

AMENDMENT NO. _____ Calendar No. _____

Purpose: To provide a complete substitute.

IN THE SENATE OF THE UNITED STATES—108th Cong., 1st Sess.

(no.) _____

(title) _____

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended
to be proposed by Mr. GREGG

Viz:

- 1 Strike all after the enacting clause and insert the fol-
- 2 lowing:
- 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 ‘permiss-
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-

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

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

17 (I) by inserting “or (II)” after
18 “subclause (I)” the first place it ap-
19 pears; and

20 (II) by striking “subclause (I)”
21 the second place it appears and insert-
22 ing “such subclause”.

23 (2) DETERMINATION OF CURRENT LIABILITY.—

24 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.—In any case in
16 which the interest rate used to determine current li-
17 ability is determined under subsection
18 (d)(7)(C)(i)(III), for purposes of applying para-
19 graphs (1) and (4)(B)(ii) for plan years beginning in
20 2007, current liability for the preceding plan year
21 shall be redetermined using 105 percent as the spe-
22 cific percentage determined under subsection
23 (d)(7)(C)(i)(II).”.

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

4 “(V) In the case of plan years beginning after
5 December 31, 2003, and before January 1, 2007,
6 the annual yield taken into account under subclause
7 (II) shall be the annual yield determined by the Sec-
8 retary on amounts conservatively invested in long-
9 term corporate bonds for the month preceding the
10 month in which the plan year begins. For purposes
11 of the preceding sentence, the Secretary, in consulta-
12 tion with the Secretary of the Treasury, shall, by
13 regulation, prescribe a method for periodically deter-
14 mining conservative long-term bond rates for pur-
15 poses of this paragraph. Such rates shall reflect the
16 rates of interest on amounts conservatively invested
17 in long-term corporate bonds and shall be based on
18 the use of 2 or more indices that are in the top 2
19 quality levels available reflecting average maturities
20 of 20 years or more.”.

21 (b) INTERNAL REVENUE CODE OF 1986.—

22 (1) DETERMINATION OF PERMISSIBLE
23 RANGE.—

1 (A) IN GENERAL.—Section
2 412(b)(5)(B)(ii) of the Internal Revenue Code
3 of 1986 is amended—

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

6 (ii) by redesignating subclause (II) as
7 subclause (III);

8 (iii) by inserting after subclause (I)
9 the following new subclause:

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

1 purposes of this paragraph. Such
2 rates shall reflect the rates of interest
3 on amounts conservatively invested in
4 long-term corporate bonds and shall
5 be based on the use of 2 or more indi-
6 ces that are in the top 2 quality levels
7 available reflecting average maturities
8 of 20 years or more.”; and

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

11 (I) by inserting “or (II)” after
12 “subclause (I)” the first place it ap-
13 pears; and

14 (II) by striking “subclause (I)”
15 the second place it appears and insert-
16 ing “such subclause”.

17 (2) DETERMINATION OF CURRENT LIABILITY.—

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

20 “(IV) SPECIAL RULE FOR 2004,
21 2005, AND 2006.—For plan years be-
22 ginning in 2004, 2005, or 2006, not-
23 withstanding subclause (I), the rate of
24 interest used to determine current li-
25 ability under this subsection shall be

1 the rate of interest under subsection
2 (b)(5).”.

3 (3) CONFORMING AMENDMENT.—Section
4 412(m) of such Code is amended by striking para-
5 graph (7) and inserting the following:

6 “(7) SPECIAL RULE FOR 2007.—In any case in
7 which the interest rate used to determine current li-
8 ability is determined under subsection
9 (l)(7)(C)(i)(III), for purposes of applying paragraphs
10 (1) and (4)(B)(ii) for plan years beginning in 2007,
11 current liability for the preceding plan year shall be
12 redetermined using 105 percent as the specific per-
13 centage determined under subsection
14 (l)(7)(C)(i)(II).”.

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

19 **SEC. 3. COMMISSION ON DEFINED PENSION BENEFIT**
20 **PLANS.**

21 Part 5 of subtitle B of title I of the Employee Retire-
22 ment Income Security Act of 1974 (29 U.S.C. 1131 et
23 seq.) is amended by adding at the end the following:

1 **“SEC. 519. COMMISSION ON DEFINED PENSION BENEFIT**
2 **PLANS.**

3 “(a) ESTABLISHMENT OF THE COMMISSION.—

4 “(1) ESTABLISHMENT.—There is established,
5 subject to the Federal Advisory Committee Act, the
6 Commission on Defined Benefit Pension
7 Plans (in this section referred to as the “Commis-
8 sion”).

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

11 “(A) 1 shall be the Secretary or their des-
12 ignee;

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

15 “(C) 1 shall be the Executive Director of
16 the Pension Benefit Guaranty Corporation or
17 their designee;

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

20 “(E) 1 shall be appointed by the chairman
21 of the Committee on Health, Education, Labor,
22 and Pensions of the Senate;

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

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

3 “(H) 1 shall be appointed by the ranking
4 minority member of the Committee on Finance
5 of the Senate;

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

9 “(J) 1 shall be appointed by the ranking
10 minority member of the Committee on Edu-
11 cation and the Workforce of the House of Rep-
12 resentatives;

13 “(K) 1 shall be appointed by the chairman
14 of the Committee on Ways and Means of the
15 House of Representatives; and

16 “(L) 1 shall be appointed by the ranking
17 minority member of the Committee on Ways
18 and Means of the House of Representatives.

19 “(3) PERIOD OF APPOINTMENT; VACANCIES.—
20 Members shall be appointed for the life of the Com-
21 mission. Any vacancy in the Commission shall not
22 affect its powers, but shall be filled in the same
23 manner as the original appointment.

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

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

7 “(b) DUTIES OF THE COMMISSION.—

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

12 “(A) How to reform the defined benefit
13 pension plan funding rules to increase partici-
14 pants’ benefit security, provide rational and
15 predictable funding rules for employers, and
16 protect the financial independence of the Pen-
17 sion Benefit Guaranty Corporation.

18 “(B) The relevance and effectiveness of the
19 current liability rules, and, if such rules are
20 maintained, an analysis of alternative valuation
21 measures for those rules, including the rationale
22 for the measures as well as their strengths and
23 weaknesses.

24 “(C) The appropriate interest rates that
25 should be used in valuing plan liabilities, the

1 variable rate premium, and lump-sum benefits,
2 including whether the rates proposed are trans-
3 parent, widely understood, publicly available,
4 and resistant to manipulation.

5 “(D) Whether the recommended interest
6 rate would impact the investment policy of the
7 pension trust along with an analysis of the im-
8 pact on capital markets, the cost of maintaining
9 a pension plan over the long term, and the com-
10 patibility of any effect on investment policy with
11 the fiduciary requirements to diversify invest-
12 ments under this Act.

13 “(E) The appropriate mortality assump-
14 tions that should be used in valuing plan liabil-
15 ities.

16 “(F) Whether such assumptions should
17 contain a collar adjustment or should otherwise
18 be adjusted to reflect the workforce covered by
19 the plan.

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

22 “(H) Whether the same interest rate
23 should be used for purposes of both funding
24 and lump sum benefits, including consideration
25 of the effect on plan funding and other pur-

1 poses for which the interest rate is used if such
2 rate is different for those purposes.

3 “(I) The effect of the interest rate on par-
4 ticipants’ decisions whether to elect lump sum
5 benefits.

6 “(J) The appropriate means of providing
7 transition protection to participants in the
8 event changes are enacted.

9 “(K) Whether the same interest rate used
10 for funding purposes should also apply for other
11 purposes for which the rate of interest on 30-
12 year Treasury securities is currently used.

13 “(L) The need to avoid volatile funding ob-
14 ligations and how to reform the law to avoid
15 such volatility, including volatility attributable
16 to the recent downturn in the equity markets
17 and significant decrease in interest rates.

18 “(M) The need for predictability, sim-
19 plicity, and transparency with respect to the
20 calculation of funding obligations, and how to
21 reform the law to achieve such goals.

22 “(N) Effective means that would provide
23 for additional funding in favorable economic pe-
24 riods, so that funding levels can withstand mar-

1 ket downturns without requiring large contribu-
2 tions during adverse economic conditions.

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

6 “(P) How to ensure that revisions to fund-
7 ing obligations do not discourage employers
8 from maintaining pension plans.

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

16 “(R) Other funding and benefit reforms
17 that would promote the creation and expansion
18 of defined benefit plans.

19 “(2) REPORT.—Not later than December 31,
20 2005, the Commission shall submit a report to the
21 appropriate committees of Congress containing a de-
22 tailed statement of the findings and conclusions of
23 the Commission, together with its recommendations
24 for such legislation as it considers appropriate (in-

1 cluding proposed legislative language to implement
2 the recommendations).

3 “(c) POWERS OF THE COMMISSION.—

4 “(1) HEARINGS.—The Commission may hold
5 such hearings, sit and act at such times and places,
6 take such testimony, and receive such evidence as
7 the Commission considers advisable to carry out this
8 Act. The Commission shall, to the maximum extent
9 possible, use existing data and research prior to
10 holding such hearings

11 “(2) INFORMATION FROM FEDERAL AGEN-
12 CIES.—The Commission may secure directly from
13 any Federal department or agency such information
14 as the Commission considers necessary to carry out
15 this Act. Upon request of the Chairperson of the
16 Commission, the head of such department or agency
17 shall furnish such information to the Commission.

18 “(3) POSTAL SERVICES.—The Commission may
19 use the United States mails in the same manner and
20 under the same conditions as other departments and
21 agencies of the Federal Government.

22 “(d) COMMISSION PERSONNEL MATTERS.—

23 “(1) COMPENSATION; TRAVEL EXPENSES.—
24 Each member of the Commission shall serve without
25 compensation but shall be allowed travel expenses,

1 including per diem in lieu of subsistence, at rates
2 authorized for employees of agencies under sub-
3 chapter I of chapter 57 of title 5, United States
4 Code, while away from their homes or regular places
5 of business in the performance of services for the
6 Commission.

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

11 “(A) office space;

12 “(B) furnishings; and

13 “(C) equipment.

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

18 **“SEC. 520. CONGRESSIONAL ACTION.**

19 Not later than 120 days after receipt of a legislative
20 proposal under section 519(b)(2), Congress shall act on
21 such proposal.”.

22 **SEC. 5. EFFECTIVE DATES.**

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

1 (b) LOOKBACK RULES.—For purposes of applying all
2 applicable lookback rules in years beginning on or after
3 the otherwise applicable effective date determined under
4 section 2, the amendments made by this Act may be ap-
5 plied as if such amendments had been in effect for all
6 years beginning before such effective date. For purposes
7 of this subsection, a lookback rule is a rule that uses data
8 from a prior year in determining requirements applicable
9 to the current year.

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

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