**Innovation: New Structures to Foster Innovative Plan Design *(Draft Legislative Language for Composite Plans)***

SEC. 301. Composite plans.

(a) Amendment to employee retirement income security act of 1974.—

(1) IN GENERAL.—Title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) is amended by adding at the end the following:

**[“PART 8—Composite Plans and Legacy Plans](file:///C%3A%5C%5CUsers%5C%5CJWGross%5C%5CAppData%5C%5CRoaming%5C%5CSoftQuad%5C%5CXMetaL%5C%5C7.0%5C%5Cgen%5C%5CC%5C%5CProgram%20files%5C%5CXMetal%207.0%5C%5CAuthor%5C%5Ctemp.xml%22%20%5Cl%20%22H5BCEE84098D4455FB4499A3AEE24F1C9)**

 “SEC. 801. Composite plan defined.

“(a) Composite plan defined.—For purposes of this Act, the term ‘composite plan’ means a pension plan—

“(1) which is a multiemployer plan that is neither a defined benefit plan nor a defined contribution plan;

“(2) the terms of which provide that the plan is a composite plan for purposes of this title;

“(3) which provides systematically for the payment of benefits objectively calculated pursuant to a formula enumerated in the plan document with respect to plan participants after retirement, for life;

“(4) which requires an annual actuarial determination of whether projected contributions are sufficient to fund the projected benefit payments (calculated as described in subsection (c)) under reasonable actuarial assumptions, and prescribes that corrective action pursuant to section 802 is required when the plan’s projected funding ratio is below 120 percent for the plan year; and

“(5) under which—

“(A) benefits are paid in the form of life annuities, except for benefits which under section 203(e) may be immediately distributed without the consent of the participant; and

“(B) benefits with respect to participants and beneficiaries may be increased or reduced based on the plan’s projected funded ratio or projected insolvency, in accordance with section 802.

“(b) Composite plan feature may be added to a multiemployer defined benefit plan.—

“(1) IN GENERAL.—The plan sponsor of a defined benefit plan that is a multiemployer plan may amend the plan to incorporate the features of a composite plan as a component of the multiemployer plan separate from the defined benefit plan component.

“(2) SPECIAL RULES.—If a multiemployer plan is amended pursuant to paragraph (1)—

“(A) the requirements of this title and title IV shall be applied to the composite plan component and the defined benefit plan component of the multiemployer plan as if each such component were maintained as a separate plan within the meaning of section 208;

“(B) the assets of the composite plan component and of the defined benefit plan component of the plan shall be held in a single trust forming part of the plan under which the trust instrument expressly provides for separate accounts (and appropriate records) to be maintained to reflect the interest which each of the plan components has in the trust, including separate accounting for additions to the trust for the benefit of each plan component, disbursements made from each plan component’s account in the trust, and investment experience of the trust allocable to that account, and permits, but does not require, the pooling of some or all of the assets of the two plan components for investment purposes, and

“(C) The assets allocated to the composite plan component shall be held, invested, reinvested, managed, administered and distributed for the exclusive benefit of the participants and beneficiaries of the composite plan, the assets allocated to the defined benefit plan component shall be held, invested, managed, administered and distributed for the exclusive benefit of participants and beneficiaries of the defined benefit plan, and in no event shall the assets allocated to one of the plan components be available to pay benefits due under the other plan component.

“(c) Annual actuarial valuation for composite plan.—

“(1) IN GENERAL.—In addition to the actuarial certifications and determinations described in this section and section 802, a valuation of the liability of a composite plan shall be made not less frequently than once every year.

“(2) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this part, all costs, liabilities, rates of interest and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

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

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

“(3) FAIR MARKET VALUE OF ASSETS.—For purposes of this part, the value of the plan’s assets shall be taken into account on the basis of their fair market value.

“(4) VALUATION DATE.—The valuation referred to in paragraph (1) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

“(5) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this part, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury.

“(d) Limited treatment as defined benefit plan.—For purposes of section 3 and parts 1 and 2 of subtitle B of this title, a composite plan shall be treated as a defined benefit plan unless a different treatment is provided for under applicable law, either expressly or as indicated by the context.

“SEC. 802. Funded ratios and realignment programs.

“(a) Certification of funded ratios.—

“(1) IN GENERAL.—Not later than the 120th day of each plan year of a composite plan, the plan actuary of the composite plan shall certify to the Secretary and the plan sponsor the plan’s current funded ratio and projected funded ratio for the plan year.

“(2) DETERMINATION OF CURRENT FUNDED RATIO AND PROJECTED FUNDED RATIO.—For purposes of this section:

“(A) CURRENT FUNDED RATIO.—The current funded ratio is the ratio (expressed as a percentage) of—

“(i) the value of the plan’s assets, determined in accordance with section 801(c)(3), to

(ii) The plan actuary’s best estimate of the value of the plan liabilities as of the first day of the plan year, determined in accordance with section 801(c)(2) and based on the most recent actuarial valuation required under section 801(c), and the unit credit funding method described in section 305(j)(8).

“(B) PROJECTED FUNDED RATIO.—The projected funded ratio is the current funded ratio projected to the first day of the 15th plan year following the plan year for which the determination is being made, determined in accordance with the principles specified in section 305(b)(3)(B).

“(b) Realignment program.—

“(1) ADOPTION.—In any case in which the plan actuary certifies under subsection (a) that the plan’s projected funded ratio is below 120 percent for the plan year, the plan sponsor shall adopt a realignment program not later than 210 days after the due date of the certification required under subsection (a)(1) that is expected to be sufficient to raise the projected funded ratio to at least 120 percent for the following plan year. If a certification described in the preceding sentence is made for more than one plan year, the plan sponsor shall adopt an updated realignment program for each such plan year.

“(2) CONTENT OF REALIGNMENT PROGRAM.—

“(A) IN GENERAL.—A realignment program adopted under this subsection is a written program which consists of all reasonable measures, including options or a range of options to be undertaken by the plan sponsor or proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to achieve a projected funding ratio of at least 120 percent for the following plan year.

“(B) INITIAL PROGRAM ELEMENTS.—The program may include any of the following:

“(i) Proposed contribution increases.

“(ii) A reduction in the rate of future benefit accruals, but unless the plan sponsor determines that a lower rate is reasonable, the resulting rate shall not be less than—

(I) 1 percent of the contributions on which benefits are based as of the start of the plan year (or the equivalent standard accrual rate as described in section 305(e)(6)), or

(II) if lower, the accrual rate under the plan on such first day.

“(iii) A modification or elimination of benefits of the type described in section 305(e)(8)(A)(iv), with respect to benefits of participants that are not in pay status before the date of the notice required under subsection (c)(1).

“(iv) Any other legally available measures not specifically described in this subparagraph or subparagraph (C) or (D) that the plan sponsor determines are reasonable.

“(C) ACCRUED BENEFITS NOT IN PAY STATUS; CERTAIN BENEFITS IN PAY STATUS.—If the plan sponsor determines that all reasonable measures available under subparagraph (B) will not enable the plan to achieve a projected funded ratio of at least 120 percent, the program shall include, to the extent the plan sponsor determines to be reasonable—

“(i) a reduction of accrued benefits that are not in pay status by the date of the notice required under subsection (c)(1);

“(ii) the reduction or elimination of benefits earned or accrued with respect to service with an employer described in section 803)(a), and

“(iii) a reduction of any benefits of participants that are in pay status before the date of the notice required under subsection (c)(1) other than core benefits as defined in paragraph (3)(C),

but in no event more than is reasonably necessary to enable the plan to achieve a projected funded ratio of 120 percent for the following plan year.

“(D) Alternative Realignment Program; Reasonable Measures. If the plan sponsor determines that, based on reasonably anticipated experience and reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to achieve a projected funded ratio of at least 120 percent for the following plan year, the plan sponsor shall adopt an alternative realignment program that includes all reasonable measures expected to enable the plan to achieve a projected funded ratio of at least 120 percent for a later plan year or to forestall a projected plan insolvency.

“(E) PROJECTED INSOLVENCY.—In the case of a composite plan for which—

“(i) the plan actuary has certified that the plan is projected to become insolvent during the current plan year or any of the 24 succeeding plan years (29 succeeding plan years if the plan has a ratio of inactive participants to active participants that exceeds 2 to 1); and

“(ii) the plan sponsor has exhausted all reasonable measures available under subparagraphs (B), (C) and (D), ,

the plan sponsor shall take the actions described in paragraph (3), below, subject to the conditions, limitations, and distribution rules prescribed therein, to the extent reasonably needed to avoid plan insolvency.

“(3) ADDITIONAL STEPS TO AVOID PLAN INSOLVENCY.

“(A) IN GENERAL.—The plan sponsor of a composite plan described in paragraph (2)(E), above shall amend the plan to reduce benefits under this paragraph, including both the reduction of any current or future benefit payment obligations of the plan to any participant or beneficiary under the plan, whether or not in pay status at the time of the reduction, but only if the plan actuary certifies that the plan is projected to avoid insolvency when the proposed benefit reductions are taken into account.

“(B) Criteria for benefit reductions.—In determining whether and how to reduce benefits under this paragraph, the plan sponsor may take into account factors including the following: “(i) Current and past contribution levels.

 “(ii) Levels of benefit accruals (including any prior reductions in the rate of benefit accruals.

 “(iii) Prior reductions (if any) of the types of benefits described in section 305(e)(8)(A)(iv).

 “(iv) Prior reductions (if any) of benefits under this section.

 “(v) Impact on plan solvency of any subsidies and ancillary benefits available to active participants.

 “(vi) Compensation levels of active participants relative to employees in the participants’ industry generally.

 “(vii) Competitive and other economic factors facing contributing employers.

 “(viii) Impact of benefit and contribution levels on retaining active participants and bargaining groups under the plan.

 “(ix) Impact of past and anticipated contribution increases under the plan on employer attrition and retention levels.

 “(x) Measures undertaken by the plan sponsor to retain or attract contributing employers.

“(C) LIMITATIONS ON BENEFIT REDUCTIONS.—Benefit reductions under this paragraph shall be subject to the following limitations:

“(i) Benefit reductions under this paragraph, in the aggregate, shall be reasonably estimated to achieve the level that is necessary to avoid insolvency.

“(ii) Benefit reductions under this paragraph shall be equitably distributed across the participant and beneficiary population, taking into account factors with respect to participants, beneficiaries and their benefits, which may include one or more of the following:

“(I) Age and life expectancy.

“(II) Length of time in pay status.

“(III) Amount of benefit.

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

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

“(VI) Extent to which participant or beneficiary has received post-retirement benefit increases.

“(VII) History of benefit increases and reductions.

“(VIII) Years to retirement eligibility, for active participants.

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

“(X) Extent to which active participants are reasonably likely to withdraw support for the plan, accelerating employer withdrawals from the plan and increasing the risk of additional benefit reductions.

“(D) CORE BENEFIT DEFINED.—For purposes of this part, the term ‘core benefit’ means a participant’s accrued benefit payable in the normal form of annuity starting at normal retirement age, determined without regard to—

“(i) any early retirement benefits, retirement-type subsidies or other benefits, rights, or features that may be associated with that benefit; and

“(ii) any cost-of-living adjustments or benefit increases effective after the date of retirement.

“(E) INSOLVENCY DEFINED.—For purposes of this section, a composite plan is insolvent for a plan year if the plan’s available resources are not sufficient to pay benefits under the plan when due for the plan year. For purposes of this subparagraph, ‘available resources’ means the plan’s cash, marketable assets, contributions and earnings, less reasonable administrative expenses.

“(4) COORDINATION WITH CONTRIBUTION INCREASES.—

“(A) IN GENERAL.—A realignment program may provide that some or all of the benefit modifications described in the program will only take effect if the bargaining parties fail to agree to specified levels of increases in contributions to the plan, effective as of specified dates.

“(B) INDEPENDENT BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that are independent of potential contribution increases, such changes shall take effect not later than the first day of the first plan year that begins following the adoption of the realignment program.

“(C) Conditional BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that take effect only if the bargaining parties fail to agree to contribution increases, such changes shall take effect not later than the first day of the plan year following the earlier of—

“(i) the expiration of the longest running collective bargaining agreement in effect on the date of adoption of the realignment program; or

“(ii) the third anniversary of the date of adoption of the realignment program.

“(D) REVOCATION OF CERTAIN BENEFIT MODIFICATIONS.—In the case of benefit modifications that take effect under a realignment program because the bargaining parties fail to agree to contribution increases, such benefit modifications may be revoked, in whole or in part, and retroactively or prospectively, when the plan sponsor or the bargaining parties allocate contribution increases to the plan as specified in the realignment program, including amendments thereto. The preceding sentence shall not apply unless the contribution increase allocations are to be effective not later than the fifth anniversary of the first day of the first plan year that begins after the adoption of the realignment program.

“(c) Notice.—

“(1) IN GENERAL.—In any case in which it is certified under subsection (a) that the current funded ratio is less than 100 percent or the projected funded ratio is less than 120 percent, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the current and projected funded ratios to the participants and beneficiaries, the bargaining parties, and the Secretary. Such notice shall include—

“(A) an explanation that contribution rate increases or benefit reductions may be necessary;

“(B) a description of the types of benefits that might be reduced depending on the plan’s projected funded level and the prospect of insolvency; and

“(C) a projection of the contribution increases necessary to achieve a projected funded ratio of 120 percent.

“(2) NOTICE OF BENEFIT REDUCTIONS.—

“(A) IN GENERAL.—No benefit reduction may be made pursuant to subsection (b) unless notice of such reduction has been given at least 30 days before the general effective date of such reduction for all participants and beneficiaries to—

“(i) plan participants and beneficiaries,

“(ii) each employer who has an obligation to contribute under the plan, and

“(iii) each employee organization which, for purposes of collective bargaining, represents plan participants employed by such an employer.

(B) CONTENT OF NOTICE.—The notice under subparagraph (A) shall contain—

“(i) sufficient information to enable participants and beneficiaries to understand the effect of any reduction on their benefits, including an estimate (on an annual or monthly basis) of any affected benefit that a participant or beneficiary would otherwise have been eligible for as of the general effective date described in paragraph (A), and

“(ii) information as to the rights and remedies of plan participants and beneficiaries as well as how to contact the Department of Labor for further information and assistance where appropriate.

“(C) FORM AND MANNER.—Any notice under subparagraph (A)—

“(i) shall be provided in a form and manner prescribed in regulations of the Secretary of the Treasury, in consultation with the Secretary, and

“(ii) shall be written in a manner so as to be understood by the average plan participant.

“(3) MODEL NOTICES.—The Secretary shall—

“(A) prescribe model notices that the plan sponsor of a composite plan may use to satisfy the notice requirements under this subsection and section 803(b); and

“(B) by regulation enumerate any details related to the elements listed in paragraphs (1) and (2) that any notice under this subsection must include, if the plan sponsor chooses not to use the model notice.

“(4) NEW TECHNOLOGIES.—The Secretary may by regulation allow any notice under this section or section 803(b) to be provided by using new technologies.

“(d) Limitation on increasing benefits.—

“(1) CURRENT FUNDED RATIOS AT LEAST 120 PERCENT.—Except as provided in paragraphs (2), (4), and (5), no plan amendment increasing benefits or establishing new benefits under a composite plan may be adopted for a plan year unless—

“(A) the plan’s current funded ratio is at least 120 percent;

“(B) the benefit increase or new benefits are not projected to increase the present value of the plan’s liabilities for the plan year by more than the greater of—

“(i) 5 percent; or

“(ii) the percentage equal to 1/4 of the number of percentage points by which the projected funded ratio for the immediately preceding plan year, as certified under section 802(a), exceeds 120 percent;

“(C) taking the benefit increase or new benefits into account, the projected funded ratio for the current plan year is at least 120 percent;

“(D) expected contributions for the current plan year are at least 120 percent of normal cost for the plan year, determined using the unit credit funding method and treating the benefit increase or new benefits as in effect for the entire plan year; and

“(E) in any case where core benefits previously have been reduced pursuant to subsection (b)(3), the requirements of paragraph (3) have been met.

“(2) CURRENT FUNDED RATIOS BETWEEN 100 PERCENT AND 120 PERCENT.—If the current funded ratio of a composite plan for a plan year is at least 100 percent but less than 120 percent, paragraph (1) shall be applied with respect to such plan—

“(A) by substituting ‘100 percent’ for ‘120 percent’ in subparagraph (A) of such paragraph;

“(B) by substituting ‘2.5 percent’ for ‘5 percent’ in subparagraph (B)(i) of such paragraph; and

“(C) by substituting ‘1/8’ for ‘1/4’ in subparagraph (B)(ii) of such paragraph.

“(3) ADDITIONAL REQUIREMENTS WHERE CORE BENEFITS REDUCED.—

“(A) IN GENERAL.—A plan amendment increasing benefits satisfies the requirements of this paragraph if—

“(i) the plan amendment increases the level of future benefit payments only and provides for an equitable distribution of benefit increases in accordance with subparagraph (B); and

“(ii) the plan actuary certifies that after taking into account such benefit increases the plan is projected to avoid insolvency indefinitely,

“(B) EQUITABLE DISTRIBUTION OF BENEFIT INCREASES.—The plan amendment shall equitably distribute the benefit increases across the participant and beneficiary population, taking into account the relevant factors described in subsection (b)(3)(C)(ii) and the extent to which the benefits of participants were previously reduced under subsection (b)(3).

“(4) EXCEPTION TO COMPLY WITH APPLICABLE LAW.—Paragraphs (1), (2) and (3) shall not apply in connection with a plan amendment if the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

“(5) EXCEPTION WHERE MAXIMUM DEDUCTIBLE LIMIT APPLIES.— Notwithstanding paragraphs (1) and (2), a composite plan may be amended to increase benefits to the extent necessary to enable contributions to the composite plan would to be deductible for the plan year under section 404(a)(1)(E) of the Internal Revenue Code of 1986 provided that if core benefits previously have been reduced pursuant to subsection (b)(3), such plan amendment must satisfy the requirements of paragraph (3). The Secretary of the Treasury shall issue regulations to implement this paragraph.

“(6) TREATMENT OF PLAN AMENDMENTS.—For purposes of this subsection—

“(A) if 2 or more plan amendments increasing benefits or establishing new benefits are adopted in a plan year, such amendments shall be treated as a single amendment adopted on the last day of the plan year;

“(B) all benefit increases and new benefits adopted in a single amendment are treated as a single benefit increase, irrespective of whether the increases and new benefits take effect in more than one plan year; and

“(C) increases in contributions or decreases in plan liabilities which are scheduled to take effect in future plan years may be taken into account in connection with a plan amendment if they have been agreed to in writing or otherwise formalized by the date the plan amendment is adopted.

“(e) Special rules.—

“(1) INITIAL YEAR MINIMUM CONTRIBUTION LEVEL.—A composite plan shall not become effective unless the expected composite plan contributions for the first plan year are at least 120 percent of the normal cost for the plan year.

“(2) CONSIDERATION OF CONTRIBUTION INCREASES.—For purposes of projections under subsection (a) (but not for purposes of any projection under subsection (d)), the plan sponsor may anticipate contribution rate increases beyond the term of the current collective bargaining agreement and any agreed-to supplements, up to a maximum of 2.5 percent per year, compounded annually, unless it would be unreasonable under the circumstances to assume that contributions would increase by that amount.

“(3) COORDINATION WITH FUNDING RULES.—Except as otherwise provided in this title, sections 304 and 305 shall not apply to a composite plan.

“SEC. 803. Composite plan restrictions to preserve legacy plan funding.

“(a) Restrictions on acceptance by composite plan of agreements and contributions.—The plan sponsor of a composite plan shall not accept or recognize a collective bargaining agreement (or any modification to such agreement), or accept any contributions under the agreement, if—

“(1) the agreement provides for contributions to a legacy plan but fails to satisfy the transition minimum contribution requirements of subsection (c) with respect to such plan; or

“(2) the employer ceases to have an obligation to contribute to the legacy plan associated with the composite plan under the agreement, or a predecessor agreement, for one or more groups or classifications of employees at any time during the current plan year.

“(b) This section does not apply to an employer unless it has or had an obligation to contribute to the legacy plan and its employees were eligible to accrue benefits under the legacy plan with respect to service with that employer.

“(c) Restrictions on composite plan benefits.—

“(1) IN GENERAL.—Employees of an employer may not accrue or otherwise earn additional benefits under a composite plan with respect to service with that employer, effective as of the first day of the plan year following a plan year in which the plan sponsor of the composite plan accepts or recognizes a collective bargaining agreement covering such employees if—

“(A) the employer has an obligation to contribute to a legacy plan under the agreement and the agreement fails to satisfy the transition minimum contribution requirements of subsection (d) with respect to such plan; or

“(B) the employer ceases to have an obligation to contribute to a legacy plan associated with the composite plan under the agreement, or a predecessor agreement, at any time during the period:

“(i) beginning 60 months before the plan year in which the agreement is accepted or recognized and ending with the day before the date of such recognition or acceptance, or

“(ii) beginning on or after the first day of the plan year in which the agreement is accepted or recognized and ending 60 months after such first day.

“(C) Subparagraph (B) shall not apply to any cessation of the obligation to contribute to a legacy plan associated with the composite plan that occurred before January 1, 2016.“(2) NOTICE.—The plan sponsor of a composite plan shall provide notification—

“(A) to active participants of the composite plan who have ceased to accrue or otherwise earn benefits with respect to service with an employer, due to the operation of subsection (a) or paragraph (1) of this subsection; and

“(B) to the Secretary, the Secretary of the Treasury, and the Pension Benefit Guaranty Corporation that benefit accruals to such participants have been suspended under this section.

“(3) Limit on Retroactive Impact of Benefit-Accrual Restriction. Notwithstanding paragraph (1) of this subsection, benefits earned or accrued before the date notice is given under paragraph (2)(A) may only be reduced or eliminated pursuant to the composite plan’s realignment program, if any, under section 802.

“(d) Transition minimum contribution requirements.—

“(1) IN GENERAL.—A collective bargaining agreement satisfies the transition minimum contribution requirements of this subsection if the agreement—

“(A) provides for payment of contributions to a legacy plan at a rate equal to or greater than the transition minimum contribution rate established for the agreement by the legacy plan under paragraph (2); and

“(B) does not provide for—

“(i) a suspension of contributions to the legacy plan with respect to any period of service; or

“(ii) any new direct or indirect exclusion of younger or newly hired employees of the employer from being taken into account in determining contributions owed to the legacy plan.

“(2) TRANSITION MINIMUM CONTRIBUTION RATE.—

“(A) IN GENERAL.—The transition minimum contribution rate is the contribution rate that, as certified by the actuary of the legacy plan as of the valuation date for the plan year specified in subparagraph (B), would be reasonably expected to be adequate to fund the legacy plan’s normal cost, if any, and amortize the legacy plan’s unfunded liabilities in level annual installments over 30 years. Such determination shall be made in accordance with the principles specified in section 305(b)(3)(B) and shall take into account any trend indicating a decline in industry activity covered by the plan and the likelihood of such decline continuing. If different rates of contribution are payable to the legacy plan by different employers or for different groups or classifications of employees, the certification shall specify a transition minimum contribution rate for each such employer, group or classification.

“(B) TIMING OF DETERMINATION.—The plan year specified in this subparagraph is the first plan year beginning on or after the date on which the plan becomes a legacy plan under subsection (f).

“(C) ADJUSTMENTS IN RATE.—The plan sponsor of a legacy plan from time to time may adjust the transition minimum contribution rate or rates under this paragraph by increasing the rates for one or more employers and decreasing the rates payable by others, provided the actuary certifies that such adjusted rates in combination will produce projected contribution income for the plan year beginning on or after the date of certification that is not less than would be produced by the transition minimum contribution rates in effect at the time of the certification.

“(3) CORRECTION PROCEDURES.—Pursuant to standards prescribed by the Secretary, the plan sponsor of a composite plan shall adopt rules and procedures that give bargaining parties a reasonable opportunity to correct a failure to satisfy the transition minimum contribution requirements of this subsection, which may include conditional receipt of contributions during such correction period.

“(e) Plan sponsor notifications and certifications.—Pursuant to standards prescribed by the Secretary—

“(1) the plan sponsor of a multiemployer defined benefit plan that is a legacy plan shall adopt rules and procedures under which the plan sponsor—

“(A) will be promptly—

“(i) notified when any of the bargaining parties agrees to contribute to a composite plan; and

“(ii) provided by the bargaining parties with any information needed to determine if—

“(I) the defined benefit plan is a legacy plan with respect to such composite plan;

“(II) a collective bargaining agreement fails to satisfy the transition minimum contribution requirements of subsection (c); and

“(III) an employer ceases to have an obligation to contribute to the defined benefit plan for any employees; and

“(B) will certify at reasonable intervals for each collective bargaining agreement identified by the plan sponsor of a composite plan under which an employer has an obligation to contribute both to the composite plan and to the defined benefit plan—

“(i) whether the agreement satisfies the transition minimum contribution requirements of subsection (c) and if not, the date the agreement ceases to satisfy such requirements; and

“(ii) whether an employer has ceased to have an obligation to contribute to the defined benefit plan under the agreement, or a predecessor agreement, and if so, the effective date of such cessation; and

“(2) the plan sponsor of a composite plan shall adopt rules and procedures under which the plan sponsor—

“(A) will be promptly provided by the bargaining parties with any information needed to determine whether—

“(i) a multiemployer defined benefit plan is a legacy plan with respect to the composite plan;

“(ii) a collective bargaining agreement fails to satisfy the transition minimum contribution requirements of subsection (d) with respect to a plan described in clause (i); and

“(iii) an employer has ceased to have an obligation to contribute to a multiemployer defined benefit plan for any employees covered by the composite plan; and

“(B) will request annually from the plan sponsor of each legacy plan associated with the composite plan, the certification described in paragraph (1)(B) for each collective bargaining agreement under which an employer has an obligation to contribute to both plans.

“(f) Termination of composite plan restrictions.—

“(1) IN GENERAL.—Beginning with the first day of the first plan year of a legacy plan with respect to which the plan actuary certifies that the plan is fully funded, has been fully funded for at least 3 out of the immediately preceding 5 plan years and is projected to remain fully funded for at least the following four plan years—

“(A) the provisions of subsections (a), (c), and (d) shall cease to apply with respect to a collective bargaining agreement to the extent the agreement, or a predecessor agreement, provides or provided for contributions to the legacy plan; and

“(B) the provisions of subsection (e) shall cease to apply with respect to the legacy plan.

“(2) DETERMINATION OF FULLY FUNDED.—A plan is fully funded for purposes of paragraph (1) if, as of the valuation date of the plan, the value of the plan’s assets equals or exceeds the actuary’s best estimate of the present value of the plan’s liabilities.

“(3) APPLICABLE RULES.—Actuarial determinations and projections under this subsection shall be based on the rules in section 305(b)(3) and section 801(c)(3).

“(g) Legacy plan defined.—

“(1) IN GENERAL.—For purposes of this part and parts 2 and 3, a multiemployer defined benefit plan becomes a legacy plan as of the first day of the first plan year of such plan beginning on or immediately following the first date on which at least 500 (or, if less, 5 percent) of the employees in covered service under the plan are eligible to accrue a benefit under one or more composite plans. If an employer is or has been obligated to contribute both to a composite plan and a legacy plan with respect to essentially the same group or classification of employees, that legacy plan is considered to be associated with such composite plan.

“(2) ELIGIBLE TO ACCRUE A BENEFIT.— For purposes of paragraph (1), an employee is considered eligible to accrue a benefit under a composite plan as of the first day of the month following the first month in which the employee completes an hour of service under a collective bargaining agreement that provides for contributions to the composite plan

“(3) COVERED SERVICE.—For purposes of paragraph (1), the term ‘covered service under the plan’ means any service by an employee of an employer within a job classification or class of employees covered by a collective bargaining agreement that requires the employer to make contributions to a multiemployer defined benefit plan—

“(A) without regard to whether the employee is eligible to accrue any benefits under the defined benefit plan with respect to such service, and

“(B) without regard to whether the employer’s contribution obligation to the plan is measured in whole or in part by such service.

“(h) SIMPLIFIED RULES FOR CERTAIN PLANS.—

“(1) Notwithstanding any provision herein to the contrary, a multiemployer defined benefit plan becomes a legacy plan as of the first day of the plan year with respect to which the plan is amended to:

“(A) add a composite plan component as described in section 801(c),

“(B) cease all future benefit accruals as of a date or dates specified in the plan,

“(C) provide that, after the date or dates specified in subparagraph (B) , above, any benefits earned under the plan will be determined under the terms of the composite plan component, and

“(D) state that it is a legacy plan that elects to be covered by the provisions of this subsection and that it is associated with the composite plan component.

“(2) In the case of a legacy plan described in paragraph (1),

“(A) Each plan year the plan sponsor shall allocate an amount of employer contributions to the legacy plan equal to the aggregate of the minimum transition contributions.

“(B) The amount of employer contributions to the plan for a plan year remaining after the allocation described in subparagraph (A) shall be allocated to the composite plan component.

“(C) The bargaining parties may direct that an additional amount of employer contributions be allocated to the legacy plan for a plan year.

“(3) Participants in a composite plan associated with a legacy plan to which this subsection applies shall not accrue or otherwise earn additional benefits for any period for which the plan sponsor fails to comply with requirements comparable to those described in subsection (d), or accepts or recognizes a collective bargaining agreement that would compel such noncompliance with respect to contributions of an employer.

“(4) For purposes of this subsection, the minimum transition contribution for a plan year shall be the amount described in subsection (d) but determined as of the valuation date for the preceding plan year based on the facts and circumstances, including the actuarial assumptions and methods, applicable for such valuation date.

“(5) In the case of a plan described in this subsection,

“(A) The notice requirements in subsection (e) shall not apply,

“(B) The participant notice requirement in subsection (c)(2)(A) shall be treated as satisfied if the plan administrator notifies participants of the circumstances in which their benefits may be restricted under this section –

“(i) when the employees first become participants in the composite plan, and

“(ii) at least annually thereafter,

“(C) Upon written request, provides a participant with the most current information available to the plan and applicable to the participant regarding benefit accruals that are restricted under this subsection, and

“(D) Subsections (a) and (c) through (g)(1) of this section shall not apply.

“(i) SPECIAL WITHDRAWAL LIABILITY RULE.—For a special rule regarding withdrawal liability under a legacy plan associated with a composite plan, see sections 4201(e) and 4211(g)of this Act.

“(j) NO EFFECT ON MINIMUM FUNDING STANDARDS.—Nothing in this part shall be construed as modifying in any way the obligations of a multiemployer defined benefit plan, its plan sponsor, or the employers responsible for making contributions to or under the plan, to comply with the minimum funding standard rules under sections 302 and 304 or the additional funding rules under section 305.

“(k) Other definitions.—

“(1) COLLECTIVE BARGAINING AGREEMENT.—As used in this part, the term ‘collective bargaining agreement’ includes an agreement with an employee organization under which an employer has an obligation to contribute to a plan.

"(2) Liabilities . – Unless otherwise specified, for purposes of this part the term ‘liabilities’ shall mean all of the plan’s liabilities to participants and beneficiaries as of the relevant date, determined in the manner and on the basis of the actuarial factors described in section 305(j).

“(3) OTHER TERMS.—Any term used in this part which is not defined in this part and which is also used in section 305 shall have the same meaning provided such term in such section.”.

4. PENALTIES.—

(A) CIVIL ENFORCEMENT OF FAILURE TO COMPLY WITH REALIGNMENT PROGRAM.—Section 502(a) of such Act (29 U.S.C. 1132(a)) is amended by adding at the end the following:

“(11) in the case of a composite plan required to adopt a realignment program under section 802, if the plan sponsor—

“(A) has not adopted a realignment program under that section by the deadline established in such section; or

“(B) fails to update or comply with the terms of the realignment program in accordance with the requirements of such section,

by an employer that has an obligation to contribute with respect to the composite plan or an employee organization that represents active participants in the composite plan, for an order compelling the plan sponsor to adopt a realignment program or to update or comply with the terms of the realignment program, in accordance with the requirements of such section and the realignment program.”.

(B) CIVIL PENALTIES.—Section 502(c) of such Act (29 U.S.C. 1132(c)) is amended—

(i) by moving paragraph (8) and the first paragraph (10) (as added by Public Law 111–3) each 2 ems [is this the intended reference?] to the left;

(ii) by redesignating paragraph (9), the first paragraph (10) (as added by Public Law 111–3), and the second paragraph (10) as paragraphs (13) through (15), respectively; and

(iii) by inserting after paragraph (8) the following:

“(9) The Secretary may assess against any plan sponsor of a composite plan a civil penalty of not more than $1,100 per day for each violation by such sponsor—

“(A) of the requirement under section 802 to adopt a realignment program by the deadline established in that section; or

“(B) of the requirement under section 802(a) on the plan actuary to certify the plan’s current or projected funded ratio by the date specified in such subsection.

“(10)(A) The Secretary may assess against any plan sponsor of a composite plan a civil penalty of not more than $100 per day for each violation by such sponsor of the requirement under section 802(c) to provide notice as described in such section, except that no penalty may be assessed in any case in which the plan sponsor exercised reasonable diligence to meet the requirements of such section and—

“(i) the plan sponsor did not know that the violation existed; or

“(ii) the plan sponsor provided such notice during the 30-day period beginning on the first date on which the plan sponsor knew that such violation existed.

“(B) In any case in which the plan sponsor exercised reasonable diligence to meet the requirements of section 802(c), the total penalty assessed under this paragraph against such sponsor for a plan year may not exceed $500,000.

“(C) In the case of a violation of section 802(c) which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the penalty assessed under this paragraph to the extent that the payment of such penalty would be excessive or otherwise inequitable relative to the violation involved.

“(11) The Secretary may assess against any plan sponsor of a composite plan a civil penalty of not more than $100 per day for each violation by such sponsor of the requirement under section 803(b)(2) to provide notice of the cessation of benefit accruals.

“(12) The Secretary may assess a civil penalty of not more than $1,100 per day for each violation—

“(A) by any bargaining party of a composite plan of the requirement under section 803(d)(1)(A) to provide the information described in such section.

“(B) by a plan sponsor of a composite plan of the requirement under section 803(d)(1)(B) to make the required certifications described in such section.”.

(3) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act (29 U.S.C. 1001 note) is amended by inserting after the item relating to section 734 the following:

[“PART 8—COMPOSITE PLANS AND LEGACY PLANS](file:///C%3A%5C%5CUsers%5C%5CJWGross%5C%5CAppData%5C%5CRoaming%5C%5CSoftQuad%5C%5CXMetaL%5C%5C7.0%5C%5Cgen%5C%5CC%5C%5CProgram%20files%5C%5CXMetal%207.0%5C%5CAuthor%5C%5Ctemp.xml%22%20%5Cl%20%22toc-H5BCEE84098D4455FB4499A3AEE24F1C9)

[“Sec. 801. Composite plan defined.](file:///C%3A%5CUsers%5CJWGross%5CAppData%5CRoaming%5CSoftQuad%5CXMetaL%5C7.0%5Cgen%5CC%5CProgram%20files%5CXMetal%207.0%5CAuthor%5Ctemp.xml#toc-HE67AC2F6B3E441A89B89E91FE16A7AC3)
[“Sec. 802. Funded ratios and realignment programs.](file:///C%3A%5CUsers%5CJWGross%5CAppData%5CRoaming%5CSoftQuad%5CXMetaL%5C7.0%5Cgen%5CC%5CProgram%20files%5CXMetal%207.0%5CAuthor%5Ctemp.xml#toc-HB2E0669A3D3E48C0BB1ADC5F3FCB25C0)
[“Sec. 803. Composite plan restrictions to preserve legacy plan funding.”.](file:///C%3A%5CUsers%5CJWGross%5CAppData%5CRoaming%5CSoftQuad%5CXMetaL%5C7.0%5Cgen%5CC%5CProgram%20files%5CXMetal%207.0%5CAuthor%5Ctemp.xml#toc-H0D66C55D5FDB47F3916AD45BE09728C2)

(b) Amendment to the Internal Revenue Code of 1986.—

(1) IN GENERAL.—Part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

**[“subpart C—Composite Plans and Legacy Plans](file:///C%3A%5C%5CUsers%5C%5CJWGross%5C%5CAppData%5C%5CRoaming%5C%5CSoftQuad%5C%5CXMetaL%5C%5C7.0%5C%5Cgen%5C%5CC%5C%5CProgram%20files%5C%5CXMetal%207.0%5C%5CAuthor%5C%5Ctemp.xml%22%20%5Cl%20%22H7D3C8380798C4E4CBADA2CCBCA293E6E)**

[“Sec. 437. Composite plan defined.](file:///C%3A%5C%5CUsers%5C%5CJWGross%5C%5CAppData%5C%5CRoaming%5C%5CSoftQuad%5C%5CXMetaL%5C%5C7.0%5C%5Cgen%5C%5CC%5C%5CProgram%20files%5C%5CXMetal%207.0%5C%5CAuthor%5C%5Ctemp.xml%22%20%5Cl%20%22toc-H330461881D5D4E429C3BBE61EFDC4132)
[“Sec. 438.  Funded ratios and realignment programs.](file:///C%3A%5C%5CUsers%5C%5CJWGross%5C%5CAppData%5C%5CRoaming%5C%5CSoftQuad%5C%5CXMetaL%5C%5C7.0%5C%5Cgen%5C%5CC%5C%5CProgram%20files%5C%5CXMetal%207.0%5C%5CAuthor%5C%5Ctemp.xml%22%20%5Cl%20%22toc-H30BF05AFA6214CF8B0AFFE9E6779392A)
[“Sec. 439. Composite plan restrictions to preserve legacy plan funding.](file:///C%3A%5C%5CUsers%5C%5CJWGross%5C%5CAppData%5C%5CRoaming%5C%5CSoftQuad%5C%5CXMetaL%5C%5C7.0%5C%5Cgen%5C%5CC%5C%5CProgram%20files%5C%5CXMetal%207.0%5C%5CAuthor%5C%5Ctemp.xml%22%20%5Cl%20%22toc-H19819127CCF4479FB4A37459CCC4E804)

“SEC. 437. Composite plan defined. [**NOTE:** these provisions have not yet been revised to reflect the modifications in the parallel ERISA provisions above.]

“(a) Composite plan defined.—For purposes of this title, the term ‘composite plan’ means a pension plan—

“(1) which is a multiemployer plan that is neither a defined benefit plan nor a defined contribution plan;

“(2) the terms of which provide that the plan is a composite plan for purposes of this title;

“(3) which provides systematically for the payment of benefits objectively calculated pursuant to a formula (which may include a variable benefit feature) enumerated in the plan document with respect to plan participants after retirement, for life;

“(4) which requires an annual actuarial determination of whether projected contributions are sufficient to fund the projected benefit payments (calculated as described in paragraph (3)) under reasonable actuarial assumptions, and prescribes that corrective action pursuant to section 438 is required when the plan’s projected funding ratio is below 120 percent for the plan year; and

“(5) under which—

“(A) benefits are paid in the form of life annuities, except for benefits which under section 411(a)(11) may be immediately distributed without the consent of the participant; and

“(B) benefits with respect to participants and beneficiaries may be reduced based on the plan’s projected funded ratio or projected insolvency, in accordance with section 438.

“(b) Composite plan feature may be added to a multiemployer defined benefit plan.—

“(1) IN GENERAL.—The plan sponsor of a defined benefit plan that is a multiemployer plan may amend the plan to incorporate the features of a composite plan as a component of the multiemployer plan separate from the defined benefit plan component.

“(2) SPECIAL RULES.—If a multiemployer plan is amended pursuant to paragraph (1)—

“(A) the requirements of this title shall be applied to the composite plan component and the defined benefit plan component of the multiemployer plan as if each such component were maintained as a separate plan within the meaning of section 414(l); and

“(B) the assets of the composite plan component and the defined benefit plan component of the plan shall be held in a single trust forming part of the plan under which the trust instrument expressly provides for separate accounts (and appropriate records) to be maintained to reflect the interest which each of the plan components has in the trust, including separate accounting for additions to the trust for the benefit of each plan component, disbursements made from each plan component’s account in the trust, and investment experience of the trust allocable to that account, and permits, but does not require, the pooling of some or all of the assets of the two plan components for investment purposes.

“(c) Annual actuarial valuation for composite plan.—

“(1) IN GENERAL.—In addition to the actuarial certifications and determinations described in this section and section 438, a valuation of the liability of a composite plan shall be made not less frequently than once every year.

“(2) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this subpart, all costs, liabilities, rates of interest and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

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

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

“(3) FAIR MARKET VALUE OF ASSETS.—For purposes of this subpart, the value of the plan’s assets shall be taken into account on the basis of their fair market value.

“(4) VALUATION DATE.—The valuation referred to in paragraph (1) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

“(5) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this subpart, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary.

“(d) Treatment as defined benefit plan.—For purposes of subparts A, B, and E of part 1 of this subchapter (other than sections 412 and 418E), a composite plan shall be treated as a defined benefit plan unless a different treatment is provided for therein.

“(e) Other definitions.—

“(1) COLLECTIVE BARGAINING AGREEMENT.—As used in this subpart, the term ‘collective bargaining agreement’ includes any agreement under which an employer has an obligation to contribute to a plan. If an employer has an obligation under one collective bargaining agreement to contribute to a multiemployer defined benefit plan for a group of employees and has an obligation under another collective bargaining agreement to contribute to a composite plan for all or some portion of the same group of employees, the two agreements shall be treated as a single agreement for purposes of this part to the extent they both cover the same group of employees.

“(2) OTHER TERMS.—Any term used in this subpart which is not defined in this part and which is also used in section 432 shall have the same meaning provided such term in such section.

“SEC. 438. Funded ratios and realignment programs.

“(a) Certification of funded ratios.—

“(1) IN GENERAL.—Not later than the 120th day of each plan year of a composite plan, the plan actuary of the composite plan shall certify to the Secretary of Labor and the plan sponsor the plan’s current funded ratio and projected funded ratio for the plan year.

“(2) DETERMINATION OF CURRENT FUNDED RATIO AND PROJECTED FUNDED RATIO.—For purposes of this section:

“(A) CURRENT FUNDED RATIO.—The current funded ratio is the ratio (expressed as a percentage) of—

“(i) the value of the plan’s assets, determined in accordance with section 437(c)(3), to

“(ii) the plan actuary’s best estimate of the value of plan liabilities as of the first day of the plan year, determined in accordance with section 437(c)(2) and the unit credit funding method described in section 432(i)(8).

“(B) PROJECTED FUNDED RATIO.—The projected funded ratio is the current funded ratio projected to the first day of the 15th plan year following the plan year for which the determination is being made, determined in accordance with the principles specified in section 432(b)(3)(B).

“(b) Realignment program.—

“(1) ADOPTION.—In any case in which the plan actuary certifies under subsection (a) that the plan’s projected funded ratio is below 120 percent for the plan year, the plan sponsor shall adopt a realignment program not later than 210 days after the due date of the certification required under subsection (a)(1) that is expected to be sufficient to raise the projected funded ratio to at least 120 percent for the following plan year. If a certification described in the preceding sentence is made for more than one plan year, the plan sponsor shall adopt an updated realignment program for each such plan year.

“(2) CONTENT OF REALIGNMENT PROGRAM.—

“(A) IN GENERAL.—A realignment program adopted under this subsection is a written program which consists of all reasonable measures, including options or a range of options to be undertaken by the plan sponsor or proposed to the bargaining parties, formulated, based on reasonably anticipated experience and reasonable actuarial assumptions, to enable the plan to achieve a projected funding ratio of at least 120 percent for the following plan year.

“(B) INITIAL PROGRAM ELEMENTS.—The program may include any of the following:

“(i) Proposed contribution increases.

“(ii) A reduction in the rate of future benefit accruals, but the resulting rate shall not be less than 1 percent of the contributions on which benefits are based as of the start of the plan year (or the equivalent standard accrual rate as described in section 432(e)(6)), unless the plan sponsor determines that a lower rate is reasonable.

“(iii) A modification or elimination of adjustable benefits, as defined in section 432(e)(8)(A), with respect to benefits of participants that are not in pay status before the date of the notice required under subsection (c).

“(iv) Any other legally available measures not specifically described in this subparagraph or subparagraph (C) or (D) that the plan sponsor determines are reasonable.

“(C) ACCRUED BENEFITS NOT IN PAY STATUS; CERTAIN BENEFITS IN PAY STATUS.—If the plan sponsor determines that all reasonable measures available under subparagraph (B) will not enable the plan to achieve a projected funded ratio of at least 120 percent, the program shall include, to the extent the plan sponsor determines to be reasonable—

“(i) a reduction of accrued benefits that are not in pay status by the date of the notice required under subsection (c); and

“(ii) a reduction of any benefits of participants that are in pay status before the date of the notice required under subsection (c) other than core benefits as defined in paragraph (3)(B),

but in no event more than is reasonably necessary to enable the plan to achieve a projected funded ratio of 120 percent.

“(D) PROJECTED INSOLVENCY; CORE BENEFITS IN PAY STATUS.—In the case of a composite plan for which—

“(i) the plan actuary has certified that the current funded ratio for the plan year is less than 60 percent and the plan is projected to become insolvent within the meaning of section 418E during the current plan year or any of the 24 succeeding plan years (29 succeeding plan years if the plan has a ratio of inactive participants to active participants that exceeds 2 to 1); and

“(ii) the plan sponsor has exhausted all reasonable measures available under subparagraphs (B) and (C), subject to paragraph (3), the plan shall be treated as if it were a defined benefit plan in critical and declining status under section 432(e), and the plan sponsor shall take the actions described in section 432(e), subject to the conditions, limitations, and distribution rules prescribed in section 432(e)(9), to the extent reasonably needed to avoid plan insolvency.

“(3) APPLICATION OF CRITICAL AND DECLINING STATUS RULES.—

“(A) IN GENERAL.—For purposes of paragraph (2)(D), section 432(e)(9) shall be applied—

“(i) by treating references in section 432(e)(9) to benefit suspensions and resumptions as references to benefit reductions and increases under this section;

“(ii) by treating references to benefits in pay status in such section as references to core benefits in pay status;

“(iii) by treating references to the Pension Benefit Guaranty Corporation as references to the Secretary of Labor;

“(iv) without regard to the reference in section 432(e)(9)(F)(i) to an application to the Pension Benefit Guaranty Corporation and without regard to subclauses (II) and (V) of section 432(e)(9)(F)(ii);

“(v) without regard to clause (i) of section 432(e)(9)(D) and without regard to subparagraphs (G) and (H) of section 432(e)(9); and

“(vi) in accordance with any regulations that the Secretary determines may be necessary to reflect the differences between composite plans and defined benefit plans in critical and declining status.

“(B) CORE BENEFIT DEFINED.—For purposes of subparagraph (A), the term ‘core benefit’ means a participant’s accrued benefit payable in the normal form of annuity starting at normal retirement age, determined without regard to—

“(i) any retirement-type subsidies or other benefits, rights, or features that may be associated with that benefit; and

“(ii) any cost-of-living adjustments or benefit increases effective after the date of retirement.

“(4) COORDINATION WITH CONTRIBUTION INCREASES.—

“(A) IN GENERAL.—A realignment program may provide that some or all of the benefit modifications described in the program will only take effect if the bargaining parties fail to agree to specified levels of increases in contributions to the plan, effective as of specified dates.

“(B) INDEPENDENT BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that are independent of potential contribution increases, such changes shall take effect not later than the first day of the first plan year that begins following the adoption of the realignment program.

“(C) DEPENDENT BENEFIT MODIFICATIONS.—If a realignment program adopts any changes to the benefit formula that take effect only if the bargaining parties fail to agree to contribution increases, such changes shall take effect not later than the first day of the plan year following the earlier of—

“(i) the expiration of the longest running collective bargaining agreement in effect on the date of adoption of the realignment program; or

“(ii) the third anniversary of the date of adoption of the realignment program.

“(D) REVOCATION OF CERTAIN BENEFIT MODIFICATIONS.—In the case of benefit modifications that take effect under a realignment program because the bargaining parties fail to agree to contribution increases, such benefit modifications may be revoked, in whole or in part, and retroactively or prospectively, when the bargaining parties allocate specified levels of contribution increases to the plan. The preceding sentence shall not apply unless the contribution increase allocations are to be effective not later than the fifth anniversary of the first day of the first plan year that begins after the adoption of the realignment program.

“(c) Notice.—

“(1) IN GENERAL.—In any case in which it is certified under subsection (a) that the current funded ratio is less than 100 percent or the projected funded ratio is less than 120 percent, the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the current and projected funded ratios to the participants and beneficiaries, the bargaining parties, and the Secretary. Such notice shall include—

“(A) an explanation that contribution rate increases or benefit reductions may be necessary;

“(B) a description of the types of benefits that might be reduced depending on the plan’s projected funded level and the prospect of insolvency; and

“(C) a projection of the contribution increases necessary to achieve a projected funded ratio of 120 percent.

“(2) MODEL NOTICES.—The Secretary of Labor shall—

“(A) prescribe model notices that the plan sponsor of a composite plan may use to satisfy the notice requirements under this subsection and section 439(b); and

“(B) shall by regulation enumerate any details related to the elements listed in paragraph (1) that any notice under this subsection must include.

“(3) NEW TECHNOLOGIES.—The Secretary of Labor may by regulations allow any notice under this section or section 439(b) to be provided by using new technologies as a supplementary delivery method.

“(d) Limitation on increasing benefits.—

“(1) CURRENT FUNDED RATIOS AT LEAST 120 PERCENT.—Except as provided in paragraphs (2), (3), and (4), no plan amendment increasing benefits or establishing new benefits under a composite plan may be adopted for a plan year unless—

“(A) the plan’s current funded ratio is at least 120 percent;

“(B) the benefit increase or new benefits are not projected to increase the present value of the plan’s liabilities for the plan year by more than the greater of—

“(i) 5 percent; or

“(ii) the percentage equal to 1/4 of the number of percentage points by which the projected funded ratio for the immediately preceding plan year, as certified under section 802(a), exceeds 120 percent,

“(C) taking the benefit increase or new benefits into account, the projected funded ratio for the current plan year is at least 120 percent; and

“(D) expected contributions for the current plan year are at least 120 percent of normal cost for the plan year, determined using the unit credit funding method and treating the benefit increase or new benefits as in effect for the entire plan year.

“(2) CURRENT FUNDED RATIOS BETWEEN 100 PERCENT AND 120 PERCENT.—If the current funded ratio of a composite plan for a plan year is at least 100 percent but less than 120 percent, paragraph (1) shall be applied with respect to such plan—

“(A) by substituting ‘100 percent’ for ‘120 percent’ in subparagraph (A) of such paragraph;

“(B) by substituting ‘2.5 percent’ for ‘5 percent’ in subparagraph (B)(i) of such paragraph; and

“(C) by substituting ‘1/8’ for ‘1/4’ in subparagraph (B)(ii) of such paragraph.

“(3) EXCEPTION TO COMPLY WITH APPLICABLE LAW.—Paragraphs (1) and (2) shall not apply in connection with a plan amendment if the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law.

“(4) EXCEPTION WHERE MAXIMUM DEDUCTIBLE LIMIT APPLIES.—Paragraphs (1) and (2) shall not apply in connection with a plan amendment if and to the extent that contributions to the composite plan would not be deductible for the plan year under section 404(a) if the plan amendment is not adopted. The Secretary of the Treasury shall issue regulations to implement this paragraph.

“(5) TREATMENT OF PLAN AMENDMENTS.—For purposes of this subsection—

“(A) if 2 or more plan amendments increasing benefits or establishing new benefits are adopted in a plan year, such amendments shall be treated as a single amendment adopted on the last day of the plan year;

“(B) all benefit increases and new benefits adopted in a single amendment are treated as a single benefit increase, irrespective of whether the increases and new benefits take effect in more than one plan year; and

“(C) increases in contributions or decreases in plan liabilities which are scheduled to take effect in future plan years may be taken into account in connection with a plan amendment if they have been agreed to in writing or otherwise formalized by the date the plan amendment is adopted.

“(e) Special rules.—

“(1) INITIAL YEAR MINIMUM CONTRIBUTION LEVEL.—A composite plan shall not become effective unless the expected composite plan contributions for the first plan year are at least 120 percent of the normal cost for the plan year.

“(2) CONSIDERATION OF CONTRIBUTION INCREASES.—For purposes of projections under subsection (a) (but not for purposes of any projection under subsection (d)), the plan sponsor may anticipate contribution rate increases beyond the term of the current collective bargaining agreement and any agreed-to supplements, up to a maximum of 2.5 percent per year, compounded annually, unless it would be unreasonable under the circumstances to assume that contributions would increase by that amount.

“(3) COORDINATION WITH FUNDING RULES.—Except as otherwise provided, sections 431 and 432 shall not apply to a composite plan.

“SEC. 439. Composite plan restrictions to preserve legacy plan funding.

“(a) Restrictions on acceptance by composite plan of agreements and contributions.—The plan sponsor of a composite plan shall not accept or recognize a collective bargaining agreement (or any modification to such agreement), or any contributions under the agreement, if—

“(1) the agreement provides for contributions to a legacy plan but fails to satisfy the transition minimum contribution requirements of subsection (c) with respect to such plan; or

“(2) the employer ceases to have an obligation to contribute to a multiemployer defined benefit plan under the agreement, or a predecessor agreement, for any employees at any time during the current plan year or the 60 months immediately preceding the current plan year.

“(b) Restrictions on composite plan benefits.—

“(1) IN GENERAL.—Employees of an employer may not accrue or otherwise earn additional benefits under a composite plan effective as of the first day of the plan year following a plan year in which the plan sponsor of the composite plan accepts or recognizes a collective bargaining agreement covering such employees if—

“(A) the employer has an obligation to contribute to a legacy plan under the agreement and the agreement fails to satisfy the transition minimum contribution requirements of subsection (c) with respect to such plan; or

“(B) the employer ceases to have an obligation to contribute to a multiemployer defined benefit plan under the agreement, or a predecessor agreement, at any time during the period beginning 60 months before the plan year in which the agreement is accepted or recognized and ending with the day before the date of such recognition or acceptance.

“(2) NOTICE.—The plan sponsor of a composite plan shall provide notification—

“(A) to active participants of the composite plan who have ceased to accrue or otherwise earn benefits due to the operation of subsection (a) or paragraph (1) of this subsection; and

“(B) to the Secretary of Labor, the Secretary, and the Pension Benefit Guaranty Corporation that benefit accruals to such participants have ceased.

“(c) Transition minimum contribution requirements.—

“(1) IN GENERAL.—A collective bargaining agreement satisfies the transition minimum contribution requirements of this subsection if the agreement—

“(A) provides for payment of contributions to a legacy plan at a rate equal to or greater than the transition minimum contribution rate established for the agreement by the legacy plan under paragraph (2); and

“(B) does not provide for—

“(i) a suspension of contributions to the legacy plan with respect to any period of service; or

“(ii) any new direct or indirect exclusion of younger or newly hired employees of the employer from being taken into account in determining contributions owed to the legacy plan.

“(2) TRANSITION MINIMUM CONTRIBUTION RATE.—

“(A) IN GENERAL.—The transition minimum contribution rate is the contribution rate that, as certified by the actuary of the legacy plan as of the valuation date for the plan year specified in subparagraph (B), is reasonably expected to be adequate to fund the normal cost, if any, and amortize the plan’s unfunded liabilities in level annual installments over 30 years. If different rates of contribution are payable to the legacy plan by different employers or for different groups or classifications of employees, the certification shall specify a transition minimum contribution rate for each such employer, group or classification.

“(B) TIMING OF DETERMINATION.—The plan year specified in this subparagraph is the first plan year beginning on or after the date on which the plan becomes a legacy plan under subsection (f).

“(C) ADJUSTMENTS IN RATE.—The plan sponsor of a legacy plan from time to time may adjust the transition minimum contribution rate or rates under this paragraph by increasing some rates and decreasing others, provided the actuary certifies that such adjusted rates in combination will produce projected contribution income for the plan year beginning on or after the date of certification that is not less than would be produced by the transition minimum contribution rates in effect at the time of the certification.

“(3) CORRECTION PROCEDURES.—Pursuant to standards prescribed by the Secretary of Labor, the plan sponsor of a composite plan shall adopt rules and procedures that give bargaining parties a reasonable opportunity to correct a failure to satisfy the transition minimum contribution requirements of this subsection, which may include conditional receipt of contributions during such correction period.

“(d) Plan sponsor notifications and certifications.—Pursuant to standards prescribed by the Secretary of Labor—

“(1) the plan sponsor of a multiemployer defined benefit plan shall adopt rules and procedures under which the plan sponsor—

“(A) will be promptly—

“(i) notified when any of the bargaining parties adopts a composite plan; and

“(ii) provided by the bargaining parties with any information needed to determine if—

“(I) the defined benefit plan is a legacy plan with respect to such composite plan;

“(II) a collective bargaining agreement fails to satisfy the transition minimum contribution requirements of subsection (c); and

“(III) an employer ceases to have an obligation to contribute to the defined benefit plan for any employees; and

“(B) will certify at reasonable intervals for each collective bargaining agreement identified by the plan sponsor of a composite plan and under which an employer has an obligation to contribute both to composite plan and to the defined benefit plan—

“(i) if the agreement satisfies the transition minimum contribution requirements of subsection (c) and if not, the date the agreement ceases to satisfy such requirements; and

“(ii) if an employer has ceased to have an obligation to contribute to the defined benefit plan under the agreement, or a predecessor agreement, and if so, the effective date of such cessation; and

“(2) the plan sponsor of a composite plan shall adopt rules and procedures under which the plan sponsor—

“(A) will be promptly provided by the bargaining parties with any information needed to determine if—

“(i) a multiemployer defined benefit plan is a legacy plan with respect to the composite plan;

“(ii) a collective bargaining agreement fails to satisfy the transition minimum contribution requirements of subsection (c) with respect a plan described in clause (i); and

“(iii) an employer has ceased to have an obligation to contribute to a multiemployer defined benefit plan for any employees covered by the composite plan; and

“(B) will request annually from the plan sponsor of each multiemployer defined benefit plan that is a legacy plan with respect to the composite plan, the certification described in paragraph (1)(B) for each collective bargaining agreement under which an employer has an obligation to contribute to both plans.

“(e) Termination of composite plan restrictions.—

“(1) IN GENERAL.—Beginning with the first day of the first plan year of a multiemployer defined benefit plan with respect to which the plan actuary certifies that the plan is fully funded and is projected to remain fully funded for at least the following four plan years—

“(A) the provisions of subsections (a), (b), and (c) shall cease to apply with respect to a collective bargaining agreement to the extent the agreement, or a predecessor agreement, provides or provided for contributions to such defined benefit plan; and

“(B) the provisions of subsection (d) shall cease to apply with respect to such defined benefit plan.

“(2) DETERMINATION OF FULLY FUNDED.—A plan is fully funded for purposes of paragraph (1) if, as of the valuation date of the plan, the value of the plan’s assets equals or exceeds the actuary’s best estimate of the present value of the plan’s liabilities.

“(3) APPLICABLE RULES.—Actuarial determinations and projections under this subsection shall be based on the rules in section 432(b)(3) and section 437(c)(3).

“(f) Legacy plan defined.—

“(1) IN GENERAL.—For purposes of this part and parts 2 and 3, a multiemployer defined benefit plan becomes a legacy plan as of the first day of the first plan year of such plan beginning on or immediately following the first date on which at least 500 (or, if less, 5 percent) of the employees in covered service under the plan are eligible to accrue a benefit under one or more composite plans.

“(2) ELIGIBLE TO ACCRUE A BENEFIT.—For purposes of paragraph (1), an employee is eligible to accrue a benefit under a composite plan as of the first day of the month following the first month in which the employee completes an hour of service under a collective bargaining agreement that provides for contributions to the composite plan.

“(3) COVERED SERVICE.—For purposes of paragraph (1), the term ‘covered service under the plan’ means any service by an employee of an employer within a job classification or class of employees covered by a collective bargaining agreement that requires the employer to make contributions to a multiemployer defined benefit plan—

“(A) without regard to whether the employee is eligible to accrue any benefits under the defined benefit plan with respect to such service, and

“(B) without regard to whether the employer’s contribution obligation to the plan is measured in whole or in part by such service.

“(4) TERMINATION OF LEGACY PLAN STATUS.—A multiemployer defined benefit plan shall cease to be a legacy plan on the first day of the first plan year with respect to which the plan actuary certifies that the plan is fully funded and is projected to remain fully funded for at least the following four plan years in accordance with subsection (e)

“(g) Other definitions.—

“(1) COLLECTIVE BARGAINING AGREEMENT.—As used in this part, the term ‘collective bargaining agreement’ includes any agreement under which an employer has an obligation to contribute to a plan. If an employer has an obligation under one collective bargaining agreement to contribute to a multiemployer defined benefit plan for a group of employees and has an obligation under another collective bargaining agreement to contribute to a composite plan for all or some portion of the same group of employees, the two agreements shall be treated as a single agreement for purposes of this part to the extent they both cover the same group of employees.

"(2) Liabilities . – Unless otherwise specified, for purposes of this part the term ‘liabilities’ shall mean all of the plan’s liabilities to participants and “beneficiaries as of the relevant date, determined in the manner and on the basis of the actuarial factors described in section 432(j).

“(3) OTHER TERMS.—Any term used in this subpart which is not defined in this subpart and which is also used in section 432 shall have the same meaning provided such term in such section.”

(2) BENEFIT MODIFICATIONS UNDER COMPOSITE PLANS.—Section 401(a) of the Internal Revenue Code of 1986 is amended by inserting after paragraph (37) the following new paragraph:

“(38) BENEFIT MODIFICATIONS UNDER COMPOSITE PLANS.—In the case of a composite plan to which the requirements of section 438 apply, the trust of which the plan is a part shall not constitute a qualified trust under this subsection for a plan year if the plan fails to adopt or comply with, or fails to operate in accordance with, a realignment program that meets the requirements of section 438.”.

 (4) CLERICAL AMENDMENTS.—

(A) The table of subparts for part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

 (c) Effective date.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act, except for the amendments made by subsection (b)(3), which shall apply to taxable years beginning after such date.

SEC. 302. Application of certain requirements to composite plans.

(a) Amendments to the Employee Retirement Income Security Act of 1974.—

(1) TREATMENT FOR PURPOSES OF FUNDING NOTICES.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is amended—

(A) in paragraph (1) by striking “title IV applies” and inserting “title IV applies or which is a composite plan”, and

(B) by adding at the end the following:

“(5) APPLICATION TO COMPOSITE PLANS.—The provisions of this subsection shall apply to a composite plan only to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.”.

(2) TREATMENT FOR PURPOSES OF ANNUAL REPORT.—Section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) is amended—

(A) in subsection (d) by adding at the end the following sentence: “The provisions of this subsection shall apply to a composite plan only to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.”.

(B) in subsection (f) by adding at the end the following:

“(3) ADDITIONAL INFORMATION FOR COMPOSITE PLANS.—With respect to any composite plan—

“(A) the provisions of paragraph (1)(A) shall apply by substituting ‘current funded ratio (as defined in section 802(a)(2)(A))’ for ‘funded percentage’ each place it appears, and

“(B) the provisions of paragraph (2) shall apply only to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.”; and

(C) by adding at the end the following:

“(g) Composite plans.—A multiemployer plan that incorporates the features of a composite plan as provided in section 801(b) shall be treated as a single plan for purposes of the report required by this section, except that separate financial statements and actuarial statements shall be provided under paragraphs (3) and (4) of subsection (a) for the defined benefit plan component and for the composite plan component of the multiemployer plan.”.

(3) TREATMENT FOR PURPOSES OF PENSION BENEFIT STATEMENTS.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)) is amended by adding at the end the following:

“(4) COMPOSITE PLANS.—For purposes of this subsection, a composite plan shall be treated as a defined benefit plan to the extent prescribed by the Secretary in regulations that take into account the differences between a composite plan and a defined benefit plan that is a multiemployer plan.”.

(b) Amendments to the Internal Revenue Code of 1986.—Section 6058 of the Internal Revenue Code of 1986 is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following:

“(f) Composite plans.—A multiemployer plan that incorporates the features of a composite plan as provided in section 437(b) shall be treated as a single plan for purposes of the return required by this section, except that separate financial statements shall be provided for the defined benefit plan component and for the composite plan component of the multiemployer plan.”.

(c) Effective date.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

SEC. 303. Treatment of composite plans under title IV.

(a) Definition.—Section 4001(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301(a)) is amended by striking the period at the end of paragraph (21) and inserting a semicolon and by adding at the end the following:

“(22) COMPOSITE PLAN.—The term ‘composite plan’ has the meaning set forth in section 801.”.

(b) Composite plans disregarded for calculating premiums.—Section 4006(a) of such Act (29 U.S.C. 1306(a)) is amended by adding at the end the following:

“(9) The composite plan component of a multiemployer plan shall be disregarded in determining the premiums due under this section from the multiemployer plan.”.

(c) Composite plans not covered.—Section 4021(b)(1) of such Act (29 U.S.C. 1321(b)(1)) is amended by striking “Act” and inserting “Act, or a composite plan, as defined in paragraph (43) of section 3 of this Act”.

(d) No withdrawal liability.—Section 4201 of such Act (29 U.S.C. 1381) is amended by adding at the end the following:

“(c) Contributions by an employer to the composite plan component of a multiemployer plan shall not be taken into account for any purpose under this title.”.

(e) No withdrawal liability for certain defined benefit plans.—(1) Section 4201 of such Act (29 U.S.C. 1381) is further amended by adding at the end the following:

“(d) Contributions by an employer to a multiemployer plan described in the except clause of section 3(35) of this Act pursuant to a collective bargaining agreement that specifically designates that such contributions shall be allocated to the separate defined contribution accounts of participants under the plan shall not be taken into account with respect to the defined benefit portion of the plan for any purpose under this title (including the determination of the employer’s highest contribution rate under section 4219), even if, under the terms of the plan, participants have the option to transfer assets in their separate defined contribution accounts to the defined benefit portion of the plan in return for service credit under the defined benefit portion, at rates established by the plan sponsor.

“(e) A legacy plan described in section 803(h)(1) that is associated with a composite plan shall be deemed to have no unfunded vested benefits for purposes of this subpart, for all plan years following a period of 5 consecutive plan years for which –

“(1) the plan was fully funded within the meaning of section 803 for at least 3 of the plan years during that period, ending with a plan year for which the plan is fully funded,

“(2) the plan had no unfunded vested benefits for at least 3 of the plan years during that period, ending with a plan year for which the plan is fully funded and

“(3) The plan is projected to be fully funded and to have no unfunded vested benefits for the following four plan years.”

2. Section 4211 of such Act is amended by adding the following subsection (g) at the end of such section:

“(g) NO WITHDRAWAL LIABILITY FOR EMPLOYERS CONTRIBUTING TO CERTAIN FULLY FUNDED LEGACY DEFINED BENEFIT PLANS.No amount of unfunded vested benefits shall be allocated to an employer that has an obligation to contribute to a legacy defined benefit plan described in subsection (e) of section 4201.”

(f) No obligation to contribute.—Section 4212 of such Act (29 U.S.C. 1392) is amended by adding at the end the following:

“(d) No obligation to contribute.—An employer shall not be treated as having an obligation to contribute to a multiemployer defined benefit plan within the meaning of subsection (a) solely because—

“(1) in the case of a multiemployer plan that includes a composite plan component, the employer has an obligation to contribute to the composite plan component of the plan,

“(2) the employer has an obligation to contribute to a composite plan that is maintained pursuant to one or more collective bargaining agreements under which the multiemployer defined benefit plan is or previously was maintained;. or

“(3) the employer contributes or has contributed to a legacy plan associated with a composite plan pursuant to a collective bargaining agreement but employees of that employer were not eligible to accrue benefits under the legacy plan with respect to service with that employer.

(g) No inference.—Nothing in the amendment made by subsection (e) shall be construed to create an inference with respect to the treatment under title IV of the Employee Retirement Income Security Act of 1974, as in effect before such amendment, of contributions by an employer to a multiemployer plan described in the except clause of section 3(35) of such Act that are made before the effective date of subsection (e) specified in subsection (h)(2).

(h) Effective date.—

(1) IN GENERAL.—Except as provided in subparagraph (2), the amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.

(2) SPECIAL RULE FOR SECTION 414(K) MULTIEMPLOYER PLANS.—The amendment made by subsection (e) shall apply only to required contributions payable for plan years beginning after the date of the enactment of this Act.

SEC. 304. Conforming changes.

(a) Definitions.—Section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002) is amended—

(1) in paragraph (35), by inserting “or a composite plan” after “other than an individual account plan”; and

(2) by adding at the end the following:

“(43) The term ‘composite plan’ has the meaning given the term in section 801(a).”.

(b) Special funding rule for certain legacy plans.—

(1) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 304(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1084(b)) is amended by adding at the end the following:

“(9) SPECIAL FUNDING RULE FOR CERTAIN LEGACY PLANS.—In the case of a multiemployer defined benefit plan under which all future benefit accruals to the plan cease within a plan year ending no more than 36 months after the date the plan becomes a legacy plan under section 803(f) or (h), the plan sponsor may combine the outstanding balance of all charge and credit bases and amortize that combined base in level annual installments (until fully amortized) over a period of thirty plan years beginning with the plan year following the date all benefit accruals ceased.”.

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

“(9) SPECIAL FUNDING RULE FOR CERTAIN LEGACY PLANS.—In the case of a multiemployer defined benefit plan under which all future benefit accruals to the plan cease within a plan year ending no more than 36 months after the date the plan becomes a legacy plan under section 439(f), the plan sponsor may combine the outstanding balance of all charge and credit bases and amortize that combined base in level annual installments (until fully amortized) over a period of thirty plan years beginning with the plan year following the date on which all benefit accruals ceased.”.

(c) Benefits after merger, consolidation, or transfer of assets.—

(1) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 208 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1058) is amended—

(A) by striking so much of the first sentence as precedes “may not merge” and inserting the following:

“(1) IN GENERAL.—Except as provided in paragraph (2), a pension plan may not merge, and”; and

(B) by striking the second sentence and adding at the end the following:

“(2) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Paragraph (1) shall not apply to any transaction to the extent that participants either before or after the transaction—

“(A) are covered under a multiemployer plan to which title IV of this Act applies; or

“(B) are covered under a composite plan and no accrued benefit, early retirement benefit, or retirement-type subsidy with respect to such participants will be lower immediately after the effective date of the merger, consolidation, or transfer than it was immediately before that date.”.

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

(A) QUALIFICATION REQUIREMENT.—Section 401(a)(12) of the Internal Revenue Code of 1986 is amended—

(i) by striking so much of paragraph (12) as precedes “shall not constitute” and inserting the following:

“(12) BENEFITS AFTER MERGER, CONSOLIDATION, OR TRANSFER OF ASSETS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a trust”; and

(ii) by striking the second sentence and adding at the end the following:

“(B) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Subparagraph (A) shall not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction—

“(i) are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies, or

“(ii) are covered under a composite plan and no accrued benefit, early retirement benefit, or retirement-type subsidy with respect to such participants will be lower immediately after the effective date of the merger, consolidation, or transfer than it was immediately before that date.”.

(B) ADDITIONAL QUALIFICATION REQUIREMENT.—Section 414(l) of such Code is amended—

(i) by striking so much of paragraph (1) as precedes “shall not constitute” and inserting the following:

“(1) BENEFIT PROTECTIONS: MERGER, CONSOLIDATION, TRANSFER.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), a trust which forms a part of a plan”; and

(ii) by striking the second sentence and adding at the end the following:

“(B) SPECIAL REQUIREMENTS FOR MULTIEMPLOYER PLANS.—Subparagraph (A) does not apply to any multiemployer plan with respect to any transaction to the extent that participants either before or after the transaction—

“(i) are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies, or

“(ii) are covered under a composite plan and no accrued benefit, early retirement benefit, or retirement-type subsidy with respect to such participants will be lower immediately after the effective date of the merger, consolidation, or transfer than it was immediately before that date.”.

(d) Requirements for status as a qualified plan.—

(1) REQUIREMENT THAT ACTUARIAL ASSUMPTIONS BE SPECIFIED.—Section 401(a)(25) of the Internal Revenue Code of 1986 is amended by inserting “(in the case of a composite plan, benefits objectively calculated pursuant to a formula)” after “definitely determinable benefits”.

(2) MISSING PARTICIPANTS IN TERMINATING COMPOSITE PLAN.—Section 401(a)(34) of the Internal Revenue Code of 1986 is amended by striking “, a trust” and inserting “or a composite plan, a trust”.

(e) Deduction for contributions to a qualified plan.—Section 404(a)(1) of the Internal Revenue Code of 1986 is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following:

“(E) COMPOSITE PLANS.—

“(i) IN GENERAL.—In the case of a composite plan, subparagraph (D) shall not apply and the maximum amount deductible for a plan year shall be the excess (if any) of—

“(I) 160 percent of the greater of—

“(aa) the current liability of the plan determined in accordance with the principles of section 431(c)(6)(D), or

“(bb) the present value of plan liabilities as determined under section 438, over

“(II) the fair market value of the plan’s assets, projected to the end of the plan year.

“(ii) SPECIAL RULE FOR PREDECESSOR MULTIEMPLOYER PLAN TO COMPOSITE PLAN.—If an employer contributes to a composite plan with respect to its employees, contributions by that employer to a multiemployer defined benefit plan with respect to some or all of the same group of employees shall be deductible under sections 162 and this section, subject to the limits in subparagraph (D), provided that the full amount of the minimum transition contribution defined in section {803} and allocated to the legacy defined benefit plan for the plan year shall be deductible for the employer’s taxable year ending with or within the plan year, notwithstanding any other provisions of this section.”.

(f) Minimum vesting standards.—

(1) YEARS OF SERVICE UNDER COMPOSITE PLANS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 203 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053) is amended by inserting after subsection (f) the following:

“(g) Special rules for computing years of service under composite plans.—

“(1) IN GENERAL.—In determining a qualified employee’s years of service under a composite plan for purposes of this section, the employee’s years of service under a multiemployer defined benefit plan shall be treated as years of service earned under the composite plan. For purposes of such determination, a composite plan shall not be treated as a defined benefit plan pursuant to section 801(d).

“(2) QUALIFIED EMPLOYEE.—For purposes of this subsection, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this subsection) within the 12-month period immediately preceding or the 24-month period immediately following the date the employee ceased to accrue benefits under the multiemployer defined benefit plan.

“(3) CERTIFICATION OF YEARS OF SERVICE.—For purposes of paragraph (1), the plan sponsor of the composite plan shall rely on a written certification by the plan sponsor of the multiemployer defined benefit plan of the years of service the qualified employee completed under the defined benefit plan as of the date the employee satisfies the requirements of paragraph (2), disregarding any years of service that had been forfeited under the rules of the defined benefit plan before that date.”.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(a) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(14) SPECIAL RULES FOR DETERMINING YEARS OF SERVICE UNDER COMPOSITE PLANS.—

“(A) IN GENERAL.—In determining a qualified employee’s years of service under a composite plan for purposes of this subsection, the employee’s years of service under a multiemployer defined benefit plan shall be treated as years of service earned under the composite plan. For purposes of such determination, a composite plan shall not be treated as a defined benefit plan pursuant to section 437(d).

“(B) QUALIFIED EMPLOYEE.—For purposes of this paragraph, an employee is a qualified employee if the employee first completes an hour of service under the composite plan (determined without regard to the provisions of this paragraph) within the 12-month period immediately preceding or the 24-month period immediately following the date the employee ceased to accrue benefits under the multiemployer defined benefit plan.

“(C) CERTIFICATION OF YEARS OF SERVICE.—For purposes of subparagraph (A), the plan sponsor of the composite plan shall rely on a written certification by the plan sponsor of the legacy plan of the years of service the qualified employee completed under the legacy plan as of the date the employee satisfies the requirements of subparagraph (B), disregarding any years of service that had been forfeited under the rules of the defined benefit plan before that date.”.

(2) REDUCTION AND SUSPENSION OF BENEFITS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 203(a)(3)(E)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(E)(i)) is amended—

(i) in subclause (I) by striking “4244A” and inserting “305(e), 802,”; and

(ii) in subclause (II) by striking “4245” and inserting “305(e), 4245,”.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(a)(3)(F) of the Internal Revenue Code of 1986 is amended—

(i) in clause (i) by striking “section 418D” and inserting “section 432(e), or 438, or under section 4281 of the Employee Retirement Income Security Act of 1974”; and

(ii) in clause (ii) by inserting “or 432(e)” after “section 418E”.

(3) ACCRUED BENEFIT REQUIREMENTS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204(b)(1)(B)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)(1)(B)(i)) is amended by inserting “, including an amendment reducing or suspending benefits under section 305(e), 802, 4245 or 4281,” after “any amendment to the plan”.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(b)(1)(B)(i) of the Internal Revenue Code of 1986 is amended by inserting “, including an amendment reducing or suspending benefits under section 418E, 432(e) or 438, or under section 4281 of the Employee Retirement Income Security Act of 1974,” after “any amendment to the plan”.

(4) ADDITIONAL ACCRUED BENEFIT REQUIREMENTS.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204(b)(1)(H)(v) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(b)(1)(H)(v)) is amended by inserting before the period at the end the following: “, or benefits are reduced or suspended under section 305(e), 802, 4245, or 4281”.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(b)(1)(H)(iv) of the Internal Revenue Code of 1986 is amended—

(i) in the heading by striking “benefit” and inserting “benefit and the suspension and reduction of certain benefits”, and

(ii) in the text by inserting before the period at the end the following: “, or benefits are reduced or suspended under section 418E, 432(e), or 438, or under section 4281 of the Employee Retirement Income Security Act of 1974”.

(5) ACCRUED BENEFIT NOT TO BE DECREASED BY AMENDMENT.—

(A) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 204(g)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(g)(1)) is amended by inserting after “302(d)(2)” the following: “, 305(e), 802, 4245,”.

(B) INTERNAL REVENUE CODE OF 1986.—Section 411(d)(6)(A) of the Internal Revenue Code of 1986 is amended by inserting after “412(d)(2),” the following: “418E, 432(e), or 438,”.

(g) Nonapplicability of minimum funding standards.—

(1) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 302 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082) is amended by adding at the end the following:

“(e) Composite plans not covered.—This section and sections 304 and 305 shall not apply to any composite plan (within the meaning of section 801(a)).”.

(2) INTERNAL REVENUE CODE OF 1986.—Section 412(e)(2) of the Internal Revenue Code of 1986 is amended by striking “or” at the end of subparagraph (E), by striking the period at the end of subparagraph (F) and inserting “, or”, and by inserting after subparagraph (F) the following:

“(G) any composite plan (within the meaning of section 437(a)).”.

(h) Certain funding rules not applicable.—

(1) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 305 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1085) is amended by adding at the end the following:

“(j) Legacy plans.—In the case of a collective bargaining agreement under which an employer has an obligation to contribute both to a plan that is a legacy plan within the meaning of section 803(f) or (h) and to a composite plan within the meaning of section 801(a), the restrictions in section 803(a)(1) shall apply with respect to such agreement in place of the corresponding restrictions in subsections (d)(1)(A), (d)(2)(B) and (f)(4)(A).”.

(2) INTERNAL REVENUE CODE OF 1986.—Section 432 of the Internal Revenue Code of 1986 is amended by adding at the end the following:

“(j) Legacy plans.—In the case of a collective bargaining agreement under which an employer has an obligation to contribute both to a plan that is a legacy plan within the meaning of section 439(f) and to a composite plan within the meaning of section 437(a), the restrictions in section 439(a)(1) shall apply with respect to such agreement in place of the corresponding restrictions in subsections (d)(1)(A), (d)(2)(B) and (f)(4)(A).”.

(i) Termination of composite plan.—Section 403(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1103(d) is amended—

(1) in paragraph (1), by striking “regulations of the Secretary.” and inserting “regulations of the Secretary, or as provided in paragraph (3).”; and

(2) by adding at the end the following:

“(3) Section 4044(a) of this Act shall be applied in the case of the termination of a composite plan by—

“(A) limiting the benefits subject to paragraph (3) thereof to core benefits as defined in section 802(b)(3)(B); and

“(B) including in the benefits subject to paragraph (4) all other benefits (if any) of individuals under the plan that would be guaranteed under section 4022A if the plan were subject to title IV.”.

(j) Good faith compliance prior to guidance.—Where the implementation of any provision of law added or amended by this Act is subject to issuance of regulations by the Secretary of Labor, the Secretary of the Treasury, or the Pension Benefit Guaranty Corporation, a multiemployer plan shall not be treated as failing to meet the requirements of any such provision prior to the issuance of final regulations or other guidance to carry out such provision if such plan is operated in accordance with a reasonable, good faith interpretation of such provision.

(k) Effective date.—The amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act.