

113TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. HARKIN (for himself and Mr. BROWN) introduced the following bill; which
was read twice and referred to the Committee on _____

A BILL

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

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

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

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

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

Sec. 1. Short title; table of contents.

TITLE I—USA RETIREMENT FUNDS

Sec. 101. Automatic USA Retirement Fund arrangements.

Sec. 102. Establishment of USA Retirement Funds.

Sec. 103. Commission on USA Retirement Funds.

2

- Sec. 104. Limitation on employer liability.
- Sec. 105. Enforcement and fraud prevention.

TITLE II—DEFINED CONTRIBUTION PLAN REFORMS

Subtitle A—Savings Enhancements

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

Subtitle B—Participant Protections

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

Subtitle C—Lifetime Income

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

TITLE III—DEFINED BENEFIT SYSTEM REFORMS

Subtitle A—Defined Benefit Pension Plan Reforms

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

Subtitle B—Improvements to the Pension Insurance Program

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

TITLE IV—OTHER SYSTEMIC REFORMS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 (2) PLAN SPONSOR’S EMPLOYEES.—If—

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

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

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

23 (3) EXCLUDED EMPLOYEES.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (3) ADMINISTRATIVE REQUIREMENTS.—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 (e) DEPOSITS TO USA RETIREMENT FUNDS.—

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

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

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

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

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

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

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

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

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

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

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

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

21 (b) PARTICIPATION.—

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

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

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

8 (c) GOVERNANCE.—

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

11 (A) the assets of each USA Retirement
12 Fund shall be held in trust (which shall be
13 deemed a qualifying trust described in section
14 401(a) of the Internal Revenue Code of 1986
15 and exempt from tax under section 501(a) of
16 such Code), and

17 (B) the Fund shall be governed by a board
18 of trustees which shall consist of at least 3 indi-
19 viduals who—

20 (i) are independent of service pro-
21 viders to the Fund;

22 (ii) meet the qualification require-
23 ments established under this section; and

24 (iii) are collectively able to adequately
25 represent the interests of active partici-

1 pants, retirees, and contributing employ-
2 ers.

3 (2) INDEPENDENCE REQUIREMENT.—An indi-
4 vidual is not independent of Fund service providers
5 for purposes of paragraph (1)(B)(i) if such indi-
6 vidual—

7 (A) is an employee of any Fund service
8 provider;

9 (B) is a current or former officer or direc-
10 tor of a significant Fund service provider, or is
11 otherwise affiliated with such a provider;

12 (C) is a member of the immediate family
13 of any person who is affiliated with a signifi-
14 cant Fund service provider;

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

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

21 (F) fails to meet meets such other criteria
22 as are specified by the Secretary to ensure the
23 independence of the board of directors.

24 (3) MULTIPLE TRUSTEESHIPS.—No individual
25 may serve on the board of trustees of more than 1

1 USA Retirement Fund unless the Secretary receives
2 attestation from the board of trustees of each appli-
3 cable USA Retirement Fund and the individual that,
4 at the time of appointment, there is no reasonably
5 foreseeable conflict between the duties of such indi-
6 vidual to the participants in each applicable USA
7 Retirement Fund. In no case may an individual
8 serve on the boards of trustees of more than 3 USA
9 Retirement Funds.

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

20 (5) TRUSTEE SELECTION AND REMOVAL.—

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

- 1 (i) take effect after adoption by the
2 majority of the board of trustees;
- 3 (ii) be readily available to partici-
4 pants;
- 5 (iii) provide participants with a rea-
6 sonable opportunity to comment on, or
7 participate in, the trustee selection process;
8 and
- 9 (iv) provide for periodic election of
10 trustees.

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

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

23 (6) TRUSTEE COMPENSATION.—Trustees of the
24 Fund may be compensated at reasonable rates from
25 the Fund, but only if such compensation is paid in

1 accordance with the written board compensation pol-
2 icy adopted under paragraph (7)(A)(iv).

3 (7) TRANSPARENCY AND PARTICIPANT DEMOC-
4 RACY.—

5 (A) PUBLICLY AVAILABLE POLICIES.—The
6 board of trustees of a USA Retirement Fund
7 shall adopt and make available to participants
8 and beneficiaries of, and employers contributing
9 to, the USA Retirement Fund—

10 (i) a written investment policy state-
11 ment;

12 (ii) a written lifetime income policy
13 statement;

14 (iii) an annual performance assess-
15 ment of the board of trustees, including an
16 evaluation of weaknesses of the board and
17 a plan to address such weaknesses;

18 (iv) a written board compensation pol-
19 icy that includes current compensation lev-
20 els and provides a reasonable opportunity
21 for comment from participants, bene-
22 ficiaries, and employers; and

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

1 (B) PARTICIPANT INPUT REGARDING
2 BOARD OF TRUSTEES.—

3 (i) IN GENERAL.—The board of trust-
4 ees of a USA Retirement Fund shall estab-
5 lish procedures whereby a participant or
6 beneficiary of such USA Retirement Fund
7 may—

8 (I) petition the board of trustees
9 to remove a trustee or service pro-
10 vider;

11 (II) comment on the management
12 and administration of the USA Re-
13 tirement Fund; and

14 (III) with respect to a USA Re-
15 tirement Fund with more than
16 \$250,000,000 of assets, vote to ap-
17 prove or disapprove the compensation
18 of the trustees at least once every 3
19 years.

20 (ii) EFFECT OF VOTE.—If partici-
21 pants and beneficiaries of a USA Retire-
22 ment Fund vote to disapprove the com-
23 pensation of trustees under clause
24 (i)(III)—

1 (I) the results of such vote shall
2 not be binding on the board of trust-
3 ees; and

4 (II) the board of trustees shall
5 notify the Secretary of the results of
6 such vote and provide an explanation
7 of why the compensation is reasonable
8 or anticipated changes to the com-
9 pensation.

10 (8) LIABILITY INSURANCE FOR TRUSTEES.—

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

14 (A) 5 percent of plan assets; or

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

16 (9) TRUSTEE DUTIES.—

17 (A) IN GENERAL.—The trustees of a USA
18 Retirement Fund shall manage the Fund with
19 the intention of providing each participant with
20 a cost-effective stream of income in retirement
21 and reducing benefit level volatility (particularly
22 for those approaching retirement).

23 (B) APPLICABILITY OF OTHER REQUIRE-
24 MENTS.—Each trustee of a USA Retirement
25 Fund shall be a fiduciary subject to sections

1 404(a), 404(b), 405, 406, and 408 through 413
2 of the Employee Retirement Income Security
3 Act of 1974 with respect to the Fund and par-
4 ticipants and beneficiaries of the Fund. Each
5 such trustee shall be subject to the standards
6 and remedies of such sections and section 502
7 of such Act, as if the Fund were an employee
8 benefit plan.

9 (d) EMPLOYER CONTRIBUTION LIMITATION.—

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

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

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

1 (1) IN GENERAL.—A USA Retirement Fund
2 shall pay benefits in the form of an annuity in ac-
3 cordance with paragraph (2). The amount of such
4 benefits shall be dependent on the amount of con-
5 tributions made by the participant, the experience of
6 the Fund, and the form of distribution elected by
7 the participant. The amount of an annuity may be
8 adjusted to reflect the experience of the Fund as
9 necessary to protect the financial integrity of the
10 Fund, except that annuity payments for those in pay
11 status shall not be reduced more than 5 percent per
12 year unless the Fund is faced with a significant fi-
13 nancial hardship and the Secretary has approved the
14 reduction.

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

17 (A) In the case of a participant who does
18 not die before the annuity starting date, the
19 benefit payable to such participant shall be pro-
20 vided in the form of a qualified joint and sur-
21 vivor annuity (as defined in section 205(d)(1)
22 of the Employee Retirement Income Security
23 Act of 1974 (29 U.S.C. 1055(d)(1)).

24 (B) In the case of a participant who dies
25 before the annuity starting date and who has a

1 surviving spouse, a qualified preretirement sur-
2 vivor annuity (as defined in section 205(d)(2)
3 of the Employee Retirement Income Security
4 Act of 1974 (29 U.S.C. 1055(d)(2)) shall be
5 provided to the surviving spouse of such partici-
6 pant.

7 (C) In lieu of a qualified joint and survivor
8 annuity form of benefit or the qualified pre-
9 retirement survivor annuity form of benefit (or
10 both), a participant may elect to receive a dis-
11 tribution described in subsection (f)(2) if one of
12 the following conditions are met:

13 (i)(I) The spouse of the participant
14 consents in writing to the election.

15 (II) Such election designates a bene-
16 ficiary (or form of benefits) which may not
17 be changed without spousal consent (or the
18 consent of the spouse expressly permits
19 designations by the participant without
20 any requirement of further consent by the
21 spouse).

22 (III) The spouse's consent acknowl-
23 edges the effect of such election and is wit-
24 nessed by a plan representative or a notary
25 public.

1 (ii) It is established to the satisfaction
2 of a Fund representative that the consent
3 required under subclause (I) cannot be ob-
4 tained because there is no spouse, because
5 the spouse cannot be located, or because of
6 such other circumstances as the Secretary
7 may by regulations prescribe.

8 The consent of a spouse (or establishment that
9 the consent of a spouse cannot be obtained)
10 under this subparagraph shall be effective only
11 with respect to such spouse.

12 (3) COMMENCEMENT OF BENEFIT PAY-
13 MENTS.—A participant may elect the time to start
14 receiving benefit payments from the USA Retirement
15 Fund, except that a participant—

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

19 (B) must begin receiving benefit payments
20 before the age of 72.

21 (4) NOTICE.—Each Fund shall provide to each
22 participant, within a reasonable period of time be-
23 fore the annuity starting date, a written explanation
24 substantially similar to that required by section

1 205(c)(3) of the Employee Retirement Income Secu-
2 rity Act of 1974 (29 U.S.C. 1055(c)(3)).

3 (5) ASSIGNMENT OR ALIENATION OF FUND
4 BENEFITS.—Benefits under a USA Retirement
5 Fund shall be subject to section 206(d) of the Em-
6 ployee Retirement Income Security Act of 1974 (29
7 U.S.C. 1056(d)).

8 (f) LIMITS ON WITHDRAWALS AND TRANSFERS.—

9 (1) TRANSFERS.—A participant may, not more
10 frequently than once per year, transfer such partici-
11 pant’s benefit to another USA Retirement Fund.

12 (2) LIMITS ON DISTRIBUTIONS.—

13 (A) IN GENERAL.—Except as provided in
14 subparagraphs (B) and (C), a participant may
15 not take a distribution other than one described
16 in subsection (e)(2).

17 (B) PARTICIPANTS AGED 59 AND YOUNG-
18 ER.—A participant may before age 60 take a
19 distribution of a portion of the participant’s
20 benefit if such distribution does not to exceed
21 \$5,500 and is rolled over to a qualifying plan
22 or arrangement described in section 219(g)(5)
23 of the Internal Revenue Code of 1986 or an in-
24 dividual retirement plan.

1 (C) PARTICIPANTS AGED 60 AND OLDER.—

2 A participant who is 60 or older but who has
3 not entered pay status may elect one time to
4 take a distribution of the greater of \$10,000 or
5 50 percent of the participant's benefit if the
6 participant demonstrates to the satisfaction of
7 the trustees of the Fund that the participant
8 has sufficient retirement income apart from the
9 Fund or is facing a substantial hardship.

10 (g) METHODS FOR PROVIDING ANNUITIZED BEN-
11 EFIT PAYMENTS.—

12 (1) IN GENERAL.—A USA Retirement Fund
13 shall establish and maintain mechanisms for ade-
14 quately securing the payment of annuity benefits
15 from the Fund. The Fund shall include a written de-
16 scription of such mechanisms in the investment and
17 lifetime income policy statements required to be dis-
18 closed to participants.

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

21 (A) each participant receives a stream of
22 income for life;

23 (B) each participant and beneficiary has
24 an opportunity to be protected against longevity
25 risk; and

1 (C) volatility in benefit levels is minimized
2 for participants and beneficiaries in pay status
3 and those approaching pay status.

4 (3) SELF-ANNUITIZATION.—

5 (A) IN GENERAL.—Notwithstanding any
6 other provision of law, a USA retirement Fund
7 may self-annuitize if the Fund meets such re-
8 quirements as the Secretary establishes as nec-
9 essary to protect participants and beneficiaries
10 in consideration of the recommendations of the
11 Commission under section 103.

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

21 (h) REPORTING AND DISCLOSURE.—

22 (1) ANNUAL STATEMENT.—The trustees of a
23 USA Retirement Fund shall provide each participant
24 in the Fund an annual statement of—

1 (A) the estimated amount of the monthly
2 benefit which the participant or beneficiary is
3 projected to receive from the USA Retirement
4 Fund, in the form of the default benefit de-
5 scribed in the plan in accordance with sub-
6 section (e)(2);

7 (B) an explanation, written in a manner
8 calculated to be understood by the average plan
9 participant, that includes interest and mortality
10 assumptions used in calculating the estimate
11 and a statement that actual benefits may be
12 materially different from such estimate;

13 (C) a disclosure of Fund fees and perform-
14 ance that is substantially similar to the disclo-
15 sures required of individual account plans under
16 the Employee Retirement Income Security Act
17 of 1974;

18 (D) any other disclosures, including pro-
19 jected benefit estimates, that the board of trust-
20 ees of the USA Retirement Fund determines
21 appropriate; and

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

24 (2) SUMMARY PLAN DESCRIPTION.—The trust-
25 ees of a USA Retirement Fund shall provide partici-

1 pants a summary plan description (as described in
2 section 102 of the Employee Retirement Income Se-
3 curity Act (29 U.S.C. 1022)) as required by section
4 104(b) of the Employee Retirement Income Security
5 Act (29 U.S.C. 1024(b)).

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

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

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

15 (a) RECOGNITION OF PRIVATE COMMISSION.—The
16 Secretary shall—

17 (1) recognize an independent, private commis-
18 sion, to be known as the “Commission for USA Re-
19 tirement Funds Funding” (referred to in this title
20 as the “Commission”), and

21 (2) in carrying out the Secretary’s duties under
22 this title, consider the recommendations of such
23 Commission.

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

1 (1) MEMBERSHIP.—

2 (A) COMPOSITION.—The Commission shall
3 be composed of 9 members selected by the Sec-
4 retary, in consultation with the Secretary of the
5 Treasury, of whom no more than 5 may be
6 from one political party. The Secretary shall
7 designate one member of the Commission as the
8 Chairman. No person may be appointed to the
9 Commission if, during the 2-year period pre-
10 ceeding the date of appointment, such person
11 was a trustee of a USA Retirement Fund.

12 (B) DATE.—The appointments of the
13 members of the Commission shall be made not
14 later than 90 days after the date of enactment
15 of this Act.

16 (C) PERIOD OF APPOINTMENT; VACAN-
17 CIES.—Members shall be appointed for terms of
18 2 years and may be appointed for consecutive
19 terms. Any vacancy in the Commission shall not
20 affect its powers, and shall be filled in the same
21 manner as the original appointment.

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

25 (3) COMMISSION PERSONNEL MATTERS.—

1 (A) COMPENSATION OF MEMBERS.—Each
2 member of the Commission who is not an offi-
3 cer or employee of the Federal Government
4 shall be compensated at a rate equal to the
5 daily equivalent of the annual rate of basic pay
6 prescribed for level IV of the Executive Sched-
7 ule under section 5315 of title 5, United States
8 Code, for each day (including travel time) dur-
9 ing which such member is engaged in the per-
10 formance of the duties of the Commission. All
11 members of the Commission who are officers or
12 employees of the United States shall serve with-
13 out compensation in addition to that received
14 for their services as officers or employees of the
15 United States.

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

24 (C) STAFF.—

1 (i) IN GENERAL.—The Chairman of
2 the Commission may, without regard to
3 the civil service laws and regulations, ap-
4 point and terminate an executive director
5 and such other additional personnel as
6 may be necessary to enable the Commis-
7 sion to perform its duties. The employment
8 of an executive director shall be subject to
9 confirmation by the Commission.

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

22 (iii) DETAIL OF GOVERNMENT EM-
23 PLOYEES.—Any Federal Government em-
24 ployee may be detailed to the Commission
25 without reimbursement, and such detail

1 shall be without interruption or loss of civil
2 service status or privilege.

3 (iv) PROCUREMENT OF TEMPORARY
4 AND INTERMITTENT SERVICES.—The
5 Chairman of the Commission may procure
6 temporary and intermittent services under
7 section 3109(b) of title 5, United States
8 Code, at rates for individuals which do not
9 exceed the daily equivalent of the annual
10 rate of basic pay prescribed for level V of
11 the Executive Schedule under section 5316
12 of such title.

13 (4) RECOMMENDATIONS AND REGULATIONS ON
14 FUNDING AND DISTRIBUTION REQUIREMENTS.—

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

1 (B) REQUIREMENTS RELATING TO ANNU-
2 ITY PAYMENTS MADE DIRECTLY BY A FUND.—
3 The regulations under subparagraph (A) shall
4 provide that in the case of annuity payments
5 made directly by the Fund—

6 (i) the maximum annuity payment for
7 a participant or beneficiary shall be deter-
8 mined using the mortality tables and inter-
9 est rates prescribed by the Secretary under
10 subparagraph (C) at the time benefits
11 commence; and

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

24 (C) MORTALITY TABLES AND INTEREST
25 RATES USED REQUIREMENTS.—The regulations

1 promulgated under subparagraph (A) shall in-
2 clude the following:

3 (i) MORTALITY TABLES.—

4 (I) IN GENERAL.—The Secretary
5 shall prescribe mortality tables to be
6 used in determining annuity payments
7 made directly by the Fund. Such ta-
8 bles shall be based on the actual expe-
9 rience of insurance companies that
10 issue group annuities and projected
11 trends in such experience. In pre-
12 scribing such tables, the Secretary
13 shall take into account results of
14 available independent studies of the
15 mortality of individuals receiving an-
16 nuities under group annuity contracts.

17 (II) PERIODIC REVISIONS OF
18 MORTALITY TABLES.—The Secretary
19 shall make revisions, to become effec-
20 tive as soon as practicable, in any
21 mortality table in effect to reflect
22 more recent actual experience of in-
23 surance companies that issue group
24 annuities and projected trends in such
25 experience. In revising such tables,

1 the Secretary shall take into account
2 the results of more recent available
3 independent studies of the mortality
4 and projected trends of individuals re-
5 ceiving annuities under group annuity
6 contracts.

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

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

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

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

5 “(e) An employer shall not be a fiduciary with respect
6 to the selection, management or administration of a USA
7 Retirement Fund solely because such employer makes
8 available such Fund through an automatic USA Retire-
9 ment Fund arrangement. Notwithstanding the preceding
10 sentence, employers participating in a USA Retirement
11 Fund shall be responsible for meeting the enrollment re-
12 quirements and transmitting contributions, as required
13 under the USA Retirement Funds Act.”.

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

15 (a) PENALTY FOR FAILURE TO TIMELY REMIT CON-
16 TRIBUTIONS TO AUTOMATIC USA RETIREMENT FUND
17 ARRANGEMENTS.—

18 (1) IN GENERAL.—If an employer is required
19 under an automatic USA Retirement Fund arrange-
20 ment to deposit amounts withheld from an employ-
21 ee’s compensation into a USA Retirement Fund but
22 fails to do so within the time prescribed under sec-
23 tion 101(d)(3), such amounts shall be treated as as-
24 sets of a USA Retirement Fund.

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

1 (A) GENERAL RULE.—A covered employer
2 who fails to meet the requirements of section
3 101(a) for a calendar year shall be subject to
4 a civil money penalty of \$100 per calendar year
5 for each employee to whom such failure relates.

6 (B) EXCEPTIONS.—No civil money penalty
7 shall be imposed under this paragraph for a
8 failure to meet the requirements under section
9 101(a)—

10 (i) during a period for which the Sec-
11 retary determines that the employer sub-
12 ject to liability for the civil money penalty
13 did not know that the failure existed and
14 exercised reasonable diligence to meet the
15 requirements of section 101(a); or

16 (ii)(I) the employer subject to liability
17 for the civil money penalty exercised rea-
18 sonable diligence to meet the requirements
19 of section 101(a); and

20 (II) the employer provides the auto-
21 matic USA Retirement Fund arrangement
22 described to each employee eligible to par-
23 ticipate in the arrangement by the end of
24 the 90-day period beginning on the first
25 date the employer knew, or exercising rea-

1 sonable diligence should have known, that
2 such failure existed.

3 (C) WAIVER BY THE SECRETARY.—In the
4 case of a failure to meet the requirements of
5 section 101(a) that is due to reasonable cause
6 and not to willful neglect, the Secretary may, in
7 the sole discretion of the Secretary, waive part
8 or all of the civil money penalty imposed under
9 this paragraph to the extent that the payment
10 of such civil money penalty would be excessive
11 or otherwise inequitable relative to the failure
12 involved.

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

24 (b) CIVIL ACTIONS AND ENFORCEMENT.—

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

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

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

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

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

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

23 (3) NON-PREEMPTION OF CERTAIN STATE
24 LAW.—Nothing in this section shall preempt State
25 law insofar as State law relates to the enforcement

1 of an obligation to contribute to a USA Retirement
2 Fund.

3 (c) FALSE STATEMENTS.—

4 (1) IN GENERAL.—No person, in connection
5 with a plan or other arrangement that is or purports
6 to be a USA Retirement Fund, shall make a false
7 statement or false representation of fact, knowing it
8 to be false, in connection with the marketing or sale
9 of such plan or arrangement, to any employee, any
10 member of an employee organization, any bene-
11 ficiary, any employer, any employee organization,
12 the Secretary, or any State, or the representative or
13 agent of any such person, State, or the Secretary,
14 concerning—

15 (A) the financial condition or solvency of
16 such fund or arrangement;

17 (B) the benefits provided by such fund or
18 arrangement;

19 (C) the regulatory status of such fund or
20 other arrangement under any Federal or State
21 law governing collective bargaining, labor man-
22 agement relations, or intern union affairs; or

23 (D) the regulatory status of such fund or
24 other arrangement.

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

5 (d) CEASE AND DESIST ORDERS.—

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

14 (2) HEARINGS.—

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

23 (B) BURDEN OF PROOF.—The burden of
24 proof in any hearing conducted under subpara-
25 graph (A) shall be on the party requesting the

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

3 (C) DETERMINATION.—Based upon the
4 evidence presented at a hearing under subpara-
5 graph (A), the Secretary may affirm, modify, or
6 set aside the cease and desist order at issue, in
7 whole or in part.

8 (3) REGULATIONS.—The Secretary may pro-
9 mulgate such regulations or other guidance as may
10 be necessary or appropriate to carry out this sub-
11 section.

12 **TITLE II—DEFINED**
13 **CONTRIBUTION PLAN REFORMS**
14 **Subtitle A—Savings Enhancements**
15 **SEC. 201. POOLED EMPLOYER PLANS.**

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

20 “(C) A pooled employer plan shall be treat-
21 ed as a single employee pension benefit plan or
22 single pension plan without regard to whether
23 the participating employers share a common in-
24 terest other than participation in the plan.”.

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

5 “(43)(A) The term ‘pooled employer plan’
6 means a pension plan (without regard to whether
7 any participating employers share a common interest
8 other than participation in the plan) that is a single
9 individual account plan established or maintained for
10 the purpose of providing benefits to the employees of
11 2 or more employers but only if—

12 “(i) the terms of the plan designate a
13 pooled plan provider,

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

16 “(I) the prudent selection and moni-
17 toring of the person designated as the
18 pooled employer plan provider and, if dif-
19 ferent from the provider, the person des-
20 ignated as the plan’s named fiduciary, and

21 “(II) to the extent not otherwise dele-
22 gated to another fiduciary, the investment
23 and management of that portion of the
24 plan’s assets attributable to the employees
25 of that participating employer,

1 “(iii) under the plan a participating em-
2 ployer is not subject to unreasonable restric-
3 tions, fees, or penalties with regard to ceasing
4 participation or otherwise transferring assets of
5 the plan in accordance with section 414(l) of
6 the Internal Revenue Code of 1986, and

7 “(iv) the pooled employer plan provider
8 provides to participating employers any disclo-
9 sures or other information as the Secretary may
10 require.

11 “(B) The term ‘pooled employer plan’ does not
12 include—

13 “(i) a multiemployer plan, or

14 “(ii) a plan established before January 1,
15 2014, or any successor thereof.

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

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

20 “(ii) registers as a pooled plan provider
21 with the Secretary and provides such other
22 identifying information to the Secretary as the
23 Secretary may require; and

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

1 “(g) ADDITIONAL INFORMATION WITH RESPECT TO
2 POOLED EMPLOYER AND MULTIPLE EMPLOYER
3 PLANS.—An annual report under this section for a plan
4 year shall include—

5 “(1) with respect to any pooled employer plan
6 or other pension plan maintained by more than one
7 employer (other than a multiemployer plan), a list of
8 participating employers and a good faith estimate of
9 the percentage of the total contributions made, or
10 expected to be made, by each such participating em-
11 ployer for the plan year, and

12 “(2) with respect to a pooled employer plan, the
13 identifying information for the person designated
14 under the terms of the plan as the pooled plan pro-
15 vider.”.

16 (b) SIMPLIFIED ANNUAL REPORTS.—Section 104(a)
17 of the Employee Retirement Income Security Act of 1974
18 (29 U.S.C. 1024(a)) is amended by striking paragraph
19 (2)(A) and inserting the following:

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

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

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

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

9 **Subtitle B—Participant Protections**

10 **SEC. 211. ALTERNATIVE FIDUCIARY ARRANGEMENTS TO** 11 **PROTECT PLAN PARTICIPANTS.**

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

15 “(e) SMALL EMPLOYER PLAN ALTERNATIVE FIDU-
16 CIARY ARRANGEMENTS.—

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

23 “(A) SMALL EMPLOYER PLAN SPONSOR
24 REQUIREMENTS.—The requirements of this
25 subparagraph are met if the small employer

1 prudently selects and monitors the small em-
2 ployer plan named fiduciary.

3 “(B) SMALL EMPLOYER PLAN NAMED FI-
4 DUCIARY REQUIREMENTS.—The requirements
5 of this subparagraph are met if the small em-
6 ployer plan named fiduciary—

7 “(i) engages a small employer plan
8 service provider with respect to the em-
9 ployee pension benefit plan;

10 “(ii) registers as a small employer
11 plan named fiduciary with the Secretary in
12 accordance with paragraph (2)(A);

13 “(iii) has such educational or profes-
14 sional qualifications as the Secretary may
15 require;

16 “(iv) provides to employers disclosures
17 or other information as may be required by
18 the Secretary by regulations to facilitate
19 monitoring of the named fiduciary;

20 “(v) is bonded in accordance with sec-
21 tion 412; and

22 “(vi) meets the financial responsibility
23 requirements of paragraph (2)(B).

24 “(2) RULES RELATING TO NAMED FIDUCIARY
25 REQUIREMENTS.—

1 “(A) REPORTING BY SMALL EMPLOYER
2 PLAN NAMED FIDUCIARY.—For purposes of
3 paragraph (1)(B)(ii), the small employer plan
4 named fiduciary shall file the required registra-
5 tion with the Secretary—

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

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

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

20 “(i) has fiduciary liability insurance
21 with a per-claim limit equal to no less
22 than—

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

1 “(II) such other amount as is de-
2 termined by the Secretary by regula-
3 tion; or

4 “(ii) is—

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

12 “(II) a savings and loan associa-
13 tion, the accounts of which are in-
14 sured by the Federal Savings and
15 Loan Insurance Corporation, that has
16 made application for and been granted
17 trust powers to manage, acquire, or
18 dispose of assets of a plan by a State
19 or Federal authority having super-
20 vision over savings and loan associa-
21 tions, and that has, as of the last day
22 of its most recent fiscal year, equity
23 capital or net worth in excess of
24 \$1,000,000;

1 “(III) an insurance company that
2 is subject to supervision and examina-
3 tion by a State authority having su-
4 pervision over insurance companies,
5 that is qualified under the laws of
6 more than one State to manage, ac-
7 quire, or dispose of assets of a plan,
8 and that has, as of the last day of its
9 most recent fiscal year, net worth in
10 excess of \$1,000,000; or

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

19 “(C) ADJUSTMENT OF AMOUNTS.—The
20 Secretary may by regulation adjust the dollar
21 amounts under subparagraph (B)(ii).

22 “(3) ADMINISTRATIVE SUMMARY CEASE AND
23 DESIST ORDERS AND SUMMARY SEIZURE ORDERS
24 AGAINST SMALL EMPLOYER PLAN NAMED FIDU-
25 CIARY.—

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

4 “(i) determines that a small plan
5 named fiduciary or small employer plan
6 service provider has not met the require-
7 ments under paragraphs (1) or (2); or

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

17 “(B) HEARINGS.—

18 “(i) IN GENERAL.—A person that is
19 adversely affected by the issuance of a
20 cease and desist order under subparagraph
21 (A) may request a hearing by the Sec-
22 retary regarding such order.

23 “(ii) CONFIDENTIALITY.—The Sec-
24 retary may require that a hearing under
25 this subparagraph, including all related in-

1 formation and evidence, be conducted in a
2 confidential manner.

3 “(iii) BURDEN OF PROOF.—The bur-
4 den of proof in any hearing conducted
5 under this subparagraph shall be on the
6 party requesting the hearing to show cause
7 why the cease and desist order should be
8 set aside.

9 “(iv) DETERMINATION.—Based upon
10 the evidence presented at a hearing under
11 this subparagraph, the Secretary may af-
12 firm, modify, or set aside the cease and de-
13 sist order, in whole or in part.

14 “(C) SEIZURE.—The Secretary may issue
15 a summary seizure order under this subtitle if
16 the Secretary determines that a small employer
17 plan named fiduciary or small employer plan
18 service provider is in a financially hazardous
19 condition.

20 “(D) REGULATIONS.—The Secretary may
21 promulgate such regulations or other guidance
22 as may be necessary or appropriate to carry out
23 this paragraph.

24 “(E) EXCEPTION.—This paragraph shall
25 not apply to any named fiduciary that is not a

1 named fiduciary under paragraph (1)(A) or
2 small employer plan service provider under
3 paragraph (1)(B)(i).

4 “(F) SAVINGS CLAUSE.—The Secretary’s
5 authority under this paragraph shall not be
6 construed to limit the Secretary’s ability to ex-
7 ercise enforcement or investigatory authority
8 under any other provision of this title. The Sec-
9 retary may, in the sole discretion of the Sec-
10 retary, initiate court proceedings without using
11 the procedures in this paragraph.

12 “(4) DEFINITIONS.—For purposes of this sub-
13 section—

14 “(A) SMALL EMPLOYER.—

15 “(i) IN GENERAL.—The term ‘small
16 employer’ means, with respect to any year,
17 an employer that did not have more than
18 50 employees on any day during the pre-
19 ceding year.

20 “(ii) 2-YEAR GRACE PERIOD.—A small
21 employer that establishes and maintains an
22 employee pension benefit plan for 1 or
23 more years and that is not a small em-
24 ployer for any subsequent year shall be
25 treated as a small employer for the 2 years

1 following the last year the employer was a
2 small employer. If such employer is not a
3 small employer as described in the pre-
4 ceding sentence on account of an acquisi-
5 tion, disposition, or similar transaction in-
6 volving a small employer, the preceding
7 sentence shall not apply.

8 “(B) SMALL EMPLOYER PLAN NAMED FI-
9 DUCIARY.—The term ‘small employer plan
10 named fiduciary’ means the fiduciary that is
11 designated as the small employer plan named
12 fiduciary in the instrument under which an em-
13 ployee pension benefit plan is maintained.

14 “(C) SMALL EMPLOYER PLAN SERVICE
15 PROVIDER.—The term ‘small employer plan
16 service provider’ means—

17 “(i) an administrator (as defined in
18 section 3(16)(A));

19 “(ii) a fiduciary (as defined in section
20 3(21)(A)); or

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

23 that is independent from the small employer
24 plan named fiduciary.”

1 **SEC. 212. ROLLOVER PROTECTIONS.**

2 (a) SENSE OF CONGRESS.—It is the sense of Con-
3 gress that a person may be providing investment advice
4 within the meaning of section 3(21) of the Employee Re-
5 tirement Income Security Act of 1974 (29 U.S.C.
6 1002(21)) when such person advises a plan participant to
7 take a permissible plan distribution and such distribution
8 advice is combined with a recommendation as to how the
9 distribution should be invested.

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

16 (c) FIDUCIARY AND PROHIBITED TRANSACTION
17 AWARENESS.—The Comptroller General of the United
18 States shall study the extent to which advisors, broker-
19 dealers, and other financial professionals dealing with in-
20 dividual and employer-provided retirement plans are aware
21 of, and receive ongoing training regarding, the require-
22 ments of part 4 of subtitle B of title I of the Employee
23 Retirement Income Security Act (29 U.S.C. 1101 et seq.)
24 and section 4975 of the Internal Revenue Code of 1986.
25 The Comptroller General shall submit a report to the
26 Committee on Health, Education, Labor, and Pensions of

1 the Senate and the Committee on Education and the
2 Workforce of the House of Representatives summarizing
3 its findings and including recommendations regarding
4 ways to improve awareness of and compliance with the fi-
5 duciary and prohibited transaction rules.

6 **Subtitle C—Lifetime Income**

7 **SEC. 221. LIFETIME INCOME DISCLOSURE.**

8 (a) REQUIREMENTS TO PROVIDE PENSION BENEFIT
9 STATEMENTS.—Section 105(a)(2)(B) of the Employee
10 Retirement Income Security Act of 1974 (29 U.S.C.
11 1025(a)(2)(B)) is amended—

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

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

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

16 “(iii) an illustration of the partici-
17 pant’s benefit as an estimated lifetime in-
18 come stream beginning at retirement de-
19 termined in accordance with assumptions
20 and requirements established by regula-
21 tion.”.

22 (b) LIMITATION ON LIABILITY.—Section 404 of the
23 Employee Retirement Income Security Act of 1974 (29
24 U.S.C. 1104), as amended by section 105, is amended by
25 adding at the end the following:

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

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

9 (d) CLARIFICATION.—The requirement under section
10 105(a)(2)(B)(iii) of the Employee Retirement Income Se-
11 curity Act of 1974, as added by subsection (a)(3), shall
12 apply to pension benefit statements furnished more than
13 1 year after the issuance of the final rules implementing
14 section 105(a)(2)(B)(iii) of such Act.

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

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

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

21 “(1) IN GENERAL.—With respect to the selec-
22 tion of a lifetime retirement income contract as part
23 of an individual account plan, a fiduciary will be
24 deemed to satisfy the requirements of subsection
25 (a)(1)(B) with respect to the selection of an insurer

1 and lifetime retirement income contract if the fidu-
2 ciary engages in an objective, thorough, and analyt-
3 ical search for the purpose of identifying insurers
4 from which to purchase lifetime retirement income
5 contracts and appropriately concludes that—

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

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

15 “(2) FIDUCIARIES.—A fiduciary meets the re-
16 quirements of paragraph (1)(A) if the fiduciary
17 meets all of the following conditions:

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

20 “(i) the insurer is licensed to offer
21 lifetime retirement income contracts;

22 “(ii) the insurer, at the time of selec-
23 tion and for each of the immediately pre-
24 ceding 10 years—

1 “(I) operates under a certificate
2 of authority from the Insurance Com-
3 missioner of its domiciliary state that
4 has not been revoked or suspended;

5 “(II) has filed financial state-
6 ments in accordance with the laws of
7 its domiciliary state under applicable
8 statutory accounting principles;

9 “(III) maintains reserves that
10 satisfy all the statutory requirements
11 of all States where the insurer does
12 business; and

13 “(IV) is not operating under an
14 order of supervision, rehabilitation, or
15 liquidation;

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

23 “(iv) if, following the issuance of the
24 representations described in clauses (i)
25 through (iii), there is any change that

1 would preclude the insurer from making
2 such representations at the time of
3 issuance of the lifetime retirement income
4 contract, the insurer will inform the fidu-
5 ciary that the fiduciary can no longer rely
6 on one or more of the representations; and

7 “(v) meet such other requirements
8 specified by the Secretary by regulation.

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

15 “(C) The fiduciary inquires about addi-
16 tional protections that might be available
17 through a State guaranty association for the
18 lifetime retirement income contract.

19 “(D) The fiduciary obtains evidence from
20 the insurer that, not more than 1 year prior to
21 the time of selection, the insurer has obtained
22 written confirmation from the insurance com-
23 missioner of the domiciliary State of such in-
24 surer that, at the time the confirmation is

1 issued, the insurer met the conditions of clauses
2 (i) and (ii) of subparagraph (A).

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

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

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

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

1 “(5) DEFINITIONS.—For purposes of this sub-
2 section—

3 “(A) the term ‘insurer’ means an insur-
4 ance company, insurance service, or insurance
5 organization qualified to do business in a State
6 and includes affiliates of such companies to the
7 extent the affiliate is licensed to offer lifetime
8 retirement income contracts; and

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

17 “(6) SAVINGS CLAUSE.—Nothing in this sub-
18 section shall be construed to establish minimum re-
19 quirements or the exclusive means for a fiduciary to
20 satisfy the fiduciary duties under subsection
21 (a)(1)(B). Nothing in this subsection shall be con-
22 strued to require a fiduciary to select the lowest cost
23 contract. A fiduciary may consider the value, includ-
24 ing features and benefits of the contract and at-
25 tributes of the insurer, in conjunction with the con-

1 **SEC. 224. ADMINISTRATION OF JOINT AND SURVIVOR AN-**
2 **NUITY REQUIREMENTS.**

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

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

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

11 (3) by adding at the end the following new
12 paragraph:

13 “(4) that a named fiduciary, or a fiduciary des-
14 igned by a named fiduciary pursuant to a plan
15 procedure described in section 405(c)(1), may ap-
16 point an annuity administrator or administrators
17 with responsibility for administration of an indi-
18 vidual account plan in accordance with the require-
19 ments of section 205 and payment of any annuity
20 required thereunder.”.

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

25 “(f) ANNUITY ADMINISTRATOR.—If 1 or more per-
26 sons has been appointed under section 402(c)(4) as an an-

1 nnuity administrator or administrators of an individual ac-
2 count plan, and each such person acknowledges in writing
3 that such person is the annuity administrator and a fidu-
4 ciary under the plan with respect to appointed duties, nei-
5 ther the named fiduciary nor any appointing fiduciary
6 shall be liable for any act or omission of the annuity ad-
7 ministrator except to the extent that—

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

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

11 “(B) in continuing the appointment;

12 “(2) the named fiduciary or appointing fidu-
13 ciary would otherwise be liable in accordance with
14 subsection (a); or

15 “(3) the entity appointed to be the annuity ad-
16 ministrator is not an insurance company or ap-
17 proved to be an annuity administrator by the Sec-
18 retary.”.

19 **TITLE III—DEFINED BENEFIT**
20 **SYSTEM REFORMS**

21 **Subtitle A—Defined Benefit**

22 **Pension Plan Reforms**

23 **SEC. 301. HYBRID PLANS.**

24 (a) AMENDMENTS TO ERISA.—

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

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

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

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

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

12 “(V) REASONABLE MINIMUM
13 RATES FOR OTHER INTEREST CRED-
14 ITING BASES.—In the case of an in-
15 terest credit (or equivalent amount)
16 that is not described in subclause
17 (IV), an annual interest rate equal to
18 the lowest interest rate permitted with
19 respect to any plan under section
20 415(b)(2)(E)(i) of the Internal Rev-
21 enue Code of 1986 (without regard to
22 section 415(b)(2)(E)(ii) of such Code)
23 shall be treated as a reasonable min-
24 imum guaranteed rate of return de-
25 scribed in such subclause.”.

1 (i)(III), be permitted as a market rate
2 of return under clause (i)(I).

3 “(II) SECRETARIAL AUTHOR-
4 ITY.—Except as provided in subclause
5 (III), the Secretary of the Treasury
6 may prescribe by regulation that a
7 rate of return available in the market
8 is not permitted under clause (i)(I) if
9 such rate is designed to evade the
10 purposes of clause (i)(I) and is not
11 consistent with the purposes of a de-
12 fined benefit plan. Such authority
13 shall apply only to a rate of return
14 based exclusively or primarily on the
15 returns on employer securities (as de-
16 fined in section 407(d)(1)), on alter-
17 native investments generally not ap-
18 propriate as an exclusive or primary
19 investment for retirement, or on other
20 similar investments.

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

1 “(aa) The first, second, or
2 third segment rate (as defined in
3 section 430(h)(2)(C) of the Inter-
4 nal Revenue Code of 1986 (with-
5 out regard to clause (iv) thereof))
6 or any combination of such rates.

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

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

20 “(dd) The actual return on
21 all or a diversified portion of the
22 assets of the plan.

23 “(ee) Any total return index
24 or price index commonly used as
25 an investment benchmark, as de-

1 terminated under regulations pre-
2 scribed by the Secretary of the
3 Treasury.

4 “(ff) The rate of return on
5 an annuity contract for a partici-
6 pant issued by an insurance com-
7 pany licensed under the laws of a
8 State.

9 “(gg) A cost of living index
10 with appropriate margin, as de-
11 termined under regulations pro-
12 mulgated by the Secretary of the
13 Treasury.

14 “(hh) The rate of return on
15 a broad-based regulated invest-
16 ment company, as determined
17 under regulations promulgated by
18 the Secretary of the Treasury.

19 “(ii) Any investment in
20 which participants may elect to
21 invest under a defined contribu-
22 tion plan maintained by the spon-
23 sor of the plan other than an in-
24 vestment with a rate of return
25 prohibited under clause (i), a sta-

1 ble value fund, or an investment
2 available only through a broker-
3 age account (or similar arrange-
4 ment).”.

5 (b) AMENDMENTS TO 1986 CODE.—

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

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

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

16 “(IV) REASONABLE MINIMUM
17 GUARANTEED RATES FOR INVEST-
18 MENT-BASED INTEREST CREDITS.—In
19 the case of an interest credit (or
20 equivalent amount) that is based on
21 an actual investment (or on an index
22 that is structured to have effects simi-
23 lar to the effects of an actual invest-
24 ment), a fixed annual crediting rate
25 equal to 3 percent (or a lower rate not

1 less than zero that is specified in the
2 plan) with respect to all contribution
3 credits credited to a participant's ac-
4 count balance or similar amount dur-
5 ing the guarantee period shall be
6 treated as a reasonable minimum
7 guaranteed rate of return. For pur-
8 poses of this subclause, the guarantee
9 period begins on the prospective date
10 that such reasonable minimum guar-
11 anteed rate applies to the partici-
12 pant's benefit under the plan and
13 ends on the date that such reasonable
14 minimum guaranteed rate ceases to
15 apply to the participant's benefit.

16 “(V) REASONABLE MINIMUM
17 RATES FOR OTHER INTEREST CRED-
18 ITING BASES.—In the case of an in-
19 terest credit (or equivalent amount)
20 that is not described in subclause
21 (IV), an annual interest rate equal to
22 the lowest interest rate permitted with
23 respect to any plan under section
24 415(b)(2)(E)(i) (without regard to
25 section 415(b)(2)(E)(ii)) shall be

1 treated as a reasonable minimum
2 guaranteed rate of return described in
3 such subclause.”.

4 (2) PERMITTED FIXED RATES.—Section
5 411(b)(5)(B)(i) of such Code, as amended by para-
6 graph (1)(B), is further amended by adding at the
7 end the following:

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

16 (3) PROTECTING PLAN PARTICIPANTS FROM
17 LOSING ACCESS TO MARKET RATES.—

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

21 “(iii) SPECIAL RULES RELATING TO
22 MARKET RATE OF RETURN.—For purposes
23 of clause (i)(III)—

24 “(I) IN GENERAL.—Except as
25 provided in this subclause, any rate of

1 return available in the market, shall,
2 under the regulation under clause
3 (i)(III), be permitted as a market rate
4 of return under clause (i)(I).

5 “(II) SECRETARIAL AUTHOR-
6 ITY.—Except as provided in subclause
7 (III), the Secretary may prescribe by
8 regulation that a rate of return avail-
9 able in the market is not permitted
10 under clause (i)(I) if such rate is de-
11 signed to evade the purposes of clause
12 (i)(I) and is not consistent with the
13 purposes of a defined benefit plan.
14 Such authority shall apply only to a
15 rate of return based exclusively or pri-
16 marily on the returns on employer se-
17 curities (as defined in section
18 407(d)(1)), on alternative investments
19 generally not appropriate as an exclu-
20 sive or primary investment for retire-
21 ment, or on other similar investments.

22 “(III) SPECIFIED SAFE HARBOR
23 RATES.—The following rates of return
24 and any combination of such rates

1 shall be deemed to be market rates of
2 return that satisfy clause (i)(I):

3 “(aa) The first, second, or
4 third segment rate (as defined in
5 section 430(h)(2)(C) (without re-
6 gard to clause (iv) thereof)) or
7 any combination of such rates.

8 “(bb) The discount rate on
9 3-month, 6-month, and 12-month
10 Treasury bills with appropriate
11 margins determined under regu-
12 lations prescribed by the Sec-
13 retary.

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

21 “(dd) The actual return on
22 all or a diversified portion of the
23 assets of the plan.

24 “(ee) Any total return index
25 or price index commonly used as

1 an investment benchmark, as de-
2 termined under regulations pre-
3 scribed by the Secretary.

4 “(ff) The rate of return on
5 an annuity contract for a partici-
6 pant issued by an insurance com-
7 pany licensed under the laws of a
8 State.

9 “(gg) A cost of living index
10 with appropriate margin, as de-
11 termined under regulations pro-
12 mulgated by the Secretary.

13 “(hh) The rate of return on
14 a broad-based regulated invest-
15 ment company, as determined
16 under regulations promulgated by
17 the Secretary.

18 “(ii) Any investment in
19 which participants may elect to
20 invest under a defined contribu-
21 tion plan maintained by the spon-
22 sor of the plan other than an in-
23 vestment with a rate of return
24 prohibited under clause (i), a sta-
25 ble value fund, or an investment

1 available only through a broker-
2 age account (or similar arrange-
3 ment).”.

4 (c) PROTECTING PLAN PARTICIPANTS FROM RETRO-
5 ACTIVE BENEFIT DECREASES.—

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

20 (2) TRANSITION PERIOD.—For purposes of
21 paragraph (1), the transition period, with respect to
22 any plan, begins on the date that section
23 411(b)(5)(B)(i)(I) of such Code or section
24 204(b)(5)(B)(i)(I) of such Act first applied to such
25 plan and ends on the effective date of comprehensive

1 final regulations under such sections prescribed by
2 the Secretary of the Treasury.

3 (d) ENSURING FAIRNESS WHEN INTEREST CREDITS
4 ARE REQUIRED TO BE DECREASED.—

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

20 (2) EXCEPTION.—The exception under para-
21 graph (1) from section 204(g) of such Act and sec-
22 tion 411(d)(6) of such Code shall be issued through
23 regulations to ensure the opportunity of interested
24 persons to make comments through a public notice
25 and comment process. Such exception shall permit

1 any interest credit (or equivalent amount) to which
2 this subsection applies to be modified to be the max-
3 imum fixed rate of return permitted under section
4 204(b)(5)(B)(i)(VI) of such Act or section
5 411(b)(5)(B)(i)(VI) of such Code or to be the max-
6 imum rate permitted under any rate of return
7 deemed to be a market rate of return pursuant to
8 section 204(b)(5)(B)(i)(III) of such Act or section
9 411(b)(5)(B)(i)(III) of such Code. The Secretary of
10 the Treasury shall further structure the exception to
11 ensure that there are clear and simple methods for
12 plans to comply with the requirements of section
13 204(b)(5)(B)(i)(I) of such Act and section
14 411(b)(5)(B)(i)(I) of such Code.

15 (e) PROTECTING PARTICIPANTS FROM PLAN
16 FREEZES THROUGH APPROPRIATE TRANSITION
17 RULES.—

18 (1) IN GENERAL.—In the case of any defined
19 benefit plan to which this subsection applies, com-
20 prehensive regulations under sections 203(f)(1) and
21 204(b)(5)(B)(i) of the Employee Retirement Income
22 Security Act of 1974 or sections 411(a)(13)(A) and
23 411(b)(5)(B)(i) of the Internal Revenue Code of
24 1986 shall not take effect before the first plan year
25 beginning at least 1 year after the later of—

1 (A) the date of publication of such regula-
2 tions; or

3 (B) the date of publication of the regula-
4 tions described in subsection (d).

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

7 (A) is subject to section 204(b)(5) of the
8 Employee Retirement Income Security Act of
9 1974 or section 411(b)(5) of the Internal Rev-
10 enue Code of 1986;

11 (B) expresses any portion of any partici-
12 pant's benefit as a current value equal to an ac-
13 cumulated percentage of the employee's final
14 average compensation; and

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

21 (3) PERIOD PRIOR TO EFFECTIVE DATE OF
22 REGULATIONS.—In the case of a plan to which this
23 subsection applies, no rule shall be issued and no ad-
24 verse enforcement action shall be taken by the Sec-
25 retary of the Treasury or the Secretary of Labor

1 with respect to a plan described in paragraph (2) re-
2 garding the structure of the benefits described in
3 paragraph (2)(B) for any period prior to the effec-
4 tive date of comprehensive final regulations issued
5 by the Secretary of the Treasury with respect to
6 such benefits. Such final regulations shall not be ef-
7 fective before the first plan year beginning at least
8 1 year after publication of such regulations.

9 (f) EFFECTIVE DATE.—

10 (1) IN GENERAL.—Except as otherwise pro-
11 vided, the amendments and other provisions of this
12 section shall take effect as if included in section 701
13 of the Pension Protection Act of 2006 (Public Law
14 109–280; 120 Stat. 981).

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

1 **SEC. 302. CLARIFICATION OF THE NORMAL RETIREMENT**
2 **AGE.**

3 (a) AMENDMENTS TO ERISA.—Section 204 of the
4 Employee Retirement Income Security Act of 1974 is
5 amended by redesignating subsection (k) as subsection (l)
6 and by inserting after subsection (j) the following new sub-
7 section:

8 “(k) SPECIAL RULE FOR DETERMINING NORMAL
9 RETIREMENT AGE FOR CERTAIN EXISTING DEFINED
10 BENEFIT PLANS.—

11 “(1) IN GENERAL.—For purposes of section
12 3(24), an applicable plan shall not be treated as fail-
13 ing to meet any requirement of this title, or as fail-
14 ing to have a uniform normal retirement age for
15 purposes of this title, solely because the plan has
16 adopted the normal retirement age described in
17 paragraph (2).

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

20 “(A) IN GENERAL.—The term ‘applicable
21 plan’ means a defined benefit plan that, on the
22 date of the introduction of this subsection, has
23 adopted a normal retirement age which is the
24 earlier of—

25 “(i) an age otherwise permitted under
26 section 2(24), or

1 “(ii) the age at which a participant
2 completes the number of years (not less
3 than 30 years) of benefit accrual service
4 specified by the plan.

5 A plan shall not fail to be treated as an applica-
6 ble plan solely because, as of such date, the
7 normal retirement age described in the pre-
8 ceding sentence only applied to certain partici-
9 pants or to certain employers participating in
10 the plan.

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

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

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

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

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

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

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

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

21 A plan shall not fail to be treated as an applica-
22 ble plan solely because, as of such date, the
23 normal retirement age described in the pre-
24 ceding sentence only applied to certain partici-

1 pants or to certain employers participating in
2 the plan.

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

11 **SEC. 303. MORATORIUM ON IMPOSITION OF SHUTDOWN LI-**
12 **ABILITY.**

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

18 (b) STUDY.—The Comptroller General of the United
19 States shall study the effectiveness, fairness, and utility
20 of section 4062(e) of the Employee Retirement Income Se-
21 curity Act (29 U.S.C. 1101 et seq.). No later than Janu-
22 ary 30, 2015, the Comptroller General shall submit a re-
23 port to the Committee on Health, Education, Labor, and
24 Pensions of the Senate and the Committee on Education
25 and the Workforce of the House of Representatives sum-

1 marizing its findings and including recommendations for
2 alternative ways to protect retirees and the Pension Ben-
3 efit Guaranty Corporation from cessations of operations
4 while encouraging employers to both continue to offer de-
5 fined benefit pension plans and to restructure as may be
6 necessary to ensure the ongoing viability of the business.

7 **SEC. 304. ALTERNATIVE FUNDING TARGET ATTAINMENT**
8 **PERCENTAGE DETERMINED WITHOUT RE-**
9 **GARD TO REDUCTION FOR CREDIT BAL-**
10 **ANCES.**

11 (a) AMENDMENTS TO ERISA.—Section 206(g) of
12 Employee Retirement Income Security Act of 1974 (29
13 U.S.C. 1056(g)) is amended—

14 (1) in paragraph (5), by striking subparagraph
15 (C); and

16 (2) in paragraph (9)—

17 (A) in subparagraph (B)—

18 (i) by striking the period at the end
19 and inserting “; and”;

20 (ii) by striking “under subparagraph
21 (A) by increasing” and inserting the fol-
22 lowing: “under subparagraph (A)—

23 “(i) by increasing”; and

24 (iii) by adding at the end the fol-
25 lowing:

1 “(ii) without regard to the reduction
2 under section 303(f)(4)(B).”; and
3 (B) by striking subparagraphs (C) and
4 (D).

5 (b) AMENDMENTS TO 1986 CODE.—Section 436 of
6 the Internal Revenue Code of 1986 is amended—

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

8 and

9 (2) in subsection (j)—

10 (A) in paragraph (2)—

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

13 (ii) by striking “under paragraph (1)
14 by increasing” and inserting the following:

15 “under subparagraph (A)—

16 “(A) by increasing”; and

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

19 “(B) without regard to the reduction under
20 section 430(f)(4)(B).”; and

21 (B) by striking the first and second para-
22 graph (3).

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

1 **SEC. 305. METHOD FOR DETERMINING CHANGES FOR**
2 **QUARTERLY CONTRIBUTIONS.**

3 (a) AMENDMENT TO ERISA.—Section 303(j)(3)(A)
4 of the Employee Retirement Income Security Act of 1974
5 (29 U.S.C. 1083(j)(3)(A)) is amended by inserting “(de-
6 termined without regard to the reduction under subsection
7 (f)(4)(B))” after “preceding plan year”.

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

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

15 **SEC. 306. ELECTION TO DISCOUNT CONTRIBUTIONS FROM**
16 **FINAL DUE DATE.**

17 (a) AMENDMENT TO ERISA.—Section 303(j)(2) of
18 the Employee Retirement Income Security Act of 1974
19 (29 U.S.C. 1083(j)(2)) is amended by adding at the end
20 the following: “For purposes of this paragraph, a plan
21 sponsor may elect to treat all payments made after the
22 valuation date as having been made on the last day per-
23 missible under paragraph (1).”

24 (b) AMENDMENT TO 1986 CODE.—Section 430(j)(2)
25 of the Internal Revenue Code of 1986 is amended by add-
26 ing at the end the following: “For purposes of this para-

1 graph, a plan sponsor may elect to treat all payments
2 made after the valuation date as having been made on the
3 last day permissible under paragraph (1).”

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

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

8 (a) AMENDMENTS TO ERISA.—

9 (1) TIMELINESS OF ELECTIONS.—Section 303
10 of the Employee Retirement Income Security Act of
11 1974 (29 U.S.C. 1083) is amended by adding at the
12 end the following:

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

21 (2) TIME FOR PROVIDING NOTICE.—Section
22 101(f)(3)(B) of the Employee Retirement Income
23 Security Act of 1974 (29 U.S.C. 1021(f)(3)(B)) is
24 amended—

1 (A) in the heading, by striking “FOR
2 SMALL PLANS”;

3 (B) by inserting “a plan with an adjusted
4 funding target attainment percentage of more
5 than 80 percent for the prior year or” after “In
6 the case of”;

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

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

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

14 “(m) TIMELINESS OF ELECTIONS.—An election re-
15 quired to be made by the plan sponsor under this section,
16 including an election made under rules prescribed by the
17 Secretary to implement this section, shall be deemed to
18 have been timely made if the election is made on or before
19 the due date specified in subsection (j)(1) or, if later, the
20 due date of the actuarial report required under section
21 6059.”.

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

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

2 (a) DISCLOSURE AND REPORTING BY MULTIEM-
3 PLOYER PLANS.—

4 (1) PLAN FUNDING NOTICES.—Section 101(f)
5 of the Employee Retirement Income Security Act of
6 1974 (29 U.S.C. 1021(f)) is amended—

7 (A) in paragraph (2)(B)—

8 (i) by striking clause (v);

9 (ii) by redesignating clauses (vi)
10 through (x) as clauses (v) through (ix), re-
11 spectively;

12 (iii) in clause (vi), as so redesign-
13 nated—

14 (I) by striking “(I) in the case
15 of” and inserting “in the case of”;

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

18 (III) by striking subclause (II);
19 and

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

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

1 of the limitations on the guarantee and the
2 circumstances under which such limitations
3 apply, and

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

15 (B) in paragraph (4)(C)—

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

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

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

1 “(II) in the case of a plan which
2 is in a funding improvement or reha-
3 bilitation period, whether or not the
4 plan is making the scheduled progress
5 in meeting the requirements of its
6 funding improvement or rehabilitation
7 plan and, if not, a summary of the
8 primary reasons the plan is not mak-
9 ing the scheduled progress,

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

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

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

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

1 “(IV) the total value of all con-
2 tributions made to the plan during the
3 prior plan year, and

4 “(V) the total value of all invest-
5 ment gains or losses during the prior
6 plan year,

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

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

21 “(v) in the case of any plan amend-
22 ment, scheduled benefit increase or reduc-
23 tion, or other known event taking effect in
24 the current plan year and having a mate-
25 rial effect on plan liabilities or assets for

1 the year (as defined in regulations by the
2 ERISA agencies), an explanation of the
3 amendment, scheduled increase or reduc-
4 tion, or event, and a projection to the end
5 of such plan year of the effect of the
6 amendment, scheduled increase or reduc-
7 tion, or event on plan liabilities,

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

20 “(vii) a good faith statement describ-
21 ing—

22 “(I) the withdrawal of any em-
23 ployer during the prior plan year and
24 the percentage of total contributions

1 made by that employer during the
2 prior plan year,

3 “(II) any material reduction in
4 total contributions or withdrawal li-
5 ability payments of any employers and
6 the reason for such reduction,

7 “(III) any significant reduction
8 in the number of active plan partici-
9 pants and the reason for such reduc-
10 tion, and

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

20 “(viii) such other information as may
21 be required by the ERISA agencies by reg-
22 ulation.”;

23 (iii) by striking subparagraph (C) and
24 inserting the following:

1 “(II) a summary of any funding
2 improvement plan, rehabilitation plan,
3 and any update thereto or modifica-
4 tion thereof, adopted under this sec-
5 tion prior to the furnishing of such
6 notice,

7 “(III) a summary of the rules
8 governing reorganization or insol-
9 vency, including the limitations on
10 benefit payments, and

11 “(IV) a general description of the
12 benefits under the plan which are eli-
13 gible to be guaranteed by the Pension
14 Benefit Guaranty Corporation and an
15 explanation of the limitations on the
16 guarantee and the circumstances
17 under which such limitations apply.”;

18 (III) in clause (iv), as so redesign-
19 nated—

20 (aa) by striking “The Sec-
21 retary of the Treasury, in con-
22 sultation with the Secretary” and
23 inserting “The ERISA agencies”;
24 and

1 (bb) by striking “clause (ii)”
2 and inserting “clauses (ii) and
3 (iii)”; and
4 (IV) by adding at the end the fol-
5 lowing:

6 “(E) DESIGNATION AND COORDINATION.—

7 The ERISA agencies shall—

8 “(i) designate one ERISA agency to
9 receive the report described in subpara-
10 graph (A) on behalf of all the ERISA
11 agencies, which shall each have full access
12 to such report; and

13 “(ii) consult with each other and de-
14 velop rules, regulations, practices, and
15 forms, which to the extent appropriate for
16 the efficient administration of the provi-
17 sions of this paragraph are designed to re-
18 place duplication of effort, duplication of
19 reporting, conflicting or overlapping re-
20 quirements, and the burden of compliance
21 with such provisions by plan administra-
22 tors and plan sponsors.

23 “(F) ERISA AGENCIES.—In this para-
24 graph, the term ‘ERISA agencies’ means the
25 Secretary of Labor, the Secretary of the Treas-

1 ury, and the Pension Benefit Guaranty Cor-
2 poration.”.

3 (B) AMENDMENTS TO 1986 CODE.—Section
4 432(b)(3) of the Internal Revenue Code of
5 1986 is amended—

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

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

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

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

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

24 “(II) in the case of a plan which
25 is in a funding improvement or reha-

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

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

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

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

24 “ (bb) in the case in which it is
25 certified that a multiemployer plan is

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (iv) in subparagraph (D)—

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

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

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

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

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

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

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

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

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

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

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

22 “(E) DESIGNATION AND COORDINATION.—

23 The ERISA agencies shall—

24 “(i) designate one ERISA agency to
25 receive the report described in subpara-

1 graph (A) on behalf of all the ERISA
2 agencies, which shall each have full access
3 to such report; and

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

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

19 (C) DISCLOSURES BY PLANS REGARDING
20 STATUS.—Section 4003 of the Employee Retire-
21 ment Income Security Act of 1974 (29 U.S.C.
22 1303) is amended—

23 (i) in the section heading, by inserting
24 “; **MULTIEMPLOYER PLAN INFORMA-**
25 **TION**” after “**ACTIONS**”; and

1 (ii) by adding at the end the fol-
2 lowing:

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

14 (3) CIVIL ENFORCEMENT.—

15 (A) IN GENERAL.—Section 502(c) of the
16 Employee Retirement Income Security Act of
17 1974 (29 U.S.C. 1132) is amended—

18 (i) in paragraph (7)—

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

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

24 “(B) The Secretary may assess a civil penalty against
25 a plan administrator (or plan sponsor with respect to the

1 notice of endangered or critical status) of up to \$110 per
2 day from the date of the plan administrator’s or sponsor’s
3 failure or refusal to provide the relevant notices under sec-
4 tion 101(f) or section 305(b)(3)(D) to a recipient other
5 than the Secretary or the Pension Benefit Guaranty Cor-
6 poration. For purposes of this paragraph, each violation
7 with respect to any single recipient shall be treated as a
8 separate violation.”;

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

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

19 “(11)(A) The Secretary may assess a civil pen-
20 alty against any plan sponsor of up to \$1,100 per
21 day from the date of the plan sponsor’s failure to
22 file with the Secretary the notice required under sec-
23 tion 305(b)(3)(D) or with the Pension Benefit Guar-
24 anty Corporation the notice required under section
25 101(f).

1 “(B) The Secretary may assess a civil penalty
2 against any plan sponsor of up to \$1,100 per day
3 from the date of the plan sponsor’s failure to file
4 with the ERISA agency designated in accordance
5 with subparagraph (E) of section 305(b)(3) the re-
6 port under subparagraph (A) of such section.”.

7 (B) CONFORMING AMENDMENT.—Section
8 502(a)(6) of such Act is amended by striking
9 “or (9)” and inserting “(9), (10), or (11)”.

10 (b) COORDINATION WITH RESPECT TO MULTIEM-
11 PLOYER PLANS.—

12 (1) IN GENERAL.—Subtitle A of title III of the
13 Employee Retirement Income Security Act of 1974
14 (29 U.S.C. 1201 et seq.) is amended by adding at
15 the end the following:

16 **“SEC. 3005. DATABASE OF MULTIEMPLOYER PLAN INFOR-**
17 **MATION.**

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

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

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

3 “(3) Each notice submitted to the Secretary of
4 Labor and the Pension Benefit Guaranty Corpora-
5 tion by a multiemployer plan under section
6 305(b)(3)(D).

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

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

24 “(d) EXEMPTION.—The information contained in the
25 report described under subsection (a)(2) shall be exempt

1 from disclosure under section 552(b) of title 5, United
2 States Code. For purposes of such section 552 of title 5,
3 United States Code, this subsection shall be considered a
4 statute described in subsection (b)(3) of such section
5 552.”.

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

“3005. Database of multiemployer plan information.”.

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

14 **Subtitle B—Improvements to the** 15 **Pension Insurance Program**

16 **SEC. 311. MODIFICATIONS OF TECHNICAL CHANGES MADE** 17 **BY THE PENSION PROTECTION ACT OF 2006** 18 **TO TERMINATION LIABILITY.**

19 (a) IN GENERAL.—Section 4062(c) of the Employee
20 Retirement Income Security Act of 1974 (29 U.S.C.
21 1362(c)) is amended by striking paragraphs (1) and (2)
22 and inserting the following:

23 “(1) the aggregate unpaid minimum required
24 contributions (within the meaning of section
25 4971(c)(4) of the Internal Revenue Code of 1986) of

1 the plan (if any) for the plan year in which the ter-
2 mination date occurs and for all preceding plan
3 years, including, for purposes of this paragraph, the
4 amount of any increase in such aggregate unpaid
5 minimum required contributions that would result
6 if—

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

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

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

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

22 “(B) all preceding plan years,”.

23 (b) EFFECTIVE DATE.—The amendments made by
24 this section shall take effect as if included in section 107

1 of the Pension Protection Act of 2006 (Public Law 109–
2 280; 120 Stat. 816).

3 **SEC. 312. PAYMENT OF LUMP SUM DISTRIBUTIONS IN**
4 **BANKRUPTCY.**

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

15 (b) AMENDMENTS TO 1986 CODE.—The second sen-
16 tence of section 436(d)(2) of the Internal Revenue Code
17 of 1986 is amended to read as follows: “The preceding
18 sentence shall not apply on or after the date on which the
19 enrolled actuary of the plan certifies that the adjusted
20 funding target attainment percentage of such plan (deter-
21 mined by not taking into account any adjustment of seg-
22 ment rates under section 430(h)(2)(C)(iv)) is not less than
23 100 percent.”

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

1 **SEC. 313. TRUSTEESHIP CLARIFICATIONS.**

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

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

7 “(a) AUTHORITY TO INSTITUTE PROCEEDINGS TO
8 TERMINATE A PLAN.—

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

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

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

3 “(C) The reportable event described in sec-
4 tion 4043(c)(7) has occurred.

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

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

22 “(b) APPOINTMENT OF THE CORPORATION TO AD-
23 MINISTER PLAN.—

24 “(1) IN GENERAL.—Whenever the corporation
25 makes a determination under subsection (a) with re-

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

19 “(2) APPOINTMENT.—Notwithstanding any
20 other provision of this title—

21 “(A) upon the petition of a plan adminis-
22 trator or the corporation, the appropriate
23 United States district court may appoint the
24 corporation to administer the plan in accord-
25 ance with the provisions of this section if the

1 interests of the plan participants would be bet-
2 ter served by such appointment, and

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

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

16 (2) CONFORMING AMENDMENTS.—

17 (A) Subsection (c) of such section 4042 is
18 amended—

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

22 “(c) DECREE ENFORCING DETERMINATION THAT
23 PLAN MUST BE TERMINATED.—

24 “(1) COURT DECREE.—

1 “(A) APPLICATION.—If the corporation is
2 required under subsection (a) to commence pro-
3 ceedings under this section with respect to a
4 plan or, after issuing a notice under this section
5 to a plan administrator, has determined that
6 the plan should be terminated, the corporation
7 may, upon notice to the plan administrator,
8 apply to the appropriate United States district
9 court for a decree enforcing the corporation’s
10 determination that the plan be terminated.

11 “(B) DECREE.—

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

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

1 been appointed under such subsection and
2 authorize the corporation) to terminate the
3 plan in accordance with the provisions of
4 this subtitle.

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

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

23 (B) Subsection (d) of such section 4042 is
24 amended—

25 (i) in paragraph (1)(A)—

1 (I) by striking “A trustee ap-
2 pointed under subsection (b)” and in-
3 sserting “If the corporation is ap-
4 pointed to administer a plan under
5 subsection (b), the corporation”;

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

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

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

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

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

18 and

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

22 “If the court to which application is made
23 under subsection (c) dismisses the application
24 with prejudice, or if the corporation fails to
25 apply for a decree under subsection (c), within

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

15 (ii) in paragraph (1)(B)—

16 (I) in the matter preceding clause
17 (i), by striking “trustee” and insert-
18 ing “corporation”;

19 (II) by striking clauses (iii) and
20 (v);

21 (III) by redesignating clause (iv)
22 as clause (iii); and

23 (IV) by redesignating clauses (vi)
24 through (viii) as clauses (iv) through
25 (vi), respectively;

1 (iii) in paragraph (2)—

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

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

10 (iv) by striking paragraph (3) and in-
11 serting the following:

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

1 plan administrator under title I, including the duty
2 to file reports on behalf of the plan.

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

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

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

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

13 (D) Such section 4042 is amended by
14 striking subsection (h).

15 (b) OTHER CONFORMING AND TECHNICAL AMEND-
16 MENTS.—

17 (1) Section 4002(h)(1) of such Act (29 U.S.C.
18 1302(h)(1)) is amended—

19 (A) in the first sentence—

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

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

4 (B) in the second sentence—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (B) in subsection (f)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

10 (C) in subsection (c)—

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

5 “(E) Persons described in subparagraphs
6 (i) through (iii) of subparagraph (D) shall be
7 subject to such additional standards regarding
8 conflicts of interest, qualifications, and direct
9 reporting of certain events such as fraud and
10 other irregularities as the Secretary may pre-
11 scribe in regulations.”.

12 (b) CIVIL ENFORCEMENT.—Section 502(c)(2) of the
13 Employee Retirement Income Security Act of 1974 (29
14 U.S.C. 1132(c)(2)) is amended by adding at the end the
15 following new sentence: “If the Secretary rejects an an-
16 nual report in whole or in part due to the failure to comply
17 with a requirement of section 103 imposed on an account-
18 ant, actuary, or other person, the Secretary may assess
19 all or part of the civil penalty against such person. The
20 Secretary may require remediation in place of assessing
21 all or part of a penalty.”.

22 (c) DEPARTMENT FOR DEFICIENT AUDITS OR FOR
23 FAILING TO MEET QUALIFICATION STANDARDS.—

24 (1) IN GENERAL.—Part 5 of subtitle B of title
25 I of the Employee Retirement Income Security Act

1 of 1974 (29 U.S.C. 1131 et seq.) is amended by
2 adding at the end the following:

3 **“SEC. 522. DEBARMENT FOR DEFICIENT AUDITS OR FOR**
4 **FAILING TO MEET QUALIFICATION STAND-**
5 **ARDS.**

6 “(a) IN GENERAL.—If the Secretary finds, after no-
7 tice and opportunity for a hearing, that an accountant or
8 accounting firm has engaged in any act or practice, or
9 failed to act, in violation of section 103 relating to the
10 preparation and issuance of audit reports, or with profes-
11 sional standards, the Secretary may issue an order to bar
12 an accountant or accounting firm (or division or compo-
13 nent of such firm), on a temporary or permanent basis,
14 from directly or indirectly engaging in specified activities
15 relating to performing or supervising plan audits required
16 under section 103.

17 “(b) HEARINGS.—The subject of a debarment order
18 may request a hearing and file an answer not later than
19 30 days after the date of service of the notice of the debar-
20 ment order, in accordance with regulations prescribed by
21 the Secretary. Failure to request a hearing within such
22 30-day period shall constitute a waiver of the right to ap-
23 pear and contest the facts alleged in the debarment order
24 and an admission of the facts alleged in the order for pur-
25 poses of any related proceedings under this part. Such

1 order shall then become a final agency action under sec-
2 tion 704 of title 5, United States Code.

3 “(c) MODIFICATION OR TERMINATION OF ORDERS.—

4 The Secretary may modify or terminate an order issued
5 under this section, upon the request of the subject of the
6 order and pursuant to procedures established by the Sec-
7 retary, if the Secretary determines that such modification
8 or termination is in the interest of plan participants and
9 beneficiaries.

10 “(d) PUBLICITY OF ORDERS.—The Secretary shall

11 make all final orders under this section (including modi-
12 fied orders) public and shall notify applicable State regu-
13 latory organizations upon the issuance of such final orders
14 (including modified orders).

15 “(e) JURISDICTION.—Lawsuits by the subject of an

16 order to review the final order of the Secretary may be
17 brought only in the district court of the United States for
18 the district where the subject of the order has its principal
19 office or in the United States District Court for the Dis-
20 trict of Columbia.

21 “(f) REGULATIONS.—The Secretary may promulgate

22 such regulations or other guidance as may be necessary
23 or appropriate to carry out this section.”.

24 (2) CLERICAL AMENDMENT.—The table of sec-

25 tions for part 5 of subtitle B of title I of the Em-

1 ployee Retirement Income Security Act of 1974 is
2 amended by adding at the end the following new
3 item:

“522. Debarment for deficient audits or for failing to meet qualification stand-
ards.”.

4 (d) EXCEPTION.—

5 (1) IN GENERAL.—Section 103(a)(3)(C) of the
6 Employee Retirement Income Security Act of 1974
7 (29 U.S.C. 1023(a)(3)(C)) is amended by striking
8 “if such statements are certified by the bank, similar
9 institution, or insurance carrier as accurate and are
10 made part of the annual report.” and inserting “ex-
11 cept to the extent required under regulations pro-
12 mulgated by the Secretary.”.

13 (2) EFFECTIVE DATE.—The amendment made
14 by paragraph (1) shall not become effective until the
15 Secretary has promulgated final regulations with re-
16 spect to such amendment.

17 **SEC. 402. SPECIAL RULES RELATING TO TREATMENT OF**
18 **QUALIFIED DOMESTIC RELATIONS ORDERS.**

19 (a) PRESERVATION OF ASSETS.—

20 (1) AMENDMENTS TO ERISA.—Section
21 206(d)(3) of the Employee Retirement Income Secu-
22 rity Act of 1974 (29 U.S.C. 1056(d)(3)) is amend-
23 ed—

1 (A) by redesignating subparagraph (N) as
2 subparagraph (O); and

3 (B) by inserting after subparagraph (M)
4 the following:

5 “(N) PRESERVATION OF ASSETS.—

6 “(i) IN GENERAL.—If a spouse or
7 former spouse of a participant—

8 “(I) notifies a plan in writing
9 that—

10 “(aa) an action is pending
11 pursuant to a State domestic re-
12 lations law (including a commu-
13 nity property law), and

14 “(bb) all or a portion of the
15 benefits payable with respect to
16 the participant under the plan
17 are a subject of such action, and

18 “(II) includes with the notice evi-
19 dence of the pendency of the action,
20 the plan administrator shall, during the
21 segregation period, separately account for
22 50 percent of such benefits. Any amounts
23 so separately accounted for may not be dis-
24 tributed by the plan during the segregation
25 period.

1 “(ii) SEGREGATION PERIOD.—

2 “(I) IN GENERAL.—For purposes
3 of clause (i), the term ‘segregation pe-
4 riod’ means the period—

5 “(aa) beginning on the date
6 of receipt by the plan of the no-
7 tice under clause (i), and

8 “(bb) ending on the earlier
9 of—

10 “(AA) 90 days after the
11 date of receipt of such no-
12 tice, or

13 “(BB) the date of re-
14 ceipt of a domestic relations
15 order with respect to the
16 participant and the prospec-
17 tive alternate payee or the
18 date on which the action is
19 no longer pending.

20 “(II) EXTENSION OF SEGREGA-
21 TION PERIOD.—The segregation pe-
22 riod shall be extended for 1 or more
23 additional periods described in sub-
24 clause (I) upon notice by the spouse
25 or former spouse that the action de-

1 scribed in clause (i)(I)(aa) is still
2 pending as of the close of any prior
3 segregation period.”.

4 (2) AMENDMENTS TO 1986 CODE.—Section
5 414(p) of the Internal Revenue Code of 1986 is
6 amended—

7 (A) by redesignating paragraph (13) as
8 paragraph (14); and

9 (B) by inserting after paragraph (12) the
10 following:

11 “(13) PRESERVATION OF ASSETS.—

12 “(A) IN GENERAL.—If a spouse or former
13 spouse of a participant—

14 “(i) notifies a plan in writing that—

15 “(I) an action is pending pursu-
16 ant to a State domestic relations law
17 (including a community property law),
18 and

19 “(II) all or a portion of the bene-
20 fits payable with respect to the partic-
21 ipant under the plan are a subject of
22 such action, and

23 “(ii) includes with the notice evidence
24 of the pendency of the action,

1 the plan administrator shall, during the seg-
2regation period, separately account for 50 per-
3cent of such benefits. Any amounts so sepa-
4rately accounted for may not be distributed by
5the plan during the segregation period.”.

6 “(B) SEGREGATION PERIOD.—

7 “(i) IN GENERAL.—For purposes of
8subparagraph (A), the term ‘segregation
9period’ means the period—

10 “(I) beginning on the date of re-
11ceipt by the plan of the notice under
12clause (i), and

13 “(II) ending on the earlier of—

14 “(aa) 90 days after the date
15of receipt of such notice, or

16 “(bb) the date of receipt of
17a domestic relations order with
18respect to the participant and the
19prospective alternate payee or the
20date on which the action is no
21longer pending.

22 “(ii) EXTENSION OF SEGREGATION
23PERIOD.—The segregation period shall be
24extended for 1 or more additional periods
25described in clause (i) upon notice by the

1 spouse or former spouse that the action de-
2 scribed in subparagraph (A)(i)(I) is still
3 pending as of the close of any prior seg-
4 regation period.”.

5 (b) PENALTY FOR FAILURE TO PROVIDE INFORMA-
6 TION REGARDING ALTERNATE PAYEES.—

7 (1) IN GENERAL.—Section 502(c), as amended
8 by section 312, of the Employee Retirement Income
9 Security Act of 1974 (29 U.S.C. 1132(c)) is amend-
10 ed—

11 (A) by redesignating paragraphs (8), (9),
12 (10), (11), and (12) as paragraphs (9), (10),
13 (11), (12), and (13) respectively; and

14 (B) by inserting after paragraph (7) the
15 following:

16 “(8) FAILURE TO PROVIDE INFORMATION RE-
17 GARDING ALTERNATE PAYEES.—The plan adminis-
18 trator shall provide information regarding the ben-
19 efit to prospective alternative payees under a domes-
20 tic relations order under section 206(d)(3) or any
21 representative of a prospective alternative payee in
22 connection with such an order. The Secretary may
23 assess a civil penalty against any plan administrator
24 of up to \$100 a day from the date of the plan ad-

1 administrator’s failure or refusal to provide such infor-
2 mation.”.

3 (2) CONFORMING AMENDMENT.—Section
4 502(a)(6) of such Act (29 U.S.C. 1132(a)(6)), as so
5 amended, is amended by striking “or (11)” and in-
6 serting “(11), or (12)”.

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

10 **SEC. 403. CORRECTION TO BONDING REQUIREMENT.**

11 Section 412(a)(3)(D) of the Employee Retirement In-
12 come Security Act of 1974 (29 U.S.C. 1112(a)(3)(D)) is
13 amended by striking “Paragraph (2)” and inserting “This
14 paragraph”.

15 **SEC. 404. RETALIATION PROTECTIONS.**

16 Section 510 of the Employee Retirement Income Se-
17 curity Act of 1974 (29 U.S.C. 1140) is amended by insert-
18 ing “, has filed or made any oral or written complaint (in-
19 cluding to a fiduciary, an employer, or the Secretary),”
20 after “given information”.