

113<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 1979

To provide for USA Retirement Funds, to reform the pension system, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2014

Mr. HARKIN (for himself and Mr. BROWN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To provide for USA Retirement Funds, to reform the pension system, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “USA Retirement Funds Act”.

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

Sec. 1. Short title; table of contents.

### TITLE I—USA RETIREMENT FUNDS

Sec. 101. Automatic USA Retirement Fund arrangements.

Sec. 102. Establishment of USA Retirement Funds.

- Sec. 103. Commission on USA Retirement Funds.
- Sec. 104. Limitation on employer liability.
- Sec. 105. Enforcement and fraud prevention.

## TITLE II—DEFINED CONTRIBUTION PLAN REFORMS

### Subtitle A—Savings Enhancements

- Sec. 201. Pooled employer plans.
- Sec. 202. Pooled employer and multiple employer plan reporting.

### Subtitle B—Participant Protections

- Sec. 211. Alternative fiduciary arrangements to protect plan participants.
- Sec. 212. Rollover protections.

### Subtitle C—Lifetime Income

- Sec. 221. Lifetime income disclosure.
- Sec. 222. Lifetime income safe harbor.
- Sec. 223. Default investment safe harbor clarification.
- Sec. 224. Administration of joint and survivor annuity requirements.

## TITLE III—DEFINED BENEFIT SYSTEM REFORMS

### Subtitle A—Defined Benefit Pension Plan Reforms

- Sec. 301. Hybrid plans.
- Sec. 302. Clarification of the normal retirement age.
- Sec. 303. Moratorium on imposition of shutdown liability.
- Sec. 304. Alternative funding target attainment percentage determined without regard to reduction for credit balances.
- Sec. 305. Method for determining changes for quarterly contributions.
- Sec. 306. Election to discount contributions from final due date.
- Sec. 307. Simplification of elections and notices.
- Sec. 308. Improved multiemployer plan disclosure.

### Subtitle B—Improvements to the Pension Insurance Program

- Sec. 311. Modifications of technical changes made by the Pension Protection Act of 2006 to termination liability.
- Sec. 312. Payment of lump sum distributions in bankruptcy.
- Sec. 313. Trusteeship clarifications.
- Sec. 314. Recordkeeping for terminating plans.
- Sec. 315. Termination date in bankruptcy.

## TITLE IV—OTHER SYSTEMIC REFORMS

- Sec. 401. Plan audit quality improvement.
- Sec. 402. Special rules relating to treatment of qualified domestic relations orders.
- Sec. 403. Correction to bonding requirement.
- Sec. 404. Retaliation protections.

1           **TITLE I—USA RETIREMENT**  
2                           **FUNDS**

3   **SEC. 101. AUTOMATIC USA RETIREMENT FUND ARRANGE-**  
4                           **MENTS.**

5           (a) **REQUIREMENT TO PROVIDE ACCESS.**—Each cov-  
6   ered employer shall make available to each qualifying em-  
7   ployee for the calendar year an automatic USA Retire-  
8   ment Fund arrangement.

9           (b) **COVERED EMPLOYER.**—For purposes of this  
10 title—

11           (1) **IN GENERAL.**—Except as otherwise pro-  
12   vided in this subsection and subsection (c)(2), the  
13   term “covered employer” means, with respect to any  
14   calendar year, an employer who does not maintain a  
15   qualifying plan or arrangement for any part of such  
16   year.

17           (2) **QUALIFYING PLAN OR ARRANGEMENT.**—

18           (A) **IN GENERAL.**—The term “qualifying  
19   plan or arrangement” means a plan or arrange-  
20   ment described in section 219(g)(5) of the In-  
21   ternal Revenue Code of 1986.

22           (B) **EXCEPTIONS.**—Such term shall not in-  
23   clude the following:

24           (i) **FROZEN DEFINED BENEFIT**  
25           **PLAN.**—A defined benefit plan that had no

1 ongoing accruals as of the first day of the  
2 preceding calendar year, unless the plan  
3 failed to have accruals only because of the  
4 application of section 206 of the Employee  
5 Retirement Income Security Act (29  
6 U.S.C. 1056) and section 436 of the Inter-  
7 nal Revenue Code of 1986.

8 (ii) DEFINED CONTRIBUTION PLAN  
9 WITHOUT LIFETIME INCOME OPTIONS.—A  
10 defined contribution plan that does not  
11 provide participants with a distribution op-  
12 tion that provides lifetime income.

13 (iii) PLANS NOT MEETING CONTRIBU-  
14 TION REQUIREMENTS.—A plan—

15 (I) which consists of a cash or  
16 deferred arrangement (as defined in  
17 section 401(k) of such Code) with re-  
18 spect to which the employer does not  
19 automatically enroll all eligible em-  
20 ployees at contribution rates at or  
21 above those specified in subsection  
22 (d)(4); or

23 (II) for which the only contribu-  
24 tions are nonelective employer con-  
25 tributions and with respect to which

1           the employer's annual contribution  
2           rate is not at or above the rates speci-  
3           fied in subsection (d)(4).

4           (3) EXCEPTION FOR CERTAIN SMALL AND NEW  
5           EMPLOYERS.—

6           (A) IN GENERAL.—The term “covered em-  
7           ployer” shall not include an employer for a cal-  
8           endar year if the employer—

9           (i) did not employ during the pre-  
10          ceding calendar year more than 10 employ-  
11          ees who each received at least \$5,000 of  
12          compensation (as defined in section  
13          3401(a) of the Internal Revenue Code of  
14          1986) from the employer for such pre-  
15          ceding calendar year;

16          (ii) did not normally employ more  
17          than 10 employees on a typical business  
18          day during the preceding calendar year; or

19          (iii) was not in existence at all times  
20          during the calendar year and the preceding  
21          calendar year.

22          (B) OPERATING RULES.—In determining  
23          the number of employees for purposes of sub-  
24          paragraph (A)—

1 (i) rules consistent with any rules ap-  
2 plicable in determining the number of em-  
3 ployees for purposes of section  
4 408(p)(2)(C) and section 4980B(d) of the  
5 Internal Revenue Code of 1986 shall apply;

6 (ii) all members of the same family  
7 (within the meaning of section 318(a)(1)  
8 of the Internal Revenue Code of 1986)  
9 shall be treated as 1 individual; and

10 (iii) any reference to an employer  
11 shall include a reference to any predecessor  
12 employer.

13 (4) EXCEPTION FOR GOVERNMENTS AND  
14 CHURCHES.—The term “covered employer” shall not  
15 include—

16 (A) a government or entity described in  
17 section 414(d) of the Internal Revenue Code of  
18 1986; or

19 (B) a church or a convention or association  
20 of churches that is exempt from tax under sec-  
21 tion 501 of such Code.

22 (5) AGGREGATION RULE.—A person treated as  
23 a single employer under subsection (a) or (b) of sec-  
24 tion 52 of the Internal Revenue Code of 1986 or

1 subsection (m) or (o) of section 414 of such Code  
2 shall be treated as a single employer.

3 (c) QUALIFYING EMPLOYEE.—For purposes of this  
4 title—

5 (1) IN GENERAL.—The term “qualifying em-  
6 ployee” means any employee who is not an excluded  
7 employee.

8 (2) PLAN SPONSOR’S EMPLOYEES.—If—

9 (A) an employer maintains one or more  
10 qualifying plans or arrangements described in  
11 section 219(g)(5) of the Internal Revenue Code  
12 of 1986; and

13 (B) the employees of a subsidiary, division,  
14 or other business unit are generally not eligible  
15 to participate in any such qualifying plan or ar-  
16 rangement,

17 for purposes of this section, the employer shall be  
18 treated as a covered employer with respect to such  
19 employees (other than excluded employees), and  
20 such employees (other than excluded employees)  
21 shall be treated as qualifying employees for the cal-  
22 endar year.

23 (3) EXCLUDED EMPLOYEES.—

24 (A) IN GENERAL.—The term “excluded  
25 employee” means an employee who is an exclud-

1           able employee and who is in a class or category  
2           that the employer excludes from treatment as  
3           qualifying employees.

4                   (B) EXCLUDABLE EMPLOYEE.—The term  
5           “excludable employee” means—

6                           (i) an employee described in section  
7                           410(b)(3) of the Internal Revenue Code of  
8                           1986;

9                           (ii) an employee who has not attained  
10                          the age of 21 before the beginning of the  
11                          calendar year;

12                          (iii) an employee who has not com-  
13                          pleted at least 3 months of service with the  
14                          employer;

15                          (iv) in the case of an employer that  
16                          maintains a qualifying plan or arrange-  
17                          ment which excludes employees who have  
18                          not satisfied the minimum age and service  
19                          requirements for participation in the plan,  
20                          an employee who has not satisfied such re-  
21                          quirements;

22                          (v) in the case of an employer that  
23                          maintains an annuity contract (including a  
24                          custodial account or retirement income ac-  
25                          count) under section 403(b) of the Internal

1 Revenue Code of 1986, an employee who is  
2 permitted to be excluded from any salary  
3 reduction arrangement under the contract  
4 pursuant to paragraph (12) of such section  
5 403(b);

6 (vi) in the case of an employer that  
7 maintains an arrangement described in  
8 section 408(p) of such Code, an employee  
9 who is not required to be eligible to partici-  
10 pate in the arrangement under paragraph  
11 (4) of such section 408(p); and

12 (vii) in the case of an employer that  
13 maintains a simplified employee pension  
14 described in section 408(k) of such Code,  
15 an employee who is permitted to be ex-  
16 cluded from participation under paragraph  
17 (2) of such section 408(k).

18 (4) GUIDANCE.—The Secretary of Labor (in  
19 this title referred to as the “Secretary”) shall issue  
20 regulations or other guidance to carry out this sub-  
21 section, including—

22 (A) guidelines for determining the classes  
23 or categories of employees to be covered by a  
24 USA Retirement Fund;

1 (B) guidelines requiring employers to  
 2 specify the classification or categories of em-  
 3 ployees (if any) who are excluded from the USA  
 4 Retirement Fund; and

5 (C) rules to prevent avoidance of the re-  
 6 quirements of this section.

7 (d) AUTOMATIC USA RETIREMENT FUND ARRANGE-  
 8 MENT.—For purposes of this title—

9 (1) IN GENERAL.—The term “automatic USA  
 10 Retirement Fund arrangement” means an arrange-  
 11 ment of an employer (determined without regard to  
 12 whether the employer is required to maintain the ar-  
 13 rangement)—

14 (A) that covers each qualifying employee of  
 15 the covered employer for the calendar year;

16 (B) under which a qualifying employee—  
 17 (i) may elect—

18 (I) to contribute to an automatic  
 19 USA Retirement Fund by having the  
 20 employer deposit payroll deduction  
 21 amounts or make other periodic direct  
 22 deposits (including electronic pay-  
 23 ments) to the Fund; or

24 (II) to have such payments paid  
 25 to the employee directly in cash;

1 (ii) is treated as having made the elec-  
2 tion under clause (i)(I) in the amount  
3 specified in paragraph (4) unless the indi-  
4 vidual specifically elects not to have such  
5 contributions made (or specifically elects to  
6 have such contributions made at a dif-  
7 ferent percentage or in a different  
8 amount); and

9 (iii) not more than once per calendar  
10 year, may elect to modify the selection of  
11 the USA Retirement Fund to which con-  
12 tributions are made for such year; and

13 (C) that meets the administrative require-  
14 ments of paragraph (3), including the notice re-  
15 quirement of paragraph (3)(C).

16 (2) AUTOMATIC RE-ENROLLMENT.—An employ-  
17 ee's election not to contribute to a USA Retirement  
18 Fund (or to have such contributions made at a dif-  
19 ferent percentage or in a different amount from  
20 those specified in paragraph (4)) shall expire after  
21 2 years. After such 2-year period and absent a new  
22 election, the employee shall be treated as having  
23 made the election under paragraph (1)(B)(i)(I) in  
24 the amount specified in paragraph (4).

25 (3) ADMINISTRATIVE REQUIREMENTS.—

1           (A) PAYMENTS.—An employer shall make  
2 the payments elected or treated as elected  
3 under paragraph (1)(B) on or before—

4           (i) the last day of the month following  
5 the month in which the compensation oth-  
6 erwise would have been payable to the em-  
7 ployee in cash; or

8           (ii) such later date as the Secretary  
9 may prescribe.

10          (B) TERMINATION OF EMPLOYEE PARTICI-  
11 PATION.—Subject to a requirement for reason-  
12 able notice, an employee may elect to terminate  
13 participation in the arrangement at any time  
14 during a calendar year. The arrangement may  
15 provide that, if an employee so terminates par-  
16 ticipation, the employee may not elect to re-  
17 sume participation until the beginning of the  
18 next calendar year.

19          (C) NOTICE OF ELECTION PERIOD.—The  
20 employer shall notify each employee eligible to  
21 participate for a year in a USA Retirement  
22 Fund arrangement, within a reasonable period  
23 of time before the 30th day before the begin-  
24 ning of such year (and, for the first year the

1 employee is so eligible, the 30th day before the  
2 first day such employee is so eligible), of—

3 (i) the payments that may be elected  
4 or treated as elected under paragraph  
5 (1)(B);

6 (ii) the opportunity to make the elec-  
7 tion to terminate participation in the ar-  
8 rangement under subparagraph (B);

9 (iii) the opportunity to make the elec-  
10 tion under paragraph (1)(B)(ii) to have  
11 contributions or purchases made at a dif-  
12 ferent percentage or in a different amount;  
13 and

14 (iv) the opportunity under paragraph  
15 (1)(B)(iii) to modify the manner in which  
16 such amounts are invested for such year.

17 (D) EMPLOYEES MAY CHOOSE USA RE-  
18 TIREMENT FUND.—The arrangement shall pro-  
19 vide that a qualified employee may elect to have  
20 contributions made to any USA Retirement  
21 Fund available to the employee.

22 (4) AMOUNT OF CONTRIBUTIONS AND PAY-  
23 MENTS.—The amount specified in this paragraph  
24 is—

1 (A) 3 percent of compensation for the cal-  
2 endar year beginning on January 1, 2015;

3 (B) 4 percent of compensation for the cal-  
4 endar year beginning on January 1, 2016;

5 (C) 5 percent of compensation for the cal-  
6 endar year beginning on January 1, 2017; and

7 (D) 6 percent of compensation for calendar  
8 years beginning after December 31, 2017.

9 (5) COORDINATION WITH WITHHOLDING.—The  
10 Secretary of the Treasury shall modify the with-  
11 holding exemption certificate under section 3402(f)  
12 of the Internal Revenue Code of 1986 so that, in the  
13 case of any qualifying employee covered by a USA  
14 Retirement Fund arrangement, any notice and elec-  
15 tion requirements with respect to the arrangement  
16 may be met through the use of an attachment to  
17 such certificate or other modifications of the with-  
18 holding exemption procedures.

19 (e) DEPOSITS TO USA RETIREMENT FUNDS.—

20 (1) IN GENERAL.—Except as provided in para-  
21 graph (2), an employer shall make all contributions  
22 on behalf of employees to the USA Retirement Fund  
23 specified by the employee.

24 (2) USA RETIREMENT FUNDS OTHER THAN  
25 THOSE SELECTED BY EMPLOYEE.—In the absence of

1 an affirmative selection of a USA Retirement Fund  
2 by the employee, contributions on behalf of the em-  
3 ployee shall be made to the USA Retirement Fund  
4 designated by the employer.

5 (3) REGULATIONS.—The Secretary may issue  
6 such regulations as are necessary to carry out this  
7 subsection.

8 (f) PREEMPTION OF CONFLICTING STATE LAWS.—  
9 The requirements under this section preempt any law of  
10 a State that directly or indirectly prohibits or restricts the  
11 establishment or operation of an automatic USA Retire-  
12 ment Fund arrangement. Nothing in this section shall be  
13 construed to impair or preempt any State law to the extent  
14 such State law provides a remedy for the failure to make  
15 payroll deposit payments under any such automatic USA  
16 Retirement Fund arrangement within the period required.

17 **SEC. 102. ESTABLISHMENT OF USA RETIREMENT FUNDS.**

18 (a) QUALIFICATION AS A USA RETIREMENT  
19 FUND.—For purposes of this title—

20 (1) IN GENERAL.—The term “USA Retirement  
21 Fund” means a fund for which the Secretary has de-  
22 termined the requirements under this title are met.

23 (2) REQUEST FOR DETERMINATION.—The  
24 board of trustees of a program established for pur-  
25 poses of being treated as a USA Retirement Fund

1 under this section shall, prior to beginning oper-  
2 ations, submit to the Secretary (at such time and in  
3 such manner as the Secretary may prescribe) a re-  
4 quest for the Secretary to make a determination as  
5 to whether the plan meets the requirements of this  
6 title for such treatment. Such request shall include  
7 copies of the written documents establishing the plan  
8 and such other materials as the Secretary may re-  
9 quest. The Secretary shall make such determination  
10 within 180 days of receiving such request.

11 (3) PERIODIC REVIEW.—The Secretary shall es-  
12 tablish a process to periodically review each plan de-  
13 termined to be a USA Retirement Fund under para-  
14 graph (1) to ensure that the plan continues to meet  
15 the requirements of this title.

16 (4) PUBLIC LIST OF PLANS.—The Secretary  
17 shall maintain a public list of plans determined by  
18 the Secretary to qualify as USA Retirement Funds.  
19 Such list shall be posted to a publicly available  
20 Internet website.

21 (b) PARTICIPATION.—

22 (1) ELIGIBILITY.—An individual may partici-  
23 pate in any USA Retirement Fund for which such  
24 individual meets the eligibility requirements, individ-

1 ually or through an arrangement established by an  
2 employer.

3 (2) PARTICIPATION IN OTHER PLANS.—An indi-  
4 vidual who participates in a USA Retirement Fund  
5 shall not be precluded from participating in a plan  
6 or arrangement described in section 219(g)(5) of the  
7 Internal Revenue Code of 1986.

8 (c) GOVERNANCE.—

9 (1) ASSETS HELD IN TRUST; BOARD OF TRUST-  
10 EES.—For purposes of this title—

11 (A) the assets of each USA Retirement  
12 Fund shall be held in trust, and

13 (B) the Fund shall be governed by a board  
14 of trustees which shall consist of at least 3 indi-  
15 viduals who—

16 (i) are independent of service pro-  
17 viders to the Fund;

18 (ii) meet the qualification require-  
19 ments established under this section; and

20 (iii) are collectively able to adequately  
21 represent the interests of active partici-  
22 pants, retirees, and contributing employ-  
23 ers.

24 (2) INDEPENDENCE REQUIREMENT.—An indi-  
25 vidual is not independent of Fund service providers

1 for purposes of paragraph (1)(B)(i) if such indi-  
2 vidual—

3 (A) is an employee of any Fund service  
4 provider;

5 (B) is a current or former officer or direc-  
6 tor of a significant Fund service provider, or is  
7 otherwise affiliated with such a provider;

8 (C) is a member of the immediate family  
9 of any person who is affiliated with a signifi-  
10 cant Fund service provider;

11 (D) derives more than 1 percent of the in-  
12 dividual's annual income from a significant  
13 Fund service provider;

14 (E) derives more than 5 percent of the in-  
15 dividual's annual income from any Fund service  
16 provider; or

17 (F) fails to meet meets such other criteria  
18 as are specified by the Secretary to ensure the  
19 independence of the board of directors.

20 (3) MULTIPLE TRUSTEESHIPS.—No individual  
21 may serve on the board of trustees of more than 1  
22 USA Retirement Fund unless the Secretary receives  
23 attestation from the board of trustees of each appli-  
24 cable USA Retirement Fund and the individual that,  
25 at the time of appointment, there is no reasonably

1 foreseeable conflict between the duties of such indi-  
2 vidual to the participants in each applicable USA  
3 Retirement Fund. In no case may an individual  
4 serve on the boards of trustees of more than 3 USA  
5 Retirement Funds.

6 (4) TRUSTEE QUALIFICATIONS.—Each trustee  
7 of a USA Retirement Fund shall attest that the  
8 trustee is knowledgeable of the trustee’s duties and  
9 responsibilities as a fiduciary of a USA Retirement  
10 Fund. The Secretary may require by regulation such  
11 other qualifications and documentation as may be  
12 necessary to ensure that trustees are suitable and  
13 qualified. Such requirements may include those re-  
14 lated to education, training, and minimum com-  
15 petency standards.

16 (5) TRUSTEE SELECTION AND REMOVAL.—

17 (A) IN GENERAL.—Each board of trustees  
18 of a USA Retirement Fund shall establish writ-  
19 ten procedures regarding the appointment, re-  
20 moval, and replacement of trustees on the  
21 board. Such procedures shall—

22 (i) take effect after adoption by the  
23 majority of the board of trustees;

24 (ii) be readily available to partici-  
25 pants;

1 (iii) provide participants with a rea-  
2 sonable opportunity to comment on, or  
3 participate in, the trustee selection process;  
4 and

5 (iv) provide for periodic election of  
6 trustees.

7 (B) REMOVAL BY THE SECRETARY.—The  
8 Secretary may require removal or suspension of  
9 a trustee if the conduct of the trustee is fraudu-  
10 lent or is causing, or can be reasonably ex-  
11 pected to cause, significant, imminent, and ir-  
12 reparable harm to the participants or bene-  
13 ficiaries of a USA Retirement Fund.

14 (C) FUNDS WITHOUT QUALIFIED TRUST-  
15 EES.—If a board of trustees of a USA Retire-  
16 ment Fund has no members meeting the cri-  
17 teria under this subsection, the Secretary shall  
18 appoint replacement trustees.

19 (6) TRUSTEE COMPENSATION.—Trustees of the  
20 Fund may be compensated at reasonable rates from  
21 the Fund, but only if such compensation is paid in  
22 accordance with the written board compensation pol-  
23 icy adopted under paragraph (7)(A)(iv).

24 (7) TRANSPARENCY AND PARTICIPANT DEMOC-  
25 RACY.—

1 (A) PUBLICLY AVAILABLE POLICIES.—The  
2 board of trustees of a USA Retirement Fund  
3 shall adopt and make available to participants  
4 and beneficiaries of, and employers contributing  
5 to, the USA Retirement Fund—

6 (i) a written investment policy state-  
7 ment;

8 (ii) a written lifetime income policy  
9 statement;

10 (iii) an annual performance assess-  
11 ment of the board of trustees, including an  
12 evaluation of weaknesses of the board and  
13 a plan to address such weaknesses;

14 (iv) a written board compensation pol-  
15 icy that includes current compensation lev-  
16 els and provides a reasonable opportunity  
17 for comment from participants, bene-  
18 ficiaries, and employers; and

19 (v) a written policy addressing con-  
20 flicts of interests with respect to trustees.

21 (B) PARTICIPANT INPUT REGARDING  
22 BOARD OF TRUSTEES.—

23 (i) IN GENERAL.—The board of trust-  
24 ees of a USA Retirement Fund shall estab-  
25 lish procedures whereby a participant or

1 beneficiary of such USA Retirement Fund  
2 may—

3 (I) petition the board of trustees  
4 to remove a trustee or service pro-  
5 vider;

6 (II) comment on the management  
7 and administration of the USA Re-  
8 tirement Fund; and

9 (III) with respect to a USA Re-  
10 tirement Fund with more than  
11 \$250,000,000 of assets, vote to ap-  
12 prove or disapprove the compensation  
13 of the trustees at least once every 3  
14 years.

15 (ii) EFFECT OF VOTE.—If partici-  
16 pants and beneficiaries of a USA Retire-  
17 ment Fund vote to disapprove the com-  
18 pensation of trustees under clause  
19 (i)(III)—

20 (I) the results of such vote shall  
21 not be binding on the board of trust-  
22 ees; and

23 (II) the board of trustees shall  
24 notify the Secretary of the results of  
25 such vote and provide an explanation

1 of why the compensation is reasonable  
2 or anticipated changes to the com-  
3 pensation.

4 (8) LIABILITY INSURANCE FOR TRUSTEES.—

5 The trustees of each USA Retirement Fund shall  
6 have fiduciary liability insurance with a per-claim  
7 limit equal to no less than the greater of—

8 (A) 5 percent of plan assets; or

9 (B) \$1,000,000.

10 (9) TRUSTEE DUTIES.—

11 (A) IN GENERAL.—The trustees of a USA  
12 Retirement Fund shall manage the Fund with  
13 the intention of providing each participant with  
14 a cost-effective stream of income in retirement  
15 and reducing benefit level volatility (particularly  
16 for those approaching retirement).

17 (B) APPLICABILITY OF OTHER REQUIRE-  
18 MENTS.—Each trustee of a USA Retirement  
19 Fund shall be a fiduciary subject to sections  
20 404(a), 404(b), 405, 406, and 408 through 413  
21 of the Employee Retirement Income Security  
22 Act of 1974 with respect to the Fund and par-  
23 ticipants and beneficiaries of the Fund. Each  
24 such trustee shall be subject to the standards  
25 and remedies of such sections and section 502

1           of such Act, as if the Fund were an employee  
2           benefit plan.

3           (d) EMPLOYER CONTRIBUTION LIMITATION.—

4           (1) IN GENERAL.—Subject to paragraph (2),  
5           employers may, in addition to contributions an em-  
6           ployee elects (or is treated as having elected) to have  
7           made, make a contribution of up to \$5,000 per year  
8           to a USA Retirement Fund on behalf of each em-  
9           ployee eligible to participate in a USA Retirement  
10          Fund, provided such contributions are made in a  
11          uniform manner (as the same dollar amount for  
12          each such employee or the same percentage of pay  
13          for each such employee) and are not intended to  
14          benefit solely highly compensated employees.

15          (2) ANNUAL INDEXING OF AMOUNT.—The dol-  
16          lar amount under paragraph (1) shall be indexed an-  
17          nually for inflation.

18          (e) BENEFITS IN THE FORM OF AN ANNUITY.—

19          (1) IN GENERAL.—A USA Retirement Fund  
20          shall pay benefits in the form of an annuity in ac-  
21          cordance with paragraph (2). The amount of such  
22          benefits shall be dependent on the amount of con-  
23          tributions made by the participant, the experience of  
24          the Fund, and the form of distribution elected by  
25          the participant. The amount of an annuity may be

1 adjusted to reflect the experience of the Fund as  
2 necessary to protect the financial integrity of the  
3 Fund, except that annuity payments for those in pay  
4 status shall not be reduced more than 5 percent per  
5 year unless the Fund is faced with a significant fi-  
6 nancial hardship and the Secretary has approved the  
7 reduction.

8 (2) ANNUITY.—A USA Retirement Fund shall  
9 pay benefits in accordance with one of the following:

10 (A) In the case of a participant who does  
11 not die before the annuity starting date, the  
12 benefit payable to such participant shall be pro-  
13 vided in the form of a qualified joint and sur-  
14 vivor annuity (as defined in section 205(d)(1)  
15 of the Employee Retirement Income Security  
16 Act of 1974 (29 U.S.C. 1055(d)(1))).

17 (B) In the case of a participant who dies  
18 before the annuity starting date and who has a  
19 surviving spouse, a qualified preretirement sur-  
20 vivor annuity (as defined in section 205(d)(2)  
21 of the Employee Retirement Income Security  
22 Act of 1974 (29 U.S.C. 1055(d)(2))) shall be  
23 provided to the surviving spouse of such partici-  
24 pant.

1 (C) In lieu of a qualified joint and survivor  
2 annuity form of benefit or the qualified pre-  
3 retirement survivor annuity form of benefit (or  
4 both), a participant may elect to receive a dis-  
5 tribution described in subsection (f)(2) if one of  
6 the following conditions are met:

7 (i)(I) The spouse of the participant  
8 consents in writing to the election.

9 (II) Such election designates a bene-  
10 ficiary (or form of benefits) which may not  
11 be changed without spousal consent (or the  
12 consent of the spouse expressly permits  
13 designations by the participant without  
14 any requirement of further consent by the  
15 spouse).

16 (III) The spouse's consent acknowl-  
17 edges the effect of such election and is wit-  
18 nessed by a plan representative or a notary  
19 public.

20 (ii) It is established to the satisfaction  
21 of a Fund representative that the consent  
22 required under subclause (I) cannot be ob-  
23 tained because there is no spouse, because  
24 the spouse cannot be located, or because of

1           such other circumstances as the Secretary  
2           may by regulations prescribe.

3           The consent of a spouse (or establishment that  
4           the consent of a spouse cannot be obtained)  
5           under this subparagraph shall be effective only  
6           with respect to such spouse.

7           (3) COMMENCEMENT OF BENEFIT PAY-  
8           MENTS.—A participant may elect the time to start  
9           receiving benefit payments from the USA Retirement  
10          Fund, except that a participant—

11           (A) except as provided in subsection  
12           (f)(2)(B), may not elect to receive benefit pay-  
13           ments before reaching the age of 60; and

14           (B) must begin receiving benefit payments  
15           before the age of 72.

16          (4) NOTICE.—Each Fund shall provide to each  
17          participant, within a reasonable period of time be-  
18          fore the annuity starting date, a written explanation  
19          substantially similar to that required by section  
20          205(c)(3) of the Employee Retirement Income Secu-  
21          rity Act of 1974 (29 U.S.C. 1055(c)(3)).

22          (5) ASSIGNMENT OR ALIENATION OF FUND  
23          BENEFITS.—Benefits under a USA Retirement  
24          Fund shall be subject to section 206(d) of the Em-

1        ployee Retirement Income Security Act of 1974 (29  
2        U.S.C. 1056(d)).

3        (f) LIMITS ON WITHDRAWALS AND TRANSFERS.—

4            (1) TRANSFERS.—A participant may, not more  
5        frequently than once per year, transfer such partici-  
6        pant's benefit to another USA Retirement Fund.

7            (2) LIMITS ON DISTRIBUTIONS.—

8            (A) IN GENERAL.—Except as provided in  
9        subparagraphs (B) and (C), a participant may  
10       not take a distribution other than one described  
11       in subsection (e)(2).

12           (B) PARTICIPANTS AGED 59 AND YOUNG-  
13        ER.—A participant may before age 60 take a  
14        distribution of a portion of the participant's  
15        benefit if such distribution does not to exceed  
16        \$5,500 and is rolled over to a qualifying plan  
17        or arrangement described in section 219(g)(5)  
18        of the Internal Revenue Code of 1986 or an in-  
19        dividual retirement plan.

20           (C) PARTICIPANTS AGED 60 AND OLDER.—

21        A participant who is 60 or older but who has  
22        not entered pay status may elect one time to  
23        take a distribution of the greater of \$10,000 or  
24        50 percent of the participant's benefit if the  
25        participant demonstrates to the satisfaction of

1           the trustees of the Fund that the participant  
 2           has sufficient retirement income apart from the  
 3           Fund or is facing a substantial hardship.

4           (g) METHODS FOR PROVIDING ANNUITIZED BEN-  
 5   EFIT PAYMENTS.—

6           (1) IN GENERAL.—A USA Retirement Fund  
 7           shall establish and maintain mechanisms for ade-  
 8           quately securing the payment of annuity benefits  
 9           from the Fund. The Fund shall include a written de-  
 10          scription of such mechanisms in the investment and  
 11          lifetime income policy statements required to be dis-  
 12          closed to participants.

13          (2) SPECIFIC GOALS.—The mechanisms de-  
 14          scribed in paragraph (1) shall ensure that—

15                (A) each participant receives a stream of  
 16                income for life;

17                (B) each participant and beneficiary has  
 18                an opportunity to be protected against longevity  
 19                risk; and

20                (C) volatility in benefit levels is minimized  
 21                for participants and beneficiaries in pay status  
 22                and those approaching pay status.

23          (3) SELF-ANNUITIZATION.—

24                (A) IN GENERAL.—Notwithstanding any  
 25                other provision of law, a USA retirement Fund

1           may self-annuitize if the Fund meets such re-  
2           quirements as the Secretary establishes as nec-  
3           essary to protect participants and beneficiaries  
4           in consideration of the recommendations of the  
5           Commission under section 103.

6           (B) DUTY TO ADDRESS EMERGING  
7           ISSUES.—The Secretary shall, periodically and  
8           in accordance with established procedures, up-  
9           date the funding requirements promulgated  
10          under this paragraph in response to changing  
11          economic and business conditions to the extent  
12          necessary to carry out the purposes of this Act,  
13          taking into consideration the recommendations  
14          of the Commission.

15       (h) REPORTING AND DISCLOSURE.—

16           (1) ANNUAL STATEMENT.—The trustees of a  
17       USA Retirement Fund shall provide each participant  
18       in the Fund an annual statement of—

19           (A) the estimated amount of the monthly  
20           benefit which the participant or beneficiary is  
21           projected to receive from the USA Retirement  
22           Fund, in the form of the default benefit de-  
23           scribed in the plan in accordance with sub-  
24           section (e)(2);

1 (B) an explanation, written in a manner  
2 calculated to be understood by the average plan  
3 participant, that includes interest and mortality  
4 assumptions used in calculating the estimate  
5 and a statement that actual benefits may be  
6 materially different from such estimate;

7 (C) a disclosure of Fund fees and perform-  
8 ance that is substantially similar to the disclo-  
9 sures required of individual account plans under  
10 the Employee Retirement Income Security Act  
11 of 1974;

12 (D) any other disclosures, including pro-  
13 jected benefit estimates, that the board of trust-  
14 ees of the USA Retirement Fund determines  
15 appropriate; and

16 (E) such other disclosures as may be re-  
17 quired by the Secretary.

18 (2) SUMMARY PLAN DESCRIPTION.—The trust-  
19 ees of a USA Retirement Fund shall provide partici-  
20 pants a summary plan description (as described in  
21 section 102 of the Employee Retirement Income Se-  
22 curity Act (29 U.S.C. 1022)) as required by section  
23 104(b) of the Employee Retirement Income Security  
24 Act (29 U.S.C. 1024(b)).

1           (3) ANNUAL REPORTS.—The trustees of a USA  
 2 Retirement Fund shall file with the Secretary of  
 3 Labor periodic reports in accordance with regula-  
 4 tions promulgated by the Secretary.

5           (4) ADDITIONAL REQUIREMENTS.—Each USA  
 6 Retirement Fund shall be subject to sections 106  
 7 and 107 of the Employee Retirement Income Secu-  
 8 rity Act of 1974 (29 U.S.C. 1026, 1027).

9 **SEC. 103. COMMISSION ON USA RETIREMENT FUNDS.**

10          (a) RECOGNITION OF PRIVATE COMMISSION.—The  
 11 Secretary shall—

12           (1) recognize an independent, private commis-  
 13 sion, to be known as the “Commission for USA Re-  
 14 tirement Funds Funding” (referred to in this title  
 15 as the “Commission”), and

16           (2) in carrying out the Secretary’s duties under  
 17 this title, consider the recommendations of such  
 18 Commission.

19          (b) COMMISSION.—The Commission recognized under  
 20 subsection (a) shall meet the following requirements:

21           (1) MEMBERSHIP.—

22           (A) COMPOSITION.—The Commission shall  
 23 be composed of 9 members selected by the Sec-  
 24 retary, in consultation with the Secretary of the  
 25 Treasury, of whom no more than 5 may be

1 from one political party. The Secretary shall  
2 designate one member of the Commission as the  
3 Chairman. No person may be appointed to the  
4 Commission if, during the 2-year period pre-  
5 ceeding the date of appointment, such person  
6 was a trustee of a USA Retirement Fund.

7 (B) DATE.—The appointments of the  
8 members of the Commission shall be made not  
9 later than 90 days after the date of enactment  
10 of this Act.

11 (C) PERIOD OF APPOINTMENT; VACAN-  
12 CIES.—Members shall be appointed for terms of  
13 2 years and may be appointed for consecutive  
14 terms. Any vacancy in the Commission shall not  
15 affect its powers, and shall be filled in the same  
16 manner as the original appointment.

17 (2) MAJORITY VOTE.—The Commission may  
18 act by majority vote of its members, provided that  
19 at least 7 members are present.

20 (3) COMMISSION PERSONNEL MATTERS.—

21 (A) COMPENSATION OF MEMBERS.—Each  
22 member of the Commission who is not an offi-  
23 cer or employee of the Federal Government  
24 shall be compensated at a rate equal to the  
25 daily equivalent of the annual rate of basic pay

1 prescribed for level IV of the Executive Sched-  
2 ule under section 5315 of title 5, United States  
3 Code, for each day (including travel time) dur-  
4 ing which such member is engaged in the per-  
5 formance of the duties of the Commission. All  
6 members of the Commission who are officers or  
7 employees of the United States shall serve with-  
8 out compensation in addition to that received  
9 for their services as officers or employees of the  
10 United States.

11 (B) TRAVEL EXPENSES.—The members of  
12 the Commission shall be allowed travel ex-  
13 penses, including per diem in lieu of subsist-  
14 ence, at rates authorized for employees of agen-  
15 cies under subchapter I of chapter 57 of title 5,  
16 United States Code, while away from their  
17 homes or regular places of business in the per-  
18 formance of services for the Commission.

19 (C) STAFF.—

20 (i) IN GENERAL.—The Chairman of  
21 the Commission may, without regard to  
22 the civil service laws and regulations, ap-  
23 point and terminate an executive director  
24 and such other additional personnel as  
25 may be necessary to enable the Commis-

1 sion to perform its duties. The employment  
2 of an executive director shall be subject to  
3 confirmation by the Commission.

4 (ii) COMPENSATION.—The Chairman  
5 of the Commission may fix the compensa-  
6 tion of the executive director and other  
7 personnel without regard to chapter 51  
8 and subchapter III of chapter 53 of title 5,  
9 United States Code, relating to classifica-  
10 tion of positions and General Schedule pay  
11 rates, except that the rate of pay for the  
12 executive director and other personnel may  
13 not exceed the rate payable for level V of  
14 the Executive Schedule under section 5316  
15 of such title.

16 (iii) DETAIL OF GOVERNMENT EM-  
17 PLOYEES.—Any Federal Government em-  
18 ployee may be detailed to the Commission  
19 without reimbursement, and such detail  
20 shall be without interruption or loss of civil  
21 service status or privilege.

22 (iv) PROCUREMENT OF TEMPORARY  
23 AND INTERMITTENT SERVICES.—The  
24 Chairman of the Commission may procure  
25 temporary and intermittent services under

1 section 3109(b) of title 5, United States  
2 Code, at rates for individuals which do not  
3 exceed the daily equivalent of the annual  
4 rate of basic pay prescribed for level V of  
5 the Executive Schedule under section 5316  
6 of such title.

7 (4) RECOMMENDATIONS AND REGULATIONS ON  
8 FUNDING AND DISTRIBUTION REQUIREMENTS.—

9 (A) IN GENERAL.—After taking into con-  
10 sideration the recommendations of the Commis-  
11 sion and providing the public notice and an op-  
12 portunity for comment, the Secretary shall pro-  
13 mulgate regulations with respect to funding and  
14 distribution requirements for USA Retirement  
15 Funds, as necessary or appropriate in the pub-  
16 lic interest and for the protection of partici-  
17 pants and beneficiaries, including regulations  
18 described in subparagraphs (B) and (C).

19 (B) REQUIREMENTS RELATING TO ANNU-  
20 ITY PAYMENTS MADE DIRECTLY BY A FUND.—  
21 The regulations under subparagraph (A) shall  
22 provide that in the case of annuity payments  
23 made directly by the Fund—

24 (i) the maximum annuity payment for  
25 a participant or beneficiary shall be deter-

1           mined using the mortality tables and inter-  
 2           est rates prescribed by the Secretary under  
 3           subparagraph (C) at the time benefits  
 4           commence; and

5           (ii) the level of benefits paid may be  
 6           adjusted periodically in order to reflect the  
 7           mortality experience and the investment  
 8           experience of the Fund, but only after the  
 9           Fund has obtained a certification from a  
 10          member of the American Academy of Actu-  
 11          aries that the adjustment is sustainable for  
 12          the remaining lifetime of participants then  
 13          receiving benefits, based on the mortality  
 14          tables and interest rates prescribed under  
 15          subparagraph (C) by the Secretary for that  
 16          time.

17          (C) MORTALITY TABLES AND INTEREST  
 18          RATES USED REQUIREMENTS.—The regulations  
 19          promulgated under subparagraph (A) shall in-  
 20          clude the following:

21                 (i) MORTALITY TABLES.—

22                         (I) IN GENERAL.—The Secretary  
 23                         shall prescribe mortality tables to be  
 24                         used in determining annuity payments  
 25                         made directly by the Fund. Such ta-

1                   bles shall be based on the actual expe-  
2                   rience of insurance companies that  
3                   issue group annuities and projected  
4                   trends in such experience. In pre-  
5                   scribing such tables, the Secretary  
6                   shall take into account results of  
7                   available independent studies of the  
8                   mortality of individuals receiving an-  
9                   nuities under group annuity contracts.

10                   (II) PERIODIC REVISIONS OF  
11                   MORTALITY TABLES.—The Secretary  
12                   shall make revisions, to become effec-  
13                   tive as soon as practicable, in any  
14                   mortality table in effect to reflect  
15                   more recent actual experience of in-  
16                   surance companies that issue group  
17                   annuities and projected trends in such  
18                   experience. In revising such tables,  
19                   the Secretary shall take into account  
20                   the results of more recent available  
21                   independent studies of the mortality  
22                   and projected trends of individuals re-  
23                   ceiving annuities under group annuity  
24                   contracts.

1 (ii) INTEREST RATES.—The Secretary  
2 shall prescribe interest rates to be used in  
3 determining annuity payments made di-  
4 rectly by the Fund. Such rates shall be  
5 based on the yields on investment grade  
6 corporate bonds with varying maturities  
7 and that are in the top 3 quality levels  
8 available. Interest rates shall be prescribed  
9 quarterly or more frequently, as deter-  
10 mined by the Secretary.

11 (5) DUTY TO ADDRESS BEST PRACTICES.—The  
12 Commission shall prepare, and periodically update, a  
13 report that describes the best practices for the gov-  
14 ernance of boards of trustees of USA Retirement  
15 Funds, including board of trustee composition, ap-  
16 pointment procedures, term length, term staggering,  
17 trustee qualifications, delegation of duties, and per-  
18 formance assessment procedures.

19 **SEC. 104. LIMITATION ON EMPLOYER LIABILITY.**

20 Section 404 of the Employee Retirement Income Se-  
21 curity Act of 1974 (29 U.S.C. 1021 et seq.) is amended  
22 by adding at the end the following:

23 “(e) An employer shall not be a fiduciary with respect  
24 to the selection, management or administration of a USA  
25 Retirement Fund solely because such employer makes

1 available such Fund through an automatic USA Retirement Fund arrangement. Notwithstanding the preceding sentence, employers participating in a USA Retirement Fund shall be responsible for meeting the enrollment requirements and transmitting contributions, as required under the USA Retirement Funds Act.”.

7 **SEC. 105. ENFORCEMENT AND FRAUD PREVENTION.**

8 (a) PENALTY FOR FAILURE TO TIMELY REMIT CONTRIBUTIONS TO AUTOMATIC USA RETIREMENT FUND ARRANGEMENTS.—

11 (1) IN GENERAL.—If an employer is required under an automatic USA Retirement Fund arrangement to deposit amounts withheld from an employee’s compensation into a USA Retirement Fund but fails to do so within the time prescribed under section 101(d)(3), such amounts shall be treated as assets of a USA Retirement Fund.

18 (2) FAILURE TO PROVIDE ACCESS TO PAYROLL SAVINGS ARRANGEMENTS.—

20 (A) GENERAL RULE.—A covered employer who fails to meet the requirements of section 101(a) for a calendar year shall be subject to a civil money penalty of \$100 per calendar year for each employee to whom such failure relates.

1 (B) EXCEPTIONS.—No civil money penalty  
2 shall be imposed under this paragraph for a  
3 failure to meet the requirements under section  
4 101(a)—

5 (i) during a period for which the Sec-  
6 retary determines that the employer sub-  
7 ject to liability for the civil money penalty  
8 did not know that the failure existed and  
9 exercised reasonable diligence to meet the  
10 requirements of section 101(a); or

11 (ii)(I) the employer subject to liability  
12 for the civil money penalty exercised rea-  
13 sonable diligence to meet the requirements  
14 of section 101(a); and

15 (II) the employer provides the auto-  
16 matic USA Retirement Fund arrangement  
17 described to each employee eligible to par-  
18 ticipate in the arrangement by the end of  
19 the 90-day period beginning on the first  
20 date the employer knew, or exercising rea-  
21 sonable diligence should have known, that  
22 such failure existed.

23 (C) WAIVER BY THE SECRETARY.—In the  
24 case of a failure to meet the requirements of  
25 section 101(a) that is due to reasonable cause

1 and not to willful neglect, the Secretary may, in  
2 the sole discretion of the Secretary, waive part  
3 or all of the civil money penalty imposed under  
4 this paragraph to the extent that the payment  
5 of such civil money penalty would be excessive  
6 or otherwise inequitable relative to the failure  
7 involved.

8 (D) PROCEDURES FOR NOTICE.—The Sec-  
9 retary may prescribe and implement procedures  
10 for obtaining confirmation that employers are  
11 in compliance with subsection (a). The Sec-  
12 retary, in the discretion of such Secretary, may  
13 prescribe that the confirmation shall be ob-  
14 tained on an annual or less frequent basis, and  
15 may use for this purpose the annual report or  
16 quarterly report for employment taxes, or such  
17 other means as the Secretary may deem advis-  
18 able.

19 (b) CIVIL ACTIONS AND ENFORCEMENT.—

20 (1) ADMINISTRATION AND ENFORCEMENT.—  
21 Part 5 of title I of the Employee Retirement Income  
22 Security Act of 1974 (29 U.S.C. 1132 et seq.) shall  
23 apply to a USA Retirement Fund as if a USA Re-  
24 tirement Fund were an employee benefit plan.

1           (2) AMENDMENT.—Section 502(a) of the Em-  
2     ployee Retirement Income Security Act of 1974 (29  
3     U.S.C. 1132 et seq.) is amended—

4           (A) in paragraph (9), by striking “; or”  
5     and inserting “;”;

6           (B) in paragraph (10), by striking the pe-  
7     riod at the end and inserting “; or”; and

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

9           “(11) in the event that an employer fails to  
10    make timely contributions or payments to a USA  
11    Retirement Fund established under title I of the  
12    USA Retirement Funds Act, by the Secretary, a  
13    participant, a beneficiary, or a fiduciary, to compel  
14    an employer to make such contributions or payments  
15    as if such contributions or payments were delinquent  
16    contributions or payments under section 515 or sub-  
17    section (g)(2).”.

18          (3) NON-PREEMPTION OF CERTAIN STATE  
19    LAW.—Nothing in this section shall preempt State  
20    law insofar as State law relates to the enforcement  
21    of an obligation to contribute to a USA Retirement  
22    Fund.

23          (c) FALSE STATEMENTS.—

24          (1) IN GENERAL.—No person, in connection  
25    with a plan or other arrangement that is or purports

1 to be a USA Retirement Fund, shall make a false  
2 statement or false representation of fact, knowing it  
3 to be false, in connection with the marketing or sale  
4 of such plan or arrangement, to any employee, any  
5 member of an employee organization, any bene-  
6 ficiary, any employer, any employee organization,  
7 the Secretary, or any State, or the representative or  
8 agent of any such person, State, or the Secretary,  
9 concerning—

10 (A) the financial condition or solvency of  
11 such fund or arrangement;

12 (B) the benefits provided by such fund or  
13 arrangement;

14 (C) the regulatory status of such fund or  
15 other arrangement under any Federal or State  
16 law governing collective bargaining, labor man-  
17 agement relations, or intern union affairs; or

18 (D) the regulatory status of such fund or  
19 other arrangement.

20 (2) PENALTY.—Any person who violates this  
21 subsection shall, upon conviction, be imprisoned not  
22 more than 10 years or fined under title 18, United  
23 States Code, or both.

24 (d) CEASE AND DESIST ORDERS.—

1           (1) ISSUANCE OF ORDER.—The Secretary may  
2           issue a cease and desist (ex parte) order under this  
3           title if the Secretary determines that the alleged con-  
4           duct of a fund purporting to be a USA Retirement  
5           Fund is fraudulent, or creates an immediate danger  
6           to the public safety or welfare, or is causing or can  
7           be reasonably expected to cause significant, immi-  
8           nent, and irreparable public injury.

9           (2) HEARINGS.—

10           (A) IN GENERAL.—A person who is ad-  
11           versely affected by the issuance of a cease and  
12           desist order under paragraph (1) may request a  
13           hearing by the Secretary regarding such order.  
14           The Secretary may require that a hearing  
15           under this paragraph, including all related in-  
16           formation and evidence, be conducted in a con-  
17           fidential manner.

18           (B) BURDEN OF PROOF.—The burden of  
19           proof in any hearing conducted under subpara-  
20           graph (A) shall be on the party requesting the  
21           hearing to show cause why the cease and desist  
22           order should be set aside.

23           (C) DETERMINATION.—Based upon the  
24           evidence presented at a hearing under subpara-  
25           graph (A), the Secretary may affirm, modify, or

1 set aside the cease and desist order at issue, in  
2 whole or in part.

3 (3) REGULATIONS.—The Secretary may pro-  
4 mulgate such regulations or other guidance as may  
5 be necessary or appropriate to carry out this sub-  
6 section.

7 **TITLE II—DEFINED**  
8 **CONTRIBUTION PLAN REFORMS**  
9 **Subtitle A—Savings Enhancements**

10 **SEC. 201. POOLED EMPLOYER PLANS.**

11 (a) NO COMMON INTEREST REQUIRED FOR POOLED  
12 EMPLOYER PLANS.—Section 3(2) of the Employee Retire-  
13 ment Income Security Act of 1974 (29 U.S.C. 1002(2))  
14 is amended by adding at the end the following:

15 “(C) A pooled employer plan shall be treat-  
16 ed as a single employee pension benefit plan or  
17 single pension plan without regard to whether  
18 the participating employers share a common in-  
19 terest other than participation in the plan.”.

20 (b) POOLED EMPLOYER PLAN AND PROVIDER DE-  
21 FINED.—Section 3 of the Employee Retirement Income  
22 Security Act of 1974 (29 U.S.C. 1002) is amended by  
23 adding at the end the following:

24 “(43)(A) The term ‘pooled employer plan’  
25 means a pension plan (without regard to whether

1 any participating employers share a common interest  
2 other than participation in the plan) that is a single  
3 individual account plan established or maintained for  
4 the purpose of providing benefits to the employees of  
5 2 or more employers but only if—

6 “(i) the terms of the plan designate a  
7 pooled plan provider,

8 “(ii) under the plan each participating em-  
9 ployer retains fiduciary responsibility for—

10 “(I) the prudent selection and moni-  
11 toring of the person designated as the  
12 pooled employer plan provider and, if dif-  
13 ferent from the provider, the person des-  
14 ignated as the plan’s named fiduciary, and

15 “(II) to the extent not otherwise dele-  
16 gated to another fiduciary, the investment  
17 and management of that portion of the  
18 plan’s assets attributable to the employees  
19 of that participating employer,

20 “(iii) under the plan a participating em-  
21 ployer is not subject to unreasonable restric-  
22 tions, fees, or penalties with regard to ceasing  
23 participation or otherwise transferring assets of  
24 the plan in accordance with section 414(l) of  
25 the Internal Revenue Code of 1986, and

1           “(iv) the pooled employer plan provider  
2 provides to participating employers any disclo-  
3 sures or other information as the Secretary may  
4 require.

5           “(B) The term ‘pooled employer plan’ does not  
6 include—

7           “(i) a multiemployer plan, or

8           “(ii) a plan established before January 1,  
9 2014, or any successor thereof.

10          “(44)(A) The term ‘pooled plan provider’ means  
11 a person who—

12           “(i) is designated by the terms of a pooled  
13 employer plan as a pooled plan provider;

14           “(ii) registers as a pooled plan provider  
15 with the Secretary and provides such other  
16 identifying information to the Secretary as the  
17 Secretary may require; and

18           “(iii) has such educational or professional  
19 qualifications as the Secretary may require.

20          “(B) The Secretary may perform examinations  
21 and investigations of pooled plan providers as may  
22 be necessary to enforce and carry out the purposes  
23 of the Act.

24          “(C) For purposes of this section, the following  
25 shall be treated as a single pooled plan provider:

1           “(i) All corporations that provide services  
2           to a plan and are members of a controlled  
3           group of corporations within the meaning of  
4           section 1563(a) of the Internal Revenue Code  
5           of 1986 (determined without regard to sub-  
6           section (a)(4) of such section 1563).

7           “(ii) All persons treated as a single em-  
8           ployer under section 210(d).”.

9           (c) TECHNICAL AMENDMENT.—Section 3 of such Act  
10          is amended by striking the second paragraph (41).

11       **SEC. 202. POOLED EMPLOYER AND MULTIPLE EMPLOYER**  
12                               **PLAN REPORTING.**

13          (a) ADDITIONAL INFORMATION.—Section 103 of the  
14          Employee Retirement Income Security Act of 1974 (29  
15          U.S.C. 1023) is amended—

16               (1) in subsection (a)(1)(B), by striking “appli-  
17               cable subsections (d), (e), and (f)” and inserting  
18               “applicable subsections (d), (e), (f), and (g)”; and

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

20               “(g) ADDITIONAL INFORMATION WITH RESPECT TO  
21          POOLED EMPLOYER AND MULTIPLE EMPLOYER  
22          PLANS.—An annual report under this section for a plan  
23          year shall include—

24                       “(1) with respect to any pooled employer plan  
25                       or other pension plan maintained by more than one

1 employer (other than a multiemployer plan), a list of  
2 participating employers and a good faith estimate of  
3 the percentage of the total contributions made, or  
4 expected to be made, by each such participating em-  
5 ployer for the plan year, and

6 “(2) with respect to a pooled employer plan, the  
7 identifying information for the person designated  
8 under the terms of the plan as the pooled plan pro-  
9 vider.”.

10 (b) SIMPLIFIED ANNUAL REPORTS.—Section 104(a)  
11 of the Employee Retirement Income Security Act of 1974  
12 (29 U.S.C. 1024(a)) is amended by striking paragraph  
13 (2)(A) and inserting the following:

14 “(2)(A) With respect to annual reports required  
15 to be filed with the Secretary under this part, the  
16 Secretary may by regulation prescribe simplified an-  
17 nual reports for any pension plan that—

18 “(i) covers fewer than 100 participants, or

19 “(ii) is a pooled employer plan (as defined  
20 in section 3(43)) that covers fewer than 1,000  
21 participants but only if no single participating  
22 employer has more than 100 participants cov-  
23 ered by the plan.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to annual reports for plan years  
 3 beginning after December 31, 2014.

## 4 **Subtitle B—Participant Protections**

### 5 **SEC. 211. ALTERNATIVE FIDUCIARY ARRANGEMENTS TO** 6 **PROTECT PLAN PARTICIPANTS.**

7 Section 405 of the Employee Retirement Income Se-  
 8 curity Act of 1974 (29 U.S.C. 1105) is amended by adding  
 9 at the end the following:

10 “(e) SMALL EMPLOYER PLAN ALTERNATIVE FIDU-  
 11 CIARY ARRANGEMENTS.—

12 “(1) IN GENERAL.—A small employer that is a  
 13 plan sponsor of an employee pension benefit plan  
 14 shall not be liable for a breach of fiduciary responsi-  
 15 bility of a small employer plan service provider with  
 16 respect to the same plan if the requirements of the  
 17 following subparagraphs are met:

18 “(A) SMALL EMPLOYER PLAN SPONSOR  
 19 REQUIREMENTS.—The requirements of this  
 20 subparagraph are met if the small employer  
 21 prudently selects and monitors the small em-  
 22 ployer plan named fiduciary.

23 “(B) SMALL EMPLOYER PLAN NAMED FI-  
 24 DUCIARY REQUIREMENTS.—The requirements

1 of this subparagraph are met if the small em-  
2 ployer plan named fiduciary—

3 “(i) engages a small employer plan  
4 service provider with respect to the em-  
5 ployee pension benefit plan;

6 “(ii) registers as a small employer  
7 plan named fiduciary with the Secretary in  
8 accordance with paragraph (2)(A);

9 “(iii) has such educational or profes-  
10 sional qualifications as the Secretary may  
11 require;

12 “(iv) provides to employers disclosures  
13 or other information as may be required by  
14 the Secretary by regulations to facilitate  
15 monitoring of the named fiduciary;

16 “(v) is bonded in accordance with sec-  
17 tion 412; and

18 “(vi) meets the financial responsibility  
19 requirements of paragraph (2)(B).

20 “(2) RULES RELATING TO NAMED FIDUCIARY  
21 REQUIREMENTS.—

22 “(A) REPORTING BY SMALL EMPLOYER  
23 PLAN NAMED FIDUCIARY.—For purposes of  
24 paragraph (1)(B)(ii), the small employer plan

1 named fiduciary shall file the required registra-  
2 tion with the Secretary—

3 “(i) before the date upon which the  
4 safe harbor provided in this subsection  
5 first applies to a small employer plan spon-  
6 sor and at such other times as the Sec-  
7 retary may prescribe by regulations, and

8 “(ii) in such form and manner, and  
9 containing such information, as the Sec-  
10 retary determines necessary or appropriate  
11 to carry out the purposes of this Act.

12 “(B) FINANCIAL RESPONSIBILITY RE-  
13 QUIREMENTS.—For purposes of paragraph  
14 (1)(B)(vi), a small employer plan named fidu-  
15 ciary shall meet the requirements of this sub-  
16 paragraph if the fiduciary either—

17 “(i) has fiduciary liability insurance  
18 with a per-claim limit equal to no less  
19 than—

20 “(I) the greater of 5 percent of  
21 plan assets or \$1,000,000; or

22 “(II) such other amount as is de-  
23 termined by the Secretary by regula-  
24 tion; or

25 “(ii) is—

1           “(I) a bank, as defined in section  
2           202(a)(2) of the Investment Advisers  
3           Act of 1940, that has the power to  
4           manage, acquire, or dispose of assets  
5           of a plan, and that has, as of the last  
6           day of its most recent fiscal year, eq-  
7           uity capital in excess of \$1,000,000;

8           “(II) a savings and loan associa-  
9           tion, the accounts of which are in-  
10          sured by the Federal Savings and  
11          Loan Insurance Corporation, that has  
12          made application for and been granted  
13          trust powers to manage, acquire, or  
14          dispose of assets of a plan by a State  
15          or Federal authority having super-  
16          vision over savings and loan associa-  
17          tions, and that has, as of the last day  
18          of its most recent fiscal year, equity  
19          capital or net worth in excess of  
20          \$1,000,000;

21          “(III) an insurance company that  
22          is subject to supervision and examina-  
23          tion by a State authority having su-  
24          pervision over insurance companies,  
25          that is qualified under the laws of

1 more than one State to manage, ac-  
2 quire, or dispose of assets of a plan,  
3 and that has, as of the last day of its  
4 most recent fiscal year, net worth in  
5 excess of \$1,000,000; or

6 “(IV) an investment adviser reg-  
7 istered under the Investment Advisers  
8 Act of 1940 that, as of the last day  
9 of its most recent fiscal year, has total  
10 client assets under its management  
11 and control in excess of \$85,000,000  
12 and shareholders’ or partners’ equity  
13 in excess of \$1,000,000.

14 “(C) ADJUSTMENT OF AMOUNTS.—The  
15 Secretary may by regulation adjust the dollar  
16 amounts under subparagraph (B)(ii).

17 “(3) ADMINISTRATIVE SUMMARY CEASE AND  
18 DESIST ORDERS AND SUMMARY SEIZURE ORDERS  
19 AGAINST SMALL EMPLOYER PLAN NAMED FIDU-  
20 CIARY.—

21 “(A) IN GENERAL.—The Secretary may  
22 issue an ex parte cease and desist order under  
23 this title if the Secretary—

24 “(i) determines that a small plan  
25 named fiduciary or small employer plan

1 service provider has not met the require-  
2 ments under paragraph (1) or (2); or

3 “(ii) has reasonable cause to believe  
4 that the named fiduciary or service pro-  
5 vider has engaged in or is about to engage  
6 in conduct that is a violation of this title  
7 or that the Secretary determines to be con-  
8 trary to accepted standards of plan oper-  
9 ations that might result in abnormal risk  
10 to the plan or participants and bene-  
11 ficiaries of the plan.

12 “(B) HEARINGS.—

13 “(i) IN GENERAL.—A person that is  
14 adversely affected by the issuance of a  
15 cease and desist order under subparagraph  
16 (A) may request a hearing by the Sec-  
17 retary regarding such order.

18 “(ii) CONFIDENTIALITY.—The Sec-  
19 retary may require that a hearing under  
20 this subparagraph, including all related in-  
21 formation and evidence, be conducted in a  
22 confidential manner.

23 “(iii) BURDEN OF PROOF.—The bur-  
24 den of proof in any hearing conducted  
25 under this subparagraph shall be on the

1 party requesting the hearing to show cause  
2 why the cease and desist order should be  
3 set aside.

4 “(iv) DETERMINATION.—Based upon  
5 the evidence presented at a hearing under  
6 this subparagraph, the Secretary may af-  
7 firm, modify, or set aside the cease and de-  
8 sist order, in whole or in part.

9 “(C) SEIZURE.—The Secretary may issue  
10 a summary seizure order under this subtitle if  
11 the Secretary determines that a small employer  
12 plan named fiduciary or small employer plan  
13 service provider is in a financially hazardous  
14 condition.

15 “(D) REGULATIONS.—The Secretary may  
16 promulgate such regulations or other guidance  
17 as may be necessary or appropriate to carry out  
18 this paragraph.

19 “(E) EXCEPTION.—This paragraph shall  
20 not apply to any named fiduciary that is not a  
21 named fiduciary under paragraph (1)(A) or  
22 small employer plan service provider under  
23 paragraph (1)(B)(i).

24 “(F) SAVINGS CLAUSE.—The Secretary’s  
25 authority under this paragraph shall not be

1 construed to limit the Secretary's ability to ex-  
2 ercise enforcement or investigatory authority  
3 under any other provision of this title. The Sec-  
4 retary may, in the sole discretion of the Sec-  
5 retary, initiate court proceedings without using  
6 the procedures in this paragraph.

7 “(4) DEFINITIONS.—For purposes of this sub-  
8 section—

9 “(A) SMALL EMPLOYER.—

10 “(i) IN GENERAL.—The term ‘small  
11 employer’ means, with respect to any year,  
12 an employer that did not have more than  
13 50 employees on any day during the pre-  
14 ceding year.

15 “(ii) 2-YEAR GRACE PERIOD.—A small  
16 employer that establishes and maintains an  
17 employee pension benefit plan for 1 or  
18 more years and that is not a small em-  
19 ployer for any subsequent year shall be  
20 treated as a small employer for the 2 years  
21 following the last year the employer was a  
22 small employer. If such employer is not a  
23 small employer as described in the pre-  
24 ceding sentence on account of an acquisi-  
25 tion, disposition, or similar transaction in-

1           volving a small employer, the preceding  
2           sentence shall not apply.

3           “(B) SMALL EMPLOYER PLAN NAMED FI-  
4           DUCIARY.—The term ‘small employer plan  
5           named fiduciary’ means the fiduciary that is  
6           designated as the small employer plan named  
7           fiduciary in the instrument under which an em-  
8           ployee pension benefit plan is maintained.

9           “(C) SMALL EMPLOYER PLAN SERVICE  
10          PROVIDER.—The term ‘small employer plan  
11          service provider’ means—

12                   “(i) an administrator (as defined in  
13                   section 3(16)(A));

14                   “(ii) a fiduciary (as defined in section  
15                   3(21)(A)); or

16                   “(iii) an investment manager (as de-  
17                   fined in section 3(38)),

18           that is independent from the small employer  
19           plan named fiduciary.”.

20 **SEC. 212. ROLLOVER PROTECTIONS.**

21           (a) SENSE OF CONGRESS.—It is the sense of Con-  
22           gress that a person may be providing investment advice  
23           within the meaning of section 3(21) of the Employee Re-  
24           tirement Income Security Act of 1974 (29 U.S.C.  
25           1002(21)) when such person advises a plan participant to

1 take a permissible plan distribution and such distribution  
2 advice is combined with a recommendation as to how the  
3 distribution should be invested.

4 (b) GUIDANCE.—Not later than 90 days after the  
5 date of enactment of this Act, the Secretary of Labor shall  
6 issue guidance consistent with subsection (a) clarifying the  
7 applicability of section 3(21) of the Employee Retirement  
8 Income Security Act of 1974 to investment advice pro-  
9 vided in connection with distribution recommendations.

10 (c) FIDUCIARY AND PROHIBITED TRANSACTION  
11 AWARENESS.—The Comptroller General of the United  
12 States shall study the extent to which advisors, broker-  
13 dealers, and other financial professionals dealing with in-  
14 dividual and employer-provided retirement plans are aware  
15 of, and receive ongoing training regarding, the require-  
16 ments of part 4 of subtitle B of title I of the Employee  
17 Retirement Income Security Act (29 U.S.C. 1101 et seq.)  
18 and section 4975 of the Internal Revenue Code of 1986.  
19 The Comptroller General shall submit a report to the  
20 Committee on Health, Education, Labor, and Pensions of  
21 the Senate and the Committee on Education and the  
22 Workforce of the House of Representatives summarizing  
23 its findings and including recommendations regarding  
24 ways to improve awareness of and compliance with the fi-  
25 duciary and prohibited transaction rules.

1           **Subtitle C—Lifetime Income**

2   **SEC. 221. LIFETIME INCOME DISCLOSURE.**

3           (a) **REQUIREMENTS TO PROVIDE PENSION BENEFIT**  
4 **STATEMENTS.**—Section 105(a)(2)(B) of the Employee  
5 Retirement Income Security Act of 1974 (29 U.S.C.  
6 1025(a)(2)(B)) is amended—

7           (1) in clause (i), by striking “and” at the end;

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

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

11                   “(iii) an illustration of the partici-  
12 pant’s benefit as an estimated lifetime in-  
13 come stream beginning at retirement de-  
14 termined in accordance with assumptions  
15 and requirements established by regula-  
16 tion.”.

17          (b) **LIMITATION ON LIABILITY.**—Section 404 of the  
18 Employee Retirement Income Security Act of 1974 (29  
19 U.S.C. 1104), as amended by section 105, is amended by  
20 adding at the end the following:

21                   “(f) **LIMITATION ON LIABILITY.**—No plan fiduciary,  
22 plan sponsor, or other person shall have any liability under  
23 this title solely by reason of providing an illustration as  
24 required under section 105(a)(2)(B)(iii).”.

1 (c) REGULATIONS.—Not later than 1 year after the  
2 date of the enactment of this Act, the Secretary of Labor  
3 shall issue regulations implementing the amendments  
4 made by subsections (a) and (b).

5 (d) CLARIFICATION.—The requirement under section  
6 105(a)(2)(B)(iii) of the Employee Retirement Income Se-  
7 curity Act of 1974, as added by subsection (a)(3), shall  
8 apply to pension benefit statements furnished more than  
9 1 year after the issuance of the final rules implementing  
10 section 105(a)(2)(B)(iii) of such Act.

11 **SEC. 222. LIFETIME INCOME SAFE HARBOR.**

12 Section 404 of the Employee Retirement Income Se-  
13 curity Act of 1974 (29 U.S.C. 1104), as amended by sec-  
14 tions 105 and 221(b), is amended by adding at the end  
15 the following:

16 “(g) SAFE HARBOR FOR ANNUITY SELECTION.—

17 “(1) IN GENERAL.—With respect to the selec-  
18 tion of a lifetime retirement income contract as part  
19 of an individual account plan, a fiduciary will be  
20 deemed to satisfy the requirements of subsection  
21 (a)(1)(B) with respect to the selection of an insurer  
22 and lifetime retirement income contract if the fidu-  
23 ciary engages in an objective, thorough, and analyt-  
24 ical search for the purpose of identifying insurers

1 from which to purchase lifetime retirement income  
2 contracts and appropriately concludes that—

3 “(A) at the time of the selection, the in-  
4 surer is financially capable of satisfying its obli-  
5 gations under the lifetime income contract; and

6 “(B) the cost (including fees, surrender  
7 penalties, and commissions) of the selected life-  
8 time retirement income contract is reasonable  
9 in relation to the benefits and product features  
10 of the contract and the administrative services  
11 to be provided under such contract.

12 “(2) FIDUCIARIES.—A fiduciary meets the re-  
13 quirements of paragraph (1)(A) if the fiduciary  
14 meets all of the following conditions:

15 “(A) The fiduciary obtains written rep-  
16 resentations from the insurer that—

17 “(i) the insurer is licensed to offer  
18 lifetime retirement income contracts;

19 “(ii) the insurer, at the time of selec-  
20 tion and for each of the immediately pre-  
21 ceding 10 years—

22 “(I) operates under a certificate  
23 of authority from the Insurance Com-  
24 missioner of its domiciliary state that  
25 has not been revoked or suspended;

1                   “(II) has filed financial state-  
2                   ments in accordance with the laws of  
3                   its domiciliary state under applicable  
4                   statutory accounting principles;

5                   “(III) maintains reserves that  
6                   satisfy all the statutory requirements  
7                   of all States where the insurer does  
8                   business; and

9                   “(IV) is not operating under an  
10                  order of supervision, rehabilitation, or  
11                  liquidation;

12                  “(iii) the insurer undergoes, at least  
13                  every 5 years, a financial examination  
14                  (within the meaning of the law of the State  
15                  in which the insurer is domiciled) by the  
16                  insurance commissioner of the domiciliary  
17                  State (or any representative, designee, or  
18                  other party approved thereby);

19                  “(iv) if, following the issuance of the  
20                  representations described in clauses (i)  
21                  through (iii), there is any change that  
22                  would preclude the insurer from making  
23                  such representations at the time of  
24                  issuance of the lifetime retirement income  
25                  contract, the insurer will inform the fidu-

1           ciary that the fiduciary can no longer rely  
2           on one or more of the representations; and

3           “(v) meet such other requirements  
4           specified by the Secretary by regulation.

5           “(B) The fiduciary has not received the  
6           notification described in clause (iv) of subpara-  
7           graph (A) and has no other facts that would  
8           cause the fiduciary to question the representa-  
9           tions described in clauses (i) through (iii) of  
10          subparagraph (A).

11          “(C) The fiduciary inquires about addi-  
12          tional protections that might be available  
13          through a State guaranty association for the  
14          lifetime retirement income contract.

15          “(D) The fiduciary obtains evidence from  
16          the insurer that, not more than 1 year prior to  
17          the time of selection, the insurer has obtained  
18          written confirmation from the insurance com-  
19          missioner of the domiciliary State of such in-  
20          surer that, at the time the confirmation is  
21          issued, the insurer met the conditions of clauses  
22          (i) and (ii) of subparagraph (A).

23          “(3) TIME OF SELECTION.—For purposes of  
24          this subsection, the ‘time of selection’ is—

1           “(A) the time that the insurer and con-  
2           tract are selected for distribution of benefits to  
3           a specific participant or beneficiary; or

4           “(B) the time that the insurer and con-  
5           tract are selected to provide benefits at future  
6           dates to participants or beneficiaries, but only  
7           if the selecting fiduciary periodically reviews the  
8           continuing appropriateness of the conclusion de-  
9           scribed in paragraph (1)(A).

10          “(4) PERIODIC REVIEW.—For purposes of para-  
11          graph (3)(B), a fiduciary is not required to review  
12          the appropriateness of the conclusion under para-  
13          graph (1)(A) before or after the purchase of any  
14          contract for specific participants or beneficiaries. A  
15          fiduciary will be deemed to have conducted a peri-  
16          odic review of the financial capability of the insurer  
17          if the fiduciary obtains the written representations  
18          described in clauses (i) through (iii) of paragraph  
19          (2)(A) on an annual basis, unless, in the interim, the  
20          fiduciary becomes aware of facts that would cause  
21          the fiduciary to question such representations.

22          “(5) DEFINITIONS.—For purposes of this sub-  
23          section—

24                 “(A) the term ‘insurer’ means an insur-  
25                 ance company, insurance service, or insurance

1 organization qualified to do business in a State  
2 and includes affiliates of such companies to the  
3 extent the affiliate is licensed to offer lifetime  
4 retirement income contracts; and

5 “(B) the term ‘lifetime retirement income  
6 contract’ means an annuity contract or a con-  
7 tract (or provision or feature thereof) that pro-  
8 vides a participant fixed or variable benefits for  
9 a fixed term or the remainder of the life of the  
10 participant or the joint lives of the participant  
11 and the designated beneficiary of the partici-  
12 pant.

13 “(6) SAVINGS CLAUSE.—Nothing in this sub-  
14 section shall be construed to establish minimum re-  
15 quirements or the exclusive means for a fiduciary to  
16 satisfy the fiduciary duties under subsection  
17 (a)(1)(B). Nothing in this subsection shall be con-  
18 strued to require a fiduciary to select the lowest cost  
19 contract. A fiduciary may consider the value, includ-  
20 ing features and benefits of the contract and at-  
21 tributes of the insurer, in conjunction with the con-  
22 tract’s cost. Attributes of the insurer that may be  
23 considered may include, without limitation, the  
24 issuer’s financial strength.”.

1 **SEC. 223. DEFAULT INVESTMENT SAFE HARBOR CLARI-**  
2 **FICATION.**

3 (a) IN GENERAL.—Section 404(c)(5) of the Em-  
4 ployee Retirement Income Security Act of 1974 (29  
5 U.S.C. 1104(c)(5)) is amended by adding at the end the  
6 following:

7 “(C) AVAILABILITY OF OPTIONS.—The  
8 availability of annuity purchase rights, death  
9 benefit guarantees, investment guarantees, or  
10 other features in insurance contracts will not, in  
11 and of themselves, affect the status of a fund,  
12 product, or portfolio as a default investment  
13 under this paragraph.”.

14 (b) RULES OF CONSTRUCTION.—The amendment  
15 made by subsection (a) shall be construed to codify exist-  
16 ing law and shall not be construed as modifying the regu-  
17 lations promulgated by the Secretary of Labor under sec-  
18 tion 404(c)(5) of Employee Retirement Income Security  
19 Act of 1974 (29 U.S.C. 1104(c)(5)), as in effect before  
20 the amendment made by this section.

21 **SEC. 224. ADMINISTRATION OF JOINT AND SURVIVOR AN-**  
22 **NUITY REQUIREMENTS.**

23 (a) OPTION TO APPOINT ANNUITY ADMINISTRA-  
24 TORS.—Section 402(c) of the Employee Retirement In-  
25 come Security Act of 1974 (29 U.S.C. 1102(c)) is amend-  
26 ed—

1           (1) in paragraph (2), by striking “or” at the  
2           end,

3           (2) in paragraph (3), by striking the period at  
4           the end and inserting “; or”, and

5           (3) by adding at the end the following new  
6           paragraph:

7           “(4) that a named fiduciary, or a fiduciary des-  
8           ignated by a named fiduciary pursuant to a plan  
9           procedure described in section 405(c)(1), may ap-  
10          point an annuity administrator or administrators  
11          with responsibility for administration of an indi-  
12          vidual account plan in accordance with the require-  
13          ments of section 205 and payment of any annuity  
14          required thereunder.”.

15          (b) LIABILITY OF ANNUITY ADMINISTRATOR.—Sec-  
16          tion 405 of the Employee Retirement Income Security Act  
17          of 1974 (29 U.S.C. 1105), as amended by section 211(a),  
18          is amended by adding at the end the following:

19          “(f) ANNUITY ADMINISTRATOR.—If 1 or more per-  
20          sons has been appointed under section 402(c)(4) as an an-  
21          nuity administrator or administrators of an individual ac-  
22          count plan, and each such person acknowledges in writing  
23          that such person is the annuity administrator and a fidu-  
24          ciary under the plan with respect to appointed duties, nei-  
25          ther the named fiduciary nor any appointing fiduciary

1 shall be liable for any act or omission of the annuity ad-  
 2 ministrator except to the extent that—

3 “(1) the named fiduciary or appointing fidu-  
 4 ciary violated section 404(a)(1)—

5 “(A) with respect to such appointment; or

6 “(B) in continuing the appointment;

7 “(2) the named fiduciary or appointing fidu-  
 8 ciary would otherwise be liable in accordance with  
 9 subsection (a); or

10 “(3) the entity appointed to be the annuity ad-  
 11 ministrator is not an insurance company or ap-  
 12 proved to be an annuity administrator by the Sec-  
 13 retary.”.

14 **TITLE III—DEFINED BENEFIT**  
 15 **SYSTEM REFORMS**

16 **Subtitle A—Defined Benefit**  
 17 **Pension Plan Reforms**

18 **SEC. 301. HYBRID PLANS.**

19 (a) AMENDMENTS TO ERISA.—

20 (1) REASONABLE MINIMUM RATES DIS-  
 21 REGARDED.—Section 204(b)(5)(B)(i) of the Em-  
 22 ployee Retirement Income Security Act of 1974 (29  
 23 U.S.C. 1054(b)(5)(B)(i)) is amended—

24 (A) in subclause (I), by adding at the end  
 25 the following new sentence: “Any rate described

1 in subclause (IV) or (V) shall be disregarded in  
2 determining whether a plan is treated as satis-  
3 fying the requirements of the first sentence of  
4 this subclause.”; and

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

6 “(IV) REASONABLE MINIMUM  
7 GUARANTEED RATES FOR INVEST-  
8 MENT-BASED INTEREST CREDITS.—In  
9 the case of an interest credit (or  
10 equivalent amount) that is based on  
11 an actual investment (or on an index  
12 that is structured to have effects simi-  
13 lar to the effects of an actual invest-  
14 ment), a fixed annual crediting rate  
15 equal to 3 percent (or a lower rate not  
16 less than zero that is specified in the  
17 plan) with respect to all contribution  
18 credits credited to a participant’s ac-  
19 count balance or similar amount dur-  
20 ing the guarantee period shall be  
21 treated as a reasonable minimum  
22 guaranteed rate of return. For pur-  
23 poses of this subclause, the guarantee  
24 period begins on the prospective date  
25 that such reasonable minimum guar-

1           anteed rate applies to the partici-  
 2           pant's benefit under the plan and  
 3           ends on the date that such reasonable  
 4           minimum guaranteed rate ceases to  
 5           apply to the participant's benefit.

6                   “(V) REASONABLE MINIMUM  
 7           RATES FOR OTHER INTEREST CRED-  
 8           ITING BASES.—In the case of an in-  
 9           terest credit (or equivalent amount)  
 10          that is not described in subclause  
 11          (IV), an annual interest rate equal to  
 12          the lowest interest rate permitted with  
 13          respect to any plan under section  
 14          415(b)(2)(E)(i) of the Internal Rev-  
 15          enue Code of 1986 (without regard to  
 16          section 415(b)(2)(E)(ii) of such Code)  
 17          shall be treated as a reasonable min-  
 18          imum guaranteed rate of return de-  
 19          scribed in such subclause.”.

20                   (2) PERMITTED FIXED RATES.—Section  
 21          204(b)(5)(B)(i) of such Act (29 U.S.C.  
 22          1054(b)(5)(B)(i)), as amended by paragraph (1)(B),  
 23          is amended by adding at the end the following:

24                           “(VI) PERMITTED FIXED RATE  
 25           OF RETURN.—An annual interest

1           crediting rate that is a fixed annual  
2           crediting rate and that does not ex-  
3           ceed the rate described in subclause  
4           (V) plus one percentage point shall be  
5           deemed to satisfy the requirements of  
6           subclause (I).”.

7           (3) PROTECTING PLAN PARTICIPANTS FROM  
8           LOSING ACCESS TO MARKET RATES.—

9           (A) IN GENERAL.—Section 204(b)(5)(B)  
10          of such Act (29 U.S.C. 1054(b)(5)(B)(i)(III)) is  
11          amended by adding at the end the following  
12          new clause:

13               “(iii) SPECIAL RULES RELATING TO  
14               MARKET RATE OF RETURN.—For purposes  
15               of clause (i)(III)—

16                       “(I) IN GENERAL.—Except as  
17                       provided in this subclause, any rate of  
18                       return available in the market, shall,  
19                       under the regulation under clause  
20                       (i)(III), be permitted as a market rate  
21                       of return under clause (i)(I).

22                       “(II) SECRETARIAL AUTHOR-  
23                       ITY.—Except as provided in subclause  
24                       (III), the Secretary of the Treasury  
25                       may prescribe by regulation that a

1 rate of return available in the market  
2 is not permitted under clause (i)(I) if  
3 such rate is designed to evade the  
4 purposes of clause (i)(I) and is not  
5 consistent with the purposes of a de-  
6 fined benefit plan. Such authority  
7 shall apply only to a rate of return  
8 based exclusively or primarily on the  
9 returns on employer securities (as de-  
10 fined in section 407(d)(1)), on alter-  
11 native investments generally not ap-  
12 propriate as an exclusive or primary  
13 investment for retirement, or on other  
14 similar investments.

15 “(III) SPECIFIED SAFE HARBOR  
16 RATES.—The following rates of return  
17 and any combination of such rates  
18 shall be deemed to be market rates of  
19 return that satisfy clause (i)(I):

20 “(aa) The first, second, or  
21 third segment rate (as defined in  
22 section 430(h)(2)(C) of the Inter-  
23 nal Revenue Code of 1986 (with-  
24 out regard to clause (iv) thereof))  
25 or any combination of such rates.

1           “(bb) The discount rate on  
2           3-month, 6-month, and 12-month  
3           Treasury bills with appropriate  
4           margins determined under regu-  
5           lations prescribed by the Sec-  
6           retary of the Treasury.

7           “(cc) The yield on 1-year, 2-  
8           year, 3-year, 5-year, 7-year, 10-  
9           year, and 30-year Treasury Con-  
10          stant Maturities with appropriate  
11          margins determined under regu-  
12          lations prescribed by the Sec-  
13          retary of the Treasury.

14          “(dd) The actual return on  
15          all or a diversified portion of the  
16          assets of the plan.

17          “(ee) Any total return index  
18          or price index commonly used as  
19          an investment benchmark, as de-  
20          termined under regulations pre-  
21          scribed by the Secretary of the  
22          Treasury.

23          “(ff) The rate of return on  
24          an annuity contract for a partici-  
25          pant issued by an insurance com-

1           pany licensed under the laws of a  
2           State.

3           “(gg) A cost of living index  
4           with appropriate margin, as de-  
5           termined under regulations pro-  
6           mulgated by the Secretary of the  
7           Treasury.

8           “(hh) The rate of return on  
9           a broad-based regulated invest-  
10          ment company, as determined  
11          under regulations promulgated by  
12          the Secretary of the Treasury.

13          “(ii) Any investment in  
14          which participants may elect to  
15          invest under a defined contribu-  
16          tion plan maintained by the spon-  
17          sor of the plan other than an in-  
18          vestment with a rate of return  
19          prohibited under clause (i), a sta-  
20          ble value fund, or an investment  
21          available only through a broker-  
22          age account (or similar arrange-  
23          ment).”.

24          (b) AMENDMENTS TO 1986 CODE.—

1           (1) REASONABLE MINIMUM RATES DIS-  
2 REGARDED.—Section 411(b)(5)(B)(i) of the Internal  
3 Revenue Code of 1986 is amended—

4           (A) in subclause (I), by adding at the end  
5 the following new sentence: “Any rate described  
6 in subclause (IV) or (V) shall be disregarded in  
7 determining whether a plan is treated as satis-  
8 fying the requirements of the first sentence of  
9 this subclause.”; and

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

11                   “(IV) REASONABLE MINIMUM  
12 GUARANTEED RATES FOR INVEST-  
13 MENT-BASED INTEREST CREDITS.—In  
14 the case of an interest credit (or  
15 equivalent amount) that is based on  
16 an actual investment (or on an index  
17 that is structured to have effects simi-  
18 lar to the effects of an actual invest-  
19 ment), a fixed annual crediting rate  
20 equal to 3 percent (or a lower rate not  
21 less than zero that is specified in the  
22 plan) with respect to all contribution  
23 credits credited to a participant’s ac-  
24 count balance or similar amount dur-  
25 ing the guarantee period shall be

1 treated as a reasonable minimum  
2 guaranteed rate of return. For pur-  
3 poses of this subclause, the guarantee  
4 period begins on the prospective date  
5 that such reasonable minimum guar-  
6 anteed rate applies to the partici-  
7 pant's benefit under the plan and  
8 ends on the date that such reasonable  
9 minimum guaranteed rate ceases to  
10 apply to the participant's benefit.

11 “(V) REASONABLE MINIMUM  
12 RATES FOR OTHER INTEREST CRED-  
13 ITING BASES.—In the case of an in-  
14 terest credit (or equivalent amount)  
15 that is not described in subclause  
16 (IV), an annual interest rate equal to  
17 the lowest interest rate permitted with  
18 respect to any plan under section  
19 415(b)(2)(E)(i) (without regard to  
20 section 415(b)(2)(E)(ii)) shall be  
21 treated as a reasonable minimum  
22 guaranteed rate of return described in  
23 such subclause.”.

24 (2) PERMITTED FIXED RATES.—Section  
25 411(b)(5)(B)(i) of such Code, as amended by para-

1 graph (1)(B), is further amended by adding at the  
 2 end the following:

3 “(VI) PERMITTED FIXED RATE  
 4 OF RETURN.—An annual interest  
 5 crediting rate that is a fixed annual  
 6 crediting rate and that does not ex-  
 7 ceed the rate described in subclause  
 8 (V) plus one percentage point shall be  
 9 deemed to satisfy the requirements of  
 10 subclause (I).”.

11 (3) PROTECTING PLAN PARTICIPANTS FROM  
 12 LOSING ACCESS TO MARKET RATES.—

13 (A) IN GENERAL.—Section 411(b)(5)(B)  
 14 of such Code is amended by adding at the end  
 15 the following:

16 “(iii) SPECIAL RULES RELATING TO  
 17 MARKET RATE OF RETURN.—For purposes  
 18 of clause (i)(III)—

19 “(I) IN GENERAL.—Except as  
 20 provided in this subclause, any rate of  
 21 return available in the market, shall,  
 22 under the regulation under clause  
 23 (i)(III), be permitted as a market rate  
 24 of return under clause (i)(I).

1                   “(II) SECRETARIAL AUTHOR-  
2                   ITY.—Except as provided in subclause  
3                   (III), the Secretary may prescribe by  
4                   regulation that a rate of return avail-  
5                   able in the market is not permitted  
6                   under clause (i)(I) if such rate is de-  
7                   signed to evade the purposes of clause  
8                   (i)(I) and is not consistent with the  
9                   purposes of a defined benefit plan.  
10                  Such authority shall apply only to a  
11                  rate of return based exclusively or pri-  
12                  marily on the returns on employer se-  
13                  curities (as defined in section  
14                  407(d)(1)), on alternative investments  
15                  generally not appropriate as an exclu-  
16                  sive or primary investment for retire-  
17                  ment, or on other similar investments.

18                  “(III) SPECIFIED SAFE HARBOR  
19                  RATES.—The following rates of return  
20                  and any combination of such rates  
21                  shall be deemed to be market rates of  
22                  return that satisfy clause (i)(I):

23                         “(aa) The first, second, or  
24                         third segment rate (as defined in  
25                         section 430(h)(2)(C) (without re-

1           gard to clause (iv) thereof)) or  
2           any combination of such rates.

3           “(bb) The discount rate on  
4           3-month, 6-month, and 12-month  
5           Treasury bills with appropriate  
6           margins determined under regu-  
7           lations prescribed by the Sec-  
8           retary.

9           “(cc) The yield on 1-year, 2-  
10          year, 3-year, 5-year, 7-year, 10-  
11          year, and 30-year Treasury Con-  
12          stant Maturities with appropriate  
13          margins determined under regu-  
14          lations prescribed by the Sec-  
15          retary.

16          “(dd) The actual return on  
17          all or a diversified portion of the  
18          assets of the plan.

19          “(ee) Any total return index  
20          or price index commonly used as  
21          an investment benchmark, as de-  
22          termined under regulations pre-  
23          scribed by the Secretary.

24          “(ff) The rate of return on  
25          an annuity contract for a partici-

1           pant issued by an insurance com-  
2           pany licensed under the laws of a  
3           State.

4           “(gg) A cost of living index  
5           with appropriate margin, as de-  
6           termined under regulations pro-  
7           mulgated by the Secretary.

8           “(hh) The rate of return on  
9           a broad-based regulated invest-  
10          ment company, as determined  
11          under regulations promulgated by  
12          the Secretary.

13          “(ii) Any investment in  
14          which participants may elect to  
15          invest under a defined contribu-  
16          tion plan maintained by the spon-  
17          sor of the plan other than an in-  
18          vestment with a rate of return  
19          prohibited under clause (i), a sta-  
20          ble value fund, or an investment  
21          available only through a broker-  
22          age account (or similar arrange-  
23          ment).”.

24           (c) PROTECTING PLAN PARTICIPANTS FROM RETRO-  
25   ACTIVE BENEFIT DECREASES.—

1           (1) IN GENERAL.—If an interest credit (or  
2           equivalent amount) under a plan subject to section  
3           411(b)(5)(B)(i)(I) of the Internal Revenue Code of  
4           1986 or section 204(b)(5)(B)(i)(I) of the Employee  
5           Retirement Income Security Act of 1974 (29 U.S.C.  
6           1054(b)(5)(B)(i)(I)) was reasonable in relation to  
7           market rates in existence when such interest credit  
8           (or equivalent amount) was established (disregarding  
9           any minimum rates of return that were reasonable  
10          when established), such interest credit (or equivalent  
11          amount) shall be treated as satisfying the require-  
12          ments of section 411(b)(5)(B)(i)(I) of such Code  
13          and section 204(b)(5)(B)(i)(I) of such Act for the  
14          transition period.

15          (2) TRANSITION PERIOD.—For purposes of  
16          paragraph (1), the transition period, with respect to  
17          any plan, begins on the date that section  
18          411(b)(5)(B)(i)(I) of such Code or section  
19          204(b)(5)(B)(i)(I) of such Act first applied to such  
20          plan and ends on the effective date of comprehensive  
21          final regulations under such sections prescribed by  
22          the Secretary of the Treasury.

23          (d) ENSURING FAIRNESS WHEN INTEREST CREDITS  
24          ARE REQUIRED TO BE DECREASED.—

1           (1) IN GENERAL.—In the case of an interest  
2           credit (or equivalent amount) under a plan subject  
3           to section 411(b)(5)(B)(i)(I) of the Internal Revenue  
4           Code of 1986 or section 204(b)(5)(B)(i)(I) of the  
5           Employee Retirement Income Security Act of 1974  
6           that is in effect for the last plan year prior to the  
7           effective date of comprehensive final regulations  
8           under such section of such Code but does not comply  
9           with such regulations determined after application of  
10          subsection (c), the Secretary of the Treasury shall  
11          provide an exception from the requirements of sec-  
12          tion 411(d)(6) of such Code and section 204(g) of  
13          such Act for a reduction in such interest credit (or  
14          equivalent amendment) that is made pursuant to  
15          such comprehensive final regulations.

16          (2) EXCEPTION.—The exception under para-  
17          graph (1) from section 204(g) of such Act and sec-  
18          tion 411(d)(6) of such Code shall be issued through  
19          regulations to ensure the opportunity of interested  
20          persons to make comments through a public notice  
21          and comment process. Such exception shall permit  
22          any interest credit (or equivalent amount) to which  
23          this subsection applies to be modified to be the max-  
24          imum fixed rate of return permitted under section  
25          204(b)(5)(B)(i)(VI) of such Act or section

1 411(b)(5)(B)(i)(VI) of such Code or to be the max-  
2 imum rate permitted under any rate of return  
3 deemed to be a market rate of return pursuant to  
4 section 204(b)(5)(B)(i)(III) of such Act or section  
5 411(b)(5)(B)(i)(III) of such Code. The Secretary of  
6 the Treasury shall further structure the exception to  
7 ensure that there are clear and simple methods for  
8 plans to comply with the requirements of section  
9 204(b)(5)(B)(i)(I) of such Act and section  
10 411(b)(5)(B)(i)(I) of such Code.

11 (e) PROTECTING PARTICIPANTS FROM PLAN  
12 FREEZES THROUGH APPROPRIATE TRANSITION  
13 RULES.—

14 (1) IN GENERAL.—In the case of any defined  
15 benefit plan to which this subsection applies, com-  
16 prehensive regulations under sections 203(f)(1) and  
17 204(b)(5)(B)(i) of the Employee Retirement Income  
18 Security Act of 1974 or sections 411(a)(13)(A) and  
19 411(b)(5)(B)(i) of the Internal Revenue Code of  
20 1986 shall not take effect before the first plan year  
21 beginning at least 1 year after the later of—

22 (A) the date of publication of such regula-  
23 tions; or

24 (B) the date of publication of the regula-  
25 tions described in subsection (d).

1           (2) PENSION EQUITY PLANS.—This subsection  
2 applies to any defined benefit plan that—

3           (A) is subject to section 204(b)(5) of the  
4 Employee Retirement Income Security Act of  
5 1974 or section 411(b)(5) of the Internal Rev-  
6 enue Code of 1986;

7           (B) expresses any portion of any partici-  
8 pant's benefit as a current value equal to an ac-  
9 cumulated percentage of the employee's final  
10 average compensation; and

11           (C) in the absence of guidance from the  
12 Secretary of the Treasury or the Secretary of  
13 Labor, has been structured in a reasonable,  
14 good faith manner to comply with the require-  
15 ments of such Code and such Act with respect  
16 to benefits described in subparagraph (B).

17           (3) PERIOD PRIOR TO EFFECTIVE DATE OF  
18 REGULATIONS.—In the case of a plan to which this  
19 subsection applies, no rule shall be issued and no ad-  
20 verse enforcement action shall be taken by the Sec-  
21 retary of the Treasury or the Secretary of Labor  
22 with respect to a plan described in paragraph (2) re-  
23 garding the structure of the benefits described in  
24 paragraph (2)(B) for any period prior to the effec-  
25 tive date of comprehensive final regulations issued

1 by the Secretary of the Treasury with respect to  
2 such benefits. Such final regulations shall not be ef-  
3 fective before the first plan year beginning at least  
4 1 year after publication of such regulations.

5 (f) EFFECTIVE DATE.—

6 (1) IN GENERAL.—Except as otherwise pro-  
7 vided, the amendments and other provisions of this  
8 section shall take effect as if included in section 701  
9 of the Pension Protection Act of 2006 (Public Law  
10 109–280; 120 Stat. 981).

11 (2) HOLD HARMLESS.—With respect to any pe-  
12 riod prior to the effective date of the comprehensive  
13 regulations described in subsection (e), no plan shall  
14 fail to comply with any requirement of the Employee  
15 Retirement Income Security Act of 1974 or of the  
16 Internal Revenue Code of 1986 by reason of com-  
17 plying with the law in effect without regard to the  
18 amendments made by subsections (a) and (b).

19 **SEC. 302. CLARIFICATION OF THE NORMAL RETIREMENT**  
20 **AGE.**

21 (a) AMENDMENTS TO ERISA.—Section 204 of the  
22 Employee Retirement Income Security Act of 1974 is  
23 amended by redesignating subsection (k) as subsection (l)  
24 and by inserting after subsection (j) the following new sub-  
25 section:

1       “(k) SPECIAL RULE FOR DETERMINING NORMAL  
2 RETIREMENT AGE FOR CERTAIN EXISTING DEFINED  
3 BENEFIT PLANS.—

4           “(1) IN GENERAL.—For purposes of section  
5 3(24), an applicable plan shall not be treated as fail-  
6 ing to meet any requirement of this title, or as fail-  
7 ing to have a uniform normal retirement age for  
8 purposes of this title, solely because the plan has  
9 adopted the normal retirement age described in  
10 paragraph (2).

11          “(2) APPLICABLE PLAN.—For purposes of this  
12 subsection—

13           “(A) IN GENERAL.—The term ‘applicable  
14 plan’ means a defined benefit plan that, on the  
15 date of the introduction of this subsection, has  
16 adopted a normal retirement age which is the  
17 earlier of—

18           “(i) an age otherwise permitted under  
19 section 2(24), or

20           “(ii) the age at which a participant  
21 completes the number of years (not less  
22 than 30 years) of benefit accrual service  
23 specified by the plan.

24           A plan shall not fail to be treated as an applica-  
25 ble plan solely because, as of such date, the

1 normal retirement age described in the pre-  
2 ceding sentence only applied to certain partici-  
3 pants or to certain employers participating in  
4 the plan.

5 “(B) EXPANDED APPLICATION.—If, after  
6 the date described in subparagraph (A), an ap-  
7 plicable plan expands the application of the nor-  
8 mal retirement age described in subparagraph  
9 (A) to additional participants or participating  
10 employers, such plan shall also be treated as an  
11 applicable plan with respect to such partici-  
12 pants or participating employers.”.

13 (b) AMENDMENT TO 1986 CODE.—Section 411 of the  
14 Internal Revenue Code of 1986 is amended by adding at  
15 the end the following new subsection:

16 “(f) SPECIAL RULE FOR DETERMINING NORMAL RE-  
17 TIREMENT AGE FOR CERTAIN EXISTING DEFINED BEN-  
18 EFIT PLANS.—

19 “(1) IN GENERAL.—For purposes of subsection  
20 (a)(8)(A), an applicable plan shall not be treated as  
21 failing to meet any requirement of this subchapter,  
22 or as failing to have a uniform normal retirement  
23 age for purposes of this subchapter, solely because  
24 the plan has adopted the normal retirement age de-  
25 scribed in paragraph (2).

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

3           “(A) IN GENERAL.—The term ‘applicable  
4 plan’ means a defined benefit plan that, on the  
5 date of the introduction of this subsection, has  
6 adopted a normal retirement age which is the  
7 earlier of—

8           “(i) an age otherwise permitted under  
9 subsection (a)(8)(A), or

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

14           A plan shall not fail to be treated as an applica-  
15 ble plan solely because, as of such date, the  
16 normal retirement age described in the pre-  
17 ceding sentence only applied to certain partici-  
18 pants or to certain employers participating in  
19 the plan.

20           “(B) EXPANDED APPLICATION.—If, after  
21 the date described in subparagraph (A), an ap-  
22 plicable plan expands the application of the nor-  
23 mal retirement age described in subparagraph  
24 (A) to additional participants or participating  
25 employers, such plan shall also be treated as an

1 applicable plan with respect to such partici-  
2 pants or participating employers.”.

3 **SEC. 303. MORATORIUM ON IMPOSITION OF SHUTDOWN LI-**  
4 **ABILITY.**

5 (a) IN GENERAL.—The Pension Benefit Guaranty  
6 Corporation shall not bring any new action against a plan  
7 sponsor to enforce subsection (e) of section 4062 of the  
8 Employee Retirement Income Security Act of 1974 (29  
9 U.S.C. 1362) before January 30, 2016.

10 (b) STUDY.—The Comptroller General of the United  
11 States shall study the effectiveness, fairness, and utility  
12 of section 4062(e) of the Employee Retirement Income Se-  
13 curity Act (29 U.S.C. 1101 et seq.). No later than Janu-  
14 ary 30, 2015, the Comptroller General shall submit a re-  
15 port to the Committee on Health, Education, Labor, and  
16 Pensions of the Senate and the Committee on Education  
17 and the Workforce of the House of Representatives sum-  
18 marizing its findings and including recommendations for  
19 alternative ways to protect retirees and the Pension Ben-  
20 efit Guaranty Corporation from cessations of operations  
21 while encouraging employers to both continue to offer de-  
22 fined benefit pension plans and to restructure as may be  
23 necessary to ensure the ongoing viability of the business.

1 **SEC. 304. ALTERNATIVE FUNDING TARGET ATTAINMENT**  
2 **PERCENTAGE DETERMINED WITHOUT RE-**  
3 **GARD TO REDUCTION FOR CREDIT BAL-**  
4 **ANCES.**

5 (a) **AMENDMENTS TO ERISA.**—Section 206(g) of  
6 Employee Retirement Income Security Act of 1974 (29  
7 U.S.C. 1056(g)) is amended—

8 (1) in paragraph (5), by striking subparagraph  
9 (C); and

10 (2) in paragraph (9)—

11 (A) in subparagraph (B)—

12 (i) by striking the period at the end  
13 and inserting “; and”;

14 (ii) by striking “under subparagraph  
15 (A) by increasing” and inserting the fol-  
16 lowing: “under subparagraph (A)—

17 “(i) by increasing”; and

18 (iii) by adding at the end the fol-  
19 lowing:

20 “(ii) without regard to the reduction  
21 under section 303(f)(4)(B).”; and

22 (B) by striking subparagraphs (C) and  
23 (D).

24 (b) **AMENDMENTS TO 1986 CODE.**—Section 436 of  
25 the Internal Revenue Code of 1986 is amended—

1 (1) in subsection (f), by striking paragraph (3);

2 and

3 (2) in subsection (j)—

4 (A) in paragraph (2)—

5 (i) by striking the period at the end

6 and inserting “, and”; and

7 (ii) by striking “under paragraph (1)

8 by increasing” and inserting the following:

9 “under subparagraph (A)—

10 “(A) by increasing”; and

11 (iii) by adding at the end the fol-

12 lowing:

13 “(B) without regard to the reduction under

14 section 430(f)(4)(B).”; and

15 (B) by striking the first and second para-

16 graph (3).

17 (c) EFFECTIVE DATE.—The amendments made by

18 this section shall apply to plan years beginning after De-

19 cember 31, 2014.

20 **SEC. 305. METHOD FOR DETERMINING CHANGES FOR**

21 **QUARTERLY CONTRIBUTIONS.**

22 (a) AMENDMENT TO ERISA.—Section 303(j)(3)(A)

23 of the Employee Retirement Income Security Act of 1974

24 (29 U.S.C. 1083(j)(3)(A)) is amended by inserting “(de-

1 terminated without regard to the reduction under subsection  
2 (f)(4)(B))” after “preceding plan year”.

3 (b) AMENDMENT TO 1986 CODE.—Section 430(j)(3)  
4 of the Internal Revenue Code of 1986 is amended by in-  
5 serting “(determined without regard to the reduction  
6 under subsection (f)(4)(B))” after “preceding plan year”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to plan years beginning after De-  
9 cember 31, 2014.

10 **SEC. 306. ELECTION TO DISCOUNT CONTRIBUTIONS FROM**  
11 **FINAL DUE DATE.**

12 (a) AMENDMENT TO ERISA.—Section 303(j)(2) of  
13 the Employee Retirement Income Security Act of 1974  
14 (29 U.S.C. 1083(j)(2)) is amended by adding at the end  
15 the following: “For purposes of this paragraph, a plan  
16 sponsor may elect to treat all payments made after the  
17 valuation date as having been made on the last day per-  
18 missible under paragraph (1).”.

19 (b) AMENDMENT TO 1986 CODE.—Section 430(j)(2)  
20 of the Internal Revenue Code of 1986 is amended by add-  
21 ing at the end the following: “For purposes of this para-  
22 graph, a plan sponsor may elect to treat all payments  
23 made after the valuation date as having been made on the  
24 last day permissible under paragraph (1).”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall apply to plan years beginning after De-  
 3 cember 31, 2014.

4 **SEC. 307. SIMPLIFICATION OF ELECTIONS AND NOTICES.**

5 (a) AMENDMENTS TO ERISA.—

6 (1) TIMELINESS OF ELECTIONS.—Section 303  
 7 of the Employee Retirement Income Security Act of  
 8 1974 (29 U.S.C. 1083) is amended by adding at the  
 9 end the following:

10 “(m) TIMELINESS OF ELECTIONS.—An election re-  
 11 quired to be made by the plan sponsor under this section,  
 12 including an election made under rules prescribed by the  
 13 Secretary of the Treasury to implement this section, shall  
 14 be deemed to have been timely made if the election is made  
 15 on or before the due date specified in subsection (j)(1)  
 16 or, if later, the due date of the actuarial report required  
 17 under section 103(d).”.

18 (2) TIME FOR PROVIDING NOTICE.—Section  
 19 101(f)(3)(B) of the Employee Retirement Income  
 20 Security Act of 1974 (29 U.S.C. 1021(f)(3)(B)) is  
 21 amended—

22 (A) in the heading, by striking “FOR  
 23 SMALL PLANS”;

24 (B) by inserting “a plan with an adjusted  
 25 funding target attainment percentage of more

1 than 80 percent for the prior year or” after “In  
2 the case of”;

3 (C) by striking “(as such term is used  
4 under section 303(g)(2)(B))”; and

5 (D) by striking “upon” and inserting “not  
6 later than 2 months after”.

7 (b) AMENDMENT TO 1986 CODE.—Section 430 of the  
8 Internal Revenue Code of 1986 is amended by adding at  
9 the end the following:

10 “(m) TIMELINESS OF ELECTIONS.—An election re-  
11 quired to be made by the plan sponsor under this section,  
12 including an election made under rules prescribed by the  
13 Secretary to implement this section, shall be deemed to  
14 have been timely made if the election is made on or before  
15 the due date specified in subsection (j)(1) or, if later, the  
16 due date of the actuarial report required under section  
17 6059.”.

18 (c) EFFECTIVE DATE.—The amendments made by  
19 this section shall apply to plan years beginning after De-  
20 cember 31, 2014.

21 **SEC. 308. IMPROVED MULTIEMPLOYER PLAN DISCLOSURE.**

22 (a) DISCLOSURE AND REPORTING BY MULTIEM-  
23 PLOYER PLANS.—

1           (1) PLAN FUNDING NOTICES.—Section 101(f)  
2 of the Employee Retirement Income Security Act of  
3 1974 (29 U.S.C. 1021(f)) is amended—

4           (A) in paragraph (2)(B)—

5                 (i) by striking clause (v);

6                 (ii) by redesignating clauses (vi)  
7 through (x) as clauses (v) through (ix), re-  
8 spectively;

9                 (iii) in clause (vi), as so redesi-  
10 gnated—

11                     (I) by striking “(I) in the case  
12 of” and inserting “in the case of”;

13                     (II) by striking “, or” and insert-  
14 ing a comma; and

15                     (III) by striking subclause (II);

16                     and

17                     (iv) by amending clause (vii), as so re-  
18 designated, to read as follows:

19                         “(vii)(I) in the case of a single-em-  
20 ployer plan, a general description of the  
21 benefits under the plan which are eligible  
22 to be guaranteed by the Pension Benefit  
23 Guaranty Corporation, and an explanation  
24 of the limitations on the guarantee and the

1 circumstances under which such limitations  
2 apply, and

3 “(II) in the case of a multiemployer  
4 plan, a statement that eligible benefits are  
5 guaranteed by the Pension Benefit Guar-  
6 anty Corporation, and a statement of how  
7 to obtain both a general description of the  
8 benefits under the plan which are eligible  
9 to be guaranteed by the Pension Benefit  
10 Guaranty Corporation and an explanation  
11 of the limitations on the guarantee and the  
12 circumstances under which such limitations  
13 apply,”; and

14 (B) in paragraph (4)(C)—

15 (i) by striking “(C) may be provided”  
16 and inserting “(C)(i) subject to clause (ii),  
17 may be provided”; and

18 (ii) by striking the period and insert-  
19 ing the following:

20 “(ii) in the case of such a notice provided  
21 to the Pension Benefit Guaranty Corporation,  
22 shall be in an electronic format in such manner  
23 prescribed in regulations of such Corporation.”.

24 (2) DISCLOSURES BY PLANS REGARDING STA-

25 TUS.—

1 (A) AMENDMENTS TO ERISA.—Section  
2 305(b)(3) of the Employee Retirement Income  
3 Security Act of 1974 (29 U.S.C. 1085(b)(3)) is  
4 amended—

5 (i) in the paragraph heading, by strik-  
6 ing “BY PLAN ACTUARY” and inserting  
7 “AND REPORT”;

8 (ii) by amending subparagraph (A) to  
9 read as follows:

10 “(A) IN GENERAL.—Not later than the  
11 90th day of each plan year of a multiemployer  
12 plan, the plan sponsor shall file, in accordance  
13 with regulations prescribed by the ERISA agen-  
14 cies, a report that contains—

15 “(i) documentation from the plan ac-  
16 tuary certifying to the ERISA agencies  
17 and to the plan sponsor—

18 “(I) whether or not the plan is in  
19 endangered status for such plan year  
20 and whether or not the plan is or will  
21 be in critical status for such plan year  
22 or any of the 5 succeeding plan years,

23 “(II) in the case of a plan which  
24 is in a funding improvement or reha-  
25 bilitation period, whether or not the

1 plan is making the scheduled progress  
2 in meeting the requirements of its  
3 funding improvement or rehabilitation  
4 plan and, if not, a summary of the  
5 primary reasons the plan is not mak-  
6 ing the scheduled progress,

7 “(III) the funded percentage of  
8 the plan determined as of the first  
9 day of the current plan year and the  
10 value of assets and liabilities used to  
11 calculate such funded percentage,

12 “(IV) a projection of the funding  
13 standard account on a year-by-year  
14 basis for the current plan year and  
15 the nine succeeding plan years and a  
16 statement of the actuarial assump-  
17 tions for such projections, and

18 “(V)(aa) subject to item (bb), a  
19 projection of the cash flow of the plan  
20 and actuarial assumptions for the cur-  
21 rent plan year and six succeeding plan  
22 years, and

23 “(bb) in the case in which it is  
24 certified that a multiemployer plan is  
25 or will be in endangered or critical

1 status for a plan year, the projection  
2 of the cash flow of the plan and actu-  
3 arial assumptions for the current year  
4 and ten succeeding plan years,  
5 “(ii) as of the last day of the prior  
6 plan year, a good faith determination of—  
7 “(I) the fair market value of the  
8 assets of the plan,  
9 “(II) the number of participants  
10 who are—  
11 “(aa) retired or separated  
12 from service and are receiving  
13 benefits,  
14 “(bb) retired or separated  
15 participants entitled to future  
16 benefits, and  
17 “(cc) active participants  
18 under the plan,  
19 “(III) the total value of all bene-  
20 fits paid during the prior plan year,  
21 “(IV) the total value of all con-  
22 tributions made to the plan during the  
23 prior plan year, and

1                   “(V) the total value of all invest-  
2                   ment gains or losses during the prior  
3                   plan year,

4                   “(iii) a description of any material  
5                   changes during the previous plan year to  
6                   the rates at which participants accrue ben-  
7                   efits or the rate at which employers con-  
8                   tribute,

9                   “(iv) a copy of any funding improve-  
10                  ment plan, rehabilitation plan, and any up-  
11                  date thereto or modification thereof, that  
12                  was adopted under this section prior to the  
13                  filing of the report for the current plan  
14                  year in accordance with this subparagraph  
15                  and, if applicable, after the filing of the re-  
16                  port required by this subparagraph for the  
17                  prior plan year,

18                  “(v) in the case of any plan amend-  
19                  ment, scheduled benefit increase or reduc-  
20                  tion, or other known event taking effect in  
21                  the current plan year and having a mate-  
22                  rial effect on plan liabilities or assets for  
23                  the year (as defined in regulations by the  
24                  ERISA agencies), an explanation of the  
25                  amendment, scheduled increase or reduc-

1           tion, or event, and a projection to the end  
2           of such plan year of the effect of the  
3           amendment, scheduled increase or reduc-  
4           tion, or event on plan liabilities,

5           “(vi) in the case of a multiemployer  
6           plan certified to be in critical status for  
7           which the plan sponsor has determined  
8           that, based on reasonable actuarial as-  
9           sumptions and upon exhaustion of all rea-  
10          sonable measures, the plan cannot reason-  
11          ably be expected to emerge from critical  
12          status by the end of the rehabilitation pe-  
13          riod, a description of all reasonable meas-  
14          ures, whether or not such measures were  
15          implemented, and a summary of the con-  
16          sideration of such measures,

17          “(vii) a good faith statement describ-  
18          ing—

19                 “(I) the withdrawal of any em-  
20                 ployer during the prior plan year and  
21                 the percentage of total contributions  
22                 made by that employer during the  
23                 prior plan year,

24                 “(II) any material reduction in  
25                 total contributions or withdrawal li-

1 ability payments of any employers and  
2 the reason for such reduction,

3 “(III) any significant reduction  
4 in the number of active plan partici-  
5 pants and the reason for such reduc-  
6 tion, and

7 “(IV) the annual withdrawal li-  
8 ability payment each employer is obli-  
9 gated to pay to the plan for the plan  
10 year, whether that amount was col-  
11 lected by the plan (and if not, the  
12 amount that was collected), and the  
13 remaining years on the employer’s ob-  
14 ligation to make withdrawal liability  
15 payments, and

16 “(viii) such other information as may  
17 be required by the ERISA agencies by reg-  
18 ulation.”;

19 (iii) by striking subparagraph (C) and  
20 inserting the following:

21 “(C) FORM AND MANNER.—The report re-  
22 quired by subparagraph (A) shall be filed elec-  
23 tronically in accordance with regulations pre-  
24 scribed by the ERISA agencies.”; and

25 (iv) in subparagraph (D)—

1 (I) by redesignating clauses (ii)  
2 and (iii) as clauses (iii) and (iv), re-  
3 spectively;

4 (II) by inserting after clause (i)  
5 the following:

6 “(ii) PLANS IN ENDANGERED OR  
7 CRITICAL STATUS.—If it is certified under  
8 subparagraph (A) that a multiemployer  
9 plan is or will be in endangered or critical  
10 status, the plan sponsor shall include in  
11 the notice under clause (i)—

12 “(I) a statement describing how  
13 a person may obtain a copy of the  
14 plan’s funding improvement or reha-  
15 bilitation plan, as appropriate, adopt-  
16 ed under this section and the actu-  
17 arial and financial data that dem-  
18 onstrate any action taken by the plan  
19 toward fiscal improvement,

20 “(II) a summary of any funding  
21 improvement plan, rehabilitation plan,  
22 and any update thereto or modifica-  
23 tion thereof, adopted under this sec-  
24 tion prior to the furnishing of such  
25 notice,

1           “(III) a summary of the rules  
2 governing reorganization or insol-  
3 vency, including the limitations on  
4 benefit payments, and

5           “(IV) a general description of the  
6 benefits under the plan which are eli-  
7 gible to be guaranteed by the Pension  
8 Benefit Guaranty Corporation and an  
9 explanation of the limitations on the  
10 guarantee and the circumstances  
11 under which such limitations apply.”;

12           (III) in clause (iv), as so redesign-  
13 nated—

14           (aa) by striking “The Sec-  
15 retary of the Treasury, in con-  
16 sultation with the Secretary” and  
17 inserting “The ERISA agencies”;  
18 and

19           (bb) by striking “clause (ii)”  
20 and inserting “clauses (ii) and  
21 (iii)”;

22           (IV) by adding at the end the fol-  
23 lowing:

24           “(E) DESIGNATION AND COORDINATION.—

25           The ERISA agencies shall—

1           “(i) designate one ERISA agency to  
2           receive the report described in subpara-  
3           graph (A) on behalf of all the ERISA  
4           agencies, which shall each have full access  
5           to such report; and

6           “(ii) consult with each other and de-  
7           velop rules, regulations, practices, and  
8           forms, which to the extent appropriate for  
9           the efficient administration of the provi-  
10          sions of this paragraph are designed to re-  
11          place duplication of effort, duplication of  
12          reporting, conflicting or overlapping re-  
13          quirements, and the burden of compliance  
14          with such provisions by plan administra-  
15          tors and plan sponsors.

16          “(F) ERISA AGENCIES.—In this para-  
17          graph, the term ‘ERISA agencies’ means the  
18          Secretary of Labor, the Secretary of the Treas-  
19          ury, and the Pension Benefit Guaranty Cor-  
20          poration.”.

21          (B) AMENDMENTS TO 1986 CODE.—Section  
22          432(b)(3) of the Internal Revenue Code of  
23          1986 is amended—

1 (i) in the paragraph heading, by strik-  
2 ing “BY PLAN ACTUARY” and inserting  
3 “AND REPORT”;

4 (ii) by amending subparagraph (A) to  
5 read as follows:

6 “(A) IN GENERAL.—Not later than the  
7 90th day of each plan year of a multiemployer  
8 plan, the plan sponsor shall file, in accordance  
9 with regulations prescribed by the ERISA agen-  
10 cies, a report that contains—

11 “(i) documentation from the plan ac-  
12 tuary certifying to the ERISA agencies  
13 and to the plan sponsor—

14 “(I) whether or not the plan is in  
15 endangered status for such plan year  
16 and whether or not the plan is or will  
17 be in critical status for such plan year  
18 or any of the 5 succeeding plan years,

19 “(II) in the case of a plan which  
20 is in a funding improvement or reha-  
21 bilitation period, whether or not the  
22 plan is making the scheduled progress  
23 in meeting the requirements of its  
24 funding improvement or rehabilitation  
25 plan and, if not, a summary of the

1 primary reasons the plan is not mak-  
2 ing the scheduled progress,

3 “(III) the funded percentage of  
4 the plan determined as of the first  
5 day of the current plan year and the  
6 value of assets and liabilities used to  
7 calculate such funded percentage,

8 “(IV) a projection of the funding  
9 standard account on a year-by-year  
10 basis for the current plan year and  
11 the nine succeeding plan years and a  
12 statement of the actuarial assump-  
13 tions for such projections, and

14 “(V)(aa) subject to item (bb), a  
15 projection of the cash flow of the plan  
16 and actuarial assumptions for the cur-  
17 rent plan year and six succeeding plan  
18 years, and

19 “(bb) in the case in which it is  
20 certified that a multiemployer plan is  
21 or will be in endangered or critical  
22 status for a plan year, the projection  
23 of the cash flow of the plan and actu-  
24 arial assumptions for the current year  
25 and ten succeeding plan years,

1           “(ii) as of the last day of the prior  
2 plan year, a good faith determination of—

3           “(I) the fair market value of the  
4 assets of the plan,

5           “(II) the number of participants  
6 who are—

7           “(aa) retired or separated  
8 from service and are receiving  
9 benefits,

10           “(bb) retired or separated  
11 participants entitled to future  
12 benefits, and

13           “(cc) active participants  
14 under the plan,

15           “(III) the total value of all bene-  
16 fits paid during the prior plan year,

17           “(IV) the total value of all con-  
18 tributions made to the plan during the  
19 prior plan year, and

20           “(V) the total value of all invest-  
21 ment gains or losses during the prior  
22 plan year,

23           “(iii) a description of any material  
24 changes during the previous plan year to  
25 the rates at which participants accrue ben-

1           efits or the rate at which employers con-  
2           tribute,

3           “(iv) a copy of any funding improve-  
4           ment plan, rehabilitation plan, and any up-  
5           date thereto or modification thereof, that  
6           was adopted under this section prior to the  
7           filing of the report for the current plan  
8           year in accordance with this subparagraph  
9           and, if applicable, after the filing of the re-  
10          port required by this subparagraph for the  
11          prior plan year,

12          “(v) in the case of any plan amend-  
13          ment, scheduled benefit increase or reduc-  
14          tion, or other known event taking effect in  
15          the current plan year and having a mate-  
16          rial effect on plan liabilities or assets for  
17          the year (as defined in regulations by the  
18          ERISA agencies), an explanation of the  
19          amendment, scheduled increase or reduc-  
20          tion, or event, and a projection to the end  
21          of such plan year of the effect of the  
22          amendment, scheduled increase or reduc-  
23          tion, or event on plan liabilities,

24          “(vi) in the case of a multiemployer  
25          plan certified to be in critical status for

1 which the plan sponsor has determined  
2 that, based on reasonable actuarial as-  
3 sumptions and upon exhaustion of all rea-  
4 sonable measures, the plan cannot reason-  
5 ably be expected to emerge from critical  
6 status by the end of the rehabilitation pe-  
7 riod, a description of all reasonable meas-  
8 ures, whether or not such measures were  
9 implemented, and a summary of the con-  
10 sideration of such measures,

11 “(vii) a good faith statement describ-  
12 ing—

13 “(I) the withdrawal of any em-  
14 ployer during the prior plan year and  
15 the percentage of total contributions  
16 made by that employer during the  
17 prior plan year,

18 “(II) any material reduction in  
19 total contributions or withdrawal li-  
20 ability payments of any employers and  
21 the reason for such reduction,

22 “(III) any significant reduction  
23 in the number of active plan partici-  
24 pants and the reason for such reduc-  
25 tion, and

1           “(IV) the annual withdrawal li-  
2           ability payment each employer is obli-  
3           gated to pay to the plan for the plan  
4           year, whether that amount was col-  
5           lected by the plan (and if not, the  
6           amount that was collected), and the  
7           remaining years on the employer’s ob-  
8           ligation to make withdrawal liability  
9           payments, and

10           “(viii) such other information as may  
11           be required by the ERISA agencies by reg-  
12           ulation.”;

13           (iii) by striking subparagraph (C) and  
14           inserting the following:

15           “(C) FORM AND MANNER.—The report re-  
16           quired by subparagraph (A) shall be filed elec-  
17           tronically in accordance with regulations pre-  
18           scribed by the ERISA agencies.”;

19           (iv) in subparagraph (D)—

20           (I) by redesignating clauses (ii)  
21           and (iii) as clauses (iii) and (iv), re-  
22           spectively;

23           (II) by inserting after clause (i)  
24           the following:

1           “(ii) PLANS IN ENDANGERED OR  
2 CRITICAL STATUS.—If it is certified under  
3 subparagraph (A) that a multiemployer  
4 plan is or will be in endangered or critical  
5 status, the plan sponsor shall include in  
6 the notice under clause (i)—

7           “(I) a statement describing how  
8 a person may obtain a copy of the  
9 plan’s funding improvement or reha-  
10 bilitation plan, as appropriate, adopt-  
11 ed under this section and the actu-  
12 arial and financial data that dem-  
13 onstrate any action taken by the plan  
14 toward fiscal improvement,

15           “(II) a summary of any funding  
16 improvement plan, rehabilitation plan,  
17 and any update thereto or modifica-  
18 tion thereof, adopted under this sec-  
19 tion prior to the furnishing of such  
20 notice,

21           “(III) a summary of the rules  
22 governing reorganization or insol-  
23 vency, including the limitations on  
24 benefit payments, and

1 “(IV) a general description of the  
2 benefits under the plan which are eli-  
3 gible to be guaranteed by the Pension  
4 Benefit Guaranty Corporation and an  
5 explanation of the limitations on the  
6 guarantee and the circumstances  
7 under which such limitations apply.”;  
8 and

9 (III) in clause (iv), as so redesign-  
10 nated—

11 (aa) by striking “The Sec-  
12 retary, in consultation with the  
13 Secretary of Labor” and insert-  
14 ing “The ERISA agencies”; and

15 (bb) by striking “clause (ii)”  
16 and inserting “clauses (ii) and  
17 (iii)”; and

18 (v) by adding at the end the following:

19 “(E) DESIGNATION AND COORDINATION.—

20 The ERISA agencies shall—

21 “(i) designate one ERISA agency to  
22 receive the report described in subpara-  
23 graph (A) on behalf of all the ERISA  
24 agencies, which shall each have full access  
25 to such report; and

1           “(ii) consult with each other and de-  
2           velop rules, regulations, practices, and  
3           forms, which to the extent appropriate for  
4           the efficient administration of the provi-  
5           sions of this paragraph are designed to re-  
6           place duplication of effort, duplication of  
7           reporting, conflicting or overlapping re-  
8           quirements, and the burden of compliance  
9           with such provisions by plan administra-  
10          tors and plan sponsors.

11          “(F) ERISA AGENCIES.—In this para-  
12          graph, the term ‘ERISA agencies’ means the  
13          Secretary of Labor, the Secretary of the Treas-  
14          ury, and the Pension Benefit Guaranty Cor-  
15          poration.”.

16          (C) DISCLOSURES BY PLANS REGARDING  
17          STATUS.—Section 4003 of the Employee Retire-  
18          ment Income Security Act of 1974 (29 U.S.C.  
19          1303) is amended—

20                 (i) in the section heading, by inserting  
21                 “; **MULTIEMPLOYER PLAN INFORMA-**  
22                 **TION**” after “**ACTIONS**”; and

23                 (ii) by adding at the end the fol-  
24                 lowing:

1       “(g) The corporation is authorized to require such in-  
2 formation as it deems necessary to investigate or review  
3 any facts, conditions, or other matters related to the actu-  
4 arial certification and report by multiemployer plans under  
5 section 305(b)(3)(A), or to obtain such information as any  
6 duly authorized committee or subcommittee of the Con-  
7 gress may request with respect to such plans. The pre-  
8 ceding sentence shall be considered a statute described in  
9 section 552(b)(3) of title 5, United States Code, and the  
10 information received pursuant to such sentence shall be  
11 exempt from disclosure under such section 552(b).”.

12               (3) CIVIL ENFORCEMENT.—

13                       (A) IN GENERAL.—Section 502(c) of the  
14 Employee Retirement Income Security Act of  
15 1974 (29 U.S.C. 1132) is amended—

16                               (i) in paragraph (7)—

17                                       (I) by striking “(7) The Sec-  
18 retary” and inserting “(7)(A) The  
19 Secretary”; and

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

22               “(B) The Secretary may assess a civil penalty against  
23 a plan administrator (or plan sponsor with respect to the  
24 notice of endangered or critical status) of up to \$110 per  
25 day from the date of the plan administrator’s or sponsor’s

1 failure or refusal to provide the relevant notices under sec-  
2 tion 101(f) or section 305(b)(3)(D) to a recipient other  
3 than the Secretary or the Pension Benefit Guaranty Cor-  
4 poration. For purposes of this paragraph, each violation  
5 with respect to any single recipient shall be treated as a  
6 separate violation.”;

7 (ii) by redesignating the second para-  
8 graph (10) (regarding coordinating en-  
9 forcement under section 502(c) of such Act  
10 with enforcement under section 1144(e)(8)  
11 of the Social Security Act) as paragraph  
12 (12); and

13 (iii) by inserting after paragraph (10)  
14 (regarding enforcement authority relating  
15 to use of genetic information) the fol-  
16 lowing:

17 “(11)(A) The Secretary may assess a civil pen-  
18 alty against any plan sponsor of up to \$1,100 per  
19 day from the date of the plan sponsor’s failure to  
20 file with the Secretary the notice required under sec-  
21 tion 305(b)(3)(D) or with the Pension Benefit Guar-  
22 anty Corporation the notice required under section  
23 101(f).

24 “(B) The Secretary may assess a civil penalty  
25 against any plan sponsor of up to \$1,100 per day

1 from the date of the plan sponsor's failure to file  
 2 with the ERISA agency designated in accordance  
 3 with subparagraph (E) of section 305(b)(3) the re-  
 4 port under subparagraph (A) of such section.”.

5 (B) CONFORMING AMENDMENT.—Section  
 6 502(a)(6) of such Act is amended by striking  
 7 “or (9)” and inserting “(9), (10), or (11)”.

8 (b) COORDINATION WITH RESPECT TO MULTIEM-  
 9 PLOYER PLANS.—

10 (1) IN GENERAL.—Subtitle A of title III of the  
 11 Employee Retirement Income Security Act of 1974  
 12 (29 U.S.C. 1201 et seq.) is amended by adding at  
 13 the end the following:

14 **“SEC. 3005. DATABASE OF MULTIEMPLOYER PLAN INFOR-**  
 15 **MATION.**

16 “(a) IN GENERAL.—The Secretary of Labor, the Sec-  
 17 retary of the Treasury, and the Pension Benefit Guaranty  
 18 Corporation shall jointly establish an electronic database  
 19 that contains the following information:

20 “(1) Each defined benefit plan funding notice  
 21 submitted to the Pension Benefit Guaranty Corpora-  
 22 tion by a multiemployer plan under section 101(f).

23 “(2) Each report submitted by a multiemployer  
 24 plan under section 305(b)(3)(A).

1           “(3) Each notice submitted to the Secretary of  
2           Labor and the Pension Benefit Guaranty Corpora-  
3           tion by a multiemployer plan under section  
4           305(b)(3)(D).

5           “(b) SHARED ACCESS TO DATABASE.—Subject to the  
6           agreement described in subsection (c), the Secretary of  
7           Labor, the Secretary of the Treasury, and the Pension  
8           Benefit Guaranty Corporation shall have full access to the  
9           data in the database established under subsection (a). To  
10          avoid unnecessary expense and duplication of functions  
11          among the agencies, the Secretary of Labor, the Secretary  
12          of the Treasury, and the Pension Benefit Guaranty Cor-  
13          poration may make such arrangements and agreements  
14          for cooperation or mutual assistance with respect to access  
15          to and utilization of the data in the database.

16          “(c) SHARED COST OF DATABASE.—The Secretary  
17          of Labor, the Secretary of the Treasury, and the Pension  
18          Benefit Guaranty Corporation shall execute a cost sharing  
19          agreement to equitably allocate the design, implementa-  
20          tion, and maintenance costs of the database established  
21          under subsection (a).

22          “(d) EXEMPTION.—The information contained in the  
23          report described under subsection (a)(2) shall be exempt  
24          from disclosure under section 552(b) of title 5, United  
25          States Code. For purposes of such section 552 of title 5,

1 United States Code, this subsection shall be considered a  
 2 statute described in subsection (b)(3) of such section  
 3 552.”.

4 (2) CLERICAL AMENDMENT.—The table of sec-  
 5 tions for subtitle A of title III of the Employee Re-  
 6 tirement Income Security Act of 1974 is amended by  
 7 adding at the end the following new item:

“3005. Database of multiemployer plan information.”.

8 (c) APPLICABILITY.—This section (and the amend-  
 9 ments made by this section) shall apply to plan years be-  
 10 ginning after the date that is 1 year after the date of en-  
 11 actment of this Act.

## 12 **Subtitle B—Improvements to the** 13 **Pension Insurance Program**

### 14 **SEC. 311. MODIFICATIONS OF TECHNICAL CHANGES MADE** 15 **BY THE PENSION PROTECTION ACT OF 2006** 16 **TO TERMINATION LIABILITY.**

17 (a) IN GENERAL.—Section 4062(c) of the Employee  
 18 Retirement Income Security Act of 1974 (29 U.S.C.  
 19 1362(c)) is amended by striking paragraphs (1) and (2)  
 20 and inserting the following:

21 “(1) the aggregate unpaid minimum required  
 22 contributions (within the meaning of section  
 23 4971(c)(4) of the Internal Revenue Code of 1986) of  
 24 the plan (if any) for the plan year in which the ter-  
 25 mination date occurs and for all preceding plan

1 years, including, for purposes of this paragraph, the  
2 amount of any increase in such aggregate unpaid  
3 minimum required contributions that would result  
4 if—

5 “(A) all pending applications for waivers of  
6 the minimum funding standard under section  
7 302(c) of this Act and section 412(c) of such  
8 Code with respect to such plan were denied,  
9 and

10 “(B) no additional contributions (other  
11 than those already made by the termination  
12 date) were made for the plan year in which the  
13 termination date occurs or for any previous  
14 plan year, and

15 “(2) the unamortized portion (if any) of any  
16 amounts waived for the plan under section 302(c) of  
17 this Act and section 412(c) of such Code for—

18 “(A) the plan year in which the termi-  
19 nation date occurs, and

20 “(B) all preceding plan years,”.

21 (b) EFFECTIVE DATE.—The amendments made by  
22 this section shall take effect as if included in section 107  
23 of the Pension Protection Act of 2006 (Public Law 109–  
24 280; 120 Stat. 816).

1 **SEC. 312. PAYMENT OF LUMP SUM DISTRIBUTIONS IN**  
2 **BANKRUPTCY.**

3 (a) AMENDMENTS TO ERISA.—The second sentence  
4 of section 206(g)(3)(B) of the Employee Retirement In-  
5 come Security Act of 1974 (29 U.S.C. 1056(g)(3)) is  
6 amended to read as follows: “The preceding sentence shall  
7 not apply on or after the date on which the enrolled actu-  
8 ary of the plan certifies that the adjusted funding target  
9 attainment percentage of such plan (determined by not  
10 taking into account any adjustment of segment rates  
11 under section 303(h)(2)(C)(iv)) is not less than 100 per-  
12 cent.”.

13 (b) AMENDMENTS TO 1986 CODE.—The second sen-  
14 tence of section 436(d)(2) of the Internal Revenue Code  
15 of 1986 is amended to read as follows: “The preceding  
16 sentence shall not apply on or after the date on which the  
17 enrolled actuary of the plan certifies that the adjusted  
18 funding target attainment percentage of such plan (deter-  
19 mined by not taking into account any adjustment of seg-  
20 ment rates under section 430(h)(2)(C)(iv)) is not less than  
21 100 percent.”.

22 (c) EFFECTIVE DATE.—The amendments made by  
23 this section shall take effect as of July 6, 2012.

24 **SEC. 313. TRUSTEESHIP CLARIFICATIONS.**

25 (a) APPOINTMENT OF TRUSTEES IN PLAN TERMI-  
26 NATION INSTITUTED BY PBGC.—

1           (1) IN GENERAL.—Subsections (a) and (b) of  
2           section 4002 (29 U.S.C. 1342) are amended to read  
3           as follows:

4           “(a) AUTHORITY TO INSTITUTE PROCEEDINGS TO  
5           TERMINATE A PLAN.—

6           “(1) IN GENERAL.—The corporation may insti-  
7           tute proceedings under this section to terminate a  
8           plan whenever it determines that the plan must be  
9           terminated in order to protect the interests of the  
10          participants or to avoid any unreasonable deteriora-  
11          tion of the financial condition of the plan or any un-  
12          reasonable increase in the liability of the corpora-  
13          tion, as shown by one or more of the following condi-  
14          tions:

15                 “(A) The plan has not met the minimum  
16                 funding standard required under section 412 of  
17                 the Internal Revenue Code of 1986, or has been  
18                 notified by the Secretary of the Treasury that  
19                 a notice of deficiency under section 6212 of  
20                 such Code has been mailed with respect to the  
21                 tax imposed under section 4971(a) of such  
22                 Code.

23                 “(B) The plan will be unable to pay bene-  
24                 fits when due.

1           “(C) The reportable event described in sec-  
2           tion 4043(e)(7) has occurred.

3           “(D) The possible long-run loss of the cor-  
4           poration with respect to the plan may reason-  
5           ably be expected to increase unreasonably if the  
6           plan is not terminated.

7           “(2) REQUIREMENT.—The corporation shall, as  
8           soon as practicable, institute proceedings under this  
9           section to terminate a single-employer plan whenever  
10          the corporation determines that the plan does not  
11          have assets available to pay benefits which are cur-  
12          rently due under the terms of the plan. Notwith-  
13          standing any other provision of this subchapter, the  
14          corporation shall, to the extent practicable, pool as-  
15          sets of terminated plans for purposes of administra-  
16          tion, investment, payment of liabilities of all such  
17          terminated plans, and such other purposes as the  
18          corporation determines to be appropriate in the ad-  
19          ministration of this title.

20          “(b) APPOINTMENT OF THE CORPORATION TO AD-  
21          MINISTER PLAN.—

22                 “(1) IN GENERAL.—Whenever the corporation  
23                 makes a determination under subsection (a) with re-  
24                 spect to a plan or is required under subsection (a)  
25                 to institute proceedings under this section, the cor-

1       poration may, upon notice to the plan, apply to the  
2       appropriate United States district court to appoint  
3       the corporation as the person to administer the plan  
4       with respect to which the determination is made  
5       pending the issuance of a decree under subsection  
6       (c) ordering the termination of the plan. If, within  
7       3 business days after the filing of an application  
8       under this subsection (or such other period as the  
9       court may order), the administrator of the plan con-  
10      sents to the appointment of the corporation to ad-  
11      minister the plan, or fails to show why the corpora-  
12      tion should not be so appointed, the court may grant  
13      the application and appoint the corporation to ad-  
14      minister the plan in accordance with its terms until  
15      the corporation determines that the plan should be  
16      terminated or that termination is unnecessary.

17               “(2) APPOINTMENT.—Notwithstanding any  
18      other provision of this title—

19                       “(A) upon the petition of a plan adminis-  
20                      trator or the corporation, the appropriate  
21                      United States district court may appoint the  
22                      corporation to administer the plan in accord-  
23                      ance with the provisions of this section if the  
24                      interests of the plan participants would be bet-  
25                      ter served by such appointment, and

1           “(B) upon the petition of the corporation,  
 2           the appropriate United States district court  
 3           shall appoint a trustee proposed by the corpora-  
 4           tion for a multiemployer plan which is in reor-  
 5           ganization to which section 4041A(d) applies,  
 6           unless such appointment would be adverse to  
 7           the interests of the plan participants and bene-  
 8           ficiaries in the aggregate.

9           “(3) AGREEMENT TO APPOINTMENT.—The cor-  
 10          poration and plan administrator may agree to the  
 11          appointment of the corporation to administer the  
 12          plan without proceeding in accordance with the re-  
 13          quirements of paragraphs (1) and (2).”.

14          (2) CONFORMING AMENDMENTS.—

15                 (A) Subsection (c) of such section 4042 is  
 16                 amended—

17                         (i) by striking “(c)(1)” and all that  
 18                         follows through the end of paragraph (1)  
 19                         and inserting the following:

20           “(c) DECREE ENFORCING DETERMINATION THAT  
 21          PLAN MUST BE TERMINATED.—

22                 “(1) COURT DECREE.—

23                         “(A) APPLICATION.—If the corporation is  
 24                         required under subsection (a) to commence pro-  
 25                         ceedings under this section with respect to a

1 plan or, after issuing a notice under this section  
2 to a plan administrator, has determined that  
3 the plan should be terminated, the corporation  
4 may, upon notice to the plan administrator,  
5 apply to the appropriate United States district  
6 court for a decree enforcing the corporation's  
7 determination that the plan be terminated.

8 “(B) DECREE.—

9 “(i) IN GENERAL.—The district court  
10 shall issue the decree under subparagraph  
11 (A) unless such court finds, upon review of  
12 the administrative record of the corpora-  
13 tion's determination under subsection (a),  
14 that such determination was arbitrary, ca-  
15 pricious, an abuse of discretion, or other-  
16 wise not in accordance with law.

17 “(ii) EFFECT OF DECREE.—Upon  
18 granting a decree for which the corpora-  
19 tion has applied under this subsection, the  
20 court shall authorize the corporation if ap-  
21 pointed under subsection (b) (or appoint  
22 the corporation if such corporation has not  
23 been appointed under such subsection and  
24 authorize the corporation) to terminate the

1           plan in accordance with the provisions of  
2           this subtitle.

3           “(C) WAIVER OF APPLICATION.—If the  
4           corporation and the plan administrator agree  
5           that a plan should be terminated and agree to  
6           the appointment of the corporation to carry out  
7           the termination of the plan without proceeding  
8           in accordance with the requirements of this  
9           subsection (other than this subparagraph), the  
10          corporation shall have the power described in  
11          subsection (d)(1) and shall be subject to the du-  
12          ties described in subsection (d)(3) and any  
13          other duties imposed on the corporation under  
14          any other provision of law or by agreement be-  
15          tween the corporation and the plan adminis-  
16          trator.”; and

17                   (ii) in paragraph (2), by striking “(2)  
18                   In the case of” and inserting “(2) PRO-  
19                   VIDING OF INFORMATION.—In the case  
20                   of”.

21           (B) Subsection (d) of such section 4042 is  
22          amended—

23                   (i) in paragraph (1)(A)—

24                           (I) by striking “A trustee ap-  
25                           pointed under subsection (b)” and in-

1           serting “If the corporation is ap-  
2           pointed to administer a plan under  
3           subsection (b), the corporation”;

4                   (II) in clause (ii), by striking  
5           “himself as trustee” and inserting  
6           “the corporation”;

7                   (III) in clause (iii), by striking  
8           “he” and inserting “the corporation”;

9                   (IV) in clause (iv), by striking  
10          “his appointment” and inserting “the  
11          appointment of the corporation”;

12                   (V) in clause (vi), by striking  
13          “he” and inserting “the corporation”;

14                   (VI) in clause (vii), by striking  
15          “trustee” and inserting “corporation”;

16          and

17                   (VII) by striking the flush lan-  
18          guage after clause (vii) and inserting  
19          the following:

20           “If the court to which application is made  
21           under subsection (c) dismisses the application  
22           with prejudice, or if the corporation fails to  
23           apply for a decree under subsection (c), within  
24           30 days after the date on which the corporation  
25           is appointed under subsection (b), the corpora-

1           tion shall transfer all assets and records of the  
2           plan held by such corporation to the plan ad-  
3           ministrators not later than 3 business days after  
4           such dismissal or the expiration of such 30-day  
5           period, and shall not be liable to the plan or  
6           any other person for the acts of the corporation  
7           in administering the plan except for willful mis-  
8           conduct or gross negligence. The 30-day period  
9           described in the preceding sentence may be ex-  
10          tended as provided by agreement between the  
11          plan administrator and the corporation or by  
12          court order.”;

13                           (ii) in paragraph (1)(B)—

14                                   (I) in the matter preceding clause

15                                   (i), by striking “trustee” and insert-  
16                                   ing “corporation”;

17                                   (II) by striking clauses (iii) and

18                                   (v);

19                                   (III) by redesignating clause (iv)

20                                   as clause (iii); and

21                                   (IV) by redesignating clauses (vi)

22                                   through (viii) as clauses (iv) through

23                                   (vi), respectively;

24                                   (iii) in paragraph (2)—

1 (I) in the matter preceding sub-  
2 paragraph (A) by striking “his ap-  
3 pointment, the trustee” and inserting  
4 “the appointment of the corporation  
5 to administer the plan, the corpora-  
6 tion”; and

7 (II) in subparagraph (D) by  
8 striking “section”; and

9 (iv) by striking paragraph (3) and in-  
10 sserting the following:

11 “(3) Except to the extent inconsistent with the  
12 provisions of this Act, the corporation, as appointed  
13 under this section, shall be subject to the same du-  
14 ties as those of a trustee under section 704 of title  
15 11, United States Code, and shall be, with respect  
16 to the plan, a fiduciary within the meaning of sec-  
17 tion 3(21) (except to the extent that the provisions  
18 of this title are inconsistent with the requirements  
19 applicable under part 4 of subtitle B of title I). Not-  
20 withstanding any references in this section to admin-  
21 istering a plan, the corporation shall not be consid-  
22 ered a plan administrator within the meaning of sec-  
23 tion 3 and shall not be subject to the duties of a  
24 plan administrator under title I, including the duty  
25 to file reports on behalf of the plan.

1           “(4) When appointed under subsection (b) to  
2           administer a plan or granted a decree to terminate  
3           a plan under subsection (c), the corporation shall,  
4           within 30 days of the receipt of a written request  
5           from any participant or beneficiary of the plan (or  
6           as soon as practicable thereafter), furnish a copy of  
7           the plan document, summary plan description, and  
8           other instruments under which the plan is estab-  
9           lished or operated that relate to the participant’s or  
10          beneficiary’s benefit under the plan. The corporation  
11          may charge a reasonable fee to cover the cost of fur-  
12          nishing complete copies.”.

13                   (C) Subsection (f) of such section 4042 is  
14                   amended to read as follows:

15          “(f) Upon the filing of an application for the appoint-  
16          ment of the corporation to administer a plan or the  
17          issuance of a decree under this section, the court to which  
18          an application is made shall have exclusive jurisdiction of  
19          the plan involved and property of the plan, wherever lo-  
20          cated, with the powers, to the extent consistent with the  
21          purposes of this section, of a court of the United States  
22          having jurisdiction over cases under chapter 11 of title 11,  
23          United States Code. Pending an adjudication under sub-  
24          section (c), such court shall stay, and upon appointment  
25          of the corporation to carry out the termination of the plan

1 under this section, such court shall continue the stay of  
2 any pending mortgage foreclosure, equity receivership, or  
3 other proceeding to reorganize, conserve, or liquidate the  
4 plan or the property of the plan and any other suit against  
5 any receiver, conservator, or trustee of the plan or prop-  
6 erty of the plan. Pending such adjudication and upon the  
7 appointment of the corporation to carry out the termi-  
8 nation of the plan, the court may stay any proceeding to  
9 enforce a lien against property of the plan or any other  
10 suit against the plan.”.

11 (D) Such section 4042 is amended by  
12 striking subsection (h).

13 (b) OTHER CONFORMING AND TECHNICAL AMEND-  
14 MENTS.—

15 (1) Section 4002(h)(1) of such Act (29 U.S.C.  
16 1302(h)(1)) is amended—

17 (A) in the first sentence—

18 (i) in subparagraph (A), by striking  
19 “the appointment of trustees in termi-  
20 nation proceedings” and inserting “the ap-  
21 pointment of the corporation to administer  
22 or carry out a termination of a plan under  
23 section 4042”; and

1 (ii) in subparagraph (C), by striking  
2 “under a trustee” and inserting “under the  
3 corporation”; and

4 (B) in the second sentence—

5 (i) by striking “recommend persons  
6 for appointment as trustees in termination  
7 proceedings,”;

8 (ii) by striking the comma after  
9 “funds”; and

10 (iii) by striking “under a trustee” and  
11 inserting “under the corporation”.

12 (2) Section 4003 of such Act (29 U.S.C. 1303)  
13 is amended—

14 (A) in subsection (e)(6)(B), by amending  
15 clause (ii) to read as follows:

16 “(ii) If the corporation brings the action on be-  
17 half of a plan that the corporation was appointed to  
18 administer or terminate under section 4042, the ap-  
19 plicable date specified in this subparagraph is the  
20 date on which the corporation was so appointed if  
21 such date is later than the date described in clause  
22 (i).”; and

23 (B) in subsection (f)(4), by striking “the  
24 corporation in its capacity as a trustee under  
25 section 4042 or 4049” and inserting “the cor-

1           poration in its capacity as a trustee under sec-  
2           tion 4049 or in its capacity in administering a  
3           plan pursuant to its appointment under section  
4           4042(b) or carrying out the termination of a  
5           plan pursuant to its appointment under section  
6           4042(c)”.

7           (3) Section 4004(b) of such Act (29 U.S.C.  
8           1304(b)) is amended—

9                   (A) in paragraph (1), by striking “pension  
10                   plans trusteeed by the corporation” and insert-  
11                   ing “pension plans for which the corporation  
12                   has been appointed under section 4042 to carry  
13                   out their termination”; and

14                   (B) in paragraph (2), by striking “plans  
15                   trusteed by the corporation” and inserting  
16                   “plans for which the corporation has been ap-  
17                   pointed under section 4042 to carry out their  
18                   termination”.

19           (4) Section 4005(b)(1)(B) of such Act (29  
20           U.S.C. 1305(b)(1)(B)) is amended by striking “a  
21           plan administered under section 4042 by a trustee”  
22           and inserting “a plan that the corporation has been  
23           appointed to terminate under section 4042”.

1           (5) Section 4007(a) of such Act (29 U.S.C.  
2           1307(a)) is amended by striking “a trustee” and in-  
3           serting “the corporation”.

4           (6) Section 4044 of such Act (29 U.S.C. 1344)  
5           is amended—

6                   (A) in subsection (c), by striking “the date  
7                   a trustee is appointed under section 4042(b)”  
8                   and inserting “the date the corporation is ap-  
9                   pointed under section 4042(b) to administer the  
10                  plan”; and

11                  (B) in subsection (f)—

12                          (i) in paragraph (2)(C)(ii), by striking  
13                          “the trustee appointed under section  
14                          4042(b) or (c)” and inserting “the cor-  
15                          poration, for the account of the plan”; and

16                          (ii) in paragraph (3), by amending  
17                          subparagraph (B) to read as follows:

18                                  “(B) the amount of any liability to the cor-  
19                                  poration under section 4062(b) or (c).”.

20           (7) Section 4045 of such Act (29 U.S.C. 1345)  
21           is amended by striking “trustee” each place such  
22           term appears in subsections (a) and (c) and insert-  
23           ing “corporation”.

24           (8)(A) Section 4046 of such Act (29 U.S.C.  
25           1346) is repealed.

1           (B) The table of sections for subtitle C of title  
2           IV of such Act is amended by striking the item re-  
3           lating to section 4046.

4           (9) Section 4048 of such Act (29 U.S.C. 1348)  
5           is amended—

6                   (A) in subsection (a)(4), by striking “(or  
7                   the trustee)”; and

8                   (B) in subsection (b)(2), by striking “(or  
9                   the trustee appointed under section 4042(b)(2),  
10                  if any)”.

11           (10) Section 4050(a)(2) of such Act (29 U.S.C.  
12           1350(a)(2)) is amended by striking “to the corpora-  
13           tion as trustee, and shall be held with assets of ter-  
14           minated plans for which the corporation is trustee  
15           under section 4042” and inserting “to the corpora-  
16           tion, as appointed under section 4042 to carry out  
17           the termination of a plan, and shall be held with as-  
18           sets of terminated plans that the corporation has  
19           been appointed to terminate under section 4042”.

20           (11) Section 4062 of such Act (29 U.S.C.  
21           1362), as amended by sections 303 and 321, is  
22           amended—

23                   (A) in subsection (a), by striking para-  
24                  graphs (1) and (2) and inserting the following:

1           “(1) liability to the corporation, for the account  
2 of the corporation, to the extent provided in sub-  
3 section (b), and

4           “(2) liability to the corporation, for the account  
5 of the plan, to the extent provided in subsection  
6 (c).”;

7           (B) in the heading of subsection (b), by in-  
8 serting “FOR ITS OWN ACCOUNT” after “COR-  
9 PORATION”; and

10           (C) in subsection (c)—

11           (i) in the heading, by striking “SEC-  
12 TION 4042 TRUSTEE” and inserting “THE  
13 CORPORATION FOR THE ACCOUNT OF THE  
14 PLAN”; and

15           (ii) in the matter preceding paragraph  
16 (1), by striking “the trustee appointed  
17 under subsection (b) or (c) of section  
18 4042” and inserting “the corporation, for  
19 the account of the plan, as appointed  
20 under section 4042 to carry out the termi-  
21 nation of the plan”.

22 **SEC. 314. RECORDKEEPING FOR TERMINATING PLANS.**

23           (a) SINGLE-EMPLOYER PLAN BENEFITS GUARAN-  
24 TEED.—Section 4022 of the Employee Retirement Income

1 Security Act of 1974 (29 U.S.C. 1322) is amended by  
2 adding at the end the following:

3 “(i) RECORDKEEPING.—The Corporation may issue  
4 regulations to require plan sponsors or plan administra-  
5 tors to maintain records necessary to enable the to deter-  
6 mine benefits as of the termination date. Such regulations  
7 may require plan sponsors or plan administrators to cer-  
8 tify to the corporation that such records are being main-  
9 tained.”.

10 (b) ALLOCATION OF ASSETS.—Section 4044 of the  
11 Employee Retirement Income Security Act of 1974 (29  
12 U.S.C. 1344) is amended by adding at the end the fol-  
13 lowing:

14 “(g) RECORDKEEPING.—The Corporation may issue  
15 regulations to require plan sponsors or plan administra-  
16 tors to maintain records necessary to enable the Corpora-  
17 tion to determine benefits as of the termination date. Such  
18 regulations may require plan sponsors or plan administra-  
19 tors to certify to the corporation that such records are  
20 being maintained.”.

21 **SEC. 315. TERMINATION DATE IN BANKRUPTCY.**

22 Sections 4022(g) and 4044(e) of the Employee Re-  
23 tirement Income Security Act of 1974, as added by section  
24 404 of the Pension Protection Act of 2006 (Public Law  
25 109–280; 120 Stat. 928), are repealed as of December 31,

1 2014, and shall not apply with respect to proceedings initi-  
2 ated under title 11, United States Code, or under any  
3 similar Federal law or law of a State or political subdivi-  
4 sion, on or after such date.

5 **TITLE IV—OTHER SYSTEMIC**  
6 **REFORMS**

7 **SEC. 401. PLAN AUDIT QUALITY IMPROVEMENT.**

8 (a) ANNUAL REPORTS.—Section 103(a)(3) of the  
9 Employee Retirement Income Security Act of 1974 (29  
10 U.S.C. 1023(a)(3)) is amended—

11 (1) in subparagraph (A), by striking “in con-  
12 formity with generally accepted accounting principles  
13 applied on a basis consistent with that of the pre-  
14 ceding year. Such examination shall be conducted in  
15 accordance with generally accepted auditing stand-  
16 ards, and shall involve such tests of the books and  
17 records of the plan as are considered necessary by  
18 the independent qualified public accountant.” and  
19 inserting “in conformity with generally accepted ac-  
20 counting principles, as superseded or modified by the  
21 Secretary in regulations, applied on a basis con-  
22 sistent with that of the preceding year. Such exam-  
23 ination shall be conducted in accordance with gen-  
24 erally accepted auditing standards, except as super-  
25 seded or modified by the Secretary in regulations,

1 and shall involve such tests of the books and records  
2 of the plan as are considered necessary by the inde-  
3 pendent qualified public accountant.”; and

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

5 “(E) Persons described in subparagraphs  
6 (i) through (iii) of subparagraph (D) shall be  
7 subject to such additional standards regarding  
8 conflicts of interest, qualifications, and direct  
9 reporting of certain events such as fraud and  
10 other irregularities as the Secretary may pre-  
11 scribe in regulations.”.

12 (b) CIVIL ENFORCEMENT.—Section 502(c)(2) of the  
13 Employee Retirement Income Security Act of 1974 (29  
14 U.S.C. 1132(c)(2)) is amended by adding at the end the  
15 following new sentence: “If the Secretary rejects an an-  
16 nual report in whole or in part due to the failure to comply  
17 with a requirement of section 103 imposed on an account-  
18 ant, actuary, or other person, the Secretary may assess  
19 all or part of the civil penalty against such person. The  
20 Secretary may require remediation in place of assessing  
21 all or part of a penalty.”.

22 (c) DEPARTMENT FOR DEFICIENT AUDITS OR FOR  
23 FAILING TO MEET QUALIFICATION STANDARDS.—

24 (1) IN GENERAL.—Part 5 of subtitle B of title  
25 I of the Employee Retirement Income Security Act

1 of 1974 (29 U.S.C. 1131 et seq.) is amended by  
2 adding at the end the following:

3 **“SEC. 522. DEBARMENT FOR DEFICIENT AUDITS OR FOR**  
4 **FAILING TO MEET QUALIFICATION STAND-**  
5 **ARDS.**

6 “(a) IN GENERAL.—If the Secretary finds, after no-  
7 tice and opportunity for a hearing, that an accountant or  
8 accounting firm has engaged in any act or practice, or  
9 failed to act, in violation of section 103 relating to the  
10 preparation and issuance of audit reports, or with profes-  
11 sional standards, the Secretary may issue an order to bar  
12 an accountant or accounting firm (or division or compo-  
13 nent of such firm), on a temporary or permanent basis,  
14 from directly or indirectly engaging in specified activities  
15 relating to performing or supervising plan audits required  
16 under section 103.

17 “(b) HEARINGS.—The subject of a debarment order  
18 may request a hearing and file an answer not later than  
19 30 days after the date of service of the notice of the debar-  
20 ment order, in accordance with regulations prescribed by  
21 the Secretary. Failure to request a hearing within such  
22 30-day period shall constitute a waiver of the right to ap-  
23 pear and contest the facts alleged in the debarment order  
24 and an admission of the facts alleged in the order for pur-  
25 poses of any related proceedings under this part. Such

1 order shall then become a final agency action under sec-  
2 tion 704 of title 5, United States Code.

3 “(c) MODIFICATION OR TERMINATION OF ORDERS.—

4 The Secretary may modify or terminate an order issued  
5 under this section, upon the request of the subject of the  
6 order and pursuant to procedures established by the Sec-  
7 retary, if the Secretary determines that such modification  
8 or termination is in the interest of plan participants and  
9 beneficiaries.

10 “(d) PUBLICITY OF ORDERS.—The Secretary shall

11 make all final orders under this section (including modi-  
12 fied orders) public and shall notify applicable State regu-  
13 latory organizations upon the issuance of such final orders  
14 (including modified orders).

15 “(e) JURISDICTION.—Lawsuits by the subject of an

16 order to review the final order of the Secretary may be  
17 brought only in the district court of the United States for  
18 the district where the subject of the order has its principal  
19 office or in the United States District Court for the Dis-  
20 trict of Columbia.

21 “(f) REGULATIONS.—The Secretary may promulgate

22 such regulations or other guidance as may be necessary  
23 or appropriate to carry out this section.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-

25 tions for part 5 of subtitle B of title I of the Em-

1        ployee Retirement Income Security Act of 1974 is  
2        amended by adding at the end the following new  
3        item:

“522. Debarment for deficient audits or for failing to meet qualification standards.”.

4        (d) EXCEPTION.—

5            (1) IN GENERAL.—Section 103(a)(3)(C) of the  
6        Employee Retirement Income Security Act of 1974  
7        (29 U.S.C. 1023(a)(3)(C)) is amended by striking  
8        “if such statements are certified by the bank, similar  
9        institution, or insurance carrier as accurate and are  
10       made part of the annual report.” and inserting “ex-  
11       cept to the extent required under regulations pro-  
12       mulgated by the Secretary.”.

13            (2) EFFECTIVE DATE.—The amendment made  
14        by paragraph (1) shall not become effective until the  
15        Secretary has promulgated final regulations with re-  
16        spect to such amendment.

17 **SEC. 402. SPECIAL RULES RELATING TO TREATMENT OF**  
18 **QUALIFIED DOMESTIC RELATIONS ORDERS.**

19        (a) PRESERVATION OF ASSETS.—

20            (1) AMENDMENTS TO ERISA.—Section  
21        206(d)(3) of the Employee Retirement Income Secu-  
22        rity Act of 1974 (29 U.S.C. 1056(d)(3)) is amend-  
23        ed—

1 (A) by redesignating subparagraph (N) as  
2 subparagraph (O); and

3 (B) by inserting after subparagraph (M)  
4 the following:

5 “(N) PRESERVATION OF ASSETS.—

6 “(i) IN GENERAL.—If a spouse or  
7 former spouse of a participant—

8 “(I) notifies a plan in writing  
9 that—

10 “(aa) an action is pending  
11 pursuant to a State domestic re-  
12 lations law (including a commu-  
13 nity property law), and

14 “(bb) all or a portion of the  
15 benefits payable with respect to  
16 the participant under the plan  
17 are a subject of such action, and

18 “(II) includes with the notice evi-  
19 dence of the pendency of the action,  
20 the plan administrator shall, during the  
21 segregation period, separately account for  
22 50 percent of such benefits. Any amounts  
23 so separately accounted for may not be dis-  
24 tributed by the plan during the segregation  
25 period.

1 “(ii) SEGREGATION PERIOD.—

2 “(I) IN GENERAL.—For purposes  
3 of clause (i), the term ‘segregation pe-  
4 riod’ means the period—

5 “(aa) beginning on the date  
6 of receipt by the plan of the no-  
7 tice under clause (i), and

8 “(bb) ending on the earlier  
9 of—

10 “(AA) 90 days after the  
11 date of receipt of such no-  
12 tice, or

13 “(BB) the date of re-  
14 ceipt of a domestic relations  
15 order with respect to the  
16 participant and the prospec-  
17 tive alternate payee or the  
18 date on which the action is  
19 no longer pending.

20 “(II) EXTENSION OF SEGREGA-  
21 TION PERIOD.—The segregation pe-  
22 riod shall be extended for 1 or more  
23 additional periods described in sub-  
24 clause (I) upon notice by the spouse  
25 or former spouse that the action de-

1                   scribed in clause (i)(I)(aa) is still  
2                   pending as of the close of any prior  
3                   segregation period.”.

4                   (2) AMENDMENTS TO 1986 CODE.—Section  
5                   414(p) of the Internal Revenue Code of 1986 is  
6                   amended—

7                   (A) by redesignating paragraph (13) as  
8                   paragraph (14); and

9                   (B) by inserting after paragraph (12) the  
10                  following:

11                 “(13) PRESERVATION OF ASSETS.—

12                 “(A) IN GENERAL.—If a spouse or former  
13                 spouse of a participant—

14                 “(i) notifies a plan in writing that—

15                 “(I) an action is pending pursu-  
16                 ant to a State domestic relations law  
17                 (including a community property law),  
18                 and

19                 “(II) all or a portion of the bene-  
20                 fits payable with respect to the partic-  
21                 ipant under the plan are a subject of  
22                 such action, and

23                 “(ii) includes with the notice evidence  
24                 of the pendency of the action,

1 the plan administrator shall, during the seg-  
 2regation period, separately account for 50 per-  
 3cent of such benefits. Any amounts so sepa-  
 4rately accounted for may not be distributed by  
 5the plan during the segregation period.”.

6 “(B) SEGREGATION PERIOD.—

7 “(i) IN GENERAL.—For purposes of  
 8subparagraph (A), the term ‘segregation  
 9period’ means the period—

10 “(I) beginning on the date of re-  
 11ceipt by the plan of the notice under  
 12clause (i), and

13 “(II) ending on the earlier of—

14 “(aa) 90 days after the date  
 15of receipt of such notice, or

16 “(bb) the date of receipt of  
 17a domestic relations order with  
 18respect to the participant and the  
 19prospective alternate payee or the  
 20date on which the action is no  
 21longer pending.

22 “(ii) EXTENSION OF SEGREGATION  
 23PERIOD.—The segregation period shall be  
 24extended for 1 or more additional periods  
 25described in clause (i) upon notice by the

1 spouse or former spouse that the action de-  
2 scribed in subparagraph (A)(i)(I) is still  
3 pending as of the close of any prior seg-  
4regation period.”.

5 (b) PENALTY FOR FAILURE TO PROVIDE INFORMA-  
6TION REGARDING ALTERNATE PAYEES.—

7 (1) IN GENERAL.—Section 502(c), as amended  
8 by section 312, of the Employee Retirement Income  
9 Security Act of 1974 (29 U.S.C. 1132(c)) is amend-  
10ed—

11 (A) by redesignating paragraphs (8), (9),  
12 (10), (11), and (12) as paragraphs (9), (10),  
13 (11), (12), and (13) respectively; and

14 (B) by inserting after paragraph (7) the  
15 following:

16 “(8) FAILURE TO PROVIDE INFORMATION RE-  
17GARDING ALTERNATE PAYEES.—The plan adminis-  
18trator shall provide information regarding the ben-  
19efit to prospective alternative payees under a domes-  
20tic relations order under section 206(d)(3) or any  
21representative of a prospective alternative payee in  
22connection with such an order. The Secretary may  
23assess a civil penalty against any plan administrator  
24of up to \$100 a day from the date of the plan ad-

1 administrator’s failure or refusal to provide such infor-  
2 mation.”.

3 (2) CONFORMING AMENDMENT.—Section  
4 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)), as so  
5 amended, is amended by striking “or (11)” and in-  
6 serting “(11), or (12)”.

7 (c) EFFECTIVE DATE.—The amendments made by  
8 this section shall apply to plan years beginning after De-  
9 cember 31, 2014.

10 **SEC. 403. CORRECTION TO BONDING REQUIREMENT.**

11 Section 412(a)(3)(D) of the Employee Retirement In-  
12 come Security Act of 1974 (29 U.S.C. 1112(a)(3)(D)) is  
13 amended by striking “Paragraph (2)” and inserting “This  
14 paragraph”.

15 **SEC. 404. RETALIATION PROTECTIONS.**

16 Section 510 of the Employee Retirement Income Se-  
17 curity Act of 1974 (29 U.S.C. 1140) is amended by insert-  
18 ing “, has filed or made any oral or written complaint (in-  
19 cluding to a fiduciary, an employer, or the Secretary),”  
20 after “given information”.

○