

Calendar No. 425

108TH CONGRESS
2D SESSION**S. 2005****[Report No. 108–221]**

To temporarily replace the use by pension plans of the 30-year treasury bond rate with a composite corporate rate, and to establish a commission on defined benefit plans.

IN THE SENATE OF THE UNITED STATES

JANUARY 9, 2004

Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, reported under authority of the order of the Senate of December 9, 2003, the following original bill; which was read twice and placed on the calendar

A BILL

To temporarily replace the use by pension plans of the 30-year treasury bond rate with a composite corporate rate, and to establish a commission on defined benefit plans.

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.**

4 This Act may be cited as the “Pension Stability Act”.

1 **SEC. 2. TEMPORARY REPLACEMENT OF INTEREST RATE ON**
 2 **30-YEAR TREASURY SECURITIES WITH INTER-**
 3 **EST RATE ON CONSERVATIVELY INVESTED**
 4 **LONG-TERM CORPORATE BONDS.**

5 (a) EMPLOYEE RETIREMENT INCOME SECURITY ACT
 6 OF 1974.—

7 (1) DETERMINATION OF PERMISSIBLE
 8 RANGE.—

9 (A) IN GENERAL.—Section
 10 302(b)(5)(B)(ii) of the Employee Retirement
 11 Income Security Act of 1974 (29 U.S.C.
 12 1082(b)(5)(B)(ii)) is amended—

13 (i) in subclause (I), by inserting “or
 14 (III)” after “subclause (II)”;

15 (ii) by redesignating subclause (II) as
 16 subclause (III);

17 (iii) by inserting after subclause (I)
 18 the following new subclause:

19 “(II) SPECIAL RULE FOR YEARS 2004,
 20 2005, AND 2006.—In the case of plan years
 21 beginning after December 31, 2003, and
 22 before January 1, 2007, the term ‘permis-
 23 sible range’ means a rate of interest which
 24 is not above, and not more than 10 percent
 25 below, the weighted average of the conserv-
 26 ative long-term corporate bond rates dur-

ing the 4-year period ending on the last day before the beginning of the plan year. The Secretary, in consultation with the Secretary of the Treasury, shall, by regulation, prescribe a method for periodically determining conservative long-term bond rates for purposes of this subclause. Such rates shall reflect the rates of interest on amounts conservatively invested in long-term corporate bonds and shall be based on the use of 2 or more indices that are in the top 2 quality levels available reflecting average maturities of 20 years or more.”; and

(iv) in subclause (III), as so redesignated—

(I) by inserting “or (II)” after “subclause (I)” the first place it appears; and

(II) by striking “subclause (I)” the second place it appears and inserting “such subclause”.

(2) DETERMINATION OF CURRENT LIABILITY.—

Section 302(d)(7)(C)(i) of such Act (29 U.S.C.

1 1082(d)(7)(C)(i)) is amended by adding at the end
 2 the following new subclause:

3 “(IV) SPECIAL RULE FOR 2004,
 4 2005, AND 2006.—For plan years be-
 5 ginning in 2004, 2005, or 2006, not-
 6 withstanding subclause (I), the rate of
 7 interest used to determine current li-
 8 ability under this subsection shall be
 9 the rate of interest under subsection
 10 (b)(5).”.

11 (3) CONFORMING AMENDMENT.—Section
 12 302(e) of such Act (29 U.S.C. 1082(e)) is amended
 13 by striking paragraph (7) and inserting the fol-
 14 lowing:

15 “(7) SPECIAL RULE FOR 2007.—For purposes of
 16 applying paragraphs (1) and (4)(B)(ii) for plan
 17 years beginning in 2007, current liability for the
 18 preceding plan year shall be redetermined using 105
 19 percent of the annual rate of interest on 30-year
 20 Treasury securities for such preceding plan year as
 21 the specific percentage determined under subsection
 22 (d)(7)(C)(i)(II).”.

23 (4) PBGC.—Section 4006(a)(3)(E)(iii) of such
 24 Act (29 U.S.C. 1306(a)(3)(E)(iii)) is amended by
 25 adding at the end the following new subclause:

“(V) In the case of plan years beginning after December 31, 2003, and before January 1, 2007, the annual yield taken into account under subclause (II) shall be the annual yield determined by the Secretary on amounts conservatively invested in long-term corporate bonds for the month preceding the month in which the plan year begins. For purposes of the preceding sentence, the Secretary, in consultation with the Secretary of the Treasury, shall, by regulation, prescribe a method for periodically determining conservative long-term bond rates. Such rates shall reflect the rates of interest on amounts conservatively invested in long-term corporate bonds and shall be based on the use of 2 or more indices that are in the top 2 quality levels available reflecting average maturities of 20 years or more.”.

(b) INTERNAL REVENUE CODE OF 1986.—

(1) DETERMINATION OF PERMISSIBLE RANGE.—

(A) IN GENERAL.—Section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended—

(i) in subclause (I), by inserting “or (III)” after “subclause (II)”;

1 (ii) by redesignating subclause (II) as
2 subclause (III);

3 (iii) by inserting after subclause (I)
4 the following new subclause:

5 “(II) SPECIAL RULE FOR 2004,
6 2005, AND 2006.—In the case of plan
7 years beginning after December 31,
8 2003, and before January 1, 2007,
9 the term ‘permissible range’ means a
10 rate of interest which is not above,
11 and not more than 10 percent below,
12 the weighted average of the conserv-
13 ative long-term corporate bond rates
14 during the 4-year period ending on
15 the last day before the beginning of
16 the plan year. The Secretary of
17 Labor, in consultation with the Sec-
18 retary, shall, by regulation, prescribe
19 a method for periodically determining
20 conservative long-term bond rates for
21 purposes of this paragraph. Such
22 rates shall reflect the rates of interest
23 on amounts conservatively invested in
24 long-term corporate bonds and shall
25 be based on the use of 2 or more indi-

1 ces that are in the top 2 quality levels
 2 available reflecting average maturities
 3 of 20 years or more.”; and

4 (iv) in subclause (III), as so redesign-
 5 nated—

6 (I) by inserting “or (II)” after
 7 “subclause (I)” the first place it ap-
 8 pears; and

9 (II) by striking “subclause (I)”
 10 the second place it appears and insert-
 11 ing “such subclause”.

12 (2) DETERMINATION OF CURRENT LIABILITY.—

13 Section 412(l)(7)(C)(i) of such Code is amended by
 14 adding at the end the following new subclause:

15 “(IV) SPECIAL RULE FOR 2004,
 16 2005, AND 2006.—For plan years be-
 17 ginning in 2004, 2005, or 2006, not-
 18 withstanding subclause (I), the rate of
 19 interest used to determine current li-
 20 ability under this subsection shall be
 21 the rate of interest under subsection
 22 (b)(5).”.

23 (3) CONFORMING AMENDMENT.—Section
 24 412(m) of such Code is amended by striking para-
 25 graph (7) and inserting the following:

1 “(7) SPECIAL RULE FOR 2007.—For purposes of
 2 applying paragraphs (1) and (4)(B)(ii) for plan
 3 years beginning in 2007, current liability for the
 4 preceding plan year shall be redetermined using 105
 5 percent of the annual rate of interest on 30-year
 6 Treasury securities for such preceding plan year as
 7 the specific percentage determined under subsection
 8 (l)(7)(C)(i)(II).”.

9 (4) LIMITATION ON CERTAIN ASSUMPTIONS.—
 10 Section 415(b)(2)(E)(ii) of such Code is amended by
 11 striking “the applicable interest rate (as defined in
 12 section 417(e)(3))” and inserting “5.5 percent”.

13 **SEC. 3. COMMISSION ON DEFINED PENSION BENEFIT**
 14 **PLANS.**

15 (a) IN GENERAL.—Part 5 of subtitle B of title I of
 16 the Employee Retirement Income Security Act of 1974
 17 (29 U.S.C. 1131 et seq.) is amended by adding at the end
 18 the following:

19 **“SEC. 519. COMMISSION ON DEFINED PENSION BENEFIT**
 20 **PLANS.**

21 “(a) ESTABLISHMENT OF THE COMMISSION.—

22 “(1) ESTABLISHMENT.—There is established,
 23 subject to the Federal Advisory Committee Act, the
 24 Commission on Defined Benefit Pension

1 Plans (in this section referred to as the “Commis-
2 sion”).

3 “(2) MEMBERSHIP.—The Commission shall be
4 composed of 13 members of whom—

5 “(A) 1 shall be the Secretary or their des-
6 ignee;

7 “(B) 1 shall be the Secretary of the Treas-
8 ury or their designee;

9 “(C) 1 shall be the Executive Director of
10 the Pension Benefit Guaranty Corporation or
11 their designee;

12 “(D) 2 shall be appointed by the President
13 from among members of the general public;

14 “(E) 1 shall be appointed by the chairman
15 of the Committee on Health, Education, Labor,
16 and Pensions of the Senate;

17 “(F) 1 shall be appointed by the ranking
18 minority member of the Committee on Health,
19 Education, Labor, and Pensions of the Senate;

20 “(G) 1 shall be appointed by the chairman
21 of the Committee on Finance of the Senate;

22 “(H) 1 shall be appointed by the ranking
23 minority member of the Committee on Finance
24 of the Senate;

1 “(I) 1 shall be appointed by the chairman
2 of the Committee on Education and the Work-
3 force of the House of Representatives;

4 “(J) 1 shall be appointed by the ranking
5 minority member of the Committee on Edu-
6 cation and the Workforce of the House of Rep-
7 resentatives;

8 “(K) 1 shall be appointed by the chairman
9 of the Committee on Ways and Means of the
10 House of Representatives; and

11 “(L) 1 shall be appointed by the ranking
12 minority member of the Committee on Ways
13 and Means of the House of Representatives.

14 “(3) PERIOD OF APPOINTMENT; VACANCIES.—
15 Members shall be appointed for the life of the Com-
16 mission. Any vacancy in the Commission shall not
17 affect its powers, but shall be filled in the same
18 manner as the original appointment.

19 “(4) QUORUM.—A majority of the members of
20 the Commission shall constitute a quorum, but a
21 lesser number of members may hold hearings.

22 “(5) CHAIRPERSON AND VICE CHAIRPERSON.—
23 The Commission shall select a Chairperson and Vice
24 Chairperson from among its members.

25 “(b) DUTIES OF THE COMMISSION.—

1 “(1) STUDY AND RECOMMENDATIONS.—The
2 Commission shall conduct a thorough study of, and
3 shall develop recommendations on, the following
4 issues relating to defined benefit pension plans:

5 “(A) How to reform the defined benefit
6 pension plan funding rules to increase partici-
7 pants’ benefit security, provide rational and
8 predictable funding rules for employers, and
9 protect the financial independence of the Pen-
10 sion Benefit Guaranty Corporation.

11 “(B) The relevance and effectiveness of the
12 current liability rules, and, if such rules are
13 maintained, an analysis of alternative valuation
14 measures for those rules, including the rationale
15 for the measures as well as their strengths and
16 weaknesses.

17 “(C) The appropriate interest rates that
18 should be used in valuing plan liabilities, the
19 variable rate premium, and lump-sum benefits,
20 including whether the rates proposed are trans-
21 parent, widely understood, publicly available,
22 and resistant to manipulation.

23 “(D) Whether the recommended interest
24 rate would impact the investment policy of the
25 pension trust along with an analysis of the im-

1 pact on capital markets, the cost of maintaining
2 a pension plan over the long term, and the com-
3 patibility of any effect on investment policy with
4 the fiduciary requirements to diversify invest-
5 ments under this Act.

6 “(E) The appropriate mortality assump-
7 tions that should be used in valuing plan liabil-
8 ities.

9 “(F) Whether such assumptions should
10 contain a collar adjustment or should otherwise
11 be adjusted to reflect the workforce covered by
12 the plan.

13 “(G) A consideration of other actuarial as-
14 sumptions used in valuing plan liabilities.

15 “(H) Whether the same interest rate
16 should be used for purposes of both funding
17 and lump sum benefits, including consideration
18 of the effect on plan funding and other pur-
19 poses for which the interest rate is used if such
20 rate is different for those purposes.

21 “(I) The effect of the interest rate on par-
22 ticipants’ decisions whether to elect lump sum
23 benefits.

1 “(J) The appropriate means of providing
2 transition protection to participants in the
3 event changes are enacted.

4 “(K) Whether the same interest rate used
5 for funding purposes should also apply for other
6 purposes for which the rate of interest on 30-
7 year Treasury securities is currently used.

8 “(L) The need to avoid volatile funding ob-
9 ligations and how to reform the law to avoid
10 such volatility, including volatility attributable
11 to the recent downturn in the equity markets
12 and significant decrease in interest rates.

13 “(M) The need for predictability, sim-
14 plicity, and transparency with respect to the
15 calculation of funding obligations, and how to
16 reform the law to achieve such goals.

17 “(N) Effective means that would provide
18 for additional funding in favorable economic pe-
19 riods, so that funding levels can withstand mar-
20 ket downturns without requiring large contribu-
21 tions during adverse economic conditions.

22 “(O) How to design transition rules so
23 that funding reforms do not cause short-term
24 hardships for employers or employees.

1 “(P) How to ensure that revisions to fund-
 2 ing obligations do not discourage employers
 3 from maintaining pension plans.

4 “(Q) How to ensure that required disclo-
 5 sure of funding information is material and rel-
 6 evant without requiring disclosures that impose
 7 disclosure requirements that are unnecessarily
 8 burdensome, are misleading with respect to the
 9 funded status of an ongoing plan, or are not
 10 adjusted to reflect the size of the plan.

11 “(R) Other funding and benefit reforms
 12 that would promote the creation and expansion
 13 of defined benefit plans.

14 “(2) REPORT.—Not later than December 31,
 15 2005, the Commission shall submit a report to the
 16 appropriate committees of Congress containing a de-
 17 tailed statement of the findings and conclusions of
 18 the Commission, together with its recommendations
 19 for such legislation as it considers appropriate (in-
 20 cluding proposed legislative language to implement
 21 the recommendations).

22 “(c) POWERS OF THE COMMISSION.—

23 “(1) HEARINGS.—The Commission may hold
 24 such hearings, sit and act at such times and places,
 25 take such testimony, and receive such evidence as

1 the Commission considers advisable to carry out this
2 section. The Commission shall, to the maximum ex-
3 tent possible, use existing data and research prior to
4 holding such hearings

5 “(2) INFORMATION FROM FEDERAL AGEN-
6 CIES.—The Commission may secure directly from
7 any Federal department or agency such information
8 as the Commission considers necessary to carry out
9 this section. Upon request of the Chairperson of the
10 Commission, the head of such department or agency
11 shall furnish such information to the Commission.

12 “(3) POSTAL SERVICES.—The Commission may
13 use the United States mails in the same manner and
14 under the same conditions as other departments and
15 agencies of the Federal Government.

16 “(d) COMMISSION PERSONNEL MATTERS.—

17 “(1) COMPENSATION; TRAVEL EXPENSES.—
18 Each member of the Commission shall serve without
19 compensation but shall be allowed travel expenses,
20 including per diem in lieu of subsistence, at rates
21 authorized for employees of agencies under sub-
22 chapter I of chapter 57 of title 5, United States
23 Code, while away from their homes or regular places
24 of business in the performance of services for the
25 Commission.

1 “(2) STAFF AND EQUIPMENT.—The Pension
 2 Benefit Guaranty Corporation shall provide all fi-
 3 nancial, administrative, and staffing requirements
 4 for the Commission, including—

5 “(A) office space;

6 “(B) furnishings; and

7 “(C) equipment.

8 “(e) TERMINATION OF THE COMMISSION.—The Com-
 9 mission shall terminate 180 days after the date on which
 10 the Commission submits its report under subsection
 11 (b)(2).”.

12 (b) TABLE OF CONTENTS.—The table of contents for
 13 part 5 of subtitle B of title I of such Act (29 U.S.C. 1131
 14 et seq.) is amended by adding at the end the following:

“519. Commission on Defined Pension Benefit Plans.”.

15 **SEC. 4. CONGRESSIONAL ACTION.**

16 Not later than 120 days after receipt of a legislative
 17 proposal under subsection 519(b)(2) of the Employee Re-
 18 tirement Income Security Act of 1974, as added by section
 19 3, Congress shall act on such proposal.

20 **SEC. 5. EFFECTIVE DATES.**

21 (a) IN GENERAL.—Except as provided in subsections
 22 (b) and (c), the amendments made by this Act shall apply
 23 to years beginning after December 31, 2003.

24 (b) LOOKBACK RULES.—For purposes of applying
 25 subsections (l)(9)(B)(ii) and (m)(1) of section 412 of the

1 Internal Revenue Code of 1986, and subsections
2 (d)(9)(B)(ii) and (e)(1) of section 302 of the Employee
3 Retirement Income Security Act of 1974 to plan years be-
4 ginning after December 31, 2003, the amendments made
5 by this section may be applied as if such amendments had
6 been in effect for all years beginning before such date.

7 (c) TRANSITION RULE FOR SECTION 415 LIMITA-
8 TION.—In the case of any participant or beneficiary re-
9 ceiving a distribution after December 31, 2003, and before
10 January 1, 2005, the amount payable under any form of
11 benefit subject to section 417(e)(3) of the Internal Rev-
12 enue Code of 1986 and subject to adjustment under sec-
13 tion 415(b)(2)(B) of such Code shall not, solely by reason
14 of the amendment made to section 415(b)(2)(E)(ii), be
15 less than the amount that would have been so payable had
16 the amount payable been determined using the applicable
17 interest rate in effect as of the last day of the last plan
18 year beginning before January 1, 2004.

19 (e) TERMINATION DATE.—The amendments made by
20 this Act shall not apply to plan years beginning after De-
21 cember 31, 2006.

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108TH CONGRESS
2D SESSION

S. 2005

[Report No. 108-221]

A BILL

To temporarily replace the use by pension plans of the 30-year treasury bond rate with a composite corporate rate, and to establish a commission on defined benefit plans.

JANUARY 9, 2004

Read twice and placed on the calendar