; and

"(C) the funding target attainment percentage of the plan.

"(2) DEFINITIONS.—For purposes of this subsection:

"(A) FUNDING TARGET.—The term 'funding target' has the meaning provided under section 303(d)(1).

"(B) FUNDING TARGET ATTAINMENT PERCENTAGE.—The term 'funding target attainment percentage' has the meaning provided under section 302(d)(2).

"(C) AT-RISK STATUS.—The term 'at-risk status' has the meaning provided in section 303(i)(4).

"(e) NOTICE TO CONGRESS.—The corporation shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Finance of the Senate and the Committee on Education and the Workforce and the Committee on Ways and Means of the House of Representatives, a summary report in the aggregate of the information submitted to the corporation under this section.".

29 USC 1310 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to years beginning after 2007.

SEC. 506. DISCLOSURE OF TERMINATION INFORMATION TO PLAN PARTICIPANTS.

(a) DISTRESS TERMINATIONS.—

(1) IN GENERAL.—Section 4041(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)) is amended by adding at the end the following:

"(D) DISCLOSURE OF TERMINATION INFORMATION.—

"(i) IN GENERAL.—A plan administrator that has filed a notice of intent to terminate under subsection (a)(2) shall provide to an affected party any information provided to the corporation under subsection (a)(2) not later than 15 days after—

"(I) receipt of a request from the affected party for the information; or

"(II) the provision of new information to the corporation relating to a previous request.

"(ii) CONFIDENTIALITY.—

"(I) IN GENERAL.—The plan administrator shall not provide information under clause (i) in a form that includes any information that may directly or indirectly be associated with, or otherwise identify, an individual participant or beneficiary.

"(II) LIMITATION.—A court may limit disclosure under this subparagraph of confidential information described in section 552(b) of title 5, United States Code, to any authorized representative of the participants or beneficiaries that agrees to ensure the confidentiality of such information.

"(iii) FORM AND MANNER OF INFORMATION; CHARGES.—

"(I) FORM AND MANNER.—The corporation may prescribe the form and manner of the provision of information under this subparagraph, which shall include delivery in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to individuals to whom the information is required to be provided.

"(II) REASONABLE CHARGES.—A plan administrator may charge a reasonable fee for any information provided under this subparagraph in other than electronic form.

"(iv) AUTHORIZED REPRESENTATIVE.—For purposes of this subparagraph, the term 'authorized representative' means any employee organization representing participants in the pension plan.".

(2) CONFORMING AMENDMENT.—Section 4041(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(1)) is amended in subparagraph (C) by striking "subparagraph (B)" and inserting "subparagraphs (B) and (D)".

(b) INVOLUNTARY TERMINATIONS.—

(1) IN GENERAL.—Section 4042(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342(c)) is amended by—

(A) striking "(c) If the" and inserting "(c)(1) If the";

(B) redesignating paragraph (3) as paragraph (2); and

(C) adding at the end the following:

"(3) DISCLOSURE OF TERMINATION INFORMATION.—

"(A) IN GENERAL.—

"(i) INFORMATION FROM PLAN SPONSOR OR ADMINISTRATOR.—A plan sponsor or plan administrator of a single-employer plan that has received a notice from the corporation of a determination that the plan should be terminated under this section shall provide to an affected party any information provided to the corporation in connection with the plan termination.

"(ii) INFORMATION FROM CORPORATION.—The corporation shall provide a copy of the administrative record, including the trusteeship decision record of a termination of a plan described under clause (i).

Deadline.

"(B) TIMING OF DISCLOSURE.—The plan sponsor, plan administrator, or the corporation, as applicable, shall provide the information described in subparagraph (A) not later than 15 days after—

"(i) receipt of a request from an affected party for such information; or

"(ii) in the case of information described under subparagraph (A)(i), the provision of any new information to the corporation relating to a previous request by an affected party.

"(C) CONFIDENTIALITY.—

"(i) IN GENERAL.—The plan administrator and plan sponsor shall not provide information under subparagraph (A)(i) in a form which includes any information that may directly or indirectly be associated with, or otherwise identify, an individual participant or beneficiary.

"(ii) LIMITATION.—A court may limit disclosure under this paragraph of confidential information described in section 552(b) of title 5, United States Code, to authorized representatives (within the meaning of section 4041(c)(2)(D)(iv)) of the participants or beneficiaries that agree to ensure the confidentiality of such information.

"(D) FORM AND MANNER OF INFORMATION; CHARGES.—

"(i) FORM AND MANNER.—The corporation may prescribe the form and manner of the provision of information under this paragraph, which shall include delivery in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to individuals to whom the information is required to be provided.

"(ii) REASONABLE CHARGES.—A plan sponsor may charge a reasonable fee for any information provided under this paragraph in other than electronic form.".

29 USC 1341 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to any plan termination under title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) with respect to which the notice of intent to terminate (or in the case of a termination by the Pension Benefit Guaranty Corporation, a notice of determination under section 4042 of such Act (29 U.S.C. 1342)) occurs after the date of enactment of this Act.

(2) TRANSITION RULE.—If notice under section 4041(c)(2)(D) or 4042(c)(3) of the Employee Retirement Income Security Act of 1974 (as added by this section) would otherwise be required to be provided before the 90th day after the date of the enactment of this Act, such notice shall not be required to be provided until such 90th day.

SEC. 507. NOTICE OF FREEDOM TO DIVEST EMPLOYER SECURITIES.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021), as amended by this Act, is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following:

"(m) NOTICE OF RIGHT TO DIVEST.—Not later than 30 days before the first date on which an applicable individual of an applicable individual account plan is eligible to exercise the right under section 204(j) to direct the proceeds from the divestment of employer securities with respect to any type of contribution, the administrator shall provide to such individual a notice— Deadline.

"(1) setting forth such right under such section, and

"(2) describing the importance of diversifying the investment of retirement account assets.

The notice required by this subsection shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to the recipient.".

(b) PENALTIES.—Section 502(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(7)) is amended by striking "section 101(i)" and inserting "subsection (i) or (m) of section 101".

(c) MODEL NOTICE.—The Secretary of the Treasury shall, within 180 days after the date of the enactment of this subsection, prescribe a model notice for purposes of satisfying the requirements of the amendments made by this section. Deadline. 29 USC 1021 note.

(d) EFFECTIVE DATES.— 29 USC 1021 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) TRANSITION RULE.—If notice under section 101(m) of the Employee Retirement Income Security Act of 1974 (as added by this section) would otherwise be required to be provided before the 90th day after the date of the enactment of this Act, such notice shall not be required to be provided until such 90th day.

SEC. 508. PERIODIC PENSION BENEFIT STATEMENTS.

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)) is amended to read as follows:

"(a) REQUIREMENTS TO PROVIDE PENSION BENEFIT STATEMENTS.—

"(1) REQUIREMENTS.—

"(A) INDIVIDUAL ACCOUNT PLAN.—The administrator of an individual account plan (other than a one-participant retirement plan described in section 101(i)(8)(B)) shall furnish a pension benefit statement—

"(i) at least once each calendar quarter to a participant or beneficiary who has the right to direct the investment of assets in his or her account under the plan,

"(ii) at least once each calendar year to a participant or beneficiary who has his or her own account under the plan but does not have the right to direct the investment of assets in that account, and

"(iii) upon written request to a plan beneficiary not described in clause (i) or (ii).

"(B) DEFINED BENEFIT PLAN.—The administrator of a defined benefit plan (other than a one-participant retirement plan described in section 101(i)(8)(B)) shall furnish a pension benefit statement—

"(i) at least once every 3 years to each participant with a nonforfeitable accrued benefit and who is employed by the employer maintaining the plan at the time the statement is to be furnished, and

"(ii) to a participant or beneficiary of the plan upon written request.

Information furnished under clause (i) to a participant may be based on reasonable estimates determined under regulations prescribed by the Secretary, in consultation with the Pension Benefit Guaranty Corporation.

"(2) STATEMENTS.—

"(A) IN GENERAL.—A pension benefit statement under paragraph (1)—

"(i) shall indicate, on the basis of the latest available information—

"(I) the total benefits accrued, and

"(II) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

"(ii) shall include an explanation of any permitted disparity under section 401(l) of the Internal Revenue Code of 1986 or any floor-offset arrangement that may be applied in determining any accrued benefits described in clause (i),

"(iii) shall be written in a manner calculated to be understood by the average plan participant, and

"(iv) may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant or beneficiary.

"(B) ADDITIONAL INFORMATION.—In the case of an individual account plan, any pension benefit statement under clause (i) or (ii) of paragraph (1)(A) shall include—

"(i) the value of each investment to which assets in the individual account have been allocated, determined as of the most recent valuation date under the plan, including the value of any assets held in the form of employer securities, without regard to whether such securities were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and

"(ii) in the case of a pension benefit statement under paragraph (1)(A)(i)—

"(I) an explanation of any limitations or restrictions on any right of the participant or beneficiary under the plan to direct an investment,

"(II) an explanation, written in a manner calculated to be understood by the average plan participant, of the importance, for the long-term retirement security of participants and beneficiaries, of a well-balanced and diversified investment portfolio, including a statement of the risk that holding more than 20 percent of a portfolio

in the security of one entity (such as employer securities) may not be adequately diversified, and

"(III) a notice directing the participant or beneficiary to the Internet website of the Department of Labor for sources of information on individual investing and diversification.

Notices.

"(C) ALTERNATIVE NOTICE.—The requirements of subparagraph (A)(i)(II) are met if, at least annually and in accordance with requirements of the Secretary, the plan—

"(i) updates the information described in such paragraph which is provided in the pension benefit statement, or

"(ii) provides in a separate statement such information as is necessary to enable a participant or beneficiary to determine their nonforfeitable vested benefits.

"(3) DEFINED BENEFIT PLANS.—

"(A) ALTERNATIVE NOTICE.—In the case of a defined benefit plan, the requirements of paragraph (1)(B)(i) shall be treated as met with respect to a participant if at least once each year the administrator provides to the participant notice of the availability of the pension benefit statement and the ways in which the participant may obtain such statement. Such notice may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant.

"(B) YEARS IN WHICH NO BENEFITS ACCRUE.—The Secretary may provide that years in which no employee or former employee benefits (within the meaning of section 410(b) of the Internal Revenue Code of 1986) under the plan need not be taken into account in determining the 3-year period under paragraph (1)(B)(i).".

(2) CONFORMING AMENDMENTS.—

(A) Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking subsection (d).

(B) Section 105(b) of such Act (29 U.S.C. 1025(b)) is amended to read as follows:

"(b) LIMITATION ON NUMBER OF STATEMENTS.—In no case shall a participant or beneficiary of a plan be entitled to more than 1 statement described in subparagraph (A)(iii) or (B)(ii) of subsection (a)(1), whichever is applicable, in any 12-month period.".

(C) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(f)" and inserting "section 101(f), or section 105(a)".

(b) MODEL STATEMENTS.—

29 USC 1025 note.
Deadline.

(1) IN GENERAL.—The Secretary of Labor shall, within 1 year after the date of the enactment of this section, develop 1 or more model benefit statements that are written in a manner calculated to be understood by the average plan participant and that may be used by plan administrators in complying with the requirements of section 105 of the Employee Retirement Income Security Act of 1974.

(2) INTERIM FINAL RULES.—The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.

29 USC 1025 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2006" the earlier of—

(A) the later of—

(i) December 31, 2007, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2008.

SEC. 509. NOTICE TO PARTICIPANTS OR BENEFICIARIES OF BLACKOUT PERIODS.

(a) IN GENERAL.—Section 101(i)(8)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(i)(8)(B)) is amended by striking clauses (i) through (iv), by redesignating clause (v) as clause (ii), and by inserting before clause (ii), as so redesignated, the following new clause:

"(i) on the first day of the plan year—

"(I) covered only one individual (or the individual and the individual's spouse) and the individual (or the individual and the individual's spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

"(II) covered only one or more partners (or partners and their spouses) in the plan sponsor, and".

29 USC 1021 note.

(b) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of section 306 of Public Law 107–204 (116 Stat. 745 et seq.).

TITLE VI—INVESTMENT ADVICE, PROHIBITED TRANSACTIONS, AND FIDUCIARY RULES

Subtitle A—Investment Advice

SEC. 601. PROHIBITED TRANSACTION EXEMPTION FOR PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(14) Any transaction in connection with the provision of investment advice described in section 3(21)(A)(ii) to a participant or beneficiary of an individual account plan that permits such participant or beneficiary to direct the investment of assets in their individual account, if—

"(A) the transaction is—

"(i) the provision of the investment advice to the participant or beneficiary of the plan with respect to a security or other property available as an investment under the plan,

"(ii) the acquisition, holding, or sale of a security or other property available as an investment under the plan pursuant to the investment advice, or

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with an acquisition, holding, or sale of a security or other property available as an investment under the plan pursuant to the investment advice; and

"(B) the requirements of subsection (g) are met.".

(2) REQUIREMENTS.—Section 408 of such Act is amended further by adding at the end the following new subsection: 29 USC 1108.

"(g) PROVISION OF INVESTMENT ADVICE TO PARTICIPANT AND BENEFICIARIES.—

"(1) IN GENERAL.—The prohibitions provided in section 406 shall not apply to transactions described in subsection (b)(14) if the investment advice provided by a fiduciary adviser is provided under an eligible investment advice arrangement.

"(2) ELIGIBLE INVESTMENT ADVICE ARRANGEMENT.—For purposes of this subsection, the term 'eligible investment advice arrangement' means an arrangement—

"(A) which either—

"(i) provides that any fees (including any commission or other compensation) received by the fiduciary adviser for investment advice or with respect to the sale, holding, or acquisition of any security or other property for purposes of investment of plan assets do not vary depending on the basis of any investment option selected, or

"(ii) uses a computer model under an investment advice program meeting the requirements of paragraph (3) in connection with the provision of investment advice by a fiduciary adviser to a participant or beneficiary, and

"(B) with respect to which the requirements of paragraph (4), (5), (6), (7), (8), and (9) are met.

"(3) INVESTMENT ADVICE PROGRAM USING COMPUTER MODEL.—

"(A) IN GENERAL.—An investment advice program meets the requirements of this paragraph if the requirements of subparagraphs (B), (C), and (D) are met.

"(B) COMPUTER MODEL.—The requirements of this subparagraph are met if the investment advice provided

under the investment advice program is provided pursuant to a computer model that—

"(i) applies generally accepted investment theories that take into account the historic returns of different asset classes over defined periods of time,

"(ii) utilizes relevant information about the participant, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments,

"(iii) utilizes prescribed objective criteria to provide asset allocation portfolios comprised of investment options available under the plan,

"(iv) operates in a manner that is not biased in favor of investments offered by the fiduciary adviser or a person with a material affiliation or contractual relationship with the fiduciary adviser, and

"(v) takes into account all investment options under the plan in specifying how a participant's account balance should be invested and is not inappropriately weighted with respect to any investment option.

"(C) CERTIFICATION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met with respect to any investment advice program if an eligible investment expert certifies, prior to the utilization of the computer model and in accordance with rules prescribed by the Secretary, that the computer model meets the requirements of subparagraph (B).

"(ii) RENEWAL OF CERTIFICATIONS.—If, as determined under regulations prescribed by the Secretary, there are material modifications to a computer model, the requirements of this subparagraph are met only if a certification described in clause (i) is obtained with respect to the computer model as so modified.

"(iii) ELIGIBLE INVESTMENT EXPERT.—The term 'eligible investment expert' means any person—

"(I) which meets such requirements as the Secretary may provide, and

"(II) does not bear any material affiliation or contractual relationship with any investment adviser or a related person thereof (or any employee, agent, or registered representative of the investment adviser or related person).

"(D) EXCLUSIVITY OF RECOMMENDATION.—The requirements of this subparagraph are met with respect to any investment advice program if—

"(i) the only investment advice provided under the program is the advice generated by the computer model described in subparagraph (B), and

"(ii) any transaction described in subsection (b)(14)(B)(ii) occurs solely at the direction of the participant or beneficiary.

Nothing in the preceding sentence shall preclude the participant or beneficiary from requesting investment advice other than that described in subparagraph (A), but

only if such request has not been solicited by any person connected with carrying out the arrangement.

"(4) EXPRESS AUTHORIZATION BY SEPARATE FIDUCIARY.—The requirements of this paragraph are met with respect to an arrangement if the arrangement is expressly authorized by a plan fiduciary other than the person offering the investment advice program, any person providing investment options under the plan, or any affiliate of either.

"(5) ANNUAL AUDIT.—The requirements of this paragraph are met if an independent auditor, who has appropriate technical training or experience and proficiency and so represents in writing—

"(A) conducts an annual audit of the arrangement for compliance with the requirements of this subsection, and

"(B) following completion of the annual audit, issues a written report to the fiduciary who authorized use of the arrangement which presents its specific findings regarding compliance of the arrangement with the requirements of this subsection.

Reports.

For purposes of this paragraph, an auditor is considered independent if it is not related to the person offering the arrangement to the plan and is not related to any person providing investment options under the plan.

"(6) DISCLOSURE.—The requirements of this paragraph are met if—

"(A) the fiduciary adviser provides to a participant or a beneficiary before the initial provision of the investment advice with regard to any security or other property offered as an investment option, a written notification (which may consist of notification by means of electronic communication)—

"(i) of the role of any party that has a material affiliation or contractual relationship with the financial adviser in the development of the investment advice program and in the selection of investment options available under the plan,

"(ii) of the past performance and historical rates of return of the investment options available under the plan,

"(iii) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(iv) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(v) the manner, and under what circumstances, any participant or beneficiary information provided under the arrangement will be used or disclosed,

"(vi) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

"(vii) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

"(viii) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property, and

"(B) at all times during the provision of advisory services to the participant or beneficiary, the fiduciary adviser—

"(i) maintains the information described in subparagraph (A) in accurate form and in the manner described in paragraph (8),

"(ii) provides, without charge, accurate information to the recipient of the advice no less frequently than annually,

"(iii) provides, without charge, accurate information to the recipient of the advice upon request of the recipient, and

"(iv) provides, without charge, accurate information to the recipient of the advice concerning any material change to the information required to be provided to the recipient of the advice at a time reasonably contemporaneous to the change in information.

"(7) OTHER CONDITIONS.—The requirements of this paragraph are met if—

"(A) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(B) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(C) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(D) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(8) STANDARDS FOR PRESENTATION OF INFORMATION.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the notification required to be provided to participants and beneficiaries under paragraph (6)(A) is written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and is sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(B) MODEL FORM FOR DISCLOSURE OF FEES AND OTHER COMPENSATION.—The Secretary shall issue a model form for the disclosure of fees and other compensation required in paragraph (6)(A)(iii) which meets the requirements of subparagraph (A).

"(9) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—The requirements of this paragraph are met if a fiduciary adviser who has provided advice referred to in paragraph (1) maintains, for a period of not less than 6 years after the provision of the advice, any records necessary for determining whether the requirements of the preceding provisions of this

subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(10) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

"(A) IN GENERAL.—Subject to subparagraph (B), a plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

"(i) the advice is provided by a fiduciary adviser pursuant to an eligible investment advice arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

"(ii) the terms of the eligible investment advice arrangement require compliance by the fiduciary adviser with the requirements of this subsection, and

"(iii) the terms of the eligible investment advice arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice.

"(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an eligible investment advice arrangement for the provision of investment advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

"(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

"(11) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

"(A) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice referred to in section 3(21)(A)(ii) by the person to the participant or beneficiary of the plan and who is—

"(i) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

"(ii) a bank or similar financial institution referred to in section 408(b)(4) or a savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)), but only if the advice is provided through a trust department of the bank or similar financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities,

"(iii) an insurance company qualified to do business under the laws of a State,

"(iv) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(v) an affiliate of a person described in any of clauses (i) through (iv), or

"(vi) an employee, agent, or registered representative of a person described in clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

For purposes of this part, a person who develops the computer model described in paragraph (3)(B) or markets the investment advice program or computer model shall be treated as a person who is a fiduciary of the plan by reason of the provision of investment advice referred to in section 3(21)(A)(ii) to the participant or beneficiary and shall be treated as a fiduciary adviser for purposes of this subsection and subsection (b)(14), except that the Secretary may prescribe rules under which only 1 fiduciary adviser may elect to be treated as a fiduciary with respect to the plan.

"(B) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

"(C) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).".

29 USC 1108 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to advice referred to in section 3(21)(A)(ii) of the Employee Retirement Income Security Act of 1974 provided after December 31, 2006.

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

26 USC 4975.

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemption from tax on prohibited transactions) is amended—

(A) in paragraph (15), by striking "or" at the end;

(B) in paragraph (16), by striking the period at the end and inserting ";or"; and

(C) by adding at the end the following new paragraph:

"(17) Any transaction in connection with the provision of investment advice described in subsection (e)(3)(B) to a participant or beneficiary in a plan and that permits such participant or beneficiary to direct the investment of plan assets in an individual account, if—

"(A) the transaction is—

"(i) the provision of the investment advice to the participant or beneficiary of the plan with respect to a security or other property available as an investment under the plan,

"(ii) the acquisition, holding, or sale of a security or other property available as an investment under the plan pursuant to the investment advice, or

"(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with an acquisition, holding, or sale of a security or other property available as an investment under the plan pursuant to the investment advice; and

"(B) the requirements of subsection (f)(8) are met.".

(2) REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph: 26 USC 4975.

"(8) PROVISION OF INVESTMENT ADVICE TO PARTICIPANT AND BENEFICIARIES.— I24 "(A) IN GENERAL.—The prohibitions provided in subsection (c) shall not apply to transactions described in subsection (b)(14) if the investment advice provided by a fiduciary adviser is provided under an eligible investment advice arrangement.

"(B) ELIGIBLE INVESTMENT ADVICE ARRANGEMENT.—For purposes of this paragraph, the term 'eligible investment advice arrangement' means an arrangement—

"(i) which either—

"(I) provides that any fees (including any commission or other compensation) received by the fiduciary adviser for investment advice or with respect to the sale, holding, or acquisition of any security or other property for purposes of investment of plan assets do not vary depending on the basis of any investment option selected, or

"(II) uses a computer model under an investment advice program meeting the requirements of subparagraph (C) in connection with the provision of investment advice by a fiduciary adviser to a participant or beneficiary, and

"(ii) with respect to which the requirements of subparagraphs (D), (E), (F), (G), (H), and (I) are met.

"(C) INVESTMENT ADVICE PROGRAM USING COMPUTER MODEL.—

"(i) IN GENERAL.—An investment advice program meets the requirements of this subparagraph if the requirements of clauses (ii), (iii), and (iv) are met.

"(ii) COMPUTER MODEL.—The requirements of this clause are met if the investment advice provided under

the investment advice program is provided pursuant to a computer model that—

"(I) applies generally accepted investment theories that take into account the historic returns of different asset classes over defined periods of time,

"(II) utilizes relevant information about the participant, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments,

"(III) utilizes prescribed objective criteria to provide asset allocation portfolios comprised of investment options available under the plan,

"(IV) operates in a manner that is not biased in favor of investments offered by the fiduciary adviser or a person with a material affiliation or contractual relationship with the fiduciary adviser, and

"(V) takes into account all investment options under the plan in specifying how a participant's account balance should be invested and is not inappropriately weighted with respect to any investment option.

"(iii) CERTIFICATION.—

"(I) IN GENERAL.—The requirements of this clause are met with respect to any investment advice program if an eligible investment expert certifies, prior to the utilization of the computer model and in accordance with rules prescribed by the Secretary of Labor, that the computer model meets the requirements of clause (ii).

"(II) RENEWAL OF CERTIFICATIONS.—If, as determined under regulations prescribed by the Secretary of Labor, there are material modifications to a computer model, the requirements of this clause are met only if a certification described in subclause (I) is obtained with respect to the computer model as so modified.

"(III) ELIGIBLE INVESTMENT EXPERT.—The term 'eligible investment expert' means any person which meets such requirements as the Secretary of Labor may provide and which does not bear any material affiliation or contractual relationship with any investment adviser or a related person thereof (or any employee, agent, or registered representative of the investment adviser or related person).

"(iv) EXCLUSIVITY OF RECOMMENDATION.—The requirements of this clause are met with respect to any investment advice program if—

"(I) the only investment advice provided under the program is the advice generated by the computer model described in clause (ii), and

"(II) any transaction described in subsection (b)(14)(B)(ii) occurs solely at the direction of the participant or beneficiary.

Nothing in the preceding sentence shall preclude the participant or beneficiary from requesting investment advice other than that described in clause (i), but only if such request has not been solicited by any person connected with carrying out the arrangement.

"(D) EXPRESS AUTHORIZATION BY SEPARATE FIDUCIARY.—The requirements of this subparagraph are met with respect to an arrangement if the arrangement is expressly authorized by a plan fiduciary other than the person offering the investment advice program, any person providing investment options under the plan, or any affiliate of either.

"(E) AUDITS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if an independent auditor, who has appropriate technical training or experience and proficiency and so represents in writing—

"(I) conducts an annual audit of the arrangement for compliance with the requirements of this paragraph, and

"(II) following completion of the annual audit, issues a written report to the fiduciary who authorized use of the arrangement which presents its specific findings regarding compliance of the arrangement with the requirements of this paragraph.

Reports.

"(ii) SPECIAL RULE FOR INDIVIDUAL RETIREMENT AND SIMILAR PLANS.—In the case of a plan described in subparagraphs (B) through (F) (and so much of subparagraph (G) as relates to such subparagraphs) of subsection (e)(1), in lieu of the requirements of clause (i), audits of the arrangement shall be conducted at such times and in such manner as the Secretary of Labor may prescribe.

"(iii) INDEPENDENT AUDITOR.—For purposes of this subparagraph, an auditor is considered independent if it is not related to the person offering the arrangement to the plan and is not related to any person providing investment options under the plan.

"(F) DISCLOSURE.—The requirements of this subparagraph are met if—

"(i) the fiduciary adviser provides to a participant or a beneficiary before the initial provision of the investment advice with regard to any security or other property offered as an investment option, a written notification (which may consist of notification by means of electronic communication)—

"(I) of the role of any party that has a material affiliation or contractual relationship with the financial adviser in the development of the investment advice program and in the selection of investment options available under the plan,

"(II) of the past performance and historical rates of return of the investment options available under the plan,

"(III) of all fees or other compensation relating to the advice that the fiduciary adviser or any

affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

"(IV) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

"(V) the manner, and under what circumstances, any participant or beneficiary information provided under the arrangement will be used or disclosed,

"(VI) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser,

"(VII) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice, and

"(VIII) that a recipient of the advice may separately arrange for the provision of advice by another adviser, that could have no material affiliation with and receive no fees or other compensation in connection with the security or other property, and

"(ii) at all times during the provision of advisory services to the participant or beneficiary, the fiduciary adviser—

"(I) maintains the information described in clause (i) in accurate form and in the manner described in subparagraph (H),

"(II) provides, without charge, accurate information to the recipient of the advice no less frequently than annually,

"(III) provides, without charge, accurate information to the recipient of the advice upon request of the recipient, and

"(IV) provides, without charge, accurate information to the recipient of the advice concerning any material change to the information required to be provided to the recipient of the advice at a time reasonably contemporaneous to the change in information.

"(G) OTHER CONDITIONS.—The requirements of this subparagraph are met if—

"(i) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

"(ii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

"(iii) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

"(iv) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

"(H) STANDARDS FOR PRESENTATION OF INFORMATION.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the notification required to be provided to participants and beneficiaries under subparagraph (F)(i) is written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and is sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

"(ii) MODEL FORM FOR DISCLOSURE OF FEES AND OTHER COMPENSATION.—The Secretary of Labor shall issue a model form for the disclosure of fees and other compensation required in subparagraph (F)(i)(III) which meets the requirements of clause (i).

"(I) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—The requirements of this subparagraph are met if a fiduciary adviser who has provided advice referred to in subparagraph (A) maintains, for a period of not less than 6 years after the provision of the advice, any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(17) have been met. A transaction prohibited under section 406 shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

"(J) DEFINITIONS.—For purposes of this paragraph and subsection (d)(17)—

"(i) FIDUCIARY ADVISER.—The term 'fiduciary adviser' means, with respect to a plan, a person who is a fiduciary of the plan by reason of the provision of investment advice by the person to the participant or beneficiary of the plan and who is—

"(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

"(II) a bank or similar financial institution referred to in section 408(b)(4) or a savings association (as defined in section 3(b)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b)(1)), but only if the advice is provided through a trust department of the bank or similar financial institution or savings association which is subject to periodic examination and review by Federal or State banking authorities,

"(III) an insurance company qualified to do business under the laws of a State,

"(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

"(V) an affiliate of a person described in any of subclauses (I) through (IV), or

"(VI) an employee, agent, or registered representative of a person described in subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

For purposes of this title, a person who develops the computer model described in subparagraph (C)(ii) or markets the investment advice program or computer model shall be treated as a person who is a fiduciary of the plan by reason of the provision of investment advice referred to in subsection (e)(3)(B) to the participant or beneficiary and shall be treated as a fiduciary adviser for purposes of this paragraph and subsection (d)(17), except that the Secretary of Labor may prescribe rules under which only 1 fiduciary adviser may elect to be treated as a fiduciary with respect to the plan.

"(ii) AFFILIATE.—The term 'affiliate' of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(3))).

"(iii) REGISTERED REPRESENTATIVE.—The term 'registered representative' of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).".

26 USC 4975 note.

(3) DETERMINATION OF FEASIBILITY OF APPLICATION OF COMPUTER MODEL INVESTMENT ADVICE PROGRAMS FOR INDIVIDUAL RETIREMENT AND SIMILAR PLANS.—

(A) SOLICITATION OF INFORMATION.—As soon as practicable after the date of the enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall—

(i) solicit information as to the feasibility of the application of computer model investment advice programs for plans described in subparagraphs (B) through (F) (and so much of subparagraph (G) as relates to such subparagraphs) of section 4975(e)(1) of the Internal Revenue Code of 1986, including soliciting information from—

(I) at least the top 50 trustees of such plans, determined on the basis of assets held by such trustees, and

(II) other persons offering computer model investment advice programs based on nonproprietary products, and

(ii) shall on the basis of such information make the determination under subparagraph (B).

The information solicited by the Secretary of Labor under clause (i) from persons described in subclauses (I) and (II) of clause (i) shall include information on computer

modeling capabilities of such persons with respect to the current year and preceding year, including such capabilities for investment accounts maintained by such persons.

(B) DETERMINATION OF FEASIBILITY.—The Secretary of Labor, in consultation with the Secretary of the Treasury, shall, on the basis of information received under subparagraph (A), determine whether there is any computer model investment advice program which may be utilized by a plan described in subparagraph (A)(i) to provide investment advice to the account beneficiary of the plan which—

(i) utilizes relevant information about the account beneficiary, which may include age, life expectancy, retirement age, risk tolerance, other assets or sources of income, and preferences as to certain types of investments,

(ii) takes into account the full range of investments, including equities and bonds, in determining the options for the investment portfolio of the account beneficiary, and

(iii) allows the account beneficiary, in directing the investment of assets, sufficient flexibility in obtaining advice to evaluate and select investment options.

The Secretary of Labor shall report the results of such determination to the committees of Congress referred to in subparagraph (D)(ii) not later than December 31, 2007.

Reports. Deadline.

(C) APPLICATION OF COMPUTER MODEL INVESTMENT ADVICE PROGRAM.—

(i) CERTIFICATION REQUIRED FOR USE OF COMPUTER MODEL.—

(I) RESTRICTION ON USE.—Subclause (II) of section 4975(f)(8)(B)(i) of the Internal Revenue Code of 1986 shall not apply to a plan described in subparagraph (A)(i).

(II) RESTRICTION LIFTED IF MODEL CERTIFIED.—If the Secretary of Labor determines under subparagraph (B) or (D) that there is a computer model investment advice program described in subparagraph (B), subclause (I) shall cease to apply as of the date of such determination.

(ii) CLASS EXEMPTION IF NO INITIAL CERTIFICATION BY SECRETARY.—If the Secretary of Labor determines under subparagraph (B) that there is no computer model investment advice program described in subparagraph (B), the Secretary of Labor shall grant a class exemption from treatment as a prohibited transaction under section 4975(c) of the Internal Revenue Code of 1986 to any transaction described in section 4975(d)(17)(A) of such Code with respect to plans described in subparagraph (A)(i), subject to such conditions as set forth in such exemption as are in the interests of the plan and its account beneficiary and protective of the rights of the account beneficiary and as are necessary to—

(I) ensure the requirements of sections 4975(d)(17) and 4975(f)(8) (other than subparagraph (C) thereof) of the Internal Revenue Code of 1986 are met, and

(II) ensure the investment advice provided under the investment advice program utilizes prescribed objective criteria to provide asset allocation portfolios comprised of securities or other property available as investments under the plan.

Deadline.

If the Secretary of Labor solicits any information under subparagraph (A) from a person and such person does not provide such information within 60 days after the solicitation, then, unless such failure was due to reasonable cause and not wilful neglect, such person shall not be entitled to utilize the class exemption under this clause.

(D) SUBSEQUENT DETERMINATION.—

(i) IN GENERAL.—If the Secretary of Labor initially makes a determination described in subparagraph (C)(ii), the Secretary may subsequently determine that there is a computer model investment advice program described in subparagraph (B). If the Secretary makes such subsequent determination, then the class exemption described in subparagraph (C)(ii) shall cease to apply after the later of—

(I) the date which is 2 years after such subsequent determination, or

(II) the date which is 3 years after the first date on which such exemption took effect.

Deadlines.

(ii) REQUESTS FOR DETERMINATION.—Any person may request the Secretary of Labor to make a determination under this subparagraph with respect to any computer model investment advice program, and the Secretary of Labor shall make a determination with respect to such request within 90 days. If the Secretary of Labor makes a determination that such program is not described in subparagraph (B), the Secretary shall, within 10 days of such determination, notify the Committee on Ways and Means and the Committee on Education and the Workforce of the House of Representatives and the Committee on Finance and the Committee on Health, Education, Labor, and Pensions of the Senate of such determination and the reasons for such determination.

(E) EFFECTIVE DATE.—The provisions of this paragraph shall take effect on the date of the enactment of this Act.

26 USC 4975 note.

(4) EFFECTIVE DATE.—Except as provided in this subsection, the amendments made by this subsection shall apply with respect to advice referred to in section 4975(c)(3)(B) of the Internal Revenue Code of 1986 provided after December 31, 2006.

26 USC 4975 note.

(c) COORDINATION WITH EXISTING EXEMPTIONS.—Any exemption under section 408(b) of the Employee Retirement Income Security Act of 1974 and section 4975(d) of the Internal Revenue Code of 1986 provided by the amendments made by this section shall

not in any manner alter existing individual or class exemptions, provided by statute or administrative action.

Subtitle B—Prohibited Transactions

SEC. 611. PROHIBITED TRANSACTION RULES RELATING TO FINANCIAL INVESTMENTS.

(a) EXEMPTION FOR BLOCK TRADING.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by section 601, is amended by adding at the end the following new paragraph:

"(15)(A) Any transaction involving the purchase or sale of securities, or other property (as determined by the Secretary), between a plan and a party in interest (other than a fiduciary described in section 3(21)(A)) with respect to a plan if—

"(i) the transaction involves a block trade,

"(ii) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor), does not exceed 10 percent of the aggregate size of the block trade,

"(iii) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction, and

"(iv) the compensation associated with the purchase and sale is not greater than the compensation associated with an arm's length transaction with an unrelated party.

"(B) For purposes of this paragraph, the term 'block trade' means any trade of at least 10,000 shares or with a market value of at least $200,000 which will be allocated across two or more unrelated client accounts of a fiduciary.".

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

(A) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by section 601, is amended by striking "or" at the end of paragraph (16), by striking the period at the end of paragraph (17) and inserting ", or", and by adding at the end the following new paragraph:

"(18) any transaction involving the purchase or sale of securities, or other property (as determined by the Secretary of Labor), between a plan and a party in interest (other than a fiduciary described in subsection (e)(3)(B)) with respect to a plan if—

"(A) the transaction involves a block trade,

"(B) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor), does not exceed 10 percent of the aggregate size of the block trade,

"(C) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction, and

"(D) the compensation associated with the purchase and sale is not greater than the compensation associated with an arm's length transaction with an unrelated party.".

(B) SPECIAL RULE RELATING TO BLOCK TRADE.—Subsection (f) of section 4975 of such Code (relating to other

definitions and special rules), as amended by section 601, is amended by adding at the end the following new paragraph:

"(9) BLOCK TRADE.—The term 'block trade' means any trade of at least 10,000 shares or with a market value of at least $200,000 which will be allocated across two or more unrelated client accounts of a fiduciary.".

(b) BONDING RELIEF.—Section 412(a) of such Act (29 U.S.C. 1112(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3),

(2) by striking "and" at the end of paragraph (1), and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) no bond shall be required of any entity which is registered as a broker or a dealer under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) if the broker or dealer is subject to the fidelity bond requirements of a self-regulatory organization (within the meaning of section 3(a)(26) of such Act (15 U.S.C. 78c(a)(26)).".

(c) EXEMPTION FOR ELECTRONIC COMMUNICATION NETWORK.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act, as amended by subsection (a), is amended by adding at the end the following:

29 USC 1108.

"(16) Any transaction involving the purchase or sale of securities, or other property (as determined by the Secretary), between a plan and a party in interest if—

"(A) the transaction is executed through an electronic communication network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by—

"(i) the applicable Federal regulating entity, or

"(ii) such foreign regulatory entity as the Secretary may determine by regulation,

"(B) either—

"(i) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the execution system in accordance with applicable rules of the Securities and Exchange Commission or other relevant governmental authority, or

"(ii) neither the execution system nor the parties to the transaction take into account the identity of the parties in the execution of trades,

"(C) the price and compensation associated with the purchase and sale are not greater than the price and compensation associated with an arm's length transaction with an unrelated party,

"(D) if the party in interest has an ownership interest in the system or venue described in subparagraph (A), the system or venue has been authorized by the plan sponsor or other independent fiduciary for transactions described in this paragraph, and

Deadline.
Notice.

"(E) not less than 30 days prior to the initial transaction described in this paragraph executed through any system or venue described in subparagraph (A), a plan fiduciary is provided written or electronic notice of the

execution of such transaction through such system or venue.".

(2) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by subsection (a), is amended by striking "or" at the end of paragraph (17), by striking the period at the end of paragraph (18) and inserting ", or", and by adding at the end the following new paragraph:

"(19) any transaction involving the purchase or sale of securities, or other property (as determined by the Secretary of Labor), between a plan and a party in interest if—

"(A) the transaction is executed through an electronic communication network, alternative trading system, or similar execution system or trading venue subject to regulation and oversight by—

"(i) the applicable Federal regulating entity, or

"(ii) such foreign regulatory entity as the Secretary of Labor may determine by regulation,

"(B) either—

"(i) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the execution system in accordance with applicable rules of the Securities and Exchange Commission or other relevant governmental authority, or

"(ii) neither the execution system nor the parties to the transaction take into account the identity of the parties in the execution of trades,

"(C) the price and compensation associated with the purchase and sale are not greater than the price and compensation associated with an arm's length transaction with an unrelated party,

"(D) if the party in interest has an ownership interest in the system or venue described in subparagraph (A), the system or venue has been authorized by the plan sponsor or other independent fiduciary for transactions described in this paragraph, and

"(E) not less than 30 days prior to the initial transaction described in this paragraph executed through any system or venue described in subparagraph (A), a plan fiduciary is provided written or electronic notice of the execution of such transaction through such system or venue.". Deadline. Notice.

(d) EXEMPTION FOR SERVICE PROVIDERS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act (29 U.S.C. 1106), as amended by subsection (c), is amended by adding at the end the following new paragraph: 29 USC 1108.

"(17)(A) Transactions described in subparagraphs (A), (B), and (D) of section 406(a)(1) between a plan and a person that is a party in interest other than a fiduciary (or an affiliate) who has or exercises any discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of section 3(21)(A)(ii)) with respect to those assets, solely by reason of providing services to the plan or solely by reason of a relationship to such a service provider described

in subparagraph (F), (G), (H), or (I) of section 3(14), or both, but only if in connection with such transaction the plan receives no less, nor pays no more, than adequate consideration.

"(B) For purposes of this paragraph, the term 'adequate consideration' means—

"(i) in the case of a security for which there is a generally recognized market—

"(I) the price of the security prevailing on a national securities exchange which is registered under section 6 of the Securities Exchange Act of 1934, taking into account factors such as the size of the transaction and marketability of the security, or

"(II) if the security is not traded on such a national securities exchange, a price not less favorable to the plan than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of the party in interest, taking into account factors such as the size of the transaction and marketability of the security, and

"(ii) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary.".

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

(A) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by subsection (c), is amended by striking "or" at the end of paragraph (18), by striking the period at the end of paragraph (19) and inserting ", or", and by adding at the end the following new paragraph:

"(20) transactions described in subparagraphs (A), (B), and (D) of subsection (c)(1) between a plan and a person that is a party in interest other than a fiduciary (or an affiliate) who has or exercises any discretionary authority or control with respect to the investment of the plan assets involved in the transaction or renders investment advice (within the meaning of subsection (e)(3)(B)) with respect to those assets, solely by reason of providing services to the plan or solely by reason of a relationship to such a service provider described in subparagraph (F), (G), (H), or (I) of subsection (e)(2), or both, but only if in connection with such transaction the plan receives no less, nor pays no more, than adequate consideration.".

(B) SPECIAL RULE RELATING TO SERVICE PROVIDERS.—Subsection (f) of section 4975 of such Code (relating to other definitions and special rules), as amended by subsection (a), is amended by adding at the end the following new paragraph:

"(10) ADEQUATE CONSIDERATION.—The term 'adequate consideration' means—

"(A) in the case of a security for which there is a generally recognized market—

"(i) the price of the security prevailing on a national securities exchange which is registered under

section 6 of the Securities Exchange Act of 1934, taking into account factors such as the size of the transaction and marketability of the security, or

"(ii) if the security is not traded on such a national securities exchange, a price not less favorable to the plan than the offering price for the security as established by the current bid and asked prices quoted by persons independent of the issuer and of the party in interest, taking into account factors such as the size of the transaction and marketability of the security, and

"(B) in the case of an asset other than a security for which there is a generally recognized market, the fair market value of the asset as determined in good faith by a fiduciary or fiduciaries in accordance with regulations prescribed by the Secretary of Labor.".

(e) RELIEF FOR FOREIGN EXCHANGE TRANSACTIONS.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (d), is amended by adding at the end the following new paragraph:

"(18) FOREIGN EXCHANGE TRANSACTIONS.—Any foreign exchange transactions, between a bank or broker-dealer (or any affiliate of either), and a plan (as defined in section 3(3)) with respect to which such bank or broker-dealer (or affiliate) is a trustee, custodian, fiduciary, or other party in interest, if—

"(A) the transaction is in connection with the purchase, holding, or sale of securities or other investment assets (other than a foreign exchange transaction unrelated to any other investment in securities or other investment assets),

"(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or broker-dealer (or any affiliate of either) in comparable arm's-length foreign exchange transactions involving unrelated parties,

"(C) the exchange rate used by such bank or broker-dealer (or affiliate) for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates for transactions of comparable size and maturity at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency, and

"(D) the bank or broker-dealer (or any affiliate of either) does not have investment discretion, or provide investment advice, with respect to the transaction.".

(2) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by subsection (d), is amended by striking "or" at the end of paragraph (19), by striking the period at the end of paragraph (20) and inserting ", or", and by adding at the end the following new paragraph:

"(21) any foreign exchange transactions, between a bank or broker-dealer (or any affiliate of either) and a plan (as defined in this section) with respect to which such bank or broker-dealer (or affiliate) is a trustee, custodian, fiduciary, or other party in interest person, if—

"(A) the transaction is in connection with the purchase, holding, or sale of securities or other investment assets (other than a foreign exchange transaction unrelated to any other investment in securities or other investment assets),

"(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or broker-dealer (or any affiliate of either) in comparable arm's-length foreign exchange transactions involving unrelated parties,

"(C) the exchange rate used by such bank or broker-dealer (or affiliate) for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates for transactions of comparable size and maturity at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency, and

"(D) the bank or broker-dealer (or any affiliate of either) does not have investment discretion, or provide investment advice, with respect to the transaction.".

(f) DEFINITION OF PLAN ASSET VEHICLE.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new paragraph:

"(42) the term 'plan assets' means plan assets as defined by such regulations as the Secretary may prescribe, except that under such regulations the assets of any entity shall not be treated as plan assets if, immediately after the most recent acquisition of any equity interest in the entity, less than 25 percent of the total value of each class of equity interest in the entity is held by benefit plan investors. For purposes of determinations pursuant to this paragraph, the value of any equity interest held by a person (other than such a benefit plan investor) who has discretionary authority or control with respect to the assets of the entity or any person who provides investment advice for a fee (direct or indirect) with respect to such assets, or any affiliate of such a person, shall be disregarded for purposes of calculating the 25 percent threshold. An entity shall be considered to hold plan assets only to the extent of the percentage of the equity interest held by benefit plan investors. For purposes of this paragraph, the term 'benefit plan investor' means an employee benefit plan subject to part 4, any plan to which section 4975 of the Internal Revenue Code of 1986 applies, and any entity whose underlying assets include plan assets by reason of a plan's investment in such entity.".

(g) EXEMPTION FOR CROSS TRADING.—

(1) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (e), is amended by adding at the end the following new paragraph:

"(19) CROSS TRADING.—Any transaction described in sections 406(a)(1)(A) and 406(b)(2) involving the purchase and sale of a security between a plan and any other account managed by the same investment manager, if—

"(A) the transaction is a purchase or sale, for no consideration other than cash payment against prompt delivery of a security for which market quotations are readily available,

"(B) the transaction is effected at the independent current market price of the security (within the meaning of section 270.17a–7(b) of title 17, Code of Federal Regulations),

"(C) no brokerage commission, fee (except for customary transfer fees, the fact of which is disclosed pursuant to subparagraph (D)), or other remuneration is paid in connection with the transaction,

"(D) a fiduciary (other than the investment manager engaging in the cross-trades or any affiliate) for each plan participating in the transaction authorizes in advance of any cross-trades (in a document that is separate from any other written agreement of the parties) the investment manager to engage in cross trades at the investment manager's discretion, after such fiduciary has received disclosure regarding the conditions under which cross trades may take place (but only if such disclosure is separate from any other agreement or disclosure involving the asset management relationship), including the written policies and procedures of the investment manager described in subparagraph (H),

"(E) each plan participating in the transaction has assets of at least $100,000,000, except that if the assets of a plan are invested in a master trust containing the assets of plans maintained by employers in the same controlled group (as defined in section 407(d)(7)), the master trust has assets of at least $100,000,000,

"(F) the investment manager provides to the plan fiduciary who authorized cross trading under subparagraph (D) a quarterly report detailing all cross trades executed by the investment manager in which the plan participated during such quarter, including the following information, as applicable: (i) the identity of each security bought or sold; (ii) the number of shares or units traded; (iii) the parties involved in the cross-trade; and (iv) trade price and the method used to establish the trade price,

"(G) the investment manager does not base its fee schedule on the plan's consent to cross trading, and no other service (other than the investment opportunities and cost savings available through a cross trade) is conditioned on the plan's consent to cross trading,

"(H) the investment manager has adopted, and cross-trades are effected in accordance with, written cross-trading policies and procedures that are fair and equitable to all accounts participating in the cross-trading program, and that include a description of the manager's pricing policies and procedures, and the manager's policies and procedures for allocating cross trades in an objective manner among accounts participating in the cross-trading program, and

Reports.
Deadline.

"(I) the investment manager has designated an individual responsible for periodically reviewing such purchases and sales to ensure compliance with the written policies and procedures described in subparagraph (H), and following such review, the individual shall issue an annual written report no later than 90 days following the period to which it relates signed under penalty of perjury to the plan fiduciary who authorized cross trading under subparagraph (D) describing the steps performed during the course of the review, the level of compliance, and any specific instances of non-compliance.

Notification.

The written report under subparagraph (I) shall also notify the plan fiduciary of the plan's right to terminate participation in the investment manager's cross-trading program at any time.".

(2) AMENDMENTS OF INTERNAL REVENUE CODE OF 1986.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by subsection (e), is amended by striking "or" at the end of paragraph (20), by striking the period at the end of paragraph (21) and inserting ", or", and by adding at the end the following new paragraph:

"(22) any transaction described in subsection (c)(1)(A) involving the purchase and sale of a security between a plan and any other account managed by the same investment manager, if—

"(A) the transaction is a purchase or sale, for no consideration other than cash payment against prompt delivery of a security for which market quotations are readily available,

"(B) the transaction is effected at the independent current market price of the security (within the meaning of section 270.17a–7(b) of title 17, Code of Federal Regulations),

"(C) no brokerage commission, fee (except for customary transfer fees, the fact of which is disclosed pursuant to subparagraph (D)), or other remuneration is paid in connection with the transaction,

"(D) a fiduciary (other than the investment manager engaging in the cross-trades or any affiliate) for each plan participating in the transaction authorizes in advance of any cross-trades (in a document that is separate from any other written agreement of the parties) the investment manager to engage in cross trades at the investment manager's discretion, after such fiduciary has received disclosure regarding the conditions under which cross trades may take place (but only if such disclosure is separate from any other agreement or disclosure involving the asset management relationship), including the written policies and procedures of the investment manager described in subparagraph (H),

"(E) each plan participating in the transaction has assets of at least $100,000,000, except that if the assets of a plan are invested in a master trust containing the assets of plans maintained by employers in the same controlled group (as defined in section 407(d)(7) of the Employee Retirement Income Security Act of 1974), the master trust has assets of at least $100,000,000,

"(F) the investment manager provides to the plan fiduciary who authorized cross trading under subparagraph (D) a quarterly report detailing all cross trades executed by the investment manager in which the plan participated during such quarter, including the following information, as applicable: (i) the identity of each security bought or sold; (ii) the number of shares or units traded; (iii) the parties involved in the cross-trade; and (iv) trade price and the method used to establish the trade price,

"(G) the investment manager does not base its fee schedule on the plan's consent to cross trading, and no other service (other than the investment opportunities and cost savings available through a cross trade) is conditioned on the plan's consent to cross trading,

"(H) the investment manager has adopted, and cross-trades are effected in accordance with, written cross-trading policies and procedures that are fair and equitable to all accounts participating in the cross-trading program, and that include a description of the manager's pricing policies and procedures, and the manager's policies and procedures for allocating cross trades in an objective manner among accounts participating in the cross-trading program, and

"(I) the investment manager has designated an individual responsible for periodically reviewing such purchases and sales to ensure compliance with the written policies and procedures described in subparagraph (H), and following such review, the individual shall issue an annual written report no later than 90 days following the period to which it relates signed under penalty of perjury to the plan fiduciary who authorized cross trading under subparagraph (D) describing the steps performed during the course of the review, the level of compliance, and any specific instances of non-compliance. Reports. Deadline.

The written report shall also notify the plan fiduciary of the plan's right to terminate participation in the investment manager's cross-trading program at any time.". Notification.

(3) REGULATIONS.—No later than 180 days after the date of the enactment of this Act, the Secretary of Labor, after consultation with the Securities and Exchange Commission, shall issue regulations regarding the content of policies and procedures required to be adopted by an investment manager under section 408(b)(19) of the Employee Retirement Income Security Act of 1974. Deadline. 29 USC 1108 note.

(h) EFFECTIVE DATES.— 26 USC 4975 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act.

(2) BONDING RULE.—The amendments made by subsection (b) shall apply to plan years beginning after such date.

SEC. 612. CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.

(a) AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)), as amended by sections 601 and 611, is further amended by adding at the end the following new paragraph:

"(20)(A) Except as provided in subparagraphs (B) and (C), a transaction described in section 406(a) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.

"(B) Subparagraph (A) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1)) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2)).

"(C) In the case of any fiduciary or other party in interest (or any other person knowingly participating in such transaction), subparagraph (A) does not apply to any transaction if, at the time the transaction occurs, such fiduciary or party in interest (or other person) knew (or reasonably should have known) that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

"(D) For purposes of this paragraph, the term 'correction period' means, in connection with a fiduciary or party in interest (or other person knowingly participating in the transaction), the 14-day period beginning on the date on which such fiduciary or party in interest (or other person) discovers, or reasonably should have discovered, that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

"(E) For purposes of this paragraph—

"(i) The term 'security' has the meaning given such term by section 475(c)(2) of the Internal Revenue Code of 1986 (without regard to subparagraph (F)(iii) and the last sentence thereof).

"(ii) The term 'commodity' has the meaning given such term by section 475(e)(2) of such Code (without regard to subparagraph (D)(iii) thereof).

"(iii) The term 'correct' means, with respect to a transaction—

"(I) to undo the transaction to the extent possible and in any case to make good to the plan or affected account any losses resulting from the transaction, and

"(II) to restore to the plan or affected account any profits made through the use of assets of the plan.".

(b) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions), as amended by sections 601 and 611, is amended by striking "or" at the end of paragraph (21), by striking the period at the end of paragraph (22) and inserting ", or", and by adding at the end the following new paragraph:

"(23) except as provided in subsection (f)(11), a transaction described in subparagraph (A), (B), (C), or (D) of subsection (c)(1) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.".

(2) SPECIAL RULES RELATING TO CORRECTION PERIOD.—Subsection (f) of section 4975 of such Code (relating to other definitions and special rules), as amended by sections 601 and 611, is amended by adding at the end the following new paragraph:

"(11) CORRECTION PERIOD.—

"(A) IN GENERAL.—For purposes of subsection (d)(23), the term 'correction period' means the 14-day period beginning on the date on which the disqualified person discovers, or reasonably should have discovered, that the transaction would (without regard to this paragraph and subsection (d)(23)) constitute a prohibited transaction.

"(B) EXCEPTIONS.—

"(i) EMPLOYER SECURITIES.—Subsection (d)(23) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1)) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2)).

"(ii) KNOWING PROHIBITED TRANSACTION.—In the case of any disqualified person, subsection (d)(23) does not apply to a transaction if, at the time the transaction is entered into, the disqualified person knew (or reasonably should have known) that the transaction would (without regard to this paragraph) constitute a prohibited transaction.

"(C) ABATEMENT OF TAX WHERE THERE IS A CORRECTION.—If a transaction is not treated as a prohibited transaction by reason of subsection (d)(23), then no tax under subsections (a) and (b) shall be assessed with respect to such transaction, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

"(D) DEFINITIONS.—For purposes of this paragraph and subsection (d)(23)—

"(i) SECURITY.—The term 'security' has the meaning given such term by section 475(c)(2) (without regard to subparagraph (F)(iii) and the last sentence thereof).

"(ii) COMMODITY.—The term 'commodity' has the meaning given such term by section 475(e)(2) (without regard to subparagraph (D)(iii) thereof).

"(iii) CORRECT.—The term 'correct' means, with respect to a transaction—

"(I) to undo the transaction to the extent possible and in any case to make good to the plan or affected account any losses resulting from the transaction, and

"(II) to restore to the plan or affected account any profits made through the use of assets of the plan.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any transaction which the fiduciary or disqualified person discovers, or reasonably should have discovered, after the date of the enactment of this Act constitutes a prohibited transaction.

26 USC 4975 note.

Subtitle C—Fiduciary and Other Rules

SEC. 621. INAPPLICABILITY OF RELIEF FROM FIDUCIARY LIABILITY DURING SUSPENSION OF ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by inserting "(A)" after "(c)(1)",

(B) in subparagraph (A)(ii) (as redesignated by paragraph (1)), by inserting before the period the following: ", except that this clause shall not apply in connection with such participant or beneficiary for any blackout period during which the ability of such participant or beneficiary to direct the investment of the assets in his or her account is suspended by a plan sponsor or fiduciary", and

(C) by adding at the end the following new subparagraphs:

"(B) If a person referred to in subparagraph (A)(ii) meets the requirements of this title in connection with authorizing and implementing the blackout period, any person who is otherwise a fiduciary shall not be liable under this title for any loss occurring during such period.

"(C) For purposes of this paragraph, the term 'blackout period' has the meaning given such term by section 101(i)(7)."; and

(2) by adding at the end the following:

"(4)(A) In any case in which a qualified change in investment options occurs in connection with an individual account plan, a participant or beneficiary shall not be treated for purposes of paragraph (1) as not exercising control over the assets in his account in connection with such change if the requirements of subparagraph (C) are met in connection with such change.

"(B) For purposes of subparagraph (A), the term 'qualified change in investment options' means, in connection with an individual account plan, a change in the investment options offered to the participant or beneficiary under the terms of the plan, under which—

"(i) the account of the participant or beneficiary is reallocated among one or more remaining or new investment options which are offered in lieu of one or more investment options offered immediately prior to the effective date of the change, and

"(ii) the stated characteristics of the remaining or new investment options provided under clause (i), including characteristics relating to risk and rate of return, are, as of immediately after the change, reasonably similar to those of the existing investment options as of immediately before the change.

"(C) The requirements of this subparagraph are met in connection with a qualified change in investment options if—

"(i) at least 30 days and no more than 60 days prior to the effective date of the change, the plan administrator furnishes written notice of the change to the participants

and beneficiaries, including information comparing the existing and new investment options and an explanation that, in the absence of affirmative investment instructions from the participant or beneficiary to the contrary, the account of the participant or beneficiary will be invested in the manner described in subparagraph (B),

"(ii) the participant or beneficiary has not provided to the plan administrator, in advance of the effective date of the change, affirmative investment instructions contrary to the change, and

"(iii) the investments under the plan of the participant or beneficiary as in effect immediately prior to the effective date of the change were the product of the exercise by such participant or beneficiary of control over the assets of the account within the meaning of paragraph (1).".

(b) EFFECTIVE DATE.— 29 USC 1104 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2007" the earlier of— Applicability.

(A) the later of—

(i) December 31, 2008, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2009.

SEC. 622. INCREASE IN MAXIMUM BOND AMOUNT.

(a) IN GENERAL.—Section 412(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1112), as amended by section 611(b), is amended by adding at the end the following: "In the case of a plan that holds employer securities (within the meaning of section 407(d)(1)), this subsection shall be applied by substituting '$1,000,000' for '$500,000' each place it appears.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 2007. 29 USC 1112 note.

SEC. 623. INCREASE IN PENALTIES FOR COERCIVE INTERFERENCE WITH EXERCISE OF ERISA RIGHTS.

(a) IN GENERAL.—Section 511 of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1141) is amended—

(1) by striking "$10,000" and inserting "$100,000", and

(2) by striking "one year" and inserting "10 years".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act. 29 USC 1141 note.

SEC. 624. TREATMENT OF INVESTMENT OF ASSETS BY PLAN WHERE PARTICIPANT FAILS TO EXERCISE INVESTMENT ELECTION.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)), as amended by section 622, is amended by adding at the end the following new paragraph:

"(5) DEFAULT INVESTMENT ARRANGEMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1), a participant in an individual account plan meeting the notice requirements of subparagraph (B) shall be treated as exercising control over the assets in the account with respect to the amount of contributions and earnings which, in the absence of an investment election by the participant, are invested by the plan in accordance with regulations prescribed by the Secretary. The regulations under this subparagraph shall provide guidance on the appropriateness of designating default investments that include a mix of asset classes consistent with capital preservation or long-term capital appreciation, or a blend of both.

"(B) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if each participant—

"(I) receives, within a reasonable period of time before each plan year, a notice explaining the employee's right under the plan to designate how contributions and earnings will be invested and explaining how, in the absence of any investment election by the participant, such contributions and earnings will be invested, and

"(II) has a reasonable period of time after receipt of such notice and before the beginning of the plan year to make such designation.

Applicability.

"(ii) FORM OF NOTICE.—The requirements of clauses (i) and (ii) of section 401(k)(12)(D) of the Internal Revenue Code of 1986 shall apply with respect to the notices described in this subparagraph.".

29 USC 1104 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

Deadline.

(2) REGULATIONS.—Final regulations under section 404(c)(5)(A) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be issued no later than 6 months after the date of the enactment of this Act.

29 USC 1104 note.
Deadline.

SEC. 625. CLARIFICATION OF FIDUCIARY RULES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall issue final regulations clarifying that the selection of an annuity contract as an optional form of distribution from an individual account plan to a participant or beneficiary—

(1) is not subject to the safest available annuity standard under Interpretive Bulletin 95–1 (29 CFR 2509.95–1), and

(2) is subject to all otherwise applicable fiduciary standards.

(b) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

TITLE VII—BENEFIT ACCRUAL STANDARDS

SEC. 701. BENEFIT ACCRUAL STANDARDS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) RULES RELATING TO REDUCTION IN RATE OF BENEFIT ACCRUAL.—Section 204(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULES RELATING TO AGE.—

"(A) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) if a participant's accrued benefit, as determined as of any date under the terms of the plan, would be equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

"(ii) SIMILARLY SITUATED.—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

"(iii) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

"(iv) ACCRUED BENEFIT.—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee's final average compensation.

"(B) APPLICABLE DEFINED BENEFIT PLANS.—

"(i) INTEREST CREDITS.—

"(I) IN GENERAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the terms of the plan provide that any interest credit (or an equivalent amount) for any plan year shall be at a rate which is not greater than a market rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.

"(II) PRESERVATION OF CAPITAL.—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.

"(III) MARKET RATE OF RETURN.—The Secretary of the Treasury may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I).

"(ii) SPECIAL RULE FOR PLAN CONVERSIONS.—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

"(iii) RATE OF BENEFIT ACCRUAL.—Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

"(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

"(II) the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

"(iv) SPECIAL RULES FOR EARLY RETIREMENT SUBSIDIES.—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

"(v) APPLICABLE PLAN AMENDMENT.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

"(II) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

Regulations.

"(III) MULTIPLE AMENDMENTS.—The Secretary of the Treasury shall issue regulations to prevent the avoidance of the purposes of this subparagraph

through the use of 2 or more plan amendments rather than a single amendment.

"(IV) APPLICABLE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the term 'applicable defined benefit plan' has the meaning given such term by section 203(f)(3).

"(vi) TERMINATION REQUIREMENTS.—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

"(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

"(II) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

"(C) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a) of the Internal Revenue Code of 1986.

"(D) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) of the Internal Revenue Code of 1986 are met.

"(E) INDEXING PERMITTED.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides for indexing of accrued benefits under the plan.

"(ii) PROTECTION AGAINST LOSS.—Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

"(iii) INDEXING.—For purposes of this subparagraph, the term 'indexing' means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

"(F) EARLY RETIREMENT BENEFIT OR RETIREMENT-TYPE SUBSIDY.—For purposes of this paragraph, the terms 'early

retirement benefit' and 'retirement-type subsidy' have the meaning given such terms in subsection (g)(2)(A).

"(G) BENEFIT ACCRUED TO DATE.—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.".

(2) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT OR EQUIVALENT AMOUNTS.—Section 203 of such Act (29 U.S.C. 1053) is amended by adding at the end the following new subsection:

"(f) SPECIAL RULES FOR PLANS COMPUTING ACCRUED BENEFITS BY REFERENCE TO HYPOTHETICAL ACCOUNT BALANCE OR EQUIVALENT AMOUNTS.—

"(1) IN GENERAL.—An applicable defined benefit plan shall not be treated as failing to meet—

"(A) subject to paragraph (2), the requirements of subsection (a)(2), or

"(B) the requirements of section 204(c) or section 205(g) with respect to contributions other than employee contributions,

solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance in the hypothetical account described in paragraph (3) or as an accumulated percentage of the participant's final average compensation.

"(2) 3-YEAR VESTING.—In the case of an applicable defined benefit plan, such plan shall be treated as meeting the requirements of subsection (a)(2) only if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(3) APPLICABLE DEFINED BENEFIT PLAN AND RELATED RULES.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable defined benefit plan' means a defined benefit plan under which the accrued benefit (or any portion thereof) is calculated as the balance of a hypothetical account maintained for the participant or as an accumulated percentage of the participant's final average compensation.

"(B) REGULATIONS TO INCLUDE SIMILAR PLANS.—The Secretary of the Treasury shall issue regulations which include in the definition of an applicable defined benefit plan any defined benefit plan (or any portion of such a plan) which has an effect similar to an applicable defined benefit plan.".

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

(1) RULES RELATING TO REDUCTION IN RATE OF BENEFIT ACCRUAL.—Subsection (b) of section 411 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph:

26 USC 411.

"(5) SPECIAL RULES RELATING TO AGE.—

"(A) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) if a participant's accrued benefit, as determined as of any date under the terms of the plan, would be

equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

"(ii) SIMILARLY SITUATED.—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

"(iii) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

"(iv) ACCRUED BENEFIT.—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee's final average compensation.

"(B) APPLICABLE DEFINED BENEFIT PLANS.—

"(i) INTEREST CREDITS.—

"(I) IN GENERAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the terms of the plan provide that any interest credit (or an equivalent amount) for any plan year shall be at a rate which is not greater than a market rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.

"(II) PRESERVATION OF CAPITAL.—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.

"(III) MARKET RATE OF RETURN.—The Secretary may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I).

"(ii) SPECIAL RULE FOR PLAN CONVERSIONS.—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

"(iii) RATE OF BENEFIT ACCRUAL.—Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of

the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

"(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

"(II) the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

"(iv) SPECIAL RULES FOR EARLY RETIREMENT SUBSIDIES.—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

"(v) APPLICABLE PLAN AMENDMENT.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

"(II) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

Regulations.

"(III) MULTIPLE AMENDMENTS.—The Secretary shall issue regulations to prevent the avoidance of the purposes of this subparagraph through the use of 2 or more plan amendments rather than a single amendment.

"(IV) APPLICABLE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the term 'applicable defined benefit plan' has the meaning given such term by section 411(a)(13).

"(vi) TERMINATION REQUIREMENTS.—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

"(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

"(II) the interest rate and mortality table used to determine the amount of any benefit under the

plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

"(C) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H)(i) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a).

"(D) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) are met.

"(E) INDEXING PERMITTED.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1)(H) solely because the plan provides for indexing of accrued benefits under the plan.

"(ii) PROTECTION AGAINST LOSS.—Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

"(iii) INDEXING.—For purposes of this subparagraph, the term 'indexing' means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

"(F) EARLY RETIREMENT BENEFIT OR RETIREMENT-TYPE SUBSIDY.—For purposes of this paragraph, the terms 'early retirement benefit' and 'retirement-type subsidy' have the meaning given such terms in subsection (d)(6)(B)(i).

"(G) BENEFIT ACCRUED TO DATE.—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.".

(2) DETERMINATIONS OF ACCRUED BENEFIT AS BALANCE OF BENEFIT ACCOUNT OR EQUIVALENT AMOUNTS.—Subsection (a) of section 411 of such Code is amended by adding at the end the following new paragraph:

"(13) SPECIAL RULES FOR PLANS COMPUTING ACCRUED BENEFITS BY REFERENCE TO HYPOTHETICAL ACCOUNT BALANCE OR EQUIVALENT AMOUNTS.—

"(A) IN GENERAL.—An applicable defined benefit plan shall not be treated as failing to meet—

"(i) subject to paragraph (2), the requirements of subsection (a)(2), or

"(ii) the requirements of subsection (c) or section 417(e) with respect to contributions other than employee contributions,

solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the

terms of the plan, equal to the amount expressed as the balance in the hypothetical account described in paragraph (3) or as an accumulated percentage of the participant's final average compensation.

"(B) 3-YEAR VESTING.—In the case of an applicable defined benefit plan, such plan shall be treated as meeting the requirements of subsection (a)(2) only if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(C) APPLICABLE DEFINED BENEFIT PLAN AND RELATED RULES.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'applicable defined benefit plan' means a defined benefit plan under which the accrued benefit (or any portion thereof) is calculated as the balance of a hypothetical account maintained for the participant or as an accumulated percentage of the participant's final average compensation.

"(ii) REGULATIONS TO INCLUDE SIMILAR PLANS.—The Secretary shall issue regulations which include in the definition of an applicable defined benefit plan any defined benefit plan (or any portion of such a plan) which has an effect similar to an applicable defined benefit plan.".

(c) AMENDMENTS TO AGE DISCRIMINATION IN EMPLOYMENT ACT.—Section 4(i) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(i)) is amended by adding at the end the following new paragraph:

"(10) SPECIAL RULES RELATING TO AGE.—

"(A) COMPARISON TO SIMILARLY SITUATED YOUNGER INDIVIDUAL.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) if a participant's accrued benefit, as determined as of any date under the terms of the plan, would be equal to or greater than that of any similarly situated, younger individual who is or could be a participant.

"(ii) SIMILARLY SITUATED.—For purposes of this subparagraph, a participant is similarly situated to any other individual if such participant is identical to such other individual in every respect (including period of service, compensation, position, date of hire, work history, and any other respect) except for age.

"(iii) DISREGARD OF SUBSIDIZED EARLY RETIREMENT BENEFITS.—In determining the accrued benefit as of any date for purposes of this clause, the subsidized portion of any early retirement benefit or retirement-type subsidy shall be disregarded.

"(iv) ACCRUED BENEFIT.—For purposes of this subparagraph, the accrued benefit may, under the terms of the plan, be expressed as an annuity payable at normal retirement age, the balance of a hypothetical account, or the current value of the accumulated percentage of the employee's final average compensation.

"(B) APPLICABLE DEFINED BENEFIT PLANS.—

"(i) INTEREST CREDITS.—

"(I) IN GENERAL.—An applicable defined benefit plan shall be treated as failing to meet the requirements of paragraph (1) unless the terms of the plan provide that any interest credit (or an equivalent amount) for any plan year shall be at a rate which is not greater than a market rate of return. A plan shall not be treated as failing to meet the requirements of this subclause merely because the plan provides for a reasonable minimum guaranteed rate of return or for a rate of return that is equal to the greater of a fixed or variable rate of return.

"(II) PRESERVATION OF CAPITAL.—An interest credit (or an equivalent amount) of less than zero shall in no event result in the account balance or similar amount being less than the aggregate amount of contributions credited to the account.

"(III) MARKET RATE OF RETURN.—The Secretary of the Treasury may provide by regulation for rules governing the calculation of a market rate of return for purposes of subclause (I) and for permissible methods of crediting interest to the account (including fixed or variable interest rates) resulting in effective rates of return meeting the requirements of subclause (I).

"(ii) SPECIAL RULE FOR PLAN CONVERSIONS.—If, after June 29, 2005, an applicable plan amendment is adopted, the plan shall be treated as failing to meet the requirements of paragraph (1)(H) unless the requirements of clause (iii) are met with respect to each individual who was a participant in the plan immediately before the adoption of the amendment.

"(iii) RATE OF BENEFIT ACCRUAL.—Subject to clause (iv), the requirements of this clause are met with respect to any participant if the accrued benefit of the participant under the terms of the plan as in effect after the amendment is not less than the sum of—

"(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

"(II) the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

"(iv) SPECIAL RULES FOR EARLY RETIREMENT SUBSIDIES.—For purposes of clause (iii)(I), the plan shall credit the accumulation account or similar amount with the amount of any early retirement benefit or retirement-type subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

"(v) APPLICABLE PLAN AMENDMENT.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to an applicable defined benefit plan.

"(II) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in subclause (I), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

Regulations.

"(III) MULTIPLE AMENDMENTS.—The Secretary of the Treasury shall issue regulations to prevent the avoidance of the purposes of this subparagraph through the use of 2 or more plan amendments rather than a single amendment.

"(IV) APPLICABLE DEFINED BENEFIT PLAN.—For purposes of this subparagraph, the term 'applicable defined benefit plan' has the meaning given such term by section 203(f)(3) of the Employee Retirement Income Security Act of 1974.

"(vi) TERMINATION REQUIREMENTS.—An applicable defined benefit plan shall not be treated as meeting the requirements of clause (i) unless the plan provides that, upon the termination of the plan—

"(I) if the interest credit rate (or an equivalent amount) under the plan is a variable rate, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date, and

"(II) the interest rate and mortality table used to determine the amount of any benefit under the plan payable in the form of an annuity payable at normal retirement age shall be the rate and table specified under the plan for such purpose as of the termination date, except that if such interest rate is a variable rate, the interest rate shall be determined under the rules of subclause (I).

"(C) CERTAIN OFFSETS PERMITTED.—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides offsets against benefits under the plan to the extent such offsets are allowable in applying the requirements of section 401(a) of the Internal Revenue Code of 1986.

"(D) PERMITTED DISPARITIES IN PLAN CONTRIBUTIONS OR BENEFITS.—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides a disparity in contributions or benefits with respect to which the requirements of section 401(l) of the Internal Revenue Code of 1986 are met.

"(E) INDEXING PERMITTED.—

"(i) IN GENERAL.—A plan shall not be treated as failing to meet the requirements of paragraph (1) solely because the plan provides for indexing of accrued benefits under the plan.

"(ii) PROTECTION AGAINST LOSS.—Except in the case of any benefit provided in the form of a variable annuity, clause (i) shall not apply with respect to any indexing which results in an accrued benefit less than the accrued benefit determined without regard to such indexing.

"(iii) INDEXING.—For purposes of this subparagraph, the term 'indexing' means, in connection with an accrued benefit, the periodic adjustment of the accrued benefit by means of the application of a recognized investment index or methodology.

"(F) EARLY RETIREMENT BENEFIT OR RETIREMENT-TYPE SUBSIDY.—For purposes of this paragraph, the terms 'early retirement benefit' and 'retirement-type subsidy' have the meaning given such terms in section 203(g)(2)(A) of the Employee Retirement Income Security Act of 1974.

"(G) BENEFIT ACCRUED TO DATE.—For purposes of this paragraph, any reference to the accrued benefit shall be a reference to such benefit accrued to date.".

(d) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to create an inference with respect to— 26 USC 411 note.

(1) the treatment of applicable defined benefit plans or conversions to applicable defined benefit plans under sections 204(b)(1)(H) of the Employee Retirement Income Security Act of 1974, 4(i)(1) of the Age Discrimination in Employment Act of 1967, and 411(b)(1)(H) of the Internal Revenue Code of 1986, as in effect before such amendments, or

(2) the determination of whether an applicable defined benefit plan fails to meet the requirements of sections 203(a)(2), 204(c), or 204(g) of the Employee Retirement Income Security Act of 1974 or sections 411(a)(2), 411(c), or 417(e) of such Code, as in effect before such amendments, solely because the present value of the accrued benefit (or any portion thereof) of any participant is, under the terms of the plan, equal to the amount expressed as the balance in a hypothetical account or as an accumulated percentage of the participant's final average compensation.

For purposes of this subsection, the term "applicable defined benefit plan" has the meaning given such term by section 203(f)(3) of the Employee Retirement Income Security Act of 1974 and section 411(a)(13)(C) of such Code, as in effect after such amendments.

(e) EFFECTIVE DATE.— Applicability. 26 USC 411 note.

(1) IN GENERAL.—The amendments made by this section shall apply to periods beginning on or after June 29, 2005.

(2) PRESENT VALUE OF ACCRUED BENEFIT.—The amendments made by subsections (a)(2) and (b)(2) shall apply to distributions made after the date of the enactment of this Act.

(3) VESTING AND INTEREST CREDIT REQUIREMENTS.—In the case of a plan in existence on June 29, 2005, the requirements of clause (i) of section 411(b)(5)(B) of the Internal Revenue Code of 1986, clause (i) of section 204(b)(5)(B) of the Employee

Retirement Income Security Act of 1974, and clause (i) of section 4(i)(10)(B) of the Age Discrimination in Employment Act of 1967 (as added by this Act) and the requirements of 203(f)(2) of the Employee Retirement Income Security Act of 1974 and section 411(a)(13)(B) of the Internal Revenue Code of 1986 (as so added) shall, for purposes of applying the amendments made by subsections (a) and (b), apply to years beginning after December 31, 2007, unless the plan sponsor elects the application of such requirements for any period after June 29, 2005, and before the first year beginning after December 31, 2007.

(4) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, the requirements described in paragraph (3) shall, for purposes of applying the amendments made by subsections (a) and (b), not apply to plan years beginning before—

(A) the earlier of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(ii) January 1, 2008, or

(B) January 1, 2010.

(5) CONVERSIONS.—The requirements of clause (ii) of section 411(b)(5)(B) of the Internal Revenue Code of 1986, clause (ii) of section 204(b)(5)(B) of the Employee Retirement Income Security Act of 1974, and clause (ii) of section 4(i)(10)(B) of the Age Discrimination in Employment Act of 1967 (as added by this Act), shall apply to plan amendments adopted after, and taking effect after, June 29, 2005, except that the plan sponsor may elect to have such amendments apply to plan amendments adopted before, and taking effect after, such date.

Deadline.
26 USC 411 note.

SEC. 702. REGULATIONS RELATING TO MERGERS AND ACQUISITIONS.

The Secretary of the Treasury or his delegate shall, not later than 12 months after the date of the enactment of this Act, prescribe regulations for the application of the amendments made by, and the provisions of, this title in cases where the conversion of a plan to an applicable defined benefit plan is made with respect to a group of employees who become employees by reason of a merger, acquisition, or similar transaction.

TITLE VIII—PENSION RELATED REVENUE PROVISIONS

Subtitle A—Deduction Limitations

SEC. 801. INCREASE IN DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.

26 USC 404.

(a) IN GENERAL.—Section 404 of the Internal Revenue Code of 1986 (relating to deduction for contributions of an employer

to an employees' trust or annuity plan and compensation under a deferred payment plan) is amended—

(1) in subsection (a)(1)(A), by inserting "in the case of a defined benefit plan other than a multiemployer plan, in an amount determined under subsection (o), and in the case of any other plan" after "section 501(a),", and

(2) by inserting at the end the following new subsection:

"(o) DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.—For purposes of subsection (a)(1)(A)—

"(1) IN GENERAL.—In the case of a defined benefit plan to which subsection (a)(1)(A) applies (other than a multiemployer plan), the amount determined under this subsection for any taxable year shall be equal to the greater of—

"(A) the sum of the amounts determined under paragraph (2) with respect to each plan year ending with or within the taxable year, or

"(B) the sum of the minimum required contributions under section 430 for such plan years.

"(2) DETERMINATION OF AMOUNT.—

"(A) IN GENERAL.—The amount determined under this paragraph for any plan year shall be equal to the excess (if any) of—

"(i) the sum of—

"(I) the funding target for the plan year,

"(II) the target normal cost for the plan year, and

"(III) the cushion amount for the plan year, over

"(ii) the value (determined under section 430(g)(2)) of the assets of the plan which are held by the plan as of the valuation date for the plan year.

"(B) SPECIAL RULE FOR CERTAIN EMPLOYERS.—If section 430(i) does not apply to a plan for a plan year, the amount determined under subparagraph (A)(i) for the plan year shall in no event be less than the sum of—

"(i) the funding target for the plan year (determined as if section 430(i) applied to the plan), plus

"(ii) the target normal cost for the plan year (as so determined).

"(3) CUSHION AMOUNT.—For purposes of paragraph (2)(A)(i)(III)—

"(A) IN GENERAL.—The cushion amount for any plan year is the sum of—

"(i) 50 percent of the funding target for the plan year, and

"(ii) the amount by which the funding target for the plan year would increase if the plan were to take into account—

"(I) increases in compensation which are expected to occur in succeeding plan years, or

"(II) if the plan does not base benefits for service to date on compensation, increases in benefits which are expected to occur in succeeding plan years (determined on the basis of the average annual increase in benefits over the 6 immediately preceding plan years).

"(B) LIMITATIONS.—

Applicability.

"(i) IN GENERAL.—In making the computation under subparagraph (A)(ii), the plan's actuary shall assume that the limitations under subsection (l) and section 415(b) shall apply.

"(ii) EXPECTED INCREASES.—In the case of a plan year during which a plan is covered under section 4021 of the Employee Retirement Income Security Act of 1974, the plan's actuary may, notwithstanding subsection (l), take into account increases in the limitations which are expected to occur in succeeding plan years.

"(4) SPECIAL RULES FOR PLANS WITH 100 OR FEWER PARTICIPANTS.—

"(A) IN GENERAL.—For purposes of determining the amount under paragraph (3) for any plan year, in the case of a plan which has 100 or fewer participants for the plan year, the liability of the plan attributable to benefit increases for highly compensated employees (as defined in section 414(q)) resulting from a plan amendment which is made or becomes effective, whichever is later, within the last 2 years shall not be taken into account in determining the target liability.

"(B) RULE FOR DETERMINING NUMBER OF PARTICIPANTS.—For purposes of determining the number of plan participants, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(f)(4))) shall be treated as one plan, but only participants of such member or employer shall be taken into account.

"(5) SPECIAL RULE FOR TERMINATING PLANS.—In the case of a plan which, subject to section 4041 of the Employee Retirement Income Security Act of 1974, terminates during the plan year, the amount determined under paragraph (2) shall in no event be less than the amount required to make the plan sufficient for benefit liabilities (within the meaning of section 4041(d) of such Act).

"(6) ACTUARIAL ASSUMPTIONS.—Any computation under this subsection for any plan year shall use the same actuarial assumptions which are used for the plan year under section 430.

"(7) DEFINITIONS.—Any term used in this subsection which is also used in section 430 shall have the same meaning given such term by section 430.".

(b) EXCEPTION FROM LIMITATION ON DEDUCTION WHERE COMBINATION OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLANS.—Section 404(a)(7)(C) of such Code, as amended by this Act, is amended by adding at the end the following new clause:

26 USC 404.

"(iv) GUARANTEED PLANS.—In applying this paragraph, any single-employer plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 shall not be taken into account.".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The last sentence of section 404(a)(1)(A) of such Code is amended by striking "section 412" each place it appears and inserting "section 431".

(2) Section 404(a)(1)(B) of such Code is amended—

(A) by striking "In the case of a plan" and inserting "In the case of a multiemployer plan",

(B) by striking "section 412(c)(7)" each place it appears and inserting "section 431(c)(6)",

(C) by striking "section 412(c)(7)(B)" and inserting "section 431(c)(6)(A)(ii)",

(D) by striking "section 412(c)(7)(A)" and inserting "section 431(c)(6)(A)(i)", and

(E) by striking "section 412" and inserting "section 431".

(3) Section 404(a)(7) of such Code, as amended by this Act, is amended— 26 USC 404.

(A) by adding at the end of subparagraph (A) the following new sentence: "In the case of a defined benefit plan which is a single employer plan, the amount necessary to satisfy the minimum funding standard provided by section 412 shall not be less than the plan's funding shortfall determined under section 430.", and

(B) by striking subparagraph (D) and inserting:

"(D) INSURANCE CONTRACT PLANS.—For purposes of this paragraph, a plan described in section 412(e)(3) shall be treated as a defined benefit plan.".

(4) Section 404A(g)(3)(A) of such Code is amended by striking "paragraphs (3) and (7) of section 412(c)" and inserting "paragraphs (3) and (6) of section 431(c)".

(d) SPECIAL RULE FOR 2006 AND 2007.—

(1) IN GENERAL.—Clause (i) of section 404(a)(1)(D) of the Internal Revenue Code of 1986 (relating to special rule in case of certain plans) is amended by striking "section 412(l)" and inserting "section 412(l)(8)(A), except that section 412(l)(8)(A) shall be applied for purposes of this clause by substituting '150 percent (140 percent in the case of a multiemployer plan) of current liability' for 'the current liability' in clause (i).". Applicability.

(2) CONFORMING AMENDMENT.—Section 404(a)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(e) EFFECTIVE DATES.— 26 USC 404 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 2007.

(2) SPECIAL RULES.—The amendments made by subsection (d) shall apply to years beginning after December 31, 2005.

SEC. 802. DEDUCTION LIMITS FOR MULTIEMPLOYER PLANS.

(a) INCREASE IN DEDUCTION.—Section 404(a)(1)(D) of the Internal Revenue Code of 1986, as amended by this Act, is amended to read as follows:

"(D) AMOUNT DETERMINED ON BASIS OF UNFUNDED CURRENT LIABILITY.—In the case of a defined benefit plan which is a multiemployer plan, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the excess (if any) of—

"(i) 140 percent of the current liability of the plan determined under section 431(c)(6)(C), over

"(ii) the value of the plan's assets determined under section 431(c)(2).".

26 USC 404 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2007.

SEC. 803. UPDATING DEDUCTION RULES FOR COMBINATION OF PLANS.

26 USC 404.

(a) IN GENERAL.—Subparagraph (C) of section 404(a)(7) of the Internal Revenue Code of 1986 (relating to limitation on deductions where combination of defined contribution plan and defined benefit plan) is amended by adding after clause (ii) the following new clause:

"(iii) LIMITATION.—In the case of employer contributions to 1 or more defined contribution plans, this paragraph shall only apply to the extent that such contributions exceed 6 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans. For purposes of this clause, amounts carried over from preceding taxable years under subparagraph (B) shall be treated as employer contributions to 1 or more defined contributions to the extent attributable to employer contributions to such plans in such preceding taxable years.".

(b) EXCEPTION FROM LIMITATION ON DEDUCTION WHERE COMBINATION OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLANS.—Section 404(a)(7)(C) of such Code, as amended by this Act, is amended by adding at the end the following new clause:

"(v) MULTIEMPLOYER PLANS.—In applying this paragraph, any multiemployer plan shall not be taken into account.".

(c) CONFORMING AMENDMENT.—Subparagraph (A) of section 4972(c)(6) of such Code (relating to nondeductible contributions) is amended to read as follows:

"(A) so much of the contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the amount of contributions described in section 401(m)(4)(A), or".

26 USC 404 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 2005.

Subtitle B—Certain Pension Provisions Made Permanent

26 USC 1 note.

SEC. 811. PENSIONS AND INDIVIDUAL RETIREMENT ARRANGEMENT PROVISIONS OF ECONOMIC GROWTH AND TAX RELIEF RECONCILIATION ACT OF 2001 MADE PERMANENT.

Title IX of the Economic Growth and Tax Relief Reconciliation Act of 2001 shall not apply to the provisions of, and amendments made by, subtitles A through F of title VI of such Act (relating to pension and individual retirement arrangement provisions).

SEC. 812. SAVER'S CREDIT.

Section 25B of the Internal Revenue Code of 1986 (relating to elective deferrals and IRA contributions by certain individuals) is amended by striking subsection (h). 26 USC 25B.

Subtitle C—Improvements in Portability, Distribution, and Contribution Rules

SEC. 821. CLARIFICATIONS REGARDING PURCHASE OF PERMISSIVE SERVICE CREDIT.

(a) IN GENERAL.—Section 415(n) of the Internal Revenue Code of 1986 (relating to special rules for the purchase of permissive service credit) is amended—

(1) by striking "an employee" in paragraph (1) and inserting "a participant", and

(2) by adding at the end of paragraph (3)(A) the following new flush sentence:

"Such term may include service credit for periods for which there is no performance of service, and, notwithstanding clause (ii), may include service credited in order to provide an increased benefit for service credit which a participant is receiving under the plan.".

(b) SPECIAL RULES FOR TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 415(n)(3) of such Code is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULES FOR TRUSTEE-TO-TRUSTEE TRANSFERS.—In the case of a trustee-to-trustee transfer to which section 403(b)(13)(A) or 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)—

"(i) the limitations of subparagraph (B) shall not apply in determining whether the transfer is for the purchase of permissive service credit, and

"(ii) the distribution rules applicable under this title to the defined benefit governmental plan to which any amounts are so transferred shall apply to such amounts and any benefits attributable to such amounts.". Applicability.

(c) NONQUALIFIED SERVICE.—Section 415(n)(3) of such Code is amended—

(1) by striking "permissive service credit attributable to nonqualified service" each place it appears in subparagraph (B) and inserting "nonqualified service credit",

(2) by striking so much of subparagraph (C) as precedes clause (i) and inserting:

"(C) NONQUALIFIED SERVICE CREDIT.—For purposes of subparagraph (B), the term 'nonqualified service credit' means permissive service credit other than that allowed with respect to—", and

(3) by striking "elementary or secondary education (through grade 12), as determined under State law" in subparagraph (C)(ii) and inserting "elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed".

26 USC 415 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect as if included in the amendments made by section 1526 of the Taxpayer Relief Act of 1997.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect as if included in the amendments made by section 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

SEC. 822. ALLOW ROLLOVER OF AFTER-TAX AMOUNTS IN ANNUITY CONTRACTS.

26 USC 402.

(a) IN GENERAL.—Subparagraph (A) of section 402(c)(2) (relating to the maximum amount which may be rolled over) is amended—

(1) by striking "which is part of a plan which is a defined contribution plan and which agrees to separately account" and inserting "or to an annuity contract described in section 403(b) and such trust or contract provides for separate accounting"; and

(2) by inserting "(and earnings thereon)" after "so transferred".

26 USC 402 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2006.

Regulations.

SEC. 823. CLARIFICATION OF MINIMUM DISTRIBUTION RULES FOR GOVERNMENTAL PLANS.

The Secretary of the Treasury shall issue regulations under which a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) shall, for all years to which section 401(a)(9) of such Code applies to such plan, be treated as having complied with such section 401(a)(9) if such plan complies with a reasonable good faith interpretation of such section 401(a)(9).

SEC. 824. ALLOW DIRECT ROLLOVERS FROM RETIREMENT PLANS TO ROTH IRAS.

(a) IN GENERAL.—Subsection (e) of section 408A of the Internal Revenue Code of 1986 (defining qualified rollover contribution) is amended to read as follows:

"(e) QUALIFIED ROLLOVER CONTRIBUTION.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution—

"(1) to a Roth IRA from another such account,

"(2) from an eligible retirement plan, but only if—

"(A) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

"(B) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA.".

(b) CONFORMING AMENDMENTS.—

26 USC 408A and note.

(1) Section 408A(c)(3)(B) of such Code, as in effect before the Tax Increase Prevention and Reconciliation Act of 2005, is amended—

(A) in the text by striking "individual retirement plan" and inserting "an eligible retirement plan (as defined by section 402(c)(8)(B))", and

(B) in the heading by striking "IRA" the first place it appears and inserting "ELIGIBLE RETIREMENT PLAN".

(2) Section 408A(d)(3) of such Code is amended— 26 USC 408A.

(A) in subparagraph (A), by striking "section 408(d)(3)" inserting "sections 402(c), 403(b)(8), 408(d)(3), and 457(e)(16)",

(B) in subparagraph (B), by striking "individual retirement plan" and inserting "eligible retirement plan (as defined by section 402(c)(8)(B))",

(C) in subparagraph (D), by inserting "or 6047" after "408(i)",

(D) in subparagraph (D), by striking "or both" and inserting "persons subject to section 6047(d)(1), or all of the foregoing persons", and

(E) in the heading, by striking "IRA" the first place it appears and inserting "ELIGIBLE RETIREMENT PLAN".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2007. 26 USC 408A note.

SEC. 825. ELIGIBILITY FOR PARTICIPATION IN RETIREMENT PLANS. 26 USC 457 note.

An individual shall not be precluded from participating in an eligible deferred compensation plan by reason of having received a distribution under section 457(e)(9) of the Internal Revenue Code of 1986, as in effect prior to the enactment of the Small Business Job Protection Act of 1996.

SEC. 826. MODIFICATIONS OF RULES GOVERNING HARDSHIPS AND UNFORSEEN FINANCIAL EMERGENCIES. 26 USC 401 note.

Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall modify the rules for determining whether a participant has had a hardship for purposes of section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986 to provide that if an event (including the occurrence of a medical expense) would constitute a hardship under the plan if it occurred with respect to the participant's spouse or dependent (as defined in section 152 of such Code), such event shall, to the extent permitted under a plan, constitute a hardship if it occurs with respect to a person who is a beneficiary under the plan with respect to the participant. The Secretary of the Treasury shall issue similar rules for purposes of determining whether a participant has had— Deadline.

(1) a hardship for purposes of section 403(b)(11)(B) of such Code; or

(2) an unforeseen financial emergency for purposes of sections 409A(a)(2)(A)(vi), 409A(a)(2)(B)(ii), and 457(d)(1)(A)(iii) of such Code.

SEC. 827. PENALTY-FREE WITHDRAWALS FROM RETIREMENT PLANS FOR INDIVIDUALS CALLED TO ACTIVE DUTY FOR AT LEAST 179 DAYS.

(a) IN GENERAL.—Paragraph (2) of section 72(t) of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans) is amended by adding at the end the following new subparagraph:

"(G) DISTRIBUTIONS FROM RETIREMENT PLANS TO INDIVIDUALS CALLED TO ACTIVE DUTY.—

"(i) IN GENERAL.—Any qualified reservist distribution.

"(ii) AMOUNT DISTRIBUTED MAY BE REPAID.—Any individual who receives a qualified reservist distribution may, at any time during the 2-year period beginning on the day after the end of the active duty period, make one or more contributions to an individual retirement plan of such individual in an aggregate amount not to exceed the amount of such distribution. The dollar limitations otherwise applicable to contributions to individual retirement plans shall not apply to any contribution made pursuant to the preceding sentence. No deduction shall be allowed for any contribution pursuant to this clause.

"(iii) QUALIFIED RESERVIST DISTRIBUTION.—For purposes of this subparagraph, the term 'qualified reservist distribution' means any distribution to an individual if—

"(I) such distribution is from an individual retirement plan, or from amounts attributable to employer contributions made pursuant to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3) or section 501(c)(18)(D)(iii),

"(II) such individual was (by reason of being a member of a reserve component (as defined in section 101 of title 37, United States Code)) ordered or called to active duty for a period in excess of 179 days or for an indefinite period, and

"(III) such distribution is made during the period beginning on the date of such order or call and ending at the close of the active duty period.

"(iv) APPLICATION OF SUBPARAGRAPH.—This subparagraph applies to individuals ordered or called to active duty after September 11, 2001, and before December 31, 2007. In no event shall the 2-year period referred to in clause (ii) end before the date which is 2 years after the date of the enactment of this subparagraph.".

(b) CONFORMING AMENDMENTS.—

26 USC 401.

(1) Section 401(k)(2)(B)(i) of such Code is amended by striking "or" at the end of subclause (III), by striking "and" at the end of subclause (IV) and inserting "or", and by inserting after subclause (IV) the following new subclause:

"(V) in the case of a qualified reservist distribution (as defined in section 72(t)(2)(G)(iii)), the date on which a period referred to in subclause (III) of such section begins, and".

(2) Section 403(b)(7)(A)(ii) of such Code is amended by inserting "(unless such amount is a distribution to which section 72(t)(2)(G) applies)" after "distributee".

(3) Section 403(b)(11) of such Code is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting ", or", and by inserting after subparagraph (B) the following new subparagraph:

"(C) for distributions to which section 72(t)(2)(G) applies.".

(c) EFFECTIVE DATE; WAIVER OF LIMITATIONS.— 26 USC 72 note.

(1) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after September 11, 2001.

(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amendments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

SEC. 828. WAIVER OF 10 PERCENT EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR PUBLIC SAFETY EMPLOYEES.

(a) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 (relating to subsection not to apply to certain distributions) is amended by adding at the end the following new paragraph: 26 USC 72.

"(10) DISTRIBUTIONS TO QUALIFIED PUBLIC SAFETY EMPLOYEES IN GOVERNMENTAL PLANS.—

"(A) IN GENERAL.—In the case of a distribution to a qualified public safety employee from a governmental plan (within the meaning of section 414(d)) which is a defined benefit plan, paragraph (2)(A)(v) shall be applied by substituting 'age 50' for 'age 55'.

"(B) QUALIFIED PUBLIC SAFETY EMPLOYEE.—For purposes of this paragraph, the term 'qualified public safety employee' means any employee of a State or political subdivision of a State who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act. 26 USC 72 note.

SEC. 829. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.

(a) IN GENERAL.—

(1) QUALIFIED PLANS.—Section 402(c) of the Internal Revenue Code of 1986 (relating to rollovers from exempt trusts) is amended by adding at the end the following new paragraph:

"(11) DISTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT PLAN OF NONSPOUSE BENEFICIARY.—

"(A) IN GENERAL.—If, with respect to any portion of a distribution from an eligible retirement plan of a deceased employee, a direct trustee-to-trustee transfer is made to an individual retirement plan described in clause (i) or (ii) of paragraph (8)(B) established for the purposes of receiving the distribution on behalf of an individual who is a designated beneficiary (as defined by section 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee—

"(i) the transfer shall be treated as an eligible rollover distribution for purposes of this subsection,

"(ii) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)) for purposes of this title, and

Applicability.

"(iii) section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such plan.

"(B) CERTAIN TRUSTS TREATED AS BENEFICIARIES.—For purposes of this paragraph, to the extent provided in rules prescribed by the Secretary, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a trust designated beneficiary.".

26 USC 403.

(2) SECTION 403(a) PLANS.—Subparagraph (B) of section 403(a)(4) of such Code (relating to rollover amounts) is amended by inserting "and (11)" after "(7)".

(3) SECTION 403(b) PLANS.—Subparagraph (B) of section 403(b)(8) of such Code (relating to rollover amounts) is amended by striking "and (9)" and inserting ", (9), and (11)".

(4) SECTION 457 PLANS.—Subparagraph (B) of section 457(e)(16) of such Code (relating to rollover amounts) is amended by striking "and (9)" and inserting ", (9), and (11)".

26 USC 402 note.

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

26 USC 408 note.

SEC. 830. DIRECT PAYMENT OF TAX REFUNDS TO INDIVIDUAL RETIREMENT PLANS.

(a) IN GENERAL.—The Secretary of the Treasury (or the Secretary's delegate) shall make available a form (or modify existing forms) for use by individuals to direct that a portion of any refund of overpayment of tax imposed by chapter 1 of the Internal Revenue Code of 1986 be paid directly to an individual retirement plan (as defined in section 7701(a)(37) of such Code) of such individual.

(b) EFFECTIVE DATE.—The form required by subsection (a) shall be made available for taxable years beginning after December 31, 2006.

SEC. 831. ALLOWANCE OF ADDITIONAL IRA PAYMENTS IN CERTAIN BANKRUPTCY CASES.

(a) ALLOWANCE OF CONTRIBUTIONS.—Section 219(b)(5) of the Internal Revenue Code of 1986 (relating to deductible amount) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CATCHUP CONTRIBUTIONS FOR CERTAIN INDIVIDUALS.—

"(i) IN GENERAL.—In the case of an applicable individual who elects to make a qualified retirement contribution in addition to the deductible amount determined under subparagraph (A)—

"(I) the deductible amount for any taxable year shall be increased by an amount equal to 3 times the applicable amount determined under subparagraph (B) for such taxable year, and

"(II) subparagraph (B) shall not apply.

"(ii) APPLICABLE INDIVIDUAL.—For purposes of this subparagraph, the term 'applicable individual' means, with respect to any taxable year, any individual who was a qualified participant in a qualified cash or

deferred arrangement (as defined in section 401(k)) of an employer described in clause (iii) under which the employer matched at least 50 percent of the employee's contributions to such arrangement with stock of such employer.

"(iii) EMPLOYER DESCRIBED.—An employer is described in this clause if, in any taxable year preceding the taxable year described in clause (ii)—

"(I) such employer (or any controlling corporation of such employer) was a debtor in a case under title 11 of the United States Code, or similar Federal or State law, and

"(II) such employer (or any other person) was subject to an indictment or conviction resulting from business transactions related to such case.

"(iv) QUALIFIED PARTICIPANT.—For purposes of clause (ii), the term 'qualified participant' means any applicable individual who was a participant in the cash or deferred arrangement described in such clause on the date that is 6 months before the filing of the case described in clause (iii).

"(v) TERMINATION.—This subparagraph shall not apply to taxable years beginning after December 31, 2009.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 219 note.

SEC. 832. DETERMINATION OF AVERAGE COMPENSATION FOR SECTION 415 LIMITS.

(a) IN GENERAL.—Section 415(b)(3) of the Internal Revenue Code of 1986 is amended by striking "both was an active participant in the plan and". 26 USC 415.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2005. 26 USC 415 note.

SEC. 833. INFLATION INDEXING OF GROSS INCOME LIMITATIONS ON CERTAIN RETIREMENT SAVINGS INCENTIVES.

(a) SAVER'S CREDIT.—Subsection (b) of section 25B of the Internal Revenue Code of 1986 is amended to read as follows:

"(b) APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) JOINT RETURNS.—In the case of a joint return, the applicable percentage is—

"(A) if the adjusted gross income of the taxpayer is not over $30,000, 50 percent,

"(B) if the adjusted gross income of the taxpayer is over $30,000 but not over $32,500, 20 percent,

"(C) if the adjusted gross income of the taxpayer is over $32,500 but not over $50,000, 10 percent, and

"(D) if the adjusted gross income of the taxpayer is over $50,000, zero percent.

"(2) OTHER RETURNS.—In the case of—

"(A) a head of household, the applicable percentage shall be determined under paragraph (1) except that such paragraph shall be applied by substituting for each dollar amount therein (as adjusted under paragraph (3)) a dollar amount equal to 75 percent of such dollar amount, and

Applicability.

"(B) any taxpayer not described in paragraph (1) or subparagraph (A), the applicable percentage shall be determined under paragraph (1) except that such paragraph shall be applied by substituting for each dollar amount therein (as adjusted under paragraph (3)) a dollar amount equal to 50 percent of such dollar amount.

"(3) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, each of the dollar amounts in paragraph (1) shall be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $500.".

26 USC 219.

(b) DEDUCTION OF RETIREMENT CONTRIBUTIONS FOR ACTIVE PARTICIPANTS.—Section 219(g) of such Code is amended by adding at the end the following new paragraph:

"(8) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, the dollar amount in the last row of the table contained in paragraph (3)(B)(i), the dollar amount in the last row of the table contained in paragraph (3)(B)(ii), and the dollar amount contained in paragraph (7)(A), shall each be increased by an amount equal to—

"(A) such dollar amount, multiplied by

"(B) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.".

(c) CONTRIBUTION LIMITATION FOR ROTH IRAS.—Section 408A(c)(3) of such Code is amended by adding at the end the following new subparagraph:

"(C) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2006, the dollar amounts in subclauses (I) and (II) of subparagraph (C)(ii) shall each be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 2005' for 'calendar year 1992' in subparagraph (B) thereof.

Any increase determined under the preceding sentence shall be rounded to the nearest multiple of $1,000.".

26 USC 25B note.

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

Subtitle D—Health and Medical Benefits

SEC. 841. USE OF EXCESS PENSION ASSETS FOR FUTURE RETIREE HEALTH BENEFITS AND COLLECTIVELY BARGAINED RETIREE HEALTH BENEFITS.

(a) IN GENERAL.—Section 420 of the Internal Revenue Code of 1986 (relating to transfers of excess pension assets to retiree health accounts) is amended by adding at the end the following new subsection: 26 USC 420.

"(f) QUALIFIED TRANSFERS TO COVER FUTURE RETIREE HEALTH COSTS AND COLLECTIVELY BARGAINED RETIREE HEALTH BENEFITS.—

"(1) IN GENERAL.—An employer maintaining a defined benefit plan (other than a multiemployer plan) may, in lieu of a qualified transfer, elect for any taxable year to have the plan make—

"(A) a qualified future transfer, or

"(B) a collectively bargained transfer.

Except as provided in this subsection, a qualified future transfer and a collectively bargained transfer shall be treated for purposes of this title and the Employee Retirement Income Security Act of 1974 as if it were a qualified transfer.

"(2) QUALIFIED FUTURE AND COLLECTIVELY BARGAINED TRANSFERS.—For purposes of this subsection—

"(A) IN GENERAL.—The terms 'qualified future transfer' and 'collectively bargained transfer' mean a transfer which meets all of the requirements for a qualified transfer, except that—

"(i) the determination of excess pension assets shall be made under subparagraph (B),

"(ii) the limitation on the amount transferred shall be determined under subparagraph (C),

"(iii) the minimum cost requirements of subsection (c)(3) shall be modified as provided under subparagraph (D), and

"(iv) in the case of a collectively bargained transfer, the requirements of subparagraph (E) shall be met with respect to the transfer.

"(B) EXCESS PENSION ASSETS.—

"(i) IN GENERAL.—In determining excess pension assets for purposes of this subsection, subsection (e)(2) shall be applied by substituting '120 percent' for '125 percent'.

"(ii) REQUIREMENT TO MAINTAIN FUNDED STATUS.—If, as of any valuation date of any plan year in the transfer period, the amount determined under subsection (e)(2)(B) (after application of clause (i)) exceeds the amount determined under subsection (e)(2)(A), either—

"(I) the employer maintaining the plan shall make contributions to the plan in an amount not less than the amount required to reduce such excess to zero as of such date, or

"(II) there is transferred from the health benefits account to the plan an amount not less than the amount required to reduce such excess to zero as of such date.

"(C) LIMITATION ON AMOUNT TRANSFERRED.—Notwithstanding subsection (b)(3), the amount of the excess pension assets which may be transferred—

"(i) in the case of a qualified future transfer shall be equal to the sum of—

"(I) if the transfer period includes the taxable year of the transfer, the amount determined under subsection (b)(3) for such taxable year, plus

"(II) in the case of all other taxable years in the transfer period, the sum of the qualified current retiree health liabilities which the plan reasonably estimates, in accordance with guidance issued by the Secretary, will be incurred for each of such years, and

"(ii) in the case of a collectively bargained transfer, shall not exceed the amount which is reasonably estimated, in accordance with the provisions of the collective bargaining agreement and generally accepted accounting principles, to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the collectively bargained cost maintenance period for collectively bargained retiree health liabilities.

"(D) MINIMUM COST REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of subsection (c)(3) shall be treated as met if—

"(I) in the case of a qualified future transfer, each group health plan or arrangement under which applicable health benefits are provided provides applicable health benefits during the period beginning with the first year of the transfer period and ending with the last day of the 4th year following the transfer period such that the annual average amount of such the applicable employer cost during such period is not less than the applicable employer cost determined under subsection (c)(3)(A) with respect to the transfer, and

"(II) in the case of a collectively bargained transfer, each collectively bargained group health plan under which collectively bargained health benefits are provided provides that the collectively bargained employer cost for each taxable year during the collectively bargained cost maintenance period shall not be less than the amount specified by the collective bargaining agreement.

"(ii) ELECTION TO MAINTAIN BENEFITS FOR FUTURE TRANSFERS.—An employer may elect, in lieu of the requirements of clause (i)(I), to meet the requirements of subsection (c)(3) by meeting the requirements of such subsection (as in effect before the amendments made by section 535 of the Tax Relief Extension Act of 1999) for each of the years described in the period under clause (i)(I).

"(iii) COLLECTIVELY BARGAINED EMPLOYER COST.—For purposes of this subparagraph, the term 'collectively bargained employer cost' means the average cost

per covered individual of providing collectively bargained retiree health benefits as determined in accordance with the applicable collective bargaining agreement. Such agreement may provide for an appropriate reduction in the collectively bargained employer cost to take into account any portion of the collectively bargained retiree health benefits that is provided or financed by a government program or other source.

"(E) SPECIAL RULES FOR COLLECTIVELY BARGAINED TRANSFERS.—

"(i) IN GENERAL.—A collectively bargained transfer shall only include a transfer which—

"(I) is made in accordance with a collective bargaining agreement,

"(II) before the transfer, the employer designates, in a written notice delivered to each employee organization that is a party to the collective bargaining agreement, as a collectively bargained transfer in accordance with this section, and

"(III) involves a plan maintained by an employer which, in its taxable year ending in 2005, provided health benefits or coverage to retirees and their spouses and dependents under all of the benefit plans maintained by the employer, but only if the aggregate cost (including administrative expenses) of such benefits or coverage which would have been allowable as a deduction to the employer (if such benefits or coverage had been provided directly by the employer and the employer used the cash receipts and disbursements method of accounting) is at least 5 percent of the gross receipts of the employer (determined in accordance with the last sentence of subsection (c)(2)(E)(ii)(II)) for such taxable year, or a plan maintained by a successor to such employer.

"(ii) USE OF ASSETS.—Any assets transferred to a health benefits account in a collectively bargained transfer (and any income allocable thereto) shall be used only to pay collectively bargained retiree health liabilities (other than liabilities of key employees not taken into account under paragraph (6)(B)(iii)) for the taxable year of the transfer or for any subsequent taxable year during the collectively bargained cost maintenance period (whether directly or through reimbursement).

"(3) COORDINATION WITH OTHER TRANSFERS.—In applying subsection (b)(3) to any subsequent transfer during a taxable year in a transfer period or collectively bargained cost maintenance period, qualified current retiree health liabilities shall be reduced by any such liabilities taken into account with respect to the qualified future transfer or collectively bargained transfer to which such period relates.

"(4) SPECIAL DEDUCTION RULES FOR COLLECTIVELY BARGAINED TRANSFERS.—In the case of a collectively bargained transfer—

"(A) the limitation under subsection (d)(1)(C) shall not apply, and

"(B) notwithstanding subsection (d)(2), an employer may contribute an amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to collectively bargained retiree health liabilities for which transferred assets are required to be used under subsection (c)(1)(B), and the deductibility of any such contribution shall be governed by the limits applicable to the deductibility of contributions to a welfare benefit fund under a collective bargaining agreement (as determined under section 419A(f)(5)(A)) without regard to whether such contributions are made to a health benefits account or welfare benefit fund and without regard to the provisions of section 404 or the other provisions of this section.

Rules.

The Secretary shall provide rules to ensure that the application of this paragraph does not result in a deduction being allowed more than once for the same contribution or for 2 or more contributions or expenditures relating to the same collectively bargained retiree health liabilities.

"(5) TRANSFER PERIOD.—For purposes of this subsection, the term 'transfer period' means, with respect to any transfer, a period of consecutive taxable years (not less than 2) specified in the election under paragraph (1) which begins and ends during the 10-taxable-year period beginning with the taxable year of the transfer.

"(6) TERMS RELATING TO COLLECTIVELY BARGAINED TRANSFERS.—For purposes of this subsection—

"(A) COLLECTIVELY BARGAINED COST MAINTENANCE PERIOD.—The term 'collectively bargained cost maintenance period' means, with respect to each covered retiree and his covered spouse and dependents, the shorter of—

"(i) the remaining lifetime of such covered retiree and his covered spouse and dependents, or

"(ii) the period of coverage provided by the collectively bargained health plan (determined as of the date of the collectively bargained transfer) with respect to such covered retiree and his covered spouse and dependents.

"(B) COLLECTIVELY BARGAINED RETIREE HEALTH LIABILITIES.—

"(i) IN GENERAL.—The term 'collectively bargained retiree health liabilities' means the present value, as of the beginning of a taxable year and determined in accordance with the applicable collective bargaining agreement, of all collectively bargained health benefits (including administrative expenses) for such taxable year and all subsequent taxable years during the collectively bargained cost maintenance period.

"(ii) REDUCTION FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under clause (i) shall be reduced by the value (as of the close of the plan year preceding the year of the collectively bargained transfer) of the assets in all health benefits accounts or welfare benefit funds (as defined in section 419(e)(1))

set aside to pay for the collectively bargained retiree health liabilities.

"(iii) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(I)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing collectively bargained retiree health liabilities for such taxable year or in calculating collectively bargained employer cost under subsection (c)(3)(C).

"(C) COLLECTIVELY BARGAINED HEALTH BENEFITS.—The term 'collectively bargained health benefits' means health benefits or coverage which are provided to—

"(i) retired employees who, immediately before the collectively bargained transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and their spouses and dependents, and

"(ii) if specified by the provisions of the collective bargaining agreement governing the collectively bargained transfer, active employees who, following their retirement, are entitled to receive such benefits and who are entitled to pension benefits under the plan, and their spouses and dependents.

"(D) COLLECTIVELY BARGAINED HEALTH PLAN.—The term 'collectively bargained health plan' means a group health plan or arrangement for retired employees and their spouses and dependents that is maintained pursuant to 1 or more collective bargaining agreements.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act. 26 USC 420 note.

SEC. 842. TRANSFER OF EXCESS PENSION ASSETS TO MULTIEMPLOYER HEALTH PLAN.

(a) IN GENERAL.—Section 420 of the Internal Revenue Code of 1986 is amended— 26 USC 420.

(1) by striking "(other than a multiemployer plan)" in subsection (a), and

(2) by adding at the end of subsection (e) the following new paragraph:

"(5) APPLICATION TO MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, this section shall be applied to any such plan—

"(A) by treating any reference in this section to an employer as a reference to all employers maintaining the plan (or, if appropriate, the plan sponsor), and

"(B) in accordance with such modifications of this section (and the provisions of this title relating to this section) as the Secretary determines appropriate to reflect the fact the plan is not maintained by a single employer.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers made in taxable years beginning after December 31, 2006. 26 USC 420 note.

SEC. 843. ALLOWANCE OF RESERVE FOR MEDICAL BENEFITS OF PLANS SPONSORED BY BONA FIDE ASSOCIATIONS.

26 USC 419A.

(a) IN GENERAL.—Section 419A(c) of the Internal Revenue Code of 1986 (relating to account limit) is amended by adding at the end the following new paragraph:

"(6) ADDITIONAL RESERVE FOR MEDICAL BENEFITS OF BONA FIDE ASSOCIATION PLANS.—

"(A) IN GENERAL.—An applicable account limit for any taxable year may include a reserve in an amount not to exceed 35 percent of the sum of—

"(i) the qualified direct costs, and

"(ii) the change in claims incurred but unpaid, for such taxable year with respect to medical benefits (other than post-retirement medical benefits).

"(B) APPLICABLE ACCOUNT LIMIT.—For purposes of this subsection, the term 'applicable account limit' means an account limit for a qualified asset account with respect to medical benefits provided through a plan maintained by a bona fide association (as defined in section 2791(d)(3) of the Public Health Service Act (42 U.S.C. 300gg–91(d)(3)).".

26 USC 419A note.

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

SEC. 844. TREATMENT OF ANNUITY AND LIFE INSURANCE CONTRACTS WITH A LONG-TERM CARE INSURANCE FEATURE.

(a) EXCLUSION FROM GROSS INCOME.—Subsection (e) of section 72 of the Internal Revenue Code of 1986 (relating to amounts not received as annuities) is amended by redesignating paragraph (11) as paragraph (12) and by inserting after paragraph (10) the following new paragraph:

"(11) SPECIAL RULES FOR CERTAIN COMBINATION CONTRACTS PROVIDING LONG-TERM CARE INSURANCE.—Notwithstanding paragraphs (2), (5)(C), and (10), in the case of any charge against the cash value of an annuity contract or the cash surrender value of a life insurance contract made as payment for coverage under a qualified long-term care insurance contract which is part of or a rider on such annuity or life insurance contract—

"(A) the investment in the contract shall be reduced (but not below zero) by such charge, and

"(B) such charge shall not be includible in gross income.".

(b) TAX-FREE EXCHANGES AMONG CERTAIN INSURANCE POLICIES.—

(1) ANNUITY CONTRACTS CAN INCLUDE QUALIFIED LONG-TERM CARE INSURANCE RIDERS.—Paragraph (2) of section 1035(b) of such Code is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a contract shall not fail to be treated as an annuity contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.".

(2) LIFE INSURANCE CONTRACTS CAN INCLUDE QUALIFIED LONG-TERM CARE INSURANCE RIDERS.—Paragraph (3) of section 1035(b) of such Code is amended by adding at the end the following new sentence: "For purposes of the preceding sentence, a contract shall not fail to be treated as a life insurance

contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.".

(3) EXPANSION OF TAX-FREE EXCHANGES OF LIFE INSURANCE, ENDOWMENT, AND ANNUITY CONTRACTS FOR LONG-TERM CARE CONTRACTS.—Subsection (a) of section 1035 of such Code (relating to certain exchanges of insurance policies) is amended— 26 USC 1035.

(A) in paragraph (1) by inserting "or for a qualified long-term care insurance contract" before the semicolon at the end,

(B) in paragraph (2) by inserting ", or (C) for a qualified long-term care insurance contract" before the semicolon at the end, and

(C) in paragraph (3) by inserting "or for a qualified long-term care insurance contract" before the period at the end.

(4) TAX-FREE EXCHANGES OF QUALIFIED LONG-TERM CARE INSURANCE CONTRACT.—Subsection (a) of section 1035 of such Code (relating to certain exchanges of insurance policies) is amended by striking "or" at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting "; or", and by inserting after paragraph (3) the following new paragraph:

"(4) a qualified long-term care insurance contract for a qualified long-term care insurance contract.".

(c) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE OR ANNUITY CONTRACT.—Subsection (e) of section 7702B of such Code (relating to treatment of qualified long-term care insurance) is amended to read as follows:

"(e) TREATMENT OF COVERAGE PROVIDED AS PART OF A LIFE INSURANCE OR ANNUITY CONTRACT.—Except as otherwise provided in regulations prescribed by the Secretary, in the case of any long-term care insurance coverage (whether or not qualified) provided by a rider on or as part of a life insurance contract or an annuity contract— Regulations.

"(1) IN GENERAL.—This title shall apply as if the portion of the contract providing such coverage is a separate contract. Applicability.

"(2) DENIAL OF DEDUCTION UNDER SECTION 213.—No deduction shall be allowed under section 213(a) for any payment made for coverage under a qualified long-term care insurance contract if such payment is made as a charge against the cash surrender value of a life insurance contract or the cash value of an annuity contract.

"(3) PORTION DEFINED.—For purposes of this subsection, the term 'portion' means only the terms and benefits under a life insurance contract or annuity contract that are in addition to the terms and benefits under the contract without regard to long-term care insurance coverage.

"(4) ANNUITY CONTRACTS TO WHICH PARAGRAPH (1) DOES NOT APPLY.—For purposes of this subsection, none of the following shall be treated as an annuity contract:

"(A) A trust described in section 401(a) which is exempt from tax under section 501(a).

"(B) A contract—

"(i) purchased by a trust described in subparagraph (A),

"(ii) purchased as part of a plan described in section 403(a),

"(iii) described in section 403(b),

"(iv) provided for employees of a life insurance company under a plan described in section 818(a)(3), or

"(v) from an individual retirement account or an individual retirement annuity.

"(C) A contract purchased by an employer for the benefit of the employee (or the employee's spouse).

Any dividend described in section 404(k) which is received by a participant or beneficiary shall, for purposes of this paragraph, be treated as paid under a separate contract to which subparagraph (B)(i) applies.".

(d) INFORMATION REPORTING.—

(1) Subpart B of part III of subchapter A of chapter 61 of such Code (relating to information concerning transactions with other persons) is amended by adding at the end the following new section:

26 USC 6050U.

"SEC. 6050U. CHARGES OR PAYMENTS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS UNDER COMBINED ARRANGEMENTS.

Regulations.

"(a) REQUIREMENT OF REPORTING.—Any person who makes a charge against the cash value of an annuity contract, or the cash surrender value of a life insurance contract, which is excludible from gross income under section 72(e)(11) shall make a return, according to the forms or regulations prescribed by the Secretary, setting forth—

"(1) the amount of the aggregate of such charges against each such contract for the calendar year,

"(2) the amount of the reduction in the investment in each such contract by reason of such charges, and

"(3) the name, address, and TIN of the individual who is the holder of each such contract.

"(b) STATEMENTS TO BE FURNISHED TO PERSONS WITH RESPECT TO WHOM INFORMATION IS REQUIRED.—Every person required to make a return under subsection (a) shall furnish to each individual whose name is required to be set forth in such return a written statement showing—

"(1) the name, address, and phone number of the information contact of the person making the payments, and

"(2) the information required to be shown on the return with respect to such individual.

Deadline.

The written statement required under the preceding sentence shall be furnished to the individual on or before January 31 of the year following the calendar year for which the return under subsection (a) was required to be made.".

(2) PENALTY FOR FAILURE TO FILE.—

26 USC 6724.

(A) RETURN.—Subparagraph (B) of section 6724(d)(1) of such Code is amended by striking "or" at the end of clause (xvii), by striking "and" at the end of clause (xviii) and inserting "or", and by adding at the end the following new clause:

"(xix) section 6050U (relating to charges or payments for qualified long-term care insurance contracts under combined arrangements), and".

(B) STATEMENT.—Paragraph (2) of section 6724(d) of such Code is amended by striking "or" at the end of subparagraph (AA), by striking the period at the end of subparagraph (BB), and by inserting after subparagraph (BB) the following new subparagraph: 26 USC 6724.

"(CC) section 6050U (relating to charges or payments for qualified long-term care insurance contracts under combined arrangements).".

(3) CLERICAL AMENDMENT.—The table of sections for subpart B of part III of subchapter A of such chapter 61 of such Code is amended by adding at the end the following new item:

"Sec. 6050U. Charges or payments for qualified long-term care insurance contracts under combined arrangements.".

(e) TREATMENT OF POLICY ACQUISITION EXPENSES.—Subsection (e) of section 848 of such Code (relating to classification of contracts) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF CERTAIN QUALIFIED LONG-TERM CARE INSURANCE CONTRACT ARRANGEMENTS.—An annuity or life insurance contract which includes a qualified long-term care insurance contract as a part of or a rider on such annuity or life insurance contract shall be treated as a specified insurance contract not described in subparagraph (A) or (B) of subsection (c)(1).".

(f) TECHNICAL AMENDMENT.—Paragraph (1) of section 7702B(e) of such Code (as in effect before amendment by subsection (c)) is amended by striking "section" and inserting "title".

(g) EFFECTIVE DATES.— Applicability. 26 USC 72 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts issued after December 31, 1996, but only with respect to taxable years beginning after December 31, 2009.

(2) TAX-FREE EXCHANGES.—The amendments made by subsection (b) shall apply with respect to exchanges occurring after December 31, 2009.

(3) INFORMATION REPORTING.—The amendments made by subsection (d) shall apply to charges made after December 31, 2009.

(4) POLICY ACQUISITION EXPENSES.—The amendment made by subsection (e) shall apply to specified policy acquisition expenses determined for taxable years beginning after December 31, 2009.

(5) TECHNICAL AMENDMENT.—The amendment made by subsection (f) shall take effect as if included in section 321(a) of the Health Insurance Portability and Accountability Act of 1996.

SEC. 845. DISTRIBUTIONS FROM GOVERNMENTAL RETIREMENT PLANS FOR HEALTH AND LONG-TERM CARE INSURANCE FOR PUBLIC SAFETY OFFICERS.

(a) IN GENERAL.—Section 402 of the Internal Revenue Code of 1986 (relating to taxability of beneficiary of employees' trust) is amended by adding at the end the following new subsection:

"(l) DISTRIBUTIONS FROM GOVERNMENTAL PLANS FOR HEALTH AND LONG-TERM CARE INSURANCE.—

"(1) IN GENERAL.—In the case of an employee who is an eligible retired public safety officer who makes the election

described in paragraph (6) with respect to any taxable year of such employee, gross income of such employee for such taxable year does not include any distribution from an eligible retirement plan to the extent that the aggregate amount of such distributions does not exceed the amount paid by such employee for qualified health insurance premiums of the employee, his spouse, or dependents (as defined in section 152) for such taxable year.

"(2) LIMITATION.—The amount which may be excluded from gross income for the taxable year by reason of paragraph (1) shall not exceed $3,000.

"(3) DISTRIBUTIONS MUST OTHERWISE BE INCLUDIBLE.—

"(A) IN GENERAL.—An amount shall be treated as a distribution for purposes of paragraph (1) only to the extent that such amount would be includible in gross income without regard to paragraph (1).

"(B) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which an amount is treated as a distribution for purposes of subparagraph (A), the aggregate amounts distributed from an eligible retirement plan in a taxable year (up to the amount excluded under paragraph (1)) shall be treated as includible in gross income (without regard to subparagraph (A)) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all eligible retirement plans were treated as 1 contract for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

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

"(A) ELIGIBLE RETIREMENT PLAN.—For purposes of paragraph (1), the term 'eligible retirement plan' means a governmental plan (within the meaning of section 414(d)) which is described in clause (iii), (iv), (v), or (vi) of subsection (c)(8)(B).

"(B) ELIGIBLE RETIRED PUBLIC SAFETY OFFICER.—The term 'eligible retired public safety officer' means an individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the employer who maintains the eligible retirement plan from which distributions subject to paragraph (1) are made.

"(C) PUBLIC SAFETY OFFICER.—The term 'public safety officer' shall have the same meaning given such term by section 1204(9)(A) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b(9)(A)).

"(D) QUALIFIED HEALTH INSURANCE PREMIUMS.—The term 'qualified health insurance premiums' means premiums for coverage for the eligible retired public safety officer, his spouse, and dependents, by an accident or health insurance plan or qualified long-term care insurance contract (as defined in section 7702B(b)).

"(5) SPECIAL RULES.—For purposes of this subsection—

"(A) DIRECT PAYMENT TO INSURER REQUIRED.—Paragraph (1) shall only apply to a distribution if payment of the premiums is made directly to the provider of the

accident or health insurance plan or qualified long-term care insurance contract by deduction from a distribution from the eligible retirement plan.

"(B) RELATED PLANS TREATED AS 1.—All eligible retirement plans of an employer shall be treated as a single plan.

"(6) ELECTION DESCRIBED.—

"(A) IN GENERAL.—For purposes of paragraph (1), an election is described in this paragraph if the election is made by an employee after separation from service with respect to amounts not distributed from an eligible retirement plan to have amounts from such plan distributed in order to pay for qualified health insurance premiums.

"(B) SPECIAL RULE.—A plan shall not be treated as violating the requirements of section 401, or as engaging in a prohibited transaction for purposes of section 503(b), merely because it provides for an election with respect to amounts that are otherwise distributable under the plan or merely because of a distribution made pursuant to an election described in subparagraph (A).

"(7) COORDINATION WITH MEDICAL EXPENSE DEDUCTION.—The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 213.

"(8) COORDINATION WITH DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.—The amounts excluded from gross income under paragraph (1) shall not be taken into account under section 162(l).".

(b) CONFORMING AMENDMENTS.—

(1) Section 403(a) of such Code (relating to taxability of beneficiary under a qualified annuity plan) is amended by inserting after paragraph (1) the following new paragraph: 26 USC 403.

"(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.".

(2) Section 403(b) of such Code (relating to taxability of beneficiary under annuity purchased by section 501(c)(3) organization or public school) is amended by inserting after paragraph (1) the following new paragraph:

"(2) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—To the extent provided in section 402(l), paragraph (1) shall not apply to the amount distributed under the contract which is otherwise includible in gross income under this subsection.".

(3) Section 457(a) of such Code (relating to year of inclusion in gross income) is amended by adding at the end the following new paragraph:

"(3) SPECIAL RULE FOR HEALTH AND LONG-TERM CARE INSURANCE.—In the case of a plan of an eligible employer described in subsection (e)(1)(A), to the extent provided in section 402(l), paragraph (1) shall not apply to amounts otherwise includible in gross income under this subsection.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 2006. 26 USC 402 note.

Subtitle E—United States Tax Court Modernization

SEC. 851. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

26 USC 7448.

(a) IN GENERAL.—Subsection (s) of section 7448 of the Internal Revenue Code of 1986 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b).".

26 USC 7448 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 852. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 of the Internal Revenue Code of 1986 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after the date of the enactment of the Pension Protection Act of 2006, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code.".

SEC. 853. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 of the Internal Revenue Code of 1986 (relating to retirement of judges) is amended by adding at the end the following new subsection:

"(j) THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

"(i) retires under subsection (b), or

"(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

"(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Federal Retirement Thrift Investment Board prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment.". Regulations.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date. 26 USC 7447 note.

SEC. 854. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF SPECIAL TRIAL JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) of the Internal Revenue Code of 1986 (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) The term 'special trial judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under chapter 83 or 84 of title 5, United States Code, whether or not performing judicial duties under section 7443B.

"(6) The term 'special trial judge's salary' means the salary of a special trial judge received under section 7443A(d), any amount received as an annuity under chapter 83 or 84 of title 5, United States Code, and compensation received under section 7443B.".

26 USC 7448.

(b) ELECTION.—Subsection (b) of section 7448 of such Code (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

"(b) ELECTION.—

"(1) JUDGES.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) SPECIAL TRIAL JUDGES.—Any special trial judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

Deadline.

"(A) 6 months after the date of the enactment of this paragraph,

"(B) the date the judge takes office, or

"(C) the date the judge marries.".

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 of such Code is amended by inserting "**AND SPECIAL TRIAL JUDGES**" after "**JUDGES**".

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 of such Code is amended by inserting "and special trial judges" after "judges".

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448 of such Code, as amended by this Act, are each amended—

(A) by inserting "or special trial judge" after "judge" each place it appears other than in the phrase "chief judge", and

(B) by inserting "or special trial judge's" after "judge's" each place it appears.

(4) Section 7448(c) of such Code is amended—

(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers", and

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and

(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsection (a)(4) and (a)(6)".

(5) Section 7448(j)(1) of such Code is amended—

(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired", and by inserting ", or receiving any annuity under chapter 83 or 84 of title 5, United States Code," after "section 7447", and

(B) in the last sentence, by striking "subsections (a)(6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".

(6) Section 7448(m)(1) of such Code, as amended by this Act, is amended by inserting "or any annuity under chapter 83 or 84 of title 5, United States Code" after "7447(d)".

(7) Section 7448(n) of such Code is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court,".

(8) Section 3121(b)(5)(E) of such Code is amended by inserting "or special trial judge" before "of the United States Tax Court".

(9) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or special trial judge" before "of the United States Tax Court". 42 USC 410.

SEC. 855. JURISDICTION OF TAX COURT OVER COLLECTION DUE PROCESS CASES.

(a) IN GENERAL.—Paragraph (1) of section 6330(d) of the Internal Revenue Code of 1986 (relating to proceeding after hearing) is amended to read as follows:

"(1) JUDICIAL REVIEW OF DETERMINATION.—The person may, within 30 days of a determination under this section, appeal such determination to the Tax Court (and the Tax Court shall have jurisdiction with respect to such matter).". Deadline.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to determinations made after the date which is 60 days after the date of the enactment of this Act.

SEC. 856. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76 of the Internal Revenue Code of 1986 is amended by inserting after section 7443A the following new section:

"SEC. 7443B. RECALL OF SPECIAL TRIAL JUDGES OF THE TAX COURT. 26 USC 7443B.

"(a) RECALLING OF RETIRED SPECIAL TRIAL JUDGES.—Any individual who has retired pursuant to the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

"(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

"(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a special trial judge of the Tax Court.

"(b) COMPENSATION.—For the year in which a period of recall occurs, the special trial judge shall receive, in addition to the annuity provided under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the special trial judge is recalled.

"(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court.".

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76 of such Code is amended by inserting after the item relating to section 7443A the following new item:

"Sec. 7443B. Recall of special trial judges of the Tax Court.".

SEC. 857. AUTHORITY FOR SPECIAL TRIAL JUDGES TO HEAR AND DECIDE CERTAIN EMPLOYMENT STATUS CASES.

26 USC 7443A.

(a) IN GENERAL.—Section 7443A(b) of the Internal Revenue Code of 1986 (relating to proceedings which may be assigned to special trial judges) is amended by striking "and" at the end of paragraph (4), by redesignating paragraph (5) as paragraph (6), and by inserting after paragraph (4) the following new paragraph:

"(5) any proceeding under section 7436(c), and".

(b) CONFORMING AMENDMENT.—Section 7443A(c) of such Code is amended by striking "or (4)" and inserting "(4), or (5)".

26 USC 7443A.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any proceeding under section 7436(c) of the Internal Revenue Code of 1986 with respect to which a decision has not become final (as determined under section 7481 of such Code) before the date of the enactment of this Act.

SEC. 858. CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.

(a) CONFIRMATION OF AUTHORITY OF TAX COURT TO APPLY DOCTRINE OF EQUITABLE RECOUPMENT.—Section 6214(b) of the Internal Revenue Code of 1986 (relating to jurisdiction over other years and quarters) is amended by adding at the end the following new sentence: "Notwithstanding the preceding sentence, the Tax Court may apply the doctrine of equitable recoupment to the same extent that it is available in civil tax cases before the district courts of the United States and the United States Court of Federal Claims.".

26 USC 6214 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any action or proceeding in the United States Tax Court with respect to which a decision has not become final (as determined under section 7481 of the Internal Revenue Code of 1986) as of the date of the enactment of this Act.

SEC. 859. TAX COURT FILING FEE IN ALL CASES COMMENCED BY FILING PETITION.

(a) IN GENERAL.—Section 7451 of the Internal Revenue Code of 1986 (relating to fee for filing a Tax Court petition) is amended by striking all that follows "petition" and inserting a period.

26 USC 7451 note.

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

SEC. 860. EXPANDED USE OF TAX COURT PRACTICE FEE FOR PRO SE TAXPAYERS.

(a) IN GENERAL.—Section 7475(b) of the Internal Revenue Code of 1986 (relating to use of fees) is amended by inserting before the period at the end "and to provide services to pro se taxpayers".

26 USC 7475 note.

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

Subtitle F—Other Provisions

SEC. 861. EXTENSION TO ALL GOVERNMENTAL PLANS OF CURRENT MORATORIUM ON APPLICATION OF CERTAIN NON-DISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.

(a) IN GENERAL.—

(1) Subparagraph (G) of section 401(a)(5) and subparagraph (G) of section 401(a)(26) of the Internal Revenue Code of 1986 are each amended by striking "section 414(d))" and all that follows and inserting "section 414(d)).". 26 USC 401.

(2) Subparagraph (G) of section 401(k)(3) of such Code and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 (Public Law 105–34; 111 Stat. 1063) are each amended by striking "maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof)". 26 USC 401 and note.

(b) CONFORMING AMENDMENTS.—

(1) The heading of subparagraph (G) of section 401(a)(5) of the Internal Revenue Code of 1986 is amended by striking "STATE AND LOCAL GOVERNMENTAL" and inserting "GOVERNMENTAL".

(2) The heading of subparagraph (G) of section 401(a)(26) of such Code is amended by striking "EXCEPTION FOR STATE AND LOCAL" and inserting "EXCEPTION FOR".

(3) Section 401(k)(3)(G) of such Code is amended by inserting "GOVERNMENTAL PLAN.—" after "(G)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any year beginning after the date of the enactment of this Act.

SEC. 862. ELIMINATION OF AGGREGATE LIMIT FOR USAGE OF EXCESS FUNDS FROM BLACK LUNG DISABILITY TRUSTS.

(a) IN GENERAL.—So much of section 501(c)(21)(C) of the Internal Revenue Code of 1986 (relating to black lung disability trusts) as precedes the last sentence is amended to read as follows:

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the excess (if any), as of the close of the preceding taxable year, of—

"(i) the fair market value of the assets of the trust, over

"(ii) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2006. 26 USC 501 note.

SEC. 863. TREATMENT OF DEATH BENEFITS FROM CORPORATE-OWNED LIFE INSURANCE.

(a) IN GENERAL.—Section 101 of the Internal Revenue Code of 1986 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(j) TREATMENT OF CERTAIN EMPLOYER-OWNED LIFE INSURANCE CONTRACTS.—

"(1) GENERAL RULE.—In the case of an employer-owned life insurance contract, the amount excluded from gross income of an applicable policyholder by reason of paragraph (1) of subsection (a) shall not exceed an amount equal to the sum of the premiums and other amounts paid by the policyholder for the contract.

"(2) EXCEPTIONS.—In the case of an employer-owned life insurance contract with respect to which the notice and consent requirements of paragraph (4) are met, paragraph (1) shall not apply to any of the following:

"(A) EXCEPTIONS BASED ON INSURED'S STATUS.—Any amount received by reason of the death of an insured who, with respect to an applicable policyholder—

"(i) was an employee at any time during the 12-month period before the insured's death, or

"(ii) is, at the time the contract is issued—

"(I) a director,

"(II) a highly compensated employee within the meaning of section 414(q) (without regard to paragraph (1)(B)(ii) thereof), or

"(III) a highly compensated individual within the meaning of section 105(h)(5), except that '35 percent' shall be substituted for '25 percent' in subparagraph (C) thereof.

"(B) EXCEPTION FOR AMOUNTS PAID TO INSURED'S HEIRS.—Any amount received by reason of the death of an insured to the extent—

"(i) the amount is paid to a member of the family (within the meaning of section 267(c)(4)) of the insured, any individual who is the designated beneficiary of the insured under the contract (other than the applicable policyholder), a trust established for the benefit of any such member of the family or designated beneficiary, or the estate of the insured, or

"(ii) the amount is used to purchase an equity (or capital or profits) interest in the applicable policyholder from any person described in clause (i).

"(3) EMPLOYER-OWNED LIFE INSURANCE CONTRACT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'employer-owned life insurance contract' means a life insurance contract which—

"(i) is owned by a person engaged in a trade or business and under which such person (or a related person described in subparagraph (B)(ii)) is directly or indirectly a beneficiary under the contract, and

"(ii) covers the life of an insured who is an employee with respect to the trade or business of the applicable policyholder on the date the contract is issued.

For purposes of the preceding sentence, if coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract.

"(B) APPLICABLE POLICYHOLDER.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'applicable policyholder' means, with respect to any employer-owned life insurance contract, the person described in subparagraph (A)(i) which owns the contract.

"(ii) RELATED PERSONS.—The term 'applicable policyholder' includes any person which—

"(I) bears a relationship to the person described in clause (i) which is specified in section 267(b) or 707(b)(1), or

"(II) is engaged in trades or businesses with such person which are under common control

(within the meaning of subsection (a) or (b) of section 52).

"(4) NOTICE AND CONSENT REQUIREMENTS.—The notice and consent requirements of this paragraph are met if, before the issuance of the contract, the employee—

"(A) is notified in writing that the applicable policyholder intends to insure the employee's life and the maximum face amount for which the employee could be insured at the time the contract was issued,

"(B) provides written consent to being insured under the contract and that such coverage may continue after the insured terminates employment, and

"(C) is informed in writing that an applicable policyholder will be a beneficiary of any proceeds payable upon the death of the employee.

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

"(A) EMPLOYEE.—The term 'employee' includes an officer, director, and highly compensated employee (within the meaning of section 414(q)).

"(B) INSURED.—The term 'insured' means, with respect to an employer-owned life insurance contract, an individual covered by the contract who is a United States citizen or resident. In the case of a contract covering the joint lives of 2 individuals, references to an insured include both of the individuals.".

(b) REPORTING REQUIREMENTS.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039H the following new section:

"SEC. 6039I. RETURNS AND RECORDS WITH RESPECT TO EMPLOYER-OWNED LIFE INSURANCE CONTRACTS. 26 USC 6039I.

"(a) IN GENERAL.—Every applicable policyholder owning 1 or more employer-owned life insurance contracts issued after the date of the enactment of this section shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) showing for each year such contracts are owned— Regulations.

"(1) the number of employees of the applicable policyholder at the end of the year,

"(2) the number of such employees insured under such contracts at the end of the year,

"(3) the total amount of insurance in force at the end of the year under such contracts,

"(4) the name, address, and taxpayer identification number of the applicable policyholder and the type of business in which the policyholder is engaged, and

"(5) that the applicable policyholder has a valid consent for each insured employee (or, if all such consents are not obtained, the number of insured employees for whom such consent was not obtained).

"(b) RECORDKEEPING REQUIREMENT.—Each applicable policyholder owning 1 or more employer-owned life insurance contracts during any year shall keep such records as may be necessary for purposes of determining whether the requirements of this section and section 101(j) are met.

"(c) DEFINITIONS.—Any term used in this section which is used in section 101(j) shall have the same meaning given such term by section 101(j).".

(c) CONFORMING AMENDMENTS.—

26 USC 101.

(1) Paragraph (1) of section 101(a) of the Internal Revenue Code of 1986 is amended by striking "and subsection (f)" and inserting "subsection (f), and subsection (j)".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039H the following new item:

"Sec. 6039I. Returns and records with respect to employer-owned life insurance contracts.".

Applicability.
26 USC 101 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to life insurance contracts issued after the date of the enactment of this Act, except for a contract issued after such date pursuant to an exchange described in section 1035 of the Internal Revenue Code of 1986 for a contract issued on or prior to that date. For purposes of the preceding sentence, any material increase in the death benefit or other material change shall cause the contract to be treated as a new contract except that, in the case of a master contract (within the meaning of section 264(f)(4)(E) of such Code), the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives.

SEC. 864. TREATMENT OF TEST ROOM SUPERVISORS AND PROCTORS WHO ASSIST IN THE ADMINISTRATION OF COLLEGE ENTRANCE AND PLACEMENT EXAMS.

26 USC 3401 note.

(a) IN GENERAL.—Section 530 of the Revenue Reconciliation Act of 1978 is amended by adding at the end the following new subsection:

"(f) TREATMENT OF TEST ROOM SUPERVISORS AND PROCTORS WHO ASSIST IN THE ADMINISTRATION OF COLLEGE ENTRANCE AND PLACEMENT EXAMS.—

Applicability.

"(1) IN GENERAL.—In the case of an individual described in paragraph (2) who is providing services as a test proctor or room supervisor by assisting in the administration of college entrance or placement examinations, this section shall be applied to such services performed after December 31, 2006 (and remuneration paid for such services) without regard to subsection (a)(3) thereof.

"(2) APPLICABILITY.—An individual is described in this paragraph if the individual—

"(A) is providing the services described in subsection (a) to an organization described in section 501(c), and exempt from tax under section 501(a), of the Internal Revenue Code of 1986, and

"(B) is not otherwise treated as an employee of such organization for purposes of subtitle C of such Code (relating to employment taxes).".

26 USC 3401 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration for services performed after December 31, 2006.

SEC. 865. GRANDFATHER RULE FOR CHURCH PLANS WHICH SELF-ANNUITIZE. 26 USC 401 note.

(a) IN GENERAL.—In the case of any plan year ending after the date of the enactment of this Act, annuity payments provided with respect to any account maintained for a participant or beneficiary under a qualified church plan shall not fail to satisfy the requirements of section 401(a)(9) of the Internal Revenue Code of 1986 merely because the payments are not made under an annuity contract purchased from an insurance company if such payments would not fail such requirements if provided with respect to a retirement income account described in section 403(b)(9) of such Code.

(b) QUALIFIED CHURCH PLAN.—For purposes of this section, the term "qualified church plan" means any money purchase pension plan described in section 401(a) of such Code which—

(1) is a church plan (as defined in section 414(e) of such Code) with respect to which the election provided by section 410(d) of such Code has not been made, and

(2) was in existence on April 17, 2002.

SEC. 866. EXEMPTION FOR INCOME FROM LEVERAGED REAL ESTATE HELD BY CHURCH PLANS.

(a) IN GENERAL.—Section 514(c)(9)(C) of the Internal Revenue Code of 1986 is amended by striking "or" after clause (ii), by striking the period at the end of clause (iii) and inserting "; or", and by inserting after clause (iii) the following: 26 USC 514.

"(iv) a retirement income account described in section 403(b)(9).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning on or after the date of enactment of this Act. 26 USC 514 note.

SEC. 867. CHURCH PLAN RULE.

(a) IN GENERAL.—Paragraph (11) of section 415(b) of the Internal Revenue Code of 1986 is amended by adding at the end the following: "Subparagraph (B) of paragraph (1) shall not apply to a plan maintained by an organization described in section 3121(w)(3)(A) except with respect to highly compensated benefits. For purposes of this paragraph, the term 'highly compensated benefits' means any benefits accrued for an employee in any year on or after the first year in which such employee is a highly compensated employee (as defined in section 414(q)) of the organization described in section 3121(w)(3)(A). For purposes of applying paragraph (1)(B) to highly compensated benefits, all benefits of the employee otherwise taken into account (without regard to this paragraph) shall be taken into account.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to years beginning after December 31, 2006. 26 USC 415 note.

SEC. 868. GRATUITOUS TRANSFER FOR BENEFITS OF EMPLOYEES.

(a) IN GENERAL.—Subparagraph (E) of section 664(g)(3) of the Internal Revenue Code of 1986 is amended by inserting "(determined on the basis of fair market value of securities when allocated to participants)" after "paragraph (7)".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 664 note.

TITLE IX—INCREASE IN PENSION PLAN DIVERSIFICATION AND PARTICIPATION AND OTHER PENSION PROVISIONS

SEC. 901. DEFINED CONTRIBUTION PLANS REQUIRED TO PROVIDE EMPLOYEES WITH FREEDOM TO INVEST THEIR PLAN ASSETS.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—

26 USC 401.

(1) QUALIFICATION REQUIREMENT.—Section 401(a) of the Internal Revenue Code of 1986 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (34) the following new paragraph:

"(35) DIVERSIFICATION REQUIREMENTS FOR CERTAIN DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—A trust which is part of an applicable defined contribution plan shall not be treated as a qualified trust unless the plan meets the diversification requirements of subparagraphs (B), (C), and (D).

"(B) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of an applicable individual's account attributable to employee contributions and elective deferrals which is invested in employer securities, a plan meets the requirements of this subparagraph if the applicable individual may elect to direct the plan to divest any such securities and to reinvest an equivalent amount in other investment options meeting the requirements of subparagraph (D).

"(C) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of the account attributable to employer contributions other than elective deferrals which is invested in employer securities, a plan meets the requirements of this subparagraph if each applicable individual who—

"(i) is a participant who has completed at least 3 years of service, or

"(ii) is a beneficiary of a participant described in clause (i) or of a deceased participant,

may elect to direct the plan to divest any such securities and to reinvest an equivalent amount in other investment options meeting the requirements of subparagraph (D).

"(D) INVESTMENT OPTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the plan offers not less than 3 investment options, other than employer securities, to which an applicable individual may direct the proceeds from the divestment of employer securities pursuant to this paragraph, each of which is diversified and has materially different risk and return characteristics.

"(ii) TREATMENT OF CERTAIN RESTRICTIONS AND CONDITIONS.—

"(I) TIME FOR MAKING INVESTMENT CHOICES.—A plan shall not be treated as failing to meet the requirements of this subparagraph merely because the plan limits the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

"(II) CERTAIN RESTRICTIONS AND CONDITIONS NOT ALLOWED.—Except as provided in regulations, a plan shall not meet the requirements of this subparagraph if the plan imposes restrictions or conditions with respect to the investment of employer securities which are not imposed on the investment of other assets of the plan. This subclause shall not apply to any restrictions or conditions imposed by reason of the application of securities laws.

"(E) APPLICABLE DEFINED CONTRIBUTION PLAN.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable defined contribution plan' means any defined contribution plan which holds any publicly traded employer securities.

"(ii) EXCEPTION FOR CERTAIN ESOPS.—Such term does not include an employee stock ownership plan if—

"(I) there are no contributions to such plan (or earnings thereunder) which are held within such plan and are subject to subsection (k) or (m), and

"(II) such plan is a separate plan for purposes of section 414(l) with respect to any other defined benefit plan or defined contribution plan maintained by the same employer or employers.

"(iii) EXCEPTION FOR ONE PARTICIPANT PLANS.—Such term does not include a one-participant retirement plan.

"(iv) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of clause (iii), the term 'one-participant retirement plan' means a retirement plan that—

"(I) on the first day of the plan year covered only one individual (or the individual and the individual's spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or covered only one or more partners (or partners and their spouses) in the plan sponsor,

"(II) meets the minimum coverage requirements of section 410(b) without being combined with any other plan of the business that covers the employees of the business,

"(III) does not provide benefits to anyone except the individual (and the individual's spouse) or the partners (and their spouses),

"(IV) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

"(V) does not cover a business that uses the services of leased employees (within the meaning of section 414(n)).

For purposes of this clause, the term 'partner' includes a 2-percent shareholder (as defined in section 1372(b)) of an S corporation.

"(F) CERTAIN PLANS TREATED AS HOLDING PUBLICLY TRADED EMPLOYER SECURITIES.—

"(i) IN GENERAL.—Except as provided in regulations or in clause (ii), a plan holding employer securities which are not publicly traded employer securities shall be treated as holding publicly traded employer securities if any employer corporation, or any member of a controlled group of corporations which includes such employer corporation, has issued a class of stock which is a publicly traded employer security.

"(ii) EXCEPTION FOR CERTAIN CONTROLLED GROUPS WITH PUBLICLY TRADED SECURITIES.—Clause (i) shall not apply to a plan if—

"(I) no employer corporation, or parent corporation of an employer corporation, has issued any publicly traded employer security, and

"(II) no employer corporation, or parent corporation of an employer corporation, has issued any special class of stock which grants particular rights to, or bears particular risks for, the holder or issuer with respect to any corporation described in clause (i) which has issued any publicly traded employer security.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the term—

"(I) 'controlled group of corporations' has the meaning given such term by section 1563(a), except that '50 percent' shall be substituted for '80 percent' each place it appears,

"(II) 'employer corporation' means a corporation which is an employer maintaining the plan, and

"(III) 'parent corporation' has the meaning given such term by section 424(e).

"(G) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

"(I) any participant in the plan, and

"(II) any beneficiary who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of a participant.

"(ii) ELECTIVE DEFERRAL.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A).

"(iii) EMPLOYER SECURITY.—The term 'employer security' has the meaning given such term by section 407(d)(1) of the Employee Retirement Income Security Act of 1974.

"(iv) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

"(v) PUBLICLY TRADED EMPLOYER SECURITIES.—The term 'publicly traded employer securities' means employer securities which are readily tradable on an established securities market.

"(vi) YEAR OF SERVICE.—The term 'year of service' has the meaning given such term by section 411(a)(5).

"(H) TRANSITION RULE FOR SECURITIES ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—

"(i) RULES PHASED IN OVER 3 YEARS.—

Applicability.

"(I) IN GENERAL.—In the case of the portion of an account to which subparagraph (C) applies and which consists of employer securities acquired in a plan year beginning before January 1, 2007, subparagraph (C) shall only apply to the applicable percentage of such securities. This subparagraph shall be applied separately with respect to each class of securities.

"(II) EXCEPTION FOR CERTAIN PARTICIPANTS AGED 55 OR OVER.—Subclause (I) shall not apply to an applicable individual who is a participant who has attained age 55 and completed at least 3 years of service before the first plan year beginning after December 31, 2005.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined as follows:

"Plan year to which subparagraph (C) applies:	The applicable percentage is:
1st	33
2d	66
3d and following	100.".

(2) CONFORMING AMENDMENTS.—

26 USC 401.

(A) Section 401(a)(28)(B) of such Code (relating to additional requirements relating to employee stock ownership plans) is amended by adding at the end the following new clause:

"(v) EXCEPTION.—This subparagraph shall not apply to an applicable defined contribution plan (as defined in paragraph (35)(E)).".

(B) Section 409(h)(7) of such Code is amended by inserting "or subparagraph (B) or (C) of section 401(a)(35)" before the period at the end.

(C) Section 4980(c)(3)(A) of such Code is amended by striking "if—" and all that follows and inserting "if the requirements of subparagraphs (B), (C), and (D) are met.".

(b) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) DIVERSIFICATION REQUIREMENTS FOR CERTAIN INDIVIDUAL ACCOUNT PLANS.—

"(1) IN GENERAL.—An applicable individual account plan shall meet the diversification requirements of paragraphs (2), (3), and (4).

"(2) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of an applicable individual's account attributable to employee contributions and elective deferrals which is invested in employer securities, a plan meets the requirements of this paragraph if the applicable individual may elect to direct the plan to divest any such securities and to reinvest an equivalent amount in other investment options meeting the requirements of paragraph (4).

"(3) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES.—In the case of the portion of the account attributable to employer contributions other than elective deferrals which is invested in employer securities, a plan meets the requirements of this paragraph if each applicable individual who—

"(A) is a participant who has completed at least 3 years of service, or

"(B) is a beneficiary of a participant described in subparagraph (A) or of a deceased participant,

may elect to direct the plan to divest any such securities and to reinvest an equivalent amount in other investment options meeting the requirements of paragraph (4).

"(4) INVESTMENT OPTIONS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan offers not less than 3 investment options, other than employer securities, to which an applicable individual may direct the proceeds from the divestment of employer securities pursuant to this subsection, each of which is diversified and has materially different risk and return characteristics.

"(B) TREATMENT OF CERTAIN RESTRICTIONS AND CONDITIONS.—

"(i) TIME FOR MAKING INVESTMENT CHOICES.—A plan shall not be treated as failing to meet the requirements of this paragraph merely because the plan limits the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

"(ii) CERTAIN RESTRICTIONS AND CONDITIONS NOT ALLOWED.—Except as provided in regulations, a plan shall not meet the requirements of this paragraph if the plan imposes restrictions or conditions with respect to the investment of employer securities which are not imposed on the investment of other assets of the plan. This subparagraph shall not apply to any restrictions or conditions imposed by reason of the application of securities laws.

"(5) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable individual account plan' means any individual account plan (as defined in section 3(34)) which holds any publicly traded employer securities.

"(B) EXCEPTION FOR CERTAIN ESOPS.—Such term does not include an employee stock ownership plan if—

"(i) there are no contributions to such plan (or earnings thereunder) which are held within such plan and are subject to subsection (k) or (m) of section 401 of the Internal Revenue Code of 1986, and

"(ii) such plan is a separate plan (for purposes of section 414(l) of such Code) with respect to any other defined benefit plan or individual account plan maintained by the same employer or employers.

"(C) EXCEPTION FOR ONE PARTICIPANT PLANS.—Such term shall not include a one-participant retirement plan (as defined in section 101(i)(8)(B)).

"(D) CERTAIN PLANS TREATED AS HOLDING PUBLICLY TRADED EMPLOYER SECURITIES.—

"(i) IN GENERAL.—Except as provided in regulations or in clause (ii), a plan holding employer securities which are not publicly traded employer securities shall be treated as holding publicly traded employer securities if any employer corporation, or any member of a controlled group of corporations which includes such employer corporation, has issued a class of stock which is a publicly traded employer security.

"(ii) EXCEPTION FOR CERTAIN CONTROLLED GROUPS WITH PUBLICLY TRADED SECURITIES.—Clause (i) shall not apply to a plan if—

"(I) no employer corporation, or parent corporation of an employer corporation, has issued any publicly traded employer security, and

"(II) no employer corporation, or parent corporation of an employer corporation, has issued any special class of stock which grants particular rights to, or bears particular risks for, the holder or issuer with respect to any corporation described in clause (i) which has issued any publicly traded employer security.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the term—

"(I) 'controlled group of corporations' has the meaning given such term by section 1563(a) of the Internal Revenue Code of 1986, except that '50 percent' shall be substituted for '80 percent' each place it appears,

"(II) 'employer corporation' means a corporation which is an employer maintaining the plan, and

"(III) 'parent corporation' has the meaning given such term by section 424(e) of such Code.

"(6) OTHER DEFINITIONS.—For purposes of this paragraph—

"(A) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

"(i) any participant in the plan, and

"(ii) any beneficiary who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of a participant.

"(B) ELECTIVE DEFERRAL.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A) of the Internal Revenue Code of 1986.

"(C) EMPLOYER SECURITY.—The term 'employer security' has the meaning given such term by section 407(d)(1).

"(D) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7) of such Code.

"(E) PUBLICLY TRADED EMPLOYER SECURITIES.—The term 'publicly traded employer securities' means employer securities which are readily tradable on an established securities market.

"(F) YEAR OF SERVICE.—The term 'year of service' has the meaning given such term by section 203(b)(2).

"(7) TRANSITION RULE FOR SECURITIES ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—

"(A) RULES PHASED IN OVER 3 YEARS.—

Applicability.

"(i) IN GENERAL.—In the case of the portion of an account to which paragraph (3) applies and which consists of employer securities acquired in a plan year beginning before January 1, 2007, paragraph (3) shall only apply to the applicable percentage of such securities. This subparagraph shall be applied separately with respect to each class of securities.

"(ii) EXCEPTION FOR CERTAIN PARTICIPANTS AGED 55 OR OVER.—Clause (i) shall not apply to an applicable individual who is a participant who has attained age 55 and completed at least 3 years of service before the first plan year beginning after December 31, 2005.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined as follows:

"Plan year to which paragraph (3) applies:	The applicable percentage is:
1st	33
2d	66
3d	100.".

(2) CONFORMING AMENDMENT.—Section 407(b)(3) of such Act (29 U.S.C. 1107(b)(3)) is amended by adding at the end the following:

"(D) For diversification requirements for qualifying employer securities held in certain individual account plans, see section 204(j).".

26 USC 401 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 2006.

Applicability.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2006" the earlier of—

(A) the later of—

(i) December 31, 2007, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2008.

(3) SPECIAL RULE FOR CERTAIN EMPLOYER SECURITIES HELD IN AN ESOP.—

(A) IN GENERAL.—In the case of employer securities to which this paragraph applies, the amendments made by this section shall apply to plan years beginning after the earlier of—

(i) December 31, 2007, or

(ii) the first date on which the fair market value of such securities exceeds the guaranteed minimum value described in subparagraph (B)(ii).

(B) APPLICABLE SECURITIES.—This paragraph shall apply to employer securities which are attributable to employer contributions other than elective deferrals, and which, on September 17, 2003—

(i) consist of preferred stock, and

(ii) are within an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986), the terms of which provide that the value of the securities cannot be less than the guaranteed minimum value specified by the plan on such date.

(C) COORDINATION WITH TRANSITION RULE.—In applying section 401(a)(35)(H) of the Internal Revenue Code of 1986 and section 204(j)(7) of the Employee Retirement Income Security Act of 1974 (as added by this section) to employer securities to which this paragraph applies, the applicable percentage shall be determined without regard to this paragraph.

SEC. 902. INCREASING PARTICIPATION THROUGH AUTOMATIC CONTRIBUTION ARRANGEMENTS.

(a) IN GENERAL.—Section 401(k) of the Internal Revenue Code of 1986 (relating to cash or deferred arrangement) is amended by adding at the end the following new paragraph: 26 USC 401.

"(13) ALTERNATIVE METHOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS TO MEET NONDISCRIMINATION REQUIREMENTS.—

"(A) IN GENERAL.—A qualified automatic contribution arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii).

"(B) QUALIFIED AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this paragraph, the term 'qualified automatic contribution arrangement' means any cash or deferred arrangement which meets the requirements of subparagraphs (C) through (E).

"(C) AUTOMATIC DEFERRAL.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to a qualified percentage of compensation.

"(ii) ELECTION OUT.—The election treated as having been made under clause (i) shall cease to apply with respect to any employee if such employee makes an affirmative election—

"(I) to not have such contributions made, or

"(II) to make elective contributions at a level specified in such affirmative election.

"(iii) QUALIFIED PERCENTAGE.—For purposes of this subparagraph, the term 'qualified percentage' means, with respect to any employee, any percentage determined under the arrangement if such percentage is applied uniformly, does not exceed 10 percent, and is at least—

"(I) 3 percent during the period ending on the last day of the first plan year which begins after the date on which the first elective contribution described in clause (i) is made with respect to such employee,

"(II) 4 percent during the first plan year following the plan year described in subclause (I),

"(III) 5 percent during the second plan year following the plan year described in subclause (I), and

"(IV) 6 percent during any subsequent plan year.

"(iv) AUTOMATIC DEFERRAL FOR CURRENT EMPLOYEES NOT REQUIRED.—Clause (i) may be applied without taking into account any employee who—

"(I) was eligible to participate in the arrangement (or a predecessor arrangement) immediately before the date on which such arrangement becomes a qualified automatic contribution arrangement (determined after application of this clause), and

"(II) had an election in effect on such date either to participate in the arrangement or to not participate in the arrangement.

"(D) MATCHING OR NONELECTIVE CONTRIBUTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, under the arrangement, the employer—

"(I) makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to the sum of 100 percent of the elective contributions of the employee to the extent that such contributions do not exceed 1 percent of compensation plus 50 percent of so much of such compensation as exceeds 1 percent but does not exceed 6 percent of compensation, or

"(II) is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the

arrangement in an amount equal to at least 3 percent of the employee's compensation.

"(ii) APPLICATION OF RULES FOR MATCHING CONTRIBUTIONS.—The rules of clauses (ii) and (iii) of paragraph (12)(B) shall apply for purposes of clause (i)(I).

"(iii) WITHDRAWAL AND VESTING RESTRICTIONS.—An arrangement shall not be treated as meeting the requirements of clause (i) unless, with respect to employer contributions (including matching contributions) taken into account in determining whether the requirements of clause (i) are met—

"(I) any employee who has completed at least 2 years of service (within the meaning of section 411(a)) has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from such employer contributions, and

"(II) the requirements of subparagraph (B) of paragraph (2) are met with respect to all such employer contributions.

"(iv) APPLICATION OF CERTAIN OTHER RULES.—The rules of subparagraphs (E)(ii) and (F) of paragraph (12) shall apply for purposes of subclauses (I) and (II) of clause (i).

"(E) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if, within a reasonable period before each plan year, each employee eligible to participate in the arrangement for such year receives written notice of the employee's rights and obligations under the arrangement which—

"(I) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(II) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

"(ii) TIMING AND CONTENT REQUIREMENTS.—A notice shall not be treated as meeting the requirements of clause (i) with respect to an employee unless—

"(I) the notice explains the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

"(II) in the case of an arrangement under which the employee may elect among 2 or more investment options, the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee, and

"(III) the employee has a reasonable period of time after receipt of the notice described in subclauses (I) and (II) and before the first elective contribution is made to make either such election.".

(b) MATCHING CONTRIBUTIONS.—Section 401(m) of such Code (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph 26 USC 401.

(12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

"(12) ALTERNATIVE METHOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) is a qualified automatic contribution arrangement (as defined in subsection (k)(13)), and

"(B) meets the requirements of paragraph (11)(B).".

(c) EXCLUSION FROM DEFINITION OF TOP-HEAVY PLANS.—

26 USC 416.

(1) ELECTIVE CONTRIBUTION RULE.—Clause (i) of section 416(g)(4)(H) of such Code is amended by inserting "or 401(k)(13)" after "section 401(k)(12)".

(2) MATCHING CONTRIBUTION RULE.—Clause (ii) of section 416(g)(4)(H) of such Code is amended by inserting "or 401(m)(12)" after "section 401(m)(11)".

(d) TREATMENT OF WITHDRAWALS OF CONTRIBUTIONS DURING FIRST 90 DAYS.—

(1) IN GENERAL.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(w) SPECIAL RULES FOR CERTAIN WITHDRAWALS FROM ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

"(1) IN GENERAL.—If an eligible automatic contribution arrangement allows an employee to elect to make permissible withdrawals—

"(A) the amount of any such withdrawal shall be includible in the gross income of the employee for the taxable year of the employee in which the distribution is made,

"(B) no tax shall be imposed under section 72(t) with respect to the distribution, and

"(C) the arrangement shall not be treated as violating any restriction on distributions under this title solely by reason of allowing the withdrawal.

In the case of any distribution to an employee by reason of an election under this paragraph, employer matching contributions shall be forfeited or subject to such other treatment as the Secretary may prescribe.

"(2) PERMISSIBLE WITHDRAWAL.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'permissible withdrawal' means any withdrawal from an eligible automatic contribution arrangement meeting the requirements of this paragraph which—

"(i) is made pursuant to an election by an employee, and

"(ii) consists of elective contributions described in paragraph (3)(B) (and earnings attributable thereto).

"(B) TIME FOR MAKING ELECTION.—Subparagraph (A) shall not apply to an election by an employee unless the election is made no later than the date which is 90 days after the date of the first elective contribution with respect to the employee under the arrangement.

"(C) AMOUNT OF DISTRIBUTION.—Subparagraph (A) shall not apply to any election by an employee unless the amount of any distribution by reason of the election

is equal to the amount of elective contributions made with respect to the first payroll period to which the eligible automatic contribution arrangement applies to the employee and any succeeding payroll period beginning before the effective date of the election (and earnings attributable thereto).

"(3) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection, the term 'eligible automatic contribution arrangement' means an arrangement under an applicable employer plan—

"(A) under which a participant may elect to have the employer make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

"(B) under which the participant is treated as having elected to have the employer make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage),

"(C) under which, in the absence of an investment election by the participant, contributions described in subparagraph (B) are invested in accordance with regulations prescribed by the Secretary of Labor under section 404(c)(5) of the Employee Retirement Income Security Act of 1974, and

"(D) which meets the requirements of paragraph (4).

"(4) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—The administrator of a plan containing an arrangement described in paragraph (3) shall, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (3) applies for such plan year notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

"(B) TIME AND FORM OF NOTICE.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to an employee unless—

"(i) the notice includes an explanation of the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

"(ii) the employee has a reasonable period of time after receipt of the notice described in clause (i) and before the first elective contribution is made to make such election, and

"(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee.

"(5) APPLICABLE EMPLOYER PLAN.—For purposes of this subsection, the term 'applicable employer plan' means—

"(A) an employees' trust described in section 401(a) which is exempt from tax under section 501(a),

"(B) a plan under which amounts are contributed by an individual's employer for an annuity contract described in section 403(b), and

"(C) an eligible deferred compensation plan described in section 457(b) which is maintained by an eligible employer described in section 457(e)(1)(A).

"(6) SPECIAL RULE.—A withdrawal described in paragraph (1) (subject to the limitation of paragraph (2)(C)) shall not be taken into account for purposes of section 401(k)(3).".

(2) VESTING CONFORMING AMENDMENTS.—

26 USC 411.

(A) Section 411(a)(3)(G) of such Code is amended by inserting "an erroneous automatic contribution under section 414(w)," after "402(g)(2)(A),".

(B) The heading of section 411(a)(3)(G) of such Code is amended by inserting "**OR ERRONEOUS AUTOMATIC CONTRIBUTION**" before the period.

(C) Section 401(k)(8)(E) of such Code is amended by inserting "an erroneous automatic contribution under section 414(w)," after "402(g)(2)(A),".

(D) The heading of section 401(k)(8)(E) of such Code is amended by inserting "**OR ERRONEOUS AUTOMATIC CONTRIBUTION**" before the period.

(E) Section 203(a)(3)(F) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(F)) is amended by inserting "an erroneous automatic contribution under section 414(w) of such Code," after "402(g)(2)(A) of such Code,".

(e) EXCESS CONTRIBUTIONS.—

(1) EXPANSION OF CORRECTIVE DISTRIBUTION PERIOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.—Subsection (f) of section 4979 of the Internal Revenue Code of 1986 is amended—

(A) by inserting "(6 months in the case of an excess contribution or excess aggregate contribution to an eligible automatic contribution arrangement (as defined in section 414(w)(3)))" after "2½ months" in paragraph (1), and

(B) by striking "2½ MONTHS OF" in the heading and inserting "SPECIFIED PERIOD AFTER".

(2) YEAR OF INCLUSION.—Paragraph (2) of section 4979(f) of such Code is amended to read as follows:

"(2) YEAR OF INCLUSION.—Any amount distributed as provided in paragraph (1) shall be treated as earned and received by the recipient in the recipient's taxable year in which such distributions were made.".

(3) SIMPLIFICATION OF ALLOCABLE EARNINGS.—

(A) SECTION 4979.—Paragraph (1) of section 4979(f) of such Code is amended by adding "through the end of the plan year for which the contribution was made" after "thereto".

(B) SECTION 401(k) AND 401(m).—

(i) Clause (i) of section 401(k)(8)(A) of such Code is amended by adding "through the end of such year" after "such contributions".

(ii) Subparagraph (A) of section 401(m)(6) of such Code is amended by adding "through the end of such year" after "to such contributions". 26 USC 401.

(f) PREEMPTION OF CONFLICTING STATE REGULATION.—

(1) IN GENERAL.—Section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding any other provision of this section, this title shall supersede any law of a State which would directly or indirectly prohibit or restrict the inclusion in any plan of an automatic contribution arrangement. The Secretary may prescribe regulations which would establish minimum standards that such an arrangement would be required to satisfy in order for this subsection to apply in the case of such arrangement.

"(2) For purposes of this subsection, the term 'automatic contribution arrangement' means an arrangement—

"(A) under which a participant may elect to have the plan sponsor make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

"(B) under which a participant is treated as having elected to have the plan sponsor make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage), and

"(C) under which such contributions are invested in accordance with regulations prescribed by the Secretary under section 404(c)(5).

"(3)(A) The plan administrator of an automatic contribution arrangement shall, within a reasonable period before such plan year, provide to each participant to whom the arrangement applies for such plan year notice of the participant's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the participant of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average participant to whom the arrangement applies.

"(B) A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to a participant unless—

"(i) the notice includes an explanation of the participant's right under the arrangement not to have elective contributions made on the participant's behalf (or to elect to have such contributions made at a different percentage),

"(ii) the participant has a reasonable period of time, after receipt of the notice described in clause (i) and before the first elective contribution is made, to make such election, and

"(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the participant.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking "or section 302(b)(7)(F)(vi)" inserting ", section 302(b)(7)(F)(vi), or section 514(e)(3)".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2007, except that the amendments made by subsection (f) shall take effect on the date of the enactment of this Act. 26 USC 401 note.

SEC. 903. TREATMENT OF ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.

26 USC 414.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—Section 414 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new subsection:

"(x) SPECIAL RULES FOR ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—

Applicability.

"(1) GENERAL RULE.—Except as provided in this subsection, the requirements of this title shall be applied to any defined benefit plan or applicable defined contribution plan which are part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan.

"(2) ELIGIBLE COMBINED PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible combined plan' means a plan—

"(i) which is maintained by an employer which, at the time the plan is established, is a small employer,

"(ii) which consists of a defined benefit plan and an applicable defined contribution plan,

"(iii) the assets of which are held in a single trust forming part of the plan and are clearly identified and allocated to the defined benefit plan and the applicable defined contribution plan to the extent necessary for the separate application of this title under paragraph (1), and

"(iv) with respect to which the benefit, contribution, vesting, and nondiscrimination requirements of subparagraphs (B), (C), (D), (E), and (F) are met.

For purposes of this subparagraph, the term 'small employer' has the meaning given such term by section 4980D(d)(2), except that such section shall be applied by substituting '500' for '50' each place it appears.

"(B) BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The benefit requirements of this subparagraph are met with respect to the defined benefit plan forming part of the eligible combined plan if the accrued benefit of each participant derived from employer contributions, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's final average pay. For purposes of this clause, final average pay shall be determined using the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the lesser of—

"(I) 1 percent multiplied by the number of years of service with the employer, or

"(II) 20 percent.

"(iii) SPECIAL RULE FOR APPLICABLE DEFINED BENEFIT PLANS.—If the defined benefit plan under clause (i) is an applicable defined benefit plan as defined in section 411(a)(13)(B) which meets the interest credit requirements of section 411(b)(5)(B)(i), the plan shall

be treated as meeting the requirements of clause (i) with respect to any plan year if each participant receives a pay credit for the year which is not less than the percentage of compensation determined in accordance with the following table:

"If the participant's age as of the beginning of the year is—	The percentage is—
30 or less	2
Over 30 but less than 40	4
40 or over but less than 50	6
50 or over	8.

"(iv) YEARS OF SERVICE.—For purposes of this subparagraph, years of service shall be determined under the rules of paragraphs (4), (5), and (6) of section 411(a), except that the plan may not disregard any year of service because of a participant making, or failing to make, any elective deferral with respect to the qualified cash or deferred arrangement to which subparagraph (C) applies.

"(C) CONTRIBUTION REQUIREMENTS.—

"(i) IN GENERAL.—The contribution requirements of this subparagraph with respect to any applicable defined contribution plan forming part of an eligible combined plan are met if—

"(I) the qualified cash or deferred arrangement included in such plan constitutes an automatic contribution arrangement, and

"(II) the employer is required to make matching contributions on behalf of each employee eligible to participate in the arrangement in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 4 percent of compensation.

Rules similar to the rules of clauses (ii) and (iii) of section 401(k)(12)(B) shall apply for purposes of this clause. Applicability.

"(ii) NONELECTIVE CONTRIBUTIONS.—An applicable defined contribution plan shall not be treated as failing to meet the requirements of clause (i) because the employer makes nonelective contributions under the plan but such contributions shall not be taken into account in determining whether the requirements of clause (i)(II) are met.

"(D) VESTING REQUIREMENTS.—The vesting requirements of this subparagraph are met if—

"(i) in the case of a defined benefit plan forming part of an eligible combined plan an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit under the plan derived from employer contributions, and

"(ii) in the case of an applicable defined contribution plan forming part of eligible combined plan—

"(I) an employee has a nonforfeitable right to any matching contribution made under the

qualified cash or deferred arrangement included in such plan by an employer with respect to any elective contribution, including matching contributions in excess of the contributions required under subparagraph (C)(i)(II), and

"(II) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived under the arrangement from nonelective contributions of the employer.

Applicability.

For purposes of this subparagraph, the rules of section 411 shall apply to the extent not inconsistent with this subparagraph.

"(E) UNIFORM PROVISION OF CONTRIBUTIONS AND BENEFITS.—In the case of a defined benefit plan or applicable defined contribution plan forming part of an eligible combined plan, the requirements of this subparagraph are met if all contributions and benefits under each such plan, and all rights and features under each such plan, must be provided uniformly to all participants.

"(F) REQUIREMENTS MUST BE MET WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS OR OTHER PLANS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS.—The requirements of this clause are met if—

"(I) the requirements of subparagraphs (B) and (C) are met without regard to section 401(l), and

"(II) the requirements of sections 401(a)(4) and 410(b) are met with respect to both the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan without regard to section 401(l).

"(iii) OTHER PLANS AND ARRANGEMENTS.—The requirements of this clause are met if the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan meet the requirements of sections 401(a)(4) and 410(b) without being combined with any other plan.

"(3) NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENT.—

"(A) IN GENERAL.—A qualified cash or deferred arrangement which is included in an applicable defined contribution plan forming part of an eligible combined plan shall be treated as meeting the requirements of section 401(k)(3)(A)(ii) if the requirements of paragraph (2)(C) are met with respect to such arrangement.

"(B) MATCHING CONTRIBUTIONS.—In applying section 401(m)(11) to any matching contribution with respect to a contribution to which paragraph (2)(C) applies, the contribution requirement of paragraph (2)(C) and the notice requirements of paragraph (5)(B) shall be substituted for the requirements otherwise applicable under clauses (i) and (ii) of section 401(m)(11)(A).

"(4) SATISFACTION OF TOP-HEAVY RULES.—A defined benefit plan and applicable defined contribution plan forming part of an eligible combined plan for any plan year shall be treated as meeting the requirements of section 416 for the plan year.

"(5) AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—A qualified cash or deferred arrangement shall be treated as an automatic contribution arrangement if the arrangement—

"(i) provides that each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contributions made or to have such contributions made at a different rate, and

"(ii) meets the notice requirements under subparagraph (B).

"(B) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) REASONABLE PERIOD TO MAKE ELECTION.—The requirements of this clause are met if each employee to whom subparagraph (A)(i) applies—

"(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf or to have the contributions made at a different rate, and

"(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

"(iii) ANNUAL NOTICE OF RIGHTS AND OBLIGATIONS.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year, given notice of the employee's rights and obligations under the arrangement.

The requirements of clauses (i) and (ii) of section 401(k)(12)(D) shall be met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

"(6) COORDINATION WITH OTHER REQUIREMENTS.—

"(A) TREATMENT OF SEPARATE PLANS.—Section 414(k) shall not apply to an eligible combined plan.

"(B) REPORTING.—An eligible combined plan shall be treated as a single plan for purposes of sections 6058 and 6059.

"(7) APPLICABLE DEFINED CONTRIBUTION PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable defined contribution plan' means a defined contribution plan which includes a qualified cash or deferred arrangement.

"(B) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—The term 'qualified cash or deferred arrangement' has the meaning given such term by section 401(k)(2).".

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 210 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subsection:

29 USC 1060.

"(e) SPECIAL RULES FOR ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—

Applicability.

"(1) GENERAL RULE.—Except as provided in this subsection, this Act shall be applied to any defined benefit plan or applicable individual account plan which are part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan.

"(2) ELIGIBLE COMBINED PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible combined plan' means a plan—

"(i) which is maintained by an employer which, at the time the plan is established, is a small employer,

"(ii) which consists of a defined benefit plan and an applicable individual account plan each of which qualifies under section 401(a) of the Internal Revenue Code of 1986,

"(iii) the assets of which are held in a single trust forming part of the plan and are clearly identified and allocated to the defined benefit plan and the applicable individual account plan to the extent necessary for the separate application of this Act under paragraph (1), and

"(iv) with respect to which the benefit, contribution, vesting, and nondiscrimination requirements of subparagraphs (B), (C), (D), (E), and (F) are met.

Applicability.

For purposes of this subparagraph, the term 'small employer' has the meaning given such term by section 4980D(d)(2) of the Internal Revenue Code of 1986, except that such section shall be applied by substituting '500' for '50' each place it appears.

"(B) BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The benefit requirements of this subparagraph are met with respect to the defined benefit plan forming part of the eligible combined plan if the accrued benefit of each participant derived from employer contributions, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's final average pay. For purposes of this clause, final average pay shall be determined using the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the lesser of—

"(I) 1 percent multiplied by the number of years of service with the employer, or

"(II) 20 percent.

"(iii) SPECIAL RULE FOR APPLICABLE DEFINED BENEFIT PLANS.—If the defined benefit plan under clause (i) is an applicable defined benefit plan as defined in section 203(f)(3)(B) which meets the interest credit

requirements of section 204(b)(5)(B)(i), the plan shall be treated as meeting the requirements of clause (i) with respect to any plan year if each participant receives pay credit for the year which is not less than the percentage of compensation determined in accordance with the following table:

"If the participant's age as of the beginning of the year is—	The percentage is—
30 or less	2
Over 30 but less than 40	4
40 or over but less than 50	6
50 or over	8.

"(iv) YEARS OF SERVICE.—For purposes of this subparagraph, years of service shall be determined under the rules of paragraphs (1), (2), and (3) of section 203(b), except that the plan may not disregard any year of service because of a participant making, or failing to make, any elective deferral with respect to the qualified cash or deferred arrangement to which subparagraph (C) applies.

"(C) CONTRIBUTION REQUIREMENTS.—

"(i) IN GENERAL.—The contribution requirements of this subparagraph with respect to any applicable individual account plan forming part of an eligible combined plan are met if—

"(I) the qualified cash or deferred arrangement included in such plan constitutes an automatic contribution arrangement, and

"(II) the employer is required to make matching contributions on behalf of each employee eligible to participate in the arrangement in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 4 percent of compensation.

Rules similar to the rules of clauses (ii) and (iii) of section 401(k)(12)(B) of the Internal Revenue Code of 1986 shall apply for purposes of this clause. Applicability.

"(ii) NONELECTIVE CONTRIBUTIONS.—An applicable individual account plan shall not be treated as failing to meet the requirements of clause (i) because the employer makes nonelective contributions under the plan but such contributions shall not be taken into account in determining whether the requirements of clause (i)(II) are met.

"(D) VESTING REQUIREMENTS.—The vesting requirements of this subparagraph are met if—

"(i) in the case of a defined benefit plan forming part of an eligible combined plan an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit under the plan derived from employer contributions, and

"(ii) in the case of an applicable individual account plan forming part of eligible combined plan—

"(I) an employee has a nonforfeitable right to any matching contribution made under the qualified cash or deferred arrangement included in such plan by an employer with respect to any elective contribution, including matching contributions in excess of the contributions required under subparagraph (C)(i)(II), and

"(II) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived under the arrangement from nonelective contributions of the employer.

Applicability.

For purposes of this subparagraph, the rules of section 203 shall apply to the extent not inconsistent with this subparagraph.

"(E) UNIFORM PROVISION OF CONTRIBUTIONS AND BENEFITS.—In the case of a defined benefit plan or applicable individual account plan forming part of an eligible combined plan, the requirements of this subparagraph are met if all contributions and benefits under each such plan, and all rights and features under each such plan, must be provided uniformly to all participants.

"(F) REQUIREMENTS MUST BE MET WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS OR OTHER PLANS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS.—The requirements of this clause are met if—

"(I) the requirements of subparagraphs (B) and (C) are met without regard to section 401(l) of the Internal Revenue Code of 1986, and

"(II) the requirements of sections 401(a)(4) and 410(b) of the Internal Revenue Code of 1986 are met with respect to both the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan without regard to section 401(l) of the Internal Revenue Code of 1986.

"(iii) OTHER PLANS AND ARRANGEMENTS.—The requirements of this clause are met if the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan meet the requirements of sections 401(a)(4) and 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan.

"(3) NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENT.—

"(A) IN GENERAL.—A qualified cash or deferred arrangement which is included in an applicable individual account plan forming part of an eligible combined plan shall be treated as meeting the requirements of section 401(k)(3)(A)(ii) of the Internal Revenue Code of 1986 if the requirements of paragraph (2) are met with respect to such arrangement.

"(B) MATCHING CONTRIBUTIONS.—In applying section 401(m)(11) of such Code to any matching contribution with respect to a contribution to which paragraph (2)(C) applies, the contribution requirement of paragraph (2)(C) and the notice requirements of paragraph (5)(B) shall be substituted for the requirements otherwise applicable under clauses (i) and (ii) of section 401(m)(11)(A) of such Code.

"(4) AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—A qualified cash or deferred arrangement shall be treated as an automatic contribution arrangement if the arrangement—

"(i) provides that each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contributions made or to have such contributions made at a different rate, and

"(ii) meets the notice requirements under subparagraph (B).

"(B) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) REASONABLE PERIOD TO MAKE ELECTION.—The requirements of this clause are met if each employee to whom subparagraph (A)(i) applies—

"(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf or to have the contributions made at a different rate, and

"(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

"(iii) ANNUAL NOTICE OF RIGHTS AND OBLIGATIONS.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year, given notice of the employee's rights and obligations under the arrangement.

The requirements of this subparagraph shall not be treated as met unless the requirements of clauses (i) and (ii) of section 401(k)(12)(D) of the Internal Revenue Code of 1986 are met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

"(5) COORDINATION WITH OTHER REQUIREMENTS.—

"(A) TREATMENT OF SEPARATE PLANS.—The except clause in section 3(35) shall not apply to an eligible combined plan.

"(B) REPORTING.—An eligible combined plan shall be treated as a single plan for purposes of section 103.

"(6) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable individual account plan' means an individual account plan which includes a qualified cash or deferred arrangement.

"(B) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—The term 'qualified cash or deferred arrangement' has the meaning given such term by section 401(k)(2) of the Internal Revenue Code of 1986.".

(2) CONFORMING CHANGES.—

29 USC 1060.

(A) The heading for section 210 of such Act is amended to read as follows:

"SEC. 210. MULTIPLE EMPLOYER PLANS AND OTHER SPECIAL RULES.".

(B) The table of contents in section 1 of such Act is amended by striking the item relating to section 210 and inserting the following new item:

"Sec. 210. Multiple employer plans and other special rules.".

26 USC 414 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2009.

SEC. 904. FASTER VESTING OF EMPLOYER NONELECTIVE CONTRIBUTIONS.

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

26 USC 411.

(1) IN GENERAL.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to employer contributions) is amended to read as follows:

"(2) EMPLOYER CONTRIBUTIONS.—

"(A) DEFINED BENEFIT PLANS.—

"(i) IN GENERAL.—In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) 5-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) 3 TO 7 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	**The nonforfeitable percentage is:**
3	20
4	40
5	60
6	80
7 or more	100.

"(B) DEFINED CONTRIBUTION PLANS.—

"(i) IN GENERAL.—In the case of a defined contribution plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) 3-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right

to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) 2 TO 6 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100.".

(2) CONFORMING AMENDMENT.—Section 411(a) of such Code (relating to general rule for minimum vesting standards) is amended by striking paragraph (12).

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to read as follows:

"(2)(A)(i) In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

"(B)(i) In the case of an individual account plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60

"Years of service:	The nonforfeitable percentage is:
5	80
6 or more	100.".

(2) CONFORMING AMENDMENT.—Section 203(a) of such Act is amended by striking paragraph (4).

26 USC 411 note.

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2006.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment); or

(ii) January 1, 2007; or

(B) January 1, 2009.

(3) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date that such employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

(4) SPECIAL RULE FOR STOCK OWNERSHIP PLANS.—Notwithstanding paragraph (1) or (2), in the case of an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986) which had outstanding on September 26, 2005, a loan incurred for the purpose of acquiring qualifying employer securities (as defined in section 4975(e)(8) of such Code), the amendments made by this section shall not apply to any plan year beginning before the earlier of—

(A) the date on which the loan is fully repaid, or

(B) the date on which the loan was, as of September 26, 2005, scheduled to be fully repaid.

SEC. 905. DISTRIBUTIONS DURING WORKING RETIREMENT.

(a) AMENDMENT TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subparagraph (A) of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) is amended by adding at the end the following new sentence: "A distribution from a plan, fund, or program shall not be treated as made in a form other than retirement income or as a distribution prior to termination of covered employment solely because such distribution is made to an employee who has attained age 62 and who is not separated from employment at the time of such distribution.".

26 USC 401.

(b) AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 (as amended by this Act) is amended by inserting after paragraph (35) the following new paragraph:

"(36) DISTRIBUTIONS DURING WORKING RETIREMENT.—A trust forming part of a pension plan shall not be treated as failing to constitute a qualified trust under this section solely because the plan provides that a distribution may be made from such trust to an employee who has attained age 62 and who is not separated from employment at the time of such distribution.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions in plan years beginning after December 31, 2006. 26 USC 401 note.

SEC. 906. TREATMENT OF CERTAIN PENSION PLANS OF INDIAN TRIBAL GOVERNMENTS.

(a) DEFINITION OF GOVERNMENT PLAN TO INCLUDE CERTAIN PENSION PLANS OF INDIAN TRIBAL GOVERNMENTS.—

(1) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 414(d) of the Internal Revenue Code of 1986 (defining governmental plan) is amended by adding at the end the following: "The term 'governmental plan' includes a plan which is established and maintained by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function).". 26 USC 414.

(2) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(A) Section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32)) is amended by adding at the end the following: "The term 'governmental plan' includes a plan which is established and maintained by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function)".

(B) Section 4021(b)(2) of such Act is amended by adding at the end the following: "or which is described in the last sentence of section 3(32)". 29 USC 1321.

(b) CLARIFICATION THAT TRIBAL GOVERNMENTS ARE SUBJECT TO THE SAME PENSION PLAN RULES AND REGULATIONS APPLIED TO STATE AND OTHER LOCAL GOVERNMENTS AND THEIR POLICE AND FIREFIGHTERS.—

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

(A) POLICE AND FIREFIGHTERS.—Subparagraph (H) section 415(b)(2) of the Internal Revenue Code of 1986 (defining participant) is amended— 26 USC 415.

(i) in clause (i), by striking "State or political subdivision" and inserting "State, Indian tribal government (as defined in section 7701(a)(40)), or any political subdivision"; and

(ii) in clause (ii)(I), by striking "State or political subdivision" each place it appears and inserting "State, Indian tribal government (as so defined), or any political subdivision".

(B) STATE AND LOCAL GOVERNMENT PLANS.—

26 USC 415.

(i) IN GENERAL.—Subparagraph (A) of section 415(b)(10) of such Code (relating to limitation to equal accrued benefit) is amended by inserting "or a governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governments)," after "foregoing,".

(ii) CONFORMING AMENDMENT.—The heading of paragraph (1) of section 415(b) of such Code is amended by striking "SPECIAL RULE FOR STATE AND" and inserting "SPECIAL RULE FOR STATE, INDIAN TRIBAL, AND".

(C) GOVERNMENT PICK UP CONTRIBUTIONS.—Paragraph (2) of section 414(h) of such Code (relating to designation by units of government) is amended by inserting "or a governmental plan described in the last sentence of section 414(d) (relating to plans of Indian tribal governments)," after "foregoing,".

(2) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 4021(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321(b)) is amended—

(A) in paragraph (12), by striking "or" at the end;

(B) in paragraph (13), by striking "plan." and inserting "plan; or"; and

(C) by adding at the end the following:

"(14) established and maintained by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), or an agency or instrumentality of either, and all of the participants of which are employees of such entity substantially all of whose services as such an employee are in the performance of essential governmental functions but not in the performance of commercial activities (whether or not an essential government function).".

26 USC 414 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any year beginning on or after the date of the enactment of this Act.

TITLE X—PROVISIONS RELATING TO SPOUSAL PENSION PROTECTION

SEC. 1001. REGULATIONS ON TIME AND ORDER OF ISSUANCE OF DOMESTIC RELATIONS ORDERS.

Deadline.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall issue regulations under section 206(d)(3) of the Employee Retirement Security Act of 1974 and

section 414(p) of the Internal Revenue Code of 1986 which clarify that—

(1) a domestic relations order otherwise meeting the requirements to be a qualified domestic relations order, including the requirements of section 206(d)(3)(D) of such Act and section 414(p)(3) of such Code, shall not fail to be treated as a qualified domestic relations order solely because—

(A) the order is issued after, or revises, another domestic relations order or qualified domestic relations order; or

(B) of the time at which it is issued; and

(2) any order described in paragraph (1) shall be subject to the same requirements and protections which apply to qualified domestic relations orders, including the provisions of section 206(d)(3)(H) of such Act and section 414(p)(7) of such Code.

SEC. 1002. ENTITLEMENT OF DIVORCED SPOUSES TO RAILROAD RETIREMENT ANNUITIES INDEPENDENT OF ACTUAL ENTITLEMENT OF EMPLOYEE.

(a) IN GENERAL.—Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended—

(1) in subsection (c)(4)(i), by striking "(A) is entitled to an annuity under subsection (a)(1) and (B)"; and

(2) in subsection (e)(5), by striking "or divorced wife" the second place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

45 USC 231a note.

SEC. 1003. EXTENSION OF TIER II RAILROAD RETIREMENT BENEFITS TO SURVIVING FORMER SPOUSES PURSUANT TO DIVORCE AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Railroad Retirement Act of 1974 (45 U.S.C. 231d) is amended by adding at the end the following:

"(d) Notwithstanding any other provision of law, the payment of any portion of an annuity computed under section 3(b) to a surviving former spouse in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree shall not be terminated upon the death of the individual who performed the service with respect to which such annuity is so computed unless such termination is otherwise required by the terms of such court decree.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 1 year after the date of the enactment of this Act.

45 USC 231d note.

SEC. 1004. REQUIREMENT FOR ADDITIONAL SURVIVOR ANNUITY OPTION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) ELECTION OF SURVIVOR ANNUITY.—Section 417(a)(1)(A) of the Internal Revenue Code of 1986 is amended—

26 USC 417.

(A) in clause (i), by striking ", and" and inserting a comma;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) if the participant elects a waiver under clause (i), may elect the qualified optional survivor annuity at any time during the applicable election period, and".

26 USC 417.

(2) DEFINITION.—Section 417 of such Code is amended by adding at the end the following:

"(g) DEFINITION OF QUALIFIED OPTIONAL SURVIVOR ANNUITY.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified optional survivor annuity' means an annuity—

"(A) for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(B) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), if the survivor annuity percentage—

"(i) is less than 75 percent, the applicable percentage is 75 percent, and

"(ii) is greater than or equal to 75 percent, the applicable percentage is 50 percent.

"(B) SURVIVOR ANNUITY PERCENTAGE.—For purposes of subparagraph (A), the term 'survivor annuity percentage' means the percentage which the survivor annuity under the plan's qualified joint and survivor annuity bears to the annuity payable during the joint lives of the participant and the spouse.".

(3) NOTICE.—Section 417(a)(3)(A)(i) of such Code is amended by inserting "and of the qualified optional survivor annuity" after "annuity".

(b) AMENDMENTS TO ERISA.—

(1) ELECTION OF SURVIVOR ANNUITY.—Section 205(c)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(1)(A)) is amended—

(A) in clause (i), by striking ", and" and inserting a comma;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) if the participant elects a waiver under clause (i), may elect the qualified optional survivor annuity at any time during the applicable election period, and".

(2) DEFINITION.—Section 205(d) of such Act (29 U.S.C. 1055(d)) is amended—

(A) by inserting "(1)" after "(d)";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following:

"(2)(A) For purposes of this section, the term 'qualified optional survivor annuity' means an annuity—

"(i) for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(ii) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(B)(i) For purposes of subparagraph (A), if the survivor annuity percentage—

"(I) is less than 75 percent, the applicable percentage is 75 percent, and

"(II) is greater than or equal to 75 percent, the applicable percentage is 50 percent.

"(ii) For purposes of clause (i), the term 'survivor annuity percentage' means the percentage which the survivor annuity under the plan's qualified joint and survivor annuity bears to the annuity payable during the joint lives of the participant and the spouse.".

(3) NOTICE.—Section 205(c)(3)(A)(i) of such Act (29 U.S.C. 1055(c)(3)(A)(i)) is amended by inserting "and of the qualified optional survivor annuity" after "annuity".

(c) EFFECTIVE DATES.— 26 USC 417 note.

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2007.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) January 1, 2008, or

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

(B) January 1, 2009.

TITLE XI—ADMINISTRATIVE PROVISIONS

SEC. 1101. EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM. Establishment. 29 USC 1202a.

(a) IN GENERAL.—The Secretary of the Treasury shall have full authority to establish and implement the Employee Plans Compliance Resolution System (or any successor program) and any other employee plans correction policies, including the authority to waive income, excise, or other taxes to ensure that any tax, penalty, or sanction is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

(b) IMPROVEMENTS.—The Secretary of the Treasury shall continue to update and improve the Employee Plans Compliance Resolution System (or any successor program), giving special attention to—

(1) increasing the awareness and knowledge of small employers concerning the availability and use of the program;

(2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures;

(3) extending the duration of the self-correction period under the Self-Correction Program for significant compliance failures;

(4) expanding the availability to correct insignificant compliance failures under the Self-Correction Program during audit; and

(5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

SEC. 1102. NOTICE AND CONSENT PERIOD REGARDING DISTRIBUTIONS.

(a) EXPANSION OF PERIOD.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—

26 USC 417.

(A) IN GENERAL.—Section 417(a)(6)(A) of the Internal Revenue Code of 1986 is amended by striking "90-day" and inserting "180-day".

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986 by substituting "180 days" for "90 days" each place it appears in Treasury Regulations sections 1.402(f)–1, 1.411(a)–11(c), and 1.417(e)–1(b).

(2) AMENDMENT OF ERISA.—

(A) IN GENERAL.—Section 205(c)(7)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended by striking "90-day" and inserting "180-day".

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 relating to sections 203(e) and 205 of such Act by substituting "180 days" for "90 days" each place it appears.

26 USC 417 note.

(3) EFFECTIVE DATE.—The amendments and modifications made or required by this subsection shall apply to years beginning after December 31, 2006.

26 USC 417 note.

(b) NOTIFICATION OF RIGHT TO DEFER.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 411(a)(11) of the Internal Revenue Code of 1986 and under section 205 of the Employee Retirement Income Security Act of 1974 to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The modifications required by paragraph (1) shall apply to years beginning after December 31, 2006.

Deadline.

(B) REASONABLE NOTICE.—A plan shall not be treated as failing to meet the requirements of section 411(a)(11) of such Code or section 205 of such Act with respect to any description of consequences described in paragraph (1) made within 90 days after the Secretary of the Treasury issues the modifications required by paragraph (1) if the

plan administrator makes a reasonable attempt to comply with such requirements.

SEC. 1103. REPORTING SIMPLIFICATION.

26 USC 6058 note.

(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of $250,000 or less as of the close of the plan year need not file a return for that year.

(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term "one-participant retirement plan" means a retirement plan with respect to which the following requirements are met:

(A) on the first day of the plan year—

(i) the plan covered only one individual (or the individual and the individual's spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or

(ii) the plan covered only one or more partners (or partners and their spouses) in the plan sponsor;

(B) the plan meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business;

(C) the plan does not provide benefits to anyone except the individual (and the individual's spouse) or the partners (and their spouses);

(D) the plan does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and

(E) the plan does not cover a business that uses the services of leased employees (within the meaning of section 414(n) of such Code).

For purposes of this paragraph, the term "partner" includes a 2-percent shareholder (as defined in section 1372(b) of such Code) of an S corporation.

(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

(4) EFFECTIVE DATE.—The provisions of this subsection shall apply to plan years beginning on or after January 1, 2007.

(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 PARTICIPANTS.—In the case of plan years beginning after December 31, 2006, the Secretary of the Treasury and the Secretary of Labor shall provide for the filing of a simplified annual return for any retirement plan which covers less than 25 participants on the first day of a plan year and which meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2).

SEC. 1104. VOLUNTARY EARLY RETIREMENT INCENTIVE AND EMPLOYMENT RETENTION PLANS MAINTAINED BY LOCAL EDUCATIONAL AGENCIES AND OTHER ENTITIES.

(a) VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—

26 USC 457.

(1) TREATMENT AS PLAN PROVIDING SEVERANCE PAY.—Section 457(e)(11) of the Internal Revenue Code of 1986 (relating to certain plans excluded) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—

"(i) IN GENERAL.—If an applicable voluntary early retirement incentive plan—

"(I) makes payments or supplements as an early retirement benefit, a retirement-type subsidy, or a benefit described in the last sentence of section 411(a)(9), and

"(II) such payments or supplements are made in coordination with a defined benefit plan which is described in section 401(a) and includes a trust exempt from tax under section 501(a) and which is maintained by an eligible employer described in paragraph (1)(A) or by an education association described in clause (ii)(II),

such applicable plan shall be treated for purposes of subparagraph (A)(i) as a bona fide severance pay plan with respect to such payments or supplements to the extent such payments or supplements could otherwise have been provided under such defined benefit plan (determined as if section 411 applied to such defined benefit plan).

"(ii) APPLICABLE VOLUNTARY EARLY RETIREMENT INCENTIVE PLAN.—For purposes of this subparagraph, the term 'applicable voluntary early retirement incentive plan' means a voluntary early retirement incentive plan maintained by—

"(I) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), or

"(II) an education association which principally represents employees of 1 or more agencies described in subclause (I) and which is described in section 501(c) (5) or (6) and exempt from tax under section 501(a).".

(2) AGE DISCRIMINATION IN EMPLOYMENT ACT.—Section 4(l)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(l)(1)) is amended—

(A) by inserting "(A)" after "(1)",

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by redesignating clauses (i) and (ii) of subparagraph (B) (as in effect before the amendments made by subparagraph (B)) as subclauses (I) and (II), respectively, and

(D) by adding at the end the following:

"(B) A voluntary early retirement incentive plan that—

"(i) is maintained by—

"(I) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), or

"(II) an education association which principally represents employees of 1 or more agencies described in subclause (I) and which is described in section 501(c)(5) or (6) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code, and

"(ii) makes payments or supplements described in subclauses (I) and (II) of subparagraph (A)(ii) in coordination with a defined benefit plan (as so defined) maintained by an eligible employer described in section 457(e)(1)(A) of such Code or by an education association described in clause (i)(II),

shall be treated solely for purposes of subparagraph (A)(ii) as if it were a part of the defined benefit plan with respect to such payments or supplements. Payments or supplements under such a voluntary early retirement incentive plan shall not constitute severance pay for purposes of paragraph (2).".

(b) EMPLOYMENT RETENTION PLANS.—

(1) IN GENERAL.—Section 457(f)(2) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end the following: 26 USC 457.

"(F) that portion of any applicable employment retention plan described in paragraph (4) with respect to any participant.".

(2) DEFINITIONS AND RULES RELATING TO EMPLOYMENT RETENTION PLANS.—Section 457(f) of such Code is amended by adding at the end the following new paragraph:

"(4) EMPLOYMENT RETENTION PLANS.—For purposes of paragraph (2)(F)—

"(A) IN GENERAL.—The portion of an applicable employment retention plan described in this paragraph with respect to any participant is that portion of the plan which provides benefits payable to the participant not in excess of twice the applicable dollar limit determined under subsection (e)(15).

"(B) OTHER RULES.—

"(i) LIMITATION.—Paragraph (2)(F) shall only apply to the portion of the plan described in subparagraph (A) for years preceding the year in which such portion is paid or otherwise made available to the participant. Applicability.

"(ii) TREATMENT.—A plan shall not be treated for purposes of this title as providing for the deferral of compensation for any year with respect to the portion of the plan described in subparagraph (A).

"(C) APPLICABLE EMPLOYMENT RETENTION PLAN.—The term 'applicable employment retention plan' means an employment retention plan maintained by—

"(i) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), or

"(ii) an education association which principally represents employees of 1 or more agencies described in

clause (i) and which is described in section 501(c) (5) or (6) and exempt from taxation under section 501(a).

"(D) EMPLOYMENT RETENTION PLAN.—The term 'employment retention plan' means a plan to pay, upon termination of employment, compensation to an employee of a local educational agency or education association described in subparagraph (C) for purposes of—

"(i) retaining the services of the employee, or

"(ii) rewarding such employee for the employee's service with 1 or more such agencies or associations.".

(c) COORDINATION WITH ERISA.—Section 3(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)(B)) is amended by adding at the end the following: "An applicable voluntary early retirement incentive plan (as defined in section 457(e)(11)(D)(ii) of the Internal Revenue Code of 1986) making payments or supplements described in section 457(e)(11)(D)(i) of such Code, and an applicable employment retention plan (as defined in section 457(f)(4)(C) of such Code) making payments of benefits described in section 457(f)(4)(A) of such Code, shall, for purposes of this title, be treated as a welfare plan (and not a pension plan) with respect to such payments and supplements.".

26 USC 457 note.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) TAX AMENDMENTS.—The amendments made by subsections (a)(1) and (b) shall apply to taxable years ending after the date of the enactment of this Act.

(3) ERISA AMENDMENTS.—The amendment made by subsection (c) shall apply to plan years ending after the date of the enactment of this Act.

(4) CONSTRUCTION.—Nothing in the amendments made by this section shall alter or affect the construction of the Internal Revenue Code of 1986, the Employee Retirement Income Security Act of 1974, or the Age Discrimination in Employment Act of 1967 as applied to any plan, arrangement, or conduct to which such amendments do not apply.

SEC. 1105. NO REDUCTION IN UNEMPLOYMENT COMPENSATION AS A RESULT OF PENSION ROLLOVERS.

26 USC 3304.

(a) IN GENERAL.—Section 3304(a) of the Internal Revenue Code of 1986 (relating to requirements for State unemployment laws) is amended by adding at the end the following new flush sentence: "Compensation shall not be reduced under paragraph (15) for any pension, retirement or retired pay, annuity, or similar payment which is not includible in gross income of the individual for the taxable year in which paid because it was part of a rollover distribution.".

26 USC 3304 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to weeks beginning on or after the date of the enactment of this Act.

SEC. 1106. REVOCATION OF ELECTION RELATING TO TREATMENT AS MULTIEMPLOYER PLAN.

29 USC 1002.

(a) AMENDMENT TO ERISA.—Section 3(37) of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subparagraph (G):

"(G)(i) Within 1 year after the enactment of the Pension Protection Act of 2006— Deadline.

"(I) an election under subparagraph (E) may be revoked, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, if, for each of the 3 plan years prior to the date of the enactment of that Act, the plan would have been a multiemployer plan but for the election under subparagraph (E), and

"(II) a plan that meets the criteria in clauses (i) and (ii) of subparagraph (A) of this paragraph or that is described in clause (vi) may, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, elect to be a multiemployer plan, if—

"(aa) for each of the 3 plan years immediately before the date of the enactment of the Pension Protection Act of 2006, the plan has met those criteria or is so described,

"(bb) substantially all of the plan's employer contributions for each of those plan years were made or required to be made by organizations that were exempt from tax under section 501 of the Internal Revenue Code of 1986, and

"(cc) the plan was established prior to September 2, 1974.

"(ii) An election under this paragraph shall be effective for all purposes under this Act and under the Internal Revenue Code of 1986, starting with the first plan year ending after the date of the enactment of the Pension Protection Act of 2006. Effective date.

"(iii) Once made, an election under this paragraph shall be irrevocable, except that a plan described in subclause (i)(II) shall cease to be a multiemployer plan as of the plan year beginning immediately after the first plan year for which the majority of its employer contributions were made or required to be made by organizations that were not exempt from tax under section 501 of the Internal Revenue Code of 1986.

"(iv) The fact that a plan makes an election under clause (i)(II) does not imply that the plan was not a multiemployer plan prior to the date of the election or would not be a multiemployer plan without regard to the election.

"(v)(I) No later than 30 days before an election is made under this paragraph, the plan administrator shall provide notice of the pending election to each plan participant and beneficiary, each labor organization representing such participants or beneficiaries, and each employer that has an obligation to contribute to the plan, describing the principal differences between the guarantee programs under title IV and the benefit restrictions under this title for single employer and multiemployer plans, along with such other information as the plan administrator chooses to include. Deadlines. Notices.

"(II) Within 180 days after the date of enactment of the Pension Protection Act of 2006, the Secretary shall prescribe a model notice under this subparagraph.

"(III) A plan administrator's failure to provide the notice required under this subparagraph shall be treated for purposes

of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4).

"(vi) A plan is described in this clause if it is a plan—

"(I) that was established in Chicago, Illinois, on August 12, 1881; and

"(II) sponsored by an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code.".

(b) AMENDMENT TO INTERNAL REVENUE CODE.—Subsection (f) of section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new paragraph (6):

26 USC 414.

"(6) ELECTION WITH REGARD TO MULTIEMPLOYER STATUS.—

Deadline.

"(A) Within 1 year after the enactment of the Pension Protection Act of 2006—

"(i) An election under paragraph (5) may be revoked, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, if, for each of the 3 plan years prior to the date of the enactment of that Act, the plan would have been a multiemployer plan but for the election under paragraph (5), and

"(ii) a plan that meets the criteria in subparagraph (A) and (B) of paragraph (1) of this subsection or that is described in subparagraph (E) may, pursuant to procedures prescribed by the Pension Benefit Guaranty Corporation, elect to be a multiemployer plan, if—

"(I) for each of the 3 plan years immediately before the date of enactment of the Pension Protection Act of 2006, the plan has met those criteria or is so described,

"(II) substantially all of the plan's employer contributions for each of those plan years were made or required to be made by organizations that were exempt from tax under section 501, and

"(III) the plan was established prior to September 2, 1974.

Effective date.

"(B) An election under this paragraph shall be effective for all purposes under this Act and under the Employee Retirement Income Security Act of 1974, starting with the first plan year ending after the date of the enactment of the Pension Protection Act of 2006.

"(C) Once made, an election under this paragraph shall be irrevocable, except that a plan described in subparagraph (A)(ii) shall cease to be a multiemployer plan as of the plan year beginning immediately after the first plan year for which the majority of its employer contributions were made or required to be made by organizations that were not exempt from tax under section 501.

"(D) The fact that a plan makes an election under subparagraph (A)(ii) does not imply that the plan was not a multiemployer plan prior to the date of the election or would not be a multiemployer plan without regard to the election.

"(E) A plan is described in this subparagraph if it is a plan—

"(i) that was established in Chicago, Illinois, on August 12, 1881; and

"(ii) sponsored by an organization described in section 501(c)(5) and exempt from tax under section 501(a).".

SEC. 1107. PROVISIONS RELATING TO PLAN AMENDMENTS. 26 USC 411 note.

(a) IN GENERAL.—If this section applies to any pension plan or contract amendment—

(1) such pension plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) except as provided by the Secretary of the Treasury, such pension plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any pension plan or annuity contract which is made—

(A) pursuant to any amendment made by this Act or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under this Act, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2009. Effective date.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), this paragraph shall be applied by substituting "2011" for "2009".

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

TITLE XII—PROVISIONS RELATING TO EXEMPT ORGANIZATIONS

Subtitle A—Charitable Giving Incentives

SEC. 1201. TAX-FREE DISTRIBUTIONS FROM INDIVIDUAL RETIREMENT PLANS FOR CHARITABLE PURPOSES.

(a) IN GENERAL.—Subsection (d) of section 408 (relating to individual retirement accounts) is amended by adding at the end the following new paragraph: 26 USC 408.

"(8) DISTRIBUTIONS FOR CHARITABLE PURPOSES.—

"(A) IN GENERAL.—So much of the aggregate amount of qualified charitable distributions with respect to a taxpayer made during any taxable year which does not exceed $100,000 shall not be includible in gross income of such taxpayer for such taxable year.

"(B) QUALIFIED CHARITABLE DISTRIBUTION.—For purposes of this paragraph, the term 'qualified charitable distribution' means any distribution from an individual retirement plan (other than a plan described in subsection (k) or (p))—

"(i) which is made directly by the trustee to an organization described in section 170(b)(1)(A) (other than any organization described in section 509(a)(3) or any fund or account described in section 4966(d)(2)), and

"(ii) which is made on or after the date that the individual for whose benefit the plan is maintained has attained age 70½.

A distribution shall be treated as a qualified charitable distribution only to the extent that the distribution would be includible in gross income without regard to subparagraph (A).

"(C) CONTRIBUTIONS MUST BE OTHERWISE DEDUCTIBLE.—For purposes of this paragraph, a distribution to an organization described in subparagraph (B)(i) shall be treated as a qualified charitable distribution only if a deduction for the entire distribution would be allowable under section 170 (determined without regard to subsection (b) thereof and this paragraph).

"(D) APPLICATION OF SECTION 72.—Notwithstanding section 72, in determining the extent to which a distribution is a qualified charitable distribution, the entire amount of the distribution shall be treated as includible in gross income without regard to subparagraph (A) to the extent that such amount does not exceed the aggregate amount which would have been so includible if all amounts distributed from all individual retirement plans were treated as 1 contract under paragraph (2)(A) for purposes of determining the inclusion of such distribution under section 72. Proper adjustments shall be made in applying section 72 to other distributions in such taxable year and subsequent taxable years.

"(E) DENIAL OF DEDUCTION.—Qualified charitable distributions which are not includible in gross income pursuant to subparagraph (A) shall not be taken into account in determining the deduction under section 170.

"(F) TERMINATION.—This paragraph shall not apply to distributions made in taxable years beginning after December 31, 2007.".

(b) MODIFICATIONS RELATING TO INFORMATION RETURNS BY CERTAIN TRUSTS.—

26 USC 6034.

(1) RETURNS.—Section 6034 (relating to returns by trusts described in section 4947(a)(2) or claiming charitable deductions under section 642(c)) is amended to read as follows:

"SEC. 6034. RETURNS BY CERTAIN TRUSTS.

"(a) SPLIT-INTEREST TRUSTS.—Every trust described in section 4947(a)(2) shall furnish such information with respect to the taxable year as the Secretary may by forms or regulations require.

"(b) TRUSTS CLAIMING CERTAIN CHARITABLE DEDUCTIONS.—

"(1) IN GENERAL.—Every trust not required to file a return under subsection (a) but claiming a deduction under section 642(c) for the taxable year shall furnish such information with respect to such taxable year as the Secretary may by forms or regulations prescribe, including—

"(A) the amount of the deduction taken under section 642(c) within such year,

"(B) the amount paid out within such year which represents amounts for which deductions under section 642(c) have been taken in prior years,

"(C) the amount for which such deductions have been taken in prior years but which has not been paid out at the beginning of such year,

"(D) the amount paid out of principal in the current and prior years for the purposes described in section 642(c),

"(E) the total income of the trust within such year and the expenses attributable thereto, and

"(F) a balance sheet showing the assets, liabilities, and net worth of the trust as of the beginning of such year.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to a trust for any taxable year if—

"(A) all the net income for such year, determined under the applicable principles of the law of trusts, is required to be distributed currently to the beneficiaries, or

"(B) the trust is described in section 4947(a)(1).".

(2) INCREASE IN PENALTY RELATING TO FILING OF INFORMATION RETURN BY SPLIT-INTEREST TRUSTS.—Paragraph (2) of section 6652(c) (relating to returns by exempt organizations and by certain trusts) is amended by adding at the end the following new subparagraph: 26 USC 6652.

"(C) SPLIT-INTEREST TRUSTS.—In the case of a trust which is required to file a return under section 6034(a), subparagraphs (A) and (B) of this paragraph shall not apply and paragraph (1) shall apply in the same manner as if such return were required under section 6033, except that— Applicability.

"(i) the 5 percent limitation in the second sentence of paragraph (1)(A) shall not apply,

"(ii) in the case of any trust with gross income in excess of $250,000, the first sentence of paragraph (1)(A) shall be applied by substituting '$100' for '$20', and the second sentence thereof shall be applied by substituting '$50,000' for '$10,000', and

"(iii) the third sentence of paragraph (1)(A) shall be disregarded.

In addition to any penalty imposed on the trust pursuant to this subparagraph, if the person required to file such return knowingly fails to file the return, such penalty shall also be imposed on such person who shall be personally liable for such penalty.".

26 USC 6104.

(3) CONFIDENTIALITY OF NONCHARITABLE BENEFICIARIES.—Subsection (b) of section 6104 (relating to inspection of annual information returns) is amended by adding at the end the following new sentence: "In the case of a trust which is required to file a return under section 6034(a), this subsection shall not apply to information regarding beneficiaries which are not organizations described in section 170(c).".

(4) CLERICAL AMENDMENT.—The item in the table of sections for subpart A of part III of subchapter A of chapter 61 relating to section 6034 is amended to read as follows:

"Sec. 6034. Returns by certain trusts.".

(c) EFFECTIVE DATES.—

26 USC 408 note.

(1) SUBSECTION (a).—The amendment made by subsection (a) shall apply to distributions made in taxable years beginning after December 31, 2005.

26 USC 6034 note.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns for taxable years beginning after December 31, 2006.

SEC. 1202. EXTENSION OF MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF FOOD INVENTORY.

(a) IN GENERAL.—Section 170(e)(3)(C)(iv) (relating to termination) is amended by striking "2005" and inserting "2007".

26 USC 170 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 1203. BASIS ADJUSTMENT TO STOCK OF S CORPORATION CONTRIBUTING PROPERTY.

(a) IN GENERAL.—Paragraph (2) of section 1367(a) (relating to adjustments to basis of stock of shareholders, etc.) is amended by adding at the end the following new flush sentence:

"The decrease under subparagraph (B) by reason of a charitable contribution (as defined in section 170(c)) of property shall be the amount equal to the shareholder's pro rata share of the adjusted basis of such property. The preceding sentence shall not apply to contributions made in taxable years beginning after December 31, 2007.".

26 USC 1367 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

SEC. 1204. EXTENSION OF MODIFICATION OF CHARITABLE DEDUCTION FOR CONTRIBUTIONS OF BOOK INVENTORY.

(a) IN GENERAL.—Section 170(e)(3)(D)(iv) (relating to termination) is amended by striking "2005" and inserting "2007".

26 USC 170 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after December 31, 2005.

SEC. 1205. MODIFICATION OF TAX TREATMENT OF CERTAIN PAYMENTS TO CONTROLLING EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Paragraph (13) of section 512(b) (relating to special rules for certain amounts received from controlled entities) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) PARAGRAPH TO APPLY ONLY TO CERTAIN EXCESS PAYMENTS.—

"(i) IN GENERAL.—Subparagraph (A) shall apply only to the portion of a qualifying specified payment received or accrued by the controlling organization that exceeds the amount which would have been paid or accrued if such payment met the requirements prescribed under section 482. Applicability.

"(ii) ADDITION TO TAX FOR VALUATION MISSTATEMENTS.—The tax imposed by this chapter on the controlling organization shall be increased by an amount equal to 20 percent of the larger of—

"(I) such excess determined without regard to any amendment or supplement to a return of tax, or

"(II) such excess determined with regard to all such amendments and supplements.

"(iii) QUALIFYING SPECIFIED PAYMENT.—The term 'qualifying specified payment' means a specified payment which is made pursuant to—

"(I) a binding written contract in effect on the date of the enactment of this subparagraph, or

"(II) a contract which is a renewal, under substantially similar terms, of a contract described in subclause (I).

"(iv) TERMINATION.—This subparagraph shall not apply to payments received or accrued after December 31, 2007.".

(b) REPORTING.—

(1) IN GENERAL.—Section 6033 (relating to returns by exempt organizations) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection: 26 USC 6033.

"(h) CONTROLLING ORGANIZATIONS.—Each controlling organization (within the meaning of section 512(b)(13)) which is subject to the requirements of subsection (a) shall include on the return required under subsection (a)—

"(1) any interest, annuities, royalties, or rents received from each controlled entity (within the meaning of section 512(b)(13)),

"(2) any loans made to each such controlled entity, and

"(3) any transfers of funds between such controlling organization and each such controlled entity.".

(2) REPORT TO CONGRESS.—Not later than January 1, 2009, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the effectiveness of the Internal Revenue Service in administering the amendments made by subsection (a) and on the extent to which payments by controlled entities (within the meaning of section 512(b)(13) of the Internal Revenue Code of 1986) to controlling organizations (within the meaning of section 512(b)(13) of such Code) meet the requirements under section 482 of such Code. Such report shall include the results of any audit of any controlling organization or controlled entity and recommendations relating to the tax treatment of payments from controlled entities to controlling organizations.

(c) EFFECTIVE DATE.—

26 USC 512 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to payments received or accrued after December 31, 2005.

26 USC 6033 note.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to returns the due date (determined without regard to extensions) of which is after the date of the enactment of this Act.

SEC. 1206. ENCOURAGEMENT OF CONTRIBUTIONS OF CAPITAL GAIN REAL PROPERTY MADE FOR CONSERVATION PURPOSES.

(a) IN GENERAL.—

26 USC 170.

(1) INDIVIDUALS.—Paragraph (1) of section 170(b) (relating to percentage limitations) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph:

"(E) CONTRIBUTIONS OF QUALIFIED CONSERVATION CONTRIBUTIONS.—

"(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1)) shall be allowed to the extent the aggregate of such contributions does not exceed the excess of 50 percent of the taxpayer's contribution base over the amount of all other charitable contributions allowable under this paragraph.

"(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(1)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time.

Applicability.

"(iii) COORDINATION WITH OTHER SUBPARAGRAPHS.—For purposes of applying this subsection and subsection (d)(1), contributions described in clause (i) shall not be treated as described in subparagraph (A), (B), (C), or (D) and such subparagraphs shall apply without regard to such contributions.

Applicability.

"(iv) SPECIAL RULE FOR CONTRIBUTION OF PROPERTY USED IN AGRICULTURE OR LIVESTOCK PRODUCTION.—

"(I) IN GENERAL.—If the individual is a qualified farmer or rancher for the taxable year for which the contribution is made, clause (i) shall be applied by substituting '100 percent' for '50 percent'.

"(II) EXCEPTION.—Subclause (I) shall not apply to any contribution of property made after the date of the enactment of this subparagraph which is used in agriculture or livestock production (or available for such production) unless such contribution is subject to a restriction that such property remain available for such production. This subparagraph shall be applied separately with respect to property to which subclause (I) does not apply by reason of the preceding sentence prior to its application to property to which subclause (I) does apply.

"(v) DEFINITION.—For purposes of clause (iv), the term 'qualified farmer or rancher' means a taxpayer whose gross income from the trade or business of farming (within the meaning of section 2032A(e)(5)) is greater than 50 percent of the taxpayer's gross income for the taxable year.

"(vi) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.".

(2) CORPORATIONS.—Paragraph (2) of section 170(b) is amended to read as follows: 26 USC 170.

"(2) CORPORATIONS.—In the case of a corporation—

"(A) IN GENERAL.—The total deductions under subsection (a) for any taxable year (other than for contributions to which subparagraph (B) applies) shall not exceed 10 percent of the taxpayer's taxable income.

"(B) QUALIFIED CONSERVATION CONTRIBUTIONS BY CERTAIN CORPORATE FARMERS AND RANCHERS.—

"(i) IN GENERAL.—Any qualified conservation contribution (as defined in subsection (h)(1))—

"(I) which is made by a corporation which, for the taxable year during which the contribution is made, is a qualified farmer or rancher (as defined in paragraph (1)(E)(v)) and the stock of which is not readily tradable on an established securities market at any time during such year, and

"(II) which, in the case of contributions made after the date of the enactment of this subparagraph, is a contribution of property which is used in agriculture or livestock production (or available for such production) and which is subject to a restriction that such property remain available for such production,

shall be allowed to the extent the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income over the amount of charitable contributions allowable under subparagraph (A).

"(ii) CARRYOVER.—If the aggregate amount of contributions described in clause (i) exceeds the limitation of clause (i), such excess shall be treated (in a manner consistent with the rules of subsection (d)(2)) as a charitable contribution to which clause (i) applies in each of the 15 succeeding years in order of time. Applicability.

"(iii) TERMINATION.—This subparagraph shall not apply to any contribution made in taxable years beginning after December 31, 2007.

"(C) TAXABLE INCOME.—For purposes of this paragraph, taxable income shall be computed without regard to—

"(i) this section,

"(ii) part VIII (except section 248),

"(iii) any net operating loss carryback to the taxable year under section 172,

"(iv) section 199, and

"(v) any capital loss carryback to the taxable year under section 1212(a)(1).".

(b) CONFORMING AMENDMENTS.—

26 USC 170.

(1) Paragraph (2) of section 170(d) is amended by striking "subsection (b)(2)" each place it appears and inserting "subsection (b)(2)(A)".

(2) Section 545(b)(2) is amended by striking "and (D)" and inserting "(D), and (E)".

26 USC 170 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made in taxable years beginning after December 31, 2005.

SEC. 1207. EXCISE TAXES EXEMPTION FOR BLOOD COLLECTOR ORGANIZATIONS.

(a) EXEMPTION FROM IMPOSITION OF SPECIAL FUELS TAX.—Section 4041(g) (relating to other exemptions) is amended by striking "and" at the end of paragraph (3), by striking the period in paragraph (4) and inserting "; and", and by inserting after paragraph (4) the following new paragraph:

"(5) with respect to the sale of any liquid to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization's exclusive use in the collection, storage, or transportation of blood.".

(b) EXEMPTION FROM MANUFACTURERS EXCISE TAX.—

(1) IN GENERAL.—Section 4221(a) (relating to certain tax-free sales) is amended by striking "or" at the end of paragraph (4), by adding "or" at the end of paragraph (5), and by inserting after paragraph (5) the following new paragraph:

"(6) to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization's exclusive use in the collection, storage, or transportation of blood,".

(2) NO EXEMPTION WITH RESPECT TO VACCINES AND RECREATIONAL EQUIPMENT.—Section 4221(a) is amended by adding at the end the following new sentence: "In the case of taxes imposed by subchapter C or D, paragraph (6) shall not apply.".

(3) CONFORMING AMENDMENTS.—

(A) The second sentence of section 4221(a) is amended by striking "Paragraphs (4) and (5)" and inserting "Paragraphs (4), (5), and (6)".

(B) Section 6421(c) is amended by striking "or (5)" and inserting "(5), or (6)".

(c) EXEMPTION FROM COMMUNICATION EXCISE TAX.—

(1) IN GENERAL.—Section 4253 (relating to exemptions) is amended by redesignating subsection (k) as subsection (l) and inserting after subsection (j) the following new subsection:

Regulations.

"(k) EXEMPTION FOR QUALIFIED BLOOD COLLECTOR ORGANIZATIONS.—Under regulations provided by the Secretary, no tax shall be imposed under section 4251 on any amount paid by a qualified blood collector organization (as defined in section 7701(a)(49)) for services or facilities furnished to such organization.".

(2) CONFORMING AMENDMENT.—Section 4253(l), as redesignated by paragraph (1), is amended by striking "or (j)" and inserting "(j), or (k)".

(d) EXEMPTION FROM TAX ON HEAVY VEHICLES.—Section 4483 is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR VEHICLES USED IN BLOOD COLLECTION.—

"(1) IN GENERAL.—No tax shall be imposed by section 4481 on the use of any qualified blood collector vehicle by a qualified blood collector organization.

"(2) QUALIFIED BLOOD COLLECTOR VEHICLE.—For purposes of this subsection, the term 'qualified blood collector vehicle' means a vehicle at least 80 percent of the use of which during the prior taxable period was by a qualified blood collector organization in the collection, storage, or transportation of blood.

"(3) SPECIAL RULE FOR VEHICLES FIRST PLACED IN SERVICE IN A TAXABLE PERIOD.—In the case of a vehicle first placed in service in a taxable period, a vehicle shall be treated as a qualified blood collector vehicle for such taxable period if such qualified blood collector organization certifies to the Secretary that the organization reasonably expects at least 80 percent of the use of such vehicle by the organization during such taxable period will be in the collection, storage, or transportation of blood.

"(4) QUALIFIED BLOOD COLLECTOR ORGANIZATION.—The term 'qualified blood collector organization' has the meaning given such term by section 7701(a)(49).".

(e) CREDIT OR REFUND FOR CERTAIN TAXES ON SALES AND SERVICES.—

(1) DEEMED OVERPAYMENT.—

(A) IN GENERAL.—Section 6416(b)(2) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and by inserting after subparagraph (D) the following new subparagraph: 26 USC 6416.

"(E) sold to a qualified blood collector organization (as defined in section 7701(a)(49)) for such organization's exclusive use in the collection, storage, or transportation of blood;".

(B) NO CREDIT OR REFUND FOR VACCINES OR RECREATIONAL EQUIPMENT.—Section 6416(b)(2) is amended by adding at the end the following new sentence: "In the case of taxes imposed by subchapter C or D of chapter 32, subparagraph (E) shall not apply.".

(C) CONFORMING AMENDMENTS.—Section 6416(b)(2) is amended—

(i) by striking "Subparagraphs (C) and (D)" in the second sentence and inserting "Subparagraphs (C), (D), and (E)".

(ii) by striking "(B), (C), and (D)" and inserting "(B), (C), (D), and (E)".

(2) SALES OF TIRES.—Section 6416(b)(4)(B) is amended by striking "or" at the end of clause (i), by striking the period at the end of clause (ii) and inserting ", or", and by adding after clause (ii) the following:

"(iii) sold to a qualified blood collector organization for its exclusive use in connection with a vehicle the organization certifies will be primarily used in the collection, storage, or transportation of blood.".

(f) DEFINITION OF QUALIFIED BLOOD COLLECTOR ORGANIZATION.—Section 7701(a) is amended by inserting at the end the following new paragraph:

"(49) QUALIFIED BLOOD COLLECTOR ORGANIZATION.—The term 'qualified blood collector organization' means an organization which is—

"(A) described in section 501(c)(3) and exempt from tax under section 501(a),

"(B) primarily engaged in the activity of the collection of human blood,

"(C) registered with the Secretary for purposes of excise tax exemptions, and

"(D) registered by the Food and Drug Administration to collect blood.".

26 USC 4041 note.

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 2007.

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply to taxable periods beginning on or after July 1, 2007.

Subtitle B—Reforming Exempt Organizations

PART 1—GENERAL REFORMS

SEC. 1211. REPORTING ON CERTAIN ACQUISITIONS OF INTERESTS IN INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD AN INTEREST.

(a) REPORTING REQUIREMENTS.—

(1) IN GENERAL.—Subpart B of part III of subchapter A of chapter 61 (relating to information concerning transactions with other persons), as amended by this Act, is amended by adding at the end the following new section:

26 USC 6050V.

"SEC. 6050V. RETURNS RELATING TO APPLICABLE INSURANCE CONTRACTS IN WHICH CERTAIN EXEMPT ORGANIZATIONS HOLD INTERESTS.

"(a) IN GENERAL.—Each applicable exempt organization which makes a reportable acquisition shall make the return described in subsection (c).

"(b) TIME FOR MAKING RETURN.—Any applicable exempt organization required to make a return under subsection (a) shall file such return at such time as may be established by the Secretary.

"(c) FORM AND MANNER OF RETURNS.—A return is described in this subsection if such return—

"(1) is in such form as the Secretary prescribes,

"(2) contains the name, address, and taxpayer identification number of the applicable exempt organization and the issuer of the applicable insurance contract, and

"(3) contains such other information as the Secretary may prescribe.

"(d) DEFINITIONS.—For purposes of this section—

"(1) REPORTABLE ACQUISITION.—The term 'reportable acquisition' means the acquisition by an applicable exempt organization of a direct or indirect interest in any applicable insurance contract in any case in which such acquisition is a part of a structured transaction involving a pool of such contracts.

"(2) APPLICABLE INSURANCE CONTRACT.—

"(A) IN GENERAL.—The term 'applicable insurance contract' means any life insurance, annuity, or endowment contract with respect to which both an applicable exempt organization and a person other than an applicable exempt

organization have directly or indirectly held an interest in the contract (whether or not at the same time).

"(B) EXCEPTIONS.—Such term shall not include a life insurance, annuity, or endowment contract if—

"(i) all persons directly or indirectly holding any interest in the contract (other than applicable exempt organizations) have an insurable interest in the insured under the contract independent of any interest of an applicable exempt organization in the contract,

"(ii) the sole interest in the contract of an applicable exempt organization or each person other than an applicable exempt organization is as a named beneficiary, or

"(iii) the sole interest in the contract of each person other than an applicable exempt organization is—

"(I) as a beneficiary of a trust holding an interest in the contract, but only if the person's designation as such beneficiary was made without consideration and solely on a purely gratuitous basis, or

"(II) as a trustee who holds an interest in the contract in a fiduciary capacity solely for the benefit of applicable exempt organizations or persons otherwise described in subclause (I) or clause (i) or (ii).

"(3) APPLICABLE EXEMPT ORGANIZATION.—The term 'applicable exempt organization' means—

"(A) an organization described in section 170(c),

"(B) an organization described in section 168(h)(2)(A)(iv), or

"(C) an organization not described in paragraph (1) or (2) which is described in section 2055(a) or section 2522(a).

"(e) TERMINATION.—This section shall not apply to reportable acquisitions occurring after the date which is 2 years after the date of the enactment of this section.".

(2) CONFORMING AMENDMENT.—The table of sections for subpart B of part III of subchapter A of chapter 61 is amended by adding at the end the following new item:

"Sec. 6050V. Returns relating to applicable insurance contracts in which certain exempt organizations hold interests.".

(b) PENALTIES.—

(1) IN GENERAL.—Subparagraph (B) of section 6724(d)(1), as amended by this Act, is amended by redesignating clauses (xiv) through (xix) as clauses (xv) through (xx) and by inserting after clause (xiii) the following new clause: 26 USC 6724.

"(xiv) section 6050V (relating to returns relating to applicable insurance contracts in which certain exempt organizations hold interests),".

(2) INTENTIONAL DISREGARD.—Section 6721(e)(2) is amended by striking "or" at the end of subparagraph (B), by striking "and" at the end of subparagraph (C) and inserting "or", and by adding at the end the following new subparagraph:

"(D) in the case of a return required to be filed under section 6050V, 10 percent of the value of the benefit of any contract with respect to which information is required to be included on the return, and".

(c) STUDY.—

(1) IN GENERAL.—The Secretary of the Treasury shall undertake a study on—

(A) the use by tax exempt organizations of applicable insurance contracts (as defined under section 6050V(d)(2) of the Internal Revenue Code of 1986, as added by subsection (a)) for the purpose of sharing the benefits of the organization's insurable interest in individuals insured under such contracts with investors, and

(B) whether such activities are consistent with the tax exempt status of such organizations.

(2) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Secretary of the Treasury shall report on the study conducted under paragraph (1) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

26 USC 6050V.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to acquisitions of contracts after the date of enactment of this Act.

SEC. 1212. INCREASE IN PENALTY EXCISE TAXES RELATING TO PUBLIC CHARITIES, SOCIAL WELFARE ORGANIZATIONS, AND PRIVATE FOUNDATIONS.

(a) TAXES ON SELF-DEALING AND EXCESS BENEFIT TRANSACTIONS.—

26 USC 4941.

(1) IN GENERAL.—Section 4941(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking "5 percent" and inserting "10 percent", and

(B) in paragraph (2), by striking "2½ percent" and inserting "5 percent".

(2) INCREASED LIMITATION FOR MANAGERS ON SELF-DEALING.—Section 4941(c)(2) is amended by striking "$10,000" each place it appears in the text and heading thereof and inserting "$20,000".

(3) INCREASED LIMITATION FOR MANAGERS ON EXCESS BENEFIT TRANSACTIONS.—Section 4958(d)(2) is amended by striking "$10,000" and inserting "$20,000".

(b) TAXES ON FAILURE TO DISTRIBUTE INCOME.—Section 4942(a) (relating to initial tax) is amended by striking "15 percent" and inserting "30 percent".

(c) TAXES ON EXCESS BUSINESS HOLDINGS.—Section 4943(a)(1) (relating to imposition) is amended by striking "5 percent" and inserting "10 percent".

(d) TAXES ON INVESTMENTS WHICH JEOPARDIZE CHARITABLE PURPOSE.—

(1) IN GENERAL.—Section 4944(a) (relating to initial taxes) is amended by striking "5 percent" both places it appears and inserting "10 percent".

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4944(d)(2) is amended—

(A) by striking "$5,000," and inserting "$10,000,", and

(B) by striking "$10,000." and inserting "$20,000.".

(e) TAXES ON TAXABLE EXPENDITURES.—

(1) IN GENERAL.—Section 4945(a) (relating to initial taxes) is amended—

(A) in paragraph (1), by striking "10 percent" and inserting "20 percent", and

(B) in paragraph (2), by striking "2½ percent" and inserting "5 percent".

(2) INCREASED LIMITATION FOR MANAGERS.—Section 4945(c)(2) is amended— 26 USC 4945.

(A) by striking "$5,000," and inserting "$10,000,", and

(B) by striking "$10,000." and inserting "$20,000.".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 4941 note.

SEC. 1213. REFORM OF CHARITABLE CONTRIBUTIONS OF CERTAIN EASEMENTS IN REGISTERED HISTORIC DISTRICTS AND REDUCED DEDUCTION FOR PORTION OF QUALIFIED CONSERVATION CONTRIBUTION ATTRIBUTABLE TO REHABILITATION CREDIT.

(a) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—

(1) IN GENERAL.—Paragraph (4) of section 170(h) (relating to definition of conservation purpose) is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) SPECIAL RULES WITH RESPECT TO BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—In the case of any contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in subparagraph (C)(ii), such contribution shall not be considered to be exclusively for conservation purposes unless—

"(i) such interest—

"(I) includes a restriction which preserves the entire exterior of the building (including the front, sides, rear, and height of the building), and

"(II) prohibits any change in the exterior of the building which is inconsistent with the historical character of such exterior,

"(ii) the donor and donee enter into a written agreement certifying, under penalty of perjury, that the donee—

"(I) is a qualified organization (as defined in paragraph (3)) with a purpose of environmental protection, land conservation, open space preservation, or historic preservation, and

"(II) has the resources to manage and enforce the restriction and a commitment to do so, and

"(iii) in the case of any contribution made in a taxable year beginning after the date of the enactment of this subparagraph, the taxpayer includes with the taxpayer's return for the taxable year of the contribution—

"(I) a qualified appraisal (within the meaning of subsection (f)(11)(E)) of the qualified property interest,

"(II) photographs of the entire exterior of the building, and

"(III) a description of all restrictions on the development of the building.".

(b) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND IN REGISTERED HISTORIC DISTRICTS.—Subparagraph (C) of section 170(h)(4), as redesignated by subsection (a), is amended—

26 USC 170.

(1) by striking "any building, structure, or land area which",

(2) by inserting "any building, structure, or land area which" before "is listed" in clause (i), and

(3) by inserting "any building which" before "is located" in clause (ii).

(c) FILING FEE FOR CERTAIN CONTRIBUTIONS.—Subsection (f) of section 170 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

"(13) CONTRIBUTIONS OF CERTAIN INTERESTS IN BUILDINGS LOCATED IN REGISTERED HISTORIC DISTRICTS.—

"(A) IN GENERAL.—No deduction shall be allowed with respect to any contribution described in subparagraph (B) unless the taxpayer includes with the return for the taxable year of the contribution a $500 filing fee.

"(B) CONTRIBUTION DESCRIBED.—A contribution is described in this subparagraph if such contribution is a qualified conservation contribution (as defined in subsection (h)) which is a restriction with respect to the exterior of a building described in subsection (h)(4)(C)(ii) and for which a deduction is claimed in excess of $10,000.

"(C) DEDICATION OF FEE.—Any fee collected under this paragraph shall be used for the enforcement of the provisions of subsection (h).".

(d) REDUCED DEDUCTION FOR PORTION OF QUALIFIED CONSERVATION CONTRIBUTION ATTRIBUTABLE TO THE REHABILITATION CREDIT.—Subsection (f) of section 170, as amended by subsection (c), is amended by adding at the end the following new paragraph:

"(14) REDUCTION FOR AMOUNTS ATTRIBUTABLE TO REHABILITATION CREDIT.—In the case of any qualified conservation contribution (as defined in subsection (h)), the amount of the deduction allowed under this section shall be reduced by an amount which bears the same ratio to the fair market value of the contribution as—

"(A) the sum of the credits allowed to the taxpayer under section 47 for the 5 preceding taxable years with respect to any building which is a part of such contribution, bears to

"(B) the fair market value of the building on the date of the contribution.".

26 USC 170 note.

(e) EFFECTIVE DATES.—

(1) SPECIAL RULES FOR BUILDINGS IN REGISTERED HISTORIC DISTRICTS.—The amendments made by subsection (a) shall apply to contributions made after July 25, 2006.

(2) DISALLOWANCE OF DEDUCTION FOR STRUCTURES AND LAND; REDUCTION FOR REHABILITATION CREDIT.—The amendments made by subsections (b) and (d) shall apply to contributions made after the date of the enactment of this Act.

(3) FILING FEE.—The amendment made by subsection (c) shall apply to contributions made 180 days after the date of the enactment of this Act.

SEC. 1214. CHARITABLE CONTRIBUTIONS OF TAXIDERMY PROPERTY.

(a) DENIAL OF LONG-TERM CAPITAL GAIN.—Subparagraph (B) of section 170(e)(1) is amended by striking "or" at the end of clause (ii), by inserting "or" at the end of clause (iii), and by inserting after clause (iii) the following new clause: 26 USC 170.

"(iv) of any taxidermy property which is contributed by the person who prepared, stuffed, or mounted the property or by any person who paid or incurred the cost of such preparation, stuffing, or mounting,".

(b) TREATMENT OF BASIS.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

"(15) SPECIAL RULE FOR TAXIDERMY PROPERTY.—

"(A) BASIS.—For purposes of this section and notwithstanding section 1012, in the case of a charitable contribution of taxidermy property which is made by the person who prepared, stuffed, or mounted the property or by any person who paid or incurred the cost of such preparation, stuffing, or mounting, only the cost of the preparing, stuffing, or mounting shall be included in the basis of such property.

"(B) TAXIDERMY PROPERTY.—For purposes of this section, the term 'taxidermy property' means any work of art which—

"(i) is the reproduction or preservation of an animal, in whole or in part,

"(ii) is prepared, stuffed, or mounted for purposes of recreating one or more characteristics of such animal, and

"(iii) contains a part of the body of the dead animal.".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after July 25, 2006. 26 USC 170 note.

SEC. 1215. RECAPTURE OF TAX BENEFIT FOR CHARITABLE CONTRIBUTIONS OF EXEMPT USE PROPERTY NOT USED FOR AN EXEMPT USE.

(a) RECAPTURE OF DEDUCTION ON CERTAIN SALES OF EXEMPT USE PROPERTY.—

(1) IN GENERAL.—Clause (i) of section 170(e)(1)(B) (related to certain contributions of ordinary income and capital gain property) is amended to read as follows:

"(i) of tangible personal property—

"(I) if the use by the donee is unrelated to the purpose or function constituting the basis for its exemption under section 501 (or, in the case of a governmental unit, to any purpose or function described in subsection (c)), or

"(II) which is applicable property (as defined in paragraph (7)(C)) which is sold, exchanged, or otherwise disposed of by the donee before the last day of the taxable year in which the contribution was made and with respect to which the donee has not made a certification in accordance with paragraph (7)(D),".

26 USC 170.

(2) DISPOSITIONS AFTER CLOSE OF TAXABLE YEAR.—Section 170(e) is amended by adding at the end the following new paragraph:

"(7) RECAPTURE OF DEDUCTION ON CERTAIN DISPOSITIONS OF EXEMPT USE PROPERTY.—

"(A) IN GENERAL.—In the case of an applicable disposition of applicable property, there shall be included in the income of the donor of such property for the taxable year of such donor in which the applicable disposition occurs an amount equal to the excess (if any) of—

"(i) the amount of the deduction allowed to the donor under this section with respect to such property, over

"(ii) the donor's basis in such property at the time such property was contributed.

"(B) APPLICABLE DISPOSITION.—For purposes of this paragraph, the term 'applicable disposition' means any sale, exchange, or other disposition by the donee of applicable property—

"(i) after the last day of the taxable year of the donor in which such property was contributed, and

"(ii) before the last day of the 3-year period beginning on the date of the contribution of such property,

unless the donee makes a certification in accordance with subparagraph (D).

"(C) APPLICABLE PROPERTY.—For purposes of this paragraph, the term 'applicable property' means charitable deduction property (as defined in section 6050L(a)(2)(A))—

"(i) which is tangible personal property the use of which is identified by the donee as related to the purpose or function constituting the basis of the donee's exemption under section 501, and

"(ii) for which a deduction in excess of the donor's basis is allowed.

"(D) CERTIFICATION.—A certification meets the requirements of this subparagraph if it is a written statement which is signed under penalty of perjury by an officer of the donee organization and—

"(i) which—

"(I) certifies that the use of the property by the donee was related to the purpose or function constituting the basis for the donee's exemption under section 501, and

"(II) describes how the property was used and how such use furthered such purpose or function, or

"(ii) which—

"(I) states the intended use of the property by the donee at the time of the contribution, and

"(II) certifies that such intended use has become impossible or infeasible to implement.".

(b) REPORTING REQUIREMENTS.—Paragraph (1) of section 6050L(a) (relating to returns relating to certain dispositions of donated property) is amended—

(1) by striking "2 years" and inserting "3 years", and

(2) by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting a comma, and by inserting at the end the following:

"(F) a description of the donee's use of the property, and

"(G) a statement indicating whether the use of the property was related to the purpose or function constituting the basis for the donee's exemption under section 501.

In any case in which the donee indicates that the use of applicable property (as defined in section 170(e)(7)(C)) was related to the purpose or function constituting the basis for the exemption of the donee under section 501 under subparagraph (G), the donee shall include with the return the certification described in section 170(e)(7)(D) if such certification is made under section 170(e)(7).".

(c) PENALTY.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6720A the following new section:

"SEC. 6720B. FRAUDULENT IDENTIFICATION OF EXEMPT USE PROPERTY. 26 USC 6720B.

"In addition to any criminal penalty provided by law, any person who identifies applicable property (as defined in section 170(e)(7)(C)) as having a use which is related to a purpose or function constituting the basis for the donee's exemption under section 501 and who knows that such property is not intended for such a use shall pay a penalty of $10,000.".

(2) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by adding after the item relating to section 6720A the following new item:

"Sec. 6720B. Fraudulent identification of exempt use property.".

(d) EFFECTIVE DATE.—

(1) RECAPTURE.—The amendments made by subsection (a) shall apply to contributions after September 1, 2006. 26 USC 170 note.

(2) REPORTING.—The amendments made by subsection (b) shall apply to returns filed after September 1, 2006. 26 USC 6050L.

(3) PENALTY.—The amendments made by subsection (c) shall apply to identifications made after the date of the enactment of this Act. 26 USC 6720B note.

SEC. 1216. LIMITATION OF DEDUCTION FOR CHARITABLE CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.

(a) IN GENERAL.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph: 26 USC 170.

"(16) CONTRIBUTIONS OF CLOTHING AND HOUSEHOLD ITEMS.—

"(A) IN GENERAL.—In the case of an individual, partnership, or corporation, no deduction shall be allowed under subsection (a) for any contribution of clothing or a household item unless such clothing or household item is in good used condition or better.

"(B) ITEMS OF MINIMAL VALUE.—Notwithstanding subparagraph (A), the Secretary may by regulation deny a deduction under subsection (a) for any contribution of

clothing or a household item which has minimal monetary value.

"(C) EXCEPTION FOR CERTAIN PROPERTY.—Subparagraphs (A) and (B) shall not apply to any contribution of a single item of clothing or a household item for which a deduction of more than $500 is claimed if the taxpayer includes with the taxpayer's return a qualified appraisal with respect to the property.

"(D) HOUSEHOLD ITEMS.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'household items' includes furniture, furnishings, electronics, appliances, linens, and other similar items.

"(ii) EXCLUDED ITEMS.—Such term does not include—

"(I) food,

"(II) paintings, antiques, and other objects of art,

"(III) jewelry and gems, and

"(IV) collections.

"(E) SPECIAL RULE FOR PASS-THRU ENTITIES.—In the case of a partnership or S corporation, this paragraph shall be applied at the entity level, except that the deduction shall be denied at the partner or shareholder level.".

26 USC 170 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made after the date of enactment of this Act.

SEC. 1217. MODIFICATION OF RECORDKEEPING REQUIREMENTS FOR CERTAIN CHARITABLE CONTRIBUTIONS.

26 USC 170.

(a) RECORDKEEPING REQUIREMENT.—Subsection (f) of section 170, as amended by this Act, is amended by adding at the end the following new paragraph:

"(17) RECORDKEEPING.—No deduction shall be allowed under subsection (a) for any contribution of a cash, check, or other monetary gift unless the donor maintains as a record of such contribution a bank record or a written communication from the donee showing the name of the donee organization, the date of the contribution, and the amount of the contribution.".

26 USC 170 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to contributions made in taxable years beginning after the date of the enactment of this Act.

SEC. 1218. CONTRIBUTIONS OF FRACTIONAL INTERESTS IN TANGIBLE PERSONAL PROPERTY.

(a) INCOME TAX.—Section 170 (relating to charitable, etc., contributions and gifts) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) SPECIAL RULES FOR FRACTIONAL GIFTS.—

"(1) DENIAL OF DEDUCTION IN CERTAIN CASES.—

"(A) IN GENERAL.—No deduction shall be allowed for a contribution of an undivided portion of a taxpayer's entire interest in tangible personal property unless all interest in the property is held immediately before such contribution by—

"(i) the taxpayer, or

"(ii) the taxpayer and the donee.

"(B) EXCEPTIONS.—The Secretary may, by regulation, provide for exceptions to subparagraph (A) in cases where all persons who hold an interest in the property make proportional contributions of an undivided portion of the entire interest held by such persons.

"(2) VALUATION OF SUBSEQUENT GIFTS.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

"(A) the fair market value of the property at the time of the initial fractional contribution, or

"(B) the fair market value of the property at the time of the additional contribution.

"(3) RECAPTURE OF DEDUCTION IN CERTAIN CASES; ADDITION TO TAX.—

"(A) RECAPTURE.—The Secretary shall provide for the recapture of the amount of any deduction allowed under this section (plus interest) with respect to any contribution of an undivided portion of a taxpayer's entire interest in tangible personal property—

"(i) in any case in which the donor does not contribute all of the remaining interest in such property to the donee (or, if such donee is no longer in existence, to any person described in section 170(c)) before the earlier of—

"(I) the date that is 10 years after the date of the initial fractional contribution, or

"(II) the date of the death of the donor, and

"(ii) in any case in which the donee has not, during the period beginning on the date of the initial fractional contribution and ending on the date described in clause (i)—

"(I) had substantial physical possession of the property, and

"(II) used the property in a use which is related to a purpose or function constituting the basis for the organizations' exemption under section 501.

"(B) ADDITION TO TAX.—The tax imposed under this chapter for any taxable year for which there is a recapture under subparagraph (A) shall be increased by 10 percent of the amount so recaptured.

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

"(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any charitable contribution by the taxpayer of any interest in property with respect to which the taxpayer has previously made an initial fractional contribution.

"(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any taxpayer, the first charitable contribution of an undivided portion of the taxpayer's entire interest in any tangible personal property.".

(b) ESTATE TAX.—Section 2055 (relating to transfers for public, charitable, and religious uses) is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection: 26 USC 2055.

"(g) VALUATION OF SUBSEQUENT GIFTS.—

"(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

"(A) the fair market value of the property at the time of the initial fractional contribution, or

"(B) the fair market value of the property at the time of the additional contribution.

"(2) DEFINITIONS.—For purposes of this paragraph—

"(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

"(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent's entire interest in any tangible personal property for which a deduction was allowed under section 170.".

26 USC 2522.

(c) GIFT TAX.—Section 2522 (relating to charitable and similar gifts) is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) SPECIAL RULES FOR FRACTIONAL GIFTS.—

"(1) DENIAL OF DEDUCTION IN CERTAIN CASES.—

"(A) IN GENERAL.—No deduction shall be allowed for a contribution of an undivided portion of a taxpayer's entire interest in tangible personal property unless all interest in the property is held immediately before such contribution by—

"(i) the taxpayer, or

"(ii) the taxpayer and the donee.

"(B) EXCEPTIONS.—The Secretary may, by regulation, provide for exceptions to subparagraph (A) in cases where all persons who hold an interest in the property make proportional contributions of an undivided portion of the entire interest held by such persons.

"(2) VALUATION OF SUBSEQUENT GIFTS.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

"(A) the fair market value of the property at the time of the initial fractional contribution, or

"(B) the fair market value of the property at the time of the additional contribution.

"(3) RECAPTURE OF DEDUCTION IN CERTAIN CASES; ADDITION TO TAX.—

"(A) IN GENERAL.—The Secretary shall provide for the recapture of an amount equal to any deduction allowed under this section (plus interest) with respect to any contribution of an undivided portion of a taxpayer's entire interest in tangible personal property—

"(i) in any case in which the donor does not contribute all of the remaining interest in such property to the donee (or, if such donee is no longer in existence, to any person described in section 170(c)) before the earlier of—

"(I) the date that is 10 years after the date of the initial fractional contribution, or

"(II) the date of the death of the donor, and

"(ii) in any case in which the donee has not, during the period beginning on the date of the initial fractional contribution and ending on the date described in clause (i)—

"(I) had substantial physical possession of the property, and

"(II) used the property in a use which is related to a purpose or function constituting the basis for the organizations' exemption under section 501.

"(B) ADDITION TO TAX.—The tax imposed under this chapter for any taxable year for which there is a recapture under subparagraph (A) shall be increased by 10 percent of the amount so recaptured.

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

"(A) ADDITIONAL CONTRIBUTION.—The term 'additional contribution' means any gift for which a deduction is allowed under subsection (a) or (b) of any interest in a property with respect to which the donor has previously made an initial fractional contribution.

"(B) INITIAL FRACTIONAL CONTRIBUTION.—The term 'initial fractional contribution' means, with respect to any donor, the first gift of an undivided portion of the donor's entire interest in any tangible personal property for which a deduction is allowed under subsection (a) or (b).".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions, bequests, and gifts made after the date of the enactment of this Act. 26 USC 170 note.

SEC. 1219. PROVISIONS RELATING TO SUBSTANTIAL AND GROSS OVERSTATEMENTS OF VALUATIONS.

(a) MODIFICATION OF THRESHOLDS FOR SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS.—

(1) SUBSTANTIAL VALUATION MISSTATEMENT.—

(A) INCOME TAXES.—Subparagraph (A) of section 6662(e)(1) (relating to substantial valuation misstatement under chapter 1) is amended by striking "200 percent" and inserting "150 percent". 26 USC 6662.

(B) ESTATE AND GIFT TAXES.—Paragraph (1) of section 6662(g) is amended by striking "50 percent" and inserting "65 percent".

(2) GROSS VALUATION MISSTATEMENT.—

(A) INCOME TAXES.—Clauses (i) and (ii) of section 6662(h)(2)(A) (relating to increase in penalty in case of gross valuation misstatements) are amended to read as follows:

"(i) in paragraph (1)(A), '200 percent' for '150 percent',

"(ii) in paragraph (1)(B)(i)—

"(I) '400 percent' for '200 percent', and

"(II) '25 percent' for '50 percent', and".

(B) ESTATE AND GIFT TAXES.—Subparagraph (C) of section 6662(h)(2) is amended by striking "'25 percent' for '50 percent'" and inserting "'40 percent' for '65 percent'".

26 USC 6664.

(3) ELIMINATION OF REASONABLE CAUSE EXCEPTION FOR GROSS MISSTATEMENTS.—Section 6664(c)(2) (relating to reasonable cause exception for underpayments) is amended by striking "paragraph (1) shall not apply unless" and inserting "paragraph (1) shall not apply. The preceding sentence shall not apply to a substantial valuation overstatement under chapter 1 if".

(b) PENALTY ON APPRAISERS WHOSE APPRAISALS RESULT IN SUBSTANTIAL OR GROSS VALUATION MISSTATEMENTS.—

(1) IN GENERAL.—Part I of subchapter B of chapter 68 (relating to assessable penalties) is amended by inserting after section 6695 the following new section:

26 USC 6695A.

"SEC. 6695A. SUBSTANTIAL AND GROSS VALUATION MISSTATEMENTS ATTRIBUTABLE TO INCORRECT APPRAISALS.

"(a) IMPOSITION OF PENALTY.—If—

"(1) a person prepares an appraisal of the value of property and such person knows, or reasonably should have known, that the appraisal would be used in connection with a return or a claim for refund, and

"(2) the claimed value of the property on a return or claim for refund which is based on such appraisal results in a substantial valuation misstatement under chapter 1 (within the meaning of section 6662(e)), or a gross valuation misstatement (within the meaning of section 6662(h)), with respect to such property, then such person shall pay a penalty in the amount determined under subsection (b).

"(b) AMOUNT OF PENALTY.—The amount of the penalty imposed under subsection (a) on any person with respect to an appraisal shall be equal to the lesser of—

"(1) the greater of—

"(A) 10 percent of the amount of the underpayment (as defined in section 6664(a)) attributable to the misstatement described in subsection (a)(2), or

"(B) $1,000, or

"(2) 125 percent of the gross income received by the person described in subsection (a)(1) from the preparation of the appraisal.

"(c) EXCEPTION.—No penalty shall be imposed under subsection (a) if the person establishes to the satisfaction of the Secretary that the value established in the appraisal was more likely than not the proper value.".

(2) RULES APPLICABLE TO PENALTY.—Section 6696 (relating to rules applicable with respect to sections 6694 and 6695) is amended—

(A) by striking "6694 and 6695" each place it appears in the text and heading thereof and inserting "6694, 6695, and 6695A", and

(B) by striking "6694 or 6695" each place it appears in the text and inserting "6694, 6695, or 6695A".

(3) CONFORMING AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 is amended by striking the item relating to section 6696 and inserting the following new items:

"Sec. 6695A. Substantial and gross valuation misstatements attributable to incorrect appraisals.
"Sec. 6696. Rules applicable with respect to sections 6694, 6695, and 6695A.".

(c) QUALIFIED APPRAISERS AND APPRAISALS.—

(1) IN GENERAL.—Subparagraph (E) of section 170(f)(11) is amended to read as follows: 26 USC 170.

"(E) QUALIFIED APPRAISAL AND APPRAISER.—For purposes of this paragraph—

"(i) QUALIFIED APPRAISAL.—The term 'qualified appraisal' means, with respect to any property, an appraisal of such property which—

"(I) is treated for purposes of this paragraph as a qualified appraisal under regulations or other guidance prescribed by the Secretary, and

"(II) is conducted by a qualified appraiser in accordance with generally accepted appraisal standards and any regulations or other guidance prescribed under subclause (I).

"(ii) QUALIFIED APPRAISER.—Except as provided in clause (iii), the term 'qualified appraiser' means an individual who—

"(I) has earned an appraisal designation from a recognized professional appraiser organization or has otherwise met minimum education and experience requirements set forth in regulations prescribed by the Secretary, Regulations.

"(II) regularly performs appraisals for which the individual receives compensation, and

"(III) meets such other requirements as may be prescribed by the Secretary in regulations or other guidance.

"(iii) SPECIFIC APPRAISALS.—An individual shall not be treated as a qualified appraiser with respect to any specific appraisal unless—

"(I) the individual demonstrates verifiable education and experience in valuing the type of property subject to the appraisal, and

"(II) the individual has not been prohibited from practicing before the Internal Revenue Service by the Secretary under section 330(c) of title 31, United States Code, at any time during the 3-year period ending on the date of the appraisal.".

(2) REASONABLE CAUSE EXCEPTION.—Subparagraphs (B) and (C) of section 6664(c)(3) are amended to read as follows:

"(B) QUALIFIED APPRAISAL.—The term 'qualified appraisal' has the meaning given such term by section 170(f)(11)(E)(i).

"(C) QUALIFIED APPRAISER.—The term 'qualified appraiser' has the meaning given such term by section 170(f)(11)(E)(ii).".

(d) DISCIPLINARY ACTIONS AGAINST APPRAISERS.—Section 330(c) of title 31, United States Code, is amended by striking "with respect to whom a penalty has been assessed under section 6701(a) of the Internal Revenue Code of 1986".

(e) EFFECTIVE DATES.— Applicability. 26 USC 170 note.

(1) MISSTATEMENT PENALTIES.—Except as provided in paragraph (3), the amendments made by subsection (a) shall apply to returns filed after the date of the enactment of this Act.

(2) APPRAISER PROVISIONS.—Except as provided in paragraph (3), the amendments made by subsections (b), (c), and

(d) shall apply to appraisals prepared with respect to returns or submissions filed after the date of the enactment of this Act.

(3) SPECIAL RULE FOR CERTAIN EASEMENTS.—In the case of a contribution of a qualified real property interest which is a restriction with respect to the exterior of a building described in section 170(h)(4)(C)(ii) of the Internal Revenue Code of 1986, and an appraisal with respect to the contribution, the amendments made by subsections (a) and (b) shall apply to returns filed after July 25, 2006.

SEC. 1220. ADDITIONAL STANDARDS FOR CREDIT COUNSELING ORGANIZATIONS.

26 USC 501.

(a) IN GENERAL.—Section 501 (relating to exemption from tax on corporations, certain trusts, etc.) is amended by redesignating subsection (q) as subsection (r) and by inserting after subsection (p) the following new subsection:

"(q) SPECIAL RULES FOR CREDIT COUNSELING ORGANIZATIONS.—

"(1) IN GENERAL.—An organization with respect to which the provision of credit counseling services is a substantial purpose shall not be exempt from tax under subsection (a) unless such organization is described in paragraph (3) or (4) of subsection (c) and such organization is organized and operated in accordance with the following requirements:

"(A) The organization—

"(i) provides credit counseling services tailored to the specific needs and circumstances of consumers,

"(ii) makes no loans to debtors (other than loans with no fees or interest) and does not negotiate the making of loans on behalf of debtors,

"(iii) provides services for the purpose of improving a consumer's credit record, credit history, or credit rating only to the extent that such services are incidental to providing credit counseling services, and

"(iv) does not charge any separately stated fee for services for the purpose of improving any consumer's credit record, credit history, or credit rating.

"(B) The organization does not refuse to provide credit counseling services to a consumer due to the inability of the consumer to pay, the ineligibility of the consumer for debt management plan enrollment, or the unwillingness of the consumer to enroll in a debt management plan.

"(C) The organization establishes and implements a fee policy which—

"(i) requires that any fees charged to a consumer for services are reasonable,

"(ii) allows for the waiver of fees if the consumer is unable to pay, and

"(iii) except to the extent allowed by State law, prohibits charging any fee based in whole or in part on a percentage of the consumer's debt, the consumer's payments to be made pursuant to a debt management plan, or the projected or actual savings to the consumer resulting from enrolling in a debt management plan.

"(D) At all times the organization has a board of directors or other governing body—

"(i) which is controlled by persons who represent the broad interests of the public, such as public officials acting in their capacities as such, persons having special knowledge or expertise in credit or financial education, and community leaders,

"(ii) not more than 20 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees or the repayment of consumer debt to creditors other than the credit counseling organization or its affiliates), and

"(iii) not more than 49 percent of the voting power of which is vested in persons who are employed by the organization or who will benefit financially, directly or indirectly, from the organization's activities (other than through the receipt of reasonable directors' fees).

"(E) The organization does not own more than 35 percent of—

"(i) the total combined voting power of any corporation (other than a corporation which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services,

"(ii) the profits interest of any partnership (other than a partnership which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services, and

"(iii) the beneficial interest of any trust or estate (other than a trust which is an organization described in subsection (c)(3) and exempt from tax under subsection (a)) which is in the trade or business of lending money, repairing credit, or providing debt management plan services, payment processing, or similar services.

"(F) The organization receives no amount for providing referrals to others for debt management plan services, and pays no amount to others for obtaining referrals of consumers.

"(2) ADDITIONAL REQUIREMENTS FOR ORGANIZATIONS DESCRIBED IN SUBSECTION (c)(3).—

"(A) IN GENERAL.—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization is organized and operated in accordance with the following requirements:

"(i) The organization does not solicit contributions from consumers during the initial counseling process or while the consumer is receiving services from the organization.

"(ii) The aggregate revenues of the organization which are from payments of creditors of consumers of the organization and which are attributable to debt management plan services do not exceed the applicable percentage of the total revenues of the organization.

"(B) APPLICABLE PERCENTAGE.—

"(i) IN GENERAL.—For purposes of subparagraph (A)(ii), the applicable percentage is 50 percent.

"(ii) TRANSITION RULE.—Notwithstanding clause (i), in the case of an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (3) of subsection (c) and exempt from tax under subsection (a) on the date of the enactment of this subsection, the applicable percentage is—

"(I) 80 percent for the first taxable year of such organization beginning after the date which is 1 year after the date of the enactment of this subsection, and

"(II) 70 percent for the second such taxable year beginning after such date, and

"(III) 60 percent for the third such taxable year beginning after such date.

"(3) ADDITIONAL REQUIREMENT FOR ORGANIZATIONS DESCRIBED IN SUBSECTION (c)(4).—In addition to the requirements under paragraph (1), an organization with respect to which the provision of credit counseling services is a substantial purpose and which is described in paragraph (4) of subsection (c) shall not be exempt from tax under subsection (a) unless such organization notifies the Secretary, in such manner as the Secretary may by regulations prescribe, that it is applying for recognition as a credit counseling organization.

"(4) CREDIT COUNSELING SERVICES; DEBT MANAGEMENT PLAN SERVICES.—For purposes of this subsection—

"(A) CREDIT COUNSELING SERVICES.—The term 'credit counseling services' means—

"(i) the providing of educational information to the general public on budgeting, personal finance, financial literacy, saving and spending practices, and the sound use of consumer credit,

"(ii) the assisting of individuals and families with financial problems by providing them with counseling, or

"(iii) a combination of the activities described in clauses (i) and (ii).

"(B) DEBT MANAGEMENT PLAN SERVICES.—The term 'debt management plan services' means services related to the repayment, consolidation, or restructuring of a consumer's debt, and includes the negotiation with creditors of lower interest rates, the waiver or reduction of fees, and the marketing and processing of debt management plans.".

(b) DEBT MANAGEMENT PLAN SERVICES TREATED AS AN UNRELATED BUSINESS.—Section 513 (relating to unrelated trade or business) is amended by adding at the end the following:

26 USC 513.

"(j) DEBT MANAGEMENT PLAN SERVICES.—The term 'unrelated trade or business' includes the provision of debt management plan

services (as defined in section 501(q)(4)(B)) by any organization other than an organization which meets the requirements of section 501(q).".

(c) EFFECTIVE DATE.— 26 USC 501 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

(2) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—In the case of any organization described in paragraph (3) or (4) of section 501(c) of the Internal Revenue Code of 1986 and with respect to which the provision of credit counseling services is a substantial purpose on the date of the enactment of this Act, the amendments made by this section shall apply to taxable years beginning after the date which is 1 year after the date of the enactment of this Act.

SEC. 1221. EXPANSION OF THE BASE OF TAX ON PRIVATE FOUNDATION NET INVESTMENT INCOME.

(a) GROSS INVESTMENT INCOME.—

(1) IN GENERAL.—Paragraph (2) of section 4940(c) (relating to gross investment income) is amended by adding at the end the following new sentence: "Such term shall also include income from sources similar to those in the preceding sentence.". 26 USC 4940.

(2) CONFORMING AMENDMENT.—Subsection (e) of section 509 (relating to gross investment income) is amended by adding at the end the following new sentence: "Such term shall also include income from sources similar to those in the preceding sentence.".

(b) CAPITAL GAIN NET INCOME.—Paragraph (4) of section 4940(c) (relating to capital gains and losses) is amended—

(1) in subparagraph (A), by striking "used for the production of interest, dividends, rents, and royalties" and inserting "used for the production of gross investment income (as defined in paragraph (2))",

(2) in subparagraph (C), by inserting "or carrybacks" after "carryovers", and

(3) by adding at the end the following new subparagraph:

"(D) Except to the extent provided by regulation, under rules similar to the rules of section 1031 (including the exception under subsection (a)(2) thereof), no gain or loss shall be taken into account with respect to any portion of property used for a period of not less than 1 year for a purpose or function constituting the basis of the private foundation's exemption if the entire property is exchanged immediately following such period solely for property of like kind which is to be used primarily for a purpose or function constituting the basis for such foundation's exemption.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 509 note.

SEC. 1222. DEFINITION OF CONVENTION OR ASSOCIATION OF CHURCHES.

Section 7701 (relating to definitions) is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) CONVENTION OR ASSOCIATION OF CHURCHES.—For purposes of this title, any organization which is otherwise a convention or association of churches shall not fail to so qualify merely because the membership of such organization includes individuals as well as churches or because individuals have voting rights in such organization.".

SEC. 1223. NOTIFICATION REQUIREMENT FOR ENTITIES NOT CURRENTLY REQUIRED TO FILE.

26 USC 6033.

(a) IN GENERAL.—Section 6033 (relating to returns by exempt organizations), as amended by this Act, is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) ADDITIONAL NOTIFICATION REQUIREMENTS.—Any organization the gross receipts of which in any taxable year result in such organization being referred to in subsection (a)(3)(A)(ii) or (a)(3)(B)—

"(1) shall furnish annually, in electronic form, and at such time and in such manner as the Secretary may by regulations prescribe, information setting forth—

"(A) the legal name of the organization,

"(B) any name under which such organization operates or does business,

"(C) the organization's mailing address and Internet web site address (if any),

"(D) the organization's taxpayer identification number,

"(E) the name and address of a principal officer, and

"(F) evidence of the continuing basis for the organization's exemption from the filing requirements under subsection (a)(1), and

"(2) upon the termination of the existence of the organization, shall furnish notice of such termination.".

(b) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—Section 6033 (relating to returns by exempt organizations), as amended by subsection (a), is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) LOSS OF EXEMPT STATUS FOR FAILURE TO FILE RETURN OR NOTICE.—

Revocation.

"(1) IN GENERAL.—If an organization described in subsection (a)(1) or (i) fails to file an annual return or notice required under either subsection for 3 consecutive years, such organization's status as an organization exempt from tax under section 501(a) shall be considered revoked on and after the date set by the Secretary for the filing of the third annual return or notice. The Secretary shall publish and maintain a list of any organization the status of which is so revoked.

Publication.
Records.

"(2) APPLICATION NECESSARY FOR REINSTATEMENT.—Any organization the tax-exempt status of which is revoked under paragraph (1) must apply in order to obtain reinstatement of such status regardless of whether such organization was originally required to make such an application.

"(3) RETROACTIVE REINSTATEMENT IF REASONABLE CAUSE SHOWN FOR FAILURE.—If, upon application for reinstatement of status as an organization exempt from tax under section 501(a), an organization described in paragraph (1) can show to the satisfaction of the Secretary evidence of reasonable cause

for the failure described in such paragraph, the organization's exempt status may, in the discretion of the Secretary, be reinstated effective from the date of the revocation under such paragraph.".

(c) NO DECLARATORY JUDGMENT RELIEF.—Section 7428(b) (relating to limitations) is amended by adding at the end the following new paragraph: 26 USC 7428.

"(4) NONAPPLICATION FOR CERTAIN REVOCATIONS.—No action may be brought under this section with respect to any revocation of status described in section 6033(j)(1).".

(d) NO MONETARY PENALTY FOR FAILURE TO NOTIFY.—Section 6652(c)(1) (relating to annual returns under section 6033 or 6012(a)(6)) is amended by adding at the end the following new subparagraph:

"(E) NO PENALTY FOR CERTAIN ANNUAL NOTICES.—This paragraph shall not apply with respect to any notice required under section 6033(i).".

(e) SECRETARIAL OUTREACH REQUIREMENTS.— 26 USC 6033 note.

(1) NOTICE REQUIREMENT.—The Secretary of the Treasury shall notify in a timely manner every organization described in section 6033(i) of the Internal Revenue Code of 1986 (as added by this section) of the requirement under such section 6033(i) and of the penalty established under section 6033(j) of such Code—

(A) by mail, in the case of any organization the identity and address of which is included in the list of exempt organizations maintained by the Secretary, and

(B) by Internet or other means of outreach, in the case of any other organization.

(2) LOSS OF STATUS PENALTY FOR FAILURE TO FILE RETURN.—The Secretary of the Treasury shall publicize, in a timely manner in appropriate forms and instructions and through other appropriate means, the penalty established under section 6033(j) of such Code for the failure to file a return under subsection (a)(1) or (i) of section 6033 of such Code. Public information.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to notices and returns with respect to annual periods beginning after 2006. 26 USC 6033 note.

SEC. 1224. DISCLOSURE TO STATE OFFICIALS RELATING TO EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Subsection (c) of section 6104 is amended by striking paragraph (2) and inserting the following new paragraphs:

"(2) DISCLOSURE OF PROPOSED ACTIONS RELATED TO CHARITABLE ORGANIZATIONS.—

"(A) SPECIFIC NOTIFICATIONS.—In the case of an organization to which paragraph (1) applies, the Secretary may disclose to the appropriate State officer—

"(i) a notice of proposed refusal to recognize such organization as an organization described in section 501(c)(3) or a notice of proposed revocation of such organization's recognition as an organization exempt from taxation,

"(ii) the issuance of a letter of proposed deficiency of tax imposed under section 507 or chapter 41 or 42, and

"(iii) the names, addresses, and taxpayer identification numbers of organizations which have applied for recognition as organizations described in section 501(c)(3).

"(B) ADDITIONAL DISCLOSURES.—Returns and return information of organizations with respect to which information is disclosed under subparagraph (A) may be made available for inspection by or disclosed to an appropriate State officer.

"(C) PROCEDURES FOR DISCLOSURE.—Information may be inspected or disclosed under subparagraph (A) or (B) only—

"(i) upon written request by an appropriate State officer, and

"(ii) for the purpose of, and only to the extent necessary in, the administration of State laws regulating such organizations.

Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

"(D) DISCLOSURES OTHER THAN BY REQUEST.—The Secretary may make available for inspection or disclose returns and return information of an organization to which paragraph (1) applies to an appropriate State officer of any State if the Secretary determines that such returns or return information may constitute evidence of noncompliance under the laws within the jurisdiction of the appropriate State officer.

"(3) DISCLOSURE WITH RESPECT TO CERTAIN OTHER EXEMPT ORGANIZATIONS.—Upon written request by an appropriate State officer, the Secretary may make available for inspection or disclosure returns and return information of any organization described in section 501(c) (other than organizations described in paragraph (1) or (3) thereof) for the purpose of, and only to the extent necessary in, the administration of State laws regulating the solicitation or administration of the charitable funds or charitable assets of such organizations. Such information may only be inspected by or disclosed to a person other than the appropriate State officer if such person is an officer or employee of the State and is designated by the appropriate State officer to receive the returns or return information under this paragraph on behalf of the appropriate State officer.

"(4) USE IN CIVIL JUDICIAL AND ADMINISTRATIVE PROCEEDINGS.—Returns and return information disclosed pursuant to this subsection may be disclosed in civil administrative and civil judicial proceedings pertaining to the enforcement of State laws regulating such organizations in a manner prescribed by the Secretary similar to that for tax administration proceedings under section 6103(h)(4).

"(5) NO DISCLOSURE IF IMPAIRMENT.—Returns and return information shall not be disclosed under this subsection, or in any proceeding described in paragraph (4), to the extent that the Secretary determines that such disclosure would seriously impair Federal tax administration.

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

"(A) RETURN AND RETURN INFORMATION.—The terms 'return' and 'return information' have the respective meanings given to such terms by section 6103(b).

"(B) APPROPRIATE STATE OFFICER.—The term 'appropriate State officer' means—

"(i) the State attorney general,

"(ii) the State tax officer,

"(iii) in the case of an organization to which paragraph (1) applies, any other State official charged with overseeing organizations of the type described in section 501(c)(3), and

"(iv) in the case of an organization to which paragraph (3) applies, the head of an agency designated by the State attorney general as having primary responsibility for overseeing the solicitation of funds for charitable purposes.".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 6103(a) is amended by inserting "or section 6104(c)" after "this section". 26 USC 6103.

(2) Subparagraph (A) of section 6103(p)(3) is amended by inserting "and section 6104(c)" after "section" in the first sentence.

(3) Paragraph (4) of section 6103(p) is amended—

(A) in the matter preceding subparagraph (A), by inserting ", any appropriate State officer (as defined in section 6104(c))," before "or any other person",

(B) in subparagraph (F)(i), by inserting "any appropriate State officer (as defined in section 6104(c))," before "or any other person", and

(C) in the matter following subparagraph (F), by inserting ", an appropriate State officer (as defined in section 6104(c))," after "including an agency" each place it appears.

(4) The heading for paragraph (1) of section 6104(c) is amended by inserting "FOR CHARITABLE ORGANIZATIONS" after "RULE".

(5) Paragraph (2) of section 7213(a) is amended by inserting "or under section 6104(c)" after "6103".

(6) Paragraph (2) of section 7213A(a) is amended by inserting "or under section 6104(c)" after "7213(a)(2)".

(7) Paragraph (2) of section 7431(a) is amended by inserting "or in violation of section 6104(c)" after "6103".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act but shall not apply to requests made before such date.

SEC. 1225. PUBLIC DISCLOSURE OF INFORMATION RELATING TO UNRELATED BUSINESS INCOME TAX RETURNS.

(a) IN GENERAL.—Subparagraph (A) of section 6104(d)(1) is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

"(ii) any annual return filed under section 6011 which relates to any tax imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc., organizations) by such

organization, but only if such organization is described in section 501(c)(3),".

26 USC 6104 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed after the date of the enactment of this Act.

SEC. 1226. STUDY ON DONOR ADVISED FUNDS AND SUPPORTING ORGANIZATIONS.

(a) STUDY.—The Secretary of the Treasury shall undertake a study on the organization and operation of donor advised funds (as defined in section 4966(d)(2) of the Internal Revenue Code of 1986, as added by this Act) and of organizations described in section 509(a)(3) of such Code. The study shall specifically consider—

(1) whether the deductions allowed for the income, gift, or estate taxes for charitable contributions to sponsoring organizations (as defined in section 4966(d)(1) of such Code, as added by this Act) of donor advised funds or to organizations described in section 509(a)(3) of such Code are appropriate in consideration of—

(A) the use of contributed assets (including the type, extent, and timing of such use), or

(B) the use of the assets of such organizations for the benefit of the person making the charitable contribution (or a person related to such person),

(2) whether donor advised funds should be required to distribute for charitable purposes a specified amount (whether based on the income or assets of the fund) in order to ensure that the sponsoring organization with respect to such donor advised fund is operating consistent with the purposes or functions constituting the basis for its exemption under section 501, or its status as an organization described in section 509(a), of such Code,

(3) whether the retention by donors to organizations described in paragraph (1) of rights or privileges with respect to amounts transferred to such organizations (including advisory rights or privileges with respect to the making of grants or the investment of assets) is consistent with the treatment of such transfers as completed gifts that qualify for a deduction for income, gift, or estate taxes, and

(4) whether the issues raised by paragraphs (1), (2), and (3) are also issues with respect to other forms of charities or charitable donations.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under subsection (a) and make such recommendations as the Secretary of the Treasury considers appropriate.

PART 2—IMPROVED ACCOUNTABILITY OF DONOR ADVISED FUNDS

SEC. 1231. EXCISE TAXES RELATING TO DONOR ADVISED FUNDS.

(a) IN GENERAL.—Chapter 42 (relating to private foundations and certain other tax-exempt organizations), as amended by the

Tax Increase Prevention and Reconciliation Act of 2005, is amended by adding at the end the following new subchapter:

"Subchapter G—Donor Advised Funds

"Sec. 4966. Taxes on taxable distributions.
"Sec. 4967. Taxes on prohibited benefits.

"SEC. 4966. TAXES ON TAXABLE DISTRIBUTIONS. 26 USC 4966.

"(a) IMPOSITION OF TAXES.—

"(1) ON THE SPONSORING ORGANIZATION.—There is hereby imposed on each taxable distribution a tax equal to 20 percent of the amount thereof. The tax imposed by this paragraph shall be paid by the sponsoring organization with respect to the donor advised fund.

"(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that it is a taxable distribution, a tax equal to 5 percent of the amount thereof. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

"(b) SPECIAL RULES.—For purposes of subsection (a)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under subsection (a)(2) with respect to the making of a taxable distribution, all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

"(2) LIMIT FOR MANAGEMENT.—With respect to any one taxable distribution, the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(c) TAXABLE DISTRIBUTION.—For purposes of this section—

"(1) IN GENERAL.—The term 'taxable distribution' means any distribution from a donor advised fund—

"(A) to any natural person, or

"(B) to any other person if—

"(i) such distribution is for any purpose other than one specified in section 170(c)(2)(B), or

"(ii) the sponsoring organization does not exercise expenditure responsibility with respect to such distribution in accordance with section 4945(h).

"(2) EXCEPTIONS.—Such term shall not include any distribution from a donor advised fund—

"(A) to any organization described in section 170(b)(1)(A) (other than a disqualified supporting organization),

"(B) to the sponsoring organization of such donor advised fund, or

"(C) to any other donor advised fund.

"(d) DEFINITIONS.—For purposes of this subchapter—

"(1) SPONSORING ORGANIZATION.—The term 'sponsoring organization' means any organization which—

"(A) is described in section 170(c) (other than in paragraph (1) thereof, and without regard to paragraph (2)(A) thereof),

"(B) is not a private foundation (as defined in section 509(a)), and

"(C) maintains 1 or more donor advised funds.

"(2) DONOR ADVISED FUND.—

"(A) IN GENERAL.—Except as provided in subparagraph (B) or (C), the term 'donor advised fund' means a fund or account—

"(i) which is separately identified by reference to contributions of a donor or donors,

"(ii) which is owned and controlled by a sponsoring organization, and

"(iii) with respect to which a donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to the distribution or investment of amounts held in such fund or account by reason of the donor's status as a donor.

"(B) EXCEPTIONS.—The term 'donor advised fund' shall not include any fund or account—

"(i) which makes distributions only to a single identified organization or governmental entity, or

"(ii) with respect to which a person described in subparagraph (A)(iii) advises as to which individuals receive grants for travel, study, or other similar purposes, if—

"(I) such person's advisory privileges are performed exclusively by such person in the person's capacity as a member of a committee all of the members of which are appointed by the sponsoring organization,

"(II) no combination of persons described in subparagraph (A)(iii) (or persons related to such persons) control, directly or indirectly, such committee, and

"(III) all grants from such fund or account are awarded on an objective and nondiscriminatory basis pursuant to a procedure approved in advance by the board of directors of the sponsoring organization, and such procedure is designed to ensure that all such grants meet the requirements of paragraph (1), (2), or (3) of section 4945(g).

"(C) SECRETARIAL AUTHORITY.—The Secretary may exempt a fund or account not described in subparagraph (B) from treatment as a donor advised fund—

"(i) if such fund or account is advised by a committee not directly or indirectly controlled by the donor or any person appointed or designated by the donor for the purpose of advising with respect to distributions from such fund (and any related parties), or

"(ii) if such fund benefits a single identified charitable purpose.

"(3) FUND MANAGER.—The term 'fund manager' means, with respect to any sponsoring organization—

"(A) an officer, director, or trustee of such sponsoring organization (or an individual having powers or responsibilities similar to those of officers, directors, or trustees of the sponsoring organization), and

"(B) with respect to any act (or failure to act), the employees of the sponsoring organization having authority or responsibility with respect to such act (or failure to act).

"(4) DISQUALIFIED SUPPORTING ORGANIZATION.—

"(A) IN GENERAL.—The term 'disqualified supporting organization' means, with respect to any distribution—

"(i) any type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(ii) any organization which is described in subparagraph (B) or (C) if—

"(I) the donor or any person designated by the donor for the purpose of advising with respect to distributions from a donor advised fund (and any related parties) directly or indirectly controls a supported organization (as defined in section 509(f)(3)) of such organization, or

"(II) the Secretary determines by regulations that a distribution to such organization otherwise is inappropriate. Regulations.

"(B) TYPE I AND TYPE II SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

"(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

"(ii) supervised or controlled in connection with one or more such organizations.

"(C) FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization is a functionally integrated type III supporting organization (as defined under section 4943(f)(5)(B)).

"SEC. 4967. TAXES ON PROHIBITED BENEFITS. 26 USC 4967.

"(a) IMPOSITION OF TAXES.—

"(1) ON THE DONOR, DONOR ADVISOR, OR RELATED PERSON.—There is hereby imposed on the advice of any person described in subsection (d) to have a sponsoring organization make a distribution from a donor advised fund which results in such person or any other person described in subsection (d) receiving, directly or indirectly, a more than incidental benefit as a result of such distribution, a tax equal to 125 percent of such benefit. The tax imposed by this paragraph shall be paid by any person described in subsection (d) who advises as to the distribution or who receives such a benefit as a result of the distribution.

"(2) ON THE FUND MANAGEMENT.—There is hereby imposed on the agreement of any fund manager to the making of a distribution, knowing that such distribution would confer a benefit described in paragraph (1), a tax equal to 10 percent of the amount of such benefit. The tax imposed by this paragraph shall be paid by any fund manager who agreed to the making of the distribution.

"(b) EXCEPTION.—No tax shall be imposed under this section with respect to any distribution if a tax has been imposed with respect to such distribution under section 4958.

"(c) SPECIAL RULES.—For purposes of subsection (a)—

"(1) JOINT AND SEVERAL LIABILITY.—If more than one person is liable under paragraph (1) or (2) of subsection (a) with respect to a distribution described in subsection (a), all such persons shall be jointly and severally liable under such paragraph with respect to such distribution.

"(2) LIMIT FOR MANAGEMENT.—With respect to any one distribution described in subsection (a), the maximum amount of the tax imposed by subsection (a)(2) shall not exceed $10,000.

"(d) PERSON DESCRIBED.—A person is described in this subsection if such person is described in section 4958(f)(7) with respect to a donor advised fund.".

(b) CONFORMING AMENDMENTS.—

26 USC 4963.

(1) Section 4963 is amended by inserting "4966, 4967," after "4958," each place it appears in subsections (a) and (c).

(2) The table of subchapters for chapter 42 is amended by adding at the end the following new item:

"SUBCHAPTER G—DONOR ADVISED FUNDS".

26 USC 4963 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1232. EXCESS BENEFIT TRANSACTIONS INVOLVING DONOR ADVISED FUNDS AND SPONSORING ORGANIZATIONS.

(a) DISQUALIFIED PERSONS.—

(1) IN GENERAL.—Paragraph (1) of section 4958(f) is amended by striking "and" at the end of subparagraph (B), by striking the period at the end of subparagraph (C) and inserting a comma, and by adding after subparagraph (C) the following new subparagraphs:

"(D) which involves a donor advised fund (as defined in section 4966(d)(2)), any person who is described in paragraph (7) with respect to such donor advised fund (as so defined), and

"(E) which involves a sponsoring organization (as defined in section 4966(d)(1)), any person who is described in paragraph (8) with respect to such sponsoring organization (as so defined).".

(2) DONORS, DONOR ADVISORS, AND INVESTMENT ADVISORS TREATED AS DISQUALIFIED PERSONS.—Section 4958(f) is amended by adding at the end the following new paragraphs:

"(7) DONORS AND DONOR ADVISORS.—For purposes of paragraph (1)(E), a person is described in this paragraph if such person—

"(A) is described in section 4966(d)(2)(A)(iii),

"(B) is a member of the family of an individual described in subparagraph (A), or

"(C) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in subparagraph (A) or (B) of paragraph (7)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(8) INVESTMENT ADVISORS.—For purposes of paragraph (1)(F)—

"(A) IN GENERAL.—A person is described in this paragraph if such person—

"(i) is an investment advisor,

"(ii) is a member of the family of an individual described in clause (i), or

"(iii) is a 35-percent controlled entity (as defined in paragraph (3) by substituting 'persons described in clause (i) or (ii) of paragraph (8)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(B) INVESTMENT ADVISOR DEFINED.—For purposes of subparagraph (A), the term 'investment advisor' means, with respect to any sponsoring organization (as defined in section 4966(d)(1)), any person (other than an employee of such organization) compensated by such organization for managing the investment of, or providing investment advice with respect to, assets maintained in donor advised funds (as defined in section 4966(d)(2)) owned by such organization.".

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—

(1) IN GENERAL.—Section 4958(c) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph: 26 USC 4958.

"(2) SPECIAL RULES FOR DONOR ADVISED FUNDS.—In the case of any donor advised fund (as defined in section 4966(d)(2))—

"(A) the term 'excess benefit transaction' includes any grant, loan, compensation, or other similar payment from such fund to a person described in subsection (f)(7) with respect to such fund, and

"(B) the term 'excess benefit' includes, with respect to any transaction described in subparagraph (A), the amount of any such grant, loan, compensation, or other similar payment.".

(2) SPECIAL RULE FOR CORRECTION OF TRANSACTION.—Section 4958(f)(6) is amended by inserting ", except that in the case of any correction of an excess benefit transaction described in subsection (c)(2), no amount repaid in a manner prescribed by the Secretary may be held in any donor advised fund" after "standards".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transactions occurring after the date of the enactment of this Act. 26 USC 4958 note.

SEC. 1233. EXCESS BUSINESS HOLDINGS OF DONOR ADVISED FUNDS.

(a) IN GENERAL.—Section 4943 is amended by adding at the end the following new subsection:

"(e) APPLICATION OF TAX TO DONOR ADVISED FUNDS.—

"(1) IN GENERAL.—For purposes of this section, a donor advised fund (as defined in section 4966(d)(2)) shall be treated as a private foundation.

"(2) DISQUALIFIED PERSON.—In applying this section to any donor advised fund (as so defined), the term 'disqualified person' means, with respect to the donor advised fund, any person who is—

"(A) described in section 4966(d)(2)(A)(iii),

"(B) a member of the family of an individual described in subparagraph (A), or

"(C) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in subparagraph (A) or (B) of section 4943(e)(2)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(3) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to donor advised funds (as so defined), except that—

"(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

"(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).".

26 USC 4943 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act.

SEC. 1234. TREATMENT OF CHARITABLE CONTRIBUTION DEDUCTIONS TO DONOR ADVISED FUNDS.

26 USC 170.

(a) INCOME.—Section 170(f) (relating to disallowance of deduction in certain cases and special rules), as amended by this Act, is amended by adding at the end the following new paragraph:

"(18) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

"(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

"(i) described in paragraph (3), (4), or (5) of subsection (c), or

"(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of paragraph (8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.".

(b) ESTATE.—Section 2055(e) is amended by adding at the end the following new paragraph:

"(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

"(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

"(i) described in paragraph (3) or (4) of subsection (a), or

"(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the

rules of section 170(f)(8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.".

(c) GIFT.—Section 2522(c) is amended by adding at the end the following new paragraph: 26 USC 2522.

"(5) CONTRIBUTIONS TO DONOR ADVISED FUNDS.—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

"(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

"(i) described in paragraph (3) or (4) of subsection (a), or

"(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions made after the date which is 180 days after the date of the enactment of this Act. 26 USC 170 note.

SEC. 1235. RETURNS OF, AND APPLICATIONS FOR RECOGNITION BY, SPONSORING ORGANIZATIONS.

(a) MATTERS INCLUDED ON RETURNS.—

(1) IN GENERAL.—Section 6033, as amended by this Act, is amended by redesignating subsection (k) as subsection (l) and by inserting after subsection (j) the following new subsection:

"(k) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—Every organization described in section 4966(d)(1) shall, on the return required under subsection (a) for the taxable year—

"(1) list the total number of donor advised funds (as defined in section 4966(d)(2)) it owns at the end of such taxable year,

"(2) indicate the aggregate value of assets held in such funds at the end of such taxable year, and

"(3) indicate the aggregate contributions to and grants made from such funds during such taxable year.".

(2) EFFECTIVE DATE.—The amendments made by this subsection shall apply to returns filed for taxable years ending after the date of the enactment of this Act. 26 USC 6033 note.

(b) MATTERS INCLUDED ON EXEMPT STATUS APPLICATION.—

(1) IN GENERAL.—Section 508 is amended by adding at the end the following new subsection:

"(f) ADDITIONAL PROVISIONS RELATING TO SPONSORING ORGANIZATIONS.—A sponsoring organization (as defined in section 4966(d)(1)) shall give notice to the Secretary (in such manner as the Secretary may provide) whether such organization maintains or intends to maintain donor advised funds (as defined in section Notification.

4966(d)(2)) and the manner in which such organization plans to operate such funds.".

26 USC 508 note.

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to organizations applying for tax-exempt status after the date of the enactment of this Act.

PART 3—IMPROVED ACCOUNTABILITY OF SUPPORTING ORGANIZATIONS

SEC. 1241. REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.

26 USC 509.

(a) TYPES OF SUPPORTING ORGANIZATIONS.—Subparagraph (B) of section 509(a)(3) is amended to read as follows:

"(B) is—

"(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2),

"(ii) supervised or controlled in connection with one or more such organizations, or

"(iii) operated in connection with one or more such organizations, and".

(b) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—Section 509 (relating to private foundation defined) is amended by adding at the end the following new subsection:

"(f) REQUIREMENTS FOR SUPPORTING ORGANIZATIONS.—

"(1) TYPE III SUPPORTING ORGANIZATIONS.—For purposes of subsection (a)(3)(B)(iii), an organization shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of subsection (a) unless such organization meets the following requirements:

"(A) RESPONSIVENESS.—For each taxable year beginning after the date of the enactment of this subsection, the organization provides to each supported organization such information as the Secretary may require to ensure that such organization is responsive to the needs or demands of the supported organization.

"(B) FOREIGN SUPPORTED ORGANIZATIONS.—

"(i) IN GENERAL.—The organization is not operated in connection with any supported organization that is not organized in the United States.

"(ii) TRANSITION RULE FOR EXISTING ORGANIZATIONS.—If the organization is operated in connection with an organization that is not organized in the United States on the date of the enactment of this subsection, clause (i) shall not apply until the first day of the third taxable year of the organization beginning after the date of the enactment of this subsection.

"(2) ORGANIZATIONS CONTROLLED BY DONORS.—

"(A) IN GENERAL.—For purposes of subsection (a)(3)(B), an organization shall not be considered to be—

"(i) operated, supervised, or controlled by any organization described in paragraph (1) or (2) of subsection (a), or

"(ii) operated in connection with any organization described in paragraph (1) or (2) of subsection (a),

if such organization accepts any gift or contribution from any person described in subparagraph (B).

"(B) PERSON DESCRIBED.—A person is described in this subparagraph if, with respect to a supported organization

of an organization described in subparagraph (A), such person is—

"(i) a person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)) who directly or indirectly controls, either alone or together with persons described in clauses (ii) and (iii), the governing body of such supported organization,

"(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

"(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 509(f)(2)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(3) SUPPORTED ORGANIZATION.—For purposes of this subsection, the term 'supported organization' means, with respect to an organization described in subsection (a)(3), an organization described in paragraph (1) or (2) of subsection (a)—

"(A) for whose benefit the organization described in subsection (a)(3) is organized and operated, or

"(B) with respect to which the organization performs the functions of, or carries out the purposes of.".

(c) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—For purposes of section 509(a)(3)(B)(iii) of the Internal Revenue Code of 1986, an organization which is a trust shall not be considered to be operated in connection with any organization described in paragraph (1) or (2) of section 509(a) of such Code solely because— 26 USC 509 note.

(1) it is a charitable trust under State law,

(2) the supported organization (as defined in section 509(f)(3) of such Code) is a beneficiary of such trust, and

(3) the supported organization (as so defined) has the power to enforce the trust and compel an accounting.

(d) PAYOUT REQUIREMENTS FOR TYPE III SUPPORTING ORGANIZATIONS.— 26 USC 509 note.

(1) IN GENERAL.—The Secretary of the Treasury shall promulgate new regulations under section 509 of the Internal Revenue Code of 1986 on payments required by type III supporting organizations which are not functionally integrated type III supporting organizations. Such regulations shall require such organizations to make distributions of a percentage of either income or assets to supported organizations (as defined in section 509(f)(3) of such Code) in order to ensure that a significant amount is paid to such organizations. Regulations.

(2) TYPE III SUPPORTING ORGANIZATION; FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—For purposes of paragraph (1), the terms "type III supporting organization" and "functionally integrated type III supporting organization" have the meanings given such terms under subparagraphs (A) and (B) section 4943(f)(5) of the Internal Revenue Code of 1986 (as added by this Act), respectively.

(e) EFFECTIVE DATES.— 26 USC 509 note.

(1) IN GENERAL.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act.

(2) CHARITABLE TRUSTS WHICH ARE TYPE III SUPPORTING ORGANIZATIONS.—Subsection (c) shall take effect—

(A) in the case of trusts operated in connection with an organization described in paragraph (1) or (2) of section 509(a) of the Internal Revenue Code of 1986 on the date of the enactment of this Act, on the date that is one year after the date of the enactment of this Act, and

(B) in the case of any other trust, on the date of the enactment of this Act.

SEC. 1242. EXCESS BENEFIT TRANSACTIONS INVOLVING SUPPORTING ORGANIZATIONS.

26 USC 4958.

(a) DISQUALIFIED PERSONS.—Paragraph (1) of section 4958(f), as amended by this Act, is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by adding after subparagraph (C) the following new subparagraph:

"(D) any person who is described in subparagraph (A), (B), or (C) with respect to an organization described in section 509(a)(3) and organized and operated exclusively for the benefit of, to perform the functions of, or to carry out the purposes of the applicable tax-exempt organization.".

(b) CERTAIN TRANSACTIONS TREATED AS EXCESS BENEFIT TRANSACTIONS.—Section 4958(c), as amended by this Act, is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULES FOR SUPPORTING ORGANIZATIONS.—

"(A) IN GENERAL.—In the case of any organization described in section 509(a)(3)—

"(i) the term 'excess benefit transaction' includes—

"(I) any grant, loan, compensation, or other similar payment provided by such organization to a person described in subparagraph (B), and

"(II) any loan provided by such organization to a disqualified person (other than an organization described in paragraph (1), (2), or (4) of section 509(a)), and

"(ii) the term 'excess benefit' includes, with respect to any transaction described in clause (i), the amount of any such grant, loan, compensation, or other similar payment.

"(B) PERSON DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a substantial contributor to such organization,

"(ii) a member of the family (determined under section 4958(f)(4)) of an individual described in clause (i), or

"(iii) a 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described in clause (i) or (ii) of section 4958(c)(3)(B)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof).

"(C) SUBSTANTIAL CONTRIBUTOR.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'substantial contributor' means any person who contributed or bequeathed an aggregate amount of more than $5,000 to the

organization, if such amount is more than 2 percent of the total contributions and bequests received by the organization before the close of the taxable year of the organization in which the contribution or bequest is received by the organization from such person. In the case of a trust, such term also means the creator of the trust. Rules similar to the rules of subparagraphs (B) and (C) of section 507(d)(2) shall apply for purposes of this subparagraph.

"(ii) EXCEPTION.—Such term shall not include any organization described in paragraph (1), (2), or (4) of section 509(a).".

(c) EFFECTIVE DATES.— 26 USC 4958 note.

(1) SUBSECTION (a).—The amendments made by subsection (a) shall apply to transactions occurring after the date of the enactment of this Act.

(2) SUBSECTION (b).—The amendments made by subsection (a) shall apply to transactions occurring after July 25, 2006.

SEC. 1243. EXCESS BUSINESS HOLDINGS OF SUPPORTING ORGANIZATIONS.

(a) IN GENERAL.—Section 4943, as amended by this Act, is amended by adding at the end the following new subsection: 26 USC 4943.

"(f) APPLICATION OF TAX TO SUPPORTING ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this section, an organization which is described in paragraph (3) shall be treated as a private foundation.

"(2) EXCEPTION.—The Secretary may exempt the excess business holdings of any organization from the application of this subsection if the Secretary determines that such holdings are consistent with the purpose or function constituting the basis for its exemption under section 501.

"(3) ORGANIZATIONS DESCRIBED.—An organization is described in this paragraph if such organization is—

"(A) a type III supporting organization (other than a functionally integrated type III supporting organization), or

"(B) an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is supervised or controlled in connection with one or more organizations described in paragraph (1) or (2) of section 509(a), but only if such organization accepts any gift or contribution from any person described in section 509(f)(2)(B).

"(4) DISQUALIFIED PERSON.—

"(A) IN GENERAL.—In applying this section to any organization described in paragraph (3), the term 'disqualified person' means, with respect to the organization—

"(i) any person who was, at any time during the 5-year period ending on the date described in subsection (a)(2)(A), in a position to exercise substantial influence over the affairs of the organization,

"(ii) any member of the family (determined under section 4958(f)(4)) of an individual described in clause (i),

"(iii) any 35-percent controlled entity (as defined in section 4958(f)(3) by substituting 'persons described

in clause (i) or (ii) of section 4943(f)(4)(A)' for 'persons described in subparagraph (A) or (B) of paragraph (1)' in subparagraph (A)(i) thereof),

"(iv) any person described in section 4958(c)(3)(B), and

"(v) any organization—

"(I) which is effectively controlled (directly or indirectly) by the same person or persons who control the organization in question, or

"(II) substantially all of the contributions to which were made (directly or indirectly) by the same person or persons described in subparagraph (B) or a member of the family (within the meaning of section 4946(d)) of such a person.

"(B) PERSONS DESCRIBED.—A person is described in this subparagraph if such person is—

"(i) a substantial contributor to the organization (as defined in section 4958(c)(3)(C)),

"(ii) an officer, director, or trustee of the organization (or an individual having powers or responsibilities similar to those of the officers, directors, or trustees of the organization), or

"(iii) an owner of more than 20 percent of—

"(I) the total combined voting power of a corporation,

"(II) the profits interest of a partnership, or

"(III) the beneficial interest of a trust or unincorporated enterprise,

which is a substantial contributor (as so defined) to the organization.

"(5) TYPE III SUPPORTING ORGANIZATION; FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—For purposes of this subsection—

"(A) TYPE III SUPPORTING ORGANIZATION.—The term 'type III supporting organization' means an organization which meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and which is operated in connection with one or more organizations described in paragraph (1) or (2) of section 509(a).

"(B) FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATION.—The term 'functionally integrated type III supporting organization' means a type III supporting organization which is not required under regulations established by the Secretary to make payments to supported organizations (as defined under section 509(f)(3)) due to the activities of the organization related to performing the functions of, or carrying out the purposes of, such supported organizations.

"(6) SPECIAL RULE FOR CERTAIN HOLDINGS OF TYPE III SUPPORTING ORGANIZATIONS.—For purposes of this subsection, the term 'excess business holdings' shall not include any holdings of a type III supporting organization in any business enterprise if, as of November 18, 2005, the holdings were held (and at all times thereafter, are held) for the benefit of the community pursuant to the direction of a State attorney general or a State official with jurisdiction over such organization.

"(7) PRESENT HOLDINGS.—For purposes of this subsection, rules similar to the rules of paragraphs (4), (5), and (6) of subsection (c) shall apply to organizations described in section 509(a)(3), except that— Deadlines.

"(A) 'the date of the enactment of this subsection' shall be substituted for 'May 26, 1969' each place it appears in paragraphs (4), (5), and (6), and

"(B) 'January 1, 2007' shall be substituted for 'January 1, 1970' in paragraph (4)(E).".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 4943 note.

SEC. 1244. TREATMENT OF AMOUNTS PAID TO SUPPORTING ORGANIZATIONS BY PRIVATE FOUNDATIONS.

(a) QUALIFYING DISTRIBUTIONS.—Paragraph (4) of section 4942(g) is amended to read as follows: 26 USC 4942.

"(4) LIMITATION ON DISTRIBUTIONS BY NONOPERATING PRIVATE FOUNDATIONS TO SUPPORTING ORGANIZATIONS.—

"(A) IN GENERAL.—For purposes of this section, the term 'qualifying distribution' shall not include any amount paid by a private foundation which is not an operating foundation to—

"(i) any type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

"(ii) any organization which is described in subparagraph (B) or (C) if—

"(I) a disqualified person of the private foundation directly or indirectly controls such organization or a supported organization (as defined in section 509(f)(3)) of such organization, or

"(II) the Secretary determines by regulations that a distribution to such organization otherwise is inappropriate. Regulations.

"(B) TYPE I AND TYPE II SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization meets the requirements of subparagraphs (A) and (C) of section 509(a)(3) and is—

"(i) operated, supervised, or controlled by one or more organizations described in paragraph (1) or (2) of section 509(a), or

"(ii) supervised or controlled in connection with one or more such organizations.

"(C) FUNCTIONALLY INTEGRATED TYPE III SUPPORTING ORGANIZATIONS.—An organization is described in this subparagraph if the organization is a functionally integrated type III supporting organization (as defined under section 4943(f)(5)(B)).".

(b) TAXABLE EXPENDITURES.—Subparagraph (A) of section 4945(d)(4) is amended to read as follows:

"(A) such organization—

"(i) is described in paragraph (1) or (2) of section 509(a),

"(ii) is an organization described in section 509(a)(3) (other than an organization described in clause (i) or (ii) of section 4942(g)(4)(A)), or

"(iii) is an exempt operating foundation (as defined in section 4940(d)(2)), or".

26 USC 4942 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions and expenditures after the date of the enactment of this Act.

SEC. 1245. RETURNS OF SUPPORTING ORGANIZATIONS.

26 USC 6033.

(a) REQUIREMENT TO FILE RETURN.—Subparagraph (B) of section 6033(a)(3) is amended by inserting "(other than an organization described in section 509(a)(3))" after "paragraph (1)".

(b) MATTERS INCLUDED ON RETURNS.—Section 6033, as amended by this Act, is amended by redesignating subsection (l) as subsection (m) and by inserting after subsection (k) the following new subsection:

"(l) ADDITIONAL PROVISIONS RELATING TO SUPPORTING ORGANIZATIONS.—Every organization described in section 509(a)(3) shall, on the return required under subsection (a)—

"(1) list the supported organizations (as defined in section 509(f)(3)) with respect to which such organization provides support,

"(2) indicate whether the organization meets the requirements of clause (i), (ii), or (iii) of section 509(a)(3)(B), and

"(3) certify that the organization meets the requirements of section 509(a)(3)(C).".

26 USC 6033 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to returns filed for taxable years ending after the date of the enactment of this Act.

TITLE XIII—OTHER PROVISIONS

SEC. 1301. TECHNICAL CORRECTIONS RELATING TO MINE SAFETY.

Section 110 of the Federal Mine Safety and Health Act of 1977 (30 U.S.C. 820), as amended by the Mine Improvement and New Emergency Response Act of 2006 (Public Law 109–236), is amended—

Ante, p. 500.

(1) by striking subsection (d); and

(2) in subsection (a)—

(A) by striking "(1)(1) The operator" and inserting "(1) The operator";

(B) in the paragraph (2) added by section 8(a)(1)(B) of the Mine Improvement and New Emergency Response Act of 2006 (Public Law 109–236)—

(i) by striking "paragraph (1)" and inserting "subsection (a)(1)"; and

(ii) by redesignating such paragraph as subsection (d) and transferring such subsection so as to appear after subsection (c); and

(3) in subsection (b)—

(A) by striking "Any operator" and inserting "(1) Any operator"; and

(B) in the second sentence, as added by section 8(a)(2) of the Mine Improvement and New Emergency Response

Act of 2006 (Public Law 109–236), by striking "Violations" and inserting the following:

"(2) Violations".

SEC. 1302. GOING-TO-THE-SUN ROAD.

(a) IN GENERAL.—Section 1940 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1511) is amended—

(1) in subsection (a)—

(A) by striking paragraphs (1) and (2);

(B) by redesignating paragraphs (3) through (5) as paragraphs (1) through (3), respectively; and

(C) by striking "$10,000,000" each place that it appears and inserting "$16,666,666"; and

(2) by adding at the end the following:

"(c) CONTRACT AUTHORITY.—Except as otherwise provided in this section, funds authorized to be appropriated under this section shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code.".

(b) RESCISSION.—Section 10212 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (119 Stat. 1937) is amended by striking "$8,543,000,000" each place it appears and inserting "$8,593,000,000". 23 USC 101 note.

SEC. 1303. EXCEPTION TO THE LOCAL FURNISHING REQUIREMENT OF THE TAX-EXEMPT BOND RULES.

(a) SNETTISHAM HYDROELECTRIC FACILITY.—For purposes of determining whether any private activity bond issued before May 31, 2006, and used to finance the acquisition of the Snettisham hydroelectric facility is a qualified bond for purposes of section 142(a)(8) of the Internal Revenue Code of 1986, the electricity furnished by such facility to the City of Hoonah, Alaska, shall not be taken into account for purposes of section 142(f)(1) of such Code.

(b) LAKE DOROTHY HYDROELECTRIC FACILITY.—For purposes of determining whether any private activity bond issued before May 31, 2006, and used to finance the Lake Dorothy hydroelectric facility is a qualified bond for purposes of section 142(a)(8) of the Internal Revenue Code of 1986, the electricity furnished by such facility to the City of Hoonah, Alaska, shall not be taken into account for purposes of paragraphs (1) and (3) of section 142(f) of such Code.

(c) DEFINITIONS.—For purposes of this section—

(1) LAKE DOROTHY HYDROELECTRIC FACILITY.—The term "Lake Dorothy hydroelectric facility" means the hydroelectric facility located approximately 10 miles south of Juneau, Alaska, and commonly referred to as the "Lake Dorothy project".

(2) SNETTISHAM HYDROELECTRIC FACILITY.—The term "Snettisham hydroelectric facility" means the hydroelectric project described in section 1804 of the Small Business Job Protection Act of 1996.

SEC. 1304. QUALIFIED TUITION PROGRAMS. 26 USC 1 note.

(a) PERMANENT EXTENSION OF MODIFICATIONS.—Section 901 of the Economic Growth and Tax Relief Reconciliation Act of 2001 (relating to sunset provisions) shall not apply to section 402 of such Act (relating to modifications to qualified tuition programs).

26 USC 529.

(b) REGULATORY AUTHORITY TO PREVENT ABUSE.—Section 529 (relating to qualified tuition programs) is amended by adding at the end the following new subsection:

"(f) REGULATIONS.—Notwithstanding any other provision of this section, the Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section and to prevent abuse of such purposes, including regulations under chapters 11, 12, and 13 of this title.".

TITLE XIV—TARIFF PROVISIONS

Miscellaneous Trade and Technical Corrections Act of 2006.
19 USC 1654 note.

SEC. 1401. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Miscellaneous Trade and Technical Corrections Act of 2006".

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

TITLE XIV—TARIFF PROVISIONS

Sec. 1401. Short title; table of contents.
Sec. 1402. Reference.

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1411. Certain non-knit gloves designed for use by auto mechanics.
Sec. 1412. Certain microphones for use in automotive interiors.
Sec. 1413. Acrylic or modacrylic synthetic filament tow.
Sec. 1414. Acrylic or modacrylic synthetic staple fibers, carded, combed, or otherwise processed for spinning.
Sec. 1415. Nitrocellulose.
Sec. 1416. Potassium sorbate.
Sec. 1417. Sorbic acid.
Sec. 1418. Certain capers.
Sec. 1419. Certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid.
Sec. 1420. Certain capers.
Sec. 1421. Certain pepperoncini prepared or preserved by vinegar or acetic acid in concentrations at 0.5 percent or greater.
Sec. 1422. Certain pepperoncini prepared or preserved otherwise than by vinegar or acetic acid in concentrations less than 0.5 percent.
Sec. 1423. Chloral.
Sec. 1424. Imidacloprid technical (imidacloprid).
Sec. 1425. Triadimefon.
Sec. 1426. Polyethylene HE1878.
Sec. 1427. Thiacloprid.
Sec. 1428. Pyrimethanil.
Sec. 1429. Foramsulfuron.
Sec. 1430. Fenamidone.
Sec. 1431. Cyclanilide technical.
Sec. 1432. Para-benzoquinone.
Sec. 1433. O-Anisidine.
Sec. 1434. 2,4-Xylidine.
Sec. 1435. Crotonaldehyde.
Sec. 1436. Butanedioic acid, dimethyl ester, polymer with 4-hydroxy-2,2,6,6,-tetramethyl-1-piperidineethanol.
Sec. 1437. Mixtures of CAS Nos. 106990-43-6 and 65447-77-0.
Sec. 1438. MCPA.
Sec. 1439. Bronate advanced.
Sec. 1440. Bromoxynil octanoate tech.
Sec. 1441. Bromoxynil meo.
Sec. 1442. Hydraulic control units.
Sec. 1443. Shield asy-steering gear.
Sec. 1444. 2,4-Dichloroaniline.
Sec. 1445. 2-Acetylbutyrolactone.
Sec. 1446. Alkylketone.
Sec. 1447. Cyfluthrin (baythroid).

Sec. 1448. Beta-cyfluthrin.
Sec. 1449. Cyclopropane-1,1-dicarboxylic acid, dimethyl ester.
Sec. 1450. Spiroxamine.
Sec. 1451. Spiromesifen.
Sec. 1452. 4-Chlorobenzaldehyde.
Sec. 1453. Oxadiazon.
Sec. 1454. NAHP.
Sec. 1455. Phosphorus thiochloride.
Sec. 1456. Trifloxystrobin.
Sec. 1457. Phosphoric acid, lanthanum salt, cerium terbium-doped.
Sec. 1458. Lutetium oxide.
Sec. 1459. ACM.
Sec. 1460. Permethrin.
Sec. 1461. Thidiazuron.
Sec. 1462. Flutolanil.
Sec. 1463. Resmethrin.
Sec. 1464. Clothianidin.
Sec. 1465. Certain master cylinder assembles.
Sec. 1466. Certain transaxles.
Sec. 1467. Converter asy.
Sec. 1468. Module and bracket asy-power steering.
Sec. 1469. Unit asy-battery hi volt.
Sec. 1470. Certain articles of natural cork.
Sec. 1471. Glyoxylic acid.
Sec. 1472. Cyclopentanone.
Sec. 1473. Mesotrione technical.
Sec. 1474. Malonic acid-dinitrile 50% NMP.
Sec. 1475. Formulations of NOA 446510.
Sec. 1476. DEMBB distilled-ISO tank.
Sec. 1477. Methylionone.
Sec. 1478. Certain acrylic fiber tow.
Sec. 1479. Certain acrylic fiber tow.
Sec. 1480. MKH 6561 isocyanate.
Sec. 1481. Endosulfan.
Sec. 1482. Tetraconazole.
Sec. 1483. M-alcohol.
Sec. 1484. Certain machines for use in the assembly of motorcycle wheels.
Sec. 1485. Deltamethrin.
Sec. 1486. Palm fatty acid distillate.
Sec. 1487. 4-Methoxy-2-methyldiphenylamine.
Sec. 1488. 2-Methylhydroquinone.
Sec. 1489. 1-Fluoro-2-nitrobenzene.
Sec. 1490. Cosmetic bags with a flexible outer surface of reinforced or laminated polyvinyl chloride (PVC).
Sec. 1491. Mixtures of methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)ureidosulfonyl]benzoate, sodium salt (iodosulfuron methyl, sodium salt).
Sec. 1492. Ethyl 4,5-dihydro-5,5-diphenyl-1,2-oxazole-3-carboxylate (isoxadifen-ethyl).
Sec. 1493. (5-cyclopropyl-4-isoxazolyl)[2-(methylsulfonyl)–4-(trifluoromethyl)phenyl]methanone (isoxaflutole).
Sec. 1494. Methyl 2-[(4,6-dimethoxypyrimidin-2-ylcarbamoyl)sulfamoyl]-α-(methanesulfonamido)-p-toluate (mesosulfuron-methyl) whether or not mixed with application adjuvants.
Sec. 1495. Mixtures of foramsulfuron and iodosulfuron-methyl-sodium.
Sec. 1496. Vulcuren UPKA 1988.
Sec. 1497. Vullcanox 41010 NA/LG.
Sec. 1498. Vulkazon AFS/LG.
Sec. 1499. P-Anisaldehyde.
Sec. 1500. 1,2-Pentanediol.
Sec. 1501. Agrumex.
Sec. 1502. Cohedur RL.
Sec. 1503. Formulations of prosulfuron.
Sec. 1504. Lewatit.
Sec. 1505. Para-Chlorophenol.
Sec. 1506. Cypermethrin.
Sec. 1507. Ion-exchange resin powder.
Sec. 1508. Ion-exchange resin powder.
Sec. 1509. Desmodur E 14.
Sec. 1510. Desmodur VP LS 2253.
Sec. 1511. Desmodur R-E.
Sec. 1512. Walocel MW 3000 PFV.

Sec. 1513. TSME.
Sec. 1514. Walocel VP-M 20660.
Sec. 1515. Xama 2.
Sec. 1516. Xama 7.
Sec. 1517. Certain cases for toys.
Sec. 1518. Certain cases for toys.
Sec. 1519. Aniline 2.5-disulfonic acid.
Sec. 1520. 1,4-benzenedicarboxylic acid, polymer with n,n′-bis(2-aminoethyl)–1,2-ethanediamine, cyclized, methosulfate.
Sec. 1521. Sulfur blue 7.
Sec. 1522. Formaldehyde, reaction products with 1,4-benzenediol and m-phenylenediamine, sulfurized.
Sec. 1523. Isocyanatosulfonyl.
Sec. 1524. Isocyanatosulfonyl.
Sec. 1525. Gemifloxacin, gemifloxacin mesylate, and gemifloxacin mesylate sesquihydrate.
Sec. 1526. Butralin.
Sec. 1527. Spirodiclofen.
Sec. 1528. Propamocarb HCL (PREVICUR).
Sec. 1529. Desmodur IL.
Sec. 1530. Chloroacetone.
Sec. 1531. IPN (isophthalonitrile).
Sec. 1532. NOA 446510 technical.
Sec. 1533. Hexythiazox technical.
Sec. 1534. Crelan (self-blocked cycloaliphatic polyuretdione).
Sec. 1535. Aspirin.
Sec. 1536. Desmodur BL XP 2468.
Sec. 1537. Desmodur RF-E.
Sec. 1538. Desmodur HL.
Sec. 1539. D-Mannose.
Sec. 1540. Certain camel hair.
Sec. 1541. Waste of camel hair.
Sec. 1542. Certain camel hair.
Sec. 1543. Woven fabric of vicuna hair.
Sec. 1544. Certain camel hair.
Sec. 1545. Noils of camel hair.
Sec. 1546. Chloroacetic acid, ethyl ester.
Sec. 1547. Chloroacetic acid, sodium salt.
Sec. 1548. Low expansion laboratory glass.
Sec. 1549. Stoppers, lids, and other closures.
Sec. 1550. Pigment yellow 213.
Sec. 1551. Indoxacarb.
Sec. 1552. Dimethyl carbonate.
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Sec. 1579. Diuron.
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Sec. 1581. Triasulfuron technical.
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Sec. 1584. Formulations of thiamethoxam, difenoconazole, fludioxinil, and mefenoxam.
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Sec. 1588. Formulated products containing mixtures of the active ingredient 2-chloro-n-[[(4-methoxy-6-methyl-1,3,5-triazin-2yl) amino]carbonyl] benzenesulfonamide and application adjuvants.
Sec. 1589. 2-methyl-4-methoxy-6-methylamino-1,3,5-triazine.
Sec. 1590. Mixtures of sodium-2-chloro-6-[(4,6 dimethoxypyrimidin-2-yl)thio]benzoate and application adjuvants (pyrithiobac-sodium).
Sec. 1591. Certain decorative plates, decorative sculptures, decorative plaques, and architectural miniatures.
Sec. 1592. Certain music boxes.
Sec. 1593. 2-Methyl-4-chlorophenoxyacetic acid.
Sec. 1594. Phenmedipham.
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Sec. 1596. Certain footwear with open toes or heels.
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Sec. 1600. Certain work footwear.
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Sec. 1602. Certain rubber or plastic footwear.
Sec. 1604. Zinc dimethyldithiocarbamate.
Sec. 1605. Certain liquid crystal device (LCD) panel assemblies.
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CHAPTER 2—EXISTING DUTY SUSPENSIONS AND REDUCTIONS

Sec. 1611. Extension of certain existing duty suspensions and reductions.

Subtitle B—Other Tariff Provisions

CHAPTER 1—LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES

Sec. 1621. Certain tramway cars and associated spare parts.
Sec. 1622. Reliquidation of certain entries of candles.
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CHAPTER 2—MISCELLANEOUS PROVISIONS

Sec. 1631. Vessel repair duties.
Sec. 1632. Suspension of new shipper review provision.
Sec. 1633. Extension and modification of duty suspension on wool products; wool research fund; wool duty refunds.
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Subtitle C—Effective Date

Sec. 1641. Effective date.

SEC. 1402. REFERENCE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision, the reference shall be considered to be made to a chapter, subchapter, note, additional U.S. note, heading, subheading, or other provision of the Harmonized Tariff Schedule of the United States (19 U.S.C. 3007).

Subtitle A—Temporary Duty Suspensions and Reductions

CHAPTER 1—NEW DUTY SUSPENSIONS AND REDUCTIONS

SEC. 1411. CERTAIN NON-KNIT GLOVES DESIGNED FOR USE BY AUTO MECHANICS.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.14.01	Mechanics' work gloves, valued not over $3.50 per pair (provided for in subheading 6216.00.58)	2.8%	No change	No change	On or before 12/31/2009	
	9902.14.02	Mechanics' work gloves, valued over $3.50 but not over $3.70 per pair (provided for in subheading 6216.00.58)	2.8%	No change	No change	On or before 12/31/2009	".
	9902.14.03	Mechanics' work gloves, valued over $3.70 but not over $4.99 per pair (provided for in subheading 6216.00.58)	2.8%	No change	No change	On or before 12/31/2009	".
	9902.14.04	Mechanics' work gloves, valued over $4.99 but not over $7.72 per pair (provided for in subheading 6216.00.58)	2.8%	No change	No change	On or before 12/31/2009	".
	9902.14.05	Mechanics' work gloves, valued over $7.72 per pair (provided for in subheading 6216.00.58)	2.8%	No change	No change	On or before 12/31/2009	".

(b) AMENDMENT TO U.S. NOTES.—Subchapter II of chapter 99 is amended by adding at the end of the U.S. Notes to such subchapter the following new U.S. Note:

"18. For purposes of headings 9902.14.01, 9902.14.02, 9902.14.03, 9902.14.04, and 9902.14.05, the term 'mechanics' work gloves' means gloves, of man-made fibers, having synthetic leather palms and fingers; fourchettes of synthetic leather or of fabric of nylon or elastomeric yarn; backs comprising either one layer of knitted fabric of elastomeric yarn or three layers, with the outer layer of knitted fabric of elastomeric yarn, the center layer of foam and the inner layer of tricot fabric; the foregoing, whether or not including an thermoplastic rubber logo or pad on the back; and elastic wrist straps with molded thermoplastic rubber hook-and-loop enclosures.".

SEC. 1412. CERTAIN MICROPHONES FOR USE IN AUTOMOTIVE INTERIORS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.17	Unidirectional (cardioid) electret condenser microphone modules for use in motor vehicles provided for in headings 8701 through 8705 (other than such modules designed for handheld, microphone stand, or lapel use), the foregoing each including wire leads for external connection, whether or not including a multi-pin board level type connector but not including a battery compartment; having a typical frequency response of 250 Hertz through 7,000 Hertz with no more than a 20 decibel deviation in that frequency range and an electrostatic discharge immunity of 4,000 V (contact) and 8,000 V (air); and capable of operation and storage in the temperature range of -40°C through 85°C and a humidity of not over 95 percent (provided for in subheading 8518.10.80)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1413. ACRYLIC OR MODACRYLIC SYNTHETIC FILAMENT TOW.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.21	Synthetic filament tow: acrylic or modacrylic (provided for in subheading 5501.30.00)	6.8%	No change	No change	On or before 12/31/2009	".

SEC. 1414. ACRYLIC OR MODACRYLIC SYNTHETIC STAPLE FIBERS, CARDED, COMBED, OR OTHERWISE PROCESSED FOR SPINNING.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.22	Synthetic staple fibers, carded, combed, or otherwise processed for spinning: acrylic or modacrylic (provided for in subheading 5506.30.00)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1415. NITROCELLULOSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.23	Cellulose nitrates (nitrocellulose, including collodions) (CAS 9004-70-0) (provided for in subheading 3912.20.00)	4.4%	No change	No change	On or before 12/31/2009	".

SEC. 1416. POTASSIUM SORBATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.24	Potassium sorbate (CAS No. 24634–61–5) (provided for in subheading 2916.19.10)	1.4%	No change	No change	On or before 12/31/2009	”.

SEC. 1417. SORBIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.25	Sorbic acid (CAS No. 110–44–1) (provided for in subheading 2916.19.20)	1.9%	No change	No change	On or before 12/31/2009	”.

SEC. 1418. CERTAIN CAPERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.26	Capers, prepared or preserved by vinegar other than such goods in immediate containers each holding 3.4 kg or less (provided for in subheading 2001.90.20)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1419. CERTAIN PEPPERONCINI PREPARED OR PRESERVED OTHERWISE THAN BY VINEGAR OR ACETIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.27	Pepperoncini, prepared or preserved otherwise than by vinegar, not frozen (provided for in subheading 2005.90.55)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1420. CERTAIN CAPERS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.28	Capers, prepared or preserved by vinegar in immediate containers each holding more than 3.4 kg (provided for in subheading 2001.90.10)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1421. CERTAIN PEPPERONCINI PREPARED OR PRESERVED BY VINEGAR OR ACETIC ACID IN CONCENTRATIONS AT 0.5 PERCENT OR GREATER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.29	Pepperoncini, prepared or preserved by vinegar (provided for in subheading 2001.90.38)	2.2%	No change	No change	On or before 12/31/2009	”.

SEC. 1422. CERTAIN PEPPERONCINI PREPARED OR PRESERVED OTHERWISE THAN BY VINEGAR OR ACETIC ACID IN CONCENTRATIONS LESS THAN 0.5 PERCENT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.30	Giardiniera, prepared or preserved otherwise than by vinegar, not frozen (provided for in subheading 2005.90.55)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1423. CHLORAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.31	Trichloroacetaldehyde (CAS No. 75–87–6) (provided for in subheading 2913.00.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1424. IMIDACLOPRID TECHNICAL (IMIDACLOPRID).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.32	1-[(6-Chloro-3-pyrdinyl)methyl]-N-nitro-2-imidazolidinimine (Imidacloprid) (CAS No. 138261–41–3) (provided for in subheading 2933.39.27)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1425. TRIADIMEFON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.33	1-(4-Chlorophenoxy)–3,3-dimethyl-1-(1H-1,2,4-triazol-1-y1)–2-butanone (CAS No. 43121–43–3) (Triadimefon) (provided for in subheading 2933.99.22)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1426. POLYETHYLENE HE1878.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.34	Polyethylene HE1878 (CAS No. 25087–34–7), with l-butene as comonomer (provided for in subheading 3901.20.50)	3.6%	No change	No change	On or before 12/31/2009	”.

SEC. 1427. THIACLOPRID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.35	(Z)-[3-[(6-chloro-3-pyridinyl)methyl]-2-thiazolidinylidene]cyanamide (thiacloprid) (CAS No. 111988–49–9) (provided for in subheading 2934.10.10)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1428. PYRIMETHANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.36	4,6-Dimethyl-N-phenyl-2-pyrimidinamine (pyrimethanil) (CAS No. 53112–28–0) (provided for in subheading 2933.59.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1429. FORAMSULFURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.37	Foramsulfuron (Benzamide, 2-(((((4,6-dimethoxy-2-pyrimidinyl)amino) carbonyl)amino)sulfonyl)–4-(formylamino)- N,N-dimethyl-,) (CAS No. 173159–57–4), in bulk or put up in forms or packaging for retail sale (provided for in subheading 2935.00.75 or 3808.30.15)	2.6%	No change	No change	On or before 12/31/2009	”.

SEC. 1430. FENAMIDONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.38	(5S)–3,5-Dihydro-5- methyl-2-(methylthio)- 5-phenyl-3-(phenylamino)-4H-imidazol-4-one (Fenamidone) (CAS No. 161326–34–7) (provided for in subheading 2933.29.35)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1431. CYCLANILIDE TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.39	1-(2,4-Dichlorophenylaminocarbonyl)cyclopropane-carboxylic acid (Cyclanilide) (CAS No. 113136–77–9) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1432. PARA-BENZOQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.40	1,4-Benzoquinone (CAS No. 106–51–4) (provided for in subheading 2914.69.90)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1433. O-ANISIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.41	o-Anisidine (CAS No. 90–04–4) (provided for in subheading 2922.22.10)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1434. 2,4-XYLIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.43	2,4-Xylidine (CAS No. 95–68–1) (provided for in subheading 2921.49.10)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1435. CROTONALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.44	Crotonaldehyde (2-butenaldehyde) (CAS No. 4170–30–3) (provided for in subheading 2912.19.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1436. BUTANEDIOIC ACID, DIMETHYL ESTER, POLYMER WITH 4-HYDROXY-2,2,6,6,-TETRAMETHYL-1-PIPERIDINEETHANOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.47	Butanedioic acid, dimethyl ester, polymer with 4-hydroxy-2,2,6,6,-tetramethyl-1-piperidineethanol (CAS No. 65447–77–0) (provided for in subheading 3907.99.00)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1437. MIXTURES OF CAS NOS. 106990-43-6 AND 65447-77-0.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.48	1,3,5-Triazine-2,4,6-triamine, N,N‴-[1,2-ethanediylbis[[[4,6-bis[butyl (1,2,2,6,6-pentamethyl-4-piperidinyl)amino]-1,3,5-triazine-2-yl]imino]-3,1-propanediyl]]bis[N′,N″-dibutyl-N′,N″-bis(1,2,2,6,6-pentamethyl-4-piperidinyl)- (CAS No. 106990–43–6) and Butanedioic acid, dimethylester polymer with 4-hyroxy-2,2,6,6-tetramethyl-1-piperdine ethanol (CAS No. 65447–77–0) (Provided for in subheading 3812.30.90)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1438. MCPA.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.54	2-Ethylhexyl (4-chloro-2-methylphenoxy)acetate (CAS No. 29450–45–1) (provided for in subheading 2918.90.20)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1439. BRONATE ADVANCED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.55	Formulations of 2,6-dibromo-4-cyanophenyl octanoate (CAS No. 1689–99–2), 2, 6-dibromo-4-cyanophenyl heptanoate (CAS No. 56634–95–8), and 2-ethylhexyl (4-chloro-2-methylphenoxy)acetate (CAS No. 29450–45–1) (provided for in subheading 3808.30.15)	2.8%	No change	No change	On or before 12/31/2009	”.

SEC. 1440. BROMOXYNIL OCTANOATE TECH.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.56	2,6-dibromo-4-cyanophenyl octanoate (CAS No. 1689–99–2) (provided for in subheading 2926.90.25)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1441. BROMOXYNIL MEO.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.57	2,6-Dibromo-4-cyanophenyl octanoate/heptanoate (CAS Nos. 1689–99–2 and 56634–95–8) (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1442. HYDRAULIC CONTROL UNITS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.62	Hydraulic control units designed for use in braking systems of hybrid motor vehicles of heading 8703 (provided for in subheading 9032.89.60)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1443. SHIELD ASY-STEERING GEAR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.63	Steering gear assemblies for single-pinion constant-ratio electronic power assisted steering systems rated at 80 amperes at 12V, the foregoing designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8708.99.73)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1444. 2,4-DICHLOROANILINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.64	2,4-Dichloroaniline (CAS No. 554–00–7) (provided for in subheading 2921.42.18)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1445. 2-ACETYLBUTYROLACTONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.65	2-Acetylbutyrolactone (CAS No. 517–23–7) (provided for in subheading 2932.29.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1446. ALKYLKETONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.66	1-(4-Chlorophenyl)–4, 4-dimethyl-3-pentanone (CAS No. 66346–01–8) (provided for in subheading 2914.70.40)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1447. CYFLUTHRIN (BAYTHROID).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.67	Cyano(4-fluoro-3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)–2,2-dimethylcyclopropanecarboxylate (Cyfluthrin, excluding β-Cyfluthrin) (CAS No. 68359–37–5) (provided for in subheading 2926.90.30)	3.5%	No change	No change	On or before 12/31/2009	".

SEC. 1448. BETA-CYFLUTHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.68	Reaction mixture comprising the enantiomeric pair (R)-α-cyano-4-fluoro-3-phenoxybenzyl (1S,3S)–3-(2,2-dichlorovinyl)–2,2-dimethylcyclopropanecarboxylate and (S)-α-cyano-4-fluoro-3-phenoxybenzyl (1R,3R)–3-(2,2-dichlorovinyl)–2,2-dimethylcyclopropanecarboxylate in ratio 1:2 with the enantiomeric pair (R)-α-cyano-4-fluoro-3-phenoxybenzyl (1S,3R)–3-(2,2-dichlorovinyl)–2,2-dimethylcyclopropanecarboxylate and (S)-α-cyano-4-fluoro-3-phenoxybenzyl (1R,3S)–3-(2,2-dichlorovinyl)–2,2-dimethylcyclopropanecarboxylate (β-Cyfluthrin) (CAS No. 68359–37–5) (provided for in subheading 2926.90.30)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1449. CYCLOPROPANE-1,1-DICARBOXYLIC ACID, DIMETHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.69	Cyclopropane-1,1-dicarboxylic acid, dimethyl ester (CAS No. 6914–71–2) (provided for in subheading 2917.20.00)	1.8%	No change	No change	On or before 12/31/2009	".

SEC. 1450. SPIROXAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.70	8-(1,1-Dimethylethyl)-N-ethyl-N-propyl-1,4-dioxaspiro[4,5]decane-2-methanamine (CAS 118134–30–8) (provided for in subheading 2932.99.90)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1451. SPIROMESIFEN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.71	3,3-Dimethylbutanoic acid, 2-oxo-3-(2,4,6-trimethylphenyl)–1-oxaspiro[4.4]non-3-en-yl ester (CAS 283594–90–1) (provided for in subheading 2932.29.10)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1452. 4-CHLOROBENZALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.72	4-Chlorobenzaldehyde (CAS No. 104–88–1) (provided for in subheading 2913.00.40)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1453. OXADIAZON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.73	5-*tert*-butyl-3-(2,4-dichloro-5-isopropoxyphenyl)–1,3,4-oxadiazol-2(3H)-one (Oxadiazon) (CAS No. 19666–30–9) (provided for in subheading 2934.99.11)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1454. NAHP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.74	2-(1,1-Dimethylethyl)–5-hydroxypyrimidine, sodium salt (CAS No. 146237–62–9) (provided for in subheading 2933.59.70)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1455. PHOSPHORUS THIOCHLORIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.10.75	Phosphorus Thiochloride (CAS No. 3982–91–0) (provided for in subheading 2851.00.00)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1456. TRIFLOXYSTROBIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.76.	Methyl (E)-methoxyimino-{(E)-α-[1-(α,α,α-trifluoro-m-tolyl)ethylideneaminooxy]-o-tolyl}acetate (Trifloxystrobin) (CAS No. 141517–21–7) (provided for in subheading 2929.90.20)	2.4%	No change	No change	On or before 12/31/2009	”.

SEC. 1457. PHOSPHORIC ACID, LANTHANUM SALT, CERIUM TERBIUM-DOPED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.77	Phosphoric acid, lanthanum salt, cerium terbium-doped (CAS No. 95823–34–0) (provided for in subheading 2846.90.80)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1458. LUTETIUM OXIDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.78	Lutetium oxide (CAS No. 12032–20–1) (provided for in subheading 2846.90.80)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1459. ACM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.79	(3-Acetoxy-3-cyanopropyl) methylphosphinic acid, butyl ester (CAS No. 167004–78–6) (provided for in subheading 2931.00.90)	0.7%	No change	No change	On or before 12/31/2009	”.

SEC. 1460. PERMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.80	(3-Phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)–2,2-dimethylcyclopropanecarboxylate (Permethrin) (CAS No. 52645–53–1) (provided for in subheading 2916.20.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1461. THIDIAZURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.81	N-Phenyl-N -(1,2,3-thiadiazol-5-yl)urea (Thidiazuron) CAS No. 51707–55–2), whether or not mixed with application adjuvants (provided for in subheading 2934.99.15 or 3808.30.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1462. FLUTOLANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.82	N-[3-(1-Methylethoxy)phenyl]-2-(trifluoromethyl)benzamide (Flutolanil) (CAS No. 66332–96–5) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1463. RESMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.83	[5-(Phenylmethyl)–3-furanyl]methyl 2,2-dimethyl-3-(2-methyl-1-propenyl) cyclopropanecarboxylate (Resmethrin) (CAS No. 10453–86–8) (provided for in subheading 2932.19.10)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1464. CLOTHIANIDIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.84	(E)–1-(2-Chloro-1,3-thiazol-5-ylmethyl)–3-methyl-2-nitroguanidine (Clothianidin) (CAS No. 210880–92–5) (provided for in subheading 2934.10.90)	5.4%	No change	No change	On or before 12/31/2009	”.

SEC. 1465. CERTAIN MASTER CYLINDER ASSEMBLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.92	Master cylinder assemblies for braking systems, not incorporating a vacuum booster, the foregoing designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8708.39.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1466. CERTAIN TRANSAXLES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.93	Transaxles, each incorporating an integral electronic controller, the foregoing designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8708.40.20)	1.5%	No change	No change	On or before 12/31/2009	”.

SEC. 1467. CONVERTER ASY.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.94	Static converters capable of converting 300 V direct current to 12 V direct current, designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8504.40.95)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1468. MODULE AND BRACKET ASY-POWER STEERING.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.95	Controllers for electronic power assisted steering systems, rated at 80 amperes at 12 V, designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8537.10.90)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1469. UNIT ASY-BATTERY HI VOLT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.96	Nickel metal-hydride storage batteries, exceeding 300 V, the foregoing designed for use in hybrid motor vehicles of heading 8703 (provided for in subheading 8507.80.80)	2.8%	No change	No change	On or before 12/31/2009	”.

SEC. 1470. CERTAIN ARTICLES OF NATURAL CORK.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.10.99	Articles of natural cork, not elsewhere specified or included (provided for in subheading 4503.90.60)	6%	No change	No change	On or before 12/31/2009	”.

SEC. 1471. GLYOXYLIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.01	Glyoxylic acid (CAS No. 298–12–4) (provided for in subheading 2918.30.90)	1.6%	No change	No change	On or before 12/31/2009	".

SEC. 1472. CYCLOPENTANONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.02	Cyclopentanone (CAS No. 120–92–3) (provided for in subheading 2914.29.50)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1473. MESOTRIONE TECHNICAL.

(a) CALENDAR YEAR 2006.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.03	2-[4-(Methylsulfonyl)–2-nitrobenzoyl]-1,3-cyclohexanedione (Mesotrione) (CAS No. 104206–82–8) (provided for in subheading 2930.90.10)	6.04%	No change	No change	On or before 12/31/2006	".

(b) CALENDAR YEAR 2007.—

(1) IN GENERAL.—Heading 9902.11.03, as added by subsection (a), is amended—

(A) by striking "6.04%" and inserting "6.08%"; and

(B) by striking "12/31/2006" and inserting "12/31/2007".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2007.

(c) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.11.03, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "6.08%" and inserting "6.11%"; and

(B) by striking "12/31/2007" and inserting "12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

SEC. 1474. MALONIC ACID-DINITRILE 50% NMP.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.04	50% solution of malononitrile in methyl-2-pyrrolidone solvent (CAS Nos. 109–77–3 and 872–50–4) (provided for in subheading 3824.90.9190)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1475. FORMULATIONS OF NOA 446510.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.05	Formulations of NOA 446510 which include NOA 446510 Technical, 2-(4-chloro-phenyl)-N-[2-(3-methoxy-4-prop-2-ynyloxy-phenyl)ethyl]-2-prop-2-ynyloxyacetamide (CAS No. 374726–62–2) (provided for in subheading 3808.20.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1476. DEMBB DISTILLED-ISO TANK.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.06	2-Bromo-1,3-diethyl-5-methylbenzene (CAS No. 314084–61–2) (DEMBB) (provided for in subheading 2903.69.80)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1477. METHYLIONONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.10	3-Methyl-4-(2,6,6-trimethylcyclohex-2-enyl)but-3-en-2-one (Methylionone) (CAS No. 1335–46–2) (provided for in subheading 2914.23.00)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1478. CERTAIN ACRYLIC FIBER TOW.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.11	Acrylic fiber tow (polyacrylonitrile tow) containing by weight a minimum of 92 percent acrylonitrile, not more than 0.1 percent zinc and from 4 to 8 percent water, imported in the form of from 1 to 12 sub-bundles crimped together, each containing 24,000 filaments (plus or minus 0.06 percent) and with average filament denier of 1.5 decitex (plus or minus 0.08 percent) (provided for in subheading 5501.30.00)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1479. CERTAIN ACRYLIC FIBER TOW.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.12	Acrylic fiber tow (polyacrylonitrile tow) containing by weight a minimum of 92 percent acrylonitrile, not more than 0.1 percent zinc and from 2 to 8 percent water, imported in the form of 6 sub-bundles crimped together, each containing 45,000 filaments (plus or minus 0.06 percent) and with average filament denier of either 1.48 decitex (plus or minus 0.08 percent) or 1.32 decitex (plus or minus 0.09 percent) (provided for in subheading 5501.30.00)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1480. MKH 6561 ISOCYANATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.13	2-(Carbomethoxy) benzenesulfonyl isocyanate (CAS No. 74222–95–0) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1481. ENDOSULFAN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.14	6,7,8,9,10,10-Hexachlorohexahydromethano-2,4,3-benzodioxathiepin-3-oxide (Endosulfan) (CAS No. 115–29–7) (provided for in subheading 2920.90.50 or 3808.10.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1482. TETRACONAZOLE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.15	1-[2-(2,4-dichlorophenyl)–3-(1,1,2,2-tetrafluoroethoxy)propyl]-1H-1,2,4-triazole (Tetraconazole) (CAS No. 112281–77–3) (provided for in subheading 2933.99.22)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1483. M-ALCOHOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.16	2-(2,4-Dichlorophenyl)–3-(1H-1,2,4-triazol-1-yl)propanol (CAS No. 112281–82–0) (provided for in subheading 2933.99.82)	1%	No change	No change	On or before 12/31/2009	”.

SEC. 1484. CERTAIN MACHINES FOR USE IN THE ASSEMBLY OF MOTORCYCLE WHEELS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.17	Wheel spoke tightening machines (provided for in subheading 8479.89.98), for use with wheels of vehicles of heading 8711	Free	No change	No change	On or before 12/31/2009	".

SEC. 1485. DELTAMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.26	(S)-α-Cyano-3-phenoxybenzyl (1R,3R)–3-(2,2-dibromovinyl)–2,2-dimethylcyclopropanecarboxylate (Deltamethrin) (CAS No. 52918–63–5) (provided for in subheading 2926.90.30)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1486. PALM FATTY ACID DISTILLATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.32	Monocarboxylic fatty acids derived from palm oil (provided for in subheading 3823.19.20)	1%	No change	No change	On or before 12/31/2009	".

SEC. 1487. 4-METHOXY-2-METHYLDIPHENYLAMINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.35	4-Methoxy-2-methyldiphenylamine (CAS No. 41317–15–1) (provided for in subheading 2922.29.60)	1.1%	No change	No change	On or before 12/31/2009	".

SEC. 1488. 2-METHYLHYDROQUINONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.36	2-Methylhydroquinone (CAS No. 95–71–6) (provided for in subheading 2907.29.90)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1489. 1-FLUORO-2-NITROBENZENE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.37	1-Fluoro-2-nitrobenzene (CAS No. 1493–27–2) (provided for in subheading 2904.90.30)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1490. COSMETIC BAGS WITH A FLEXIBLE OUTER SURFACE OF REINFORCED OR LAMINATED POLYVINYL CHLORIDE (PVC).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.43	Vanity cases that are of a soft sided construction, of reinforced or laminated polyvinyl chloride plastics, and are of a kind normally carried in the pocket or in the handbag and used to contain and apply cosmetic preparations (provided for in subheading 4202.12.20)	13.3%	No change	No change	On or before 12/31/2009	”.

SEC. 1491. MIXTURES OF METHYL 4-IODO-2-[3-(4-METHOXY-6-METHYL-1,3,5-TRIAZIN-2-YL)UREIDOSULFONYL]BENZOATE, SODIUM SALT (IODOSULFURON METHYL, SODIUM SALT).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.44	Mixtures of methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5- triazin-2-yl) ureidosulfonyl] benzoate, sodium salt (Iodosulfuron methyl, sodium salt) (CAS No. 144550–36–7) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1492. ETHYL 4,5-DIHYDRO-5,5-DIPHENYL-1,2-OXAZOLE-3-CARBOXYLATE (ISOXADIFEN-ETHYL).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.45	Ethyl 4,5-dihydro-5,5-diphenyl-1,2-oxazole-3-carboxylate (Isoxadifen-ethyl) (CAS No. 163520–33–0) (provided for in subheading 2934.99.39)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1493. (5-CYCLOPROPYL-4-ISOXAZOLYL)[2-(METHYLSULFONYL)–4-(TRIFLUOROMETHYL)PHENYL]METHANONE (ISOXAFLUTOLE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.46	(5-cyclopropyl-4-isoxazolyl)[2-(methylsulfonyl)–4-(trifluoromethyl) phenyl]methanone (Isoxaflutole) (CAS No. 141112–29–0) (provided for in subheading 2934.99.15)	4.8%	No change	No change	On or before 12/31/2009	".

SEC. 1494. METHYL 2-[(4,6-DIMETHOXYPYRIMIDIN-2-YLCARBAMOYL)SULFAMOYL]-α-(METHANESULFONAMIDO)-P-TOLUATE (MESOSULFURON-METHYL) WHETHER OR NOT MIXED WITH APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.48	Methyl 2-[(4,6-dimethoxypyrimidin-2-ylcarbamoyl)sulfamoyl]-α-(methanesulfonamido)-p-toluate (Mesosulfuron-methyl) (CAS No. 208465–21–8) whether or not mixed with application adjuvants (provided for in subheading 2935.00.75 or 3808.30.15)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1495. MIXTURES OF FORAMSULFURON AND IODOSULFURON-METHYL-SODIUM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.49	Mixtures of N,N-dimethyl-2[3-(4,6-dimethoxypyrimidin-2-yl) ureidosulfonyl]-4-formylaminobenzamide (Foramsulfuron) (CAS No. 173159–57–4), methyl 4-iodo-2-[3-(4-methoxy-6-methyl-1,3,5-triazin-2-yl) ureidosulfonyl]benzoate, sodium salt (Iodosulfuron-methyl-sodium) (CAS No. 144550–36–7) and application adjuvants (provided for in subheading 3808.30.15) ...	Free	No change	No change	On or before 12/31/2009	".

SEC. 1496. VULCUREN UPKA 1988.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.54	1,6-Bis(N,N'-dibenzylthiocarbamoyldithio)hexane (CAS No. 151900–44–6) (provided for in subheading 2930.20.20)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1497. VULLCANOX 41010 NA/LG.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.55	N-Isopropyl-N’-phenyl-p-phenylenediamine (CAS No. 101–72–4) (provided for in subheading 2921.51.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1498. VULKAZON AFS/LG.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.56	Pentaerythritolbis(tetrahydrobenzaldehyde acetal) (CAS No. 6600–31–3) (provided for in subheading 2932.99.90)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1499. P-ANISALDEHYDE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.57	P-Anisaldehyde (CAS No. 123–11–5) (Benzoldehyde, 4-methoxy-) (provided for in subheading 2912.49.10)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1500. 1,2-PENTANEDIOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.60	1,2-Pentanediol (CAS No. 5343–92–0) (provided for in subheading 2905.39.90)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1501. AGRUMEX.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following:

“	9902.11.62	o-tert-Butylcyclohexyl acetate, cis form (CAS No. 20298–69–9) (Agrumex) (Cyclohexanol, 2-(1,1-dimethyl-) (provided for in subheading 2915.39.45)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1502. COHEDUR RL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.63	Mixtures of resorcinol (CAS No. 108–46–3), hexamethylolmelamine ether (CAS No. 3089–11–0) and dibutyl phthalate (CAS No. 84–74–2) (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1503. FORMULATIONS OF PROSULFURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.64	Mixtures of Prosulfuron (1-(4-methoxy-6-methyl-1,3,5-triazin-2-yl)–3-[2-(3,3,3-trifluoropropyl)-phenylsulfonyl]urea) (CAS No. 94125–34–5) and application adjuvants (provided for in sub-heading 3808.30.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1504. LEWATIT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.71	Ion-exchange resins (cationic H form), consisting of copolymers of acrylic acid and diethylene glycol divinyl ether (CAS No. 359785–58–3) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1505. PARA-CHLOROPHENOL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.72	para-Chlorophenol (CAS No. 106–48–9) (provided for in subheading 2908.10.60)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1506. CYPERMETHRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.74	Cyano(3-phenoxyphenyl)methyl 3-(2,2-dichloroethenyl)–2,2-dimethylcyclopropanecarb-oxylate (Cypermethrin) (CAS No. 52315–07–8) (provided for in sub-heading 2926.90.30)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1507. ION-EXCHANGE RESIN POWDER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.78	Ion-exchange resin powder comprised of a copolymer of methacrylic acid cross-linked with divinylbenzene, in the hydrogen ionic form, of a nominal partical size between 0.025mm and 0.150 mm, dried to less than 5% moisture (CAS No. 50602–21–6)(provided for in sub-heading 3914.00.60)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1508. ION-EXCHANGE RESIN POWDER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.79	Ion-exchange resin powder comprised of a copolymer of methacrylic acid cross-linked with divinylbenzene, in the potassium ionic form, of a nominal particle size between 0.025mm and 0.150 mm, dried to less than 10% moisture (CAS No. 65405–55–2) (provided for in subheading 3914.00.60)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1509. DESMODUR E 14.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.80	1,2,3-Propanetriol, polymer with 2,4-diisocyanato-1-methylbenzene, 2-ethyl-2-(hydroxymethyl)–1,3-propanediol, methyloxirane and oxirane (CAS No. 127821–00–5) (provided for in subheading 3909.50.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1510. DESMODUR VP LS 2253.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.82	Hexane, 1,6-diisocyanato-, homopolymer, 3,5-dimethyl-1H-pyrazole-blocked (CAS No. 163206–31–3) (provided for in subheading 3911.90.90)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1511. DESMODUR R-E.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.83	4,4′, 4″-TT Desmodur R-E in solvent (CAS No. 2422–91–5) in solvent (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1512. WALOCEL MW 3000 PFV.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.84	Methyl hydroxyethyl cellulose products containing 30% or greater content of 2-hydroxyethyl methyl ether cellulose (“MHEC”) reaction products with glyoxal (CAS No. 68441–63–4) (provided for in subheading 3912.39.00)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1513. TSME.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.85	ortho/para-Toluenesulfonic acid, methyl ester (TSME) (CAS Nos. 23373–38–8 and 80–48–8) (provided for in subheading 2904.10.32)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1514. WALOCEL VP-M 20660.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.86	Methyl Hydroxyethyl Cellulose with a 77% or greater content of 2-hydroxyethyl methyl ether cellulose (CAS No. 9032–42–2) (provided for in subheading 3912.39.00)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1515. XAMA 2.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.87	Trimethylopropane tris(3-aziridinylpropanoate) (CAS No. 52234–82–9) (provided for in subheading 2933.99.97)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1516. XAMA 7.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.88	Polyfunctional aziridine (CAS No. 57116–45–7) (provided for in subheading 2933.99.97)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1517. CERTAIN CASES FOR TOYS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.90	Cases or containers (provided for in subheading 4202.92.90 and not including goods described in heading 9902.01.81), specially shaped or fitted for, and with labeling, logo or other descriptive information on the exterior of the case or container indicating its intention to be used for, electronic drawing toys or electronic games of heading 9503 or 9504	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1518. CERTAIN CASES FOR TOYS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.91	Cases or containers (provided for in subheadings 4402.12.80 or 4202.92.90), having one or more molded plastic holders, clips or fasteners, for holding a doll or dolls, whether or not the case or container is also capable of holding other goods	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1519. ANILINE 2.5-DISULFONIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.92	Aniline 2,5- disulfonic acid (CAS No. 98–44–2) (1,4-Benzenedisnlfonic acid, 2-amino-) (provided for in subheading 2921.42.90)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1520. 1,4-BENZENEDICARBOXYLIC ACID, POLYMER WITH N,N′-BIS(2-AMINOETHYL)–1,2-ETHANEDIAMINE, CYCLIZED, METHOSULFATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.93	1,4-Benzenedicarboxylic acid, polymer With N,N′-Bis(2-aminoethyl)–1,2-ethanediamine, cyclized, methosulfate (CAS No. 68187–22–4) (provided for in subheading 3908.90.70)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1521. SULFUR BLUE 7.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.94	4-[(4-Amino-3-methylphenyl)amino]phenol, reaction products with sodium sulfide (Sulfur Blue 7) (CAS No. 1327–57–7) (provided for in subheading 3204.19.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1522. FORMALDEHYDE, REACTION PRODUCTS WITH 1,4-BENZENEDIOL AND M-PHENYLENEDIAMINE, SULFURIZED.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.11.95	Formaldehyde, reaction products with 1,4-benzenediol and m-phenylenediamine, sulfurized (CAS No. 110392–46–6) (provided for in subheading 3204.19.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1523. ISOCYANATOSULFONYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.96	2-(Isocyanatosulfonyl)benzoic acid, ethyl ester (CAS No. 77375–79–2) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1524. ISOCYANATOSULFONYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.97	2-(Isocyanatosulfonyl)benzoic acid, methyl ester (CAS No. 74222–95–0) (provided for in subheading 2930.90.29)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1525. GEMIFLOXACIN, GEMIFLOXACIN MESYLATE, AND GEMIFLOXACIN MESYLATE SESQUIHYDRATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.11.99	Gemifloxacin (CAS No. 175463–14–6); gemifloxacin mesylate (CAS No. 210353–53–0 or 204519–65–3); and gemifloxacin mesylate sesquihydrate (CAS No. 210353–56–3) (the foregoing provided for in subheading 2933.99.46)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1526. BUTRALIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.01	Butralin (CAS No. 33629-47-9) (Benzenamine, 4-(1,1-dimethylethyl)-N- (1-methylpropyl)-2,6-dintro-) (provided for in subheading 2921.43.90)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1527. SPIRODICLOFEN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.02	2,2-Dimethylbutanoic acid, 3-(2,4-dichlorophenyl)–2-oxo-1-oxaspiro(4.5)dec-3-en-4-yl ester (Spirodiclofen) (CAS No. 148477–71–8) (provided for in subheading 2932.29.10)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1528. PROPAMOCARB HCL (PREVICUR).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.03	Mixtures of propyl 3-(dimethylamino) propylcarbamate monohydrochloride (Propamocarb hydrochloride) (CAS No. 25606–41–1) and application adjuvants (provided for in subheading 3808.20.50)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1529. DESMODUR IL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.04	Poly(toluene diisocyanate) (CAS No. 26006–20–2) dissolved in organic solvents (provided for in subheading 3911.90.45)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1530. CHLOROACETONE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.05	1-Chloro-2-propanone (CAS No. 78–95–5) (provided for in subheading 2914.70.90)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1531. IPN (ISOPHTHALONITRILE).

(a) CALENDAR YEAR 2006.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.06	1,3-Benzenedicarbonitrile (CAS No. 626–17–5) (provided for in subheading 2926.90.48)	3.04%	No change	No change	On or before 12/31/2006	".

(b) CALENDAR YEAR 2007.—

(1) IN GENERAL.—Heading 9902.12.06, as added by subsection (a), is amended—

(A) by striking "3.04%" and inserting "3.23%"; and

(B) by striking "On or before 12/31/2006" and inserting "On or before 12/31/2007".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2007.

(c) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.12.06, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "3.23%" and inserting "3.4%"; and

(B) by striking "On or before 12/31/2007" and inserting "On or before 12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

SEC. 1532. NOA 446510 TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.07	4-Chloro-N-[2-[3-methoxy-4-(2-propynylox-y)phenyl]ethyl]-α-(2-propynylox-y)benzeneacetamide (Mandipropamid) (CAS No. 374726–62–2) (provided for in subheading 2924.29.47)	1.2%	No change	No change	On or before 12/31/2009	”.

SEC. 1533. HEXYTHIAZOX TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.08	trans-5-(4-Chlorophenyl)-N-cyclohexyl-4-methyl-2-oxothiazolidine-3-carboxamide (Hexythiazox Technical) (CAS No. 78587–05–0) (provided for in subheading 2934.10.10)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1534. CRELAN (SELF-BLOCKED CYCLOALIPHATIC POLYURETDIONE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.10	2-Oxepanone polymer with 1,4-butanediol and 5-isocyanato-1-(isocyanatomethyl)–1,3,3-trimethylcyclohexane, 2-ethyl-1-hexanol-blocked (CAS No. 189020–69–7) (provided for in subheading 3909.50.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1535. ASPIRIN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.11	o-Acetylsalicylic acid (aspirin) (CAS No. 50–78–2) (provided for in subheading 2918.22.10)	3.0%	No change	No change	On or before 12/31/2009	”.

SEC. 1536. DESMODUR BL XP 2468.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.12	Copolymer of methyl ethyl ketoxime and toluenediisocyanate (CAS No. 352462–03–4) (provided for in subheading 3911.90.45)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1537. DESMODUR RF-E.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.17	Mixtures of tris(4-isocyanatophenyl)thiophosphate (CAS No. 4151–51–3) and ethyl acetate and monochlorobenzene as solvents (provided for in subheading 3824.90.28)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1538. DESMODUR HL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.18	Benzene, 1,3-diisocyanatomethyl-, polymer with 1,6-diisocyanatohexane (CAS No. 63368–95–6) dissolved in n-butyl acetate (provided for in subheading 3911.90.45)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1539. D-MANNOSE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.19	D-Mannose (CAS No. 3458–28–4) (provided for in subheading 2940.00.60)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1540. CERTAIN CAMEL HAIR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.20	Camel hair, processed beyond the degreased or carbonized condition (provided for in subheading 5102.19.90)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1541. WASTE OF CAMEL HAIR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.21	Waste of camel hair (provided for in subheading 5103.20.00)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1542. CERTAIN CAMEL HAIR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.22	Camel hair carded or combed (provided for in subheading 5105.39.00)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1543. WOVEN FABRIC OF VICUNA HAIR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.23	Woven fabrics containing 85 percent or more by weight of vicuna hair (provided for in subheadings 5111.11.70, 5111.19.60, 5112.11.60, or 5112.19.95)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1544. CERTAIN CAMEL HAIR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.24	Camel hair, not processed in any manner beyond the degreased or carbonized condition (provided for in subheading 5102.19.20)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1545. NOILS OF CAMEL HAIR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.25	Noils of camel hair (provided for in subheading 5103.10.00)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1546. CHLOROACETIC ACID, ETHYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.33	Chloroacetic acid, ethyl ester (CAS No. 105–39–5) (provided for in subheading 2915.40.50)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1547. CHLOROACETIC ACID, SODIUM SALT.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.34	Chloroacetic acid, sodium salt (CAS No. 3926–62–3) (provided for in subheading 2915.40.50)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1548. LOW EXPANSION LABORATORY GLASS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.39	Laboratory, hygienic, or pharmaceutical glassware, whether or not graduated or calibrated, of low expansion borosilicate glass or alumino-borosilicate glass, having a linear coefficient of expansion not exceeding 3.3 x 10^7 per Kelvin within a temperature range of 0 to 300° C (provided for in subheading 7017.20.00)	3.6%	No change	No change	On or before 12/31/2009	”.

SEC. 1549. STOPPERS, LIDS, AND OTHER CLOSURES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.40	Stoppers, lids, and other closures of low expansion borosilicate glass or alumino-borosilicate glass, having a linear coefficient of expansion not exceeding 3.3 x 10^7 per Kelvin within a temperature range of 0 to 300° C, produced by automatic machine (provided for in subheading 7010.20.20) or produced by hand (provided for in subheading 7010.20.30)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1550. PIGMENT YELLOW 213.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.41	1,4- Benzenedicarboxylic acid, 2-[[2-oxo-1-[[1,2,3,4-tetrahydro-7-methoxy-2,3-dioxo-6-quinoxalinyl) amino]carbonyl] propyl]azo]-, dimethyl ester (Pigment Yellow 213) (CAS No. 220198–21–0) (provided for in subheading 3204.17.60)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1551. INDOXACARB.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.42	(4aS) -7-Chloro-2, 5-dihydro-2- [[(methoxycarbonyl)[4-(trifluoromethoxy) phenyl] amino] carbonyl]-indeno [1,2-e][1,3,4] oxadiazine-4a (3H)-carboxylic acid methyl ester (CAS No. 173584–44–6) (provided for in subheading 2934.99.16)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1552. DIMETHYL CARBONATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.43	Dimethyl carbonate (CAS No. 616–38–6) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1553. 5-CHLORO-1-INDANONE (EK179).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.44	5-Chloro-1-indanone (CAS No. 42348–86–7) (provided for in subheading 2914.39.90)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1554. MIXTURES OF FAMOXADONE AND CYMOXANIL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.45	Mixtures of 5-methyl-5-(4-phenoxyphenyl)–3-(phenylamino)–2,4-oxazolidinedione] (famoxadone) (CAS No. 131807–57–3), 2-cyano-N-[(ethylamino)carbonyl]-2-(methoxyimino)acetamide (Cymoxanil) (CAS No. 57966–95–7) and application adjuvants (provided for in subheading 3808.20.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1555. DECANEDIOIC ACID, BIS(2,2,6,6-TETRAMETHYL-4-PIPERIDINYL) ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.47	Decanedioic acid, bis(2,2,6,6-tetramethyl-4-piperidinyl) ester (CAS No. 52829–07–9) (provided for in subheading 2933.39.91)	Free	No change	No change	On or Before 12/31/2009	”.

SEC. 1556. ACID BLUE 80.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.49	Acid Blue 80 (CAS No. 4474–24–2) (provided for in subheading 3204.12.50)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1557. PIGMENT BROWN 25.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.50	Pigment Brown 25 (CAS No. 6992–11–6) (provided for in subheading 3204.17.04)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1558. FORMULATIONS OF AZOXYSTROBIN.

(a) CALENDAR YEAR 2006.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.51	Mixtures of benzeneacetic acid, (α E)- 2-[[6-(2-cyanophenoxy)–4-pyrimidinyl]oxy]-α-(methoxymethylene)-, methyl ester (Azoxystrobin) (CAS No. 131860–33–8) and application adjuvants (provided for in subheading 3808.20.15)	6.14%	No change	No change	On or before 12/31/2006	".

(b) CALENDAR YEAR 2007.—

(1) IN GENERAL.—Heading 9902.12.51, as added by subsection (a), is amended—

(A) by striking "6.14%" and inserting "6.15%"; and

(B) by striking "On or before 12/31/2006" and inserting "On or before 12/31/2007".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2007.

(c) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.12.51, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "6.15%" and inserting "6.17%"; and

(B) by striking "On or before 12/31/2007" and inserting "On or before 12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

SEC. 1559. FORMULATIONS OF PINOXADEN/CLOQUINTOCET.

(a) CALENDAR YEARS 2006 AND 2007.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.52	Mixtures of 8(2,6-diethyl-p-tolyl)–1,2,4,5-tetrahydro-7-oxo-7H-pyrazolo[[1,2-d][1,4,5] oxadiazepin-9-yl 2,2-dimethylpropionate (Pinoxaden) (CAS No. 243973–20–8), acetic acid, [5-chloro-8-quinolinyl]oxy]-, 1-methylhexyl ester (Cloquintocet) (CAS No. 99607–70–2) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2007	".

(b) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.12.52, as added by subsection (a), is further amended—

(A) by striking "Free" and inserting "1.74%"; and

(B) by striking "On or before 12/31/2007" and inserting "On or before 12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

SEC. 1560. MIXTURES OF DIFENOCONAZOLE/MEFENOXAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.53	Mixtures of 1H-1,2,4-triazole, 1-((2-chlorophenoxy)phenyl)–4-methyl-1,3-dioxolan-2-yl)methyl)-(Difenoconazole) (CAS No. 119446–68–3), (R,S)–2-((2,6-dimethylphenyl) methoxyacetylamino) propionic acid, methyl ester (Mefenoxam) (CAS Nos. 70630–17–0, and 69516–34–3) and application adjuvants (provided for in subheading 3808.20.15)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1561. FLUDIOXINIL TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.54	1H-Pyrrole-3-carbonitrile, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)-(fludioxinil) (CAS No. 131341–86–1) (provided for in subheading 2934.99.12)	1.6%	No change	No change	On or before 12/31/2009	".

SEC. 1562. MIXTURES OF CLODINAFOP-PROPARGYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.55	Mixtures of propionic acid, 2-(4-((5-chloro-3-fluoro-2-pyridynyl)oxy)phenoxy-2-propynyl ester, (clodinafop-propargyl) (CAS No. 105512–06–9) (provided for in subheading 3808.30.15)	1.7%	No change	No change	On or before 12/31/2009	".

SEC. 1563. AVERMECTIN B, 1,4″-DEOXY-4″-METHYLAMINO-, (4″R)-, BENZOATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.56	Avermectin B, 1,4″-deoxy-4″-methylamino-, (4″R)-, benzoate (CAS No. 155569–91–8) (provided for in subheading 3824.90.91 or 2932.29.50)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1564. CLOQUINTOCET-MEXYL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.57	Acetic acid, 5-chloro-8-quinolinoxy-, 1-methylhexyl ester (Cloquintocet-mexyl) (CAS No. 99607–70–2) (provided for in subheading 2933.49.30)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1565. METALAXYL-M TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.58	(R,S)–2-((2,6-Dimethylphenyl) methoxyacetylamino) propionic acid, methyl ester (Metalaxyl-M and L-Metalaxylfenoxam) (CAS Nos. 70630–17–0 and 69516–34–3) (provided for in subheading 2924.29.47)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1566. CYPROCONAZOLE TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.59	[α-(4-Chlorophenyl)-α-(1-cyclopropylethyl)–1H-1–1,2,4-triazole-1-ethanol (Cyproconazole) (CAS No. 94361–06–5) (provided for in subheading 2934.99.12)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1567. PINOXADEN TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.60	8-(2,6-Diethyl-4-methylphenyl)–1,2,4,5-tetrahydro-7-oxo-7H-pyrazolo[1,2-d][1,4,5]oxadiazepin-9-yl 2,2-dimethylpropanoate (Pinoxaden) (CAS No. 243973–20–8) (provided for in subheading 2934.99.15)	1.8%	No change	No change	On or before 12/31/2009	”.

SEC. 1568. MIXTURES OF TRALKOXYDIM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.12.61	Mixtures of 2-[1-(ethoxyimino)propyl]-3-hydroxy-5-(2,4,6-trimethylphenyl)–2-cyclohexen-1-one (Tralkoxydim) (CAS No. 87820–88–0) as the active ingredient and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1569. CERTAIN CHEMICALS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new headings:

"	9902.12.72	Mixtures of zinc dialkyldithiophosphate (CAS No. 6990–43–8) with an elastomer binder of ethylene-propylene-diene monomer and ethyl vinyl acetate, dispersing agents and silica (provided for in subheading 3812.10.50)	Free	No change	No change	On or before 12/31/2009
	9902.12.73	Mixtures of dithiocarbamate, thiazole, thiuram and thiourea with an elastomer binder of ethylene-propylene-diene monomer and ethyl vinyl acetate, and dispersing agents (provided for in subheading 3812.10.50)	Free	No change	No change	On or before 12/31/2009
	9902.12.74	Mixtures of caprolactam disulfide (CAS No. 23847–08–7) with an elastomer binder of ethylene-propylene-diene monomer and ethyl vinyl acetate, and dispersing agents (provided for in subheading 3812.10.50)	Free	No change	No change	On or before 12/31/2009
	9902.12.75	Mixtures of N′-(3,4-dichloro-phenyl)-N,N-dimethylurea (CAS No. 330–54–1) with acrylate rubber (provided for in subheading 3812.10.50)	Free	No change	No change	On or before 12/31/2009
	9902.12.76	Mixtures of zinc dicyanato diamine (CAS No. 122012–52–6) with an elastomer binder of ethylene-propylene-diene monomer and ethyl vinyl acetate, and dispersing agents (provided for in subheading 3812.10.50)	Free	No change	No change	On or before 12/31/2009
	9902.12.77	4,8-Dicyclohexyl -6–2,10-dimethyl -12*H*-dibenzo [*d*,*g*][1,3,2] dioxaphosphocin (CAS No. 73912–21–7) (provided for in subheading 2920.90.50)	Free	No change	No change	On or before 12/31/2009
	9902.12.78	Mixtures of benzenesulfonic acid, dodecyl-, with 2-aminoethanol (CAS No. 26836–07–7) and Poly (oxy-1,2-ethanediyl), α-[1-oxo-9- octadecenyl]-*w*-hydroxy-, (9Z) (CAS No. 9004–96–0) (provided for in subheading 3402.90.50)	Free	No change	No change	On or before 12/31/2009

9902.12.79	1,3- Dihydro-3,3-bis (4-hydroxy-m-tolyl) -2H-indol-2-one (CAS No. 47465–97–4) (provided for in subheading 2933.79.08)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1570. MIXTURES OF (±)–(CIS AND TRANS)–1-[[2-(2,4-DICHLOROPHENYL)–4-PROPYL-1,3-DIOXOLAN-2-YL]-METHYL]-1H-1,2,4-TRIAZOLE.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.12.80	Mixtures of (±)–(cis and trans)–1-[[2-(2,4-Dichlorophenyl)–4-propyl-1,3-dioxolan-2-yl]-methyl]-1H-1,2,4-triazole (CAS No. 60207–90–1) and application adjuvants (provided for in subheading 3808.20.15)	1.1%	No change	No change	On or before 12/31/2009	".

(b) CONFORMING AMENDMENT.—Subchapter II of chapter 99 is amended by striking heading 9902.32.04.

SEC. 1571. PARAQUAT DICHLORIDE.

(a) IN GENERAL.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.13.06	Paraquat dichloride (1,1'dimethyl-4,4'-bipyridinium dichloride) (CAS No. 1910–42–5) (provided for in subheading 2933.39.23)	3.59%	No change	No change	On or before 12/31/2006	".

(b) CALENDAR YEAR 2007.—

(1) IN GENERAL.—Heading 9902.13.06, as added by subsection (a), is amended—

(A) by striking "3.59%" and inserting "4.02%"; and

(B) by striking "On or before 12/31/2006" and inserting "On or before 12/31/2007".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2007.

(c) CALENDAR YEARS 2008 AND 2009.—

(1) IN GENERAL.—Heading 9902.13.06, as added by subsection (a) and amended by subsection (b), is further amended—

(A) by striking "4.02%" and inserting "4.41%"; and

(B) by striking "On or before 12/31/2007" and inserting "On or before 12/31/2009".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 2008.

SEC. 1572. CERTAIN BASKETBALLS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.07	Basketballs, having an external surface other than leather, rubber, or synthetic (provided for in subheading 9506.62.80)	0.9%	No change	No change	On or before 12/31/2009	”.

SEC. 1573. CERTAIN LEATHER BASKETBALLS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.08	Leather basketballs (provided for in subheading 9506.62.80)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1574. CERTAIN RUBBER BASKETBALLS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.09	Rubber basketballs (provided for in subheading 9506.62.80)	1.5%	No change	No change	On or before 12/31/2009	”.

SEC. 1575. CERTAIN VOLLEYBALLS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.10	Volleyballs (provided for in subheading 9506.62.80)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1576. 4-CHLORO-3-[[3-(4-METHOXYPHENYL)–1,3-DIOXOPROPYL]-AMINO]-DODECYL ESTER.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.11	4-Chloro-3-[[3-(4-methoxyphenyl)–1,3-dioxopropyl]-amino]-dodecyl ester (CAS No. 33942–96–0) (provided for in subheading 2924.29.71)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1577. LINURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.24	3-(3,4-Dichlorophenyl)–1-methoxy-1-methylurea (CAS No. 330–55–2) (Linuron) (provided for in subheading 2924.21.16)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1578. N,N-DIMETHYLPIPERIDINIUM CHLORIDE (MEPIQUAT CHLORIDE).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.25	N,N-Dimethylpiperidinium chloride (Mepiquat chloride) (CAS No. 24307–26–4) (provided for in subheading 2933.39.25)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1579. DIURON.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.26	Formulations of 3-(3,4-dichlorophenyl)–1,1-dimethylurea (CAS No. 330–54–1) (Diuron) and application adjuvants (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1580. FORMULATED PRODUCT KROVAR I DF.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.27	Formulations containing 5-bromo-3-sec-butyl-6-methyluracil (Bromacil) (CAS No. 314–40–9), 3-(3,4-Dichlorophenyl)–1,1-dimethylurea (Diuron) (CAS No. 330–54–1), and application adjuvants (provided for in subheading 3808.30.15)	2.5%	No change	No change	On or before 12/31/2009	”.

SEC. 1581. TRIASULFURON TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.28	3-(6-Methoxy-4-methyl-1,3,5-triazin-2-yl)–1-[2-(2-chloroethoxy) phenylsulfonyl]urea (Triasulfuron) (CAS No. 82097–50–5) (provided for in subheading 2935.00.75)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1582. BRODIFACOUM TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.29	3-[3-(4'-Bromo[1,1'-biphenyl]-4-yl)–1,2,3,4-tetrahydro-1-naphthalenyl]-4-hydroxy-2H-1-benzopyran- 2-one (Brodifacoum) (CAS No. 56073–10–0) (provided for in subheading 2932.29.10)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1583. PYMETROZINE TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.30	1,2,4-Triazin-3(2H)-one, 4,5-dihydro-6-methyl-4-[(3-pyridinylmethylen-e)amino]- (Pymetrozine) (CAS No. 123312–89–0) (provided for in sub-heading 2933.69.60)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1584. FORMULATIONS OF THIAMETHOXAM, DIFENOCONAZOLE, FLUDIOXINIL, AND MEFENOXAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.31	Formulations of 3-[(2-chloro-5-thiazoly-l)methyl]tetrahydro-5-methyl-N-nitro-1,3,5-oxadiazin-4-imine) (Thiamethoxam) (CAS No. 153719–23–4); 1H-1,2,4-triazole, 1-[[2-[2-chloro-4-(4-chlorophenoxy)phenyl]-4-methyl- 1,3-dioxolan-2-yl]methyl]- (Difenoconazole) (CAS No. 119446–68–3); 1H-Pyrrole-3-carbonitrile, 4-(2,2-difluoro-1,3-benzodioxol-4-yl)- (Fludioxinil) (CAS No. 131341–86–1); and (R,S)–2-[(2,6-dimethylphenylmethox-y)acetylamino]-propionic acid methyl ester (Mefenoxam) (CAS Nos. 70630–17–0 and 69516–34–3) (provided for in sub-heading 3808.20.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1585. TRIFLOXYSULFURON-SODIUM TECHNICAL.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.32	N-[[(4,6-Dimethoxy-2-pyrimidiny-l)amino]carbonyl]-3-(2,2,2-trifluoroethoxy)–2-pyridinesulfonamide monosodium salt (CAS No. 199119–58–9) (trifloxysulfuron-sodium) (provided for in sub-heading 2935.00.75)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1586. 2 BENZYLTHIO-3-ETHYL SULFONYL PYRIDINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.41	2-Benzylthio-3-ethyl sulfonyl pyridine (CAS No. 175729–82–5) (pro-vided for in subheading 2933.39.61)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1587. 2-AMINO-4-METHOXY-6-METHYL-1,3,5-TRIAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.13.42	2-Amino-4-methoxy-6-methyl-1,3,5-triazine (CAS No. 1668–54–8) (provided for in subheading 2933.69.60)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1588. FORMULATED PRODUCTS CONTAINING MIXTURES OF THE ACTIVE INGREDIENT 2-CHLORO-N-[[(4-METHOXY-6-METHYL-1,3,5-TRIAZIN-2YL) AMINO]CARBONYL] BENZENESULFONAMIDE AND APPLICATION ADJUVANTS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.13.43	Formulated products containing mixtures of the active ingredient 2-chloro-N-[[(4-methoxy-6-methyl-1,3,5-triazin-2yl) amino]carbonyl] benzenesulfonamide and application adjuvants (Chlorosulfuon) (CAS No. 64902–72–3) (provided for in subheading 3808.30.15)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1589. 2-METHYL-4-METHOXY-6-METHYLAMINO-1,3,5-TRIAZINE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.13.44	2-Methyl-4-methoxy-6-methylamino-1,3,5-triazine (CAS No. 5248–39–5) (provided for in subheading 2933.69.60)	Free	No change	No change	On or before 12/31/2009	".

SEC. 1590. MIXTURES OF SODIUM-2-CHLORO-6-[(4,6 DIMETHOXYPYRIMIDIN-2-YL)THIO]BENZOATE AND APPLICATION ADJUVANTS (PYRITHIOBAC-SODIUM).

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.13.45	Mixtures of sodium-2-chloro-6-[(4,6 dimethoxypyrimidin-2-yl)thio]benzoate (CAS No. 123343–16–8) and application adjuvants (Pyrithiobac-sodium) (provided for in subheading 3808.30.15)	3.5%	No change	No change	On or before 12/31/2009	".

SEC. 1591. CERTAIN DECORATIVE PLATES, DECORATIVE SCULPTURES, DECORATIVE PLAQUES, AND ARCHITECTURAL MINIATURES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.46	Decorative plates, whether or not with decorative rim or attached sculpture; decorative sculptures, each with plate or plaque attached, and decorative plaques each not over 7.65 cm in thickness; architectural miniatures, whether or not put up in sets; all the foregoing of resin materials and containing agglomerated stone, put up for mail order retail sale, whether for wall or tabletop display and each weighing not over 1.36 kg together with their retail packaging (provided for in subheading 3926.40.00)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1592. CERTAIN MUSIC BOXES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.47	Music boxes with mechanical musical movements, presented in the immediate packaging for shipment to the ultimate purchaser, and each weighing not over 6 kg together with retail packaging (provided for in subheading 9208.10.00)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1593. 2-METHYL-4-CHLOROPHENOXYACETIC ACID.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.60	2-Methyl-4-chlorophenoxyacetic acid (CAS No. 94–74–6) (provided for in subheading 2918.90.20)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1594. PHENMEDIPHAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.76	3-Methylcarbonylaminophenyl-3-methyl-carbanilate (Phenmedipham) (CAS No. 13684–63–4) in bulk or mixed with application adjuvants (provided for in subheadings 2924.29.47 and 3808.30.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1595. DESMEDIPHAM.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.77	3-Ethoxycarbonylaminophenyl-N-phenylcarbamate (Desmedipham) (CAS No. 13684–56–5) in bulk or mixed with application adjuvants (provided for in subheadings 2924.29.43 and 3808.30.15)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1596. CERTAIN FOOTWEAR WITH OPEN TOES OR HEELS.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.78	Footwear with outer soles of rubber or plastics and uppers of vegetable fibers, with open toes or open heels, other than house slippers (provided for in subheading 6404.19.25)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1597. CERTAIN WORK FOOTWEAR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.85	House slippers with outer soles of rubber, plastics, leather or composition leather and uppers of leather, valued not over $2.50/pair (provided for in subheading 6403.99.75); Sports footwear; tennis shoes, basketball shoes, gym shoes, training shoes and the like, all the foregoing with outer soles of rubber or plastics and uppers of textile materials for women (provided for in subheading 6404.11.20)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1598. CERTAIN REFRACTING AND REFLECTING TELESCOPES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.86	Refracting telescopes with 50 mm or smaller objective lenses and reflecting telescopes with 76 mm or smaller mirrors, and parts and accessories thereof (provided for in subheading 9005.80.40 or 9005.90.80)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1600. CERTAIN WORK FOOTWEAR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.90	Welt footwear with outer soles of rubber, plastics, leather or composition leather and uppers of pigskin, incorporating a protective metal toe-cap (provided for in subheading 6403.40.30)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1601. CERTAIN FOOTWEAR FOR MEN.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.91	Other footwear with uppers of vegetable fibers, for men (provided for in subheading 6405.20.30)	4.5%	No change	No change	On or before 12/31/2009	”.

SEC. 1602. CERTAIN RUBBER OR PLASTIC FOOTWEAR.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.92	Other footwear with uppers of vegetable fibers, other than such footwear for men or women (provided for in subheading 6405.20.30)	6.5%	No change	No change	On or before 12/31/2009	”.

SEC. 1604. ZINC DIMETHYLDITHIOCARBAMATE.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.13.97	Zinc dimethyldithiocarbamate (Ziram) (CAS No. 137–30–4) (provided for in subheading 3808.20.28)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1605. CERTAIN LIQUID CRYSTAL DEVICE (LCD) PANEL ASSEMBLIES.

Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

“	9902.85.21	Liquid Crystal Device (LCD) panel assemblies for use in LCD direct view televisions (provided for in subheading 9013.80.90)	Free	No change	No change	On or before 12/31/2009	”.

SEC. 1606. CERTAIN WATERTUBE BOILERS AND REACTOR VESSEL HEADS.

(a) WATERTUBE BOILERS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.01	Watertube boilers with a steam production exceeding 45 t per hour, for use in nuclear facilities entered after 12/31/2008 and on or before 12/31/2010 if the contract for the purchase of such watertube boilers was entered into on or before 7/31/2006 (provided for in subheading 8402.11.00)	Free	No change	No change	On or before 12/31/2010	".

(b) REACTOR VESSEL HEADS.—Subchapter II of chapter 99 is amended by inserting in numerical sequence the following new heading:

"	9902.84.04	Reactor vessel heads and pressurizers for nuclear reactors entered after 12/31/2008 and on or before 12/31/2010 if the contract for the purchase of such heads and pressurizers was entered into on or before 7/31/2006 (provided for in subheading 8401.40.00)	Free	No change	No change	On or before 12/31/2010	".

CHAPTER 2—EXISTING DUTY SUSPENSIONS AND REDUCTIONS

SEC. 1611. EXTENSION OF CERTAIN EXISTING DUTY SUSPENSIONS AND REDUCTIONS.

(a) EXISTING DUTY SUSPENSIONS AND REDUCTION.—Each of the following headings is amended by striking the date in the effective period column and inserting "12/31/2009":

(1) Heading 9902.39.08 (relating to ORGASOL polyamide powders).

(2) Heading 9902.30.90 (relating to 3-amino-2′-(sulfatoethyl sulfonyl) ethyl benzamide).

(3) Heading 9902.32.91 (relating to MUB 738 INT).

(4) Heading 9902.30.31 (relating to 5-amino-N-(2-hydroxyethyl)–2,3-xylenesulfonamide).

(5) Heading 9902.01.83 (relating to Ethoprop).

(6) Heading 9902.01.73 (relating to Fosetyl-Al).

(7) Heading 9902.03.38 (relating to Flufenacet (FOE hydroxy)).

(8) Heading 9902.02.02 (relating to Methidathion Technical).

(9) Heading 9902.02.12 (relating to difenoconazole).

(10) Heading 9902.02.09 (relating to Lambda-Cyhalothrin).

(11) Heading 9902.02.08 (relating to cyprodinil).

(12) Heading 9902.02.04 (relating to Wakil XL).

(13) Heading 9902.02.06 (relating to Azoxystrobin Technical).

(14) Heading 9902.02.05 (relating to mucochloric acid).

(15) Heading 9902.03.06 (relating to high tenacity multiple (folded) or cabled yarn of viscose rayon).

(16) Heading 9902.05.07 (relating to high tenacity single yarn of viscose rayon with a decitex equal to or greater than 1,000).

(17) Heading 9902.38.31 (relating to Vulkalent E/C).

(18) Heading 9902.01.71 (relating to hexanedioic acid, polymer with 1,3-benzenedimethanamine).

(19) Heading 9902.29.93 (relating to Trinexapac-ethyl).

(20) Heading 9902.38.52 (relating to formulations of triasulfuron).

(21) Heading 9902.39.30 (relating to certain ion-exchange resins).

(22) Heading 9902.32.82 (relating to 2,6 Dichlorotoluene).

(23) Heading 9902.02.33 (relating to Ion exchange resin comprising a compolymer of styrene crosslinked with ethenylbenzene, aminophosphonic acid sodium form).

(24) Heading 9902.02.32 (relating toIon exchange resin comprising a copolymer of styrene crosslinked with divinylbenzene, iminodiacetic acid, sodium form)).

(25) Heading 9902.01.78 (relating to certain bags for toys).

(26) Heading 9902.01.81 (relating to cases for certain children's products).

(27) Heading 9902.01.80 (relating to certain children's products).

(28) Heading 9902.29.34 (relating to certain light absorbing photo dyes).

(29) Heading 9902.85.04 (relating to certain R-core transformers).

(30) Heading 9902.03.04 (relating to reduced vat blue 43).

(31) Heading 9902.03.03 (relating to sulfur black 1).

(32) Heading 9902.01.22 (relating to DMSIP).

(33) Heading 9902.29.35 (relating to 2-(Methoxycarbonyl)benzylsulfonamide).

(34) Heading 9902.02.52 (relating to Imidacloprid pesticides).

(35) Heading 9902.38.15 (relating to Baytron C-R).

(36) Heading 9902.29.87 (relating to 3,4-Ethylenedioxythiophene).

(37) Heading 9902.01.90 (relating to certain filament yarns).

(38) Heading 9902.01.91 (relating to certain filament yarns).

(39) Heading 9902.71.08 (relating to certain semi-manufactured forms of gold).

(40) Heading 9902.04.10 (relating to Crotonic Acid).

(41) Heading 9902.04.09 (relating to 3,6,9-Trioxaundecanedioic acid).

(42) Heading 9902.02.51 (relating to benzoic acid, 2-amino-4-[[(2,5-dichlorophenyl)amino]carbonyl]-, methyl ester).

(43) Heading 9902.32.73 (relating to Solvent blue 124).

(44) Heading 9902.32.55 (relating to Methyl thioglycolate (MTG)).

(45) Heading 9902.01.48 (relating to Ethyl pyruvate).

(46) Heading 9902.04.11 (relating to 1,3-Benzenedicarboxamide, N, N′-Bis (2,2,6,6-tetramethyl-4-piperidinyl)-).

(47) Heading 9902.04.07 (relating to reaction products of phosphorus trichloride with 1,1′-biphenyl and 2,4-bis(1,1-dimethylethyl)phenol).

(48) Heading 9902.04.05 (relating to preparations based on ethanediamide, N-(2-ethoxyphenyl)-N′-(4-isodecylphenyl)-).

(49) Heading 9902.04.06 (relating to 1-Acetyl-4-(3-dodecyl-2,5-dioxo-1-pyrrolidinyl)–2,2,6,6-tetramethylpiperidine).

(50) Heading 9902.04.12 (relating to 3-Dodecyl-1-(2,2,6,6-tetramethyl-4-piperidinyl)–2,5-pyrrolidinedione).

(51) Heading 9902.29.70 (relating to Tetraacetylethylenediamine).

(52) Heading 9902.34.01 (relating to sodium petroleum sulfonate).

(53) Heading 9902.02.75 (relating to esters and sodium esters of parahydroxybenzoic acid).

(54) Heading 9902.30.16 (relating to Diclofop methyl).

(55) Heading 9902.33.61 (relating to ((3-((Dimethylamino)carbonyl)–2-pyridinyl)sulfonyl) carbamic acid, phenyl ester).

(56) Heading 9902.01.45 (relating to Esfenvalerate).

(57) Heading 9902.05.01 (relating to Methyl 2-[[[[[4-(dimethylamino)–6- (2,2,2-trifluoroethoxy)-1,3,5-triazin-2-yl]-amino]carbonyl]amino]sulfonyl]-3-methylbenzoate and application adjuvants).

(58) Heading 9902.01.44 (relating to Benzyl carbazate).

(59) Heading 9902.05.14 (relating to Pyromellitic Dianhydride).

(60) Heading 9902.05.13 (relating to 4,4'-Oxydiphthalic Anhydride).

(61) Heading 9902.05.12 (relating to 4,4'-Oxydianiline).

(62) Heading 9902.05.11 (relating to 3,3',4,4'-Biphenyltetracarboxylic Dianhydride).

(63) Heading 9902.29.80 (relating to 1-[[2-(2,4-dichlorophenyl)–4-propyl-1,3-dioxolan-2-yl]-methyl]-1*H*-1,2,4-triazole).

(64) Heading 9902.05.19 (relating to ethofumesate).

(65) Heading 9902.02.60 (relating to Nemacur VL).

(66) Heading 9902.03.77 (relating to thiophanate methyl).

(67) Heading 9902.84.14 (relating to ceiling fans).

(b) OTHER MODIFICATIONS.—

(1) 2-CHLOROBENZYL CHLORIDE.—Heading 9902.01.56 is amended—

(A) by striking "2903.69.70" and inserting "2903.69.80"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(2) TRIETHYLENE GLYCOL BIS[3-(3-TERT-BUTYL-4-HYDROXY-5-METHYLPHENYL)PROPIONATE] .—Heading 9902.01.88 is amended—

(A) by striking "Free" and inserting "4.1%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(3) FORMULATIONS OF TRIASULFURON AND DICAMBA.—Heading 9902.38.21 is amended—

(A) in the article description column—

(i) by inserting "(Triasulfuron)" before "(CAS No. 82097-50-5)"; and

(ii) by inserting "(Dicamba)" before "(CAS No. 1918-00-9)"; and

(B) by striking "12/31/2003" and inserting "12/31/2009".

(4) 11-AMINOUNDECANOIC ACID.—Heading 9902.32.49 is amended—

(A) by striking "Free" and inserting "2.3%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(5) PHBA.—Heading 9902.29.03 is amended—

(A) by striking "Free" and inserting "3.1%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(6) ACETAMIPRID TECHNICAL.—Heading 9902.03.92 is amended—

(A) by striking "Free" and inserting "2.5%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(7) BAYTRON AND BAYTRON P.—Heading 9902.39.15 is amended—

(A) by inserting ", whether or not containing binder resin and organic solvent" before "(CAS No."; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(8) IPRODIONE.—Heading 9902.01.51 is amended—

(A) by striking "4.1%" and inserting "2.0%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(9) ETHANEDIAMIDE, N-(2-ETHOXYPHENYL)-N′-(2-ETHYLPHENYL)-).—Heading 9902.04.13 is amended—

(A) by striking "2924.29.76" and inserting "2924.29.71"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(10) THIAMETHOXAM TECHNICAL.—Heading 9902.03.11 is amended—

(A) by striking "3.2%" and inserting "3.0%"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(11) 1,3-BIS(4-AMINOPHENOXY)BENZENE (RODA).—Heading 9902.05.15 is amended—

(A) by inserting "(RODA)" after "benzene"; and

(B) by striking "12/31/2006" and inserting "12/31/2009".

(12) MIXTURES OF N-[[(4,6-DIMETHOXYPYRIMIDIN-2-YL)AMINO]CARBONYL]-3-(ETHYLSULFONYL)–2-PYRIDINESULFONAMIDE AND APPLICATION ADJUVANTS.—Heading 9902.33.60 is amended—

(A) by striking the article description and inserting the following: "Mixtures of N-[[(4,6-dimethoxypyrimidin-2-yl)amino]carbonyl]-3-(ethylsulfonyl)–2-pyridinesulfonamide and application adjuvants (CAS No. 122931–48–0) (provided for in subheading 3808.30.15)"; and

(B) by striking "12/31/2003" and inserting "12/31/2009".

Subtitle B—Other Tariff Provisions

CHAPTER 1—LIQUIDATION OR RELIQUIDATION OF CERTAIN ENTRIES

Deadlines.

SEC. 1621. CERTAIN TRAMWAY CARS AND ASSOCIATED SPARE PARTS.

Czech Republic. Oregon.

(a) IN GENERAL.—The Commissioner of the Bureau of Customs and Border Protection of the Department of Homeland Security shall admit free of duty 3 tramway cars (provided for in subheading 8603.10.00 of the Harmonized Tariff Schedule of the United States) manufactured in Ostrava, Czech Republic, for the use by the city of Portland, Oregon, and imported pursuant to a contract with the city of Portland, Oregon, and associated spare parts for such tramway cars (provided for in applicable subheadings of heading 8607 or other headings of the Harmonized Tariff Schedule of the United States) imported pursuant to such contract, the foregoing

to be entered into the customs territory of the United States by not later than December 31, 2006.

(b) RELIQUIDATION; REFUND OF AMOUNTS OWED.— If the liquidation of the entry of any of the tramway cars or associated spare parts described in subsection (a) becomes final before the date of the enactment of this Act, the Commissioner of the Bureau of Customs and Border Protection, notwithstanding any other provision of law, shall—

(1) within 15 days after such date, reliquidate the entry in accordance with the provisions of this section; and

(2) at the time of such reliquidation, make the appropriate refund of any duty paid with respect to the entry.

SEC. 1622. RELIQUIDATION OF CERTAIN ENTRIES OF CANDLES. Deadline.

(a) RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, the Bureau of Customs and Border Protection shall, not later than 90 days after the date of the enactment of this Act—

(1) reliquidate the entries listed in subsection (b) without assessment of antidumping duties or interest; and

(2) refund any antidumping duties and interest which were previously paid on such entries.

(b) AFFECTED ENTRIES.—The entries referred to in subsection (a) are the following:

Entry number	Date of entry	Port
110–3447557–3	03/18/00	Los Angeles
110–3447591–2	03/19/00	Los Angeles
110–3447595–3	03/19/00	Los Angeles
110–1201638–1	03/21/00	Detroit
110–1201639–9	03/21/00	Detroit
110–1201640–7	03/21/00	Detroit
110–3447613–4	03/21/00	Los Angeles
110–1201697–7	03/23/00	Detroit
110–1201695–1	03/23/00	Detroit
110–1201696–9	03/23/00	Detroit
110–1201756–1	03/27/00	Detroit
110–1201757–9	03/27/00	Detroit
110–1201758–7	03/27/00	Detroit
110–1740905–2	03/30/00	Los Angeles
110–1740943–3	03/30/00	Los Angeles
110–1201845–2	03/31/00	Detroit
110–1201813–0	04/03/00	Detroit
110–1201814–8	04/03/00	Detroit
110–1201815–5	04/03/00	Detroit
110–1201875–9	04/04/00	Detroit
110–1201868–4	04/04/00	Detroit
110–1201858–5	04/04/00	Detroit
110–3447959–1	04/11/00	Los Angeles
110–3447958–3	04/11/00	Los Angeles
110–3759536–9	04/12/00	Detroit
110–3759561–7	04/12/00	Detroit
110–3759542–7	04/12/00	Detroit
110–3759540–1	04/12/00	Detroit
110–3447977–3	04/12/00	Los Angeles
110–3759539–3	04/12/00	Detroit
110–3448045–8	04/14/00	Los Angeles
110–3448046–6	04/14/00	Los Angeles
110–3448110–0	04/20/00	Los Angeles
110–3759670–6	04/25/00	Detroit
110–3759673–0	04/25/00	Detroit
110–3759669–8	04/25/00	Detroit
110–3759667–2	04/25/00	Detroit

Entry number	Date of entry	Port
110–3759671–4	04/25/00	Detroit
110–3759668–0	04/25/00	Detroit
110–3448241–3	04/27/00	Los Angeles
110–3448247–0	04/27/00	Los Angeles
110–3448276–9	04/28/00	Memphis
110–3448274–4	04/28/00	Memphis
110–3448282–7	05/04/00	Memphis
101–4081779–1	05/07/00	Memphis
101–4088945–1	05/23/00	Memphis
101–4089954–3	05/23/00	Memphis
101–4088960–0	05/23/00	Memphis
101–4092192–4	05/25/00	Memphis
101–4089312–3	05/26/00	Detroit
101–4089942–7	05/26/00	Detroit
101–4089893–2	05/26/00	Detroit
101–4092221–1	05/26/00	Memphis
101–4089697–7	05/26/00	Los Angeles
101–4092215–3	05/26/00	Memphis
101–4086053–6	05/26/00	Los Angeles
101–4122700–8	07/27/00	Los Angeles
101–4122707–3	07/27/00	Los Angeles
101–4122712–3	07/27/00	Los Angeles
101–4127147–7	08/03/00	Los Angeles
101–4132485–4	08/09/00	Norfolk
101–4129989–0	08/11/00	Detroit
101–4130345–2	08/17/00	Detroit
101–4129976–7	08/23/00	Detroit
101–4149476–4	09/06/00	Los Angeles
101–4149483–0	09/06/00	Los Angeles
101–4149493–9	09/06/00	Los Angeles
101–4148595–2	09/08/00	Detroit
101–4153301–7	09/18/00	Detroit
101–4154523–5	09/14/00	Los Angeles
101–4153389–2	09/18/00	Detroit
101–4157161–1	09/20/00	Norfolk
101–4153333–0	09/21/00	Detroit
101–4155542–4	09/26/00	Detroit
101–4166291–5	10/07/00	Los Angeles
101–4167325–0	10/09/00	Detroit
101–4167363–1	10/12/00	Detroit
101–4164567–0	10/13/00	Norfolk
101–4168049–5	10/14/00	Los Angeles
101–4172904–5	10/21/00	Los Angeles
101–4175579–2	10/30/00	Los Angeles
101–4183996–8	11/07/00	Detroit
101–4183234–4	11/09/00	Detroit
101–4183251–8	11/09/00	Detroit
101–4183253–4	11/09/00	Detroit
101–4183257–5	11/09/00	Detroit
101–4183264–1	11/09/00	Detroit
101–4183264–1	11/09/00	Detroit
101–4184811–8	11/13/00	Los Angeles
101–4184819–1	11/13/00	Los Angeles
101–4189001–1	11/14/00	Tampa
101–4185526–1	11/16/00	Detroit
101–4185535–2	11/16/00	Detroit
101–4186580–7	11/20/00	Detroit
101–4189830–3	11/20/00	Detroit
101–4189774–3	11/21/00	Detroit
101–4191183–3	11/24/00	Los Angeles
101–4191188–2	11/24/00	Los Angeles
101–4191193–2	11/24/00	Los Angeles
101–4194796–9	11/29/00	Detroit
101–4194801–7	11/29/00	Detroit
101–4196383–4	12/01/00	Los Angeles
101–4196389–1	12/01/00	Los Angeles
101–4199308–8	12/13/00	Detroit

SEC. 1623. CERTAIN ENTRIES OF ROLLER CHAIN. Deadline.

(a) LIQUIDATION OR RELIQUIDATION OF ENTRIES.—Notwithstanding sections 514 and 520 of the Tariff Act of 1930 (19 U.S.C. 1514 and 1520) or any other provision of law, the Bureau of Customs and Border Protection shall, not later than 90 days after the date of enactment of this Act, liquidate or reliquidate the entries listed in subsection (b) without assessment of interest and shall refund any interest which was previously paid.

(b) AFFECTED ENTRIES.—The entries referred to in subsections (a) and (b) are the following:

Entry number	Date of entry	Port
858442975	08/21/85	Chicago
868558147	01/28/86	Chicago
868565499	03/14/86	Chicago
858440922	07/31/85	Chicago
868565499	03/14/86	Chicago
868558147	01/28/86	Chicago
858442975	08/21/85	Chicago
858440922	07/31/85	Chicago
847648353	06/18/84	Chicago
858268324	01/04/85	Chicago
858264302	11/08/84	Chicago
858265107	11/19/84	Chicago
847658150	07/18/84	Chicago
847412877	05/09/84	Chicago
837078386	03/21/83	Chicago
837077691	02/07/83	Chicago
837077701	02/07/83	Chicago
826735834	01/13/82	Chicago
826736309	01/18/82	Chicago
821020081	02/12/82	Chicago
821020052	02/17/82	Chicago
821026768	04/13/82	Chicago
827119569	06/18/82	Chicago
837075114	10/06/82	Chicago
826727088	10/14/81	Chicago
837124777	05/19/83	Chicago
847405240	11/28/83	Chicago
837127606	08/18/83	Chicago
837125132	06/08/83	Chicago
847406100	12/22/83	Chicago
847404034	11/02/83	Chicago
837128090	09/07/83	Chicago
837126762	08/05/83	Chicago
837125569	06/22/83	Chicago
837078991	04/12/83	Chicago
837129222	10/03/83	Chicago
847406414	12/29/83	Chicago
847408014	01/31/84	Chicago
868569204	07/03/86	Chicago
868730813	08/14/86	Chicago

SEC. 1624. CERTAIN ENTRIES OF SOUNDSPA CLOCK RADIOS. Deadline.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Bureau of Customs and Border Protection shall, not later than 90 days after the date of the enactment of this Act—

(1) reliquidate each entry described in subsection (c) containing any merchandise which, on the date of original liquidation, was classified under subheading 8527.19.50 of the Harmonized Tariff Schedule of the United States; and

(2) make such reliquidation at the rate of duty that would have been applicable to such merchandise if the merchandise

had been liquidated under subheading 8527.19.10 of such Schedule on the date of entry of the merchandise.

(b) REFUND OF AMOUNTS OWED.—Any amounts owed by the United States under subsection (a) shall be refunded with interest.

(c) AFFECTED ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry number
110–1199345–7
110–1199542–9
110–1199558–5
110–1201694–4
110–3759754–8
110–3759785–2
101–4082299–9
101–4088073–2
101–4089053–3
101–4120875–0
101–4133671–8
101–4138302–5
101–4145092–3
101–4148477–3
101–4153108–6
101–4159322–7
101–4158601–5
101–4163243–9
101–4164448–3
101–4168318–4
101–4172197–6
101–4172489–7
101–4193123–7
101–4264820–2
101–4271724–7
101–4277850–4
101–4287672–0
101–4301588–0
101–4306238–7
101–4306235–3
101–6011727–0
101–6012796–4
101–6015492–7
101–6021099–2
101–6026903–0
101–6024120–3
101–6028079–7
101–6027052–5
101–6036728–9
101–6048069–4
101–6079830–1
101–6082949–4
101–6115954–5
101–6119379–1
101–6127048–2
101–6150035–9
101–6148556–9
101–6172630–1
101–6172406–6
101–6186497–9
101–4208407–7
101–6035939–3

CHAPTER 2—MISCELLANEOUS PROVISIONS

SEC. 1631. VESSEL REPAIR DUTIES.

(a) EXEMPTION.—Section 466(h) of the Tariff Act of 1930 (19 U.S.C. 1466(h)) is amended by striking paragraph (4) and inserting the following:

"(4) the cost of equipment, repair parts, and materials that are installed on a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas, in foreign waters, or in a foreign port, and does not involve foreign shipyard repairs by foreign labor.".

(b) AMENDMENT TO HTS.—The U.S. Notes to subchapter XVIII of chapter 98 of the Harmonized Tariff Schedule of the United States are amended by amending U.S. Note 2 to read as follows:

"2. Notwithstanding the provisions of subheadings 9818.00.03 through 9818.00.07, no duty shall apply to the cost of equipment, repair parts, and materials that are installed in a vessel documented under the laws of the United States and engaged in the foreign or coasting trade, if the installation is done by members of the regular crew of such vessel while the vessel is on the high seas, in foreign waters, or in a foreign port and does not involve foreign shipyard repairs by foreign labor. Declaration and entry shall not be required with respect to such installation, equipment, parts, and materials.".

(c) EFFECTIVE DATE.—The amendments made by this section apply to vessel equipment, repair parts, and materials installed on or after April 25, 2001. 19 USC 1466 note.

SEC. 1632. SUSPENSION OF NEW SHIPPER REVIEW PROVISION.

(a) SUSPENSION OF THE AVAILABILITY OF BONDS TO NEW SHIPPERS.—Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the period beginning on April 1, 2006, and ending on June 30, 2009. 19 USC 1675 note.

(b) REPORT ON THE IMPACT OF THE SUSPENSION.—Not later than December 31, 2008, the Secretary of the Treasury, in consultation with the Secretary of Commerce, the United States Trade Representative, and the Secretary of Homeland Security, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report containing— Deadline.

(1) recommendations on whether the suspension of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in subsection (a); and

(2) an assessment of the effectiveness of any administrative measure that was implemented to address the difficulties that necessitated the suspension under subsection (a), including—

(A) any problem in the collection of antidumping duties on imports from new shippers; and

(B) any burden imposed on legitimate trade and commerce by the suspension of bonds to new shippers.

(c) REPORT ON COLLECTION PROBLEMS AND ANALYSIS OF PROPOSED SOLUTIONS.—

(1) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the Treasury, in consultation with the Secretary of Homeland Security and the Secretary of Commerce, shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report describing— Deadline.

(A) any major problem experienced in the collection of duties during the 4 most recent fiscal years for which

data are available, including any fraudulent activity intended to avoid payment of duties; and

(B) an estimate of the total amount of duties that were uncollected during the most recent fiscal year for which data are available, including, with respect to each product, a description of why the duties were uncollected.

(2) RECOMMENDATIONS.—The report shall include—

(A) recommendations on any additional action needed to address problems related to the collection of duties; and

(B) for each recommendation—

(i) an analysis of how the recommendation would address the specific problem; and

(ii) an assessment of the impact that implementing the recommendation would have on international trade and commerce (including any additional costs imposed on United States businesses).

SEC. 1633. EXTENSION AND MODIFICATION OF DUTY SUSPENSION ON WOOL PRODUCTS; WOOL RESEARCH FUND; WOOL DUTY REFUNDS.

Effective dates.

(a) EXTENSION OF TEMPORARY DUTY REDUCTIONS.—Each of the following headings of the Harmonized Tariff Schedule of the United States is amended by striking the date in the effective period column and inserting "12/31/2009":

(1) Heading 9902.51.11 (relating to fabrics of worsted wool).

(2) Heading 9902.51.13 (relating to yarn of combed wool).

(3) Heading 9902.51.14 (relating to wool fiber, waste, garnetted stock, combed wool, or wool top).

(4) Heading 9902.51.15 (relating to fabrics of combed wool).

(5) Heading 9902.51.16 (relating to fabrics of combed wool).

(b) EXTENSION OF DUTY REFUNDS AND WOOL RESEARCH TRUST FUND.—

(1) IN GENERAL.—Section 4002(c) of the Wool Suit and Textile Trade Extension Act of 2004 (Public Law 108–429; 118 Stat. 2603 (7 U.S.C. 7101 note)) is amended—

(A) in paragraph (3)—

(i) by striking "2 additional payments" and inserting "annual additional payments"; and

(ii) by adding at the end the following:

Deadline.

"(C) Each subsequent annual payment to be made after January 1 of each subsequent year, but on or before April 15 of such year through calendar year 2010."; and

(B) in paragraph (6)—

Grants.
Extension.

(i) in subparagraph (A), by striking "through 2007" and inserting "through 2009"; and

(ii) by adding at the end the following:

Grants.

"(C) ELIGIBLE MANUFACTURERS.—Only manufacturers who weave worsted wool fabric in the United States shall be eligible for a grant under this paragraph.".

Trust fund.
Extension.
7 USC 7101 note.

(2) SUNSET.—Section 506(f) of the Trade and Development Act of 2000 (Public 106–200; 114 Stat. 303), as amended by section 4002(c)(5) of the Wool Suit and Textile Trade Extension Act of 2004 (Public 108–429; 118 Stat. 2603), is amended by striking "2008" and inserting "2010".

SEC. 1634. AUTHORITIES RELATING TO DR–CAFTA AGREEMENT.

(a) AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS TO DR–CAFTA AGREEMENT WITH NICARAGUA, EL SALVADOR, HONDURAS, AND GUATEMALA.—

(1) PROCLAMATION AUTHORITY.—The President is authorized to proclaim modifications to the Harmonized Tariff Schedule of the United States as necessary to carry out amendments proposed by the United States and the CAFTA–DR countries to the Agreement, the terms of which are contained in the letters of understanding described in paragraph (2).

(2) LETTERS OF UNDERSTANDING.—The letters of understanding referred to in paragraph (1) are the following: Name listing.

(A) The letter of March 24, 2006, from Nicaraguan Vice Minister of Trade Julio Teran to United States Special Textile Negotiator Scott Quesenberry.

(B) The letter of March 27, 2006, from United States Special Textile Negotiator Scott Quesenberry to Nicaraguan Vice Minister of Trade Julio Teran.

(C) The letter of January 27, 2006, from El Salvadoran Vice Minister of Economy Eduardo Ayala to United States Special Textile Negotiator Scott Quesenberry.

(D) The letter of January 27, 2006, from United States Special Textile Negotiator Scott Quesenberry to El Salvadoran Vice Minister of Economy Eduardo Ayala.

(E) The letter of March 7, 2006, from Honduran Vice Minister of Foreign Trade Jorge Rosa to United States Special Textile Negotiator Scott Quesenberry.

(F) The letter of March 7, 2006, from United States Special Textile Negotiator Scott Quesenberry to Honduran Vice Minister of Foreign Trade Jorge Rosa.

(G) The letter of June 23, 2006, from Guatemalan Minister of Economy Marcio Cuevas Quezada to United States Special Textile Negotiator Scott Quesenberry.

(H) The letter of June 23, 2006, from United States Special Textile Negotiator Scott Quesenberry to Guatemalan Minister of Economy Marcio Cuevas Quezada.

(3) SUNSET.—The authority of the President to proclaim modifications pursuant to paragraph (1) expires on December 31, 2007.

(b) AUTHORITY TO IMPLEMENT CERTAIN AMENDMENTS TO DR–CAFTA AGREEMENT WITH COSTA RICA AND THE DOMINICAN REPUBLIC.—

(1) PROCLAMATION AUTHORITY.—The President is authorized to proclaim modifications to the Harmonized Tariff Schedule of the United States as necessary to carry out amendments proposed by the United States, Costa Rica, and the Dominican Republic to the Agreement, the terms of which are contained in the letters of understanding described in paragraph (2).

(2) LETTERS OF UNDERSTANDING.—

(A) IN GENERAL.—The letters of understanding referred to in paragraph (1) are letters of understanding exchanged between the countries described in paragraph (1) relating to the rules of origin for articles containing pocket bag fabric described in subparagraph (B).

(B) POCKET BAG FABRIC DESCRIBED.—For purposes of subparagraph (A), the term "pocket bag fabric" means

pocket bag fabric used in an apparel article classifiable under chapter 61 or 62 of the Harmonized Tariff Schedule of the United States that contains a pocket or pockets.

(3) CONSULTATION AND LAYOVER REQUIREMENTS.—Any modification proclaimed by the President pursuant to paragraph (1) shall be subject to the consultation and layover provisions of section 104 of the Dominican Republic–Central America–United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4014).

(4) CONGRESSIONAL DISAPPROVAL.—

(A) IN GENERAL.—Any modification proclaimed by the President pursuant to paragraph (1) shall not be effective if a joint resolution described in subparagraph (B) is enacted into law.

(B) JOINT RESOLUTION DESCRIBED.—For purposes of subparagraph (A), the term "joint resolution" means a joint resolution of Congress, the sole matter after the resolving clause of which is as follows: "That the Congress disapproves the modification proclaimed by the President contained in the report submitted to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives pursuant to section 104(2) of the Dominican Republic—Central America—United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4014(2)) on _____.", with the blank space being filled with the appropriate date.

(5) SUNSET.—The authority of the President to proclaim modifications pursuant to paragraph (1) expires on December 31, 2007.

(c) AUTHORITY RELATING TO NICARAGUAN TARIFF PREFERENCE LEVEL UNDER DR–CAFTA AGREEMENT.—

(1) CERTIFICATE OF ELIGIBILITY.—The Commissioner of Customs may require an importer to submit at the time the importer files a claim for preferential tariff treatment under Annex 3.28 of the Agreement a certificate of eligibility, properly completed and signed, or transmitted pursuant to an authorized electronic data interchange system, by an authorized official of the Government of Nicaragua for purposes of implementing the tariff preference level for Nicaragua provided in Annex 3.28 of the Agreement.

(2) ENFORCEMENT OF COMMITMENTS.—The President is authorized to proclaim a reduction in the overall limit in the tariff preference level for Nicaragua provided in Annex 3.28 of the Agreement if the President determines that Nicaragua has failed to comply with a commitment under an agreement between the United States and Nicaragua with regard to the administration of such tariff preference level.

(3) EFFECTIVE DATE.—Paragraph (1) applies with respect to entries made on or after April 1, 2006.

(d) TECHNICAL CORRECTION RELATING TO CO-PRODUCTION OF CERTAIN TEXTILE AND APPAREL GOODS.—Section 205(a)(2) of the Dominican Republic–Central America–United States Free Trade Agreement Implementation Act (19 U.S.C. 4034(a)(2)) is amended by inserting after "with respect to that country" the following: "or any other CAFTA–DR country".

(e) REPORTING REQUIREMENTS ON CERTAIN NEGOTIATIONS AND AMENDMENTS TO DR–CAFTA AGREEMENT.—

Deadline.

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, and at least quarterly thereafter, the United States Trade Representative shall submit to the appropriate congressional committees a report on the status of negotiations and amendments proposed by the United States, Nicaragua, El Salvador, Honduras, Guatemala, Costa Rica, and the Dominican Republic to the Agreement regarding any change to the rule of origin or alteration of the tariff treatment of socks described in paragraph (2) or any technical correction described in paragraph (3). In addition, the United States Trade Representative shall provide to the appropriate congressional committees copies of any amendments to be proposed by the United States before the amendments are offered and copies of any amendments received by the United States relating to such negotiations.

(2) SOCKS DESCRIBED.—For purposes of paragraph (1), the term "socks" means articles classifiable under subheading 6111.20.6050, 6111.30.5050, 6111.90.5050, 6115.91.00, 6115.92.60, 6115.92.90, 6115.93.60, 6115.93.90, 6115.99.14, or 6115.99.18 of the Harmonized Tariff Schedule of the United States.

(3) TECHNICAL CORRECTIONS DESCRIBED.—Technical corrections referred to in paragraph (1) are the following:

(A) Clarification of references to "elastomeric yarns" contained in the notes, subheading notes, additional U.S. notes, and statistical notes to chapters 50 to 63 (section XI) of the Harmonized Tariff Schedule of the United States.

(B) Clarification of the ability to apply short supply provisions to sewing thread, narrow elastics, and visible linings.

(C) Treatment of women's and girls' woven sleep bottoms under Annex 4.1 of the Agreement.

(D) Addition of a rule of origin for women's and girls' woven sleep bottoms to reflect the rule of origin provided for in subheading 6207.11.00 of the Harmonized Tariff Schedule of the United States and contained in Annex 4.1 of the Agreement.

(E) Provision of women's and girls' sleep bottoms under Annex 4.1–A of the Agreement.

(4) DEFINITION.—In this subsection, the term "appropriate congressional committees" means the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

(5) SUNSET.—The requirements of paragraph (1) expire on the date on which any change is made to the rule of origin pursuant to article 3.25 of the Agreement for any good described in paragraph (2), or December 31, 2007, whichever occurs later.

(f) DEFINITIONS.—In this section:

(1) AGREEMENT.—The term "Agreement" has the meaning given the term in section 3(1) of the Dominican Republic–Central America–United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4002(1)).

(2) CAFTA–DR COUNTRY.—The term "CAFTA–DR country" has the meaning given the term in section 3(2) of the Dominican

Republic–Central America–United States Free Trade Agreement Implementation Act (Public Law 109–53; 19 U.S.C. 4002(2)).

SEC. 1635. TECHNICAL AMENDMENTS TO CUSTOMS MODERNIZATION.

(a) ENTRY OF MERCHANDISE.—Section 484(a) of the Tariff Act of 1930 (19 U.S.C. 1484(a)) is amended—

(1) in paragraph (1), by amending subparagraph (A) to read as follows:

"(A) make entry therefor by filing with the Bureau of Customs and Border Protection such documentation or, pursuant to an authorized electronic data interchange system, such information as is necessary to enable the Bureau of Customs and Border Protection to determine whether the merchandise may be released from custody of the Bureau of Customs and Border Protection;"; and

(2) in paragraph (2)(A), in the second sentence, by inserting after "covering" the following: "merchandise released under a special delivery permit pursuant to section 448(b) and".

(b) REFUNDS AND ERRORS.—Section 520(a) of the Tariff Act of 1930 (19 U.S.C. 1520(a)) is amended—

(1) in paragraph (1), by striking the semicolon at the end and inserting a period;

(2) in paragraph (2), by striking "; and" at the end and inserting a period; and

(3) in paragraph (4)—

(A) by inserting "an importer of record declares or" before "it is ascertained"; and

(B) by striking "by reason of clerical error".

(c) ENTRY FROM WAREHOUSE.—Section 557(a) of the Tariff Act of 1930 (19 U.S.C. 1557(a)) is amended—

(1) in paragraph (1)—

(A) in the second sentence, by inserting after "the date of importation" the following: ", or such longer period of time as the Bureau of Customs and Border Protection may at its discretion permit upon proper request being filed and good cause shown"; and

(B) in subparagraph (A), by inserting after "the date of importation" the following: "or such longer period of time as the Bureau of Customs and Border Protection may at its discretion permit upon proper request being filed and good cause shown"; and

(2) in paragraph (2), by inserting after "the date of importation" the following: ", or such longer period of time as the Bureau of Customs and Border Protection may at its discretion permit upon proper request being filed and good cause shown,".

(d) ABANDONED GOODS.—Section 559 of the Tariff Act of 1930 (19 U.S.C. 1559) is amended by inserting after "the date of importation" each place it appears the following: ", or such longer period of time as the Bureau of Customs and Border Protection may at its discretion permit upon proper request being filed and good cause shown".

(e) MANIPULATION IN WAREHOUSE.—Section 562 of the Tariff Act of 1930 (19 U.S.C. 1562) is amended—

Regulations.

(1) by amending the first sentence to read as follows: "Merchandise shall only be withdrawn from a bonded warehouse

in such quantity and in such condition as the Secretary of the Treasury shall by regulation prescribe."; and

(2) in the second sentence, by striking "All merchandise so withdrawn" and all that follows through "except that upon permission therefor" and inserting "Upon permission".

(f) OTHER TECHNICAL AMENDMENTS.—(1) Section 629(e) of the Tariff Act of 1930 (19 U.S.C. 1629(e)) is amended by striking "insuring" and inserting "ensuring".

(2) Section 135(f)(2)(B) of the Trade Act of 1974, as amended by section 2004(i)(1) of the Miscellaneous Trade and Technical Corrections Act of 2004, is amended by striking "their establishment" and insert "its establishment".

(3) Section 245(a) of the Trade Act of 1974 (19 U.S.C. 2317(a)) is amended by striking ", other than subchapter D".

(4) Section 291(2) of the Trade Act of 1974 (19 U.S.C. 2401(2)) is amended—

(A) by striking "1001(5)" and inserting "1001(e)"; and

(B) by striking "1308(5)" and inserting "1308(e)".

(5) Section 13031(e)(6)(C)(i) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(e)(6)(C)(i)) is amended by striking "commonly know" and inserting "commonly known".

(6) Section 2107(a)(4) of the Bipartisan Trade Promotion Authority Act of 2002 (19 U.S.C. 3807(a)(4)) is amended—

(A) by striking "paragraph (2)(A)" and inserting "paragraphs (2)(A)"; and

(B) by striking "paragraph (2)(B)" and inserting "paragraphs (2)(B)".

(7) Section 514(c)(3) of the Tariff Act of 1930 (19 U.S.C. 1514(c)(3)) is amended by moving the last 2 sentences 2 ems to the left as flush left text.

Subtitle C—Effective Date

19 USC 58c note.

SEC. 1641. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title shall apply with respect to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

Approved August 17, 2006.

LEGISLATIVE HISTORY—H.R. 4:

CONGRESSIONAL RECORD, Vol. 152 (2006):
July 28, considered and passed House.
Aug. 3, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 42 (2006):
Aug. 17, Presidential remarks.

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