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1 **1. SHORT TITLE.**

2 This Act may be cited as the "Pension Funding Eq-
3 uity Act of 2004".

4 **TITLE I—PENSION FUNDING**

5 **SEC. 101. TEMPORARY REPLACEMENT OF 30-YEAR TREAS-**
6 **URY RATE.**

7 (a) **EMPLOYEE RETIREMENT INCOME SECURITY ACT**
8 **OF 1974.—**

9 (1) **DETERMINATION OF PERMISSIBLE**
10 **RANGE.—**

11 (A) **IN GENERAL.—**Clause (i) of section
12 302(b)(5)(B) of the Employee Retirement In-
13 come Security Act of 1974 is amended by re-
14 designating subclause (II) as subclause (III)
15 and by inserting after subclause (I) the fol-
16 lowing new subclause:

17 "(II) **SPECIAL RULE FOR YEARS 2004**
18 **AND 2005.—**In the case of plan years be-
19 ginning after December 31, 2003, and be-
20 fore January 1, 2006, the term 'permiss-
21 sible range' means a rate of interest which
22 is not above, and not more than 10 percent
23 below, the weighted average of the rates of
24 interest on amounts invested conservatively
25 in long-term investment grade corporate
26 bonds during the 4-year period ending on



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1 of section 412 of the Internal Revenue Code of 1986
2 to plan years beginning after December 31, 2003,
3 the amendments made by this section may be ap-
4 plied as if such amendments had been in effect for
5 all prior plan years. The Secretary of the Treasury
6 may prescribe simplified assumptions which may be
7 used in applying the amendments made by this sec-
8 tion to such prior plan years.

9 (3) **TRANSITION RULE FOR SECTION 415 LIMITATION.**—In the case of any participant or bene-
10 ficiary receiving a distribution after December 31,
11 2003 and before January 1, 2005, the amount pay-
12 able under any form of benefit subject to section
13 417(e)(3) of the Internal Revenue Code of 1986 and
14 subject to adjustment under section 415(b)(2)(B) of
15 such Code shall not, solely by reason of the amend-
16 ment made by subsection (b)(4), be less than the
17 amount that would have been so payable had the
18 amount payable been determined using the applica-
19 ble interest rate in effect as of the last day of the
20 last plan year beginning before January 1, 2004.

22 **SEC. 102. ELECTION OF ALTERNATIVE DEFICIT REDUCTION**
23 **CONTRIBUTION.**

24 (a) **AMENDMENT OF ERISA.**—Section 302(d) of the
25 Employee Retirement Income Security Act of 1974 (29



1 U.S.C. 1082(d)) is amended by adding at the end the fol-
2 lowing new paragraph:

3 “(12) ELECTION FOR CERTAIN PLANS.—

4 “(A) IN GENERAL.—In the case of a de-
5 fined benefit plan established and maintained
6 by an applicable employer, if this subsection did
7 not apply to the plan for the plan year begin-
8 ning in 2000 (determined without regard to
9 paragraph (6)), then, at the election of the em-
10 ployer, the increased amount under paragraph
11 (1) for any applicable plan year shall be the
12 greater of—

13 “(i) 20 percent of the increased
14 amount under paragraph (1) determined
15 without regard to this paragraph, or

16 “(ii) the increased amount which
17 would be determined under paragraph (1)
18 if the deficit reduction contribution under
19 paragraph (2) for the applicable plan year
20 were determined without regard to sub-
21 paragraphs (A), (B), and (D) of paragraph
22 (2).

23 “(B) RESTRICTIONS ON BENEFIT IN-
24 CREASES.—No amendment which increases the
25 liabilities of the plan by reason of any increase



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1 in benefits, any change in the accrual of bene-
2 fits, or any change in the rate at which benefits
3 become nonforfeitable under the plan shall be
4 adopted during any applicable plan year,
5 unless—

6 “(i) the plan’s enrolled actuary cer-
7 tifies (in such form and manner prescribed
8 by the Secretary of the Treasury) that the
9 amendment provides for an increase in an-
10 nual contributions which will exceed the in-
11 crease in annual charges to the funding
12 standard account attributable to such
13 amendment, or

14 “(ii) the amendment is required by a
15 collective bargaining agreement which is in
16 effect on the date of enactment of this sub-
17 paragraph.

18 If a plan is amended during any applicable plan
19 year in violation of the preceding sentence, any
20 election under this paragraph shall not apply to
21 any applicable plan year ending on or after the
22 date on which such amendment is adopted.

23 “(C) APPLICABLE EMPLOYER.—For pur-
24 poses of this paragraph, the term ‘applicable
25 employer’ means an employer which is—



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- 1 “(i) a commercial passenger airline,
2 “(ii) primarily engaged in the produc-
3 tion or manufacture of a steel mill product
4 or the processing of iron ore pellets, or
5 “(iii) an organization described in sec-
6 tion 501(c)(5) of the Internal Revenue
7 Code of 1986 and which established the
8 plan to which this paragraph applies on
9 June 30, 1955.

10 “(D) APPLICABLE PLAN YEAR.—For pur-
11 poses of this paragraph—

12 “(i) IN GENERAL.—The term ‘applica-
13 ble plan year’ means any plan year begin-
14 ning after December 27, 2003, and before
15 December 28, 2005, for which the em-
16 ployer elects the application of this para-
17 graph.

18 “(ii) LIMITATION ON NUMBER OF
19 YEARS WHICH MAY BE ELECTED.—An elec-
20 tion may not be made under this para-
21 graph with respect to more than 2 plan
22 years.

23 “(E) NOTICE REQUIREMENTS FOR PLANS
24 ELECTING ALTERNATIVE DEFICIT REDUCTION
25 CONTRIBUTIONS.—



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1 “(i) IN GENERAL.—If an employer
2 elects an alternative deficit reduction con-
3 tribution under this paragraph and section
4 412(l)(12) of the Internal Revenue Code of
5 1986 for any year, the employer shall pro-
6 vide, within 30 days of filing the election
7 for such year, written notice of the election
8 to participants and beneficiaries and to the
9 Pension Benefit Guaranty Corporation.

10 “(ii) NOTICE TO PARTICIPANTS AND
11 BENEFICIARIES.—The notice under clause
12 (i) to participants and beneficiaries shall
13 include with respect to any election—

14 “(I) the due date of the alter-
15 native deficit reduction contribution
16 and the amount by which such con-
17 tribution was reduced from the
18 amount which would have been owed
19 if the election were not made, and

20 “(II) a description of the benefits
21 under the plan which are eligible to be
22 guaranteed by the Pension Benefit
23 Guaranty Corporation and an expla-
24 nation of the limitations on the guar-
25 antee and the circumstances under



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1 which such limitations apply, includ-
2 ing the maximum guaranteed monthly
3 benefits which the Pension Benefit
4 Guaranty Corporation would pay if
5 the plan terminated while under-
6 funded.

7 “(iii) NOTICE TO PBGC.—The notice
8 under clause (i) to the Pension Benefit
9 Guaranty Corporation shall include—

10 “(I) the information described in
11 clause (ii)(I),

12 “(II) the number of years it will
13 take to restore the plan to full fund-
14 ing if the employer only makes the re-
15 quired contributions, and

16 “(III) information as to how the
17 amount by which the plan is under-
18 funded compares with the capitaliza-
19 tion of the employer making the elec-
20 tion.

21 “(F) ELECTION.—An election under this
22 paragraph shall be made at such time and in
23 such manner as the Secretary of the Treasury
24 may prescribe.”



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1 (b) AMENDMENT OF 1986 CODE.—Section 412(l) of
2 the Internal Revenue Code of 1986 (relating to applica-
3 bility of subsection) is amended by adding at the end the
4 following new paragraph:

5 “(12) ELECTION FOR CERTAIN PLANS.—

6 “(A) IN GENERAL.—In the case of a de-
7 fined benefit plan established and maintained
8 by an applicable employer, if this subsection did
9 not apply to the plan for the plan year begin-
10 ning in 2000 (determined without regard to
11 paragraph (6)), then, at the election of the em-
12 ployer, the increased amount under paragraph
13 (1) for any applicable plan year shall be the
14 greater of—

15 “(i) 20 percent of the increased
16 amount under paragraph (1) determined
17 without regard to this paragraph, or

18 “(ii) the increased amount which
19 would be determined under paragraph (1)
20 if the deficit reduction contribution under
21 paragraph (2) for the applicable plan year
22 were determined without regard to sub-
23 paragraphs (A), (B), and (D) of paragraph
24 (2).



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1 “(B) RESTRICTIONS ON BENEFIT IN-
 2 CREASES.—No amendment which increases the
 3 liabilities of the plan by reason of any increase
 4 in benefits, any change in the accrual of bene-
 5 fits, or any change in the rate at which benefits
 6 become nonforfeitable under the plan shall be
 7 adopted during any applicable plan year,
 8 unless—

9 “(i) the plan’s enrolled actuary cer-
 10 tifies (in such form and manner prescribed
 11 by the Secretary) that the amendment pro-
 12 vides for an increase in annual contribu-
 13 tions which will exceed the increase in an-
 14 nual charges to the funding standard ac-
 15 count attributable to such amendment, or

16 “(ii) the amendment is required by a
 17 collective bargaining agreement which is in
 18 effect on the date of enactment of this sub-
 19 paragraph.

20 If a plan is amended during any applicable plan
 21 year in violation of the preceding sentence, any
 22 election under this paragraph shall not apply to
 23 any applicable plan year ending on or after the
 24 date on which such amendment is adopted.



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1 “(C) APPLICABLE EMPLOYER.—For pur-
2 poses of this paragraph, the term ‘applicable
3 employer’ means an employer which is—

4 “(i) a commercial passenger airline,

5 “(ii) primarily engaged in the produc-
6 tion or manufacture of a steel mill product
7 or the processing of iron ore pellets, or

8 “(iii) an organization described in sec-
9 tion 501(c)(5) and which established the
10 plan to which this paragraph applies on
11 June 30, 1955.

12 “(D) APPLICABLE PLAN YEAR.—For pur-
13 poses of this paragraph—

14 “(i) IN GENERAL.—The term ‘applica-
15 ble plan year’ means any plan year begin-
16 ning after December 27, 2003, and before
17 December 28, 2005, for which the em-
18 ployer elects the application of this para-
19 graph.

20 “(ii) LIMITATION ON NUMBER OF
21 YEARS WHICH MAY BE ELECTED.—An elec-
22 tion may not be made under this para-
23 graph with respect to more than 2 plan
24 years.



1 “(E) ELECTION.—An election under this
2 paragraph shall be made at such time and in
3 such manner as the Secretary may prescribe.”
4 (c) EFFECT OF ELECTION.—An election under sec-
5 tion 302(d)(12) of the Employee Retirement Income Secu-
6 rity Act of 1974 or section 412(d)(12) of the Internal Rev-
7 enue Code of 1986 (as added by this section) with respect
8 to a plan shall not invalidate any obligation (pursuant to
9 a collective bargaining agreement in effect on the date of
10 the election) to provide benefits, to change the accrual of
11 benefits, or to change the rate at which benefits become
12 nonforfeitable under the plan.
13 (d) PENALTY FOR FAILING TO PROVIDE NOTICE.—
14 Section 502(c)(3) of the Employee Retirement Income Se-
15 curity Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by
16 inserting “or who fails to meet the requirements of section
17 302(d)(12)(E) with respect to any person” after
18 “101(e)(2) with respect to any person”.

19 SEC. 103. MULTEMPLOYER PLAN FUNDING NOTICES.

20 (a) IN GENERAL.—Section 101 of the Employee Re-
21 tirement Income Security Act of 1974 (29 U.S.C. 1021)
22 is amended by inserting after subsection (e) the following
23 new subsection:
24 “(f) MULTEMPLOYER DEFINED BENEFIT PLAN
25 FUNDING NOTICES.—

