[JOINT COMMITTEE PRINT]

COMPARISON OF RECONCILIATION PROVISIONS OF H.R. 3545 RELATING TO PENSION FUNDING AND PBGC PREMIUMS

Prepared for the Conferees
By the Staff
of the
Joint Committee on Taxation

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I. Pension Funding					
A. Modifications of Minimum Funding Standard (secs. 9511-9515 and 9534 of the Ways and Means Committee bill; secs. 3008 of the Education and Labor Committee bill; secs. 4551-4556 of the Senate Finance Committee bill; and secs. 8006, 8007, 8012 and 8013 of the Labor and Human Resources Committee bill)					
1. Affected plans	Pension plans generally are required to satisfy minimum funding requirements. No special funding rules apply to underfunded plans. The present-law funding rules do not apply to (1) profit-sharing or stock bonus plans, (2) certain insurance contract plans, (3) governmental plans, (4) church plans, (5) plans which have not provided for employer contributions after September 2, 1974, and (6) certain plans maintained by an organization described in section 501(c)(8) or (9) of the Code.	A special funding rule applies to plans with a funded ratio of less than 100 percent. The rule does not apply to (1) plans exempt from the funding requirements under present law, (2) multiemployer plans, or (3) plans other than defined benefit plans.	Same as Ways and Means Committee bill, except that the rule does not apply to (1) plans exempt from the funding requirements under present law, (2) multiemployer plans, or (3) plans that are not subject to the termination insurance program.	Same as Ways and Means Committee bill, except that the rule does not apply to (1) plans exempt from the funding requirements under present law, (2) multiemployer plans, or (3) plans with not more than 100 participants. A phasein applies to plans with 101-150 participants.	Same as Ways and Means Committee bill, except that the special rule does not apply to (1) plans exempt from the funding requirements under present law, or (2) to multiemployer plans.

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2. Calculation of contribution	Certain pension plans are required to meet a minimum funding standard for each plan year that requires, in general, that an employer contribute an annual amount sufficient to fund a portion of participants' projected benefits determined in accordance with one of several prescribed funding methods, using actuarial assumptions that are reasonable in the aggregate.	The minimum funding contribution is the greater of (i) the amount determined under the present-law rules (as modified by the bill), or (2) normal cost plus the greatest of the amount determined under (a), (b) or (c), below.	The minimum funding contribution is the greater of (1) the amount determined under the present-law rules (as modified by the bill), or (2) the sum of the amounts determined under (a), (b), (c), and (d).	For plans with a funded ratio of less than 100 percent, the minimum funding contribution is the greater of (1) the amount determined under the present-law rules (as modified by the bill), or (2) the sum of the amounts determined under (a), (b), and (c).	For plans with a funded ratio of less than 100 percent, the minimum funding contribution is the greater of (1) the amount determined under the present-law rules (as modified by the bill), or (2) the sum of the amounts determined under (a), (b), and (c).
	Each defined benefit plan subject to the funding rules is required to maintain a funding standard account. The account is charged with (1) normal cost for the year, and (2) a portion of the plan's past service liability, experience losses, losses resulting from changes in assumptions, and waived funding deficiencies. The account is credited with (1) contributions for the year, '(2) a portion of decreases in past service liability, experience gains, gains from changes in assumptions, and (3) the amount of any waived funding deficiency for the year.	(a) The unfunded amortization charge is the amount of the charge that would be determined if the unfunded termination liability were amortized in equal annual installments over (i) 3 years, if the funded ratio of the plan is less than 50 percent, (ii) 5 years, if the funded ratio equals or exceeds 50 percent and is less than 70 percent, or (iii) 15 years, if the funded ratio equals or exceeds 70 percent. This schedule is phased in over 6 years with respect to existing liabilities.	(a) The amount of benefit payments for the year (other than single sum distributions and payments for certain annuity contracts).	(a) Normal cost.	(a) Normal cost.
	In general, the contribution required for a plan year is the amount by which charges to the funding standard account would exceed credits to the account if no contributions were made to the plan.	(b) The anti-insolvency amount is the sum of (i) nonannuity distributions for the plan year, plus (ii) the amount of the charge which would be determined if the liabilities for benefits in pay status and liabilities for benefits reasonably expected to commence within the next 5 years were amortized over 3 years.	(b) A portion of the single sum distributions and payments for certain annuity contracts for the year.	(b) The amount necessary to amortize experience gains and losses from changes in actuarial assumptions over 5 years.	(b) The amount necessary to amortize unfunded past service liability of individuals in pay status and the unfunded portion of nonannuity distributions for the year over 10 years.

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		(c) The anti-deterioration amount is the sum of the amount necessary to amortize decreases in the funded ratio of the plan over 3 years, and 2 percent of the termination liability of the plan.	(c) Interest on the amount of unfunded vested benefits.	(c) The deficit reduction contribution, which is generally the sum of (i) the amount necessary to amortize unfunded old liabilities over 15 years, and (ii) the applicable percentage of the plan's unfunded new liability. The applicable percentage is 30 percent, reduced by the product of .25 percent multiplied by the excess (if any) of the funded ratio over 35 percent. A special rule applies with respect to unpredictable event contingent benefits.	(c) The amount necessary to amortize the unfunded past service liability of individuals not in pay status over the greater of (i) 15 years or (ii) the plan's average worklife. The 15-year amortization period for past service liabilities is phased in with respect to existing liabilities over 5 years. A special rule applies in the case of plans with all participants in pay status.
			(d) The amount necessary to amortize any waived funding deficiency.		
3. Cap on additional contribution		A contribution in excess of the contribution required under the present-law funding rules generally is not required if a plan has a funded ratio of 100 percent.	For plans with a funded ratio over 50 percent, the contribution required in excess of the contribution required under the present-law funding rules is capped at the greater of-- (1) the unfunded vested benefits of persons in pay status, or (2) the funded ratio of the plan plus the funded ratio improvement factor, which is between 0 and 2.5 percent.	Same as Ways and Means Committee bill.	Same as Ways and Means Committee bill.

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4. Funded ratio	No special rules apply with respect to plans that have assets less than the amount of benefits that would be required to be provided if the plan terminated (assuming the plan had sufficient assets). This liability ("termination liability") includes all fixed and contingent liabilities under the plan, including liabilities for benefits that may be eliminated prior to plan termination (Code sec. 401(a)(2)).	A plan's funded ratio is the ratio of plan assets to "termination liability." "Termination liability" is defined as under present law, except that it does not include any benefit contingent on a facility shutdown, a contraction in workforce, or any event that is not reasonably and reliably predictable (as determined under regulations) until the event has occurred. The interest rate is the rate used for funding purposes generally, which is required to be within 20 percent of a 5-year average of the applicable Federal long-term rate.	A plan's funded ratio is the ratio of plan assets to vested benefits. The interest rate used for calculating the value of vested benefits is the rate used) by the plan for funding purposes.	A plan's funded ratio is the percentage that plan assets are of "current liability." Current liability is generally the same as termination liability as defined for purposes of the funding rules under the Ways and Means Committee bill, except that certain preparticipation service may be disregarded with respect to certain participants with less than 10 years of participation. The interest rate must be within 20 percent of a 3-year average of the applicable Federal mid-term rate.	A plan's funded ratio is the percentage plan assets are of "benefit liabilities." Benefit liabilities has the same meaning as termination liability under present law.
5. Existing liabilities		"Existing liabilities" means the unfunded termination liability as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment adopted after June 30, 1987). Existing liabilities are reduced by all contributions in excess of normal cost.	"Existing liabilities" are treated the same as other liabilities.	"Unfunded old liability" means the unfunded current liability as of the beginning of the 1st plan year beginning after December 31, 1987 (determined without regard to any plan amendment adopted after October 16, 1987, other than amendments adopted pursuant to certain collective bargaining agreements). Unfunded old liability also includes increases in unfunded liabilities pursuant to collective bargaining agreements ratified before October 17, 1987.	"Existing liabilities" means liabilities not attributable to plan amendments after the date of enactment.

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6. Valuation of assets	Treasury regulations provide that the method used under the plan to value assets must produce a value that is between 80 percent and 120 percent of fair market value or between 85 percent and 115 percent of average value (as defined in regulations).	The regulations permitting asset valuations to be based on a range of other than fair market value are to have no force and effect.	No provision.	The portion of the regulations permitting asset valuations to be based on a range between 85 percent and 115 percent of average value are to have no force and effect.	No provision.
		Effective date.--Plan years beginning after December 31, 1987. A special rule applies to steel company plans for the first 5 years that the new funding rules are in effect.	Effective date.--Plan years ending after December 31, 1991. A special rule applies to steel company plans for the first 5 plan years the new rules are in effect.	Effective date.--Plan years beginning after December 31, 1988.	Effective date.--Plan years beginning after December 31, 1987
8. Time for Contributions	Under present law, the minimum required contribution for a plan year must be made within 8-1/2 months after the end of the plan year.	Three installments of estimated contributions are required during the plan year, with the total contribution due within 2-1/2 months after the end of the plan year. The amount of each installment is 1/4 of the lesser of (1) 80 percent of the amount required to be contributed for the current plan year or (2) 90 percent of the amount required to be contributed for the preceding plan year.	Similar to Ways and Means Committee bill, except that installment contributions are required only if a plan has an outstanding waiver. In that case, four installments are required during the plan year and the amount of each required installment is 1/4 of the lesser of (1) 100 percent of the amount required to be contributed for the current plan year or (2) 100 percent of the amount required to be contributed for the preceding plan year.	Similar to Ways and Means Committee bill, except that four installments are required during the plan year, with the total contribution due within 8-1/2 months after the end of the plan year. The amount of each required installment is 1/4 of the lesser of (1) 90 percent of the amount required to be contributed for the current plan year or (2) 100 percent of the amount required to be contributed for the preceding plan year.	Similar to Education and Labor Committee bill, except that four installments are required for the plan year.

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8. Time for Contributions (Cont.)		Failure to make installments.--An excise tax is imposed if the full amount of any required installment is not paid. The excise tax is determined by applying the interest rate for underpayment of income taxes to the amount of the underpayment for the period of the underpayment. The period of the underpayment begins on the due date of the installment and ends on the earlier of the date on which the underpayment is contributed to the plan or the date the total contribution is due. Each member of the employer's controlled group is jointly and severally liable for the tax.	Failure to make installments.--Same as Ways and Means Committee bill. The tax is imposed on the employer responsible for contributions to the plan.	Failure to make installments.--Same as Ways and Means Committee bill, except that interest is paid to the plan rather than as an excise tax, and the interest rate on missed contributions is the greater of (1) 175 percent of the mid-term AFR or (2) the rate of interest taken into account in determining costs under the plan. In addition, a lien arises if a required installment is not paid in full. The employer is required to notify employees of the failure to make required installments.	Failure to make installments.--Same as Education and Labor Committee bill.
	Failure to make total contribution for plan year.--The employer who is responsible for contributing to the plan is liable for an excise tax equal to 5 percent of any accumulated funding deficiency. The excise tax increases to 100 percent if the deficiency is not corrected within the taxable period.	Failure to make total contribution for plan year.--Each member of the employer's controlled group is jointly and severally liable for the excise tax.	Failure to make total contribution for plan year.--Same as Ways and Means Committee bill.	Failure to make total contribution for plan year.--Same as Ways and Means Committee bill. In addition, the 5 percent excise tax is increased to 10 percent, and a lien arises in favor of the plan if the required contribution is not paid in full. The employer is required to notify employees of the failure to make contributions.	Failure to make total contribution for plan year.--Same as Ways and Means Committee bill.
		Effective dates.--The acceleration of the due date for required plan contributions generally is effective for plan years beginning after December 31, 1988, with a phasein rule applying for plan years beginning in 1989. The provision requiring plan contributions to be made in installments is effective for plan years beginning after December 31, 1987, with a transition rule applicable for 1989 plan years.	Effective dates.--The provisions apply for plan years beginning after December 31, 1988.	Effective dates.--The provisions apply for plan years beginning after December 31, 1987.	Effective dates.--The provision requiring quarterly installment payments is effective for plan years beginning after December 31, 1990. The provision relating to liability for the excise tax for a failure to make required contributions for a plan year applies with respect to taxes imposed for taxable years beginning after December 31, 1987.

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C. Funding Waivers	An employer may obtain a waiver of the minimum funding requirement if the employer is unable to satisfy the requirement without substantial business hardship and if application of the requirement would be adverse to plan participants. Under IRS administrative procedures, a waiver will generally not be granted unless the employer demonstrates that the business hardship is likely to be temporary.	The bill clarifies that a waiver can be granted only if the business hardship is temporary and if the entire controlled group of which the employer is a member, as well as the employer itself, is experiencing the hardship.	Same as Ways and Means Committee bill.	Same as Ways and Means Committee bill, except that a waiver cannot be granted if the plan's funded ratio is less than 100 percent.	Same as Ways and Means Committee bill.
	<u>Time for requesting waivers</u>.--Under IRS administrative procedures, a request for a waiver must be submitted by the end of the plan year following the plan year for which the waiver is requested. The time for submitting a waiver request may be extended for good cause.	<u>Time for requesting waivers</u>.--A request for a waiver is required to be submitted within 2-1/2 months after the end of the plan year.	<u>Time for requesting waivers</u>.--Same as Ways and Means Committee bill.	<u>Time for requesting waivers</u>.--An application for a waiver with respect to any required contribution (including required installments) is required to be submitted before the due date of the contribution.	<u>Time for requesting waivers</u>.--Same as Ways and Means Committee bill.
	<u>Frequency of waivers</u>.--Funding waivers cannot be granted in more than 5 of any 15 consecutive plan years.	<u>Frequency of waivers</u>.--Funding waivers cannot be granted in more than 3 of any 15 consecutive plan years.	<u>Frequency of waivers</u>.--Same as Ways and Means Committee bill.	<u>Frequency of waivers</u>.--No provision.	<u>Frequency of waivers</u>.--Same as Ways and Means Committee bill.
	<u>Notice of waiver requests</u>.--An employer is required to notify each employee organization representing employees covered under the plan that a waiver has been requested.	<u>Notice of waiver requests</u>.--In addition to the notice to employee organizations, an employer is required to demonstrate that it made reasonable efforts to notify current employees that a waiver is being requested.	<u>Notice of waiver requests</u>.--The present-law notice is to be provided to all affected parties (i.e., participants, beneficiaries, alternate payees, and employee organizations representing employees covered under the plan). In addition, the notice must describe the extent to which the plan is funded with respect to guaranteed benefits and benefit liabilities.	<u>Notice of waiver requests</u>.--No provision.	<u>Notice of waiver requests</u>.--Same as Education and Labor Committee bill, except that no definition of affected party is provided.

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C. Funding Waivers (Cont.)	Interest rate charged for waived contributions.--The interest rate charged on waived contributions is the rate charged with respect to late payments of income taxes.	Interest rate charged for waived contributions.--The interest rate charged on waived contributions is the greater of (1) the rate used in computing costs under the plan or (2) 150 percent of the mid-term AFR in effect for the first month of the plan year.	Interest rate charged for waived contributions.--Same as Ways and Means Committee bill, except that 120 percent of the mid-term AFR, rather than 150 percent, is used.	Interest rate charged for waived contributions.--Same as Ways and Means Committee bill.	Interest rate charged for waived contributions.--Same as Education and Labor Committee bill.
	Amortization period for waived contributions.--Waived contributions are amortized over 15 years.	Amortization period for waived contributions.--The amortization period for waived contributions is the greater of (1) 5 years or (2) 15 years multiplied by the funded termination liability percentage for the plan year, rounded to the nearest whole number of years.	Amortization period for waived contributions.--Same as Ways and Means Committee bill, except that benefit liabilities, rather than termination liability, is used and partial years are rounded to the next highest whole number of years.	Amortization period for waived contributions.--No provision.	Amortization period for waived contributions.--The amortization period for waived contributions is 5 plan years.
	Security required for waived contributions.--The IRS may require an employer to provide security as a condition of granting a funding waiver if the outstanding balance of accumulated funding deficiencies and certain other amounts equals or exceeds $2 million.	Security required for waived contributions.--The bill lowers the threshold with respect to which the IRS can require security to $250,000. In the case of a plan with accumulated funding deficiencies in excess of $1 million or a plan that is not more than 70 percent funded, the PBGC is authorized to require that an employer provide security as a condition of granting a funding waiver.	Security required for waived contributions.--No provision.	Security required for waived contributions.--No provision.	Security required for waived contributions.--No provision.

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		Effective dates.--The provision relating to the funding waivers generally is effective with respect to (1) any application for a funding waiver submitted after June 30, 1987, and (2) any waiver granted with respect to an application submitted after June 30, 1987. The provision requiring that applications for funding waivers be filed within 2-1/2 months following the close of a plan year is effective for plan years beginning after December 31, 1987, with a transition rule for 1988 plan years.	Effective dates.--The provision relating to funding waivers generally is effective with respect to (1) any application for a funding waiver submitted after the date of enactment with respect to a plan year beginning after December 31, 1985, and (2) any waiver granted with respect to such an application. The provision requiring that applications for funding waivers be filed within 2-1/2 months following the close of a plan year is effective for plan years beginning after December 31, 1987, with a transition rule for 1988 plan years.	Effective dates.--The provisions apply with respect to any application for a funding waiver submitted for any plan year beginning after December 31, 1987.	Effective dates.--Same as Education and Labor Committee bill, except that the provision requiring applications for waivers to be filed within 2-1/2 months following the close of a plan year is effective for plan years beginning after the date of enactment.
D. Amortization Period for Unfunded Liabilities	The amortization period for certain unfunded liabilities may be extended by the Secretary of the Treasury for up to 10 years. The employer is required to notify each employee organization representing employees covered under the plan that an extension has been requested. The interest rate charged with respect to an extension is the rate for underpayments of income tax. The same rules relating to security for funding waivers apply to extensions of amortization periods.	The same rules under the bill relating to security for funding waivers apply to extensions of amortization periods.	The employer is required to notify each affected party that an extension is being requested. The interest rate charged with respect to an extension is the greater of (1) the interest rate used for calculating contributions under the plan or (2) 120 percent of the mid-term AFR in effect on the first day of the plan year for which the extension is requested.	No provision.	Same as Education and Labor Committee bill, except that no definition of affected party is provided.
		Effective date.--The provision applies to applications for extensions filed after the date of enactment.	Effective date.--The provision is effective with respect to (1) any application for an extension submitted after the date of enactment with respect to a plan year beginning after December 31, 1985, and (2) any waiver granted pursuant to such an application.		Effective date.--The provision applies to applications for extensions filed on or after the date of enactment.

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E. Experience Gains and Losses	Experience gains and losses for a year are amortized over a 15-year period.	The period for amortizing experience gains and losses is reduced to 3 years from 15 years. Effective date.--The provision is effective for plan years beginning after December 31, 1987.	The period for amortizing experience gains and losses is reduced to 5 years from 15 years. Effective date.--The provision is effective for plan years beginning after December 31, 1988.	Same as Education and Labor Committee bill. Effective date.--The provision is effective for years beginning after December 31, 1987.	The period for amortizing experience gains and losses is reduced to 7 years from 15 years. Effective date.--The provision is effective for plan years beginning on or after the date of enactment.
F. Gains and Losses Due to Changes in Assumptions	Gains and losses due to changes in actuarial assumptions are amortized over 30 years.	No provision.	No provision.	Gains and losses due to changes in actuarial assumptions are amortized over 5 years. Effective date.--The provision is effective for years beginning after December 31, 1987.	Gains and losses due to changes in actuarial assumptions are amortized over 7 years. Effective date.--The provision is effective for plan years beginning on or after the date of enactment.
G. Actuarial Assumptions Must Be Reasonable	The actuarial assumptions used to determine cost, liabilities, interest rates, and other factors under a plan are required to be reasonable in the aggregate.	All costs, liabilities, interest rates, and other factors are required to be determined on the basis of actuarial assumptions and methods (1) each of which is reasonable individually or (2) which result, in the aggregate, in a total plan contribution equivalent to the contribution that would be obtained if each assumption were reasonable. The interest rate used in calculating costs is required to be within a permissible range, defined as an interest rate not more than 20 percent above or below the average long-term AFR for the 5-year period ending on the last day of the preceding plan year. Effective date.--The provision applies to plan years beginning after December 31, 1987.	No provision.	Same as Ways and Means Committee bill, except that the bill does not include the requirement that the plan's interest rate be within the permissible range. Effective date.--The provision applies to years beginning after December 31, 1987.	No provision.

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H. Limitation on Amortization of Past Service Credits	A deduction is allowed for contributions necessary to amortize past service or other supplementary credits in equal annual amounts over 10 years. In _AMP, Inc. v. U.S._, the 3rd Circuit held that the amortizable base for purposes of determining an employer's maximum deduction includes all past service liability, rather than only the unfunded portion of its past service liability.	The bill clarifies that the amortizable base in determining an employer's maximum deduction for past service liability equals only the unfunded costs attributable to such liability. _Effective date_.--The provision is effective for plan years beginning after December 31, 1987.	No provision.	No provision.	No provision.
I. Limitation on Deduction for Contributions to Certain Plans Not Less Than Unfunded Termination Liability	An employer's contributions to a defined benefit pension plan may not be deductible even though the sum of the contributions plus the plan assets do not exceed the plan's termination liability for the plan year.	The maximum deduction limit for contributions is not less than the unfunded termination liability of the plan. This rule applies only to a plan subject to the plan termination insurance provisions of ERISA if the plan has 100 or more participants during the plan year. _Effective date_.--The provision is effective for plan years beginning after December 31, 1987.	The maximum deduction limit is not less than the unfunded vested liabilities under the plan. The increased deduction limit applies to all defined benefit pension plans. _Effective date_.--The provision is effective for plan years beginning after December 31, 1988.	Same as Ways and Means Committee bill, except that the increased deduction limit applies to all defined benefit pension plans with 100 or more participants. _Effective date_.--The provision is effective for years beginning after December 31, 1987.	No provision.

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II. Employer Access to Plan Assets (Sec. 9521 of the Ways and Means Committee bill, secs. 3002 to 3005 and 3007 of the Education and Labor Committee bill, and secs. 2 to 5 and 14 of the Labor and Human Resources Committee bill.)					
A. Plan Termination					
1. Employer reversions					
(a) Assets available for recovery	(a) Allocation of excess assets to employee contributions.--On plan termination an employer may recover plan assets that are in excess of the plan's termination liability to plan participants and their beneficiaries if such excess is due to actuarial error and to the extent that such excess is not attributable to employee contributions. Termination liability includes all vested and contingent liabilities, including those for which the eligibility conditions have not been satisfied as of the date of plan termination. Excess assets are allocated to employee contributions in accordance with one of several methods. At least one court has held that employee contributions (and earnings) are applied first to fund accrued benefits, with the result that the entire excess may be allocated to employer contributions.	(a) Allocation of excess assets to employee contributions.--No provision.	(a) Allocation of excess assets to employee contributions.--Assets in excess of "benefit liabilities" are allocated to mandatory employee contributions in the ratio that the present value of accrued benefits attributable to employee contributions bears to the present value of total benefits. Such excess is allocated among participants, beneficiaries, alternate payees, and persons who received a total distribution of plan benefits during the 3-year period before plan termination, based on the amount of employee contributions they are entitled to. The term "benefit liabilities' has the same meaning as termination liability under present law.	(a) Allocation of excess assets to employee contributions.--No provision.	(a) Allocation of excess assets to employee contributions.--Same as the Education and Labor Committee bill.

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1. Employer reversions (Cont.)	Required provision of benefits.--The employer may recover all assets in excess of termination liability (to the extent not attributable to employee contributions). No benefits in addition to termination liability are required to be provided.	Required provision of benefits.--No provision.	Required provision of benefits.--If a plan terminates with assets in excess of benefit liabilities and amounts attributable to employee contributions, certain excess assets generally are to be allocated to participants, beneficiaries, alternate payees, and persons who received a total distribution of plan benefits during the 3-year period prior to plan termination. The excess assets subject to this rule are limited to those necessary for the plan to attain the minimum benefit security level, as defined below with respect to withdrawals from ongoing plans (MBSL). These excess assets are allocated in proportion to benefits (up to half of the defined benefit plan dollar limit under sec. 415), subject to the applicable rules with respect to limits on benefits (sec. 415) and nondiscrimination (sec. 401(a)(4)).	Required provision of benefits.--No provision.	Required provision of benefits.--Same as the Education and Labor Committee bill, except that the allocation of excess assets to participants, etc., is to be made on a per capita rather than a pro rata basis.

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(b) Other restrictions	(b) An employer may not recover excess assets (i.e., a reversion) unless the plan document permits such recovery. The employer may amend the plan at any time prior to termination in order to permit such recovery.	(b) No provision.	(b) An employer may receive a reversion of assets in excess of those required to be allocated under the rule described above but only if the plan so provides. In determining the extent to which a plan provides for reversion of excess assets, any provision providing for a reversion or increasing the amount that may revert is not effective before the end of the 5th calendar year following the date of the adoption of the provision. A special rule applies with respect to a plan that has been in existence less than 5 years. Special rules apply to prevent avoidance of this requirement through plan mergers, etc. Any assets that may not be distributed to the employer are to be distributed to participants, beneficiaries, etc., subject to the applicable limits on benefits (sec. 415) and to the nondiscrimination rules.	(b) No provision.	(b) Same as the Education and Labor Committee bill. In addition, no reversion to the employer is allowed if the employer has terminated any plan without sufficient assets to pay benefit liabilities. This restriction does not apply if the PBGC and plan participants have been made whole for any loss suffered.

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2. Special funding rules					
(a) In general	(a) The recovery of a reversion from one defined benefit plan does not affect an employer's funding obligations with respect to other defined benefit plans that it maintains.	(a) If an employer receives a reversion with respect to a defined benefit plan, a special funding rule applies to defined benefit plans maintained by the same employer that (1) are not multiemployer plans, and (2) have an "unfunded amount." The term "unfunded amount" means the excess (if any) of (1) the greater of 125 percent of termination liability or the value of projected benefits, over (2) the value of plan assets.	(a) If an employer terminates a plan and receives a reversion, a special funding rule applies to defined benefit plans maintained by the same employer that (1) are not multiemployer plans, and (2) have a "funding shortfall." The term "funding shortfall" means the excess (if any) of (1) the lesser of (i) the MBSL of the plan or (ii) the assets necessary so that the plan would be funded at the controlled group funded ratio (CGFR level), over (2) the value of plan assets. The controlled group funded ratio is the ratio of the assets in all plans of the employer to the sum of all benefit liabilities in such plans.	(a) No provision.	(a) Generally, same as the Education and Labor Committee bill.
(b) Applicable period		(b) The special funding rule applies in plan years beginning in the calendar year in which the reversion is received and in the 3 succeeding calendar years.	(b) The special funding rule applies in the 3 plan years following the plan year in which the reversion occurs.		
(c) Funding and allocation rules		(c) The special funding rule requires that the reversion be used over the applicable 4-year period to reduce the unfunded amounts in the plans to which the rule applies. Each year in which the special funding rule applies, the portion of the reversion that is required to be contributed in that year is first allocated to the plans that have the largest unfunded amounts in relation to the asset level necessary to eliminate the unfunded amounts. A special rule applies if one of the plans to which the special funding rule applies is terminated.	(c) The special funding rule requires that the reversion be used over the applicable 3-year period to amortize the funding shortfalls of the plans to which the rule applies. The reversion is first allocated to the plans that have the lowest funded ratio (i.e., the ratio of plan assets to benefit liabilities). Unlike the Ways and Means Committee bill, this allocation occurs only once--in the year of the reversion--and subsequent contributions are based on this allocation.		

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(d) Asset transfers		(d) Assets transferred to a plan from a terminated defined benefit plan of the employer reduce the unfunded amount in the transferee plan.	(d) Assets transferred to a plan from another defined benefit plan of the employer reduce the transferee plan's funding shortfall.		
(e) Security		(e) The PBGC may require, as a condition of plan termination, that an employer provide security to the plan with respect to the contributions required by the special funding rule. Such security may be perfected only by the PBGC or, at the direction of the PBGC, by the employer.	(e) As part of the minimum funding rules, the employer is to provide security to the applicable plans with respect to this special funding rule. The security is to be in the form of a surety bond or an escrow account.		
(f) Funding waivers		(f) Contributions required by the special funding rule are subject to waiver under the same rules applicable to other required contributions.	(f) Contributions required by the special funding rule may not be waived.		
3. Transfer of plan sponsorship					
(a) In general	(a) Through certain transactions (e.g., plan mergers, consolidations, or transfers, and the assumption of a plan by another entity), an employer may, in effect, recover or benefit from the excess assets in a particular plan in the same way that the employer benefits from the amount recovered upon a plan termination. Similarly, through certain such transactions, employers are able to dispose of underfunded plans.	(a) Special funding rule limited to reversions.	(a) A special funding rule similar to the one described above with respect to reversions applies if certain transactions occur and 2 conditions are satisfied.	(a) No provision.	(a) Similar to the Education and Labor Committee bill.

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(b) Conditions based on funding			(b) The conditions that are required to be satisfied are: (1) Immediately following any one of such transactions, the plan involved in the transaction or any plan maintained by the employer that maintained such plan immediately before the transaction has a funding shortfall (i.e., is a "shortfall plan"), and (2) Immediately before the transaction, any defined benefit plan maintained by such employer was overfunded (i.e., had assets in excess of the greater of benefit liabilities or the CGFR level).		
(c) Transactions covered			(c) Generally the covered transactions include plan mergers, consolidations, or transfers, and the assumption of a plan by another entity.		
(d) Plans covered			(d) The special funding rule applies to defined benefit plans other than multiemployer plans.		

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(e) Funding requirement			(e) The special funding rule requires that an amount equal to the assets held by the overfunded plans in excess of the greater of benefit liabilities or the CGFR level be used to amortize the funding shortfalls of the shortfall plans over the following 3 plan years. If there is more than one shortfall plan, such amounts are to be allocated first to the plans that have the lowest funding ratios. The amounts allocated to each shortfall plan are to be reduced by the amounts (if any) allocable to such plan on a post-transaction basis. (For this purpose, all assets held by an employer's overfunded plans in excess of the greater of benefit liabilities or the CGFR level are "allocable" among all of the shortfall plans maintained by the employer immediately after the transaction.) The reduction described in the preceding sentence generally is not available in cases involving a transfer of assets between plans of the same employer if, following the transfer, the transferee plan is funded at a level above the level of the transferor plan.		

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B. Ongoing Plans					
1. Assets available for recovery					
(a) In general	(a) An employer is not entitled to recover excess assets from an ongoing plan.	(a) No provision.	(a) A withdrawal from an ongoing plan may be made if (1) the value of plan assets in the plan from which the withdrawal is to be made exceeds the minimum benefit security level (MBSL), and (2) the value of plan assets in each other plan maintained by the employer equals or exceeds such plan's MBSL. Only assets in excess of the MBSL of the plan may be withdrawn.	(a) No provision.	(a) Same as the Education and Labor Committee bill.
(b) Plans without qualified event contingent benefits			(b) In a plan that does not provide any qualified event contingent benefits, the MBSL is the sum of (1) the greater of the full funding limit with respect to the plan (using the projected unit credit method) or 125 percent of the present value of benefit liabilities and (2) the amount of any excess assets that are attributable to mandatory employee contributions.		(b) Same as the Education and Labor Committee bill.

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(c) Plans with qualified event contingent benefits			(c) In a plan that does provide qualified event contingent benefits, the MBSL is the lesser of (1) the MBSL determined without regard to qualified event contingent benefits but calculated using 150 percent in lieu of 125 percent in the formula described above, or (2) the amount of the MBSL calculated as if the contingency had occurred with respect to all qualified event contingent benefits.		(c) Same as the Education and Labor Committee bill except that for plans with qualified event contingent benefits, the MBSL is the lesser of (I) the sum of (A) 150 percent of the greater of the full funding limit with respect to the plan (using the projected unit credit method) or 125 percent of the present value of benefit liabilities, and (B) the amount of any excess assets that are attributable to mandatory employee contributions, or (II) the amount of the MBSL calculated as if the contingency had occurred with respect to all qualified event contingent benefits.
(d) Qualified event contingent benefits			(d) A qualified event contingent benefit is a benefit or subsidy that is contingent upon the occurrence of an event that (1) has not occurred and (2) does not occur solely with respect to a participant or beneficiary (such as the attainment of any age, disability, death or the completion of any period of service).		(d) Same as the Education and Labor Committee bill.
(e) Transfers			(e) Tax-free transfers between defined benefit plans of the same employer of assets in excess of liabilities are permitted. Such net asset transfers from defined benefit plans to defined contribution plans are not permitted regardless of the form of the transaction (e.g., merger).		(e) Same as the Education and Labor Committee bill, except that there is no provision with respect to transfers from defined benefit plans to defined contribution plans.

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2. Other restrictions					
(a) Plan provisions			(a) A withdrawal may not be made unless the plan so provides. In determining the extent to which a plan provides for withdrawals, any provision providing for withdrawals or increasing the amount that may be withdrawn is not effective before the end of the 5th calendar year following the later of (1) the date of adoption of the provision, and (2) the date notice of the provision is provided to affected parties. This rule does not apply to a plan that on July 1, 1987, provided for a distribution of plan assets to the employer upon plan termination. For such plans, any provision providing for withdrawals or increasing the amount that may be withdrawn is not effective before the end of the 180-day period following written notice of the amendment to affected parties. Special rules apply to prevent avoidance of the 5-year requirement through plan mergers, etc.		(a) Same as the Education and Labor Committee bill, except that October 9, 1987, is used in lieu of July 1, 1987.
(b) Notice			(b) At least 30 days before a withdrawal, the plan administrator is required to file with the IRS an actuarial statement evidencing compliance with the MBSL requirements. Within 60 days after the date of a withdrawal, the employer is required to provide certain information to the Secretary of Labor, the Secretary of the Treasury, the plan administrator, and each employee organization representing plan participants with respect to the withdrawal.		(b) Same as the Education and Labor Committee bill.

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(c) Interest rates			(c) In calculating the present value of benefit liabilities for purposes of determining the MBSL, the interest rate used is the lesser of the plan rate for purposes of determining single sum distributions or generally 120 percent of the rate that would be used by the PBGC for purposes of determining the present value of a lump sum distribution on plan termination.		(c) Same as the Education and Labor Committee bill.
(d) Asset level of terminated plans			(d) No provision.		(d) Withdrawals are not permitted if the employer has terminated any plan without assets sufficient to pay benefit liabilities. This prohibition does not apply if the PBGC and plan participants have been made whole for any loss suffered.
C. Tax Treatment					
1. Reversions					
(a) Income tax	(a) Reversions are includible in the gross income of the employer, except to the extent the reversion is transferred to an employee stock ownership plan (ESOP) either prior to January 1, 1989, or pursuant to a termination occurring prior to January 1, 1989.	(a) Same as present law, except that generally, a reversion from a defined benefit plan that is transferred in a qualified transfer is not includible in the employer's income.	(a) Any amount transferred directly between defined benefit plans maintained by the same employer is not includible in the employer's income. The ESOP exception is repealed.	(a) No provision.	(a) Same as the Education and Labor Committee bill, except that the ESOP exception is not repealed.

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(b) <u>Reversion tax</u>	(b) Reversions are subject to a 10-percent nondeductible excise tax, except to the extent the reversion is transferred to an ESOP either prior to January 1, 1989, or pursuant to a termination occurring prior to January 1, 1989.	(b) The excise tax is raised to 20 percent. However, a reversion from a defined benefit plan that is transferred in a qualified transfer generally is not subject to the 20-percent excise tax.	(b) Transfers described in (a) above are not subject to the tax on reversions. An excise tax applies if the amount withdrawn from an ongoing plan exceeds the permissible amount. The amount of the tax is 5 percent of the excess withdrawn over the permissible amount if the excess withdrawal is corrected within 90 days, 50 percent of the excess if the withdrawal is not corrected within 90 days, but is corrected within 365 days, 100 percent if the withdrawal is not corrected within 365 days, and 100 percent for each succeeding 365 days that the withdrawal is not corrected. The employer making the withdrawal is liable for this excise tax.	(b) No provision.	(b) Same as the Education and Labor Committee bill.
		<u>Effective date</u>.--The provisions apply to any reversion received after June 30, 1987, except that the provisions do not apply to any reversion on account of a termination if notice to the PBGC of such termination is provided on or before June 30, 1987. The bill does not affect the special rules under the Tax Reform Act of 1986 with respect to certain transfers to an ESOP or with respect to the application of the excise tax on reversions to certain taxpayers.	<u>Effective date</u>.--<u>Withdrawals</u>.--The withdrawal provisions apply to withdrawals occurring after the date 90 days after the date of enactment. However, if a plan is amended in its first plan year beginning after December 31, 1988, to allow withdrawals, the amendment need only be in effect for 4 years, rather than 5.		<u>Effective date</u>.--<u>Withdrawals</u>.--Same as the Education and Labor Committee bill.
			<u>Allocation of excess assets</u>.--The allocation of excess assets on plan termination applies to plans with a termination date on or after July 22, 1987.		<u>Allocation of excess assets</u>.--Same as the Education and Labor Committee bill, except that October 9, 1987, is used in lieu of July 22, 1987.

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(b) Reversion tax (Cont.)			Transfers between defined benefit plans.--The rule permitting tax-free transfers between defined benefit plans is intended as a clarification of present law.		Transfers between defined benefit plans.--Same as the Education and Labor Committee bill.
			ESOP exceptions.--The repeal of the ESOP transfer exceptions and the rule prohibiting net asset transfers from defined benefit plans to defined contribution plans apply to transactions occurring after July 21, 1987.		
			Other provisions.--All other provisions apply to (i) terminations with a termination date on or after the date of enactment, and (ii) transactions occurring on or after the date of enactment.		Other provisions.--Same as the Education and Labor Committee bill.

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III. Treatment of Plan Terminations (secs. 9531-9533 of the Ways and Means Committee bill, secs. 3008, 3009, 3010, and 3012 of the Education and Labor Committee bill, secs. 4558-4560 of the Finance Committee bill, and secs. 8008 and 8009 of the Labor and Human Resources Committee bill)					
A. Employer Liability to Participants	Upon plan termination, an employer is liable for unfunded benefits up to the lesser of (i) 75 % of the unfunded benefit commitments in excess of guaranteed benefits, or (ii) 15% of the value of all benefit commitments under the plan. "Benefit commitments" are greater than guaranteed benefits, but less than termination liability. Amounts paid to satisfy the employer's liability are paid into a termination trust. Amounts may be paid from the trust before the employer's liability to the PBGC is discharged.	The employer's liability is increased to the full amount of unfunded termination liability (defined as under present law) in excess of guaranteed benefits. The PBGC is entitled to recover the full amount of unfunded guaranteed benefits before any benefits are paid from the termination trust.	Same as Ways and Means Committee bill, except that the term "benefit liabilities" is used instead of termination liability, and the bill does not provide that the PBGC is entitled to full recovery before benefits are paid from the termination trust. Administrative expenses associated with the termination trust that are incurred before any liability payments have been collected are payable by the persons liable for the payments and are deducted from future payments.	Same as Ways and Means Committee bill, except for the provision regarding the termination trust.	Same as Ways and Means Committee bill, except for the provision regarding the termination trust and the term "benefit liabilities" is used instead of termination liability.
B. Employer Liability to PBGC	Following termination of a plan with assets less than guaranteed benefits, the employer is liable to the PBGC for the sum of (1) unfunded guaranteed benefits up to 30 percent of the collective net worth of the entities that are liable, (2) the excess of 75 percent of the unfunded guaranteed benefits over 30 percent of the collective net worth, and (3) interest on such amounts from the date of termination. Up to the 30 percent of net worth limit, the PBGC's claim has priority status.	The employer's liability to the PBGC is increased to the full amount of unfunded guaranteed benefits (plus interest).	Same as Ways and Means Committee bill.	Same as Ways and Means Committee bill, except that the 30 percent of net worth limit on the PBGC's priority claim is removed.	Same as Ways and Means Committee bill.

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C. Standards for Termination					
1. Standard termination	An employer may terminate a plan in a standard termination if the plan has assets at least equal to benefit commitments. The plan administrator is required to provide participants and beneficiaries certain information relating to their benefits.	Raises the required asset level for a standard termination to termination liability (defined as under present law).	Same as Ways and Means Committee bill. In addition, the information regarding benefits is to be sent to affected parties, rather than only participants and beneficiaries. Affected parties include participants, beneficiaries (including alternate payees), and the PBGC.	Same as Ways and Means Committee bill.	Same as Ways and Means Committee bill.
2. Distress termination	The plan administrator must demonstrate that: (a) a petition seeking liquidation under title 11 or under similar law of a State or political subdivision of a State has been filed and has not been dismissed, (b) a petition seeking reorganization under title 11 or under a similar law of a State or political subdivision of a State has been filed (or a case in (1) has been converted to a reorganization), such case has not been dismissed, and the bankruptcy (or other appropriate court) approves the termination, or (c) unless a distress termination occurs the entity will be unable to pay its debts when due and will be unable to continue in business, or the costs of providing pension coverage have become unreasonably burdensome. Each substantial member of the contributing sponsor's controlled group must satisfy one of these criteria as of the date of plan termination.	Eliminates a reorganization as a situation permitting a distress termination. In addition, a distress termination is not available if the employer maintains a plan with assets in excess of termination liability. The contributing sponsor and each member of the contributing sponsor's controlled group must meet one of the criteria for a distress termination.	Retains present law, except that a reorganization that has been converted to a liquidation qualifies as a liquidation for purposes of determining whether a distress termination is permitted. In the case of a reorganization, the PBGC is required to be notified in advance that the person intends to request the approval of the termination by the appropriate court. The determination of whether the distress criteria have been satisfied is made as of the proposed date of termination.	Same as Ways and Means Committee bill, but does not include the provision prohibiting a distress termination if the employer maintains an overfunded plan.	No provision.

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3. Termination charge		No provision.	In the case of any termination of a single-employer plan, the contributing sponsor is to pay to the PBGC a charge per participant in the terminating plan based on the deficit of the PBGC. For the period July 1, 1987, through June 30, 1990, the charge is $200 per participant. In the case of a distress termination in which the contributing sponsor also maintains a plan with assets in excess of the minimum benefit security level, the per-participant charge is doubled.	No provision.	No provision.
D. Replacement Plans	There is no express prohibition on the maintenance of other plans following a termination of an underfunded plan.	If, after a termination, there is outstanding liability to the PBGC, no retirement benefits may accrue under a plan for 5 years following the termination and for the 1 year period prior to the termination.	No provision.	No provision.	No provision.
E. Security and Lien Rules for Underfunded Plans	No provision.	If the funded ratio of a plan falls below 70 percent, the plan is entitled to security in an amount determined by the PBGC. If the security is not provided, then a lien arises in an amount determined by the PBGC.	No provision.	If the funded ratio of a plan falls below 70 percent and the current liability of the plan exceeds $25 million, then a lien arises in favor of the plan in the amount of the shortfall. Existing liabilities are not taken into account in determining whether a lien arises. The employer is required to notify the PBGC when the plan assets and liabilities are such that a lien arises.	No provision.

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F. Information Requirements	In connection with a standard or distress termination, the plan administrator is required to provide certain information to the PBGC, including a certification by an enrolled actuary. Certain information must also be provided to the PBGC or other persons other than at plan termination.	No provision.	Information related to the certification by the enrolled actuary in the case of a termination need not be provided in the case of the termination of certain plans funded exclusively by individual insurance contracts or, in a distress termination, if not needed by the PBGC to determine the sufficiency of plan assets or the employer's liability. The information required to be provided in a standard or distress termination must be provided in the case of a termination by the PBGC at the request of the PBGC. A penalty of up to $1,000 per day is payable to the PBGC for failure to provide required information.	No provision.	No provision.
		__Effective dates.__--Except for the provision relating to security, the provisions are effective for terminations for which notice to the PBGC is provided after June 30, 1987, and terminations initiated by the PBGC after June 30, 1987. The provision relating to required security is effective with respect to plan years beginning after the date of enactment.	__Effective dates.__--The provision regarding the termination charge is effective for terminations for which the notice to plan participants is provided on or after July 1, 1987, and terminations by the PBGC initiated on or after July 1, 1987. The other provisions are effective on the date of enactment.	__Effective dates.__--Except for the provision relating to liens with respect to underfunded plans, the provisions are generally effective for terminations where notice to the PBGC is provided after October 16, 1987, and terminations initiated by the PBGC after October 16, 1987. The provision relating to liens with respect to underfunded plans is effective with respect to plan years beginning after the date of enactment.	__Effective dates.__--Date of enactment.

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IV. PBGC Premiums (sec. 9541 of the Ways and Means Committee bill, sec. 3011 of the Education and Labor Committee bill, sec. 4560 of the Finance Committee bill, and sec. 8010 of the Labor and Human Resources bill)					
A. Flat Rate Premium	Each employer maintaining a single-employer defined benefit pension plan is subject to a flat-rate PBGC premium of $8.50 per participant and beneficiary covered under the plan.	The flat-rate per participant premium is increased to $14.	The flat-rate per participant premium is increased to $19.	Same as Ways and Means Committee bill.	The flat-rate per participant premium is increased to $25.
B. Additional Charge for Underfunded Plans	No additional premium is charged with respect to participants and beneficiaries in underfunded plans.	An additional per participant premium is charged to the extent that a plan is underfunded. The additional premium is $5.50 per $1,000 of unfunded vested benefits. The maximum additional premium is $36.	No provision.	Similar to Ways and Means Committee bill, except that the additional premium is $8.00 per $1,000 of unfunded current liability. The maximum additional premium is $70, indexed to growth in wages. In addition, the additional premium is reduced for 5 years by $10 for each year preceding the effective date for which the employer made the maximum deductible contributions to the plan.	No provision.
C. Small Employer Exemption	The per-participant PBGC premium is imposed with respect to all single-employer defined benefit plans subject to Title sIV of ERISA.	Plans with fewer than 100 participants (on a controlled group basis) are exempt from the additional premium for underfunded plans.	No provision.	Same as Ways and Means Committee bill, except that the additional premium phases in for plans with 100-150 participants.	No provision.
D. Liability for Premium Payments	The plan administrator is liable for premium payments.	The employer maintaining the plan and each member of the controlled group of the employer is liable for premium payments.	Same as Ways and Means Committee bill.	Same as Ways and Means Committee bill, except that the plan administrator is also liable for premium payments.	Same as Ways and Means Committee bill.

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E. Accounting for Additional Premium Income	Any premium income is credited to the single-employer revolving fund.	No provision.	No provision.	The additional premiums collected under the bill is credited to a separate revolving fund that cannot be used to pay PBGC administrative expenses or benefits in pre-1988 terminations, unless all other PBGC assets are depleted.	Same as Senate Finance Committee bill.
		<u>Effective date</u>.--Plan years beginning after December 31, 1987.	<u>Effective date</u>.--Same as Ways and Means Committee bill.	<u>Effective date</u>.--Same as Ways and Means Committee bill.	<u>Effective date</u>.--Same as Ways and Means Committee bill.

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V. Miscellaneous provisions (secs. 9551 and 9552 of the Ways and Means Committee bill, and secs. 3012-3015 of the Education and Labor Committee bill).					
A. Notification of Employees	Under present law, an employer is required to report certain information annually to participants in a pension plan maintained by the employer. This information does not contain specific information relating to the funded status of the plan.	The actuarial statement that employees are required to receive annually would be required to include a statement of the extent to the which the plan is funded.	No provision.	No provision.	No provision.
B. Statute of Limitations With Respect to Certain Reports	Under present law, the statute of limitations with respect to an action commenced under Title I of ERISA with respect to a breach of fiduciary duty begins to run on the date on which a report from which the plaintiff could reasonably be expected to have obtained knowledge of the breach was filed with the Secretary.	No provision.	The bill would delete the provision under which the statute of limitations begins to run on the date a report is filed from which the plaintiff could reasonably be expected to have obtained knowledge of a breach of fiduciary liability.	No provision.	No provision.
C. Penalty for Failure to Provide Annual Report in Complete Form	Under present law, no separate penalty applies with respect to the failure of a plan administrator's failure or refusal to file an annual report.	No provision.	Provides that the Secretary of Labor may assess a civil penalty of up to $1,000 a day from the date of a plan administrator's failure or refusal to file an annual report. In addition, an annual report that has been rejected is not to be treated as having been filed for purposes of this penalty.	No provision.	No provision.

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D. Interpretation of Provisions Under the Internal Revenue Code and ERISA	Under present law, employers may withdraw assets from pension plans prior to plan termination. Under the Code, an employer contribution may be returned if the contribution was conditioned on initial qualification of the plan and the plan does not qualify. Under ERISA, employer contributions may be returned on any denial of qualification, rather than initial qualification. A recent court case (Calfee, Halter & Griswold) held that the ERISA standard applied for purposes of the Code, rather than the Code standard.	The bill would provide that, except to the extent specifically provided in the Code, the Code is to be interpreted as if the provision of Titles I and IV of ERISA had not been enacted. In addition, the bill specifically rejects the holding in Calfee, Halter & Griswold.	Similar to Ways and Means Committee bill, except that Title I of ERISA is amended to permit a return of contributions to an employer if the contribution is conditioned on initial qualification of the plan, if the plan does not qualify initially, and if the application for determination relating to initial qualification is filed by the due date of the employer's return for the taxable year in which the plan was adopted. The bill provides that a determination by the Secretary of the Treasury under the Code is not prima facie evidence on issues relating to certain parts of Title I of ERISA.	No provision.	No provision.
E. Sanctions for Prohibited Transactions that are Continuing in Nature	Under present law, under ERISA, the penalty imposed with respect to a prohibited transaction is 5 percent of the amount involved and, if the prohibited transaction is not corrected within a certain period of time, 100 percent of the amount involved.	No provision.	The bill would provide that the penalty imposed with respect to a prohibited transaction is 5 percent of the amount involved in each prohibited transaction and, if the transaction is not corrected within a certain period of time, 100 percent of the amount involved in each prohibited transaction.	No provision.	No provision.
F. Multiemployer Plans					
1. In general	In some cases, special rules apply with respect to multiemployer plans.	Some provisions of the bill do not apply to multiemployer plans.	Some provisions of the bill do not apply to multiemployer plans.	The provisions of the bill do not apply to multiemployer plans.	Some of the provisions of the bill do not apply to multiemployer plans.

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2. Guaranteed benefits	Within certain limits, the PBGC guarantees nonforfeitable benefits under multiemployer plans.	No provision.	Conforms treatment of qualified preretirement survivor annuity for multiemployer plans to treatment for single-employer plans. Thus, for purposes of the guarantee, a qualified preretirement survivor annuity is not treated as forfeitable solely because the participant has not died as of the date of plan termination or insolvency.	No provision.	No provision.
3. Penalty for failure to provide information	A penalty of up to $100 per day is payable to the corporation for failure to provide information required with respect to multiemployer plans.	No provision.	The penalty is increased to up to $1,000 per day.	No provision.	No provision.
4. Notice of litigation	The PBGC is to be served with a complaint in certain litigation involving multiemployer plans.	No provision.	The plan sponsor of a multiemployer plan is to serve the PBGC with any complaint, district court opinion, notice of appeal, or court of appeals decision with respect to certain litigation involving the plan sponsor.	No provision.	No provision.
G. Plan Investment in Employer Securities					
1. 10-percent limit	A plan subject to ERISA may not acquire or hold an employer security other than qualifying employer securities. Except in the case of eligible individual account plans, a plan may not acquire qualifying employer securities if, after the acquisition, the total fair market of such securities and qualifying real property would exceed 10 percent of the assets of the plan.	No provision.	The term "eligible individual account plan" does not include individual account plans taken into account in determining the benefits payable to a participant under any defined benefit plan. An arrangement consisting of a defined benefit plan and an individual account plan, the benefits of which are taken into account in determining the benefits payable under the defined benefit plan (a floor-offset arrangement) are treated as a single plan for purposes of the 10-percent limit.	No provision.	No provision.

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2. Definition of qualifying employer security	Qualifying employer securities are stock and marketable obligations. An obligation is not a marketable obligation unless: (a) not more than 25 percent of the obligations issued are held by the plan, (b) at least 50 percent of the issue is held by persons independent of the issuer, and (c) not more than 25 percent of the assets of the plan are invested in obligations of the employer.	No provision.	In the case of a plan other than an individual account plan, stock is considered a qualifying employer security only if: (a) not more than 25 percent of the aggregate amount of stock of the same class issued and outstanding at the time of acquisition by the plan is held by the plan, and (b) at least 50 percent of the aggregate amount of such stock is held by persons independent of the issuer. __Effective date.__--Acquisitions of employer securities after February 19, 1987, other than pursuant to a binding contract in effect on such date. Plans that, on February 19, 1987, hold employer securities that do not meet the new requirements or that acquire such securities pursuant to a binding contract in effect on such date have until January 1, 1993, to divest themselves of such securities.	No provision.	No provision.
H. Interest on Employee Contributions	Mandatory employee contributions to a defined benefit plan are required to be credited with interest at a rate of 5 percent per year. The Secretary of Treasury has the authority to adjust this 5-percent rate under appropriate circumstances.	No provision.	No provision.	No provision.	The 5-percent rate is replaced by a rate equal to 120 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of a plan year). The Secretary would not have authority to alter this rate. __Effective date.__--The provision is effective on the date of enactment.

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I. Study of Event-Contingent Pension Benefits		No provision.	No provision.	No provision.	The Secretary of Labor is required to study the effect of event-contingent pension benefits on private pension plans and not later than February 1, 1988, report the results of this study, together with legislative recommendations, to the Education and Labor Committee and the Labor and Human Resources Committee.

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VI. Pension Plan Portability					
A. Portable Pension Plans (sec. 3111-3112 of the House Education and Labor bill)					
1. Definition		No provision.	A portable pension plan is a rollover IRA that (1) satisfies the simplified employee pension (SEP) rules (sec. 408(k) of the Code) with respect to employer contributions, (2) meets certain distribution rules, and (3) meets certain portability rules. A rollover IRA is an IRA that accounts seperately for rollovers, basis, and certain transfers.	No provision.	No provision.
2. Distribution requirements		No provision.	For married participants, distributions are to be in the form of a 50-percent qualified joint and survivor annuity, unless the participant elects otherwise and the spouse consents. (This rule does not apply to amounts transferred from other plans with respect to which the spouse was not the beneficiary.) In other cases, distributions are to be in the form of a single life annuity, unless the participant elects otherwise. Subject to the spousal consent rule, a participant may designate the form of distribution. All distributions are subject to the minimum distribution rules.	No provision.	No provision.

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3. Portability requirements		No provision.	A portable pension plan meets the portability requirements if it (1) allows transfers (subject to spousal consent if spousal consent would be required with respect to a distribution) to other portable pension plans and, under certain circumstances, to qualified plans, (2) accepts rollovers and transfers from SEPs, qualified plans, and tax-sheltered annuities, and (3) accepts transfers from portable pension plans.	No provision.	No provision.
4. Investment options		No provision.	A portable pension plan is required to (1) allow an option of investing principally in cash and U.S. securities, and (2) if a participant does not elect otherwise, invest the participant's account in cash, U.S. securities, or similarly safe investments determined under regulations.	No provision.	No provision.
5. Notices		No provision.	The administrator of a portable pension plan is to provide participants with a written explanation of the tax treatment of a distribution and of the participant's and spouse's rights with respect to the form of the distribution.	No provision.	No provision.
6. Prototype plan		No provision.	The Secretary of Labor and the Secretary of the Treasury are to prescribe a prototype portable pension plan. Effective date.--Taxable years beginning after December 31, 1991.	No provision.	No provision.

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B. Rollovers and Transfers (sec. 3113 of the House Education and Labor bill)					
1. Qualified plan and tax-sheltered annuity contract distributions	Distributions from a qualified plan may, under certain circumstances, be rolled over into an IRA or another qualified plan. Spousal beneficiaries may only roll over amounts into IRAs. Distributions from a tax-sheltered annuity contract may, under certain circumstances, be rolled over into an IRA or another tax-sheltered annuity contract. Spousal beneficiaries may only roll over amounts into IRAs.	No provision.	Distributions from qualified plans or tax-sheltered annuity contracts may only be rolled over into a portable pension plan or another qualified plan or tax-sheltered annuity contract, respectively, and may not be rolled over to an IRA. Spousal beneficiaries may only roll over amounts into portable pension plans.	No provision.	No provision.
2. Distributions from portable pension plans	No provision.	No provision.	Distributions from portable pension plans may not be rolled over to any other type of plan; certain tax-free transfers from portable pension plans are permitted.	No provision.	No provision.
3. Transfers and rollovers from qualified plans and tax-sheltered annuities	Transfers from qualified plans to IRAs are not permitted. A distribution from a qualified plan of employee contributions may not be rolled over to any plan or IRA. Similar rules apply to tax-sheltered annuities.	No provision.	Tax-free transfers from qualified plans to portable pension plans may be made; such transfers may include employee contributions. Distributions of employee contributions from qualified plans may be rolled over into portable pension plans. Employee contributions may be transferred tax-free from a portable pension plan to a qualified plan. Similar rules apply to tax-sheltered annuities.	No provision.	No provision.

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4. Life insurance contracts	An IRA may not invest in a life insurance contract.	No provision.	IRAs may hold life insurance contracts that are transferred from a qualified plan or tax-sheltered annuity. Effective date.--Taxable years beginning after December 31, 1991.	No provision.	No provision.
C. Qualified Plan Distributions (sec. 3114 of the House Education and Labor Committee bill)					
1. Permissible distributions	Distributions from a pension plan generally may be made only on account of plan termination or the employee's separation from service, disability, death, or attainment of normal retirement age. Profit-sharing and stock bonus plans generally may permit distributions after the expiration of a stated period of time (2 years or longer) or after the occurrence of a stated event. Special rules apply to section 401(k) plans and tax-sheltered annuities.	No provision.	A qualified plan may not permit a distribution not described below: (a) Direct transfers to another plan or a portable pension plan selected by the participant (or by the plan administrator if the participant makes no selection, with an exception allowing cash distributions of certain small benefits if the participant makes no selection). (b) Any distribution of employee contributions. (c) Any distribution made on or after the employee attains age 59-1/2, dies, or separates from service after attainment of age 55. (d) Any distribution attributable to the employee being disabled.	No provision.	No provision.

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			(e) A distribution after the employee separates from service in a series of substantially equal periodic payments over the life (or life expectancy) of the employee or over the joint lives (or joint life expectancies) of the employee and the employee's beneficiary. (f) A distribution of a deductible dividend (sec. 404(k). (g) A distribution of stock issued by the employer maintaining the plan. (h) A distribution upon the occurrence of a hardship of the employee. (i) A distribution of the amount of medical expenses the employee could deduct (assuming the employee itemizes). (j) A distribution to an alternate payee pursuant to a qualified domestic relations order.		
2. Consent requirements	If the present value of an employee's vested accrued benefit exceeds $3,500, the benefit may not be immediately distributed without the consent of the employee and, in certain cases, the employee's spouse.	No provision.	The consent requirements do not apply to a transfer of an employee's entire benefit (or entire benefit reduced by distributed employee contributions) to a portable pension plan or certain other qualified plans.	No provision.	No provision.

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3. Plan mergers and transfers	Generally, a participant's benefit may not be reduced by a merger of consolidation of plans or by a transfer of plan assets or liabilities.	No provision.	The prohibition on reduction of a participant's benefit is not violated by a transfer of a participant's benefit to a portable pension plan or to a qualified plan providing the participant with the benefit distribution options required for a portable pension plan.	No provision.	No provision.
4. Reduction in accrued benefit	Generally, a plan amendment may not reduce a participant's accrued benefit under a qualified plan. Certain forms of distributions are treated as part of a participant's accrued benefit.	No provision.	The prohibition on reduction of a participant's benefit is not violated by a transfer of a participant's benefit to a portable pension plan or to a qualified plan providing the participant with the benefit distribution options required for a portable pension plan.	No provision.	No provision.
5. Vesting service	A qualified plan generally may disregard service, for vesting purposes, if the benefit earned for such service has been distributed.	No provision.	The bill generally allows service to be disregarded if the benefit earned for such service has been transferred. <u>Effective date</u>.--Generally, plan years beginning after December 31, 1991. With respect to collectively bargained plans, these provisions are not to apply to employees covered by the collective bargaining agreements in plan years beginning before the later of (1) the termination of the last of the collective bargaining agreements (without regard to extensions on or after date of enactment), or (2) January 1, 1992. The provisions do not apply to any individual who attained age 50 before January 1, 1986.	No provision.	No provision.

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D. Simplified Employee Plans (SEPs) (secs. 3121-3123 of the House Education and Labor Committee bill)					
1. ERISA rules	Simplified employee pensions (SEPs) that are plans generally are subject to the requirements of the Employee Retirement Income Security Act of 1974 (ERISA).	No provision.	All SEPs are subject to ERISA with special rules with respect to participation, vesting, and funding to conform to the tax rules applicable to SEPs. In addition, the Secretary of Labor is to prescribe special means for SEPs to comply with the reporting and disclosure requirements.	No provision	No provision.
2. Distributions	Under the Code, the employer may not prohibit withdrawals from a SEP.	No provision.	SEPs generally are subject to the same distribution rules applicable to portable pension plans. <u>Effective date</u>.--Generally, taxable years beginning after December 31, 1991. However, the distribution rules applicable to portable pension plans only apply to SEPs established after December 31, 1991.	No provision.	No provision.

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E. Salary Reduction Under SEPs (sec. 3124 of the House Education and Labor Committee bill)					
1. SEP participation requirements	Under the participation requirements, a simplified employee pension (SEP) does not qualify unless an employer contribution is made on behalf of each employee who meets certain age, service, and compensation requirements.	No provision.	Employer contributions need not be made on behalf of an employee who is not employed on the last day of the year, unless an employer contribution was made for the employee in the preceding year. Also, if an employer uses the alternative means of allowing elective contributions described in (b) below, the participation requirements may not exclude any employee who has attained age 21 with 1 year of service from any SEP of the employer, subject to the year-end employment rule.	No provision.	No provision.
2. Elective contributions	If certain requirements are satisfied, contributions that an employee had the right to receive in cash may be made to a SEP. (a) One requirement is that the employer not be a State or local government or a tax-exempt organization. (b) To qualify for this rule, the employer may not have had more than 25 employees at any time during the preceding year.	No provision.	The bill establishes an alternative means of allowing elective contributions to a SEP if certain different requirements are satisfied. (a) Same requirement. (b) This alternative means would be available without regard to the size of the employer. However, the employer may not be maintaining a qualified retirement plan for any employee meeting certain age and service requirements.	No provision.	No provision.

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	(c) Nondiscrimination rules apply to the elective contributions without regard to nonelective contributions made for the same employees. For purposes of these rules, no more than $200,000 of compensation may be taken into account. (d) All employees who satisfy the participation requirements are to be entitled to make an elective contribution.		(c) The elective contributions are subject to a limit that functions in a manner similar to the present-law nondiscrimination rules, but takes nonelective contributions into account. There is no limit on the amount of compensation that may be taken into account. (d) All employees receiving an employer contribution under a SEP are to be eligible to make an elective contribution.		
3. Non-discriminatory contributions	Nonelective employer contributions to SEPs will satisfy the nondiscrimination rules if they bear a uniform relationship to employees' compensation (up to $200,000). In addition, certain integration with social security is permitted.	No provision.	If an employer uses the alternative means of allowing elective contributions, integration is not permitted in any SEP of the employer. <u>Effective date</u>.--Taxable years beginning after December 31, 1991.	No provision.	No provision.
F. Line of Business Rule for SEPs (sec. 3125 of the House Education and Labor bill)	The nondiscrimination rules applicable to qualified plans, tax-sheltered annuities, and statutory employee benefit plans may be applied separately to separate lines of business or operating units of an employer.	No provision.	If an employer maintains a qualified plan or SEP in each separate line of business or operating unit, the Secretary may by regulation provide that such employer may apply the SEP requirements separately to each such separate line of business or operating unit. <u>Effective date</u>.--Taxable years beginning after December 31, 1991.	No provision.	No provision.