GROOM LAW GROUP

October 28, 2005

Single-Employer Pension Funding Reforms and Cash Balance Provisions: Summary Comparison of Principal Provisions of the Pension Protection Act (H.R. 2830) and the Pension Security and Transparency Act (S. 1783)[1]

IN GENERAL		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
Status	The Pension Protection Act (H.R. 2830) was favorably reported out of the House Committee on Education and the Workforce on June 30th. The House Ways and Means Committee (which also has jurisdiction of H.R. 2830) is expected to mark-up the bill soon. House Leadership has indicated that the bill may be taken to the House floor some time before the Thanksgiving recess.	The Pension Security and Transparency Act (S. 1783) is a compromise measure that was agreed to by the Chairman and Ranking Member of the Senate Finance Committee, Sens. Grassley (R-IA) and Baucus (D-MT), and Chairman and Ranking Member of the Senate Health, Education, Labor, and Pensions ("HELP") Committee, Sens. Enzi (R-WY) and Kennedy (D-MA), and introduced on September 28th. The bill was slated for Senate floor action the first week of October, but the legislation was not acted on due to some Senators' concerns about the application of some of the new funding requirements to single-employer plans. Action on the bill is still expected in the Senate, but it is unclear when. Additional amendments are expected to be offered as part of a Manager's Amendment or during the Senate floor debate.
Overview	Under current law, plan sponsors generally must make minimum required contributions equal to the greater of the contributions required under (i) a plan’s funding standard account under the regular funding rules, or (ii) the deficit reduction contribution (“DRC”) rules.	Generally the same as the Pension Protection Act, except the new funding rules are generally effective for the 2007 plan year.

[1] This chart generally summarizes the single-employer pension funding and cash balance provisions in H.R. 2830, as included in the Education and the Workforce Committee Report (Rept. 109-232, Part I) filed by the Committee on September 22, and the single-employer funding and cash balance provisions in S. 1783, as introduced on September 28. It does not cover the multiemployer funding reforms, defined contribution reforms, and other miscellaneous provisions contained in H.R. 2830 and S. 1783.

	H.R. 2830 repeals the current regular and DRC funding rules, and replaces them with simpler – but potentially more onerous and volatile – minimum funding rules. Generally, these new rules require contributions equal to the "target normal cost" of the plan for the plan year and require amortization of any underfunding over a 7-year period. This is substantially shorter than current law normal funding rules. The bill also imposes significant benefit restrictions on certain underfunded plans, imposes new notice requirements and significantly increases PBGC premiums for all plan sponsors. The new funding rules are generally effective for the 2006 plan year.	
MINIMUM REQUIRED CONTRIBUTIONS		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
In General	If the plan's assets are less than the "funding target," the minimum required contribution for the year is equal to (i) the plan's "target normal cost" plus (ii) amounts required to amortize the "funding shortfall" over 7 years and (iii) amounts required to amortize a "waived funding deficiency," if any, over 5 years. If the plan's assets equal the funding target, the minimum contribution equals the target normal cost. If the plan's assets exceed the funding target, the plan's target normal cost is reduced by the excess (in certain instances, the contribution amount may be zero). The "target normal cost" for the year means the present value of benefit liabilities accrued during the plan year, including	Generally the same as the Pension Protection Act.

	increases in past service benefits attributable to increases in compensation. The "funding shortfall" means the excess of a plan's funding target over the value of plan assets for the year. The "waived funding deficiency" has a similar meaning to the waived funding deficiency under current law.	
Special Funding Rule For Plans Maintained by Commercial Airlines	No provision.	A special funding rule applies to certain single employer defined benefit plans maintained by commercial passenger airlines, effective for plan years ending after the date of enactment. If the plan sponsor elects to have the special rule apply, the minimum required contribution shall be the amount necessary to amortize the plan's unfunded liability over a 14-year period. For purposes of determining the minimum required contribution for the year, the old funding rules would continue to apply so that benefit liabilities would be based on (i) reasonable actuarial assumptions and (ii) the plan's interest rate that was in place prior to the date of enactment, and plan assets would be valued at fair market value. In order for an airline to elect this special funding rule, the plan must (i) freeze all accruals and any death or disability benefits or Social Security supplements and (ii) eliminate other benefits under the plan (to the extent ceasing accruals and eliminating benefits is not considered a prohibited cut-back of already accrued benefits). In addition, the plan sponsor may not increase benefits during the election period. (Special rules also apply to certain multiple employer cooperative plans.)

PBGC's Ability to Change Minimum Contribution Rules	No provision.	PBGC and Treasury are given the authority to enter into alternative funding arrangements in order to avoid a distress or involuntary termination.
	CREDIT BALANCES	
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
Credit Balances	Allows pre-2006 plans that have a credit balance in their funding standard account as of the end of the 2005 plan year to maintain a "funding standard carryover balance." After 2006, allows plans to establish a "pre-funding balance."	Allows plan sponsors to maintain a "pre-funding balance" beginning in 2007. For plans that have a credit balance in their funding standard account as of the end of the 2006 plan year, the beginning pre-funding balance would be equal to such credit balance.
Use of Credit Balances	Generally, a plan sponsor may elect to reduce its minimum required contribution for the year by its funding standard carryover or pre-funding balances. However, plans that are less than 80 percent funded may not use their credit balances to reduce the plan's minimum required contribution for the year.	Same as the Pension Protection Act, except that a plan that is less than 80 percent funded (determined without regard to the "at-risk" rules described below) may use its credit balance only if the plan sponsor makes contributions to the plan that are at least equal to the greater of (i) the target normal cost for the year or (ii) 25 percent of the otherwise-required minimum required contribution for the year.
Effect of Credit Balances on Plan Assets	A plan's assets must be reduced by its funding standard carryover *and* pre-funding balances for purposes of determining: • Whether a plan has a funding shortfall which needs to be amortized over 7 years (although the description in the Committee report implies otherwise). • The amount of the minimum required contribution for the year. • Whether a plan is "at-risk" or whether the "benefit	A plan's assets must be reduced by its pre-funding balance for purposes of determining: • Whether a plan has a funding shortfall which needs to be amortized over 7 years; and • The amount of the minimum required contribution for the year.

	restrictions" under the bill apply. (However, if a plan is 100 percent funded, the plan's assets would *not* have to be reduced for the purposes of determining whether the benefit restrictions apply.) For purposes of applying the 80 percent limitation on the use of credit balances (discussed above), a plan sponsor is required to reduce its plan assets by its pre-funding balance (but not the funding standard carryover balance). If a plan sponsor elects to use its pre-funding balance to reduce its minimum required contribution for the year, the plan's assets must be reduced by the pre-funding balance for purposes of determining whether a shortfall amortization base is zero.	
Reducing Credit Balances	Plan sponsors may elect to reduce all or a portion of its funding standard carryover or pre-funding balance for the plan year prior to determining the value of the plan's assets for the year.	No provision.
Ordering Rules	The funding standard carryover balance must be used before the pre-funding balance may be used under all circumstances, including any election to reduce such balances.	No provision.
Valuation of Balances	As of the first day of the plan year, the pre-funding balance would be "marked to market" to reflect investment performance in the underlying plan assets. Treasury is directed to issue regulations instructing how the adjustment shall be made.	Same as the Pension Protection Act.
	VALUING PLAN ASSETS	
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
In General	Continues current law under which plan assets may be valued using any reasonable actuarial method permitted under Treasury Department regulations, but "smoothing" of asset values cannot be for more than 3 years (instead of 5 years under current law)	Generally, the value of a plan's assets is equal to the fair market value of such assets as of the valuation date. Alternatively, a plan may value its plan assets under any

	and the smoothing cannot result in values that are lower than 90 percent or greater than 110 percent (instead of 80-120 percent under current law) of the fair market value of such assets at the time of valuation.	reasonable actuarial method that is permitted under Treasury regulations and provides for averaging of fair market values over no more than a 12-month period preceding the valuation date.
Valuation Date	Plans with more than 500 participants must use the first day of the plan year. Plans with 500 or fewer participants can choose any day of the plan year.	Same as the Pension Protection Act, except "100" is substituted for "500."
DETERMINATION OF LIABILITIES		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
Funding Target	The amount of required contributions for the year is based on the plan's "funding target." A plan's funding target is equal to 100 percent of the present value of all benefit liabilities accrued to date. For plans that were not subject to the DRC for the plan year beginning in 2005, the bill phases-in the new 100 percent funding target ratably over 5 years beginning in 2006 as follows: 2006 – 92%; 2007 – 94%; 2008 – 96%; 2009 – 98%; 2010 – 100%. If the plan is less than 60 percent funded, the plan is considered "at-risk" and the funding target is equal to the plan's "at-risk" liability. A plan's assets must be reduced by its funding standard carryover and pre-funding balances for purposes of determining whether a plan is "at-risk."	Generally the same as the Pension Protection Act, except a plan is considered "at-risk" and subject to the "at-risk" funding target if it is less than 93 percent funded and the plan sponsor is "financially weak." The funding target is phased in over 3 years (not 5 years) for all plans beginning in 2007 as follows: 2007 – 93%; 2008 – 96%; 2009 – 100%. The funding target is phased in over 5 years for a plan with 100 or fewer participants. Generally, a plan sponsor (determined on a controlled group basis) is considered financially weak if, beginning in 2007: • for a period of at least 3 consecutive years, (i) the sponsor has outstanding senior unsecured debt which has been rated as below investment grade by *each* of the nationally recognized credit rating agencies that has issued a credit rating; or (ii) if the plan sponsor does not have any outstanding senior unsecured debt that has been rated, but one or more of the credit rating agencies has issued a credit rating on the plan sponsor, all of the rating agencies that have rated the plan sponsor rated such sponsor as below investment grade; and

		• it has at least two years of declining bond ratings.
"At-Risk" Liability	A plan's "at-risk" liability is determined as if all participants elect benefits that will result in the highest present value of benefits (e.g., lump-sums at the "most subsidized" age). In addition, a load factor of $700 per participant and 4 percent of the funding target would be added, which is intended to reflect the higher costs involved in terminating a plan. For plans that have been "at-risk" for less than 5 consecutive years, the "at-risk" funding target is phased in over 5 years (20 percent per year). Unlike the Pension Security and Transparency Act, there is no exception for small plans.	A plan's "at-risk" liability is determined as if all participants elect benefits during (i) the plan year and (ii) the next seven years that will result in the highest present value of benefits. Unlike the Pension Protection Act, no "load" factor is added. "At-risk" liability can never be lower than the target normal cost or funding target determined without regard to these "at-risk" rules. Like the Pension Protection Act, for plans that have been "at-risk" for less than 5 consecutive years, the "at-risk" funding target is phased in over 5 years (20 percent per year)." Plan sponsors maintaining a plan with 500 or fewer participants may never be considered "at-risk" even if the plan sponsor is financially weak. (Special rules also apply to certain multiple employer cooperative plans.)
INTEREST RATE AND MORTALITY TABLE		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
Interest Rate	The interest rate is based on a modified yield curve of corporate bonds to reflect the duration of the liabilities that are to be valued; published monthly by the Treasury Department. The durations of the liabilities are segregated into three broad categories: those liabilities payable within 5 years of the valuation date, liabilities payable after 5 years and before 20 years of the valuation date, and liabilities payable thereafter. The rate in each of the 3 categories is determined by the Treasury Department based on bonds maturing during the	The bill extends the replacement 30-year Treasury rate one additional year, through 2006. Beginning in 2007, the interest rate is generally the same as that in the Pension Protection Act, except each rate would be based on an unweighted 12-month average of the yields on investment-grade corporate bonds with varying maturities. The use of the interest rate is phased in over 3 years beginning in 2007.

	applicable duration (i.e., during first 5 years, after 5 and before 20 years, and after 20 years) and based on a 3-year weighted average for each month of the duration period. The weighting is determined so that the most recent year would be weighted 50 percent, the next most recent year would be weighted 35 percent, and the second most recent year would be weighted 15 percent. The use of this modified yield curve would be phased-in over 3 years beginning in 2006.	
Mortality Table	Plan sponsors would be required to use the RP-2000 Combined Mortality Table, as published by the Society of Actuaries, with Treasury to provide updates at least every 10 years. Treasury is instructed to issue regulations that phase-in ratably the change in the mortality table over 5 years. The bill would also allow a plan sponsor to request to use a different mortality table if certain requirements are met.	Generally the same as the Pension Protection Act, except plans that pay disability benefits may use a special mortality table, published by Treasury, to determine such disability benefits.
	BENEFIT RESTRICTIONS	
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
Benefit Increases	A plan that is (i) less than 80 percent funded, or (ii) would be less than 80 percent funded taking into account the amendment, cannot be amended to increase benefits. This restriction shall not apply if the plan sponsor makes contributions to the plan to (i) pay for the increase or (ii) satisfy the 80 percent funded threshold. Participants must be notified of the benefit limitation. This restriction would be effective beginning in 2006. Special rules for collectively bargained plans would apply.	Generally the same as the Pension Protection Act, except the restriction on benefit increases is effective beginning in 2008. In addition, this restriction does not apply if an amendment to the plan provides for an increase in benefits under a formula which is not based on a participant's compensation, so long as the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of plan participants (e.g., cost-of-living increases in flat-dollar plans are generally excepted from this restriction).
Benefit Payments	A plan that is less than 80 percent funded cannot pay benefits in a form other than a life annuity.	A plan that is less than 60 percent funded for the prior plan year, and a plan sponsor in bankruptcy whose plan(s) is less than 100

	If a plan subsequently becomes 80 percent funded, the plan must be amended in order to resume other forms of distributions. This restriction would not apply to a plan that is frozen as of June 29, 2005. Participants must be notified of the benefit limitation. This restriction is effective beginning in 2006. Special rules for collectively bargained plans apply.	percent funded, cannot pay benefits in a form other than a life annuity. This restriction would not apply to plans with 100 or fewer participants or plans that had a funding shortfall of $1 million or less for the preceding plan year. In addition, this restriction would generally not apply to payments that do not exceed the lesser of 50 percent of the amount of the payment which could otherwise be paid or the lump sum equivalent of a participant's maximum PBGC guaranteed benefit. In order for these benefit restrictions to cease, the plan actuary must certify that the plan is at least 60 percent funded as of the valuation date for the current year or the plan sponsor must make sufficient contributions (or provide security) in order for the plan to be at least 60 percent funded. If the plan is not at least 60 percent funded by the end of the year, the restrictions continue until the plan has been at least 60 percent funded for two consecutive years. The failure to make contributions (or provide security) required to get the plan to at least 60 percent funded would be treated as a failure to make a minimum required contribution for the year for purposes of the quarterly contribution rules, the excise tax, and the lien that is imposed on plans for failure to make the minimum required contribution. Additional interest would also be applied to the shortfall. If the plan actuary certifies that the plan is at least 60 percent funded in the current year, or the plan sponsor makes sufficient contributions (or provides security) in order for the plan to be at

		least 60 percent funded before the close of the current year, any payments not made during the restriction period are restored retroactive to the beginning of the restriction period. The plan administrator must notify participants of the restriction within 30 days of its application. This restriction is effective beginning in 2007. Special rules apply for collectively bargained plans.
Benefit Accruals	A plan that is less than 60 percent funded must cease all future benefit accruals. The plan sponsor can provide for a resumption of benefit accruals after the plan assets exceed 60 percent of its funding target. However, the plan must be amended to provide for the resumption of benefit accruals. Participants must be notified of the benefit limitation. This restriction would be effective beginning in 2006. Special rules for collectively bargained plans would apply.	Generally the same as the Pension Protection Act, except this limitation does not apply if the plan's actuary certifies that the plan sponsor has contributed an amount (or provided security) before the end of the plan year which results in the plan being at least 60 percent funded. The plan administrator must notify participants of the restriction within 30 days of its application. This restriction would be effective beginning in 2007. Special rules would apply for collectively bargained plans.
DEFERRED COMPENSATION RESTRICTIONS		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
In General	Beginning in 2006, if a plan is determined to be "at-risk," then any amounts (i) set aside (directly or indirectly) to fund deferred compensation (or otherwise restricted to pay such benefits) or (ii) will be set aside upon attainment of "at-risk" status (or other similar financial triggers) will be considered to be a taxable transfer to the individual and such amounts will be subject to the penalties under Code section 409A.	Beginning in 2007, a plan sponsor (i) whose non-"at-risk" plan was less than 60 percent funded for 2 consecutive plan years (for "at-risk" plans, the funding threshold is 80 percent), (ii) is in bankruptcy, or (iii) during the 12-month period beginning on the date which is 6 months before plan termination, whose plan's assets are not sufficient to meet certain plan liabilities, cannot directly or indirectly transfer assets or otherwise reserve assets in a trust (or other arrangement) for purposes of paying deferred

	Any individual who has "deferred compensation," as defined in Code section 409A, would be covered by this provision. The plan administrator must provide notice to participants within 30 days after the plan has become subject to the restrictions.	compensation to the chief executive officer and the top four highest compensated officers of a company. Assets that are set aside or transferred during the restricted period generally will result in taxable income for the individual whose deferred compensation the assets are being used to reserve, and such amounts would be subject to the penalties under Code section 409A. A plan fiduciary may file suit against, among others, a plan sponsor or members of the covered group of individuals, on behalf of the plan, to recover assets transferred or reserved in violation of these restrictions, together with attorney's fees. Certain notice requirements are imposed on the plan administrator and plan sponsor.

LUMP SUM DISTRIBUTIONS

	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
In General	The bill revises the interest rate used to determine the value of lump sum distributions by requiring plans to use the 3-segment, modified yield curve interest rate used to determine liabilities under the plan (discussed above). However, the new rates are determined using "spot" rates rather than the 3-year weighted average yields. In addition, plans are required to use the RP-2000 Combined Mortality Table, although plan sponsors may request the use of a substitute mortality table. The bill phases-in the use of the interest rate over 5 years beginning in 2006.	The interest rate used to determine lump sum distributions (and similar forms of benefit) is based on a yield curve (published monthly by the Treasury Department) which reflects the yield on high-quality corporate bonds with varying maturities, averaged over 3 months. The interest rate is phased in over 4 years beginning in 2007.

Deductible Amounts		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
Deductible Limit	The deductible amount is equal to the greater of (i) 150 percent of the "funding target" plus the "target normal cost," or (ii) in the case of a plan that is not "at-risk," the sum of the plan's funding target and target normal cost determined as if the plan was "at-risk" for the plan year, less the plan's assets for that year.	For 2006, the bill allows the deduction limitation to increase to an amount equal to180 percent of the plan's current liability. For years after 2006, the maximum deductible amount is equal to the greater of (i) the excess of the sum of the plan's funding target, the plan's target normal cost, and a "cushion amount," over the plan's assets for the plan year or (ii) the minimum required contribution for the year. In addition, for plans that are not in the "at-risk" category, this calculation can be performed as if the plan was in "at-risk" status. The cushion amount is equal to the sum of 80 percent of the plan's funding target for the plan year and the amount by which the funding target would increase based on future compensation increases, or, for plans that do not base past service benefits on compensation, on expected increases in benefits (based off of the average of such benefit increases over the past 6 years). If a plan terminates during the plan year, the maximum deductible amount shall not be less than the amount required to meet the plan's benefit liabilities.
Combined Deductible Limit	The combined plan deduction limitation does not apply to the extent contributions to one or more defined contribution plans does not exceed 6 percent of compensation.	Generally the same as the Pension Protection Act for 2006. Generally eliminates the combined plan deduction limitation with respect to single-employer plans beginning in 2007.

PBGC PREMIUMS		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
Flat-Rate Premiums	Effective for plan years beginning after 2005, the flat-rate PBGC premium is increased (under a phase-in schedule) from $19 per participant to $30 per participant, and indexed annually to reflect increases in wages. The premium increase is phased in over 5 years if the plan is 80 percent or more funded and over 3 years if the plan is less than 80 percent funded.	Effective for plan years beginning after 2005, the flat-rate PBGC premium is increased immediately to $30. Beginning in 2011, and every 5 years thereafter, the PBGC Board of Directors is given authority to recommend to Congress any further adjustments.
Variable Rate Premiums	Effective for plan years beginning after 2005, the full funding limit exception is repealed. Liability used for purposes of determining the variable rate premium is generally the same as liability under the funding rules, except that the 3 segment yield curve is based upon spot rates (not a 3-year weighted average). Assets are based on fair market value.	Generally the same as the Pension Protection Act.

SHUT DOWN AND UNPREDICTABLE CONTINGENT EVENT BENEFITS		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
In General	The bill prohibits pension plans from offering shutdown benefits and other unpredictable contingent event benefits that currently can be provided under single-employer plans.	Shutdown and other unpredictable contingent event benefits will not be guaranteed by the PBGC. This provision is applicable to benefits payable as a result of a plant shutdown or other similar event that occurs after July 26, 2005.

Enhanced Disclosure		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
In General	The bill makes various changes to the disclosure rules, including the following: • Annual notices that currently are required to be sent to participants by multiemployer plans must also be sent by single-employer plans, disclosing, among other things, the value of the plan's assets as compared to its projected liabilities and its funding status. • A plan sponsor whose plan(s) is less than 60 percent funded (on a controlled group basis) must file the section 4010 information with the PBGC. Section 4010 information must also be filed by a plan sponsor (i) whose plan(s) are less than 75 percent funded and (ii) who the PBGC determines is in an industry in which there is substantial underemployment or unemployment and sales and profits are depressed or declining. • The plan's actuary must provide an explanation of actuarial assumptions used in projecting future retirements on the Form 5500 and merged plans must provide the plan's funding status before and after the merger. • SARs must be provided within 15 days of the due date for filing a Form 5500. • The due date for filing a Form 5500 may be extended past 275 days after the close of the plan year, but only in the case of a "hardship," as defined in regulations issued by the Secretary of Labor.	Generally the same as the Pension Protection Act, except certain additional disclosures are required and certain modifications are made, including: • A plan sponsor of a plan(s) (1) with over $50 million in unfunded vested benefits (determined on a controlled group basis) and who is (a) financially-weak or (b) whose plan(s) is less than 90 percent funded (determined on a controlled group basis), (2) whose plan(s) is less than 60 percent funded (determined on a controlled group basis), or (3) whose plan(s) are less than 75 percent funded and who the PBGC determines is in an industry in which there is substantial underemployment or unemployment and sales and profits are depressed or declining, must file 4010 information. • SARs must be provided within 30 days of the due date for filing a Form 5500. • Plans that are subject to a distress or involuntary termination must provide certain information to participants and beneficiaries within 15 days of such request. A plan sponsor may charge reasonable fees for any information provided.

CASH BALANCE AND OTHER HYBRID PENSION PLANS		
	H.R. 2830, the Pension Protection Act	**S. 1783, the Pension Security and Transparency Act**
Qualified Cash Balance Plan	No provision	A plan is considered a qualified cash balance plan if (i) benefits under the plan are 100 percent vested after 3 years of service and (ii) the interest credit rate under the plan is not less than the applicable Federal mid-term interest rate and is not greater than the greater of (a) the applicable Federal mid-term interest rate or (b) a rate of interest on amounts invested conservatively in long-term investment grade corporate bonds. The long-term investment grade corporate bond rate would be determined based on two or more indices that are periodically selected by the Treasury Department. If the interest credit rate is a variable rate, the plan must provide that, upon plan termination, the rate used to determine accrued benefits under the plan shall be equal to the average of the interest rates used under the plan during the past 5 years.
Age Discrimination	Whether a pension plan violates the age discrimination provisions under ERISA and the Code would be determined by examining the terms of the plan to see if a similarly situated younger employee would receive a greater benefit than an older worker. In making this determination, early retirement subsidies are not taken into account. In addition, the bill makes it clear that pre-retirement indexing of a benefit does not violate the age discrimination rules.	A qualified cash balance plan would not violate the age discrimination rules under the ADEA, the Code, or ERISA merely because the interest credit applicable to a participant's hypothetical account each year applies over a longer period of time for a younger worker than for an older worker, provided the rate of any interest credit does not decrease on account of age.
"Whipsaw"	Cures the whipsaw problem by permitting plan sponsors to use a "market rate" of interest instead of the 30-year Treasury rate and still pay a lump sum benefit equal to the participant's account balance. The market rate of interest is not clearly	Permits qualified cash balance plans to pay a lump sum benefit equal to the participant's account balance. As stated above, a qualified cash balance plan uses a rate which is generally based on a "market rate" of interest (e.g., not less than the Federal mid-

	defined in the bill.	term interest rate and not greater than the Federal mid-term rate or a rate of interest on amounts invested conservatively in long-term investment grade corporate bonds).

Conversions	The bill does not specifically address cash balance or hybrid conversions.	A conversion from a traditional pension plan to a cash balance plan will not be treated as reducing a participant's accrued benefit if certain requirements are met. First, the cash balance plan must be a qualified cash balance plan. Second, the plan amendment effectuating the conversion must provide one of the following formulas:
		• The conversion cannot result in the wear-away of accrued benefits (i.e., the accrued benefit must equal the sum of the accrued benefit, including any early retirement subsidies, the participant would have been eligible for under the old formula) and the plan must provide either:
		  • all participants covered under the plan before the conversion with the greater of the accrued benefit under the old formula or the accrued benefit under new formula for each of the first 5 years after the conversion, or
		  • participants who at the time of the conversion were at least age 40 and had combined age and service of at least 55 with (i) the greater of the accrued benefit under the old formula or new formula, or (ii) a choice between the accrued benefit determined under the old or new formula.
		• After the conversion, the plan must provide all participants who were covered at the time of conversion with (i) the greater of the accrued benefit determined under the old formula or new formula, or (ii) a choice between the accrued benefit determined under the old or new formula.
		• The plan sponsor must provide additional credits or additional opening account balances so as to provide benefits that would

		be substantially equal to either of the prior two alternatives, as determined under Treasury regulations.
Effective Date of Hybrid Provisions	Generally, these requirements would be effective June 29, 2005.	Generally, these requirements would be effective July 31, 2005.