

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.—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:

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

17 (b) INTERNAL REVENUE CODE OF 1986.—

18 (1) DETERMINATION OF PERMISSIBLE
19 RANGE.—

20 (A) IN GENERAL.—Section
21 412(b)(5)(B)(ii) of the Internal Revenue Code
22 of 1986 is amended—

23 (i) in subclause (I), by inserting “or
24 (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
5 redesignated—

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

3 “(A) 1 shall be the Secretary or their des-
4 ignee;

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

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

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

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

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

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

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

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

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

5 “(K) 1 shall be appointed by the chairman
6 of the Committee on Ways and Means of the
7 House of Representatives; and

8 “(L) 1 shall be appointed by the ranking
9 minority member of the Committee on Ways
10 and Means of the House of Representatives.

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

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

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

22 “(b) DUTIES OF THE COMMISSION.—

23 “(1) STUDY AND RECOMMENDATIONS.—The
24 Commission shall conduct a thorough study of, and

1 shall develop recommendations on, the following
2 issues relating to defined benefit pension plans:

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

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

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

21 “(D) Whether the recommended interest
22 rate would impact the investment policy of the
23 pension trust along with an analysis of the im-
24 pact on capital markets, the cost of maintaining
25 a pension plan over the long term, and the com-

1 patibility of any effect on investment policy with
2 the fiduciary requirements to diversify invest-
3 ments under this Act.

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

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

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

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

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

22 “(J) The appropriate means of providing
23 transition protection to participants in the
24 event changes are enacted.

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

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

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

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

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

22 “(P) How to ensure that revisions to fund-
23 ing obligations do not discourage employers
24 from maintaining pension plans.

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

8 “(R) Other funding and benefit reforms
9 that would promote the creation and expansion
10 of defined benefit plans.

11 “(2) REPORT.—Not later than December 31,
12 2005, the Commission shall submit a report to the
13 appropriate committees of Congress containing a de-
14 tailed statement of the findings and conclusions of
15 the Commission, together with its recommendations
16 for such legislation as it considers appropriate (in-
17 cluding proposed legislative language to implement
18 the recommendations).

19 “(c) POWERS OF THE COMMISSION.—

20 “(1) HEARINGS.—The Commission may hold
21 such hearings, sit and act at such times and places,
22 take such testimony, and receive such evidence as
23 the Commission considers advisable to carry out this
24 Act. The Commission shall, to the maximum extent

1 possible, use existing data and research prior to
2 holding such hearings

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

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

14 “(d) COMMISSION PERSONNEL MATTERS.—

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

24 “(2) STAFF AND EQUIPMENT.—The Pension
25 Benefit Guaranty Corporation shall provide all fi-

1 nancial, administrative, and staffing requirements
2 for the Commission including—

3 “(A) office space;

4 “(B) furnishings; and

5 “(C) equipment.

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

10 **“SEC. 520. CONGRESSIONAL ACTION.**

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

14 **SEC. 5. EFFECTIVE DATES.**

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

18 (b) LOOKBACK RULES.—For purposes of applying
19 subsections (l)(9)(B)(ii) and (m)(1) of section 412 of the
20 Internal Revenue Code of 1986, and subsections
21 (d)(9)(B)(ii) and (e)(1) of section 302 of the Employee
22 Retirement Income Security Act of 1974 to plan years be-
23 ginning after December 31, 2003, the amendments made
24 by this section may be applied as if such amendments had
25 been in effect for all years beginning before such date.

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

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