

108TH CONGRESS  
1ST SESSION

# H. R. 3108

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IN THE SENATE OF THE UNITED STATES

OCTOBER 14, 2003

Received

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Read twice and referred to the Committee on Finance

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## AN ACT

To amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, 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.**

4        This Act may be cited as the “Pension Funding Eq-  
5 uity Act of 2003”.

6 **SEC. 2. FINDINGS; SENSE OF CONGRESS.**

7        (a) FINDINGS.—The Congress finds the following:

8            (1) The defined benefit pension system has re-  
9 cently experienced severe difficulties due to an un-  
10 precedented economic climate of low interest rates,  
11 market losses, and an increased number of retirees.

12            (2) The discontinuation of the issuance of 30-  
13 year Treasury securities has made the interest rate  
14 on such securities an inappropriate and inaccurate  
15 benchmark for measuring pension liabilities.

16            (3) Using the current 30-year Treasury bond  
17 interest rate has artificially inflated pension liabil-  
18 ities and therefore adversely affected both employers  
19 offering defined benefit pension plans and working  
20 families who rely on the safe and secure benefits  
21 that these plans provide.

22            (4) There is consensus among pension experts  
23 that an interest rate based on long-term, conserv-  
24 ative corporate bonds would provide a more accurate  
25 benchmark for measuring pension plan liabilities.

1           (5) A temporary replacement for the 30-year  
2 Treasury bond interest rate should be enacted while  
3 the Congress evaluates permanent and comprehen-  
4 sive funding reforms.

5           (b) SENSE OF CONGRESS.—It is the sense of the  
6 Congress that the Congress must ensure the financial  
7 health of the defined benefit pension system by working  
8 to promptly implement—

9           (1) a permanent replacement for the pension  
10 discount rate used for defined benefit pension plan  
11 calculations, and

12           (2) comprehensive funding reforms aimed at  
13 achieving accurate and sound pension funding to en-  
14 hance retirement security for workers who rely on  
15 defined pension plan benefits, to reduce the volatility  
16 of contributions, to provide plan sponsors with pre-  
17 dictability for plan contributions, and to ensure ade-  
18 quate disclosures for plan participants in the case of  
19 underfunded pension plans.

20 **SEC. 3. TEMPORARY REPLACEMENT OF 30-YEAR TREASURY**  
21 **RATE.**

22           (a) EMPLOYEE RETIREMENT INCOME SECURITY ACT  
23 OF 1974.—

24           (1) DETERMINATION OF PERMISSIBLE  
25 RANGE.—

1           (A) IN GENERAL.—Clause (ii) of section  
2           302(b)(5)(B) of the Employee Retirement In-  
3           come Security Act of 1974 is amended by re-  
4           designating subclause (II) as subclause (III)  
5           and by inserting after subclause (I) the fol-  
6           lowing new subclause:

7                   “(II) SPECIAL RULE FOR YEARS 2004  
8                   AND 2005.—In the case of plan years be-  
9                   ginning after December 31, 2003, and be-  
10                  fore January 1, 2006, the term ‘permiss-  
11                  sible range’ means a rate of interest which  
12                  is not above, and not more than 10 percent  
13                  below, the weighted average of the rates of  
14                  interest on amounts conservatively invested  
15                  in long-term corporate bonds during the 4-  
16                  year period ending on the last day before  
17                  the beginning of the plan year. Such rates  
18                  shall be determined by the Secretary on  
19                  the basis of one or more indices selected  
20                  periodically by the Secretary, and the Sec-  
21                  retary shall make the permissible range  
22                  publicly available.”.

23           (B) SECRETARIAL AUTHORITY.—Subclause  
24           (III) of section 302(b)(5)(B)(ii) of such Act, as

1 redesignated by subparagraph (A), is amend-  
2 ed—

3 (i) by inserting “or (II)” after “sub-  
4 clause (I)” the first place it appears, and

5 (ii) by striking “subclause (I)” the  
6 second place it appears and inserting  
7 “such subclause”.

8 (C) CONFORMING AMENDMENT.—Sub-  
9 clause (I) of section 302(b)(5)(B)(ii) of such  
10 Act is amended by inserting “or (III)” after  
11 “subclause (II)”.

12 (2) DETERMINATION OF CURRENT LIABILITY.—  
13 Clause (i) of section 302(d)(7)(C) of such Act is  
14 amended by adding at the end the following new  
15 subclause:

16 “(IV) SPECIAL RULE FOR 2004  
17 AND 2005.—For plan years beginning  
18 in 2004 or 2005, notwithstanding  
19 subclause (I), the rate of interest used  
20 to determine current liability under  
21 this subsection shall be the rate of in-  
22 terest under subsection (b)(5).”.

23 (3) PBGC.—Clause (iii) of section  
24 4006(a)(3)(E) of such Act is amended by adding at  
25 the end the following new subclause:

1           “(V) In the case of plan years beginning after  
2           December 31, 2003, and before January 1, 2006,  
3           the annual yield taken into account under subclause  
4           (II) shall be the annual yield determined by the Sec-  
5           retary of the Treasury on amounts conservatively in-  
6           vested in long-term corporate bonds for the month  
7           preceding the month in which the plan year begins.  
8           For purposes of the preceding sentence, the Sec-  
9           retary of the Treasury shall determine such yield on  
10          the basis of one or more indices selected periodically  
11          by the Secretary, and the Secretary shall make such  
12          yield publicly available.”.

13          (b) INTERNAL REVENUE CODE OF 1986.—

14                 (1) DETERMINATION OF PERMISSIBLE  
15                 RANGE.—

16                         (A) IN GENERAL.—Clause (ii) of section  
17                         412(b)(5)(B) of the Internal Revenue Code of  
18                         1986 is amended by redesignating subclause  
19                         (II) as subclause (III) and by inserting after  
20                         subclause (I) the following new subclause:

21                                 “(II) SPECIAL RULE FOR YEARS  
22                                 2004 AND 2005.—In the case of plan  
23                                 years beginning after December 31,  
24                                 2003, and before January 1, 2006,  
25                                 the term ‘permissible range’ means a

1 rate of interest which is not above,  
2 and not more than 10 percent below,  
3 the weighted average of the rates of  
4 interest on amounts conservatively in-  
5 vested in long-term corporate bonds  
6 during the 4-year period ending on  
7 the last day before the beginning of  
8 the plan year. Such rates shall be de-  
9 termined by the Secretary on the  
10 basis of one or more indices selected  
11 periodically by the Secretary, and the  
12 Secretary shall make the permissible  
13 range publicly available.”.

14 (B) SECRETARIAL AUTHORITY.—Subclause  
15 (III) of section 412(b)(5)(B)(ii) of such Code,  
16 as redesignated by subparagraph (A), is amend-  
17 ed—

18 (i) by inserting “or (II)” after “sub-  
19 clause (I)” the first place it appears, and

20 (ii) by striking “subclause (I)” the  
21 second place it appears and inserting  
22 “such subclause”.

23 (C) CONFORMING AMENDMENT.—Sub-  
24 clause (I) of section 412(b)(5)(B)(ii) of such

1 Code is amended by inserting “or (III)” after  
2 “subclause (II)”.

3 (2) DETERMINATION OF CURRENT LIABILITY.—  
4 Clause (i) of section 412(l)(7)(C) of such Code is  
5 amended by adding at the end the following new  
6 subclause:

7 “(IV) SPECIAL RULE FOR 2004  
8 AND 2005.—For plan years beginning  
9 in 2004 or 2005, notwithstanding  
10 subclause (I), the rate of interest used  
11 to determine current liability under  
12 this subsection shall be the rate of in-  
13 terest under subsection (b)(5).”.

14 (c) EFFECTIVE DATE.—

15 (1) IN GENERAL.—Except as provided in para-  
16 graph (2), the amendments made by this section  
17 shall apply to years beginning after December 31,  
18 2003.

19 (2) LOOKBACK RULES.—For purposes of apply-  
20 ing subsections (l)(9)(B)(ii) and (m)(1) of section  
21 412 of the Internal Revenue Code of 1986 and sub-  
22 sections (d)(9)(B)(ii) and (e)(1) of section 302 of  
23 the Employee Retirement Income Security Act of  
24 1974 to plan years beginning after December 31,  
25 2003, the amendments made by this section may be



1 applied as if such amendments had been in effect for  
2 all years beginning before such date.

Passed the House of Representatives October 8,  
2003.

Attest:

JEFF TRANDAHL,

*Clerk.*