

## ***In the Senate of the United States,***

*December 18, 2010.*

*Resolved*, That the bill from the House of Representatives (H.R. 4915) entitled “An Act to amend the Internal Revenue Code of 1986 to extend the funding and expenditure authority of the Airport and Airway Trust Fund, to amend title 49, United States Code, to extend authorizations for the airport improvement program, and for other purposes.”, do pass with the following

### **AMENDMENTS:**

Strike all after the enacting clause and insert the following:

1 ***SECTION 1. DEFINITION OF ELIGIBLE PLAN YEAR.***

2       (a) *AMENDMENT TO ERISA.*—*Clause (v) of section*  
3 *303(c)(2)(D) of the Employee Retirement Income Security*  
4 *Act of 1974 (29 U.S.C. 1083(c)(2)(D)), as added by section*  
5 *201(a)(1) of the Preservation of Access to Care for Medicare*  
6 *Beneficiaries and Pension Relief Act of 2010, is amended—*  
7           (1) *by striking “on or after the date of the enact-*  
8       *ment of this subparagraph” and inserting “on or*

1 after June 25, 2010 (March 10, 2010, in the case of  
2 an eligible plan)”, and

3 (2) by adding at the end the following new sen-  
4 tence: “For purposes of the preceding sentence, a plan  
5 shall be treated as an eligible plan only if, as of the  
6 date of the election with respect to the plan under  
7 clause (i)—

8 “(A) the plan sponsor is not a debtor in a  
9 case under title 11, United States Code, or simi-  
10 lar Federal or State law,

11 “(B) there are no unpaid minimum re-  
12 quired contributions with respect to the plan for  
13 purposes of section 4971 of the Internal Revenue  
14 Code of 1986 (imposing an excise tax when min-  
15 imum required contributions are not paid by the  
16 due date for the plan year),

17 “(C) there are no outstanding liens in favor  
18 of the plan under subsection (k), and

19 “(D) the plan sponsor has not initiated a  
20 distress termination of the plan under section  
21 4041.”.

22 (b) AMENDMENT TO INTERNAL REVENUE CODE OF  
23 1986.—Clause (v) of section 430(c)(2)(D) of the Internal  
24 Revenue Code of 1986, as added by section 201(b)(1) of the

1 *Preservation of Access to Care for Medicare Beneficiaries*  
2 *and Pension Relief Act of 2010, is amended—*

3           (1) *by striking “on or after the date of the enact-*  
4 *ment of this subparagraph” and inserting “on or*  
5 *after June 25, 2010 (March 10, 2010, in the case of*  
6 *an eligible plan)”*, and

7           (2) *by adding at the end the following new sen-*  
8 *tence: “For purposes of the preceding sentence, a plan*  
9 *shall be treated as an eligible plan only if, as of the*  
10 *date of the election with respect to the plan under*  
11 *clause (i)—*

12                   *“(A) the plan sponsor is not a debtor in a*  
13 *case under title 11, United States Code, or simi-*  
14 *lar Federal or State law,*

15                   *“(B) there are no unpaid minimum re-*  
16 *quired contributions with respect to the plan for*  
17 *purposes of section 4971 (imposing an excise tax*  
18 *when minimum required contributions are not*  
19 *paid by the due date for the plan year),*

20                   *“(C) there are no outstanding liens in favor*  
21 *of the plan under subsection (k), and*

22                   *“(D) the plan sponsor has not initiated a*  
23 *distress termination of the plan under section*  
24 *4041 of the Employee Retirement Income Secu-*  
25 *rity Act of 1974.”*

1       (c) *EFFECTIVE DATE.*—*The amendments made by this*  
2 *section shall take effect as if included in the amendments*  
3 *made by the provisions of the Preservation of Access to Care*  
4 *for Medicare Beneficiaries and Pension Relief Act of 2010*  
5 *to which the amendments relate.*

6 **SEC. 2. ELIGIBLE CHARITY PLANS.**

7       (a) *DEFINITION OF ELIGIBLE CHARITY PLANS.*—

8               (1) *IN GENERAL.*—*Section 104(d) of the Pension*  
9 *Protection Act of 2006, as added by section 202(b) of*  
10 *the Preservation of Access to Care for Medicare Bene-*  
11 *ficiaries and Pension Relief Act of 2010, is amended*  
12 *to read as follows:*

13       “(d) *ELIGIBLE CHARITY PLAN DEFINED.*—*For pur-*  
14 *poses of this section, a plan shall be treated as an eligible*  
15 *charity plan for a plan year if—*

16               “(1) *the plan is maintained by one or more em-*  
17 *ployers employing employees who are accruing bene-*  
18 *fits based on service for the plan year,*

19               “(2) *such employees are employed in at least 20*  
20 *States,*

21               “(3) *more than 98 percent of such employees are*  
22 *employed by an employer described in section*  
23 *501(c)(3) of such Code and the primary exempt pur-*  
24 *pose of each such employer is to provide services with*  
25 *respect to children, and*

1           “(4) the plan sponsor elects (at such time and in  
2           such form and manner as shall be prescribed by the  
3           Secretary of the Treasury) to be so treated.

4   Any election under this subsection may be revoked only with  
5   the consent of the Secretary of the Treasury.”.

6           (2) *EFFECTIVE DATE.*—The amendment made by  
7           this subsection shall take effect as if included in the  
8           amendment made by the provision of the Preservation  
9           of Access to Care for Medicare Beneficiaries and Pen-  
10          sion Relief Act of 2010 to which the amendment re-  
11          lates (determined after application of the amendment  
12          made by subsection (c)), except that a plan sponsor  
13          may elect to apply such amendment to plan years be-  
14          ginning on or after January 1, 2011.

15          (b) *REGULATIONS.*—The Secretary of the Treasury  
16          may prescribe such regulations as may be necessary to  
17          carry out the purposes of the amendments made by section  
18          202(b) of the Preservation of Access to Care for Medicare  
19          Beneficiaries and Pension Relief Act of 2010 and the  
20          amendment made by subsection (a).

21          (c) *APPLICATION OF NEW RULES TO ELIGIBLE CHAR-*  
22          *ITY PLANS.*—

23                 (1) *IN GENERAL.*—Paragraph (2) of section  
24          202(c) of the Preservation of Access to Care for Medi-

1 *care Beneficiaries and Pension Relief Act of 2010 is*  
 2 *amended to read as follows:*

3 “(2) *ELIGIBLE CHARITY PLANS.*—*The amend-*  
 4 *ments made by subsection (b) shall apply to plan*  
 5 *years beginning after December 31, 2010, except that*  
 6 *a plan sponsor may elect to apply such amendments*  
 7 *to plan years beginning after an earlier date.”.*

8 (2) *EFFECTIVE DATE.*—*The amendment made by*  
 9 *this subsection shall take effect as if included in the*  
 10 *amendment made by the provision of the Preservation*  
 11 *of Access to Care for Medicare Beneficiaries and Pen-*  
 12 *sion Relief Act of 2010 to which the amendment re-*  
 13 *lates.*

14 **SEC. 3. SUSPENSION OF CERTAIN FUNDING LEVEL LIMITA-**  
 15 **TIONS.**

16 (a) *LIMITATIONS ON BENEFIT ACCRUALS.*—*Section*  
 17 *203 of the Worker, Retiree, and Employer Recovery Act of*  
 18 *2008 (Public Law 110–458; 122 Stat. 5118) is amended—*

19 (1) *by striking “the first plan year beginning*  
 20 *during the period beginning on October 1, 2008, and*  
 21 *ending on September 30, 2009” and inserting “any*  
 22 *plan year beginning during the period beginning on*  
 23 *October 1, 2008, and ending on December 31, 2011”;*

24 (2) *by striking “substituting” and all that fol-*  
 25 *lows through “for such plan year” and inserting*

1       *“substituting for such percentage the plan’s adjusted*  
2       *funding target attainment percentage for the last plan*  
3       *year ending before September 30, 2009,”; and*

4             (3) *by striking “for the preceding plan year is*  
5       *greater” and inserting “for such last plan year is*  
6       *greater”.*

7       **(b) SOCIAL SECURITY LEVEL-INCOME OPTIONS.—**

8             (1) **ERISA AMENDMENT.—***Section 206(g)(3)(E)*  
9       *of the Employee Retirement Income Security Act of*  
10       *1974 is amended by adding at the end the following*  
11       *new sentence: “For purposes of applying clause (i) in*  
12       *the case of payments the annuity starting date for*  
13       *which occurs on or before December 31, 2011, pay-*  
14       *ments under a social security leveling option shall be*  
15       *treated as not in excess of the monthly amount paid*  
16       *under a single life annuity (plus an amount not in*  
17       *excess of a social security supplement described in the*  
18       *last sentence of section 204(b)(1)(G)).”.*

19             (2) **IRC AMENDMENT.—***Section 436(d)(5) of the*  
20       *Internal Revenue Code of 1986 is amended by adding*  
21       *at the end the following new sentence: “For purposes*  
22       *of applying subparagraph (A) in the case of pay-*  
23       *ments the annuity starting date for which occurs on*  
24       *or before December 31, 2011, payments under a social*  
25       *security leveling option shall be treated as not in ex-*

1       *cess of the monthly amount paid under a single life*  
2       *annuity (plus an amount not in excess of a social se-*  
3       *curity supplement described in the last sentence of*  
4       *section 411(a)(9)).”.*

5           (3) *EFFECTIVE DATE.*—

6           (A) *IN GENERAL.*—*The amendments made*  
7       *by this subsection shall apply to annuity pay-*  
8       *ments the annuity starting date for which occurs*  
9       *on or after January 1, 2011.*

10          (B) *PERMITTED APPLICATION.*—*A plan*  
11       *shall not be treated as failing to meet the re-*  
12       *quirements of sections 206(g) of the Employee*  
13       *Retirement Income Security Act of 1974 (as*  
14       *amended by this subsection) and section 436(d)*  
15       *of the Internal Revenue Code of 1986 (as so*  
16       *amended) if the plan sponsor elects to apply the*  
17       *amendments made by this subsection to pay-*  
18       *ments the annuity starting date for which occurs*  
19       *before January 1, 2011.*

20          (c) *REPEAL OF RELATED PROVISIONS.*—*The provi-*  
21       *sions of, and the amendments made by, section 203 of the*  
22       *Preservation of Access to Care for Medicare Beneficiaries*  
23       *and Pension Relief Act of 2010 are repealed and the Em-*  
24       *ployee Retirement Income Security Act of 1974, the Inter-*  
25       *nal Revenue Code of 1986, and the Worker, Retiree, and*



1 *Employer Recovery Act of 2008 (Public Law 110–458; 122*  
2 *Stat. 5118) shall be applied as if such section had never*  
3 *been enacted.*

4 **SEC. 4. OPTIONAL USE OF 30-YEAR AMORTIZATION PERI-**  
5 **ODS.**

6 (a) *AMENDMENT TO ERISA.*—Paragraph (8) of sec-  
7 tion 304(b) of the *Employee Retirement Income Security*  
8 *Act of 1974, as amended by the Preservation of Access to*  
9 *Care for Medicare Beneficiaries and Pension Relief Act of*  
10 *2010, is amended by striking “after August 31, 2008” each*  
11 *place it appears in subparagraphs (A)(i), (B)(i)(I), and*  
12 *(B)(i)(II), and inserting “on or after June 30, 2008”.*

13 (b) *AMENDMENT TO INTERNAL REVENUE CODE OF*  
14 *1986 .*—Paragraph (8) of section 431(b) of the *Internal*  
15 *Revenue Code of 1986, as amended by the Preservation of*  
16 *Access to Care for Medicare Beneficiaries and Pension Re-*  
17 *lief Act of 2010, is amended by striking “after August 31,*  
18 *2008” each place it appears in subparagraphs (A)(i) and*  
19 *(B)(i)(I) and inserting “on or after June 30, 2008”.*

20 (c) *EFFECTIVE DATE AND SPECIAL RULES.*—*The*  
21 *amendments made by this section shall take effect as of the*  
22 *first day of the first plan year beginning on or after June*  
23 *30, 2008, except that any election a plan sponsor makes*  
24 *pursuant to this section or the amendments made thereby*  
25 *that affects the plan’s funding standard account for any*

1 *plan year beginning before October 1, 2009, shall be dis-*  
2 *regarded for purposes of applying the provisions of section*  
3 *305 of the Employee Retirement Income Security Act of*  
4 *1974 and section 432 of the Internal Revenue Code of 1986*  
5 *to that plan year.*

Amend the title so as to read: “An Act to amend the Internal Revenue Code of 1986 to make technical corrections to the pension funding provisions of the Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010.”.

Attest:

*Secretary.*



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

**H.R. 4915**

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**AMENDMENTS**