

103^D CONGRESS
1ST SESSION

S. 105

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. JEFFORDS (for himself, Mr. DURENBERGER and Mrs. KASSEBAUM) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to improve pension plan funding.

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 Im-
5 provement Act of 1993”.

1 **TITLE I—AMENDMENTS TO PEN-**
2 **SION PLAN FUNDING RE-**
3 **QUIREMENTS**

4 **SEC. 101. AMENDMENTS TO INTERNAL REVENUE CODE OF**
5 **1986.**

6 (a) GENERAL RULE.—Subsection (a) of section 412
7 of the Internal Revenue Code of 1986 (relating to mini-
8 mum funding standards) is amended to read as follows:

9 “(a) GENERAL RULE.—

10 “(1) PLANS TO WHICH SECTION APPLIES.—Ex-
11 cept as provided in subsection (h), this section ap-
12 plies to a plan if, for any plan year beginning on or
13 after the effective date of this section for such
14 plan—

15 “(A) such plan included a trust which was
16 qualified (or was determined by the Secretary
17 to have qualified) under section 401(a), or

18 “(B) such plan satisfied (or was deter-
19 mined by the Secretary to have satisfied) the
20 requirements of section 403(a).

21 “(2) SATISFACTION OF MINIMUM FUNDING
22 STANDARD.—A plan to which this section applies
23 shall have satisfied the minimum funding standard
24 for such plan for a plan year if, as of the end of

1 such plan year, the plan does not have an accumu-
2 lated funding deficiency.

3 “(3) ACCUMULATED FUNDING DEFICIENCY.—
4 For purposes of this section and section 4971, the
5 term ‘accumulated funding deficiency’ means for any
6 plan the largest of—

7 “(A) the lesser of—

8 “(i) the excess of the total charges to
9 the funding standard account for all plan
10 years (beginning with the first plan year to
11 which this section applies) over the total
12 credits to such account for such years;

13 “(ii) the excess of the total charges to
14 the alternative minimum funding standard
15 account for such plan years over the total
16 credits to such account for such years;

17 “(B) the excess (if any) of the
18 underfunding reduction requirement (if any) for
19 the plan year applicable under subsection (l)
20 over the amount considered contributed by the
21 employer to or under the plan for the plan year;
22 or

23 “(C) the excess (if any) of the solvency
24 maintenance requirement (if any) for the plan
25 year applicable under subsection (o) over the

1 amount considered contributed by the employer
2 to or under the plan for the plan year.

3 In any plan year in which a multiemployer plan is
4 in reorganization, the accumulated funding defi-
5 ciency of the plan shall be determined under section
6 418B.”

7 (b) UNDERFUNDING REDUCTION REQUIREMENT.—
8 Subsection (l) of section 412 of such Code is amended to
9 read as follows:

10 “(l) UNDERFUNDING REDUCTION REQUIREMENT
11 FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

12 “(1) UNDERFUNDING REDUCTION REQUIRE-
13 MENT.—In the case of a defined benefit plan (other
14 than a multiemployer plan) which has a funded cur-
15 rent liability percentage of less than 100 percent (as
16 of the first day of the plan year), the underfunding
17 reduction requirement for such plan year is the sum
18 of—

19 “(A) an amount equal to the product of—

20 “(i) the unfunded current liability of
21 the plan (as of such first day), multiplied
22 by

23 “(ii) 30 percent, reduced by the prod-
24 uct of—

25 “(I) .25 multiplied by

1 “(II) the excess (if any) of the
2 funded current liability percentage of
3 the plan (as of such first day) over 35
4 percent;

5 “(B) the expected increase in the current
6 liability attributable to benefits accruing during
7 the plan year;

8 “(C) the amount described in subsection
9 (b)(2)(C) as necessary to amortize any waived
10 funding deficiency; and

11 “(D) the unpredictable contingent event
12 amount (if any) for such plan year.

13 The underfunding reduction requirement shall not
14 exceed the sum of the amount necessary to increase
15 the funded current liability percentage (as of such
16 first day) to 100 percent and the amount determined
17 under subparagraph (B).

18 “(2) UNPREDICTABLE CONTINGENT EVENT
19 AMOUNT.—

20 “(A) IN GENERAL.—The unpredictable
21 contingent event amount with respect to a plan
22 for any plan year is an amount equal to the
23 greater of—

24 “(i) the applicable percentage of the
25 product of—

1 “(I) 100 percent, reduced (but
2 not below zero) by the funded current
3 liability percentage for the plan year,
4 multiplied by

5 “(II) the amount of unpredict-
6 able contingent event benefits paid
7 during the plan year, including (ex-
8 cept as provided by the Secretary) any
9 payment for the purchase of an annu-
10 ity contract for a participant or bene-
11 ficiary with respect to such benefits,
12 or

13 “(ii) the amount which would be de-
14 termined for the plan year if the unpredict-
15 able contingent event benefit liabilities
16 were amortized in equal annual install-
17 ments over 7 plan years (beginning with
18 the plan year in which such event occurs).

19 “(B) APPLICABLE PERCENTAGE.—

“In the case of plan years beginning in:	The applicable percentage is:
1989 and 1990	5
1991	10
1992	15
1993	20
1994	30
1995	40
1996	50
1997	60
1998	70
1999	80
2000	90
2001 and thereafter	100

1 “(C) PARAGRAPH NOT TO APPLY TO EX-
2 ISTING BENEFITS.—This paragraph shall not
3 apply to unpredictable contingent event benefits
4 (and liabilities attributable thereto) for which
5 the event occurred before the first plan year be-
6 ginning after December 31, 1988.

7 “(D) SPECIAL RULE FOR FIRST YEAR OF
8 AMORTIZATION.—Unless the employer elects
9 otherwise, the amount determined under sub-
10 paragraph (A) for the plan year in which the
11 event occurs shall be equal to 150 percent of
12 the amount determined under subparagraph
13 (A)(i). The amount under subparagraph (A)(ii)
14 for subsequent plan years in the amortization
15 period shall be adjusted in the manner provided
16 by the Secretary to reflect the application of
17 this subparagraph.

18 “(3) CURRENT LIABILITY.—For purposes of
19 this subsection and subsection (o)—

20 “(A) IN GENERAL.—The term “current li-
21 ability” means all liabilities to employees and
22 their beneficiaries under the plan.

23 “(B) TREATMENT OF UNPREDICTABLE
24 CONTINGENT EVENT BENEFITS.—

1 “(i) IN GENERAL.—For purposes of
2 subparagraph (A), any unpredictable con-
3 tingent event benefit shall not be taken
4 into account until the event on which the
5 benefit is contingent occurs.

6 “(ii) UNPREDICTABLE CONTINGENT
7 EVENT BENEFIT.—The term ‘unpredictable
8 contingent event benefit’ means any benefit
9 contingent on an event other than—

10 “(I) age, service, compensation,
11 death, or disability, or

12 “(II) an event which is reason-
13 ably and reliably predictable (as deter-
14 mined by the Secretary).

15 “(C) INTEREST RATES USED.—The rate of
16 interest used to determine current liability shall
17 be the rate of interest used under subsection
18 (b)(5); except the permissible range under sub-
19 paragraph (B)(ii) of subsection (b)(5) shall not
20 exceed 100 percent of the weighted average re-
21 ferred to in such subparagraph.

22 “(D) CERTAIN SERVICE DISREGARDED.—

23 “(i) IN GENERAL.—In the case of a
24 participant to whom this subparagraph ap-
25 plies, only the applicable percentage of the

1 years of service before such individual be-
2 came a participant shall be taken into ac-
3 count in computing the current liability of
4 the plan.

5 “(ii) APPLICABLE PERCENTAGE.—For
6 purposes of clause (i), the applicable per-
7 centage shall be determined as follows:

“If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100

8 “(iii) PARTICIPANTS TO WHOM THIS
9 SUBPARAGRAPH APPLIES.—This subpara-
10 graph shall apply to any participant who,
11 at the time of becoming a participant—

12 “(I) has not accrued any other
13 benefit under any defined benefit plan
14 (whether or not terminated) main-
15 tained by the employer or a member
16 of the same controlled group of which
17 the employer is a member,

18 “(II) who first becomes a partici-
19 pant under the plan in a plan year be-
20 ginning after December 31, 1987, and

21 “(III) has years of service great-
22 er than the minimum years of service

1 necessary for eligibility to participate
2 in the plan.

3 “(iv) ELECTION.—An employer may
4 elect not to have this subparagraph apply.
5 Such an election, once made, may be re-
6 voked only with the consent of the Sec-
7 retary.

8 “(4) OTHER DEFINITIONS.—For purposes of
9 this subsection and subsection (o)—

10 “(A) UNFUNDED CURRENT LIABILITY.—
11 The term ‘unfunded current liability’ means,
12 with respect to any plan year, the excess (if
13 any) of—

14 “(i) the current liability under the
15 plan, over

16 “(ii) the value of the plan assets de-
17 termined under subsection (c)(2), reduced
18 by any credit balance in the funding stand-
19 ard account.

20 “(B) FUNDED CURRENT LIABILITY PER-
21 CENTAGE.—The term ‘funded current liability
22 percentage’ means, with respect to any plan
23 year, the percentage which—

24 “(i) the amount determined under
25 subparagraph (A)(ii), is of

1 “(ii) the current liability under the
2 plan.

3 “(5) SPECIAL RULES FOR SMALL PLANS.—

4 “(A) PLANS WITH 100 OR FEWER PARTICI-
5 PANTS.—This subsection and subsection (o)
6 shall not apply to any plan for any plan year
7 if on each day during the preceding plan year
8 such plan had no more than 100 participants.

9 “(B) PLANS WITH MORE THAN 100 BUT
10 NOT MORE THAN 150 PARTICIPANTS.—In the
11 case of a plan to which subparagraph (A) does
12 not apply and which on each day during the
13 preceding year had no more than 150 partici-
14 pants, the additional amounts required by the
15 underfunding reduction requirement under this
16 subsection or the solvency maintenance require-
17 ment under subsection (o) shall be equal to the
18 product of—

19 “(i) the excess of such requirements
20 (determined without regard to this sub-
21 paragraph) over the funding deficiency (if
22 any) under subsection (b), multiplied by,

23 “(ii) 2 percent for the highest number
24 of participants in excess of 100 on any
25 such day.

1 “(C) AGGREGATION OF PLANS.—For pur-
2 poses of this paragraph, all defined benefit
3 plans maintained by the same employer (or any
4 member of such employer’s controlled group)
5 shall be treated as 1 plan, but only employees
6 of such employer or member shall be taken into
7 account.

8 “(D) CONTROLLED GROUP.—For purposes
9 of this paragraph, the term ‘controlled group’
10 means any group treated as a single employer
11 under subsection (b), (c), (m), or (o) of section
12 414.”

13 (c) SOLVENCY MAINTENANCE REQUIREMENTS.—
14 Section 412 of such Code is amended by adding at the
15 end thereof the following new subsection:

16 “(o) SOLVENCY MAINTENANCE REQUIREMENT FOR
17 PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

18 “(1) SOLVENCY MAINTENANCE REQUIRE-
19 MENT.—In the case of a defined benefit plan (other
20 than a multiemployer plan) which has a funded cur-
21 rent liability percentage of less than 100 percent (as
22 of the first day of the plan year), the solvency main-
23 tenance requirement for such plan year is the sum
24 of—

25 “(A) the sum of:

1 “(i) all disbursements from the plan
2 for the plan year, and

3 “(ii) an amount equal to the unfunded
4 current liability of the plan (as of such
5 first day) multiplied by the interest rate
6 used by such plan to determine current li-
7 ability,

8 “(B) the amount determined under sub-
9 section (l)(1)(B), and

10 “(C) the amount determined under sub-
11 section (l)(1)(C).

12 The solvency maintenance requirement shall not ex-
13 ceed the sum of the amount necessary to increase
14 the funded liability percentage (as of such first day)
15 to 100 percent and the amount determined under
16 subparagraph (B).

17 “(2) LIMITATION ON SOLVENCY MAINTENANCE
18 REQUIREMENT.—

19 “(A) IN GENERAL.—The amount required
20 under paragraph (1) for any plan year shall not
21 exceed the sum of—

22 “(i) the amount required under sub-
23 section (l); and

24 “(ii) the product of—

1 “(I) the excess (if any) of the
 2 amount required under paragraph (1)
 3 over the amount required under sub-
 4 section (l); multiplied by

5 “(II) the applicable percentage,

6 “(B) APPLICABLE PERCENTAGE.—For
 7 purposes of subparagraph (A), the applicable
 8 percentage is:

“For plan years beginning in:	The applicable percentage is:
1993	20 percent
1994	40 percent
1995	60 percent
1996	80 percent
1997 or thereafter	100 percent.

9 “(3) DISBURSEMENTS FROM THE PLAN.—

10 “(A) IN GENERAL.—The term ‘disburse-
 11 ments from the plan’ means benefit payments,
 12 including purchases of annuities or payment of
 13 lump sums in satisfaction of liabilities, adminis-
 14 trative expenditures or any other disbursements
 15 from the plan or its trust.

16 “(B) SPECIAL RULE FOR PURCHASES OF
 17 ANNUITIES AND PAYMENT OF LUMP SUMS.—In
 18 determining the applicable amounts attributable
 19 to purchases of annuities or the payment of
 20 lump sums under clause (i), the actual purchase
 21 or lump sum amounts paid by the plan or trust

1 shall be multiplied by the excess (if any) of one
2 over the initial funding ratio of the plan.”

3 (d) **TRANSITION USE OF CREDIT BALANCES FROM**
4 **PLAN YEARS BEFORE 1994.**—At the election of the em-
5 ployer maintaining a defined benefit plan subject to the
6 requirements of section 412 of the Internal Revenue Code
7 of 1986, the amounts required under sections 412(l) and
8 412(o) of such Code, as amended by this Act, may be re-
9 duced by the net of (1) the sum of credits to the funding
10 standard account for plan years beginning on or before
11 December 31, 1993, arising under clauses (ii) and (iii) of
12 section 412(b)(3)(B) of such Code and for amounts con-
13 sidered contributed by the employer under section
14 412(b)(3)(A) of such Code (to the extent necessary to
15 avoid an accumulated funding deficiency under section
16 412(b) of such Code) and (2) charges to the funding
17 standard account for plan years beginning on or before
18 December 31, 1993, arising under clauses (iv) and (v) of
19 section 412(b)(2)(B) of such Code.

20 **SEC. 102. AMENDMENTS TO ERISA.**

21 (a) **GENERAL RULE.**—Section 302(a)(2) of the Em-
22 ployee Retirement Income Security Act of 1974 is amend-
23 ed by striking “the excess of the total charges to the fund-
24 ing standard account” through the end of that sentence,
25 and inserting “the largest of—

1 “(A) the lesser of—

2 “(i) the excess of the total charges to
3 the funding standard account for all plan
4 years (beginning with the first plan year to
5 which this section applies) over the total
6 credits to such account for such years;

7 “(ii) the excess of the total charges to
8 the alternative minimum funding standard
9 account for such plan years over the total
10 credits to such account for such years;

11 “(B) the excess (if any) of the
12 underfunding reduction requirement (if any) for
13 the plan year applicable under subsection (d)
14 over the amount considered contributed by the
15 employer to or under the plan for the plan year;
16 or

17 “(C) the excess (if any) of the solvency
18 maintenance requirement (if any) for the plan
19 year applicable under subsection (g) over the
20 amount considered contributed by the employer
21 to or under the plan for the plan year.”

22 (b) UNDERFUNDING REDUCTION REQUIREMENT.—
23 Subsection (d) of section 302 of such Act is amended to
24 read as follows:

1 “(d) UNDERFUNDING REDUCTION REQUIREMENT
2 FOR PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

3 “(1) UNDERFUNDING REDUCTION REQUIRE-
4 MENT.—In the case of a defined benefit plan (other
5 than a multiemployer plan) which has a funded cur-
6 rent liability percentage of less than 100 percent (as
7 of the first day of the plan year), the underfunding
8 reduction requirement for such plan year is the sum
9 of—

10 “(A) an amount equal to the product of—

11 “(i) the funded current liability per-
12 centage of the plan (as of such first day),
13 multiplied by

14 “(ii) 30 percent, reduced by the prod-
15 uct of—

16 “(I) .25 multiplied by

17 “(II) the excess (if any) of the
18 funded current liability percentage of
19 the plan (as of such first day) over 35
20 percent;

21 “(B) the expected increase in the current
22 liability attributable to benefits accruing during
23 the plan year;

1 “(C) the amount described in subsection
2 (b)(2)(C) as necessary to amortize any waived
3 funding deficiency; and

4 “(D) the unpredictable contingent event
5 amount (if any) for such plan year.

6 The underfunding reduction requirement shall not
7 exceed the sum of the amount necessary to increase
8 the funded current liability percentage (as of such
9 first day) to 100 percent and the amount determined
10 under subparagraph (B).

11 “(2) UNPREDICTABLE CONTINGENT EVENT
12 AMOUNT.—

13 “(A) IN GENERAL.—The unpredictable
14 contingent event amount with respect to a plan
15 for any plan year is an amount equal to the
16 greater of—

17 “(i) the applicable percentage of the
18 product of—

19 “(I) 100 percent, reduced (but
20 not below zero) by the funded current
21 liability percentage for the plan year,
22 multiplied by

23 “(II) the amount of unpredict-
24 able contingent event benefits paid
25 during the plan year, including (ex-

1 cept as provided by the Secretary) any
 2 payment for the purchase of an annu-
 3 ity contract for a participant or bene-
 4 ficiary with respect to such benefits,
 5 or

6 “(ii) the amount which would be de-
 7 termined for the plan year if the unpredict-
 8 able contingent event benefit liabilities
 9 were amortized in equal annual install-
 10 ments over 7 plan years (beginning with
 11 the plan year in which such event occurs).

12 “(B) APPLICABLE PERCENTAGE.—

“In the case of plan years beginning in:	The applicable percentage is:
1989 and 1990	5
1991	10
1992	15
1993	20
1994	30
1995	40
1996	50
1997	60
1998	70
1999	80
2000	90
2001 and thereafter	100

13 “(C) PARAGRAPH NOT TO APPLY TO EX-
 14 ISTING BENEFITS.—This paragraph shall not
 15 apply to unpredictable contingent event benefits
 16 (and liabilities attributable thereto) for which
 17 the event occurred before the first plan year be-
 18 ginning after December 31, 1988

1 “(D) SPECIAL RULE FOR FIRST YEAR OF
2 AMORTIZATION.—Unless the employer elects
3 otherwise, the amount determined under sub-
4 paragraph (A) for the plan year in which the
5 event occurs shall be equal to 150 percent of
6 the amount determined under subparagraph
7 (A)(i). The amount under subparagraph (A)(ii)
8 for subsequent plan years in the amortization
9 period shall be adjusted in the manner provided
10 by the Secretary to reflect the application of
11 this subparagraph.

12 “(3) CURRENT LIABILITY.—For purposes of
13 this subsection and subsection (g)—

14 “(A) IN GENERAL.—The term “current li-
15 ability” means all liabilities to employees and
16 their beneficiaries under the plan.

17 “(B) TREATMENT OF UNPREDICTABLE
18 CONTINGENT EVENT BENEFITS.—

19 “(i) IN GENERAL.—For purposes of
20 subparagraph (A), any unpredictable con-
21 tingent event benefit shall not be taken
22 into account until the event on which the
23 benefit is contingent occurs.

24 “(ii) UNPREDICTABLE CONTINGENT
25 EVENT BENEFIT.—The term ‘unpredictable

1 contingent event benefit' means any benefit
2 contingent on an event other than—

3 “(I) age, service, compensation,
4 death, or disability, or

5 “(II) an event which is reason-
6 ably and reliably predictable (as deter-
7 mined by the Secretary).

8 “(C) INTEREST RATES USED.—The rate of
9 interest used to determine current liability shall
10 be the rate of interest used under subsection
11 (b)(5); except that the permissible range under
12 subparagraph (B)(ii) of subsection (b)(5) shall
13 not exceed 100 percent of the weighted average
14 referred to in such subparagraph.

15 “(D) CERTAIN SERVICE DISREGARDED.—

16 “(i) IN GENERAL.—In the case of a
17 participant to whom this subparagraph ap-
18 plies, only the applicable percentage of the
19 years of service before such individual be-
20 came a participant shall be taken into ac-
21 count in computing the current liability of
22 the plan.

23 “(ii) APPLICABLE PERCENTAGE.—For
24 purposes of clause (i), the applicable per-
25 centage shall be determined as follows:

“If the years of participation are:	The applicable percentage is:
1	20
2	40
3	60
4	80
5 or more	100

1 “(iii) PARTICIPANTS TO WHOM THIS
 2 SUBPARAGRAPH APPLIES.—This subpara-
 3 graph shall apply to any participant who,
 4 at the time of becoming a participant—

5 “(I) has not accrued any other
 6 benefit under any defined benefit plan
 7 (whether or not terminated) main-
 8 tained by the employer or a member
 9 of the same controlled group of which
 10 the employer is a member,

11 “(II) who first becomes a partici-
 12 pant under the plan in a plan year be-
 13 ginning after December 31, 1987, and

14 “(III) has years of service great-
 15 er than the minimum years of service
 16 necessary for eligibility to participate
 17 in the plan.

18 “(iv) ELECTION.—An employer may
 19 elect not to have this subparagraph apply.
 20 Such an election, once made, may be re-
 21 voked only with the consent of the Sec-
 22 retary.

1 “(4) OTHER DEFINITIONS.—For purposes of
2 this subsection and subsection (o)—

3 “(A) UNFUNDED CURRENT LIABILITY.—

4 The term ‘unfunded current liability’ means,
5 with respect to any plan year, the excess (if
6 any) of—

7 “(i) the current liability under the
8 plan, over

9 “(ii) the value of the plan assets de-
10 termined under subsection (c)(2), reduced
11 by any credit balance in the funding stand-
12 ard account.

13 “(B) FUNDED CURRENT LIABILITY PER-
14 CENTAGE.—The term ‘funded current liability
15 percentage’ means, with respect to any plan
16 year, the percentage which—

17 “(i) the amount determined under
18 subparagraph (A)(ii), is of

19 “(ii) the current liability under the
20 plan.

21 “(5) SPECIAL RULES FOR SMALL PLANS.—

22 “(A) PLANS WITH 100 OR FEWER PARTICI-
23 PANTS.—This subsection and subsection (g)
24 shall not apply to any plan for any plan year

1 if on each day during the preceding plan year
2 such plan had no more than 100 participants.

3 “(B) PLANS WITH MORE THAN 100 BUT
4 NOT MORE THAN 150 PARTICIPANTS.—In the
5 case of a plan to which subparagraph (A) does
6 not apply and which on each day during the
7 preceding year had no more than 150 partici-
8 pants, the additional amounts required by the
9 underfunding reduction requirement under this
10 subsection or the solvency maintenance require-
11 ment under subsection (g) shall be equal to the
12 product of—

13 “(i) the excess of such requirements
14 (determined without regard to this sub-
15 paragraph) over the funding deficiency (if
16 any) under subsection (b), multiplied by,

17 “(ii) 2 percent for the highest number
18 of participants in excess of 100 on any
19 such day.

20 “(C) AGGREGATION OF PLANS.—For pur-
21 poses of this paragraph, all defined benefit
22 plans maintained by the same employer (or any
23 member of such employer’s controlled group)
24 shall be treated as 1 plan, but only employees

1 of such employer or member shall be taken into
2 account.

3 “(D) CONTROLLED GROUP.—For purposes
4 of this paragraph, the term ‘controlled group’
5 means any group treated as a single employer
6 under subsection (b), (c), (m), or (o) of section
7 414.”

8 (c) SOLVENCY MAINTENANCE REQUIREMENTS.—
9 Section 302 of such Act is amended—

10 (1) by redesignating subsections (g) and (h) as
11 subsections (h) and (i), respectively, and

12 (2) by inserting after subsection (f) the follow-
13 ing new subsection:

14 “(g) SOLVENCY MAINTENANCE REQUIREMENT FOR
15 PLANS THAT ARE NOT MULTIEMPLOYER PLANS.—

16 “(1) SOLVENCY MAINTENANCE REQUIRE-
17 MENT.—In the case of a defined benefit plan (other
18 than a multiemployer plan) which has a funded cur-
19 rent liability percentage of less than 100 percent (as
20 of the first day of the plan year), the solvency main-
21 tenance requirement for such plan year is the sum
22 of—

23 “(A) the sum of:

24 “(i) all disbursements from the plan
25 for the plan year, and

1 “(ii) an amount equal to the unfunded
2 current liability of the plan (as of such
3 first day) multiplied by the interest rate
4 used by such plan to determine current li-
5 ability,

6 “(B) the amount determined under sub-
7 section (d)(1)(B), and

8 “(C) the amount determined under sub-
9 section (d)(1)(C).

10 The solvency maintenance requirement shall not ex-
11 ceed the sum of the amount necessary to increase
12 the funded liability percentage (as of such first day)
13 to 100 percent and the amount determined under
14 subparagraph (B).

15 “(2) LIMITATION ON SOLVENCY MAINTENANCE
16 REQUIREMENT.—

17 “(A) IN GENERAL.—The amount required
18 under paragraph (1) for any plan year shall not
19 exceed the sum of—

20 “(i) the amount required under sub-
21 section (d); and

22 “(ii) the product of—

23 “(I) the excess (if any) of the
24 amount required under paragraph (1)

1 over the amount required under sub-
 2 section (d); multiplied by

3 “(II) the applicable percentage,

4 “(B) APPLICABLE PERCENTAGE.—For
 5 purposes of subparagraph (A), the applicable
 6 percentage is:

“For plan years beginning in:	The applicable percentage is:
1993	20 percent
1994	40 percent
1995	60 percent
1996	80 percent
1997 or thereafter	100 percent.

7 “(3) DISBURSEMENTS FROM THE PLAN.—

8 “(A) IN GENERAL.—The term ‘disburse-
 9 ments from the plan’ means benefit payments,
 10 including purchases of annuities or payment of
 11 lump sums in satisfaction of liabilities, adminis-
 12 trative expenditures or any other disbursements
 13 from the plan or its trust.

14 “(B) SPECIAL RULE FOR PURCHASES OF
 15 ANNUITIES AND PAYMENT OF LUMP SUMS.—In
 16 determining the applicable amounts attributable
 17 to purchases of annuities or the payment of
 18 lump sums under clause (i), the actual purchase
 19 or lump sum amounts paid by the plan or trust
 20 shall be multiplied by the excess (if any) of one
 21 over the initial funding ratio of the plan.”

1 (d) TRANSITION USE OF CREDIT BALANCES FROM
2 PLAN YEARS BEFORE 1994.—At the election of the em-
3 ployer maintaining a defined benefit plan subject to the
4 requirements of section 302 of the Employee Retirement
5 Income Security Act of 1974, the amounts required under
6 sections 302(d) and 302(g) of such Act, as amended by
7 this Act, may be reduced by the net of (1) the sum of
8 credits to the funding standard account for plan years be-
9 ginning on or before December 31, 1993, arising under
10 clauses (ii) and (iii) of section 302(b)(3)(B) of such Act
11 and for amounts considered contributed by the employer
12 under section 302(b)(3)(A) of such Act (to the extent nec-
13 essary to avoid an accumulated funding deficiency under
14 section 302(f) of such Act) and (2) charges to the funding
15 standard account for plan years beginning on or before
16 December 31, 1993, arising under clauses (iv) and (v) of
17 section 302(b)(2)(B) of such Act.

18 **SEC. 103. EFFECTIVE DATES.**

19 The amendments made by this title shall apply to
20 plan years beginning after December 31, 1993.

1 **TITLE II—REQUIRED SECURITY**
2 **FOR CERTAIN PLAN AMEND-**
3 **MENTS**

4 **SEC. 201. AMENDMENTS TO INTERNAL REVENUE CODE OF**
5 **1986.**

6 (a) INCREASE IN REQUIRED FUNDING PERCENT-
7 AGE.—

8 (1) IN GENERAL.—Clause (ii) of section
9 401(a)(29)(A) of the Internal Revenue Code of 1986
10 is amended by striking “60 percent” and inserting
11 “90 percent”.

12 (2) CONFORMING AMENDMENT.—Subparagraph
13 (D) of section 401(a)(29) of such Code is amended
14 by striking “60 percent” and inserting “90 per-
15 cent”.

16 (b) INCREASE IN REQUIRED AMOUNT OF SECUR-
17 RITY.—

18 (1) IN GENERAL.—Subparagraph (C) of section
19 401(a)(29) of such Code is amended to read as fol-
20 lows:

21 “(C) AMOUNT OF SECURITY.—The security
22 shall be an amount equal to the excess of—

23 “(i) the amount of additional plan as-
24 sets which would be necessary to increase
25 the funded current liability percentage

1 under the plan to 90 percent, including the
2 amount of the unfunded current liability
3 under the plan attributable to the plan
4 amendment, over

5 “(ii) \$1,000,000.”

6 (2) CONFORMING AMENDMENT.—Subparagraph
7 (E) of section 401(a)(29) of such Code is amended
8 by striking “, except that” and all that follows and
9 inserting a period.

10 (c) PROVISIONS MADE APPLICABLE TO MULTIEM-
11 PLOYER PLANS.—Clause (i) of section 401(a)(29)(A) of
12 such Code is amended by striking “(other than a multiem-
13 ployer plan)”.

14 **SEC. 202. AMENDMENTS TO EMPLOYEE RETIREMENT IN-**
15 **COME SECURITY ACT OF 1974.**

16 (a) INCREASE IN REQUIRED FUNDING PERCENT-
17 AGE.—

18 (1) IN GENERAL.—Paragraph (2) of section
19 307(a) of the Employee Retirement Income Security
20 Act of 1974 is amended by striking “60 percent”
21 and inserting “90 percent”.

22 (2) CONFORMING AMENDMENT.—Subsection (d)
23 of section 302 of such Act is amended by striking
24 “60 percent” and inserting “90 percent”.

1 (b) INCREASE IN AMOUNT OF REQUIRED SECUR-
2 RITY.—

3 (1) IN GENERAL.—Subsection (c) of section
4 307 of such Act is amended to read as follows:

5 “(c) AMOUNT OF SECURITY.—The security shall be
6 in an amount equal to the excess (if any) of—

7 “(1) the amount of additional plan assets which
8 would be necessary to increase the funded current li-
9 ability percentage under the plan to 90 percent, in-
10 cluding the amount of the unfunded current liability
11 under the plan attributable to the plan amendment,
12 over

13 “(2) \$1,000,000.”

14 (2) CONFORMING AMENDMENT.—Subsection (f)
15 of section 307 of such Act is amended by striking
16 “, except that” and all that follows and inserting a
17 period.

18 (c) PROVISIONS MADE APPLICABLE TO MULTIEM-
19 PLOYER PLANS.—Paragraph (1) of section 307(a) of such
20 Act is amended by striking “(other than a multiemployer
21 plan)”.

22 (d) CRIMINAL PENALTY MADE APPLICABLE.—Sec-
23 tion 501 of such Act is amended by inserting “or of sec-
24 tion 307” after “this subtitle”.

1 **SEC. 203. EFFECTIVE DATE.**

2 The amendments made by this title shall apply to
3 plan amendments adopted after 1993.

4 **TITLE III—MISCELLANEOUS**
5 **PROVISIONS**

6 **SEC. 301. REPORTS BY PENSION BENEFIT GUARANTY COR-**
7 **PORATION AND CONGRESSIONAL BUDGET**
8 **OFFICE.**

9 (a) Not later than March 1, 1993, the Pension Bene-
10 fit Guaranty Corporation and the Congressional Budget
11 Office shall submit separate reports to the Congress set-
12 ting forth alternative increases in premiums that would
13 be required for the assets of the single-employer program
14 established under title IV of the Employee Retirement In-
15 come Security Act of 1974, as amended, to equal or exceed
16 such program's current and expected liabilities by 2002.
17 Such reports shall include alternatives in which only the
18 provisions of section 4006(a)(3)(E) of such title are modi-
19 fied. The reports shall be prepared in a manner consistent
20 with the report required by section 4008 of such title.

21 (b) Effective with respect to fiscal years ending after
22 September 30, 1993, section 4008 of the Employee Retire-
23 ment Income Security Act of 1974 is amended by—

24 (1) striking “five” in the second sentence of
25 such section and inserting “five, ten, twenty and
26 thirty”,

1 (2) adding at the end thereof the following new
2 sentences: “The actuarial evaluation shall set forth
3 alternative premium schedules to assure that the as-
4 sets of the corporation equal or exceed its liabilities
5 during such periods. For any fiscal year that it
6 deems appropriate, the Congressional Budget Office
7 may transmit a separate report that analyzes and
8 comments upon the actuarial evaluation prepared by
9 the corporation (and premium schedules contained
10 therein).”

11 **SEC. 302. CERTAIN INFORMATION REQUIRED TO BE FUR-**
12 **NISHED TO PBGC.**

13 (a) GENERAL RULE.—Subtitle A of title IV of the
14 Employee Retirement Income Security Act of 1974 is
15 amended by adding at the end thereof the following new
16 section:

17 **“SEC. 4010. AUTHORITY TO REQUIRE CERTAIN INFORMA-**
18 **TION.**

19 “(a) GENERAL RULE.—For plans described in sub-
20 section (b), the corporation may require that a plan spon-
21 sor or members of a sponsor’s controlled group provide
22 the corporation with such records, documents, or other in-
23 formation that the corporation deems necessary to deter-
24 mine the liabilities and assets of plans covered by this title,
25 or the financial condition of sponsors or members of spon-

1 sors' controlled groups maintaining plans covered by this
2 title.

3 “(b) DESCRIPTION OF PLANS.—For purposes of sub-
4 section (a), a plan is described in this subsection if—

5 “(1) the underfunding under such plan exceeds
6 \$10,000,000;

7 “(2) the number of participants under such
8 plan is greater than 2,000; or

9 “(3) minimum funding waivers in excess of
10 \$1,000,000 have been granted with respect to such
11 plan.

12 For purposes of this section, all plans maintained by the
13 same sponsor (or any member of such sponsor's controlled
14 group) shall be treated as 1 plan. For purposes of this
15 subsection, determinations of liabilities and assets shall be
16 made in the same manner as under section 4006.”

17 (b) CLERICAL AMENDMENT.—The table of contents
18 contained in section 1 of such Act is amended by inserting
19 after the item relating to section 4009 the following new
20 item:

“Sec. 4010. Authority to require certain information.”

○

S 105 IS—2

S 105 IS—3