United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 108th CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, MONDAY, JANUARY 26, 2004 No. 5

House of Representatives

The House was not in session today. Its next meeting will be held on Tuesday, January 27, 2004, at 12:30 p.m.

Senate

MONDAY, JANUARY 26, 2004

The Senate met at 1 p.m. and was called to order by the Honorable ELIZABETH DOLE, a Senator from the State of North Carolina.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Infinite spirit, today's blanket of snow reminds us of Your constancy in the orderly movements of the seasons. Your thoughts are too high for us to comprehend and Your ways are past finding out.

Great is Your name, O God. You transform our discordant notes into harmony. We thank You that Your goodness and mercy follow us all the days of our lives. Lord, thank You for this land of freedom which we sometimes take for granted.

As Senators deliberate on complex issues, give them the insight to discern truth from untruth, the high from the low, and the enduring from the transient. Give them a perspective that will enable them to find the right path.

Lord, bless our storm-tossed world with its distresses and catastrophes. Use each of us as instruments of Your peace. We ask this in the power of Your Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable ELIZABETH DOLE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, January 26, 2004.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ELIZABETH DOLE, a Senator from the State of North Carolina, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mrs. DOLE thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

SCHEDULE

Mr. MCCONNELL. Madam President, today the Senate will resume debate on H.R. 3108, the pension rate bill. While there will be no rollcall votes today, Senators will have an opportunity to offer and debate their amendments. It is the majority leader's intention to complete action on this legislation this week. Therefore, Members are encouraged to make themselves available during today's session to offer their amendments. Any votes ordered with respect to the pension bill will be stacked to occur on Tuesday.

Senators were on the floor on Thursday afternoon and Friday to offer and debate amendments to the pension bill. Although the unanimous consent agreement allows for additional amendments, it is uncertain at this time if those amendments will in fact be offered. If Senators desire to offer an amendment, they should notify their respective cloakrooms today so they can be scheduled for consideration. It may be possible, therefore, to finish the bill at a reasonable time on Tuesday. As always, Senators will be notified when the first vote is going to be scheduled.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Democratic leader is recognized.

Mr. DASCHLE. Madam President, it is my understanding that there will be no rollcall votes until Tuesday afternoon. Is that the decision made by the assistant leader?

Mr. MCCONNELL. I would say it is reasonable to expect there will be no rollcall votes until after the policy luncheons tomorrow.

Mr. DASCHLE. I thank the assistant Republican leader for his clarification with regard to that schedule.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Printed on recycled paper.

EXPRESSING CONDOLENCES TO THE SENATOR FROM NORTH CAROLINA

Mr. DASCHLE. Madam President, over the last couple of days, the distinguished Presiding Officer lost her mother. I know I speak for all of us in the Senate, Republicans and Democrats alike, expressing our heartfelt sympathy. Our thoughts and prayers are with you and your family.

HUSSEIN'S WEAPONS OF MASS DESTRUCTION

Mr. DASCHLE. Madam President, I wanted to say a couple of words today with regard to an article that appeared on the front page of the New York Times entitled ''Ex-Inspector Says C.I.A. Missed Iraqi Arms Chaos.''

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, Jan. 25, 2004]

EX-INSPECTOR SAYS C.I.A. MISSED IRAQI ARMS CHAOS

(By James Risen)

WASHINGTON, Jan. 25.—Americans intelligence agencies failed to detect that Iraq's unconventional weapons programs were in a state of disarray in recent years under the increasingly erratic leadership of Saddam Hussein, the C.I.A.'s former chief weapons inspector said in an interview late Saturday.

The inspector, David A. Kay, who led the government's efforts to find evidence of Iraq's illicit weapons programs until he resigned on Friday, said the C.I.A. and other intelligence agencies did not realize that Iraqi scientists had presented ambitious but fanciful weapons programs to Mr. Hussein and had then used the money for other purposes.

Dr. Kay also reported that Iraq attempted to revive its efforts to develop nuclear weapons in 2000 and 2001, but never got as far toward making a bomb as Iran and Libya did.

He said Baghdad was actively working to produce a biological weapon using the poison ricin until the American invasion last March. But in general, Dr. Kay said, the C.I.A. and other agencies failed to recognize that Iraq had all but abandoned its efforts to produce large quantities of chemical or biological weapons after the first Persian Gulf war, in 1991.

From interviews with Iraqi scientists and other sources, he said, his team learned that sometime around 1997 and 1998, Iraq plunged into what he called a ''vortex of corruption,'' when government activities began to spin out of control because an increasingly isolated and fantasy-riven Saddam Hussein had insisted on personally authorizing major projects without input from others.

After the onset of this ''dark ages,'' Dr. Kay said, Iraqi scientists realized they could go directly to Mr. Hussein and present fanciful plans for weapons programs, and receive approval and large amounts of money. Whatever was left of an effective weapons capability, he said, was largely subsumed into corrupt money-raising schemes by scientists skilled in the arts of lying and surviving in a fevered police state.

''The whole thing shifted from directed programs to a corrupted process,'' Dr. Kay said. ''The regime was no longer in control; it was like a death spiral. Saddam was self-directing projects that were not vetted by anyone else. The scientists were able to fake programs.''

In interviews after he was captured. Tariq Aziz, the former deputy prime minister, told Dr. Kay that Mr. Hussein had become increasingly divorced from reality during the last two years of his rule. Mr. Hussein would send Mr. Aziz manuscripts of novels he was writing, even as the American-led coalition was gearing up for war, Dr. Kay said.

Dr. Kay said the fundamental errors in prewar intelligence assessments were so grave that he would recommend that the Central Intelligence Agency and other organizations overhaul their intelligence collection and analytical efforts.

Dr. Kay said analysts had come to him, ''almost in tears, saying they felt so badly that we weren't finding what they had thought we were going to find—I have had analysts apologizing for reaching the conclusions that they did.''

In response to Dr. Kay's comments, an intelligence official said Sunday that while some prewar assessments may have been wrong, ''it is premature to say that the intelligence community's judgments were completely wrong or largely wrong—there are still a lot of answers we need.'' The official added, however, that the C.I.A. had already begun an internal review to determine whether its analytical processes were sound.

Dr. Kay said that based on his team's interviews with Iraqi scientists, reviews of Iraqi documents and examinations of facilities and other materials, the administration was also almost certainly wrong in its prewar belief that Iraq had any significant stockpiles of illicit weapons.

''I'm personally convinced that there were not large stockpiles of newly produced weapons of mass destruction,'' Dr. Kay said. ''We don't find the people, the documents or the physical plants that you would expect to find if the production was going on.

''I think they gradually reduced stockpiles throughout the 1990's. Somewhere in the mid-1990's, the large chemical overhang of existing stockpiles was eliminated.''

While it is possible Iraq kept developing ''test amounts'' of chemical weapons and was working on improved methods of production, he said, the evidence is strong that ''they did not produce large amounts of chemical weapons throughout the 1990's.''

Regarding biological weapons, he said there was evidence that the Iraqis continued research and development ''right up until the end'' to improve their ability to produce ricin. ''They were mostly researching better methods for weaponization,'' Dr. Kay said. ''They were maintaining an infrastructure, but they didn't have large-scale production under way.''

He added that Iraq did make an effort to restart its nuclear weapons program in 2000 and 2001, but that the evidence suggested that the program was rudimentary at best and would have taken years to rebuild, after being largely abandoned in the 1990's. ''There was a restart of the nuclear program,'' he said. ''But the surprising thing is that if you compare it to what we now know about Iran and Libya, the Iraqi program was never as advanced,'' Dr. Kay said.

Dr. Kay said Iraq had also maintained an active ballistic missile program that was receiving significant foreign assistance until the start of the American invasion. He said it appeared that money was put back into the nuclear weapons program to restart the effort in part because the Iraqi realized they needed some kind of payload for their new rockets.

While he urged that the hunt should continue in Iraq, he said continue in Iraq, he said he believed ''85 percent of the significant things'' have already been uncovered, and cautioned that severe looting in Iraq after Mr. Hussein was toppled in April had led to the loss of many crucial documents and other materials. That means it will be virtually impossible to ever get a complete picture of what Iraq was up to before the war, he added.

''There is going to be an irreducible level of ambiguity because of all the looting,'' Dr. Kay said.

Dr. Kay said he believed that Iraq was a danger to the world, but not the same threat that the Bush administration detailed.

''We know that terrorists were passing through Iraq,'' he said. ''And now we know that there was little control over Iraq's weapons capabilities. I think it shows that Iraq was a very dangerous place. The country had the technology, the ability to produce, and there were terrorist groups passing through the country—and no central control.''

But Dr. Kay said the C.I.A. missed the significance of the chaos in the leadership and had no idea how badly that chaos had corrupted Iraq's weapons capabilities or the threat it raised of loose scientific knowledge being handed over to terrorists. ''The system became so corrupt, and we missed that,'' he said.

C.I.A. MISSED SIGNS OF CHAOS

He said it now appeared that Iraq had abandoned the production of illicit weapons and largely eliminated its stockpiles in the 1990's in large part because of Baghdad's concerns about the United Nations weapons inspection process. He said Iraqi scientists and documents show that Baghdad was far more concerned about United Nations inspections than Washington had ever realized.

''The Iraqis say that they believed that Unscom was more effective, and they didn't want to get caught,'' Dr. Kay said, using an acronym for the inspection program, the United Nations Special Commission.

The Iraquis also feared the disclosures that would come from the 1995 defection of Hussein Kamel, Mr. Hussein's son-in-law, who had helped run the weapons programs. Dr. Kay said one Iraqi document that had been found showed the extent to which the Iraqis believed that Mr. Kamel's defection would hamper any efforts to continue weapons programs.

In addition, Dr. Kay said, it is now clear that an American bombing campaign against Iraq in 1998 destroyed much of the remaining infrastructure in chemical weapons programs.

Dr. Kay said his team had uncovered no evidence that Niger had tried to sell uranium to Iraq for its nuclear weapons program. In his State of the Union address in 2003, President Bush reported that British intelligence had determined that Iraq was trying to import uranium from an African nation, and Niger's name was later put forward.

''We found nothing on Niger,'' Dr. Kay said. He added that there was evidence that someone did approach the Iraqis claiming to be able to sell uranium and diamonds from another African country, but apparently nothing came of the approach. The original reports on Niger have been found to be based on forged documents, and the Bush administration has since backed away from its initial assertions.

Dr. Kay added that there was now a consensus within the United States intelligence community that mobile trailers found in Iraq and initially thought to be laboratories for biological weapons were actually designed to produce hydrogen for weather balloons, or perhaps to produce rocket fuel. While using the trailers for such purposes seems bizarre, Dr. Kay said, ''Iraq was doing a lot of nonsensical things'' under Mr. Hussein.

The intelligence reports that Iraq was poised to use chemical weapons against invading troops were false, apparently based on faulty reports and Iraqi disinformation, Dr. Kay said.

When American troops found that Iraqi troops had stored defensive chemical-weapons suits and antidotes, Washington assumed the Iraq military was poised to use chemicals against American forces. But interviews with Iraqi military officers and others have shown that the Iraqis kept the gear because they feared Israel would join an American-led invasion and use chemical weapons against them.

ROLE OF REPUBLICAN GUARDS

Dr. Kay said interviews with senior officers of the Special Republican Guards, Mr. Hussein's most elite units, had suggested that prewar intelligence reports were wrong in warning that these units had chemical weapons and would use them against American forces as they closed in on Baghdad.

The former Iraqi officers reported that no Special Republican Guard units had chemical or biological weapons, he said. But all of the officers believed that some other Special Republican Guard unit had chemical weapons.

''They all said they didn't have it, but they thought other units had it,'' Dr. Kay said. He said it appeared they were the victims of a disinformation campaign orchestrated by Mr. Hussein.

Dr. Kay said there was also no conclusive evidence that Iraq had moved any unconventional weapons to Syria, as some Bush administration officials have suggested. He said there had been persistent reports from Iraqis saying they or someone they knew had see cargo being moved across the border, but there is no proof that such movements involved weapons materials.

Dr. Kay said the basic problem with the way the C.I.A. tried to gauge Iraq's weapons programs is now painfully clear: for five years, the agency lacked its own spies in Iraq who could provide credible information.

During the 1990's, Dr. Kay said, the agency became spoiled by on-the-ground intelligence that it obtained from United Nations weapons inspectors. But the quality of the information plunged after the teams were withdrawn in 1998.

''Unscom was like crack cocaine for the C.I.A.,'' Dr. Kay said. ''They could see something from a satellite or other technical intelligence, and then direct the inspectors to go look at it.''

The agency became far too dependent on spy satellites, intercepted communications and intelligence developed by foreign spies and by defectors and exiles, Dr. Kay said. While he said the agency analysts who were monitoring Iraq's weapons programs did the best they could with what they had, he argued that the agency failed to make it clear to American policy makers that their assessments were increasingly based on very limited information.

''I think that the system should have a way for an analyst to say, 'I don't have enough information to make a judgment,'" Dr. Kay said. ''There is really not a way to do that under the current system.''

He added that while the analysts included caveats on their reports, those passages ''tended to drop off as the reports would go up the food chain'' inside the government.

As a result, virtually everyone in the United States intelligence community during both the Clinton and the current Bush administrations thought Iraq still had the illicit weapons, he said. And the government became a victim of its own certainty.

''Alarm bells should have gone off when everyone believes the same thing,'' Dr. Kay said. ''No one stood up and said, 'Let's examine the footings for these conclusions.' I think you ought to have a place for contrarian views in the system.''

FINDS NO PRESSURE FROM BUSH

Dr. Kay said he was convinced that the analysts were not pressed by the Bush administration to make certain their prewar intelligence reports conformed to a White House agenda on Iraq.

Last year, some C.I.A. analysts said they had felt pressed to find links between Iraq and Al Qaeda to suit the administration. While Dr. Kay said he has no knowledge about that issue, he did believe that pressure was placed on analysts regarding the weapons programs.

''All the analysts I have talked to said they never felt pressured on W.M.D,'' he said. ''Everyone believed that they had W.M.D.''

Dr. Kay also said he never felt pressed by the Bush administration to shape his own reports on the status of Iraq's weapons. He said that in a White House meeting with Mr. Bush last August, the president urged him to uncover what really happened.

''The only comment I ever had from the president was to find the truth,'' Dr. Kay said. ''I never got any pressure to find a certain outcome.''

Dr. Kay, a former United Nations inspector who was brought in last summer to run the Iraq Survey Group by George J. Tenet, the director of central intelligence, said he resigned his post largely because he disagreed with the decision in November by the administration and the Pentagon to shift intelligence resources from the hunt for banned weapons to counterinsurgency efforts inside Iraq. Dr. Kay is being succeeded by Charles A. Duelfer, another former United Nations inspector, who has also expressed skepticism about whether the United States will find any chemical or biological weapons.

Dr. Kay said the decision to shift resources away from the weapons hunt came at a time of ''near panic'' among American officials in Baghdad because of rising casualties caused by bombings and ambushes of American troops.

He added that the decision ran counter to written assurances he had been given when he took the job, and that the shift in resources had severely hampered the weapons hunt.

He said that there is only a limited amount of time left to conduct a thorough search before a new Iraqi government takes over in the summer, and that there are already signs of resistance to the work by Iraqi government officials.

Mr. DASCHLE. The article begins with a paragraph that reads:

> American intelligence agencies failed to detect that Iraq's unconventional weapons programs were in a state of disarray in recent years under the increasingly erratic leadership of Saddam Hussein, the C.I.A.'s former chief weapons inspector said in an interview late Saturday.

Mr. Kay, the head of our government's effort to determine precisely which weapons Saddam possessed prior to the start of the war, offered the view on whether Saddam actually had weapons of mass destruction. His quote:

> I don't think they exist. The fact that we found so far the weapons do not exist—we've got to deal with that difference and understand why.

I also think it is important for us to understand why. On Saturday, Secretary of State Colin Powell held out the possibility that prewar Iraq did not possess any weapons of mass destruction. That is quite an admission, given the Secretary's presentation to the United Nations, given his assertions publicly and privately to us and many others as the case for war in Iraq was made last spring.

These views are consistent with a report issued earlier this month by the nonpartisan Carnegie Endowment. The report by the Carnegie Endowment concluded that the assertion that the fundamental justification for the war with Iraq, namely that Iraq possessed stockpiles of weapons of mass destruction, was not real. Carnegie also concluded:

> Administration officials systematically misrepresented the threat from Iraq's nuclear, chemical, and biological weapons programs and ballistic missile programs.

Given the conclusion by the Carnegie Endowment, we can only get to the bottom of this issue by thoroughly examining the performance of both the intelligence community and senior administration officials.

This has been quite a remarkable turnaround from the debate we had 4 or 5 months ago. During that debate, many of us proposed an independent commission to look at these issues. At that point, there was a debate about whether or not we had all the facts and whether or not the Intelligence Committee in the Senate was prepared to ascertain what the facts were.

But consider now the revelations that have occurred just in the last few days, much less the last several months. You have the Secretary of State reversing his public position with regard to weapons of mass destruction. You have the chief weapons investigator working for this Government publicly declaring that weapons do not exist and questioning whether they did exist at any time in recent years. You have the Carnegie Endowment, one of the most respected nonpartisan organizations that also reviewed the matter, coming to to a similar conclusion.

The question comes now: What do we do about it? We can ignore it. We can hope it will just go away. Or we can investigate it, research it, try to learn from it to ensure that mistakes of this consequence won't happen again in the future. Unfortunately, it appears neither the administration nor the chairman of the Senate Intelligence Committee share this view.

According to Dr. Kay, he is stepping down in large part because the administration has reduced his team of analysts, translators, and interrogators working on the search for Saddam's weapons of mass destruction.

I cannot overstate the significance of these claims. They contributed directly to the decision to go to war last spring. As many of us have said on several occasions, this obviously wasn't the only motivation, but it was clearly a major part of this decision for many of us.

Since we made that fateful decision, over 500 Americans have been killed, over 2,000 have been wounded, and over

100,000 are still deployed in harm's way. In addition, published reports indicate the lack of evidence has badly damaged America's credibility around the world.

So given all of this, I cannot understand why we would not want to get to the bottom of this issue as quickly as possible. We should be dedicating more resources to getting these answers not less.

I am troubled too by the position of the chairman of the Senate Intelligence Committee. This committee has the obligation and the authority to examine both the intelligence community and the administration's role in the intelligence failures leading up to the war with Iraq.

Yet throughout all of the last session of Congress, the chairman steadfastly refused to permit the committee to meet its responsibilities. We are at the start of a new session of Congress now, with the advantage of a lot more information than we had weeks or months ago.

In the wake of the statements by Secretary Powell and Dr. Kay, and the conclusions of the nonpartisan Carnegie Endowment, I urge the chairman of the Intelligence Committee to reconsider his position and that of the majority.

We will work within the Intelligence Committee to urge the chairman to live up to those obligations. If he continues to fail to do so, we will again bring legislation to the Senate floor to establish a nonpartisan, independent commission to look at how intelligence was used by the intelligence community and this administration.

Our troops in Iraq and the American people deserve a full and comprehensive review of all aspects of their Government's actions prior to the start of the Iraqi war. I hope all members of the Intelligence Committee, and indeed the entire Senate, will work with us to give them just that.

Madam President, we will continue to come to the floor to review these matters and to express in the most determined way that it is the responsibility of this Senate to live up to its obligations—the Intelligence Committee, the other committees of jurisdiction, and the broad membership—especially when we become aware of revelations and conclusions drawn by experts in the field. We simply cannot afford to ignore what happened, why it happened, and how we can prevent it from happening again.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

PENSION FUNDING EQUITY ACT OF 2003

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of H.R. 3108, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 3108) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

Pending:

Grassley amendment No. 2233, of a perfecting nature.

Kyl amendment No. 2234 (to amend No. 2233) to limit the liability of the Pension Benefit Guaranty Corporation with respect to a plan for which a reduced deficit contribution is elected.

The ACTING PRESIDENT pro tempore. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Madam President, during the last 3 years, we have seen too many good jobs leave this country, and Americans are ending up with lower pay for part-time jobs. Not only do these jobs pay much less, they are also much less likely to offer pension benefits. In fact, 3.3 million Americans have lost their pension coverage since 2000. In 2002, only 53.5 percent of our Nation's workers were participating in retirement plans, the lowest level in over a decade.

This means the degradation of jobs not only hurts Americans today, it will continue to hurt them for the rest of their lives and into their retirement and old age. Instead of adopting an every-worker-for-himself retirement policy, we should be encouraging the growth of secure pension plans for all workers. Fewer American workers than ever have a secure, defined benefit pension plan.

Only one in five workers today has a defined benefit plan compared with nearly 40 percent of workers in 1980. We must help low-wage workers and employees of small businesses, less than 10 percent of whom have pension coverage today.

Strengthening and expanding our pension system is our long-term goal. But first we must take the initial step of stabilizing the pension plans that exist today, which have been battered by the perfect storm of economic conditions over the last 3 years.

The amendment that Chairman GRASSLEY, ranking Finance Committee member Senator BAUCUS, as well as the HELP Committee chairman, Senator GREGG, and I have offered is a moderate bipartisan measure to address these short-term problems. This amendment does not weaken existing pension funding rules. These are only temporary measures designed to give companies and workers some breathing room, to take steps to further protect these pension plans.

An editorial in today's Washington Post expressed concern about our amendment and its effect on the PBGC and the American taxpayers. It is very important to respond to these concerns because they stem from some misconceptions about how our pension funding system works.

First, additional obligations of the PBGC will not put taxpaying Americans at risk. The Pension Benefit Guaranty Corporation, which ensures defined benefit plans, is a self-funded agency. It is not supported by taxpayer dollars; it is funded by premiums from employers and holds billions of dollars in assets.

Second, the PBGC's funding deficit, while serious, does not mean the agency cannot fulfill its mission. The PBGC has been in deficit before. The PBGC single employer program operated at a deficit for the first 16 years of its existence. The PBGC still holds billions of dollars in assets, and the agency reports that it has sufficient cash flow to cover benefit payments and other operating expenses and other liabilities for a number of years.

Also, the PBGC can and has operated at a surplus. During the Clinton economy, the PBGC not only shed its deficits, it gained a $10 billion surplus. What is more, the PBGC's multiemployer program operated at a surplus for over 20 years—until this year. When our economy improves, the financial outlook of the PBGC will improve as well.

We were also concerned about overburdening the PBGC. That is why we limited the DRC relief to companies with healthy pension plans in 2000. These are companies that have been hit by terrible economic circumstances, from which we believe they will recover. Companies that receive the DRC relief will still be responsible for their regular pension contributions, and they will be restricted from increasing benefits, thus making pension promises they cannot keep. They will also be required to keep up with the costs of current benefits so they won't fall further behind in their funding levels.

Finally, not passing this pension legislation will subject the PBGC to much greater risk than it faces today. Without the crucial three pieces that our legislation includes—temporary replacement of the 30-year Treasury bond rate, targeted deficit reduction contribution relief, and funding relief to multiemployer plans—far more pension plans would terminate, which would place additional burdens on the PBGC.

We want to improve our pension funding rules to ensure that companies adequately fund pension plans. We want to encourage companies to put more money into their pension plans when times are good, instead of only penalizing them with increased contributions when times are bad. However, we must first address the perfect storm that is battering our pension plans today. Once we have adopted this short-term solution, I look forward to working with my colleagues to improve and strengthen pensions for all America.

I thought I would take a few moments to talk about this perfect storm that has adversely impacted the pension system, and also the challenges it presents to our economy generally.

Madam President, 3.3 million Americans have lost their pension coverage since 2000. Only 53 percent of our Nation's workers are participating in a retirement plan, the lowest level in over a decade.

As I mentioned before, the three parts of the stool for the American workers, after they have lived a life of productivity and worked hard in the workplace, are: One, Social Security; two, their savings; and three, their pension programs. We have seen a decline in the number of Americans who are now covered.

The declining quality of jobs in our country also means declining benefits for American workers. Part-time and low-wage workers are far less likely to have a pension than full-time workers.

That is why we are concerned and why this legislation, as I pointed out previously, addresses the needs of nearly 35 million Americans who are covered by single-employer defined benefit pension plans and the 9.7 million Americans who are covered by multiemployer defined benefit plans, such as those who work in the construction industry who move from site to site over a year. That program was developed to make sure those workers will also have a defined benefit pension plan to provide a secure monthly benefit backed by the Pension Benefit Guaranty Corporation. That is a great advantage of the defined benefit program.

What I am talking about in terms of the perfect storm is the economic factors which have been hurting defined pension plans: The prolonged downturn of the stock market during the Bush administration, the longest since the Great Depression; the extremely low 30-year Treasury bond interest rates—it may be good for some industries, if you are purchasing a car or a house, but in terms of its impact on pension plans, it has been extremely adverse—and the generally weak economic conditions, which means that companies cannot afford to make additional payments and pay the excise taxes imposed by our pension laws.

Smaller companies, medium-size companies, and even larger companies are hard pressed at this time because of the economic exigencies we are facing today. They believe they are under all of this pressure and they are unable to meet those responsibilities.

I point this out not only to explain the challenge we are facing with regard to pensions but how inconsistent this is with the remarks of our President in his State of the Union Address when he commented that this economy is strong and growing stronger and also pointed out that the pace of economic growth in the third quarter of 2003 was the fastest in nearly 20 years.

As some of us have pointed out, this has been very good for Wall Street but really has not been so good for Main Street.

This chart shows what has happened, going back to 1949, when the U.S. economy recovered from a recession. This is a comparison of first quarter recovery.

Looking at the history, using identical figures—and this is done by EPI Analysis based upon BEA data—first of all, we see, going back to 1949, that wages increased in the first quarter by 16 percent; 10 percent in 1954; in 1958 by 10 percent; 7 percent in 1961; 6.8 percent in 1970; 7.8 percent in 1975; 9.21 percent in 1982; in 1991, 6.1 percent; and look at the year 2001, 1.5 percent. It is a pretty interesting indicator as to what is happening in the job market in terms of economic recovery, of which we heard so much during the State of the Union Address.

This chart is a comparison since 1949 of what has happened to wages for workers in the quarter the recession ended. What we see is that this 1.5 percent is so dramatically different from every other quarter that it is difficult for many of us to be enthusiastic about this as an economic indicator.

It is very interesting to look at where the resources have gone in the recovery. In the Bush economy, corporate profits ballooned compared to workers' wages. Look at this: In the early nineties, we saw workers' wages, as a percent of the economic recovery, were 60 percent; corporate profits, 39 percent. Workers' wages, 60 percent; corporate profits, 39 percent.

Now look what it is this year. In today's recovery, we find workers' wages represent 13 percent of the total recovery and profits 86 percent—profits 86 percent. When many of us talk about the recovery being good for Wall Street, this is it; bad for Main Street, this is it.

Where are the resources going? They are going to the profits of the corporation. They are not being returned to the workers. We see what has happened.

At the end of last week, I noted, when I got home, a very interesting CNN report on overwhelmed Americans. This is what they pointed out in their study and review:

> Wages are stagnant, productivity is soaring, which means many Americans are effectively working more for less. And making matters even worse, millions of American workers now find themselves competing with cheaper foreign labor just to hold on to their jobs.

Then it quotes Kate Bronfenbrenner, a professor from Cornell University, talking about American workers:

> They are frightened because they wake up each morning and they don't know whether their job is going to be outsourced, downsized, contracted out or eliminated. They are overwhelmed because they feel like forces way beyond their control are making the decisions that affect their lives. And they are exhausted because they are working harder and longer and faster just to stand still.

I showed those other charts that say American workers are working longer and harder than any other industrial society in the world. Not only are workers working longer and harder, but it's all hands on deck both men and women, moms and dads are working longer and harder just to try to stay even.

The report goes on:

> In growing numbers, workers are feeling overworked, underappreciated, and burned out. That's according to a recent study of 1,100 workers that concluded ''Emotion about the current work experience is extremely negative.''

In the Wall Street Journal on Friday, January 23, we saw a lead story.

''The Gap in Wages Is Growing Again for U.S. Workers.

''Inequality Is Seen as a Result of the Jobless Recovery; Potential Election Theme.''

> Wage inequality—the gap between America's highest and lowest earners—has started widening again, a situation with election-year ramifications.
>
> The trend is a reflection of the job market's exceptionally weak response to the current economic recovery.

This is the Wall Street Journal. This is not just an article by some Democratic study group. This is the Wall Street Journal, their studies. It says:

> The trend is a reflection of the job market's exceptionally weak response to the current economic recovery, as well as long-term technological and economic changes that have eroded the bargaining power of America's lowest-paid workers. The data show that young workers—who currently have fewer job prospects than a few years ago—and men, in particular are bearing the brunt . . .
>
> The numbers continue a movement to greater wage inequality that began around the time President Bush succeeded President Clinton and the economy slid into recession three years ago. The trend represents a reversal from the late 1990s, when the lowest unemployment rates in a generation had enabled the lowest-paid workers to keep pace with those at the top.

This is the real state of the Union. I am reminded of the study that just came out at the end of last week from the Economic Policy Institute, a January 21st study.

I will explain this chart. Basically it says the jobs that are being created, the few jobs that are being created—the estimate by the administration is it is going to be 300,000. They created 1,000 jobs this last month. The jobs that are being created are not as good as the jobs lost under this administration.

This chart shows that in 48 of the 50 States, jobs in higher paying industries have given way to jobs in lower paying industries since the recession ended in November 2001. Nationwide, industries that are gaining jobs relative to industries that are losing jobs pay 21 percent less annually. For the States that have lost jobs since the recession purportedly ended, this is the other shoe dropping. Not only have jobs been lost, but in 29 of them the losses have been concentrated in higher paying sectors. For 19 of the 20 States that have seen some small gain in jobs since the end of the recession, the jobs gained have been disproportionately in the lower paying sector.

They mentioned several States. One is the State of New Hampshire. Overall, 15,700 New Hampshire jobs have been lost since this President took office,

and New Hampshire's unemployment rate has increased 54-percent under President Bush. The unemployment rate in New Hampshire was 4.3 percent in November 2003, up from 2.8 percent in January 2001. This change represents a 54-percent increase since President Bush took office.

According to the most recent State estimate, 6.1 percent of New Hampshire residents live in poverty, up from 5.5 percent in 2001. New Hampshire had lost a fifth of its manufacturing jobs since April of 2001. Under President Bush, the low-paying jobs are replacing the high-paying jobs in New Hampshire. The New England Economic Project recently estimated the sectors that lost the jobs between 2001 and 2002 in New Hampshire have an annual average wage of about $44,000. These sectors adding jobs in the State have an average wage of $38,000.

Over a third of the jobless people in New Hampshire used up their unemployment benefits before finding a new job. Madam President, here 26 percent of the people on unemployment in New Hampshire used up their benefit before finding new jobs. However, in September of 2003 nearly one-third were unable to find work by the time their benefits ended.

These are hard-working Americans who have paid into the unemployment fund, which has about $20 billion surplus at this time. There are 90,000 workers a week who are losing their unemployment insurance. That is happening up there in New Hampshire. We have tried more than a dozen times to get a temporary extension of 13 weeks. It costs about $7 billion. It has been objected to by the Republicans.

Real people are hurting. The unemployment filings in New Hampshire are the highest since 1992. From 2001 to 2003, the number of unemployment filings in New Hampshire was the highest it has been since 1992.

Of 240,000 New Hampshire taxpayers, 40 percent—and I mention this because in the State of the Union Address, the President talked about how we have doubled the child tax credit, reduced the marriage penalty, begun to phase out the debt, reduced taxes on capital gains, dividends, cut taxes on small businesses, have lowered taxes for every American who pays income tax.

Listen to this. In New Hampshire, 241,000 New Hampshire taxpayers, which is 40 percent of the New Hampshire taxpayers, will receive less than $100 from the Bush tax plan in 2004. The top 1 percent of New Hampshire taxpayers receive 28 percent of the benefits in 2004 and get an average tax cut of over $67,000.

Some people have asked why some of us were somewhat disappointed in the State of the Union Address and didn't jump up and applaud these figures. We take the State of the Union seriously. When you have that kind of result, in terms of the President's tax bill, one which I voted against for these very kinds of reasons, you begin to understand what is happening on Main Street of America.

Not only are we talking about the question of pensions, and we talk about jobs, let's think about what has been happening to the average workers with regard to their health care costs and their health care coverage. We have one in five workers who are uninsured and, when they are offered insurance, decline coverage because of the limitations of their wages and because of the costs of health insurance, which I will come back to. Sixty-five percent of the employers increased the amount workers pay for their health insurance and 47 percent of the employers increased the amount workers pay for prescription drugs and 34 percent of employers increased the cost share employees pay for office visits.

These are the pressures workers are under. That is why we have some 44 million Americans who do not have health insurance—members representing not only workers but family members of the workers. About 80 percent of all those who do not have health insurance are either workers or members of workers' families. That is why I believe if it is worker related in terms of trying to get coverage, we can make a major step in reducing the total number of those who are uncovered.

Look at what is happening to the costs, the premium costs versus the Consumer Price Index—the average cost of products. Look at what is happening. This is a comparison of costs for workers. In 1999, the Consumer Price Index was 2.7 percent but 5.3 percent for health care. The next year, 2000, 3.4, 8.2; 2001, 1.6, 10.9. The next year, 2002, 2.4, for the Consumer Price Index, 12.9. In 2001, 1.8, 13.9 percent increase in the cost of health insurance.

We wonder why workers cannot afford it and workers can't afford it. That is the real state of the Union. That is the real state of the Union.

To offer a refundable tax credit of $1,000 is laughable. I say it is like throwing a 5-foot rope to somebody who is in a boat 10 feet away and is about to go over Niagara Falls. It is virtually useless. These are costs that are impacting, affecting the costs of health care insurance and why workers cannot afford it.

What do we hear from the administration? What is their solution? Should someone tell us? Do I hear it? I looked hard in the President's State of the Union Address to find it. Do you know what it was? It was medical malpractice. That is their answer to all of the problems we are talking about, and the increase in costs. We will have a chance to get into that at some time. That is going to be the answer.

It isn't only the cost of health insurance. Look at what is happening to the families. These are family responsibilities. Workers have responsibilities. Parents don't want to be a burden. They worked hard. We guaranteed to the families in 1965 when we passed Medicare that we would attend to their health care needs. We didn't know prescription drugs would be so important. Every day that we fail to provide a comprehensive prescription drug program, we fail in our pledge to our seniors.

Look at what has happened to the prescription drug costs with respect to the Consumer Price Index: In 2000, 3.4 percent, and the average cost-of-living increase was 16 percent; in 2001, 1.67, and 15 percent; 2002, 2.4 percent, and 14 percent. We allegedly passed a prescription drug program. What did we say in that bill that would get a handle on costs? Virtually nothing. We prohibited the Secretary of HHS from being able to negotiate for lower prices. That is not true with VA; they can reduce prices down some 47 percent, but not with regard to Medicare because we were prohibited from that. I pay respect to my Democratic leader, Senator DASCHLE, and Congresswoman PELOSI for offering amendments which we will have a chance to address here very soon to change that.

We have to do something on the coverage, we have to do something on the costs, or we are not really looking after what is happening out on Main Street. We talk about jobs. We talk about health. Let us take a look at another issue families are very much concerned about; that is, the cost of education.

This is the Bush education record: Failure to provide tuition relief as college costs increase. On this chart, you find what 4-year costs for a college education are. This includes not only the tuition but it is room and board and the routine expenses with which students are faced. Look over here. In 2002, on help and assistance, these are for young people who come from families with limited means but have scholarships and are academically gifted, or are able to meet the academic standards and gain admission to these excellent schools all over the country. Look at what we see: Significant increase in the cost. Look at what help and assistance: Basically flat over the period of time.

These are family issues for working families concerned about the cost of prescription drugs that are being paid by their parents. These are family issues for working families who are concerned about the cost of having their children go to the fine schools across this country. We have left them high and dry.

If we look at the Bush economic record, the median household income is down effectively $1,500 across the country according to the Bureau of Census in the Department of Commerce; $1,500 for the year 2002, and a further decline beyond to 2004. That is what is happening out on Main Street. People are working harder, as these reports point out, and they are barely able to keep up. Millions are working and competing as well. As productivity goes up, they are working more for less. We see

that allocations of profits versus the wages.

We see the failure to respond to the needs of working families with regard to their health care costs or their children's education. These are all the issues which have been left behind. What has been the response to those urgent needs? It has been disappointing, at best.

First of all, there are 13 million children who are hungry. We have 8 million Americans who are unemployed. We have 8 million workers who lose overtime under the Bush proposal. We have 7 million low-wage workers who have been waiting 7 years for an increase in the minimum wage. We have 3 million more Americans in poverty since President Bush took office, and 90,000 workers a week are losing their unemployment benefits every week. We have tried and tried to get a temporary extension for these workers.

The decline in the economy is not the result of workers not working hard and producing. It is because of general overall economic mismanagement.

This country has always recognized that those workers pay into the unemployment compensation, and when there is a slide in the economy, they ought to be able to withdraw some of that. But there has been objection time in and time out by our Republican friends and virtually no leadership on this issue from the President.

More than three in four—77 percent—of the unemployed Americans say the level of stress in their family has increased. How do we measure that? We listened the other night to how our GNP is going up, with all of the favorable economic indicators. How do you measure the fact that in 77 percent of the unemployed families the level of stress in their family has increased? Two-thirds of those with children have cut back on spending for their children. Where is that indicated in any of these economic indicators we heard about in the State of the Union?

Twenty-six percent say another family member has had to start a job or increase their work hours in order to keep the family together, and 23 percent have had to interrupt their education or that of a family member. They had to drop out of school for a year, go back to work, and then come back and try to complete their education. That is what is happening out there.

We didn't hear about what is happening for average working families. If we had been able to extend the unemployment insurance, we could have avoided many of these indicators. But no, we were unable to do so.

What has been the impact by this administration saying no to extending unemployment compensation? No, we can't do that. What about those workers who worked hard for 40 hours a week and 52 weeks of the year? It has been 7 years since the last increase in the minimum wage. Now, at the end of this year, it will be at an all-time low.

A majority of the Members of this body would vote for an increase in the minimum wage, and we are not able to get it because of the Republican filibuster. That is the reason. Make no mistake about it.

Who are these people? These are men and women of great dignity. These people work hard. They take pride in what they do. They work cleaning out the great buildings that are the offices of American industry. Many of them are teacher's aides, or they work in child care. Many of them work in nursing homes to help look after a generation who brought this country out of the Depression and sacrificed for their children. They fought in the wars. Those are minimum wage workers. They are men and women of dignity. Most of them are women. This is a women's issue. Most of the women have children. So it is a children's issue. It is a family issue. Many of them are members of minorities. It is a civil rights issue.

Beyond all of that, Americans understand that if you work 40 hours a week for 52 weeks of the year, you should not have to live in poverty. You should not have to live in poverty. That is our belief. That is our standard.

We are going to take this issue to our Republican friends time in and time out all of this year. We welcome those listening to communicate to our Republican friends their views on this issue. Talk about a family issue. Talk about family values. How you care for your child, how much time you are able to spend with your child, talk about family values, this is it. And we have opposition from the Bush administration on this.

Finally, I mention again what is happening in terms of the overtime, opposition to extending unemployment compensation, opposition to an increase in the minimum wage, and then the rule and regulation that was debated in the Senate with Republicans and Democrats alike. Rejected. It went to the House of Representatives. Rejected. And then it was tucked into the omnibus bill behind closed doors in the dead of night and passed, although many Members strongly opposed it.

Who are the 8 million Americans who would lose their overtime? It is extraordinary with this economy for the administration to say that one of the principal problems with our economy today is the fact that these workers are being paid too much. They are saying these workers are being paid too much. Who are these workers? Police officers will lose their overtime under the definition of the administration. Police officers, nurses, and firefighters will lose their overtime.

Do we hear about homeland security? Who is on the front line of defense? It is the nurses, the firefighters, and the policemen. We are asking them to risk their lives in terms of homeland security yet on the other hand we will make them ineligible for overtime. Give me a break.

It is very interesting that so many are professions that involve women. Women will be very adversely affected. That is why organizations, including Nine-to-Five and all of the various women organizations, are so strongly opposed to the administration's proposal.

Not only did they do this but they added something new regarding who is made ineligible. That was to say if individuals had gone into the Armed Forces and they took training programs and then they come out and they have special skills—that is just what our military has today—that because they got these training programs, because they have special skills, they will by definition be ineligible for overtime.

Can anyone believe that, to say to those fighting overseas in Iraq, Afghanistan, scattered around the world, when they come on back, they are in the National Guard and Reserve and they come on back in, if they have the special skills, they will not be eligible for overtime—for the first time in the history of this country.

Obviously, one of the great reasons we have the best military in the world is because it is the best trained, best led, and has the best technology. It should always be that way. When we are talking about the training, the training they receive saves other soldiers' lives and carries forward the interests of the United States.

I have my differences with the administration in terms of the Iraqi policy, but I am going to make sure these soldiers are well trained, well led, and have that kind of help and assistance. For those in the Armed Forces who have gone through the various training programs, quite frankly, it was a very important inducement for recruitment. I don't know what conversations the Secretary of Labor had with the Secretary of Defense. I would love to see the exchange of notes, and love to know if they ever had a conversation; obviously, it has a very important impact on recruitment.

With the failed economy, so many young people, see going into the military as a way to get the kind of training that will put them on the road to some kind of hope and opportunity in the future. Now we are saying: No, no, no; that is not going to be the way it is. You get the training, you come back, and you will not be able to get paid.

This is the final insult that the Bush administration would take away from the veterans, as I mentioned, the overtime pay. That would reduce the standard of living and quality of life of veterans in scientific, engineering, medical, and technical operations. Under the Bush administration, veterans who have received the training in the military, equivalent to a specialized 4-year degree, could be classified as exempt ''professional employees'' and would lose their overtime protection. This is a breach of faith with the American

veterans, another reason it should be defeated. It was not.

Then, one of the most extraordinary publications that any agency has ever produced in the time I have been in the Senate was the Department of Labor issuing guidelines of how to avoid paying overtime. They said: The reason for having this change in the overtime is we are bringing more workers up, raising their wages. It will have a favorable impact on a certain number of workers. It will really not disadvantage all these estimated.

Then we find out what the real issue was: the publication by the Department of Labor about how to avoid paying any overtime, giving every business in this country the pathway to avoid paying any overtime. If they could not figure it out, all they had to do was read the Department of Labor recommendation and avoid it. Why? To shortchange American workers. State of the union of American workers, what is happening to their jobs, their wages, their health care, their education, and now we find out their overtime. That is ''How to Avoid Paying Your Employees Overtime,'' courtesy of the Bush Department of Labor.

I will take a moment to read a letter from a veteran and a Boeing employee worried about losing his overtime.

My name is Randy Fleming. I live in Haysville, Kansas—outside Wichita—and I work as an Engineering Technician in Boeing's Metrology Lab.

I'm also proud to say that I'm a military veteran. I served in the U.S. Air Force from August 1973 until February 1979.

I've worked for Boeing for 23 years. During that time I've been able to build a good, solid life for my family and I've raised a son who now has a good career and children of his own. There are two things that helped make that possible.

First, the training I received in the Air Force made me qualified for a good civilian job. That was one of the main attractions when I enlisted as a young man back in Iowa. I think it's still one of the main reasons young people today decide to enlist. Military training opens up better job opportunities—and if you don't believe me, just look at the recruiting ads on TV.

The second thing is overtime pay. That's how I was able to give my son the college education that has opened doors for him. Some years, when the company was busy and I had those college bills to pay, overtime pay was probably 10% or more of my income. My daughter is next. Danielle is only 8, but we'll be counting on my overtime to help her get her college degree, too, when that time comes. For my family overtime pay has made all the difference.

That's where I'm coming from. Why did I come to Washington? I came to talk about an issue that is very important back home and to me personally as a working man, a family man, and a veteran. That issue is overtime rights.

The changes that this administration is trying to make in the overtime regulations would break the government's bargain with the men and women in the military and would close down opportunities that working vets and their families thought they could count on.

When I signed up back in 1973, the Air Force and I made a deal that I thought was fair. They got a chunk of my time and I got training to help me build the rest of my life. There was no part of that deal that said I would have to give up my right to overtime pay. You've heard of the marriage penalty? Well I think that what these new rules do is to create a military penalty. If you got your training in the military, no matter what your white collar profession is, your employer can make you work as many hours as they want and not pay you a dime extra.

If that's not bait and switch, I don't know what is.

And I don't have any doubt that employers will take advantage of this new opportunity to cut our overtime pay. They'll tell us they have to in order compete. They'll say if they can't take our overtime pay, they'll have to eliminate our jobs.

It won't be just the bad employers, either—because these rules will make it very hard for companies to do the right thing. If they can get as many overtime hours as they want for free instead of paying us time-and-a-half, they'll say they owe it to the stockholders. And the veterans and other working people will be stuck with less time, less money, and a broken deal.

I'm luckier than some other veterans because I have a union contract that will protect my rights for a while anyway. But we know the pressure will be on, because my employer is one that pushed for these new rules and they've been trying hard to get rid of our union.

And for all those who want to let these military penalty rules go through, I have a deal I'd like to propose. If you think it's okay for the government to renege on its deals, I think it should be your job to tell our military men and women in Iraq that when they come home, their service of their country will be used as a way to cut their overtime pay.

That says it all. This Senate rejected the administration's proposal. The House of Representatives rejected it. But the Bush administration insists they are going to implement it. And they insisted in taking the Senate passed, House approved language protecting workers' overtime pay out of the Omnibus.

We are going to do everything we can, with every opportunity we have, to make sure that provision is overturned. We will do that every time we get a chance as long as we are in Congress this session.

I will just take a minute to show what happens when people do not have the overtime protection.

It is probably pretty understandable, workers without overtime protection are more than twice as likely to work longer hours. This chart shows that for those workers working a scheduled 40-hour workweek, without the overtime protection, 44 percent of them work overtime. If they have overtime protection, in terms of time and a half, only 19 percent of them work overtime. If there is no overtime protection for workers if they work over 50 hours a week, still, you get 15 percent of the workers who work more than 50 hours in a week; but with overtime protection, only 5 percent work overtime. It is very clear what is going to happen to workers without overtime protection: They are going to work harder—a lot harder—and make a good deal less money.

Is overtime protection what is wrong with our economy? Absolutely not. I think this administration and this Congress ought to get it: People are hurting. And they are trying to find out who is on their side. We are going to address each and every one of these issues in the course of this Congress because that is required if we are going to be a fair and decent country.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. THOMAS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CONRAD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CONRAD. Mr. President, I rise today to speak about the latest numbers from the Congressional Budget Office that reveal the seriousness of the explosion in deficit and debt that is occurring in this country.

Before I do that, when I came to the floor I heard the senior Senator from Massachusetts, Mr. KENNEDY, speaking about the change in overtime rules in this country and discussing the unfairness of what has happened.

Just days ago, one of the people who works in this Capitol, who works with us every day, talked to me about how this change in overtime would affect him and his family. This man is one of the camera technicians for one of the networks that covers much of what we do in this body.

He took me aside the other day and said: Senator, this change in overtime fundamentally threatens me and my family. If those changes go forward, if they are not stopped, I probably won't be able to keep my house, where I live with my wife and my two kids.

He said: In our business, an awful lot of our income is overtime pay because we don't work an 8-hour day. Sometimes we are here 16 hours. Very frequently we are here, and part of our pay is overtime pay. It is that overtime pay that allows me and my family to own the home we are in and to have bought a new car last year and to have made improvements to the house. If these overtime changes go forward, it is going to dramatically change my life. I wonder what they are thinking of in terms of fueling the economy. I think my family and I have done a pretty good job of fueling the economy. We bought a home, furnished the home, bought a car—all because there was overtime pay. Now, if they take that away, my family and tens of thousands of other families like mine are going to be in a much weakened situation.

I hope people are listening. I hope we have a chance to revisit these changes in overtime that were permitted by the Omnibus appropriations bill that recently passed. There were lots of things in that omnibus bill that should be revisited. It is one of the unfortunate examples of what happens when a few people go in a back room someplace and come out with a product that has

had too little scrutiny, too little involvement and, frankly, too little fairness.

CBO REPORT ON THE BUDGET

Mr. President, I rise to talk about the Congressional Budget Office report on the budget condition of the United States. They have indicated that the deficit for this year will be $477 billion. That is $100 billion more than the biggest deficit we ever had. That was last year's deficit. Now it is $100 billion more for 2004. Now the record of the President on the question of fiscal responsibility is becoming more and more clear.

In the last year of the Clinton administration, we had a $236 billion budget surplus. Now in the third year of this President, we have a $477 billion budget deficit, the biggest by far, a record.

This chart shows the long-term relationship of the deficit. We can see the $477 billion; last year it was $374 billion—both of those much bigger than the previous record deficit of $290 billion back in 1992 when the President's father was President, Bush 1, as they term it.

The President and some of his aides have said: Well, yes, in billion-dollar terms, they are record deficits, but as a percentage of gross domestic product, it is not so big.

If we exclude Social Security instead of lumping it in with everything else, what we see is, even as a percentage of gross domestic product, this deficit is the biggest since World War II, with the one exception of 1983. In 1983, there was virtually no Social Security surplus.

This year, not only is the deficit off the charts at $477 billion, that understates how much is being taken because under this President's plan he is also taking every penny of the Social Security surplus, over $150 billion. So on an operating basis, the deficit is over $620 billion, on a budget of about $2.2 trillion, approaching $2.3 trillion.

Some say it is not that big. What are they talking about? An operating deficit of over $600 billion on a budget of $2.2 trillion, and that is not big? What would convince them it is big? It is the biggest ever in dollar terms and one of the biggest ever, even if you look at it as a percentage of gross domestic product.

But the biggest worry is not the deficit this year. The biggest worry is where this is all headed. If you add to what the Congressional Budget Office has told us, the President's recommendations for additional tax cuts and the looming crisis in the alternative minimum tax, which will hit 40 million people in this country by 2013 if we fail to act, if we put just those two things in, no other additional spending, no more supplementals by the President, if we just take what the Congressional Budget Office has told us plus the tax cuts the President is recommending, plus fixing the alternative minimum tax, we can see there is no end to the red ink. In fact, it explodes as the baby boom generation starts to retire, and a deficit on an operating basis of more than $600 billion for this year will climb to $861 billion by the end of this forecast period.

This is a record of fiscal irresponsibility that is utterly reckless. That is the course the President has us on.

I hear the President say it is spending; spending is all the problem. Let us look at where the increases in spending have occurred. Ninety-two percent of the increase in discretionary spending has occurred in defense, homeland security, and a third category that is rebuilding New York, the airline bailout after September 11, and the increase in international affairs, a dramatic increase there, again, as a result of the attack of September 11. As you can see, the vast majority of the increase, 69 percent, is in defense alone. But 92 percent of the increase in discretionary spending is in just these three categories.

Interestingly enough, the President says he is now going to restrain growth in what he calls discretionary spending. But if you look at what has happened to the categories of discretionary spending, domestic spending has not been growing. Domestic spending is not the problem. Non-defense domestic spending, as the Administration defines it, excluding international affairs and homeland security, has grown in real terms in the last 2 years by just three-tenths of 1 percent. Now he is going to restrain the growth by 1 percent in this category.

Again, remember, he has a special definition of the discretionary spending that he is constraining. Most of us think of defense and homeland security as a part of discretionary spending that is growing. Indeed, that is where spending has grown. But on the discretionary spending that he has identified, excluding homeland security, excluding international affairs, excluding defense, there has been almost no real growth in spending in the last 2 years, three-tenths of 1 percent. Now he says he is only going to allow it to grow 1 percent this year. That is not going to do much. That is a very small part of Federal spending. In fact, that is only 17 percent of the Federal spending he is talking about restraining.

So he is going to do very little to cope with these mushrooming deficits. That is a fact. That is reality. If you look at the revenue side, it is very interesting. That is where the deficit has exploded. It is largely on the revenue side.

This year, according to CBO, revenue will be at 15.8 percent of gross domestic product. That is the lowest revenue as a percentage of gross domestic product since 1950. Remember, when we had high revenue as a percentage of GDP, the President said the answer was tax cuts. Now that we have revenue at the lowest it has been since 1950, the President's answer is more tax cuts. Dig the hole deeper. Make the deficits bigger.

The President's plan doesn't add up. It doesn't come close to adding up. It fundamentally threatens our economic security long-term. We can go back and check the President's record on what he has told us and what happened. In 2001, he told us:

> We can proceed with tax relief without fear of budget deficits.

He was wrong.

In 2002, he told us:

> Our budget will run a deficit that will be small and short-term.

He was wrong.

In 2003, he told us:

> Our current deficit is not large by historical standards and is manageable.

It is hard to top a record. Not large by historical standards? It is the biggest it has ever been by a huge margin—$100 billion bigger than last year, and last year was a record. He was wrong again.

He said:

> The deficit will be cut in half over the next 5 years.

Will he be wrong again? His track record is pretty clear; he has been wrong consistently. Does it matter?

There is a story in the Washington Post this morning about the dollar and how the dollar has gone down dramatically. What they said in this article was:

> Currency traders who are fretting over that dependency—

They are referring to the need to borrow money from abroad for our trade deficit, borrow money from abroad for our budget deficit, and also borrow money internally for our budget deficit.

> Currency traders who are fretting over that dependency have been selling dollars fast and buying euros furiously. The fear is that foreigners will tire of financing America's appetites. Foreign investors will dump U.S. assets, especially stocks and bonds, sending financial markets plummeting. Interest rates will shoot up to entice them back. Heavily indebted Americans will not be able to keep up with rising interest payments. Inflation, bankruptcies, and economic malaise will follow.

Mr. President, that is the risk this President is running by conducting a fiscal policy that is absolutely irresponsible. I want to make clear that I am less concerned about the deficit this year than I am about the long-term implications of this fiscal policy. That is what these economists are warning us about. But it is not just them. We have the Comptroller General of the United States, a Republican, warning us that we are on an unsustainable course. We have the International Monetary Fund warning us that the buildup of deficits and debt in this country doesn't just threaten our own economic security, it fundamentally threatens the economic security of the globe.

We have already seen the effect on the dollar from these policies. The dollar has plummeted. It is down nearly 30 percent against the euro in just 2 years. In the short term, that can be helpful to U.S. manufacturers. But in the longer term, it is fundamentally threatening to our economic security.

If you think about it, if you were holding dollar-denominated investments, and you are a foreign investor, how would you feel if the underlying value of that currency plummeted? Does that make sense to continue holding dollar-denominated investments? Warren Buffet, one of the most successful investors in America, is quoted in the article as indicating he started to diversify his investments away from dollar-denominated investments. He is not alone.

It is time for us to think carefully and clearly about our response to this growing fiscal crisis. Record budget deficits—some say they don't matter. I think any sober person knows that deficits do matter. Deficits of this magnitude are simply stunning.

We are running deficits under this President this year of $900,000 a minute—$900,000 a minute. Every minute that goes by, under this President's budget plan, we are spending $900,000 more than we take in. That is a course that is not sustainable. It must be changed. The President says he has a plan—it appears to be a secret plan at this point—to cut the deficit in half over the next 5 years. But that avoids the much larger issue because we know from all of the work that has been done that the deficit will recede from these record levels. Cutting it in half is not much of an accomplishment when you are running an operating deficit of over $600 billion a year. And what is of deepest concern is that the President's budget plan, which, if he is good to his word, will reduce the deficit somewhat over the next few years, puts us on course for the deficit absolutely to explode as his tax cuts become permanent and as the baby boomers retire. That is the much greater threat to the economic security of this country.

When the Federal Government runs massive deficits, that puts upward pressure on interest rates. When interest rates go up, that slows economic growth and economic activity. That is a reality. This is a reckless course the President has taken us on, and not just in the short term. In the short term, we can afford deficits to give lift to the economy. The President is proposing massive deficits even at a time when he projects strong economic growth. CBO is telling us the economy will grow at 3½ percent a year over the next 5 years. Well, 3½ percent growth is considered relatively strong in an advanced economy. Yet we see no end to the budget deficits under the President's plan. In fact, once we get past this 5-year period and the baby boomers start to retire, the deficits absolutely explode. That is a reality.

It is time for the President and this Congress to address that very deep challenge to America's economic future.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FITZGERALD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FITZGERALD. Mr. President, I would like to address for a few moments the bill that is now on the floor, H.R. 3108, dealing with pension funding for defined benefit pension plans. The House passed this bill. In the House version of the bill, what it does is it mainly changes the interest rate assumptions that plans are required to use when figuring their actuarial liability for their pension plans and for their annuitants in their plans.

The House bill mainly addresses the situation that has arisen by virtue of the 30-year Government bond being done away with. A few years ago, the Treasury Department made the decision that it would no longer issue 30-year Treasury bonds and the interest rate for 30-year Treasury bonds had historically been what was used in calculating the liabilities for defined benefit pension plans. Now that there are fewer and fewer 30-year Government bonds in circulation, the interest rates for those bonds have gone down, and, of course, interest rates have been very low in general for the last couple of years.

So industries in sectors where defined benefit pension plans are common have come to Washington, asking for some relief in the way they calculate their unfunded liabilities, or their liabilities, and they have asked for the replacement of the 30-year Treasury bond with a benchmark that is, instead, made up of the yield of high-grade corporate bonds. By going to that different reference point, plans ultimately will have to put less money in their pension plans because they can assume a higher rate of return if they are using 30-year corporate debt or high-grade corporate debt as opposed to 30-year Treasury bonds.

In fact, right now companies in America, absent any legislation, would have to put about $170 billion into their defined benefit pension plans next year. If the interest rate relief alone in H.R. 3108 is passed, that will cut about 25 percent off the required payments that all companies with defined benefit pension plans will be required to make into their plans over the next 2 years. So the relief in this bill as it passed the House—and the only relief in the House bill is the interest rate relief—if that relief passes, it would cut about $40 billion per year off the amount that companies have to put into their defined benefit pension plans. Over 2 years, the life of the bill, it would cut $80 billion off of the required payments.

What has happened in the Senate is somewhat disappointing, to me. I could see the public policy rationale for changing the interest rate benchmark that companies use, now that we have done away with the 30-year Treasury bond. I can see the argument for coming up with a different reference. I can see the argument for changing the assumptions that would allow plans to put less money into their pension plans. But the Senate is going way beyond that. In addition to giving the interest rate relief that the House passed, the Senate now is on the verge of passing amendments that would provide special relief for airlines and steel companies.

The airlines and the steel companies would get further reductions in the amounts they have to pay into their pension plans. This is very troubling because airlines and steel companies, as we all know, tend to have the most woefully underfunded pensions of all industry in America. Obviously, they are asking for permission to dig their hole even deeper.

In addition, the Senate amendment that will be offered this week has a sweetheart provision for Greyhound Bus Company. I don't know why Greyhound Bus Company is singled out for this special treatment of all the companies in America, but it certainly must have some powerful friends here on Capitol Hill.

Also getting a sweetheart deal is CNF Trucking, which apparently gets some sort of relief in this bill and some limitation on liability that it might have to a former subsidiary that it spun off a couple of years ago.

So there are a couple of sweetheart deals, not just for some chosen industries, the airlines and steel companies, but also some rifle shots that would be put in here for two special companies, Greyhound and CNF Trucking.

In addition, and perhaps most discouraging, is that the Senate amendment will, in effect, go way beyond just the steel and the airline industries and allow all companies that have underfunded pension plans to go through a political process in applying for a waiver from their required contributions to their pension plans. All companies would be able to go to the Treasury Department and request a waiver.

If this provision becomes law, you can just imagine right before the election all the industrial companies in the Upper Midwest, in Michigan, Pennsylvania, Illinois, Wisconsin, and so forth, all those industrial companies in States that are critical for the upcoming election, they will all be going to the administration, asking for this special waiver from the Treasury Department. They will be making political threats at the same time, that if the administration doesn't give them this relief, they may just support someone else for President. It sets a very bad precedent because now there is a waiver process. But it is an apolitical one, and one for which you have to apply with the Internal Revenue Service and also with the Pension Benefit Guaranty Corporation.

As I said, if it were merely adopting the interest rate relief, we would be granting a 25-percent reduction in the

required contribution of all companies in toto in America to their defined benefit pension plans. We are going way beyond that. In the Senate amendment, we are threatening to grant them an additional about $17 billion a year, at least in reductions in required amounts going into pension funds.

There is also a provision in the Senate amendment in the managers' package that will allow all multiemployer pension plans—those are union-run plans which span employers—from having to make their full contributions.

All of these reductions in required contributions into the pension plans wouldn't be so troublesome but for one fact: In allowing these companies to dig the hole deeper for themselves, it is more likely that they will ultimately default on their pension obligations and turn those obligations over to the Pension Benefit Guaranty Corporation to take advantage of the Government guarantee. It wouldn't be so offensive if it were freezing the Government guarantees. But we are not.

There is a no hold harmless provision in this legislation. There are no reforms of pension funding trying to get tough on the companies that have considerably underfunded their pension plans. We are just allowing them to skip required payments into their pension plans. We are allowing the government guarantees to stay in place.

What is more, we are allowing the companies with underfunded plans to continue sweetening the benefits for their workers and raising their own pension liabilities while those pension liabilities are all guaranteed by the Federal Government.

I know pension funding is something that perhaps makes the eyes of the press glaze over. Not many members of the public understand the importance of this. This is a very roundabout way of transferring liabilities to taxpayers. It is not easy for people to understand. But if I were to make an analogy that the average American could understand about what we are doing here, imagine that you have someone who is behind in their credit card payments. Imagine that you said to that person, you are behind in making your payments on the credit card. You are only making the minimum payment. You are trying to make a minimum payment due each month. You have this huge balance. It is going to take years and years to pay off this deficit of what you owe the credit card company or the bank. Imagine if this person were to have their minimum payments lowered. Imagine that when they are already just barely making the minimum payments, you say: OK, we will even lower your minimum payment.

We are doing that here. But in addition, we are going beyond that. We are telling the credit card holder while you are lowering your minimum payments and digging the hole deeper so that you are likely never to get out of debt, we are going to go out and allow you to continue spending and add more to your credit card. Can you imagine a credit card company telling anybody that? That wouldn't be a way to advise a distressed consumer to try to get out of debt.

We are doing that and more here today in the Senate. We are not only allowing these companies to quit making their required payments into their pension plans, but we are allowing them to continue spending. We are allowing them, specifically if they are 60-percent funded, to keep sweetening the pension benefits for their employees and digging the hole deeper. That would be not only allowing the credit card holder to keep spending but encouraging the credit card holder to go out while they are behind in the payments on this one credit card and get some more credit cards and run up balances on those credit cards.

Obviously, if we pass this legislation we are going to make it hopeless for some companies ever to recover and to fulfill the promises they have made to their pension participants.

Right now, the Pension Benefit Guaranty Corporation—the Government corporation that guarantees pension benefits of people in defined pension plans—is in the worst financial condition of its entire history. It has at least a $11.2 billion deficit. Pension plans in America are now thought to be underfunded by at least $350 billion. This legislation would allow that collective underfunding in defined benefit pension plans in America to grow considerably.

The House was much more responsible. It only passed the change in interest rate assumptions. It passed the separate version of the bill that had the interest rate change, plus some relief for airlines. The Senate is poised to go much further. I am troubled by that. The administration has issued a threat to veto the legislation.

I refer to a letter. This is a Statement of Administration Policy that was issued on January 22. I ask unanimous consent that Statement of Administration Policy on H.R. 3108 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, January 22, 2004.

STATEMENT OF ADMINISTRATION POLICY

H.R. 3108—PENSION FUNDING EQUITY ACT

The Administration supports prompt Senate passage of H.R. 3108, the Pension Funding Equity Act. The Administration supports the interest rate provisions in the bill, which are consistent with the transitional portion of the Administration proposal for more accurate discounting of pension liabilities. The Administration also supports the provision in H.R. 3108 that calls for comprehensive funding reform to protect the benefits American workers have earned.

H.R. 3108 passed the House with overwhelming bipartisan support. Since that time, the temporary adjustment to the statutory rate for discounting pension liabilities has expired, which means that employers are denied important short-term funding relief unless and until legislative action is taken.

Recent data from the Pension Benefit Guaranty Corporation (PBGC) highlight the importance of passing this legislation free of additional provisions that would worsen underfunding in America's pension plans. The PBGC reports a record single-employer program deficit of $11.2 billion, which is three times larger than any previously recorded deficit, and the first multiemployer program deficit in two decades, as of the end of fiscal year 2003. In addition, the PBGC remains exposed to $85 billion in pension underfunding in plans sponsored by financially weak employers.

Consequently, the Administration will strongly oppose any amendment that would substantially weaken funding requirements for single-employer or multiemployer pension plans.

The Administration is developing comprehensive reform proposals to strengthen America's defined benefit pensions, and has consistently taken the position that any provisions to alter the DRC rules should be reviewed in that context. The DRC is part of a flawed system of funding rules that should be reviewed and reformed. A well-structured system of funding rules would lead to less volatility in employer contribution requirements, while producing stronger pension funding over time.

Pay-As-You-Go Scoring

The Budget Enforcement Act's pay-as-you-go requirements and discretionary spending caps expired on September 30, 2002. The Administration supports the extension of these budget enforcement mechanisms in a manner that ensures fiscal discipline and is consistent with the President's budget. OMB's cost estimate of this bill currently is under development.

Mr. FITZGERALD. Mr. President, a couple of days ago, Elaine Chao, Secretary of the Department of Labor; John Snow, Secretary of the Treasury; and Don Evans, the Secretary of the Department of Commerce, the three board members of the Pension Benefit Guaranty Corporation, wrote a letter to our majority leader, BILL FRIST, which asks that the Senate not go beyond amending the interest rate changes that were passed by the House. They said they would oppose it and recommend that the President veto any legislation that would further exacerbate the systemic underfunding of defined benefit pension plans in America.

I ask unanimous consent that this letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PENSION BENEFIT GUARANTY CORPORATION,
Washington, DC, January 22, 2004.

Hon. BILL FRIST,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. LEADER: As you are aware, the Senate has entered into a unanimous consent agreement for the consideration of H.R. 3108, the Pension Funding Equity Act. We appreciate the Senate's timely action on this issue of great importance to America's workers and pension plan sponsors. We are writing to you in our role as the board of the Pension Benefit Guaranty Corporation (PBGC).

At the end of 2003, the temporary adjustment to the statutory rate for discounting pension liabilities expired. This has denied pension plan sponsors the certainty they need to plan their pension funding for 2004.

The Administration has expressed its support for the provision in H.R. 3108 that would discount pension liabilities for the next two years using a blend of long-term corporate bond rates.

The PBGC reported a record single-employer program deficit of $11.2 billion through the end of 2003, three times larger than any previously recorded deficit. Last year, the General Accounting Office added the PBGC's single-employer pension program to its ''high risk'' federal program list. In addition, the PBGC remains exposed to $85 billion in pension underfunding in single-employer plans sponsored by financially weak employers. The PBGC also reported the first multi-employer program deficit in two decades.

Pension underfunding threatens workers and retirees, who depend on the defined benefit pension system to be predictable and reliable. If the Congress encourages firms to underfund their pensions by substantially weakening pension funding requirements, retirees could face pension cuts when a firm terminates its defined benefit pension plan.

We believe that H.R. 3108 would best protect pensions and pensioners if passed free of any provisions to alter the Deficit Reduction Contribution (DRC) rules. Specifically, it would be irresponsible to amend the interest rate bill with any additional provisions that would significantly further exacerbate systemic pension plan underfunding. If H.R. 3108 were amended to do so, we as the PBGC board would recommend that the President veto the legislation.

The Administration is developing comprehensive proposals to strengthen America's defined benefit pensions, and any provisions to alter the DRC rules should be reviewed in the context of reforms to strengthen pension funding over time. We look forward to working with you in the future to strengthen the protection of the pension benefits that America's workers have earned.

The Office of Management and Budget has advised that this letter is consistent with the Administration's program.

Sincerely,

ELAINE L. CHAO,
Chairman, Board of Directors.
JOHN W. SNOW,
Director.
DONALD L. EVANS,
Director.

Mr. FITZGERALD. Mr. President, I think the Washington Post editorial page had a very good editorial on this issue this morning. They dealt with the irresponsibility of allowing companies with underfunded pension plans to dig the hole deeper. They also talked about how it is troubling that in Washington there are always incentives for Members of the House and Senate to do what is wrong, to cater to the special interests—in this case, the airlines, the steel companies. This is a situation in which the airlines and the steel companies and their managers have conspired with their union members to come to Congress and allow dispensation which allows the companies to put less money into their pension plans. And no one in those companies cares because the pension plans are guaranteed by the taxpayers. So you have the labor unions and you have the managers coming here to Washington lobbying for this relief.

We have gone far beyond just the airline and steel companies. Apparently, in the Senate bill every company in America would be eligible to ask the Secretary of Treasury for a waiver from its pension contributions.

Allow me to read this editorial from this morning's Washington Post. It is called ''Pension Perniciousness.''

Monday, January 26, 2004, by the Washington Post:

Not for the first time, Congress has muscled up to an important problem, taken a good long look at it and resolved to make it worse. The problem is the vast hole in the nation's corporate pension schemes, and the perverse rules that helped create them. Congress's solution, championed in the Senate by an alliance of Sens. Charles E. Grassley (R–Iowa), Judd Gregg (R–N.H.), Max Baucus (D–Mont.) and Edward M. Kennedy (D–Mass.), is to reward the hole-diggers with what amounts to a $16 billion loan from taxpayers.

About one in five private-sector workers has a ''defined-benefit'' pension, the sort in which an employer guarantees a certain pension to its workers when they retire. To pay for these future benefits, employers are supposed to put sufficient money into a pension fund; the problem is they often don't. The gap between money put aside and money needed in the underfunded pension plans comes to an enormous $350 billion. When companies go bust, the Pension Benefit Guaranty Corp., the government-backed entity that insures pensions, gets saddled with plans that are in deficit. As a result, the PBGC itself has a deficit of $11.2 billion, which taxpayers may have to plug eventually. As more companies go bust, more of the $350 billion problem out there in the private sector will land on taxpayers' shoulders.

Why do companies run these pension deficits? Because regulations perversely encourage them to do so. If a firm gives workers a pay raise, it will have to pay for that immediately; if it gives them an increase in their pension, accounting rules allow it to defer the cost into the future. This deferral is especially tempting for cash-strapped companies—which often means ones with a strong chance of going bust. Bethlehem Steel, for example, upped its pension promises and declared bankruptcy three years later. Wobbly companies that underfund their pensions would pay extra insurance premiums if the insurer were a private company. But the PBGC's rules do not allow it to price risk properly, adding a further incentive for shaky companies to hitch a free ride with the others.

There is, as Congress is demonstrating, no political constituency for fixing this problem. Weak companies with underfunded pensions lobby lawmakers for permission to continue their imprudence; labor leaders from those same firms lobby lawmakers in the same direction; nobody is on the other side. In the deal currently being cooked up, a group of hard-pressed companies led by the steel industry and the airlines will be given a special break for two years; if any of these firms goes bust in the meantime, the public will end up shouldering the deficits, which is why the congressional measure amounts to a taxpayer loan.

Yet taxpayer support for people in defined-benefit pension plans is a perverse notion. Fully one in two private-sector workers has no company pension plan whatever. Why should the less fortunate bail out the lucky ones?

That was the editorial from this morning's Washington Post. It accurately summed up the imprudence of the bill that the Senate will be considering this week. Ideally, it would be great if the Senate did not pass such an irresponsible bill. Obviously, as the Washington Post points out, when you have labor leaders and CEOs of airlines and steel companies lobbying together, conspiring together to stick a liability of theirs off on the taxpayers, I fear they are probably going to win.

My hope, however, is that the House, which has been more responsible on this issue, and the White House, which is opposed to the vast expansion of underfunded liabilities that would be engendered by this legislation—my hope is that the White House and the House will prevail upon the conference committee to pass something more responsible than the legislation currently before the Senate.

One final point. The Washington Post editorial referred to this case of Bethlehem Steel and the editorial talked about how Bethlehem Steel was sweetening its pension benefits for the 3 years prior to its going into bankruptcy; then it just handed the pension plan and all its liabilities off on the Pension Benefit Guaranty Corporation and, by extension, the taxpayers.

That brings up another issue. Some people think the pension funding rules are too severe for companies in America and that we ask too much of companies in the ERISA law where we require them to fund their pension plans as well as possible. But it turns out that—I held a hearing on this issue over the summer and what I found was very troubling—the current rules are exceedingly lax. The law, ERISA, which was passed in 1974, requires defined benefit plans to be 90 percent funded. If they are not 90 percent funded, they have to make extra catchup payments. But that 90 percent funding level is referred to in ERISA as ''current liability.'' It turns out that the definition of current liability is not an actuarial definition. It is not the definition of how much would actually be owed to pay the benefits that have been promised. It turns out that the definition of current liability is actually a political definition.

To illustrate this, the Bethlehem Steel case probably is the best example of how woefully inadequate the current pension funding rules are. In its last filing with the Pension Benefit Guaranty Corporation, Bethlehem Steel claimed it was 84 percent funded on a current liability basis. That was Bethlehem Steel's last filing. Then they filed for bankruptcy and handed their pension plan over to the PBGC. It turns out that Bethlehem Steel's pension plan was not 84 percent funded; it was only 45 percent funded as a percentage of how much the PBGC actually had to pay, to pay the benefits that had been promised.

That example shows how the pension funding laws of this country are already woefully lax. We are allowing companies to make promises to employees that they have no hope of ever fulfilling, promises which risk that the taxpayers will ultimately have to pay

these pensions. This legislation the Senate is considering this week will make this lax funding of pensions in this country far more lax. It will do a lot of long-term damage.

I hope my colleagues in the Senate will think carefully about this notwithstanding the political pressures they will have from airline executives and from labor union leaders.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BURNS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2236 TO AMENDMENT NO. 2233

Mr. KYL. Mr. President, I have an amendment No. 2236 at the desk.

The PRESIDING OFFICER. The pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. KYL) proposes an amendment numbered 2236 to amendment No. 2233.

Mr. KYL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restrict an employer that elected an alternative deficit reduction contribution from applying for a funding waiver)

At the end of section 3, insert:

(___) RESTRICTIONS ON APPLICATION FOR FUNDING WAIVER FOR EMPLOYERS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.—An employer who makes an election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan for 2 plan years may not receive a funding waiver under section 412(d) of such Code for any plan year beginning after December 27, 2005, and before December 28, 2007.

Mr. KYL. Mr. President, I will describe the amendment briefly, the reason for the amendment, and set the stage here. Of course, the pending business is H.R. 3108, a bill the House passed, dealing with the requirements for businesses to pay into the pension fund to ensure that all of the promises they have made to their employees about pension benefits being there will in fact exist when the time comes.

What has happened is some Senators have offered an amendment to that bill which would provide what we call deficit reduction contribution relief. Deficit reductions are the amounts of money the companies are supposed to pay into the fund to ensure the fund will be able to compensate any employees on the pension that has been promised to them. We have had a deficit in that pension over the last few years because of the way the amounts due were calculated. That is being fixed. But in the meantime there has to be some kind of makeup payment to account for the deficit that has been created. This deficit reduction contribution will do that.

The problem is some specific industries are seeking relief from that so they don't have to pay in as much money. They are asking in effect for a waiver of the requirement that they pay this money into the pension fund so their employees will be able to collect when the time comes. Their argument is they don't have enough money. That should be our first clue that there is a problem. If they don't have enough money to pay their employees what they are due, we probably should not dig the hole any deeper by allowing them to continue to make promises and not pay into the fund what is necessary for them eventually to pay to their employees.

Some of the Senators have decided what we are going to do is grant a 2-year partial waiver just to certain airlines and two steel companies. One of the airlines, it is said, cannot afford to pay the premium that would be required, or the bond payment that would be required, if they sought a general waiver from the Treasury Department, which you can do. If you are having trouble making your payments, you can go to the Secretary of the Treasury and meet certain requirements and say I would like to have a general waiver. That could be granted. This company apparently doesn't even have the money to pay for the bond that would be required in order to seek that relief. But they are asking us to believe if we will just bail them out for 2 years, everything will be fine; they will have enough money, and the Government won't have to make up any of the difference.

The concern I and others have expressed is this partial waiver is going to result in the Government letting these companies off the hook, paying less money into the fund than is necessary, and a couple years from now, if they don't make it financially, it is the taxpayers who will be on the hook for that difference because we have not had them pay the full amount. In fact, they are only going to have to pay 20 percent of their obligation next year and only 40 percent the year after that. So it is a 2-year waiver of almost the entire amount.

I would say this ought to be of concern to us. I don't think it is a good idea to grant this waiver, and the three key people in the Bush administration who sit on the board that oversees this have said they would recommend a veto to the President if this deficit reduction contribution amendment causes any greater strain on the board to make payments.

What I have done is offer one amendment, and this is the second amendment, both of which will reduce that strain just a little bit, hopefully enough so the Bush administration will not veto this legislation, should it end up passing.

I urge colleagues, those who agree with me that this whole deficit reduction contribution waiver is not a good idea and those who think it is a good idea but might be a little bit concerned the administration might veto the bill over that provision, to support my amendments because they are designed to close the loophole a little bit so that at least the companies that are taking advantage of this 2-year waiver cannot take unfair or undue advantage of it.

Let me describe what the amendment specifically does. The amendment, which I have just offered, provides that a company which seeks to take advantage of this special waiver, where you would only have to pay 20 percent next year and 40 percent the year later, then would not, at the end of the 2-year period, also then be able to go to the Secretary of the Treasury and say: Now we want a general waiver. The law currently provides for a general waiver, and if you want a general waiver, you can apply for it.

This special waiver that is being granted is designed to be a substitute for the general waiver, not where you would add one on top of the other. I think it is a perfectly reasonable request.

I would ask, if anybody is against this, why? Is it because, after the 2-year special waiver, they then want to seek a general waiver? The question then would be, if that is the case, why don't you seek a general waiver right now?

I think it is a perfectly legitimate amendment. It obviously doesn't upset the whole process. The deficit reduction contribution amendment that has been offered will still be permitted to go forward, but what I would call a little bit of a loophole would be closed so the company that gets this 2-year holiday date from making their full DRC payments would not then afterward also be able to apply for a general waiver under the provisions of law that already permits that to be done. It is very simple.

By the way, just a word about the general waiver. You can apply to the Treasury Department for any or all of the normal required contributions to the pension fund, and the only part of the contribution Treasury cannot waive is an amortization payment of a previous funding waiver, which makes sense. To receive a waiver, a company must show there is substantial business hardship, which these companies all allege; that it is temporary, and they make that point: We are going to be healthy in 2 years, they say. Good. And it is reasonable to expect the plan cannot continue unless the waiver is granted. In other words, if they can't continue to pay into the pension fund unless a waiver is granted, as I say, a bond can be required of the Secretary to show their good faith.

I think it is a perfectly sound amendment. Those people who don't like the DRC waiver, like myself, and those who do should support the amendment.

For those who do like the waiver, it doesn't hurt the companies they are seeking to help, and it might actually prevent the bill from being vetoed by the President.

Let me tell you what I have in this regard. I understand my colleague from Illinois, Senator FITZGERALD, has already submitted into the RECORD this letter, so I will not do it, but I would like to make reference to the letter, dated January 22, 2004. It is on the letterhead of the Pension Benefit Guaranty Corporation, which is the Federal entity that guarantees Federal pensions. It is to Leader BILL FRIST, and it is signed by Elaine Chao, the Chairman of the Board of Directors, John Snow, director, and Don Evans, director. You might also recall that Elaine Chao is Secretary of the Department of Labor; John Snow is Secretary of the Treasury; and Don Evans, of course, is Secretary of Commerce. These three important members of the Cabinet are the three board members of the PBGC or the Pension Benefit Guaranty Corporation.

What they said in their letter to Senator FRIST, among other things, is this:

> The PBGC reported a record single-employer program deficit of $11.2 billion through the end of 2003—

One of my colleagues earlier said there was a $20 billion surplus in their fund. This letter from the directors notes an $11.2 billion deficit. They point out:

> three times larger than any previously recorded deficit. Last year, the General Accounting Office added the PBGC's single-employer pension program to its ''high risk'' federal program list. In addition, the PBGC remains exposed to $85 billion in pension underfunding in single-employee plans sponsored by financially weak employers. The PBGC also reported the first multi-employer program deficit in two decades.

What this means is that the PBGC, which is the guarantor of employers' pensions, is in very bad financial condition—a $11.2 billion deficit. It is in the high-risk category of Federal programs. That means that if we add to the risk by reducing the amount that employers pay into the fund, then we are increasing the risk that taxpayers will have to bail these companies out because the fund will not have enough money to make the payments.

It is a little surprising to me that people who ordinarily like to present themselves as on the side of employees would be taking the sides of the employers here saying: Let's let them off the hook so they don't have to pay as much into this fund for the pensions of their employees.

The fund exists for the employees, and I would like to be sure there is enough money in those funds to ensure the employees are paid. But when we relieve the companies of paying their full obligation, we are creating a risk that the employees are not going to be paid.

The answer of the bill sponsors is: We will have the Government pick up that risk. After all, that is the job of the Pension Benefit Guaranty Corporation. The directors of the Corporation are saying: We are in financial trouble. We don't have enough money to do this. So guess who is going to have to make up the difference. You guessed it: our constituents, the taxpayers.

Haven't we heard a great deal recently about the fact the Federal Government is spending too much taxpayer money and we have to start reining in how much we spend? Right now we are committing to spend a whole lot more because the board that backs up the pension funds is in a deficit situation. The companies that are seeking relief say they don't have enough money to cover the obligations to which they have committed. That leaves only one party to make up the difference: the taxpayer. And that means either they pay for it in taxes that we collect or we have to go out and borrow it. Nobody likes the size of the deficit.

Mr. President, I say to my colleagues, those of you who are supporting this bill and this amendment—not my amendment but the underlying amendment—are guaranteeing that we are going to have a bigger deficit, more taxpayer funding of an obligation that corporations took on because the corporations don't have the money to do it themselves.

This amendment is asking that we relieve them of the full 100 percent of what they are supposed to pay in; that for 1 year, they only pay in 20 percent, and for the other year they only pay 40 percent of this makeup payment, this deficit reduction payment that is required to make up the full amount. We are doing it because they are pleading that they don't have enough money.

My observation is, when you are in a hole, the first thing you do to get out of it is to stop digging.

Today's edition of the Washington Post makes the same point. I understand Senator FITZGERALD also put this in the RECORD. But let me quote a couple lines from this editorial called ''Pension Perniciousness'' from the Washington Post today. They point out:

> Not for the first time, Congress has muscled up to an important problem, taken a good long look at it and resolved to make it worse. The problem is the vast hole in the nation's corporate pension schemes, and the perverse rules that helped create them.

Then it talks about the bill that has been introduced by our colleagues ''to reward the hole diggers with what amounts to a $16 billion loan from taxpayers.'' That is why I say we are already in a hole. This old rancher friend of mine from Apache County said, if you are in a hole, the first thing to do to get out is to stop digging. We are digging the hole even deeper because instead of the companies trying to fill this hole, we are going to have a deeper hole with greater taxpayer exposure as a result.

They point out in the Washington Post editorial:

> To pay for these future benefits—
>
> That are promised to employees—
>
> employers are supposed to put sufficient money into a pension fund; the problem is they often don't. The gap between money put aside and money needed in the underfunded pension plans comes to an enormous $350 billion. When companies go bust, the Pension Benefit Guaranty Corp., the Government-backed entity that insures pensions, gets saddled with plans that are in deficit. As a result, the PBGC itself has a deficit of $11.2 billion, which taxpayers may have to plug eventually.

And then, down toward the end of the editorial, they say this:

> There is, as Congress is demonstrating, no political constituency for fixing this problem. Weak companies with underfunded pensions lobby lawmakers for permission to continue their imprudence; labor leaders from those same firms lobby lawmakers in the same direction; nobody is on the other side. In the deal currently being cooked up, a group of hard-pressed companies led by the steel industry and the airlines will be given a special break for two years; if any of these firms goes bust in the meantime, the public will end up shouldering the deficits, which is why the congressional measure amounts to a taxpayer loan.

In the letter to leader FRIST from the Pension Benefit Guaranty Corporation directors, the three Secretaries I mentioned earlier, are these two points. I quote now:

> Pension underfunding threatens workers and retirees, who depend on the defined benefit pension system to be predictable and reliable. If the Congress urges firms to underfund their pensions by substantially weakening funding requirements, retirees could face pension cuts when a firm terminates its defined benefit pension plan.
>
> We believe that H.R. 3108 would best protect pensions and pensioners if passed free of any provisions to alter the Deficit Reduction Contribution rules—DRC rules. Specifically, it would be irresponsible to amend the interest rate bill with any additional provisions that would significantly further exacerbate systemic pension plan underfunding. If H.R. 3108 were amended to do so, we as the PBGC board would recommend that the President veto the legislation.

By the way, they note that the Office of Management and Budget has advised that this letter is consistent with the administration's program.

What you have here is a pretty firm warning from the key Secretaries in the Bush administration, the people who sit as directors on the board here of the Pension Benefit Guaranty Corporation, that if the underlying amendment that is proposed here passes, and it significantly ''further exacerbates the systemic pension plan underfunding''—which I think it is hard to argue would not occur—they would recommend a veto of this legislation.

The two amendments I have offered—the one I offered Friday which would hold the PBGC harmless for obligations incurred after this, that would be incurred during the time of and for 2 years after this DRC waiver plan, and the amendment I offered today which simply provides that a company that takes advantage of this DRC waiver not be able to apply also for a general waiver—these two amendments should make the DRC amendment slightly less

onerous. It may be enough for the administration, then, to decide to allow the amendment to go forward and not recommend a veto.

But I am afraid if my two amendments—both of which I think one could argue are not harmful to the companies but they might be just enough for the administration to conclude that it is willing to allow these to go to the President without a recommended veto—don't pass, one of two things will happen: Either the President will veto the legislation or, if he doesn't, the taxpayers are going to be required to make up a fairly large amount of money when these companies decide they can't make it in the long run.

I hope my colleagues will give consideration to this. It is my understanding that perhaps, after the lunches tomorrow, somewhere in the 2:45 timeframe, we may have a vote on these two amendments. We will have about a half-hour to discuss the two amendments, so anybody who has missed the discussion, the robust debate we are engaged in here, will have an opportunity to at least hear both sides of the argument and then we will vote on these at 2:45 tomorrow.

Again, I reiterate, I can argue that the DRC waiver that is being proposed here by the Senator from Iowa, the Senator from Montana, the Senator from New Hampshire, and the Senator from Massachusetts greatly jeopardizes the financial stability of the PBGC; the granting of a 2-year waiver of most of the payment obligations into the fund is a bad idea. I think a lot of our colleagues agree to that.

What I am saying is, even if you don't agree with that, if you support the two steel companies or the two airlines—I think there are two or three airlines that want to take advantage of this—if those are your constituents and you need to support them here, you need to try to give them some relief so they don't have to pay as much money in over the next 2 years—I understand why you would have to do that. But I would argue, A, don't saddle everybody else with that and, B, if you really want it to go into law, it would be important to make sure the President doesn't veto this legislation. Three Secretaries have already given you a pretty good idea this is what they are going to recommend if this DRC waiver is actually adopted by the Senate tomorrow.

What I am suggesting is that you can ameliorate the effect of that just a little bit by adopting these two amendments. One would ensure that, as I said about the amendment today, there are not going to be any additional waivers granted. The waiver you get for 2 years is it; You don't add a general waiver behind that. I think that is consistent with the intent of the authors here. I certainly hope they will be willing to support that. And, second, the Pension Benefit Guaranty Board would be held harmless for obligations that were incurred once a company began to take advantage of the special waiver provisions. That is only fair.

I hope my colleagues will support both of these amendments. Take a look at the Washington Post editorial of today. Certainly take a look at the letter from Secretaries Chao, Evans, and Snow, and consider whether a very slight amendment to the underlying amendment would not be appropriate in order to preserve the intention of what they are trying to achieve.

I appreciate the earlier comments from my colleague from Illinois, Senator FITZGERALD. I think he hit the nail right on the head. I note one of the airlines seeking to take advantage of this has reported a huge amount of cash on hand, over a couple of billion dollars of cash on hand. Yet it is saying it doesn't have enough money to make these modest payments into this fund. It seems to me either that corporation could apply for a general waiver, which it could get today, or it can afford to make the payments into the fund. It should not be up to the taxpayers of this country to be bailing out a company in that kind of position.

I urge my colleagues to think very carefully. We have just been home talking to our constituents, talking about their concerns about deficits, about the role the taxpayers are going to have to pay funding new spending of the Congress. Yet the very first thing we do this year out of the box is take on an additional liability that will, in fact, add to the debt if we have to make up the payments to the Pension Benefit Guaranty Corporation because companies that took advantage of this special waiver decided they could no longer remain in existence or went bankrupt.

I hope my colleagues will support these two amendments. I will discuss them again tomorrow right after the lunches.

At this time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Without objection, it is so ordered.

Mr. DORGAN. I ask consent to speak in morning business for as much time as I consume.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE DEFICIT

Mr. DORGAN. Mr. President, today the Congressional Budget Office released its summary of what to expect in fiscal policy in this country. I know several of my colleagues have spoken about that today. But they predict that in the coming fiscal year, the budget deficit for this country will be $477 billion—nearly a $500 billion deficit—easily and by far outdistancing any previous budget deficit.

Last week I listened to the State of the Union in the Chamber of the House.

The President described the state of the Union as he saw it. There was no discussion about the nearly $.5 trillion budget deficit this coming year. It was as if everything is just fine; don't worry about it; be happy.

Days later, the Congressional Budget Office released their January review. Here is what they show. They show that in January 2001, 3 years ago, they expected us to have a surplus of $5.6 trillion during the 10-year period. As a result of that expected budget surplus, we had people scurrying around here like folks who just had not enough to do and they wanted to find some way to deal with their $5.6 trillion surplus. Some of us said this surplus doesn't yet exist. It is just a prediction; maybe we ought to be a little bit conservative, a little bit careful about how we deal with this. No. The President said don't worry about that, and those who supported him in Congress said don't worry about that; be happy; we are going to have a big, long-term, 10-year surplus, and let's have very large tax cuts which, by the way, are token for the highest income earners in this country. If you earn $1 million a year—and not many do—this Congress passed tax cuts that said we believe you ought to have a tax cut of nearly $100,000. I didn't support it. We got busy in this Congress giving that money back not to working families but the wealthiest people who benefited most from those tax cuts.

In January of 2003, 2 years later, the expectation was that most of those surpluses had vanished. A number of things had happened, but most of those surpluses had vanished. Now, 1 year later, we find out there are no surpluses at all. In fact, we face 10 years of deficits equaling somewhere around $2.6 trillion. In a period of 3 years, the Congressional Budget Office expected us to have a $5.6 trillion surplus, and then 3 years later a $2.6 trillion deficit.

I didn't go to fancy math classes in my small school, but that adds up to an $8 trillion difference in just 3 years. What happened? As I indicated, the smell of $5.6 trillion in surplus was just too much for some: we have to get rid of this surplus—despite the fact it didn't exist. How shall we do it? Let us give the upper-income Americans a very generous tax cut; and they got it through the Congress. Some of us cautioned, saying maybe something is going to happen. What if something interferes? What if there is an economic downturn? What if we don't have these surpluses? Never mind, we were told; it doesn't matter. Don't worry about it; be happy; we are going to have a long-term surplus and we are going to get about the business of giving it back.

In just a matter of months after that debate began, we discovered the country entered into a recession. I know my colleagues are fond of saying President Bush inherited a recession. He did not.

That is not true. The recession started in March of 2001. This President didn't inherit a recession. In March of 2001, the recession started. It lasted until about November 2001. So we ran into a recession in March.

On September 11, 2001, we had this tragic event in which terrorists murdered innocent Americans by flying airplanes into buildings. Thousands of Americans lost their lives that day. That had a dramatic impact on the economy. There is no question about that.

Then we began a war against terrorism, which was expensive; then homeland security, which is expensive; and then an increase in defense spending, which is expensive.

Think about it: A $5.6 trillion surplus expected in 10 years, and the fiscal policy coming from the White House was to say, Let's have very big tax cuts for upper income Americans.

Then we ran into a recession; September 11, 2001, a terrorist attack; a war on terrorism; homeland security spending; and defense spending up, up, way up. Now we discover that not only is there not a surplus, but we have the largest Federal budget deficit in the history of this country.

The President in his State of the Union Address did not mention it. Why would the President neglect to mention this? Is it because there is no fiscal policy coming from this administration that remedies it? Is it because the medicine here is not easy to take?

I just finished reading a book that was written by a man named Suskind about former Treasury Secretary O'Neill who was the Treasury Secretary for the first 2 years of this administration during the time this fiscal policy was constructed. That book ought to be read by every American because it says again from the Treasury Secretary of this administration that this fiscal policy is folly. It doesn't result from the best minds sitting around thinking about what is the best policy to advance this country's economic interests. It was nothing of the sort. It was all about politics, all about the easy lifting, saying let us give tax cuts and let us give tax cuts especially to those who supported the administration.

I was, frankly, very surprised to read that book. I was very disappointed as well to read that book. The book needed to be written, and it is controversial. I am sure Mr. O'Neill, former Secretary O'Neill, will pay dearly for having been candid. But what he described was the development of a fiscal policy that had nothing at all to do with thoughtful analysis by people who would know. It had everything to do with people in the basement constructing political strategy and how that political strategy should find its way into the fiscal policy of this country and should actually run that fiscal policy.

Here we are 3 years later. Instead of a $5.6 trillion budget surplus, we have the prospect of a $2.6 trillion deficit that we will decide our children should pay. Here we are with an administration that has no plan except to say deficits don't matter—an administration that gives us a State of the Union that conveniently forgets we have now the largest Federal budget deficit in human history.

I mentioned I went to a very small school with a high school senior class of nine. They didn't teach advanced math. But 1 and 1 equals 2, and 2 and 2 always equals 4. You cannot have a fiscal policy for our country that increases defense spending, increases homeland security spending, and cuts taxes again and again, and have it add up. It just does not, especially in circumstances when we hit a rough patch in the economy and are fighting a continuing war on terror. It simply does not add up. We require—this country demands—leadership on these issues. All of us here in the Congress need to get serious about spending initiatives and tax initiatives.

Not too many weeks ago, we had a debate on the floor of the Senate. I offered an amendment and I lost. It had to do with the expenditure of $20.3 billion for the reconstruction of the country of Iraq. I said we ought not spend $20.3 billion to reconstruct the country of Iraq. We did not bomb Iraq in a manner that destroyed their infrastructure. We didn't target their roads. We didn't target their electric grids, nor their dams. We did not target the infrastructure of Iraq, and we did not destroy their infrastructure. It is not the obligation or the burden of the American taxpayers to rebuild it. The country of Iraq has the second largest reserves of oil in the entire world next only to Saudi Arabia.

My proposition was very simple: that Iraq would be pumping 3 million barrels of oil a day, according to Ambassador Bremer, by July 1 of this year, and the sale value of that which is available for export will be $16 billion a year. That is $160 billion over 10 years. That could easily be securitized, and the money from a few years of Iraq oil could easily reconstruct all that is necessary to be reconstructed in Iraq. It is the burden, it seems to me, of Iraq oil, the resource that belongs to Iraq, to reconstruct Iraq. It is not the burden of the American taxpayer.

I have felt strongly—and I did when we debated this issue—that Iraq oil owned by the Iraqi people ought to be used to reconstruct the country of Iraq, not the American taxpayer. I lost that vote. That vote was $20 billion.

Those who decided, no, it is the American taxpayers' burden, decided we want to spend that money. That is part of Federal spending. We want to borrow the money, which is what we are now doing in order to reconstruct the infrastructure of Iraq.

The next time I hear someone come to this floor to say the problem is the big spenders, it is important to take a look at how Members voted on the $20 billion to reconstruct Iraq. Talk about big spending, that is the big daddy of spending, one big chunk, $20.3 billion, not paid for. We borrowed the money, added it to the Federal debt, and said let's send it to Iraq.

Now we read in the newspapers that a Halliburton subsidiary has decided to give money back because there were kickbacks, because there was fraud. There are investigations. We discover the price charged to the American taxpayer to haul gasoline into Iraq is probably $1 more per gallon than it should be.

Are you surprised? I am not. When we throw money at these issues, which is what happened to the issue of reconstructing Iraq, we find dramatic amounts of waste. That is what is happening.

We need a fiscal policy that works. Part of it is beginning to cut back on spending in some of these areas. This would have been a good candidate and would still be a good candidate. We do not have to spend all of the $20 billion. There is still time to take some back and reduce the runup of Federal deficits.

Second, we ought to collect some taxes from those who are not paying it, some of the largest corporations in the country, some whose names you would recognize instantly because they advertise all the time. They do a lot of business in this country and are household names. They have decided they want to run their business out of a mailbox in the Bahamas or the Grand Caymans. Why do they want to make a mailbox their corporate headquarters? To avoid paying U.S. taxes. It is time for us to shut that down. The American people pay taxes. They earn a wage; they pay a tax. They do not have flexibility to get out of it. So, too, should the large corporations that do business and earn profits here.

Deciding either they want to renounce their citizenship, which is called an inversion, or deciding they want to create all these special enterprises, special subsidiaries, and run them through a mailbox in the Bahamas or Grand Caymans or the Dutch Antilles is not something this country should allow happen.

That means tax reform. It is not just the obligation of working families to pay taxes, it is the obligation of all Americans who earn in this country. That includes those at the top. That includes some of the largest enterprises, some of the largest corporations that now have decided they want all the benefits of American citizenship except the requirement to pay taxes for our common defense and for the other things that invest in this country and its future.

We have a lot to do. If all Americans will read the Suskind book called ''The Price of Loyalty,'' about former Secretary O'Neill, the first 2 years of this administration, and the construction of a fiscal policy, a reader will shut that book and wonder how on Earth

this could have happened. Are there not people involved of good character who want to do the right thing for this country's future? Is it all about politics? Read the book. Then make a judgment. Then ask yourself whether it is not necessary for all, Republicans and Democrats, conservative and liberals, to create a different resolve, beginning now. That resolve is to no longer ignore and pretend, as this administration does, that we have the largest budget deficit in history.

I did not mention that in addition to the largest fiscal policy budget deficit in history, predicted today by the Congressional Budget Office of $477 billion, we also have the largest trade deficit in history. Together, these two deficits are very serious for the long-term outlook of this economy. There is no magic.

I know the administration says, look, this is not an issue. We will just grow out of it. There is no thoughtful economist I am aware of who believes you grow out of these deficits. You do not. I mentioned an $8 trillion turnaround. The President, in his State of the Union Address, despite not mentioning the Federal budget deficits or a fiscal policy dangerously out of control, in my judgment, did mention he wants to make all of the tax cuts permanent, which will add another $2 trillion to those deficits in the next 10 years.

We have a lot at stake. I believe it is incumbent upon both political parties. If the President will not, it is incumbent upon both parties that do work in the Senate to recognize this is a dangerous fiscal policy and we must change it. Men and women of good will serving in this body know that our job is to try to enhance the future of this country. We want to leave things better than we found it. We want our children to live in a better world. We want our children to live in a country that is stronger, whose economy is expanding and producing jobs and opportunities for our children. But that will not happen if we burden our children with a reckless fiscal policy that has the largest deficits in the history of this country.

I call on this President to recognize this issue, work with us to solve this problem, and put this country back on track with a fiscal policy that promotes economic growth, that gets rid of these budget deficits, and provides for a responsible fiscal policy, a balanced budget, one that will promote growth in this country.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CAMPAIGN FINANCE REFORM

Mr. REID. Mr. President, on December 10 I was in Las Vegas when my staff stepped into a meeting and said the Supreme Court had upheld the McCain-Feingold Campaign Reform bill. I couldn't believe it. All of the political prognosticators said this very conservative Supreme Court would not uphold that law. They not only upheld the law but they completely repudiated what the intermediate court of appeals had done. They went past them and upheld the law.

I was so happy that after I got out of my meeting, when the press called me, I said that if Sandra Day O'Connor were available I would give her a big hug because the decision she wrote was tremendous. She broke from the pack to do what no one thought she would do. I have tremendous respect and admiration for her courage in doing that. I wrote her a letter and told her what I said publicly. What she did was tremendous.

Why did she do it? A lot of it is not only based upon her academic prowess but the fact that she served as an elected State legislator in Arizona. I am sure she remembers what fundraising is all about.

The bipartisan campaign finance reform law—I call it bipartisan because JOHN MCCAIN was one of the main sponsors, even though it was passed primarily by Democrats in the House and the Senate—and the December 10 ruling were the culmination of a remarkable 8-year effort by two outstanding public servants.

They first introduced this bill in September of 1995. Both of these men realized that since our campaign laws were revamped many years ago, those who wanted to get around the intent of the law had discovered some gaping holes and exploited them beyond what anybody could have imagined.

In the late 19th century and early part of the 20th century, corporate America basically owned Congress. As a result of that, in the early 20th century, Congress passed a law saying there could be no corporate funds used in Federal elections. That is the way it was during almost all of this past century. Slowly but surely that changed because the courts ruled that even though you could not give corporate or soft money directly to a Federal candidate, that candidate could go out and, in any way they wanted, raise money for the State party.

As we know, during the last 15 years or so, the largest amount of money spent in Federal elections was soft money, corporate money, because corporations would give huge amounts of money to the two State parties and they would run these mostly negative ads. The negative advertising taking place in America in recent years has come generally from soft money—so-called corporate money.

Mr. President, the same was developing in recent years that was in effect before 1900 and shortly after 1900 when corporate America was giving these huge amounts of money to Congress. Maybe Congress, prior to December 10, 2003, was not compromised. Maybe they were not corrupted. I am confident that is true, but what was going on was corrupting. It would only have been a matter of time until this got way out of hand, more so than it should have been.

So I appreciate very much the law having been drafted. I appreciate very much the fact that now we have a campaign practice in America which says if somebody is running for office, they can go ask an individual for money and individuals are the only ones who can give money. An individual Senator or Congressman cannot ask for corporate money in any fashion or form. That is the way it should be. There is nothing wrong with asking for campaign money. There is nothing wrong with giving campaign money, as long as there is full disclosure and it comes from individuals, not corporations.

The law that passed and was upheld by the Supreme Court is not a perfect law. I am sure people will manage to find ways around it. But public confidence had been eroding and now the political parties are not being allowed to accept large contributions, at least directed at individual Senators, who won't have as much money, and there is certainly nothing wrong with that. I am sure we won't see all the negative ads that we have seen in the past.

These unlimited contributions damaged out political system by raising the stakes for those who wrote big checks. I am a strong supporter of business. Businesses create jobs and provide health insurance for many Americans. They generate the products and services we all enjoy. Most businesses play by the rules and play fair. They realize their short-term pursuit of profit is not the only thing that matters. They understand in the long run, America prospers best when we all share in the prosperity.

The influence of big money in politics created an environment in which special interests threatened to overwhelm the common good. Instead of seeking common ground and compromise, business and interest groups began to think in terms of a winner-take-all strategy, with the ability to influence the process going to the highest bidder.

This poisonous climate actually widened the gap between the interests of big business—which could contribute large sums of soft money—and the interests of ordinary Americans. Unfortunately, in most cases, ordinary Americans found themselves on the outside, looking in on a process that was dominated by big money.

I am not pointing fingers at anyone because it was happening on both sides. Senators FEINGOLD and MCCAIN realized that something was wrong, and they set out 8 years ago to make it right. It wasn't easy. It took years to get to a conclusive vote on the bill. I offered an amendment identical to their proposal, but a cloture vote failed and it died.

Finally, in 2002, the Senate passed the Campaign Finance Reform Act. A week later, it was signed by President Bush into law. A little over a month ago, that law was upheld by the highest court in the land. The saga of campaign finance reform is a useful lesson to those who study government. It illustrates the importance of tenacity and conviction.

I have no doubt that the great majority of Americans supported campaign finance reform from the very beginning. As indicated by the vote, the people in this body and in the House knew that people favored this. There may have been some individuals who didn't want to vote for the bill in their hearts, but they did so because they recognized that the overwhelming number of people in America supported it. Despite this support of the American people, the bill would never have become law if Senators MCCAIN and FEINGOLD had not kept pushing it because there were a lot of people who may have been outwardly supportive of this in Congress but simply weren't willing to push very hard to make sure it came to be.

Time and time again, Senators FEINGOLD and MCCAIN encountered all kinds of setbacks. Time and time again, they refused to give up. I don't know how many cloture votes failed in this matter—I would estimate at least 25 over the years. These two men kept fighting because they believed in their hearts that this was an issue of fundamental importance to our democracy.

Senators MCCAIN and FEINGOLD stayed the course because they were fighting not just for a piece of legislation, they were fighting to save our political system. The tenacity might have surprised their opponents, but those of us who followed their careers should not have been surprised. Is McCain-Feingold perfect? Of course not. Will people try to get around it? Of course they will. We will have to look at ways to plug those holes. But it is so much better that we don't have these large amounts of soft money coming into elections.

Just to be illustrative, in the State of Nevada, when I ran 6 years ago, Senator JOHN ENSIGN and I spent, between us, $20 million. The vast majority of that was soft money that went through political parties. There were negative ads against me and negative ads against Senator ENSIGN. The system would have been better without that money. You can multiply this all over the country because it was the same. So what has happened here and what happened with the Supreme Court is good for the system. I have great respect and admiration for Senator RUSS FEINGOLD.

To show you what a man of conviction he is, 6 years ago when he was involved in his first reelection effort, he was behind in the polls. We knew that and we said to RUSS FEINGOLD: Let us give some money to the State party to help you. He said: Do not give money to the State party. In fact, if I recall correctly, money was given and he made us take it back. Even though he was behind at the time, losing the election was more acceptable to him than violating a principle—that is, corporate money being involved in his election. He wound up winning. I think one reason for that is that people know he is a man of conviction and that proved it.

He comes from the State of Wisconsin, which has a rich tradition of progressive reform. There is a statue in this Capitol of ''Fightin''' Bob LaFollette, a leader of the progressive movement in that State. Senator FEINGOLD's father was involved in that movement, and he passed along his strong values to his son.

RUSS FEINGOLD graduated from the University of Wisconsin at Madison. He is a Rhodes scholar. Then he went and graduated with honors from Harvard School of Law. He then served 8 years in the Wisconsin State Senate before coming to this body.

His trip to the Senate is a story in itself. Twelve years ago, the Senate race in Wisconsin was a race involving money. There were people there who had raised a lot of money and were spending a lot of money. RUSS FEINGOLD had almost no money. He was a State senator, but he had been walking door to door all over the State of Wisconsin.

Maybe a month before the election, a number of newspapers in Wisconsin said: We have had enough of this negative campaigning going on in this race, and we are going to support this young State senator from Wisconsin. We want people to focus on RUSS FEINGOLD, which was a name few people had heard of. RUSS FEINGOLD came from nowhere within a matter of weeks to win that election.

Here in the Senate he fights to help working people and farmers by improving health care, education, and creating jobs. I know RUSS FEINGOLD is a man who stands for good government, not only what he did on campaign finance reform, but also as a watchdog against wasteful spending.

RUSS FEINGOLD is a man who practices what he preaches. When he launched his effort to ban unregulated soft money, the naysayers said it couldn't be done. They said the political process had become so expensive that nobody could get elected without corporate money. RUSS FEINGOLD proved them wrong. He stuck to his principles, kept his promises to limit spending and reject the use of soft money in his own race, and he was reelected.

He is a man of strong principles, and he shows strong principles and successful politics are not mutually exclusive.

I have gotten to know RUSS FEINGOLD very well. I have gotten to know his lovely wife Mary, who is a friend of mine. I try to call her once in a while just to see how she is doing. She is perky and astute—a wonderful woman. I want the record to be spread with my admiration for RUSS FEINGOLD and his wife Mary, for the team they are, and I am certain the encouragement she gave him to stay the course.

Mr. President, the other member of this duo that was responsible for this legislation is JOHN MCCAIN. JOHN MCCAIN is an interesting person, to say the least. He is a true American hero. He has lived through things that most of us cannot comprehend.

More than 20 years ago, I went to a congressional prayer breakfast. JOHN MCCAIN and I served together in the House of Representatives. We were elected at the same time. The prayer breakfast in the House, as I recall, was every Thursday morning. I can't remember the exact day, but it was held in the morning. I wanted to go because JOHN MCCAIN—this person with whom I was elected in the same class—was going to make a presentation at the prayer breakfast. It was one of the most memorable 45 minutes I have ever spent.

JOHN MCCAIN recounted to us—there was no press around; it was a private meeting—what he had gone through in the state of being a prisoner of war in Vietnam. He is a graduate of the U.S. Naval Academy. His father was an outstanding military officer, as was his grandfather.

In October of 1967, JOHN MCCAIN was flying a mission over Vietnam when his plane was struck, and he was forced to eject from that jet airplane. He parachuted and landed in a lake, a short ways from the prison where he was going to be placed. He broke both of his arms, broke a leg, and sustained many other injuries. Not only that, but a mob dragged him out of the lake to the shore and then proceeded to beat on him, even though he was badly injured. He was taken a short distance to the famous Hanoi Hilton where he was tortured and held in solitary confinement.

He spent 6 years in prison, much of that in solitary confinement. Because his father was head of the Seventh Fleet—I think that's the proper designation; he took care of the theater of war in Vietnam—the Vietnamese said because your father is a military leader in this area, you can go home. JOHN MCCAIN said: No, I am not going home unless my fellow prisoners go with me. So they proceeded to break his shoulders again and cause him all kinds of physical pain, discomfort, anxiety, and emotional stress. It was brutal what they did to him.

He recounted this in some detail at the prayer breakfast. But a lot of it had to be put together because he is certainly not a boastful man and doesn't talk about his military experience very much and, I repeat, this was in a very private, prayerful meeting. I can remember his explaining the first time all these prisoners were able to get together for Christmas and how they found a way to sing Christmas songs.

It was, as I said, a remarkable experience to listen to JOHN MCCAIN. He is a man of integrity. To show his humility, if you look at his biography on his Web site, it is four very short paragraphs. He doesn't talk about most of the things he has accomplished in life. You have to read on, not on his Web site, because he is a man of some humility.

MCCAIN and FEINGOLD are a lot alike. They both have tenacity, perseverance. They both cause the Senate and myself, someone who is trying to move legislation along, a bit of heartburn on occasion. I have sometimes asked myself about these two guys—oh, why are they doing this? They are doing what they do, even though there is some short-term pain for me and others who are trying to move legislation on the floor, because they feel strongly about different issues.

There are times when I am anxious and concerned about the issue they raise, but I never ever question why they do it. I know why they do it. I work as much as I can to understand that these two watchdogs work together on a number of issues, and they also work separately. They have different interests in life.

I couldn't let any more time go by without talking about how important it is for the body politic to have passed McCain-Feingold and how important it is to the country that the Supreme Court of the United States upheld that law nearly as we had written it. It has changed our lives, but I think for the better. Even though some people are upset it passed, I am very glad, and it would never have happened but for the perseverance of these two men. It will renew the vitality of our political system and restore our faith in Government. It could not have happened but for these two fine Senators about whom the States of Wisconsin and Arizona should feel proud.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SPECTER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CORNYN). WITHOUT OBJECTION, IT IS SO ORDERED.

AMENDMENT NO. 2260

Mr. SPECTER. Mr. President, I have sought recognition to discuss amendment No. 2260, which has been filed. At a later point in my presentation, I will ask unanimous consent that the pending amendment be set aside. But I first want to talk about the amendment and about the plight of US Airways, a very important constituent for a Pennsylvania Senator, and a very important airline for the United States on domestic and foreign travel.

There is a long history of the problems which US Airways has faced, arising really out of the problems of 9/11, when the airline industry generally has been subjected to great problems because of the reduction of airline passengers.

US Airways has been in the throes of reorganization, in bankruptcy proceedings. They have had difficulties obtaining a loan going back to December of 2002, when there was a critical point.

At the request of US Airlines, requests were made by me to Labor Secretary Chao, then-Treasury Secretary O'Neill, and Commerce Secretary Evans to strongly encourage the Pension Benefit Guaranty Corporation to accept US Airways' pilot pension plan proposal. Ultimately, the PBGC declined to do so.

Then on January 9, 2003, Senator SANTORUM and I introduced S. 119 on behalf of the Air Line Pilots Association with the aim to protect their pension by allowing US Airways to terminate and then restore their pension plans. The resolution of the pension liability situation is to the completion of US Airway's plan of reorganization by the Air Transportation Safety Board.

Then on January 14, I chaired a hearing of the Labor, Health and Human Services, and Education Subcommittee on the pension plans regarding US Airways because it dealt with the labor issue. What we have sought to do here is to have a longer period of time than the 5 years which US Airways had to fund the program. We have asked for flexibility of up to 30 years—not necessarily 30 years but up to 30 years.

Had the 2-year relief or deficit reduction been in effect when US Airways faced the issues relating to its pension plan, there was the distinct possibility, perhaps likelihood, that US Airways would not have been in the throes which it is in today. US Airways has since added to the pilots' defined contribution plan, and the pilots would be very pleased to see the funding there offset the obligation which US Airways would have if amendment No. 2260 were to be adopted. That is a brief statement as to the status of the matter.

There was a unanimous consent agreement entered into on December 9 of last year which limits the first-degree amendments which are available. It was only last week that the US Airways pilots came to my office, to me, to ask that we introduce this amendment. Procedurally, the only way at this stage that it can be done is as a second-degree amendment.

I have inquired of the Parliamentarian as to whether 2260 would be germane as a second-degree amendment, and I have been advised that that is under consideration now and no final decision has been made. I thought it useful this afternoon to take the floor and go through the explanation, which I have.

I thank the assistant majority leader for the Democrats, the Senator from Nevada, for coming to the floor so that he would be present to hear what I have had to say.

I now ask unanimous consent that the pending second-degree amendment be set aside so that this second-degree amendment may be considered.

The PRESIDING OFFICER. The assistant minority leader.

Mr. REID. Reserving the right to object, the Parliamentarians have not had an opportunity to study this in detail. Therefore, they are not at this time ready to rule on whether or not this amendment is in order. A number of people have called our cloakroom, recognizing that as soon as the Parliamentarian makes a decision, that will answer the question itself. Based upon that, on behalf of a number of other Senators, I object to setting this amendment aside.

The PRESIDING OFFICER. Objection is heard.

The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I understand the situation as stated by the Senator from Nevada. I understand there are other Senators who represent States which have other airlines, and it is a tough competitive line out there. So having made the explanation, I shall await the judgment of the Parliamentarian. When the current second-degree amendment is disposed of, I will then be in a position to offer this second-degree amendment.

I thank the Chair. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO DR. HIRAM C. POLK

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to a world-renowned surgeon, inspiring educator, and fellow Louisvillian, Dr. Hiram C. Polk.

While most of us are sleeping in the early morning hours, Dr. Polk is already hard at work, making rounds and advising residents. Since 1971, he has served as the chairman of the Department of Surgery at the University of Louisville.

Hiram attended Millsaps College in his home State of Mississippi. As a favor to his chemistry professor, Hiram applied to Harvard Medical School. Since he wouldn't go to Massachusetts for a candidate-screening interview, Hiram received a visit from the late Arthur Guyton, M.D., Ph.D. Dr.

Guyton, widely regarded as the world's leading physiologist, discussed the future with Hiram and then offered him a scholarship to Harvard Medical School. While Hiram eventually accepted the scholarship, he dropped out of the program three times because of his aversion to the more tedious demands of the field. He graduated from Harvard in 1960 and began residency at Washington University in St. Louis where he was greatly influenced by one of his instructors, Carl Moyer, M.D. Inspired by Dr. Moyer, Hiram began to consider teaching. His love for intellectual stimulation and talent for surgery made academia a natural conclusion for Hiram.

Under Hiram's leadership in the Department of Surgery at the University of Lousiville, the number of staff has grown from 5 to 70 and the department now receives $1.2 million in annual grants from the National Institutes of Health. He's trained almost 230 general surgeons, more than any other surgery chair and America. He is an inspiration to his residents, colleagues, and patients.

Hiram is also a leader in research. He's considered a world authority in surgical wound infections and has done landmark research regarding the use of perioperative antibiotics. Hiram is also an accomplished author with nearly 400 papers and journal articles. 152 textbook chapters, and 11 books to his name.

Hiram is a dedicated and talented surgeon who has brought the University of Louisville's Department of Surgery to national recognition. He receives the highest praise from his residents, colleagues, and patients. I ask that my colleagues join me in thanking Hiram for his dedication to medical excellence.

TRIBUTE TO JACK KAIN

Mr. MCCONNELL. Mr. President, I rise today to pay tribute to Jack Kain, a successful Kentucky businessman and dedicated community member. For the past 50 years, Jack has built an award-winning car dealership empire in central Kentucky that generates more than $20 million in gross annual sales.

What originally started out as a way to avoid milking cows has become a fifty-year passion for Jack Kain. In 1947, while a pre-law student at the University of Kentucky, Jack first delved into the world of car sales with the hopes of escaping work on the family dairy farm. For the next three years, he sold vehicles at the Harry Aldridge and Shug Glenn dealerships. He joined the Air Force in 1950 and served in Korea as a second lieutenant. Following his tour of duty, Jack returned to Kentucky with his late wife Kathy Webb and their daughter Becky. With some financial support from his father, Jack returned to car sales with the purchase of a DeSoto/Plymouth dealership in Frankfort. In 1960, he started selling Fords. While there have been some bumps on his road to success, Jack has continued to expand his dealership, which now employs 50 people, including four of his nine children.

Jack's business has received the Ford Motor Co. President's Award, a selective accolade bestowed upon dealerships with superb customer service. Less than one percent of the 5,000 Ford dealers nationwide receive this award. Stephen Lyons, the president of the Ford Division of the Ford Motor Company hails Jack as a ''master of customer service'' and a ''legend.'' Jack's dedication to customer satisfaction is illustrated in his frequent interaction with those who enter his dealership where he welcomes and thanks every customer. Whether he's helping Kentucky Governor Ernie Fletcher, Frankfort Mayor Bill May, or a lesser-known inhabitant of Woodford County, Jack treats all his customers with respect.

Jack, who has nine children, twenty-one grandchildren, and three great-grandchildren, also stays active in the community. He has been a member of the Greater Lexington and the Kentucky Chamber of Commerce, president of the Woodford County Chamber and he has served as director of St. Joseph Hospital. For the next couple of years, however, Jack will be spending more time outside the commonwealth with his new position as vice chairman and soon will serve as chairman of the National Automobile Dealers Association. He's the first Kentucky dealer to be elected to these posts and will lobby on behalf of dealers in Washington, DC and in Detroit.

I ask my colleagues to join me in congratulating Jack Kain on his 50 years of business success and his excellent record of customer service.

WILLIAM T. YOUNG TRIBUTE

Mr. MCCONNELL. Mr. President, I rise today to honor the life of a prominent Kentuckian, successful businessman, and devoted philanthropist, William T. Young. I would also like to take this opportunity to extend my condolences to his two children, William T. Young, Jr. and Lucy Young Hamilton, and to all of those who knew and loved him.

Mr. Young graduated from the University of Kentucky in 1939, receiving a bachelor's degree in mechanical engineering. After graduation, he went on to serve in the U.S. Army during World War II, returning home to Lexington as a major. In 1946 Mr. Young married Lucy Maddox, and later had two children.

After he married Lucy, Mr. Young decided to make his longtime entrepreneurial dreams a reality by starting Big Top Peanut Butter, which he sold in 1955 to Proctor and Gamble who later renamed it Jif. In 1958 he opened a moving and storage company, W.T. Young Storage Co., and started Lexington Cartage, a shipping operation. Mr. Young was also appointed to the board of Kentucky Fried Chicken at this time and to the Royal Crown Co. Board, which he became chairman of in 1966.

Mr. Young, a true Kentuckian, became a horseman in his later days turning a small parcel of land into Overbrook Farms. This 2,400-acre breeding operation trained Derby, Preakness, and Belmont Stakes winners, as well as breeding the Nation's leading stallion, Storm Cat. However successful Young became, he never forgot his roots and his home of Lexington, giving back to the community a hundred times over.

Mr. Young's generosity long exceeds the list of his business achievements. He gave much to higher education in Kentucky, particularly to two institutions in Lexington—the University of Kentucky and Transylvania University. His proudest donation was to UK for the building of a state-of-the-art library, which now bears his name. At Transylvania University, Young started the Thomas Jefferson Scholars, one of the Nation's first merit-based scholarships, which the University later renamed after him. Besides donating his money, Mr. Young also donated his time to the institutions. He served on the Council of Higher Education, Board of Curators at Transylvania, University of Kentucky Board of Trustees, and the UK Development Council.

He will forever be remembered through the many contributions he made to his community and through the many stories his friends and family tell of an ambitious gentleman whose humble heart never stopped giving. Charles L. Shearer, the president of Transylvania University, tells a story of Mr. Young declining a nomination for a fundraising award given by the university. Mr. Young explained, ''If other people had my resources, they would do the same thing.'' UK Dean of Libraries Carol Diedrichs discussed how Mr. Young would walk through the library stopping to talk to the students, asking them how they were doing and how their studies were going. Former Kentucky Gov. John Y. Brown described Mr. Young as ''closest to the perfect human being I've ever known.''

William T. Young's generosity stretched far across the Nation and far into the hearts of all those who met him. I ask each of my colleagues to join me today in paying tribute to William T. Young, for all he has done. He will be missed.

ADDITIONAL STATEMENTS

OREGON EDUCATION HERO

• Mr. SMITH. Mr. President, I rise today to honor one of Oregon's unsung heros, Dean Azule. For more than three decades, Mr. Azule has dedicated his life to educating and enriching the lives of countless young Oregonians. He is an educator in both mind and spirit and has dedicated his life to ensuring the success of Oregon's youth.

While attending Oregon College of Education, OCE, now know as Western Oregon State University, Mr. Azule worked as a family liaison with an American Indian youth program funded by the Indian Education Act. As a family liaison, he tutored and counseled hundreds of American Indian youth, providing career guidance and helping them to explore their career opportunities. Upon graduation from OCE, Mr. Azule joined the Northwest Regional Educational Lab and worked on their Indian Reading Language Development Program. This program has been invaluable in helping American Indian youth keep their indigenous languages alive.

Mr. Azule next established the Confederated Tribes of Grand Ronde's extremely successful Education Department. With his invaluable assistance, the Department now includes Head Start, Youth Education, Higher Education, and Vocational training programs which has served to help the lives of hundreds of tribal members. The Grand Ronde Education Department has become a model of success across the county—much to the tireless efforts of Mr. Azule.

After almost 10 years with the Grand Ronde Tribes, Mr. Azule joined the Salem-Keizer public school system in 1999. Active in community outreach programs, he has helped disadvantaged children continue their education despite facing social and economical hardships at Washington Elementary, Keizer Elementary, and Miller Elementary School. Most recently, he has taken a behavioral health position at the new West Salem High school.

Mr. Azule is a true champion for Oregon's children, and I know he will continue to play a vital role in educating and making a difference in the lives of children in our State. His tireless spirit serves as an inspiration to us all. Today, I am proud to honor Dean Azule as an education hero for our great State of Oregon.●

HONORING OUR ARMED FORCES

STAFF SERGEANT KENNETH HENDRICKSON

● Mr. JOHNSON. Mr. President, I am saddened to report the passing of SSG Kenneth Hendrickson of Bismark, ND. Kenneth was killed on January 24, 2004, while serving in Operation Iraqi Freedom.

Kenneth, who was called up for active duty last spring, was scheduled to leave Iraq in March. He was one of two North Dakota Army National Guardsmen killed by a roadside bomb while traveling near Fallujah. Kenneth was a member of the Bismarck-based 957th Multi-Role Bridge Company and a 15-year veteran of the National Guard.

Kenneth, a computer technician for Bismarck public schools, was married just 4 days before being deployed. Born in Fargo, Kenneth lived with his family in Bismarck. His father Lyle Hendrickson lives in Rapid City, SD and is a Pennington County commissioner. Kenneth is described by family members as a free spirit who loved children and knew how to have fun. Even while in Iraq, his number one concern was his family back home.

Kenneth and his fellow National Guard members are playing a vital role in Iraq. These brave men and women have taken time away from their family, friends, and jobs to serve their country thousands of miles from home. Kenneth and many other National Guard members have given the ultimate sacrifice in defense of freedom. Our country owes them a tremendous debt of gratitude for their service.

The lives of countless people were enormously enhanced by Kenneth's goodwill and service. He inspired all those who knew him. Our Nation is a far better place because of his life. The best way to honor him is to emulate his commitment to our country.

I express my sympathies to the family of Kenneth Hendrickson. I know he will always be missed, but his service to our Nation will never be forgotten.●

TRIBUTE TO HUMAN RESOURCES COMMAND—ST. LOUIS

● Mr. BOND. Mr. President, I wish to pay special tribute to the U.S. Army's Human Resources Command—St. Louis, formerly known as the Army Personnel Command, AR–PERSCOMD. On October 2, 2003, ARPERSCOM was deactivated and merged with the U.S. Army's Total Army Personnel Command to form the Army's Human Resources Command, headquartered in Alexandria, VA. Although its name has changed, the organization's proud legacy of selfless service to Army Reserve Soldiers, veterans, and their family members continues.

The mission of Human Resources Command—St. Louis, HRC–St. Louis, is to ensure the full spectrum of human resources programs, services and systems are executed to support the readiness and well-being of Army personnel worldwide. HRC–St. Louis and its predecessor organizations have a long and distinguished history of service to the Nation. Located in the Charles F. Prevedel Building at the Federal Records Complex in suburban St. Louis, the command was officially activated on October 1, 1998, with the mission of providing the highest quality life cycle management and services resulting in a trained and ready force in support of the National Military Strategy. Formed provisionally on October 16, 1997, AP–PERSCOM replaced the former U.S. Army Reserve, USAR, Personnel Center on ARPERCEN.

HRC–St. Louis traces its lineage back to 1919, when the Demobilized Records Division was established in Washington, D.C., as an activity under the Adjutant General's Office. Its mission was to store and maintain the records of soldiers demobilized after World War I. After a number of moves, the division came to St. Louis in 1945. First located at the Federal facility at 4300 Goodfellow Blvd., the division moved to its present location on 9700 Page Avenue—1 Reserve Way—in 1956. Through the years, the organization underwent a number of name and mission changes, including the establishment of the Reserve Components Personnel and Administration Center or RCPAC in 1971, and ARPERCEN's establishment as a field operating agency under the Chief, Army Reserve in 1984. In 1994, a U.S. Army council of colonels convened and determined that USAR personnel management, service and policy functions should be streamlined and consolidated under one command: AR–PERSCON.

Serving as the single focal point for the supporting Army Reserve Personnel life cycle management in peacetime, mobilization, and demobilization environments, HRC–St. Louis provides efficient and seamless human resource support to Army Reserve Soldiers who are Troop Program Unit, TPU, members, drilling Reserve unit members; Individual Mobilization Augmentees, IMA; Individual Ready Reservists, IRR; and Active Guard Reserve, AGR soldiers, reservists on extended full-time active duty. The command supports almost 329,000 Ready Reserve Soldiers, approximately 212,000 in the Selected Reserve—TPU, IMA, and AGR, and over 115,000 IRR Soldiers.

HRC–St. Louis is a highly innovative organization; maximizing the talents of its combined military and civilian work force over 1,100 members. It serves as a leader within the Department of Defense in maximizing use of advanced technology providing personalized, e-care—electronic—to customers. Its award-winning HRC–St. Louis, formerly 2xCitizen, website, with its numerous applications, informs Reserve soldiers and the public on Army personnel matters. In 2002, alone, there were over 28 million visits—logins—to the website. Soldiers can access and update their records online at any time via the Internet through their own individual self-service web portal—a significant innovation and major evolution in soldier personnel service support. No longer do Reserve soldiers have to wait extended periods for hardcopy documents or microfiche copies to arrive through the mail to review their records or prepare for promotion boards. In providing responsive, real time e-care for soldiers, HRC–St. Louis contributes significantly toward the Army's readiness to engage in support of the implementation of the National Military Strategy on behalf of the Nation's security objectives.

The command's merger with the Total Army's PERSCOM, and incorporation as part of the new U.S. Army's Human Resources Command, is part of an overall Army transformation effort to streamline and enhance integration of all personnel functions—making them more efficient and responsive in meeting a wide range of missions—while enhancing personnel service for the soldier.

This proclamation recognizes and salutes all those who currently serve as members of Human Resources Command—St. Louis—soldiers and civilians alike—and all who have gone before them who have made countless contributions to the United States of America. As the Army's Human Resources transformation continues, the soldiers and civilians of HRC–St. Louis will continue to make many more significant contributions to the soldiers and our Nation as a part of the U.S. Army's Human Resources Command.●

HONORING THE MEMORY OF WILLIAM L. PIERCE

● Mr. CRAIG. Mr. President, as cochair of the Congressional Coalition on Adoption, I rise today to remember the recently passed William L. Pierce, a man who dedicated his life to helping children. As founder and president of the National Council on Adoption, William Pierce was a leading adoption advocate who worked tirelessly to help formulate and promote several major adoption policies over the last 25 years. To name a few:

The Infant Adoption Awareness Act created the Infant Adoption Training Program, which trains health and pregnancy counselors in presenting adoption as an option for unplanned pregnancies; the Multi-Ethnic Placement Act of 1994 reduced obstacles to many adoptions; the Adoption and Safe Families Act of 1997 promoted adoptions out of foster care by removing barriers to adoption and creating incentives for States to place more foster children with adoptive families; and the Economic Growth and Tax Relief Reconciliation Act of 2001 included provisions to permanently extend and expand the tax credit for adoption expenses and the employer-based adoption assistance program.

William Pierce's consistent advocacy of pro-child adoption policies helped improve the lives of countless children, birthparents, and families. He was an outstanding husband, father, grandfather, citizen, advocate, and leader. I remember him today.●

TRIBUTE TO THE UNIVERSITY OF KENTUCKY VARSITY CHEERLEADERS

● Mr. BUNNING. Mr. President, I pay tribute in the Senate to University of Kentucky Varsity Cheerleaders. The squad was named the national champions in the Universal Cheerleaders Association-sponsored competition earlier this year.

The Wildcats coed varsity cheerleading squad was awarded their 13th national title in Division I–A. This is their 9th championship in the last 10 years. It wouldn't be wrong to say that they are the most successful team in the history of this competition, and I and so many others are so proud of them.

The Commonwealth of Kentucky should be very proud of this squad, and I know they are. Their example of hard work and determination should be followed by all in the Commonwealth.

Congratulations to the members of the varsity squads for their success. But also, I want to congratulate their coach, Jomo Thompson, along with their peers, faculty, administrators, and parents for their support and sacrifices they've made to help the Wildcats meet their cheerleading achievements and dreams. Keep up the good work.●

TRIBUTE TO THE MOREHEAD STATE UNIVERSITY VARSITY CHEERLEADERS

● Mr. BUNNING. Mr. President, I pay tribute to the Morehead State University Varsity Cheerleaders. The squad was named the national champions in the Universal Cheerleaders Association-sponsored competition earlier this year.

The Morehead State University coed varsity cheerleading squad was awarded their 14th national title in Division I. Along with winning the overall title, Morehead State University received second place in the all-girl squad.

The citizens of Morehead, KY, are proud to have Morehead State University cheerleading champs living and learning in their community. Their example of hard work and determination should be followed by all in the Commonwealth.

I congratulate the members of the varsity squad for their success. But also, I want to congratulate their coach, Myron Doan, along with their peers, faculty, administrators, and parents for their support and sacrifices they've made to help them meet those achievements and dreams.●

TRIBUTE TO LINDA KURZ

● Mr. BOND. Mr. President, Sieglinde Kurz received her bachelor of arts degree from Fontbonne College, St. Louis, MO, in 1961 and her masters degree in Health Care Management from Northwestern University, Evanston, IL, in 1976.

Linda Kurz started her career with the Department of Veterans Affairs in November 1965 as a Research Chemist in Renal Hypertension Research at the St. Louis VA Medical Center.

Linda Kurz, during her government career, was the Administrative Assistant to the Associate Director, Hines, IL; Associate Director, VA Medical Center, Tomah, WI; Associate Deputy Regional Director, Northeastern Region, Albany, NY; Associate Director, VA Medical Center, Marion, IL; Director, Construction Project Coordination and Budget, VA Headquarters, Washington, DC; Director, VA Medical Center, Marion, IL. She left the Marion VAMC to accept the position of Director at the St. Louis VAMC.

Linda Kurz served as director of the St. Louis VA for 5 years and 8 months from May 1998 thru January 2004, one of the largest and most complex VA facilities in the Nation.

Linda Kurz provided leadership for this dual division hospital, providing care for in excess of 36,000 veterans annually, within a primary service area of metropolitan St. Louis, including 9 counties in Missouri and 14 counties in West Central Illinois and lead a care team of 1,900 full time employee equivalents.

Linda's life time achievements include: A leader in the health care management field, mentor for VHA Health Care Management Trainees, Executive Career Field Director Trainees and achieved the status of Diplomat in the American College of Healthcare Executives.

Linda Kurz, was listed as one of the Top Female Directors in Missouri Hospital Association Newsletter, Summer 2003 Edition and in Who's Who Among Top Executives in 1998–1999 and Linda Kurz, during her tenure as Director, St. Louis VA Medical Center was recognized in 1999, with the Vice-Presidential ''Hammer and Scissors'' award for her efforts in piloting the first Department of Veterans Affairs Canteen Integration.

During her tenure at the St. Louis VA, Linda has worked tirelessly to improve access to care for veterans and opened three health clinics; she supported her employees by providing educational opportunities for mid-level managers through programs such as mini-MBA and she promoted an open policy, communicating with staff at all levels by establishing employee and supervisory forums.

Linda Kurz will retire January 31, 2004, after 37 years of government service, having devoted countless hours and years to the welfare of the American Veterans.●

LOCAL LAW ENFORCEMENT ACT OF 2003

● Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

I would like to describe a terrible crime that occurred in Leawood, KS. Gary Raynal, an openly gay man, was found dead under an apartment deck after being tortured and severely beaten. Raynal had been sexually tortured with a metal rod, his ears had been burned and his throat showed signs of strangulation.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

HONORING JIM AND CHAS GRANT

● Mr. CRAPO. Mr. President, I rise today to honor two of my staff members who not only are integral for my office operations, but have filled the same needs for two previous Idaho Senators. For over 20 years Jim and Chas Grant have worked on the staffs of Idaho Senators in the U.S. Senate. These Caldwell, ID, natives began their service in the offices of Senator Steve Symms in the early 1980s. They remained to work with his successor, Senator Dirk Kempthorne, and now they fill a vital role in my office.

Chas and Jim are without peer when it comes to knowing the people of Idaho. Through their work in constituent mail, they have processed hundreds of thousands of constituent letters. That incredible number is a testament not only to the Grants' longevity, but also to their great dedication. The Grants read and carefully sort each letter, ensuring prompt response from my office. In the 5 years that Jim and Chas have directed the constituent mail program for me, the number of letters, faxes, and e-mails has consistently grown, reaching over 45,000 last year. It is a tribute to the Grants that they have effectively handled this large increase in mail. Constituents often express their satisfaction with the quick, accurate responses to their inquiries. It is the hard work of the Grants that makes these quick responses possible.

While they work side-by-side, they most definitely have provided tremendous individual contributions to my office.

Chas Grant was born and raised in Idaho. He graduated from Caldwell High School in 1972, and later received a B.A. in history from Boise State in 1977. Chas began working on Capitol Hill for the Postmaster in 1981. Since that time he has worked for Senator Symms, then Senator and now Governor Dirk Kempthorne, and myself.

Jim Grant grew up in Idaho, where he attended Caldwell schools. He graduated from Caldwell High School in 1975. From there, Jim attended Gallaudet in Washington, DC, where he earned a bachelor of arts in English. He began working for Senator Symms on July 18, 1983. During his time working in the Senate he has assisted three Idaho Senators: Symms, Kempthorne, and myself. We have all benefited greatly from his service.

I asked Senator Symms and Governor Kempthorne to contribute to this statement, as I know they valued the Grant's contributions as much as I do.

From Governor Dirk Kempthorne: ''Jim Grant was a dedicated and dependable employee in my Senate office for six years. His work ethic and 'can-do' attitude was a pleasure to be around. As with many of us, he has had to overcome personal challenges, but has served the citizens of Idaho well. His hard work was truly appreciated, and he has been a tremendous public servant for the citizens of Idaho.

''Chas Grant was always ready to help resolve any problems that came up with constituent mail. His common sense view and solutions put the constituent first, and provided me with a smooth running mail operation. Chas faced personal challenges, and always found a way to make certain that his work responsibilities were met. His tenure as a public servant has been remarkable for many reasons, and I thank him for his years of service.''

And from Senator Steve Symms: ''Congratulations, Jim and Chas, on your many years of exemplary service. On behalf of Steve Symms, Governor Kempthorne, the members of my staff, and other Senate staffers that have benefited from your work: we honor you today. Thank you for your great work!''

Since Jim and Chas started in the Senate, many things have changed. When Chas came to Washington, Ronald Reagan had just been elected President and Pac-Man was the latest craze. When Jim started in '83, camcorders and ''Just Say No'' had just been introduced. In the Senate, we have gone through 24 sessions of Congress and have made changes like allowing TV cameras to cover all the happenings on the Senate floor. Even mailrooms have become increasingly complicated as e-mail and fax messages have been added to traditional letters as means of long-distance communication.

One constant that has been, however, is Jim and Chas Grant's dedicated service to the members of the Senate and the people of Idaho. Also unchanged is the Grants' untiring work ethic and commitment to their job. I have appreciated their talent, experience, and knowledgeable assistance in my office. Jim and Chas recently went out of town for an extended period and the rest of my staff stepped in to keep up with the barrage of mail over that time. Trying to fill in for the Grants gave everyone a better appreciation of the important role the Grants play in the office. We were all very glad to have them back, as we realized we weren't that great doing their jobs. I look forward to having them around for as long as they intend to be.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–5911. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Delaware; MOBILE6-Based Motor Vehicle Emission Budgets for the Delaware Portion of the Philadelphia-Wilmington-Trenton 1-Hour Ozone Non-attainment Area'' (FRL#7593-5) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5912. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Indiana; Oxides of Nitrogen Regulations'' (FRL#7598-6) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5913. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of Utah; State Implementation Plan Corrections'' (FRL#7593-2) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5914. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Emissions and Volatile Organic Compounds from Consumer Products'' (FRL#7596-4) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5915. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants; Control of Emissions From Existing Commercial/Industrial Solid Waste Incinerator Units; Nevada'' (FRL#7595-5) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5916. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Approval of Revision of 34 Clean Air Act Title V operating Permits Programs'' (FRL#7589-8) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5917. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination to Stay and Defer Sanctions, South Coast Air Quality Management District'' (FRL#7594-2) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5919. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''New Source Performance Standards and National Emission Standards for Hazardous Air Pollutants; Delegation of Authority to New Mexico'' (FRL#7598-8) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5920. A communication from the Deputy Associate Administrator, Environmental

Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, San Joaquin Valled Unified Air Pollution Control District'' (FRL#7597–4) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5921. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL#7588–7) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5922. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL#7593–9) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5923. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District'' (FRL#7590-7) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5924. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; State of Nevada; Designation of Areas for Air Quality Planning Purposes; Lake Tahoe, Nevada Area'' (FRL#7595-3) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5925. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Interim Final Determination to Stay Sanctions, Ventura County Air Pollution Control District'' (FRL#7590-6) received on December 15, 2004; to the Committee on Environment and Public Works.

EC–5926. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Benzene Waste Operations; Final Rule; Amendments'' (FRL#7594-3) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5927. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills'' (FRL#7594-8) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5928. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Connecticut; Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6.2 for the Connecticut Portion of the New York-Northern New Jersey-Long Island Nonattainment Area and for 2007 for the Greater Connecticut Nonattainment Area'' (FRL#) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5929. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Notice of Request for Initial Proposals (IPs) for Projects to be Funded from the Water Quality Cooperative Agreement Allocation (CFDA 66.643—Water Quality Cooperative Agreements)'' received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5930. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Significant New Uses of Certain Chemical Substances'' (FRL#7307-3) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5931. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Standard of Performance for Bulk Gasoline Terminals and National Emission Standards for Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations)'' (FRL#7599-9) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5932. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Memphis-Shelby County Revised Format for Materials Being Incorporated by Reference'' (FRL#7596-6) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5933. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans for Kentucky: Permit Provisions for Jefferson County, Kentucky; Partial Withdrawal of Direct Final Rule'' (FRL#7600-4) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5934. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Delegation of National Emission Standards for Hazardous Air Pollutants for Source Categories; State of California'' (FRL#7600-5) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5935. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Prevention of Significant Deterioration'' (FRL#7601-5) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5936. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards for the Centralized Waste Treatment Point Source Category'' (FRL#7601-3) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5937. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the Regional Haze Rule to Correct Mobile Source Provisions in Optional Program for Nine Western States and Eligible Indian Tribes Within that Geographic Area'' (FRL#7601-4) received on December 15, 2003; to the Committee on Environment and Public Works.

EC–5938. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; State of South Dakota; Regulations for State Facilities in Rapid City'' (FRL#7606-6) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5939. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans: Tennessee: Nitrogen Oxides Budget and Allowance Trading Program'' (FRL#7612-2) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5940. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Clean Air Act Full Approval of the Title V Operating Permit Program for Antelope Valley Air Pollution Control District in California'' (FRL#7611-2) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5941. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of State Plans for Designated Facilities; New York'' (FRL#7610-5) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5942. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pennsylvania: Final Authorization of State Hazardous Waste Management Program Revision'' (FRL#7609-6) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5943. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revision to the California State Implementation Plan, Monterey Bay Unified Air Pollution Control District'' (FRL#7600-7) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5944. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to Clarify the Scope of Certain Monitoring Requirements for Federal and State Operating Permits Program'' (FRL#7612-5) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5945. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, South Coast Air Quality Management District'' (FRL#7609-2) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5946. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Significant New Uses of Certain Chemical Substances'' (FRL#7320-1) received on January 20, 2004; to the Committee on Environment and Public Works.

EC–5947. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Amendments to Standards of Performance for New Stationary Sources; Monitoring Requirements'' (FRL#7604-9) received on January 15,

2004; to the Committee on Environment and Public Works.

EC–5948. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Operating Permits Program; San Diego County Air Pollution Control District'' (FRL#7603-1) received on January 15, 2004; to the Committee on Environment and Public Works.

EC–5949. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Control of Emissions from Highway Motorcycles; Final Rule'' (FRL#7604-8) received on January 5, 2004; to the Committee on Environment and Public Works.

EC–5950. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Revisions to the California State Implementation Plan, San Joaquin Valley Unified, Ventura, Santa Barbara Counties, and Monterey Bay Unified Air Pollution Control Districts and Yolo Solana, Bay Area, and Mojave Desert Air Quality Management Districts'' (FRL#7598-1) received on January 5, 2004; to the Committee on Environment and Public Works.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DeWINE:

S. 2024. A bill to reduce the incidence of motor vehicle-related child injuries and deaths occurring inside or outside of motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DeWINE:

S. 2025. A bill to amend title 23, United States Code, to improve highway safety; to the Committee on Environment and Public Works.

By Mr. DeWINE:

S. 2026. A bill to improve consumer awareness of motor vehicle safety; to the Committee on Commerce, Science, and Transportation.

By Mr. DeWINE:

S. 2027. A bill to amend title 23 and 49, United States Code, to improve national highway traffic safety through improved motor vehicle driver education and licensing programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DeWINE:

S. 2028. A bill to improve tire safety and labeling, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Ms. SNOWE:

S. 2029. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffers from Alzheimer's Disease or related organic brain disorders; to the Committee on Finance.

By Ms. SNOWE:

S. 2030. A bill to amend the Internal Revenue Code of 1986 to make the dependent care credit refundable; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 291. A resolution to authorize testimony and legal representation in the case of James McKoy v. North Fork Services/Joint Venture; considered and agreed to.

ADDITIONAL COSPONSORS

S. 491

At the request of Mr. REID, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 491, a bill to expand research regarding inflammatory bowel disease, and for other purposes.

S. 557

At the request of Ms. COLLINS, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 557, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts received on account of claims based on certain unlawful discrimination and to allow income averaging for backpay and frontpay awards received on account of such claims, and for other purposes.

S. 1298

At the request of Mr. AKAKA, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 1298, a bill to amend the Farm Security and Rural Investment Act of 2002 to ensure the humane slaughter of non-ambulatory livestock, and for other purposes.

S. 1485

At the request of Mr. KENNEDY, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1485, a bill to amend the Fair Labor Standards Act of 1938 to protect the rights of employees to receive overtime compensation.

S. 1666

At the request of Mr. COCHRAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1666, a bill to amend the Public Health Service Act to establish comprehensive State diabetes control and prevention programs, and for other purposes.

S. 1841

At the request of Mrs. CLINTON, the names of the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. 1841, a bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War era.

S. 1909

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 1909, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 1916

At the request of Ms. LANDRIEU, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1916, a bill to amend title 10, United States Code, to increase the minimum Survivor Benefit Plan basic annuity for surviving spouses age 62 and older, to provide for a one-year open season under that plan, and for other purposes.

S. 2004

At the request of Mr. GRASSLEY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2004, a bill to permanently reenact chapter 12 of title 11, United States Code, and for other purposes.

S. 2006

At the request of Mr. KENNEDY, the names of the Senator from Nevada (Mr. REID), the Senator from Indiana (Mr. BAYH) and the Senator from Oregon (Mr. WYDEN) were added as cosponsors of S. 2006, a bill to extend and expand the Temporary Extended Unemployment Compensation Act of 2003, and for other purposes.

S. 2007

At the request of Mr. DURBIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2007, a bill to provide better protection against bovine spongiform encephalopathy and other prion diseases.

S. CON. RES. 67

At the request of Mr. COCHRAN, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. Con. Res. 67, a concurrent resolution expressing the need for enhanced public awareness of traumatic brain injury and supporting the designation of a National Brain Injury Awareness Month.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DEWINE:

S. 2024. A bill to reduce the incidence of motor vehicle-related child injuries and deaths occurring inside or outside of motor vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Kids, Safe Cars Act of 2004''.

SEC. 2. INCORPORATION OF CHILD DUMMIES IN MOTOR VEHICLE SAFETY TESTS.

(a) RULEMAKING REQUIRED.—Not later than 2 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall

conduct a rulemaking to require increased utilization of child dummies, including Hybrid-III child dummies, in motor vehicle safety tests, including crash tests, conducted by the Administration.

(b) CRITERIA.—In conducting the rulemaking under subsection (a), the Administrator shall select motor vehicle safety tests in which the inclusion of child dummies will lead to—

(1) increased understanding of crash dynamics with respect to children; and

(2) measurably improved child safety.

(c) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Transportation shall publish a report regarding the implementation of this section.

SEC. 3. CHILD SAFETY IN ROLLOVER CRASHES.

(a) CONSUMER INFORMATION PROGRAM.—

(1) REQUIREMENT FOR PROGRAM.—The Secretary of Transportation shall carry out a consumer information program relating to child safety in rollover crashes. The Secretary shall make information related to the program available to the public.

(2) TIME FOR IMPLEMENTATION.— The program shall commence not later than 2 years after the date of the enactment of this Act.

(b) CHILD DUMMY DEVELOPMENT.—

(1) IN GENERAL.—Not later than 6 years after the date of the enactment of this Act, the Administrator of the National Highway Traffic Safety Administration shall develop for use in motor vehicle safety crash testing a biofidelic child dummy that is capable of measuring injury forces in a simulated rollover crash.

(2) REPORT.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall submit to Congress a report on progress made in the development of a dummy required under paragraph (1).

SEC. 4. REPORT ON ENHANCED VEHICLE SAFETY TECHNOLOGIES.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report that describes, evaluates, and determines the relative effectiveness of—

(1) devices and technologies that are designed to reduce the incidence of injuries and deaths to children involved outside of motor vehicles in nontraffic, noncrash motor vehicle accidents, including accidents in which motor vehicles are backed over children;

(2) currently available and emerging technologies, including auto-reverse functions and child-safe window switches, that are designed to prevent and reduce the number of injuries and deaths to children left unattended inside parked motor vehicles, including injuries and deaths that result from hyperthermia or are related to power windows or power sunroofs; and

(3) currently available and emerging technologies that are designed to improve the performance of motor vehicle safety belts for effectively protecting the safety of motor vehicle occupants aged between 4 and 8 years old.

SEC. 5. COMPLETION OF RULEMAKING REGARDING MOTOR VEHICLE POWER WINDOWS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall—

(1) complete the rulemaking initiated by the National Highway Traffic Safety Administration that is ongoing on the date of the enactment of this Act and relates to a requirement that window switches be designed to reduce the accidental closing by children of power windows; and

(2) issue regulations to take effect not later than January 1, 2006, requiring that window switches or related technologies incorporated into motor vehicles be designed to prevent the accidental closing by children of power windows.

SEC. 6. DATABASE ON INJURIES AND DEATHS IN NONTRAFFIC, NONCRASH EVENTS.

(a) IN GENERAL.—The Secretary of Transportation shall establish a new database of, and collect data regarding, injuries and deaths in nontraffic, noncrash events involving motor vehicles. The database shall include information regarding—

(1) the number, types, and proximate causes of injuries and deaths resulting from such events;

(2) the characteristics of motor vehicles involved in such events;

(3) the characteristics of the motor vehicle operators and victims involved in such events; and

(4) the presence or absence in motor vehicles involved in such events of advanced technologies designed to prevent such injuries and deaths.

(b) AVAILABILITY.—The Secretary shall make the database available to the public.

By Mr. DEWINE:

S. 2025. A bill to amend title 23, United States Code, to improve highway safety; to the Committee on Environment and Public Works.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2025

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Safe Streets and Highways Act of 2004''.

SEC. 2. HIGHWAY SAFETY IMPROVEMENT PROGRAM

(a) IN GENERAL.—Section 148 of title 23, United States Code, is amended to read as follows:

''§ 148. Highway safety improvement program

''(a) DEFINITIONS.—In this section:

''(1) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'highway safety improvement program' means the program carried out under this section.

''(2) HIGHWAY SAFETY IMPROVEMENT PROJECT.—

''(A) IN GENERAL.—The term 'highway safety improvement project' means a project described in the State strategic highway safety plan that—

''(i) corrects or improves a hazardous road location or feature; or

''(ii) addresses a highway safety problem.

''(B) INCLUSIONS.—The term 'highway safety improvement project' includes a project for—

''(i) an intersection safety improvement;

''(ii) pavement and shoulder widening (including addition of a passing lane to remedy an unsafe condition);

''(iii) installation of rumble strips or another warning device, if the rumble strips or other warning devices do not adversely affect the safety or mobility of bicyclists and pedestrians;

''(iv) installation of a skid-resistant surface at an intersection or other location with a high frequency of accidents;

''(v) an improvement for pedestrian or bicyclist safety;

''(vi)(I) construction of any project for the elimination of hazards at a railway-highway crossing that is eligible for funding under section 130, including the separation or protection of grades at railway-highway crossings;

''(II) construction of a railway-highway crossing safety feature; or

''(III) the conduct of a model traffic enforcement activity at a railway-highway crossing;

''(vii) construction of a traffic calming feature;

''(viii) elimination of a roadside obstacle;

''(ix) improvement of highway signage and pavement markings;

''(x) installation of a priority control system for emergency vehicles at signalized intersections;

''(xi) installation of a traffic control or other warning device at a location with high accident potential;

''(xii) safety-conscious planning;

''(xiii) improvement in the collection and analysis of crash data;

''(xiv) planning, equipment, operational activities, or traffic enforcement activities (including police assistance) relating to workzone safety;

''(xv) installation of guardrails, barriers (including barriers between construction work zones and traffic lanes for the safety of motorists and workers), and crash attenuators;

''(xvi) the addition or retrofitting of structures or other measures to eliminate or reduce accidents involving vehicles and wildlife; or

''(xvii) installation and maintenance of signs (including fluorescent, yellow-green signs, and signs designed to identify, or reduce the number and severity of accidents occurring at, a hazardous location) at pedestrian-bicycle crossings and in school zones.

''(3) SAFETY PROJECT UNDER ANY OTHER SECTION.—

''(A) IN GENERAL.—The term 'safety project under any other section' means a project carried out for the purpose of safety under any other section of this title.

''(B) INCLUSION.—The term 'safety project under any other section' includes a project to—

''(i) promote the awareness of the public and educate the public concerning highway safety matters; or

''(ii) enforce highway safety laws.

''(4) STATE HIGHWAY SAFETY IMPROVEMENT PROGRAM.—The term 'State highway safety improvement program' means projects or strategies included in the State strategic highway safety plan carried out as part of the State transportation improvement program under section 135(f).

''(5) STATE STRATEGIC HIGHWAY SAFETY PLAN.—The term 'State strategic highway safety plan' means a plan developed by the State transportation department that—

''(A) is developed after consultation with—

''(i) a highway safety representative of the Governor of the State;

''(ii) regional transportation planning organizations, if any;

''(iii) representatives of major modes of transportation;

''(iv) local traffic enforcement and engineering officials;

''(v) persons responsible for administering section 130 at the State level;

''(vi) representatives conducting Operation Lifesaver;

''(vii) representatives conducting a motor carrier safety program under section 31104 or 31107 of title 49;

''(viii) motor vehicle administration agencies; and

''(ix) other major State and local safety stakeholders;

''(B) analyzes and makes effective use of State, regional, or local crash data;

''(C) addresses engineering, management, operation, education, enforcement, and

emergency services elements of highway safety as key factors in evaluating highway projects;

''(D) considers safety needs of, and high-fatality segments of, public roads;

''(E) considers the results of State, regional, or local transportation and highway safety planning processes in existence as of the date of enactment of this section;

''(F) describes a program of projects or strategies to reduce or eliminate safety hazards;

''(G) is approved by the Governor of the State or a responsible State agency; and

''(H) is consistent with the requirements of section 135(f).

''(b) PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a highway safety improvement program.

''(2) PURPOSE.—The purpose of the highway safety improvement program shall be to achieve a significant reduction in traffic fatalities and serious injuries on public roads.

''(c) ELIGIBILITY.—

''(1) IN GENERAL.—To receive funds under this section, a State shall have in effect a State highway safety improvement program under which the State—

''(A) develops and implements a State strategic highway safety plan that identifies and analyzes highway safety problems and opportunities as provided in paragraph (2);

''(B) produces a program of projects or strategies to reduce identified safety problems; and

''(C) evaluates the plan on a regular basis to ensure the accuracy of the data and priority of proposed improvements.

''(2) IDENTIFICATION AND ANALYSIS OF HIGHWAY SAFETY PROBLEMS AND OPPORTUNITIES.—As part of the State strategic highway safety plan, a State shall—

''(A) have in place a crash data system with the ability to perform safety problem identification and countermeasure analysis;

''(B) based on the analysis required by subparagraph (A)—

''(i) identify hazardous locations, sections, and elements (including roadside obstacles, railway-highway crossing needs, and unmarked or poorly marked roads) that constitute a danger to motorists, bicyclists, pedestrians, and other highway users; and

''(ii) using such criteria as the State determines to be appropriate, establish the relative severity of those locations, in terms of accidents, injuries, deaths, and other relevant data;

''(C) adopt strategic and performance-based goals that—

''(i) address traffic safety, including behavioral and infrastructure problems and opportunities on all public roads;

''(ii) focus resources on areas of greatest need; and

''(iii) are coordinated with other State highway safety programs;

''(D) advance the capabilities of the State for traffic records data collection, analysis, and integration with other sources of safety data (such as road inventories) in a manner that—

''(i) complements the State highway safety program under chapter 4 and the commercial vehicle safety plan under section 31102 of title 49;

''(ii) includes all public roads;

''(iii) identifies hazardous locations, sections, and elements on public roads that constitute a danger to motorists, bicyclists, and pedestrians; and

''(iv) includes a means of identifying the relative severity of hazardous locations described in clause (iii) in terms of accidents, injuries, and deaths;

''(E)(i) determine priorities for the correction of hazardous road locations, sections, and elements (including railway-highway crossing improvements), as identified through crash data analysis;

''(ii) identify opportunities for preventing the development of such hazardous conditions; and

''(iii) establish and implement a schedule of highway safety improvement projects for hazard correction and hazard prevention; and

''(F)(i) establish an evaluation process to analyze and assess results achieved by highway safety improvement projects carried out in accordance with procedures and criteria established by this section; and

''(ii) use the information obtained under clause (i) in setting priorities for highway safety improvement projects.

''(d) ELIGIBLE PROJECTS.—

''(1) IN GENERAL.—A State may obligate funds apportioned to the State under this section to carry out—

''(A) any highway safety improvement project on any public road or publicly owned bicycle or pedestrian pathway or trail; or

''(B) as provided in subsection (e), for other safety projects.

''(2) USE OF OTHER FUNDING FOR SAFETY.—

''(A) EFFECT OF SECTION.—Nothing in this section prohibits the use of funds made available under other provisions of this title for highway safety improvement projects.

''(B) USE OF OTHER FUNDS.—States are encouraged to address the full scope of their safety needs and opportunities by using funds made available under other provisions of this title (except a provision that specifically prohibits that use).

''(3) LOW-TECH, LOW-COST SAFETY IMPROVEMENTS.—

''(A) PROGRAM.—Each State shall carry out a program for the reduction of accidents, injuries, and deaths at hazardous locations through means described in clauses (i), (ii), (v), (ix), (xi), and (xvii) of subsection (a)(2)(B).

''(B) FUNDS.—Of the funds apportioned to a State under this section for a fiscal year, 10 percent shall be available only for safety programs described in subparagraph (A).

''(e) FLEXIBLE FUNDING FOR STATES WITH A STRATEGIC HIGHWAY SAFETY PLAN.—

''(1) IN GENERAL.—To further the implementation of a State strategic highway safety plan, a State may use up to 25 percent of the amount of funds made available under this section for a fiscal year to carry out safety projects under any other section as provided in the State strategic highway safety plan.

''(2) OTHER TRANSPORTATION AND HIGHWAY SAFETY PLANS.—Nothing in this subsection requires a State to revise any State process, plan, or program in effect on the date of enactment of this section.

''(f) REPORTS.—

''(1) IN GENERAL.—A State shall submit to the Secretary a report that—

''(A) describes progress being made to implement highway safety improvement projects under this section;

''(B) assesses the effectiveness of those improvements;

''(C) describes the extent to which the improvements funded under this section contribute to the goals of—

''(i) reducing the number of fatalities on roadways;

''(ii) reducing the number of roadway-related injuries;

''(iii) reducing the occurrences of roadway-related accidents;

''(iv) mitigating the consequences of roadway-related accidents; and

''(v) reducing the occurrences of roadway-railroad grade crossing accidents;

''(D) describes the most severe hazardous locations in the State identified under subsection (c)(2), including not less than 5 percent of locations determined by the State to be most hazardous or potentially hazardous in terms of accidents, injuries, and deaths; and

''(E) contains an assessment of—

''(i) potential remedies to hazardous locations identified;

''(ii) estimated costs associated with those remedies; and

''(iii) impediments to implementation other than cost associated with those remedies.

''(2) CONTENTS; SCHEDULE.—The Secretary shall establish the content and schedule for a report under paragraph (1).

''(3) TRANSPARENCY.—The Secretary shall make reports under paragraph (1) available to the public through—

''(A) the Internet site of the Department; and

''(B) such other means as the Secretary determines to be appropriate.

''(4) WAIVER OF LIABILITY.—Notwithstanding any other provision of law, no report, survey, schedule, list, or other data compiled or collected for any purpose directly or indirectly relating to paragraph (1), or published by the Secretary in accordance with paragraph (3), shall be—

''(A) subject to discovery or admitted into evidence in any Federal or State judicial proceeding; or

''(B) considered for any other purpose in any action for damages arising from an occurrence at a location identified or addressed in the report, survey, schedule, list, or other collection of data.

''(g) FEDERAL SHARE OF HIGHWAY SAFETY IMPROVEMENT PROJECTS.—The Federal share of the cost of a highway safety improvement project carried out with funds made available under this section shall be 90 percent.''.

(2) ALLOCATIONS OF APPORTIONED FUNDS.—Section 133(d) of title 23, United States Code, is amended—

(A) by striking paragraph (1);

(B) by redesignating paragraphs (2) through (5) as paragraphs (1) through (4), respectively;

(C) in paragraph (2) (as redesignated by subparagraph (B))—

(i) in the first sentence of subparagraph (A)—

(I) by striking ''subparagraphs (C) and (D)'' and inserting ''subparagraph (C)''; and

(II) by striking ''80 percent'' and inserting ''90 percent'';

(ii) by striking subparagraph (C);

(iii) by redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively; and

(iv) in subparagraph (C) (as redesignated by clause (iii)), by adding a period at the end; and

(D) in paragraph (4)(A) (as redesignated by subparagraph (B)), by striking ''paragraph (2)'' and inserting ''paragraph (1)''.

(3) CONFORMING AMENDMENTS.—

(A) The analysis for chapter 1 of title 23, United States Code, is amended by striking the item relating to section 148 and inserting the following:

''148. Highway safety improvement program.''.

(B) Sections 154, 164, and 409 of title 23, United States Code, are amended by striking ''152'' each place it appears and inserting ''148''.

(b) APPORTIONMENT OF HIGHWAY SAFETY IMPROVEMENT PROGRAM FUNDS.—Section 104(b) of title 23, United States Code, is amended—

(1) in the matter preceding paragraph (1), by inserting after ''Improvement program,'' the following: ''the highway safety improvement program,''; and

(2) by adding at the end the following:

''(5) HIGHWAY SAFETY IMPROVEMENT PROGRAM.—

''(A) IN GENERAL.—For the highway safety improvement program, in accordance with the following formula:

''(i) 25 percent of the apportionments in the ratio that—

''(I) the total lane miles of Federal-aid highways in each State; bears to

''(II) the total lane miles of Federal-aid highways in all States.

''(ii) 40 percent of the apportionments in the ratio that—

''(I) the total vehicle miles traveled on lanes on Federal-aid highways in each State; bears to

''(II) the total vehicle miles traveled on lanes on Federal-aid highways in all States.

''(iii) 35 percent of the apportionments in the ratio that—

''(I) the estimated tax payments attributable to highway users in each State paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available; bears to

''(II) the estimated tax payments attributable to highway users in all States paid into the Highway Trust Fund (other than the Mass Transit Account) in the latest fiscal year for which data are available.

''(B) MINIMUM APPORTIONMENT.—Notwithstanding subparagraph (A), each State shall receive a minimum of ½ of 1 percent of the funds apportioned under this paragraph.''.

(c) ELIMINATION OF HAZARDS RELATING TO HIGHWAY FACILITIES.—

(1) FUNDS FOR PROTECTIVE DEVICES.—Section 130(e) of title 23, United States Code, is amended—

(A) in the heading, by striking ''PROTECTIVE DEVICES'' and inserting ''RAILWAY-HIGHWAY CROSSINGS'';

(B) by striking the first sentence and inserting the following:

''(1) IN GENERAL.—For each fiscal year, at least $200,000,000 of the funds authorized and expended under section 148 shall be available for the elimination of hazards and the installation of protective devices at railway-highway crossings.''; and

(C) by striking ''Sums authorized'' and inserting the following:

''(2) OBLIGATION.—Sums authorized''.

(2) BIENNIAL REPORTS TO CONGRESS.—Section 130(g) of title 23, United States Code, is amended in the third sentence—

(A) by inserting ''and the Committee on Commerce, Science, and Transportation,'' after ''Public Works''; and

(B) by striking ''not later than April 1 of each year'' and inserting ''every other year''.

(3) EXPENDITURE OF FUNDS; APPORTIONMENT.—Section 130 of title 23, United States Code, is amended by adding at the end the following:

''(k) EXPENDITURE OF FUNDS; APPORTIONMENT.—Funds made available to carry out this section shall be—

''(1) available for expenditure on compilation and analysis of data in support of activities carried out under subsection (g); and

''(2) apportioned in accordance with section 104(b)(5).''.

(d) TRANSITION.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), to qualify for funding under section 148 of title 23, United States Code (as amended by subsection (a)), a State shall develop and implement a State strategic highway safety plan as required by subsection (c) of that section not later than October 1 of the second fiscal year after the date of enactment of this Act.

(2) INTERIM PERIOD.—

(A) IN GENERAL.—Before October 1 of the second fiscal year after the date of enactment of this Act and until the date on which a State develops and implements a State strategic highway safety plan, the Secretary shall apportion funds to a State for the highway safety improvement program and the State may obligate funds apportioned to the State for the highway safety improvement program under section 148 for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(B) NO STRATEGIC HIGHWAY SAFETY PLAN.—If a State has not developed a strategic highway safety plan by October 1 of the second fiscal year after the date of enactment of this Act, but demonstrates to the satisfaction of the Secretary that progress is being made toward developing and implementing such a plan, the Secretary shall continue to apportion funds for 1 additional fiscal year for the highway safety improvement program under section 148 of title 23, United States Code, to the State, and the State may continue to obligate funds apportioned to the State under this section for projects that were eligible for funding under sections 130 and 152 of that title, as in effect on the day before the date of enactment of this Act.

(C) PENALTY.—If a State has not adopted a strategic highway safety plan by the date that is 2 years after the date of enactment of this Act, funds made available to the State under section 1101(6) of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 shall be redistributed to other States in accordance with section 104(b) of title 23, United States Code.

(D) ADDITIONAL PENALTIES.—If, for any of fiscal years 2005 through 2009, a State fails to comply with section 148(f)(3) of title 23, United States Code, not less than 5 percent of funds made available to a State under paragraphs (1) and (2) of section 1101 of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 for the fiscal year shall be obligated for projects described in section 1101(6) of that Act.

SEC. 3. STATE AND COMMUNITY GRANT PROGRAM REVISIONS.

Section 402(a) of title 23, United States Code, is amended—

(1) in the fifth sentence, by inserting before the period at the end the following: ''to reduce the number of accidents, injuries, and deaths attributable to hazardous locations on public roads''; and

(2) by striking the eleventh sentence and inserting the following: ''The criteria shall include, at a minimum, criteria on deaths and injuries resulting from police pursuits, school bus accidents, and speeding, traffic-related deaths and injuries at highway construction sites, and the configuration of commercial motor vehicles involved in motor vehicle accidents (including as a result of hazardous or antiquated roadway design).''.

SEC. 4. OBLIGATION OF FUNDS.

Section 104 of title 23, United States Code, is amended by adding at the end the following:

''(m) PROPORTIONAL OBLIGATION.—

''(1) IN GENERAL.—During each of the periods of fiscal years 2005 through 2006 and fiscal years 2007 through 2009, a State shall make available for the highway safety improvement program under section 148 an amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs that is equal to the amount obtained by multiplying—

''(A) the aggregate amount of funds apportioned to the State for the highway safety improvement program during the period; and

''(B) the proportion that—

''(i) the aggregate amount of obligation authority distributed to the State for Federal-aid highways and highway safety construction programs during the period; bears to

''(ii) the total of the sums apportioned to the State for Federal-aid highways and highway safety construction programs (excluding sums not subject to an obligation limitation) during the period.

''(2) JOINT RESPONSIBILITY.—Each State and the Secretary shall jointly ensure compliance with paragraph (1).''.

SEC. 5. STUDY ON INCREASED SPEEDS.

(a) STUDY.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary of Transportation (referred to in this section as the ''Secretary'') shall conduct a study to examine the effects of increased speed limits enacted by States after 1995.

(2) REQUIREMENTS.—The study shall identify empirical data regarding—

(A) increases or decreases in driving speeds on Interstate highways since 1995;

(B) correlations between changes in driving speeds and accident, injury, and fatality rates;

(C) correlations between posted speed limits and observed driving speeds;

(D) the overall impact on motor vehicle safety resulting from the repeal of the national maximum speed limit in 1995; and

(E) such other matters as the Secretary determines to be appropriate.

(b) REPORT.—Not later than 1 year after the date of completion of the study under subsection (a), the Secretary shall submit to Congress a report that describes the results of the study.

By Mr. DEWINE:

S. 2026. A bill to improve consumer awareness of motor vehicle safety; to the Committee on Commerce, Science, and Transportation.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Consumer Vehicle Safety Awareness Act of 2004''.

SEC. 2. AMENDMENT OF AUTOMOBILE INFORMATION DISCLOSURE ACT.

(a) SAFETY LABELING REQUIREMENT.—Section 3 of the Automobile Information Disclosure Act (15 U.S.C. 1232) is amended by adding at the end the following:

''(g) if a safety rating for such automobile has been assigned and formally published by the National Highway Safety Administration under the New Car Assessment Program for at least 60 days prior to the delivery or introduction date of the automobile, the safety rating assigned to such automobile, displayed in text or graphics that—

''(1) include, as applicable—

''(A) a graphic depiction of the number of stars that corresponds to such safety rating displayed in a bright color clearly differentiated from stars indicating the unattained safety rating;

''(B) a statement that the automobile has been assigned a safety rating of zero stars in text of similar size and in the same location as the stars would otherwise have been depicted; or

''(C) a statement explaining that multiple safety ratings have been assigned and listing such ratings;

''(2) cover at least 8 percent of the total area of the label; and

''(3) contain a heading titled 'Government Safety Information' and a disclaimer including the following text: 'Star ratings can be

compared between vehicles of similar size and weight. For more information on safety and testing, please visit http://www.nhtsa.dot.gov'; and

''(h) if no safety rating has been assigned to such automobile by the National Highway Safety Administration under the New Car Assessment Program, a statement to that effect.''

(b) REGULATIONS.—Not later than January 1, 2006, the Secretary of Transportation shall prescribe regulations to implement the labeling requirements added pursuant to subsection (a).

(c) CONFORMING AND TECHNICAL AMENDMENTS.—Section 3 of such Act is further amended—

(1) in subsection (e), by striking ''and'' after the semicolon; and

(2) in subsection (f)—

(A) by adding ''and'' at the end of paragraph (3); and

(B) by striking the period at the end and inserting a semicolon.

(d) EFFECTIVE DATE.—The amendments made by subsection (a) and subsection (c) shall take effect on January 1, 2006.

By Mr. DEWINE:

S. 2027. A bill to amend title 23 and 49, United States Code, to improve national highway traffic safety through improved motor vehicle driver education and licensing programs, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2027

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Driver Education and Licensing Improvement Act of 2004''.

SEC. 2. GRANTS FOR SUPPORT OF ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES.

(a) REVISED ELIGIBILITY REQUIREMENTS.—Subparagraph (D) of section 410(b)(1) of title 23, United States Code, is amended to read as follows:

''(D) GRADUATED LICENSING SYSTEM.—A multiple-stage graduated licensing system for young drivers that, at a minimum, authorizes the issuance of an initial license or learner's permit to a driver no earlier than the driver's 16th birthday, makes it unlawful for a person under age 21 to operate a motor vehicle with a blood alcohol concentration of .02 percent or greater, provides for a learning stage of at least six months and an intermediate stage of at least 6 months, and applies the following restrictions and features to such stages and to such other stage or stages as may be provided under State law:

''(i) A restriction that no more than 2 passengers may occupy a vehicle while it is being operated by a young driver.

''(ii) Nighttime driving restrictions applicable, at a minimum, during the hours between 10:00 o'clock post meridiem and 5:00 o'clock ante meridiem.

''(iii) Special penalties (including delays in progression through the stages of the graduated licensing system) for violations of restrictions under the system and violations of other State laws relating to operation of motor vehicles.''

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect one year after the date of the enactment of this Act.

SEC. 3. NATIONAL OFFICE OF DRIVER TRAINING.

Section 105 of title 49, United States Code, is amended by adding at the end the following new subsection:

''(f)(1) There is a National Office of Driver Training in the National Highway Traffic Safety Administration.

''(2) The head of the National Office of Driver Training is the Director.

''(3) The functions of the National Office of Driver Training are as follows:

''(A) To provide States with services for coordinating the motor vehicle driver training and licensing programs of the States.

''(B) To develop and make available to the States a recommended motor vehicle driver education and licensing curriculum that incorporates the best practices in driver education and licensing, and to carry out such research (pursuant to cooperative agreements or otherwise) and undertake such other activities as the Director determines appropriate to develop and, on an ongoing basis, improve the recommended curriculum.

''(C) To provide States with technical assistance for the implementation of the motor vehicle driver education and licensing curriculum recommended under subparagraph (B).

''(D) To develop and recommend to the States methods for harmonizing the presentation of motor vehicle driver education and licensing with the requirements of multistage graduated licensing systems, including systems described in section 410(b)(1)(D) of title 23.

''(E) To provide States with financial assistance under section 30201 of this title for—

''(i) the implementation of the motor vehicle driver education and licensing curriculum recommended under subparagraph (B);

''(ii) the establishment or improved administration of multistage graduated licensing systems; and

''(iii) the support of other improvements in motor vehicle driver education and licensing programs.

''(F) To perform such other functions relating to motor vehicle driver education or licensing as the Secretary may require.''

SEC. 4. GRANT PROGRAM FOR IMPROVEMENT OF DRIVER EDUCATION AND LICENSING.

(a) AUTHORITY.—Part A of subtitle VI of title 49, United States Code, is amended by inserting after chapter 301 the following new chapter:

''CHAPTER 302—OTHER DRIVER PROGRAMS

''Sec.
''30201. Driver education and licensing: grant assistance.

''§ 30201. Driver education and licensing: grant assistance

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide States, by grant, with financial assistance to support the improvement of motor vehicle driver education programs and the establishment and improved administration of graduated licensing systems, including systems described in section 410(b)(1)(D) of title 23.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Training.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section. The regulations shall, at a minimum, authorize use of grant proceeds for the following activities:

''(A) Quality assurance testing.

''(B) Improvement of motor vehicle driver education curricula.

''(C) Training of instructors for motor vehicle driver education programs.

''(D) Monitoring and evaluation of the motor vehicle driver performance of graduates of motor vehicle driver education programs.

''(E) Testing and evaluation of motor vehicle driver performance.

''(F) Public education and outreach regarding motor vehicle driver education and licensing.

''(G) Improvements with respect to State graduated licensing programs, as well as related enforcement activities.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Representatives of private sector organizations recognized for relevant expertise.

''(c) MAXIMUM AMOUNT OF GRANT.—The maximum amount of a grant of financial assistance for a program, project, or activity under this section may not exceed 75 percent of the total cost of such program, project, or activity.''

(b) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 30201(b) of title 49, United States Code (as added by subsection (a)), not later than October 1, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for carrying out section 30201(b) of title 49, United States Code (as added by subsection (a)), for fiscal years and in amounts as follows:

(1) For fiscal year 2005, $20,000,000.
(2) For fiscal year 2006, $22,000,000.
(3) For fiscal year 2007, $24,000,000.
(4) For fiscal year 2008, $26,000,000.
(5) For fiscal year 2009, $28,000,000.
(6) For fiscal year 2010, $30,000,000.

SEC. 5. GRANT PROGRAM FOR PUBLIC AWARENESS OF ORGAN DONATION THROUGH DRIVER LICENSING PROGRAMS.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 302 of title 49, United States Code (as added by section 4), is amended by adding at the end the following new section:

''SEC. 30202. ORGAN DONATION THROUGH DRIVER LICENSING: GRANT ASSISTANCE.

''(a) AUTHORITY.—

''(1) IN GENERAL.—The Secretary shall carry out a program to provide eligible recipients, by grant, with financial assistance to carry out campaigns to increase public awareness of, and training on, authority and procedures under State law to provide for the donation of organs through a declaration recorded on a motor vehicle driver license.

''(2) ADMINISTRATIVE OFFICE.—The Secretary shall administer the program under this section through the Director of the National Office of Driver Training.

''(b) ELIGIBILITY REQUIREMENTS.—

''(1) REGULATIONS.—The Secretary shall prescribe in regulations the eligibility requirements, application and approval procedures and standards, and authorized uses of grant proceeds for the grant program under this section.

''(2) CONSULTATION REQUIREMENT.—In prescribing the regulations, the Secretary shall consult with the following:

''(A) The Administrator of the National Highway Traffic Safety Administration.

''(B) The heads of such other departments and agencies of the United States as the Secretary considers appropriate on the basis of relevant interests or expertise.

''(C) Appropriate officials of the governments of States and political subdivisions of States.

''(D) Representatives of private sector organizations recognized for relevant expertise.''

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

''30202. Organ donation through driver licensing: grant assistance.''.

(b) TIME FOR PROMULGATION OF REGULATIONS.—The Secretary of Transportation shall promulgate the regulations under section 30202(b) of title 49, United States Code (as added by subsection (a)), not later than October 1, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—Funds are authorized to be appropriated for carrying out section 30201(b) of title 49, United States Code (as added by subsection (a)), for fiscal years and in amounts as follows:

(1) For fiscal year 2005, $4,000,000.
(2) For fiscal year 2006, $4,000,000.
(3) For fiscal year 2007, $4,000,000.
(4) For fiscal year 2008, $4,000,000
(5) For fiscal year 2009, $4,000,000.
(6) For fiscal year 2010, $4,000,000.

SEC. 6. STUDY OF NATIONAL DRIVER EDUCATION STANDARDS.

(a) REQUIREMENT FOR STUDY.—The Secretary of Transportation shall carry out a study to determine whether the establishment and imposition of nationwide minimum standards of motor vehicle driver education would improve national highway traffic safety.

(b) TIME FOR COMPLETION OF STUDY.—The Secretary shall complete the study not later than two years after the date of the enactment of this Act.

(c) REPORT.—The Secretary shall publish a report on the results of the study under this section not later than 2 years after the study is completed.

By Mr. DEWINE:

S. 2028. A bill to improve tire safety and labeling, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DEWINE. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Tire Safety Awareness Act of 2004''.

SEC. 2. DATE OF MANUFACTURE INFORMATION.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Transportation shall, in consultation with the Administrator of the National Highway Traffic Safety Administration, undertake to modify the regulations relating to tire safety that are administered by the Administration through the promulgation of regulations that require that such date of manufacture information is disclosed clearly and understandably, in writing, to consumers at the point of sale on an invoice, sales receipt, or equivalent record.

(b) EXCEPTION.—The date of manufacture information required to be disclosed pursuant to the regulations promulgated under subsection (a) shall not apply to tires that are—

(1) sold with new motor vehicles;

(2) exempt from testing under Federal Motor Vehicle Safety Standard (FMVSS) 139; or

(3) sold for use on vehicles with a gross vehicle weight of 10,001 pounds or more.

SEC. 3. REPORT ON TIRE SAFETY.

(a) IN GENERAL.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Transportation shall enter into a cooperative agreement with the National Academy of Sciences to commission a report to Congress on the effects of age on light vehicle tires (within the meaning of Federal Motor Vehicle Safety Standard (FMVSS) 139), including—

(1) a study of the effect on tire safety resulting from tire aging characteristics, including but not limited to the chemical breakdown and oxidation that occur over time with respect to tires, irrespective of use;

(2) recommendations on how to best communicate information, including tire aging characteristics, to consumers, and an assessment of the utility and benefits of this information with respect to motor vehicle safety;

(3) an examination of whether the imposition of limits on the age of tires available for sale in interstate commerce would enhance motor vehicle safety;

(4) an examination of—

(A) currently available, scientifically proven technologies that may assist consumers in assessing tire age; and

(B) the feasibility of developing technologies in the future that may assist consumers in assessing tire age; and

(5) any other information the Secretary determines appropriate.

(b) CONSIDERATION OF EXISTING RESOURCES.—The report shall take into consideration relevant scientific studies performed by the National Highway Traffic Safety Administration and the American Society for Testing and Materials Committee F09 on Tires.

(c) REPORT REQUIRED.—The Secretary shall submit the report to Congress not later than 3 years after the date of the enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 291—TO AUTHORIZE TESTIMONY AND LEGAL REPRESENTATION IN THE CASE OF JAMES MCKOY V. NORTH FORK SERVICES/JOINT VENTURE

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 291

Whereas, in the case of James McKoy v. North Fork Services/Joint Venture, No. 2004–CAA–00002, pending before the United States Department of Labor, testimony has been requested from Resi Cooper, an employee in the Long Island office of Senator Hillary Rodham Clinton;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate; Now, therefore, be it

Resolved, That Resi Cooper is authorized to testify in the case of James McKoy v. North Fork Services/Joint Venture, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Resi Cooper in connection with the testimony authorized in section one of this resolution.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2236. Mr. KYL proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

SA 2237. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2238. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2239. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2240. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2241. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2242. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2243. Mr. FITZGERALD submitted an amendment intended to be proposed to

amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2244. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2245. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2246. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2247. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2248. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2249. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2250. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2251. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2252. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2253. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2254. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2255. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2256. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2257. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2258. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2259. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2260. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2261. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3108, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2236. Mr. KYL proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; as follows:

At the end of section 3, insert:

(____) RESTRICTIONS ON APPLICATION FOR FUNDING WAIVER FOR EMPLOYERS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.—An employer who makes an election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan for 2 plan years may not receive a funding waiver under section 412(d) of such Code for any plan year beginning after December 27, 2005, and before December 28, 2007.

SA 2237. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 3, 4, and 5 and insert:

SEC. 3. ELECTION OF ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.

(a) AMENDMENT OF 1986 CODE.—Section 412(l) of the Internal Revenue Code of 1986 (relating to applicability of subsection) is amended by adding at the end the following new paragraph:

''(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

''(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

''(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

''(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

''(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

''(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

''(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

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

''(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

''(I) a commercial passenger airline,

''(II) primarily engaged in the production or manufacture of a steel mill product, or

''(III) an organization described in section 501(c)(5) and which established the plan to which this paragraph applies on June 30, 1955.

''(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

''(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary may prescribe) to be treated as an applicable employer for purposes of this paragraph.

''(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

''(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

''(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

''(E) ELECTION.—An election under this paragraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph).''

(b) AMENDMENT OF ERISA.—Section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by adding at the end the following new paragraph:

''(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

''(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

''(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

''(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

''(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

''(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

''(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

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

''(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

''(I) a commercial passenger airline,

''(II) primarily engaged in the production or manufacture of a steel mill product, or

''(III) an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and which established the plan to which this paragraph applies on June 30, 1955.

''(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

''(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

''(E) NOTICE REQUIREMENTS FOR PLANS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTIONS.—

''(i) IN GENERAL.—If an employer elects an alternative deficit reduction contribution under this paragraph and section 412(l)(12) of the Internal Revenue Code of 1986 for any year, the employer shall provide, within 30 days (120 days in the case of an employer described in subparagraph (C)(ii)) of filing the election for such year, written notice of the election to participants and beneficiaries and to the Pension Benefit Guaranty Corporation.

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

''(I) the due date of the alternative deficit reduction contribution and the amount by which such contribution was reduced from the amount which would have been owed if the election were not made, and

''(II) a description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, including the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

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

''(I) the information described in clause (ii)(I),

''(II) the number of years it will take to restore the plan to full funding if the employer only makes the required contributions, and

''(III) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer making the election.

''(iv) PUBLIC INFORMATION.—If an employer making an election under this paragraph is a member of a controlled group subject to section 4010, the Pension Benefit Guaranty Corporation may make public the assets, liabilities, and funded liability percentage of any plan maintained by the plan sponsor for any plan year which corresponds to the plan year of the election and each of the 4 succeeding plan years.

''(F) ELECTION.—An election under this paragraph shall be filed with the Secretary of the Treasury within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph).''

(c) EFFECT OF ELECTION.—An election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan.

(d) PENALTY FOR FAILING TO PROVIDE NOTICE.—Section 502(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by inserting ''or who fails to meet the requirements of section 302(d)(12)(E) with respect to any participant or beneficiary'' after ''101(e)(2)''.

(e) LIMITATIONS ON PBGC LIABILITY FOR PLANS TO WHICH ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION APPLIES.—

(1) IN GENERAL.—If a plan with respect to which an election under section 412(l)(12) of the Internal Revenue Code or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) is made terminates during the applicable period, the maximum guarantee limitation under section 4022(b)(3) of such Act, and the phase-in rate of benefit increases under paragraph (5) or (7) of section 4022(b) of such Act, shall be the limitation and rates determined as if the plan terminated on the day before the first day of the applicable period.

(2) APPLICABLE PERIOD.—For purposes of paragraph (1), the term ''applicable period'' means, with respect to any plan, the period—

(A) beginning on the first day of the first applicable plan year with respect to the plan, and

(B) ending on the last day of the fourth plan year following the last applicable plan year with respect to the plan.

For purposes of this paragraph, the term ''applicable plan year'' has the meaning given such term by section 412(l)(12) of the Internal Revenue Code of 1986 and section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section).

(f) ELECTION.—Each election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be counted as an election of a funding waiver for purposes of section 412(d)(1) of the Internal Revenue Code of 1986.

SEC. 4. MULTIEMPLOYER PLAN FUNDING NOTICES.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) MULTIEMPLOYER DEFINED BENEFIT PLAN FUNDING NOTICES.—

''(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.

''(2) INFORMATION CONTAINED IN NOTICES.—

''(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

''(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

''(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);

''(ii) a statement of the fair market value of the plan's assets, the amount of benefit

payments, and the ratio of the assets to the payments for the plan year to which the report relates;

''(iii) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and

''(iv) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

''(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent permitted under regulations prescribed by the Secretary.

''(3) TIME FOR PROVIDING NOTICE.—Any notice under paragraph (1) shall be provided no later than two months after the deadline (including extensions) for filing the annual report for the plan year to which the notice relates.

''(4) FORM AND MANNER.—Any notice under paragraph (1)—

''(A) shall be written in a manner so as to be understood by the average plan participant, and

''(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.''

(b) PENALTIES.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by striking ''or section 101(e)(1)'' and inserting '', section 101(e)(1), or section 104(d)''.

(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor may issue regulations (including a model notice) that implement the amendments made by this section. If such regulations are not issued, the administrator of a defined benefit plan which is a multiemployer plan shall comply with the provisions of section 4011 of the Employee Retirement Income Security Act of 1974 in a reasonable manner to the extent necessary to meet the notice requirements of such amendments.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

SEC. 5. AMORTIZATION HIATUS FOR NET EXPERIENCE LOSSES IN MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 302(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1082(b)(7)) is amended by adding at the end the following new subparagraph:

''(F)(i) If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

''(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

''(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

''(ii) An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

''(I) the funded current liability percentage (as defined in subsection (d)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded (solely on account of increased contributions) in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, or

''(III) the plan amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

''(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

''(iv) For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

''(v) Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

''(vi) If a plan elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which such Corporation would pay if the plan terminated while underfunded. The first sentence of such notice shall also provide a statement that the plan elected to defer an amount of its investment losses and as a result the plan may not have enough money to pay all benefits if the plan requires financial assistance from such Corporation.

''(vii) An election under this subparagraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information.''

(2) PENALTY.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended to read as follows:

''(4) The Secretary may assess a civil penalty of not more than $1,000 a day for each violation by any person of section 302(b)(7)(F)(vi).''

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 412(b)(7) of the Internal Revenue Code of 1986 (relating to special rules for multiemployer plans) is amended by adding at the end the following new subparagraph:

''(F) AMORTIZATION HIATUS.—

''(i) IN GENERAL.—If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

''(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

''(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

''(ii) RESTRICTIONS ON BENEFIT INCREASES.—An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

''(I) the funded current liability percentage (as defined in subsection (l)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded (solely on account of increased contributions) in the year following the year in which the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, or

''(III) the plan amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

''(iii) COLLECTIVELY BARGAINED INCREASES IN CONTRIBUTIONS.—Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

''(iv) HIATUS PERIOD DEFINED.—For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

''(v) INTEREST ACCRUED DURING HIATUS.—Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

''(vi) ELECTION.—An election under this subparagraph shall be filed with the Secretary of Labor within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph or section 302(b)(7)(F) of the Employee Retirement Income Security Act of 1974 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 of the Employee Retirement Income Security Act of 1974 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information.''

(2) QUALIFICATION REQUIREMENT.—Section 401(a) of such Code is amended by inserting after paragraph (34) the following new paragraph:

''(35) BENEFIT INCREASES IN CERTAIN MULTIEMPLOYER PLANS.—A trust which is part of a plan shall not constitute a qualified trust under this section if the plan adopts an amendment during a hiatus period (within the meaning of section 412(b)(7)(F)(iv)) which the plan is prohibited from adopting by reason of section 412(b)(7)(F)(ii).''

SA 2238. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike section 3 and insert:

SEC. 3. ELECTION OF ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.

(a) AMENDMENT OF 1986 CODE.—Section 412(l) of the Internal Revenue Code of 1986 (relating to applicability of subsection) is amended by adding at the end the following new paragraph:

''(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

''(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

''(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

''(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

''(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

''(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

''(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

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

''(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

''(I) a commercial passenger airline,

''(II) primarily engaged in the production or manufacture of a steel mill product, or

''(III) an organization described in section 501(c)(5) and which established the plan to which this paragraph applies on June 30, 1955.

''(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

''(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

''(E) ELECTION.—An election under this paragraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph).''

(b) AMENDMENT OF ERISA.—Section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by adding at the end the following new paragraph:

''(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

''(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

''(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

''(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

''(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

''(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

''(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

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

''(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable employer' means an employer which is—

''(I) a commercial passenger airline,

''(II) primarily engaged in the production or manufacture of a steel mill product, or

''(III) an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and which established the plan to which this paragraph applies on June 30, 1955.

''(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

''(i) IN GENERAL.—The term 'applicable plan year' means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

''(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

''(E) NOTICE REQUIREMENTS FOR PLANS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTIONS.—

''(i) IN GENERAL.—If an employer elects an alternative deficit reduction contribution

under this paragraph and section 412(l)(12) of the Internal Revenue Code of 1986 for any year, the employer shall provide, within 30 days (120 days in the case of an employer described in subparagraph (C)(ii)) of filing the election for such year, written notice of the election to participants and beneficiaries and to the Pension Benefit Guaranty Corporation.

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

''(I) the due date of the alternative deficit reduction contribution and the amount by which such contribution was reduced from the amount which would have been owed if the election were not made, and

''(II) a description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, including the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

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

''(I) the information described in clause (ii)(I),

''(II) the number of years it will take to restore the plan to full funding if the employer only makes the required contributions, and

''(III) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer making the election.

''(iv) PUBLIC INFORMATION.—If an employer making an election under this paragraph is a member of a controlled group subject to section 4010, the Pension Benefit Guaranty Corporation may make public the assets, liabilities, and funded liability percentage of any plan maintained by the plan sponsor for any plan year which corresponds to the plan year of the election and each of the 4 succeeding plan years.

''(F) ELECTION.—An election under this paragraph shall be filed with the Secretary of the Treasury within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph).''

(c) EFFECT OF ELECTION.—An election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan .

(d) PENALTY FOR FAILING TO PROVIDE NOTICE.—Section 502(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by inserting ''or who fails to meet the requirements of section 302(d)(12)(E) with respect to any participant or beneficiary'' after ''101(e)(2)''.

(e) LIMITATIONS ON PBGC LIABILITY FOR PLANS TO WHICH ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION APPLIES.—

(1) IN GENERAL.—If a plan with respect to which an election under section 412(l)(12) of the Internal Revenue Code or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) is made terminates during the applicable period, the maximum guarantee limitation under section 4022(b)(3) of such Act, and the phase-in rate of benefit increases under paragraph (5) or (7) of section 4022(b) of such Act, shall be the limitation and rates determined as if the plan terminated on the day before the first day of the applicable period.

(2) APPLICABLE PERIOD.—For purposes of paragraph (1), the term ''applicable period'' means, with respect to any plan, the period—

(A) beginning on the first day of the first applicable plan year with respect to the plan, and

(B) ending on the last day of the fourth plan year following the last applicable plan year with respect to the plan.

For purposes of this paragraph, the term ''applicable plan year'' has the meaning given such term by section 412(l)(12) of the Internal Revenue Code of 1986 and section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section).

(f) ELECTION.—Each election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be counted as an election of a funding waiver for purposes of section 412(d)(1) of the Internal Revenue Code of 1986.

SA 2239. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 12, line 10 through page 13, line 6 and strike page 16, line 24 through page 17, line 20.

SA 2240. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 10, line 13 through page 11, line 14 and insert:

''(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

''(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

''(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).''

Strike page 15, line 1 through page 16, line 8 and insert:

''(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

''(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be less than 75 percent, or

''(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).''

SA 2241. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Starting on page 21, line 4, insert the following new paragraph (e):

''(e) ELECTION.—Each election under section 412(1)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be counted as an election of a funding waiver for purposes of section 412(d)(1) of the Internal Revenue Code of 1986.''

SA 2242. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a

rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Starting on page 20, line 22, insert at the end the following new sentence:

''If an employer makes an election for a plan under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section), and if that plan terminates within four years after the end of the plan year to which the election applies, the maximum guarantee limitation under section 422(b)(3) of the Employee Retirement Income Security Act of 1974 and the phase-in rate of benefit increases under section 4022(b)(5) and (7) of the Employee Retirement Income Security Act of 1974 shall be frozen as of the beginning of the plan year to which the election applied.''

SA 2243. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Starting on page 20, line 10, insert at the end the following subparagraph:

''(iv) If the employer is part of a controlled group subject to section 4010 of the Employee Retirement Income Security Act of 1074, the Pension Benefit Guaranty Corporation may make public the assets, liabilities, and funded percentage for that plan year and the following four plan years for any plan maintained by the controlled group.''

SA 2244. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 13, lines 20 through 22, and insert:

''(E) ELECTION.—An election under this paragraph shall be made within 30 days after the beginning of the plan year to which the election applies, or if later, within 30 days of enactment, by filing with the Secretary in such manner as the Secretary may prescribe.''

Strike page 20, lines 10 through 13, and insert:

''(F) ELECTION.—An election under this paragraph shall be made within 30 days after the beginning of the plan year to which the election applies, or if later, within 30 days of enactment, by filing with the Secretary in such manner as the Secretary may prescribe.''

SA 2245. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike sections 4 and 5 and insert:

SEC. 4. MULTIEMPLOYER PLAN FUNDING NOTICES.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

''(d) MULTIEMPLOYER DEFINED BENEFIT PLAN FUNDING NOTICES.—

''(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.

''(2) INFORMATION CONTAINED IN NOTICES.—

''(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

''(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

''(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);

''(ii) a statement of the fair market value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates;

''(iii) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and

''(iv) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

''(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent permitted under regulations prescribed by the Secretary.

''(3) TIME FOR PROVIDING NOTICE.—Any notice under paragraph (1) shall be provided no later than two months after the deadline (including extensions) for filing the annual report for the plan year to which the notice relates.

''(4) FORM AND MANNER.—Any notice under paragraph (1)—

''(A) shall be written in a manner so as to be understood by the average plan participant, and

''(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.''

(b) PENALTIES.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by striking ''or section 101(e)(1)'' and inserting '', section 101(e)(1), or section 104(d)''.

(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor may issue regulations (including a model notice) that implement the amendments made by this section. If such regulations are not issued, the administrator of a defined benefit plan which is a multiemployer plan shall comply with the provisions of section 4011 of the Employee Retirement Income Security Act of 1974 in a reasonable manner to the extent necessary to meet the notice requirements of such amendments.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

SEC. 5. AMORTIZATION HIATUS FOR NET EXPERIENCE LOSSES IN MULTIEMPLOYER PLANS.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Section 302(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1082(b)(7)) is amended by adding at the end the following new subparagraph:

''(F)(i) If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

''(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

''(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

''(ii) An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

''(I) the funded current liability percentage (as defined in subsection (d)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded (solely on account of increased contributions) in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the

end of the third plan year following the end of the last hiatus period of the plan, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, or

''(III) the plan amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

''(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

''(iv) For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

''(v) Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

''(vi) If a plan elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which such Corporation would pay if the plan terminated while underfunded. The first sentence of such notice shall also provide a statement that the plan elected to defer an amount of its investment losses and as a result the plan may not have enough money to pay all benefits if the plan requires financial assistance from such Corporation.

''(vii) An election under this subparagraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information.''

(2) PENALTY.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended to read as follows:

''(4) The Secretary may assess a civil penalty of not more than $1,000 a day for each violation by any person of section 302(b)(7)(F)(vi).''

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Section 412(b)(7) of the Internal Revenue Code of 1986 (relating to special rules for multiemployer plans) is amended by adding at the end the following new subparagraph:

''(F) AMORTIZATION HIATUS.—

''(i) IN GENERAL.—If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

''(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

''(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

''(ii) RESTRICTIONS ON BENEFIT INCREASES.—An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

''(I) the funded current liability percentage (as defined in subsection (l)(8)(B), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,

''(II) the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded (solely on account of increased contributions) in the year following the year in which the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, or

''(III) the plan amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

''(iii) COLLECTIVELY BARGAINED INCREASES IN CONTRIBUTIONS.—Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

''(iv) HIATUS PERIOD DEFINED.—For purposes of this subparagraph, the term 'hiatus period' means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

''(v) INTEREST ACCRUED DURING HIATUS.—Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

''(vi) ELECTION.—An election under this subparagraph shall be filed with the Secretary of Labor within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph or section 302(b)(7)(F) of the Employee Retirement Income Security Act of 1974 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 of the Employee Retirement Income Security Act of 1974 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information.''

(2) QUALIFICATION REQUIREMENT.—Section 401(a) of such Code is amended by inserting after paragraph (34) the following new paragraph:

''(35) BENEFIT INCREASES IN CERTAIN MULTIEMPLOYER PLANS.—A trust which is part of a plan shall not constitute a qualified trust under this section if the plan adopts an amendment during a hiatus period (within the meaning of section 412(b)(7)(F)(iv)) which the plan is prohibited from adopting by reason of section 412(b)(7)(F)(ii).''

SA 2246. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 21, line 12 through line 18 and insert:

''(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.''

SA 2247. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 22, line 6 through line 11 and insert:

''(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B) except that all gains and losses shall be immediately recognized in full and assets shall be valued at fair market value) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);''

SA 2248. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend

the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 22, line 12 through line 16 and insert:

''(ii) a statement of the fair market value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates;''

SA 2249. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 23, line 6 through line 10 and insert:

''(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent permitted by the regulations prescribed by the Secretary.''

SA 2250. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 23, line 18 through line 19, and redesignate subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

SA 2251. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 24, line 7 through line 11 and insert:

''(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor may issue regulations (including a model notice) that implement the provisions of this section. If such regulations are not issued, the administrator of a defined benefit plan which is a multiemployer plan shall comply with the provisions of section 4011 of the Employee Retirement Income Security Act of 1974 and the regulations thereunder in a reasonable manner to fulfill the notice requirement under this section.''

SA 2252. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 24, line 12 through line 14 and insert:

''(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.''

SA 2253. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 25, line 16 through line 19 and insert: ''Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 of the plan years beginning after June 30, 2002, and before July 1, 2006.''

Strike page 29, line 14 through line 18 and insert: ''Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 of the plan years beginning after June 30, 2002, and before July 1, 2006.''

SA 2254. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 26, line 1 through line 5 and insert:

''(I) the funded current liability percentage (as defined in subsection (d)(8)(B) except that all gains and losses shall be immediately recognized in full and assets shall be valued at fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,''

Strike page 30, line 3 through line 8 and insert:

''(I) the funded current liability percentage (as defined in subsection (1)(8)(B) except that all gains and losses shall be immediately recognized in full and assets shall be valued at fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,''

SA 2255. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 26, line 6 through 16 and insert:

''(II) if the funded current liability percentage is at least 75 percent and the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded solely on account of increased contributions in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded solely on account of increased contributions by the end of the third plan year following the end of the last hiatus period of the plan, or''

Strike page 30, line 9 through line 22 and insert:

''(II) if the funded current liability percentage is at least 75 percent and the plan's actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded solely on account of increased contributions in the year following the year the increase or other change takes effect, and any increase in the plan's accrued liabilities attributable to the benefit increase or other change is expected to be fully funded solely on account of increased contributions by the end of the third plan year following the end of the last hiatus period of the plan, or''

SA 2256. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 26, line 20 through line 23 and insert:

''(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph.''

Strike page 31, line 1 through line 6 and insert:

''(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph.''

SA 2257. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 26, line 20 through line 23 and insert:

''(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf but in no case shall the rate of increase in such benefits exceed the change in the consumer price index for the preceding year in the case of any collective bargaining agreement which was not in effect on the date of enactment of this subparagraph.''

Strike page 31, line 1 through line 6 and insert:

''(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf but in no case shall the rate of increase in such benefits exceed the change in the consumer price index for the preceding year in the case of any collective bargaining agreement which was not in effect on the date of enactment of this subparagraph.''

SA 2258. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 27, line 7 through line 21 and insert:

''(vi) If a plan elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, to each employer that has an obligation to contribute under the plan and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of deferral. Such notice shall also include the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded. The first sentence of such notice shall also provide a statement that the plan elected to defer the amount of investment losses and as a result the plan may not have enough money to pay all benefits if the plan requires financial assistance from the PBGC.''

SA 2259. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

Strike page 27, line 22 through line 25 and insert:

''(viii) An election under this subparagraph shall be filed within 30 days after the beginning of the plan year to which the election applies, or if later, within 30 days after the date of enactment, by filing with the Secretary in such manner as the Secretary, after consultation with the Secretary of Treasury, may prescribe. The plan administrator of any multiemployer plan that elects an amortization hiatus under section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 of the Employee Retirement Income Security Act of 1974 and the regulations thereunder as if the plan were subject to those requirements for that plan year and the following four plan years. The PBGC may make public asset, liability, and funded percentage information.''

SA 2260. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. ___. RESTORATION OF CERTAIN PLANS TERMINATING IN 2003.

(a) IN GENERAL.—Notwithstanding any provision of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974, the provisions of subsection (b) shall apply to any defined benefit plan that was—

(1) maintained by a commercial passenger air carrier,

(2) maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement, and

(3) terminated during the calendar year 2003 while the employer was in bankruptcy under chapter 11 of title 11 of the United States Code.

(b) RESTORATION OF PLAN.—The Pension Benefit Guaranty Corporation shall restore any plan described in subsection (a), pursuant to the terms described in subsection (g), and the control of the plan's assets and liabilities shall be transferred to the employer. The date of restoration shall be not later than 60 days after the date the terms of the plan are determined pursuant to subsection (g).

(c) EXCLUSION OF EXPECTED INCREASE IN CURRENT LIABILITY.—In applying section 412(l)(1)(A)(i) of such Code and section 302(d)(1)(A)(i) of such Act with respect to a plan restored under subsection (b), any expected increase in current liability due to benefits accruing during each plan year as described in section 412(1)(2)(C) of such Code and section 302(d)(2)(C) of such Act shall be excluded.

(d) AMORTIZATION OF UNFUNDED AMOUNTS UNDER RESTORATION PAYMENT SCHEDULE.—

(1) POST-RESTORATION INITIAL UNFUNDED ACCRUED LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the initial restoration amortization base for a plan described in subsection (a) shall be an amount equal to the excess of—

(i) the accrued benefit liabilities returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the initial restoration amortization base shall be amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date, and the funding standard account of the plan under section 412 of such Code and section 302 of such Act shall be charged with such installments.

(2) UNFUNDED SECTION 412(l) RESTORATION LIABILITY.—For purposes of section 412 of such Code and section 302 of such Act, in the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the unfunded section 412(l) restoration liability shall be an amount equal to the excess of—

(i) the current liability returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the unfunded section 412(l) restoration liability amount shall be equal to the unfunded section 412(l) restoration liability amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date.

(3) RULES OF SPECIAL APPLICATION.—In applying the 30-year amortization described in paragraph (1)(C) or (2)(C)—

(A) the assumed interest rate for purposes of paragraph (1)(C) shall be the valuation interest rate used to determine the accrued liability under section 412(c) of such Code and section 302(c) of such Act,

(B) the assumed interest rate for purposes of paragraph (2)(C) shall be the interest rate used to determine current liability as of the initial post-restoration valuation date under section 412(l) of such Code and section 302(d) of such Act,

(C) the actuarial value of assets as of the initial post-restoration valuation date shall be reset to the market value of assets with a 5-year phase-in of unexpected investment gains or losses on a prospective basis, and

(D) for plans using the frozen initial liability (FIL) funding method in accordance with section 412(c) of such Code and section 302(c) of such Act, the initial unfunded liability used to determine normal cost shall be reset to the initial restoration amortization base.

(e) QUARTERLY CONTRIBUTIONS.—The requirements of section 412(m) of such Code

and section 302(e) of such Act shall not apply to a plan restored under subsection (b) until the plan year beginning on the initial post-restoration valuation date. The required annual payment for that year shall be the lesser of—

(1) the amount determined under section 412(m)(4)(B)(i) of such Code and section 302(e)(4)(B)(i) of such Act, or

(2) 100 percent of the amount required to be contributed under the plan for the plan year beginning January 1, 2003, and ending on the date of plan termination.

(f) RESETTING OF FUNDING STANDARD ACCOUNT BALANCES.—In the case of a plan restored under subsection (b), any accumulated funding deficiency or credit balance in the funding standard account under section 412 of such Code or section 302 of such Act shall be set equal to zero as of the initial post-restoration valuation date.

(g) TERMS OF RESTORED PLAN.—

(1) IN GENERAL.—The terms of a plan which is restored pursuant to subsection (b) shall be determined by mutual agreement of the employer and the collective bargaining representative of employees covered by the plan. If such parties are unable to reach mutual agreement on such terms, then the terms of the restored plan will be determined by a neutral arbitrator. The neutral arbitrator will be selected by the parties within 7 days after the earlier of the date the parties reach an impasse or 60 days after the date of the enactment of this Act. The neutral arbitrator will be selected by the parties from a panel of neutrals provided by the National Mediation Board. The neutral arbitrator will render his or her determination not later than 120 days after the date of the enactment of this Act. Such determination shall be final and binding on the parties.

(2) SPECIFIC TERMS.—The terms of the restored plan are subject to the following:

(A) Benefits under the restored plan for any participant or group of participants may not be greater than, but may be less than, those under the plan prior to its termination, and forms of distribution under the restored plan for any participant or group of participants may exclude forms available under the plan prior to its termination, and any such reductions in benefits or forms of distribution shall be deemed to comply with section 411(d)(6) of such Code and section 204(g) of such Act.

(B) For any participant, benefits under the restored plan shall be offset by the value of contributions made on behalf of such participant to any defined contribution pension plan established by the parties in conjunction with the termination of the restored plan.

(C) The amortization periods for the initial restoration amortization base and the unfunded section 412(l) restoration liability shall not exceed 30 years.

(D) The minimum required cost of the restored plan shall not be less than the greater of—

(i) the projected cost of any defined contribution pension plan established in conjunction with the termination of the restored plan, or

(ii) the amount allowed as costs under the employer's original plan of reorganization for all of the employer's retirement plans minus the minimum required cost determined as of the plan restoration date of all of the employer's retirement plans excluding the restored plan.

(h) PBGC LIABILITY LIMITED.—In the case of any plan which is described in subsection (a), which is restored pursuant to subsection (b), and which subsequently terminates with a date of plan termination before the end of the fifth calendar year after the date of restoration, section 4022 of the Employee Retirement Income Security Act of 1974 shall be applied as if the plan had been amended to provide that participants would receive no credit for benefit accrual purposes under the plan for service on and after the first day of the plan year beginning after the date of the enactment of this Act.

(i) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2002.

SA 2261. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add:

SEC. ___. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking ''December 31, 2005'' and inserting ''December 31, 2013''.

(b) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Pension Stability Act''.

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Pension Stability Act''.

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking ''January 1, 2006'' and inserting ''January 1, 2014'', and

(B) by striking ''Tax Relief Extension Act of 1999'' and inserting ''Pension Stability Act''.

SEC. ___. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

''(i) the gross receipts for the taxable year do not exceed $600,000, and

''(ii) more than 50 percent of such gross receipts consist of premiums.''.

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) of the Internal Revenue Code of 1986 is amended by inserting '', except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded'' before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended by striking ''exceed $350,000 but''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2003.

SEC. ___. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) IN GENERAL.—Section 831 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2003.

AUTHORIZATION TO SENATE LEGAL COUNSEL

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 291, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 291) to authorize testimony and legal representation in the case of James McKoy v. North Fork Services/Joint Venture.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony in an administrative proceeding before the U.S. Department of Labor. An employee of a private contractor at the Plum Island Animal Disease Center, a Department of Homeland Security facility in New York, was terminated from his employment.

An investigation by the Occupational Safety and Health Administration sustained the employee's allegations that his termination was in retaliation for his voicing environmental safety concerns to the Homeland Security Department and to Senator CLINTON's office and was therefore in violation of the employee protection provisions of the Clean Air Act and the Federal Water Pollution Control Act of 1972. That finding is now the subject of the employer's appeal to the Labor Department and is set for an evidentiary hearing.

The regional director in Senator CLINTON's Long Island Office is a direct fact witness to the events underlying this controversy and, hence, is a necessary witness in this proceeding. Accordingly, this resolution would authorize Senator CLINTON's employee to testify at this hearing, with representation by the Senate Legal Counsel.

Mr. KYL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas, in the case of James McKoy v. North Fork Services/Joint Venture, No. 2004–CAA–00002, pending before the United States Department of Labor, testimony has been requested from Resi Cooper, an employee in the Long Island office of Senator Hillary Rodham Clinton;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of

1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Resi Cooper is authorized to testify in the case of James McKoy v. North Fork Services/Joint Venture, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Resi Cooper in connection with the testimony authorized in section one of this resolution.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: Calendar Nos. 514 through 535.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en block are as follows:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jose Antonio Aponte, of Colorado, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.

Edward Louis Bertorelli, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Carol L. Diehl, of Wisconsin, to be Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Allison Druin, of Maryland, to be Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Beth Fitzsimmons, of Michigan, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Patricia M. Hines, of South Carolina, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Colleen Ellen Huebner, of Washington, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Stephen M. Kennedy, of New Hampshire, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Bridget L. Lamont, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Mary H. Perdue, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Herman Lavon Totten, of Texas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

DEPARTMENT OF EDUCATION

Raymond Simon, of Arkansas, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of six years.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

James McBride, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2008.

UNITED STATES INSTITUTE OF PEACE

Laurie Susan Fulton, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

J. Robinson West, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

DEPARTMENT OF EDUCATION

Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR TOMORROW

Mr. MCCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon tomorrow, Tuesday, January 27. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 3108, the pensions bill, with the time until 12:30 equally divided between the bill's managers or their designees.

I further ask unanimous consent that the Senate recess from 12:30 to 2:15 for the weekly policy luncheons. In addition, I ask unanimous consent that the time from 2:15 to 2:30 be equally divided between Senators KYL and BAUCUS or their designees; provided that at 2:30 the Senate proceed to a vote on or in relation to the Kyl amendment No. 2234, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCHEDULE

Mr. MCCONNELL. Mr. President, tomorrow the Senate will resume consideration of H.R. 3108, the pensions bill. Under the previous order, at 2:30, the Senate will proceed to vote on or in relation to the Kyl amendment No. 2234.

It is our intention to complete action on this bill no later than Wednesday of this week. Again, I encourage all Members who wish to offer amendments to contact the bill managers so they can establish an order for amendment consideration. I also inform all Senators that additional rollcall votes should be anticipated during tomorrow's session.

ADJOURNMENT UNTIL TUESDAY, JANUARY 27, 2004

The PRESIDING OFFICER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:52 p.m., adjourned until Tuesday, January 27, 2004, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 26, 2004:

AMTRAK

LOUIS S. THOMPSON, OF MARYLAND, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE JOHN ROBERT SMITH, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

KIRK VAN TINE, OF VIRGINIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION, VICE MICHAEL P. JACKSON, RESIGNED.

FEDERAL LABOR RELATIONS AUTHORITY

PETER EIDE, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS, VICE JOSEPH SWERDZEWSKI, RESIGNED.

MERIT SYSTEMS PROTECTION BOARD

SUSANNE T. MARSHALL, OF VIRGINIA, TO BE CHAIRMAN OF THE MERIT SYSTEM PROTECTION BOARD, VICE BETH SUSAN SLAVET.

NEIL MCPHIE, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2009, VICE BETH SUSAN SLAVET, TERM EXPIRED.

UNITED STATES POSTAL SERVICE

JAMES C. MILLER III, OF VIRGINIA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 2010, VICE EINAR V. DYHRKOPP, TERM EXPIRED.

FOREIGN CLAIMS SETTLEMENT COMMISSION

DAVID B. RIVKIN, JR., OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2004, VICE LARAMIE FAITH MCNAMARA.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 26, 2004:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOSE ANTONIO APONTE, OF COLORADO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SANDRA FRANCES ASHWORTH, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES

AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2004.

EDWARD LOUIS BERTORELLI, OF MASSACHUSETTS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005.

CAROL L. DIEHL, OF WISCONSIN, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005.

ALLISON DRUIN, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2006.

BETH FITZSIMMONS, OF MICHIGAN, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2006.

PATRICIA M. HINES, OF SOUTH CAROLINA, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2005.

COLLEEN ELLEN HUEBNER, OF WASHINGTON, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007.

STEPHEN M. KENNEDY, OF NEW HAMPSHIRE, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007.

BRIDGET L. LAMONT, OF ILLINOIS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008.

MARY H. PERDUE, OF MARYLAND, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008.

HERMAN LAVON TOTTEN, OF TEXAS, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2008.

DEPARTMENT OF EDUCATION

RAYMOND SIMON, OF ARKANSAS, TO BE ASSISTANT SECRETARY FOR ELEMENTARY AND SECONDARY EDUCATION, DEPARTMENT OF EDUCATION.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

DREW R. MCCOY, OF MASSACHUSETTS, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM OF SIX YEARS.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JAMES MCBRIDE, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2008.

UNITED STATES INSTITUTE OF PEACE

LAURIE SUSAN FULTON, OF VIRGINIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007.

J. ROBINSON WEST, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2007.

DEPARTMENT OF EDUCATION

SUSAN K. SCLAFANI, OF THE DISTRICT OF COLUMBIA, TO BE ASSISTANT SECRETARY FOR VOCATIONAL AND ADULT EDUCATION, DEPARTMENT OF EDUCATION.

EXTENSIONS OF REMARKS

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, January 27, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JANUARY 28

9 a.m.
Foreign Relations
To hold a closed briefing regarding steps toward rapprochement in relation to Pakistan and India.
S–407 Capitol

9:30 a.m.
Armed Services
To hold hearings to examine the nominations of Francis J. Harvey, of California, to be an Assistant Secretary of Defense, William A. Chatfield, of Texas, to be Director of Selective Service, and Lawrence T. Di Rita, of Michigan, to be an Assistant Secretary of Defense.
SR–222

Commerce, Science, and Transportation
To hold hearings to examine NASA's future space mission.
SR–253

10 a.m.
Indian Affairs
Business meeting to consider pending calendar business.
SR–485

Judiciary
To hold hearings to examine the nomination of Franklin S. Van Antwerpen, of Pennsylvania, to be United States Circuit Judge for the Third Circuit.
SD–226

10:30 a.m.
Foreign Relations
To hold hearings to examine steps toward rapprochement relating to Pakistan and India.
SH–216

Health, Education, Labor, and Pensions
To hold hearings to examine health issues relating to health care costs and the uninsured.
SD–430

JANUARY 29

9:30 a.m.
Foreign Relations
To hold hearings to examine the protocol additional to the safeguards agreement between the United States of America and the IAEA.
SD–419

FEBRUARY 3

9:30 a.m.
Armed Services
To hold hearings to examine the Defense Authorization request for FiscalYear 2005 and the future years defense program.
SH–216

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine fund operations and governance relating to current investigations and regulatory actions regarding the mutual fund industry.
SD–538

Banking, Housing, and Urban Affairs
Business meeting to mark up the Federal Public Transportation Act of 2004.
SD–538

Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

2 p.m.
Governmental Affairs
To hold hearings to examine workforce issues relating to preserving a strong United States Postal Service.
SD–342

FEBRUARY 4

9:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar items.
SD–366

Governmental Affairs
To continue hearings to examine workforce issues relating to preserving a strong United States Postal Service.
SD–342

Indian Affairs
To hold hearings to examine President's fiscal year 2005 budget request.
SR–485

10 a.m.
Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

FEBRUARY 5

10 a.m.
Health, Education, Labor, and Pensions
To hold hearings to examine maintaining confidence in consumer products relating to mad cow disease.
SD–430

FEBRUARY 10

9:30 a.m.
Armed Services
To resume hearings to examine the Defense Authorization request for Fiscal Year 2005 and the future years defense program.
SR–325

2 p.m.
Veterans' Affairs
To hold hearings to examine the Adminstration's proposed fiscal year 2005Department of Veterans Affairs' budget.
SR–418

FEBRUARY 11

9:30 a.m.
Indian Affairs
To hold hearings to examine the President's fiscal year 2005 budget request.
SR–485

FEBRUARY 12

10 a.m.
Budget
To hold hearings to examine the President's fiscal year 2005 budget proposals.
SD–608

FEBRUARY 24

2 p.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Disabled American Veterans.
SH–216

MARCH 2

9:30 a.m.
Armed Services
To hold hearings to examine the defense authorization request for fiscal year 2005 and the future years defense program.
SH–216

MARCH 4

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the Non-Commissioned Officers Association, the Military Order of the Purple Heart, the Paralyzed Veterans of America, the Jewish War Veterans, and the Blinded Veterans Association.
345 CHOB

MARCH 10

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the Veterans of Foreign Wars.
SH–216

MARCH 18

10 a.m.
Veterans' Affairs
To hold joint hearings with the House Committee on Veterans Affairs to examine the legislative presentations of the Air Force Sergeants Association, the Retired Enlisted Association, Gold Star Wives of America, and the FleetReserve Association.
345 CHOB

MARCH 25

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentations of the National Association of State Directors of Veterans Affairs, AMVETS, American Ex-Prisoners of War, the Vietnam Veterans of America, and the Military Officers Association of America.

345 CHOB

SEPTEMBER 21

10 a.m.

Veterans' Affairs

To hold joint hearings with the House Committee on Veterans' Affairs to examine the legislative presentation of the American Legion.

345 CHOB

POSTPONEMENTS

JANUARY 29

10 a.m.

Banking, Housing, and Urban Affairs

To hold hearings to examine current investigations and regulatory actions regarding the mutual fund industry.

SD–538

Daily Digest

Senate

Chamber Action

Routine Proceedings, pages S223–S264

Measures Introduced: Seven bills and one resolution were introduced, as follows: S. 2024–2030, and S. Res. 291. **Page S247**

Measures Passed:

Legal Representation: Senate agreed to S. Res. 291, to authorize testimony and legal representation in the case of *James McKoy* v. *North Fork Services/Joint Venture.* **Pages S262–63**

Pension Funding Equity Act—Agreement: Senate resumed consideration of H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, taking action on the following amendments proposed thereto: **Pages S226–41**

Pending:

Grassley Amendment No. 2233, of a perfecting nature. **Page S226**

Kyl Amendment No. 2234 (to Amendment No. 2233), to limit the liability of the Pension Benefit Guaranty Corporation with respect to a plan for which a reduced deficit contribution is elected. **Page S226**

Kyl Amendment No. 2236 (to Amendment No. 2233), to restrict an employer that elected an alternative deficit reduction contribution from applying for a funding waiver. **Page S235**

A unanimous-consent agreement was reached providing for further consideration of the bill at 12 noon on Tuesday, January 27, 2004; further, that at 2:30 p.m., Senate will vote on Kyl Amendment No. 2234 (to Amendment No. 2233), listed above. **Page S263**

Nominations Confirmed: Senate confirmed the following nominations:

James McBride, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2008.

Raymond Simon, of Arkansas, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

Jose Antonio Aponte, of Colorado, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.

Edward Louis Bertorelli, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Carol L. Diehl, of Wisconsin, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Allison Druin, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Beth Fitzsimmons, of Michigan, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Patricia M. Hines, of South Carolina, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Colleen Ellen Huebner, of Washington, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Stephen M. Kennedy, of New Hampshire, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Bridget L. Lamont, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Mary H. Perdue, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Herman Lavon Totten, of Texas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison

Memorial Fellowship Foundation for a term of six years.

Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

Laurie Susan Fulton, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

J. Robinson West, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007. **Pages S263–64**

Nominations Received: Senate received the following nominations:

Louis S. Thompson, of Maryland, to be a Member of the Reform Board (Amtrak) for a term of five years.

Kirk Van Tine, of Virginia, to be Deputy Secretary of Transportation.

Peter Eide, of Maryland, to be General Counsel of the Federal Labor Relations Authority for a term of five years.

Susanne T. Marshall, of Virginia, to be Chairman of the Merit System Protection Board.

Neil McPhie, of Virginia, to be a Member of the Merit Systems Protection Board for the term of seven years expiring March 1, 2009.

James C. Miller III, of Virginia, to be a Governor of the United States Postal Service for the term expiring December 8, 2010.

David B. Rivkin, Jr., of Virginia, to be a Member of the Foreign Claims Settlement Commission of the United States for the term expiring September 30, 2004. **Page S263**

Executive Communications: **Pages S245–47**

Additional Cosponsors: **Page S247**

Statements on Introduced Bills/Resolutions: **Pages S247–52**

Additional Statements: **Pages S242–45**

Amendments Submitted: **Pages S252–62**

Adjournment: Senate convened at 1 p.m., and adjourned at 5:52 p.m., until 12 noon, on Tuesday, January 27, 2004. (For Senate's program, see the remarks of the Acting Majority Leader in today's Record on page S263.)

Committee Meetings

No committee meetings were held.

House of Representatives

Chamber Action

The House was not in session today. It will meet at 12:30 p.m. on Tuesday, January 27 for morning-hour debate.

Committee Meetings

No committee meetings were held.

COMMITTEE MEETINGS FOR TUESDAY, JANUARY 27, 2004

(Committee meetings are open unless otherwise indicated)

Senate

Committee on Agriculture, Nutrition, and Forestry: to hold hearings to examine the current situation regarding the discovery of a case of bovine spongiform encephalopathy in Washington State as it relates to food safety, livestock marketing, and international trade, 9:30 a.m., SD–106.

Committee on the Budget: to hold hearings to examine the CBO budget and economic outlook, 10 a.m., SD–608.

Committee on Foreign Relations: to hold hearings to examine the stabilization and reconstruction of Afghanistan, 10 a.m., SD–419.

Full Committee, to hold a briefing on the status of the United Nations activities in Afghanistan, 11:30 a.m., SD–419.

Committee on Governmental Affairs: Financial Management, the Budget, and International Security, to hold hearings to examine the fee structure of mutual funds that may lead to conflicts of interest, mislabeled costs and other practices in the industry that may be harmful to investors, 10 a.m., SD–342.

Committee on Health, Education, Labor, and Pensions: to hold hearings to examine health issues, 10:30 a.m., SD–430.

Committee on the Judiciary: to hold hearings to examine a proposed constitutional amendment to guarantee a functioning Congress, with respect to the continuity of the United States government, 9:30 a.m., SD–226.

Subcommittee on Terrorism, Technology and Homeland Security, to hold hearings to examine seaport security since September 11, 2001, 11:15 a.m., SD–226.

Special Committee on Aging: to hold hearings to examine retirement planning, 10 a.m., SD–628.

House

Committee on the Budget, hearing on the Budget and Economic Outlook—Fiscal Years 2005–2014, 2 p.m., 210 Cannon.

Committee on Rules, to consider the following measures: S. 610, NASA Workforce Flexibility Act of 2003; and S. 1920, to extend for 6 months the period for which chapter 12 of title 11 of the United States code is reenacted, 5:30 p.m., H–313 Capitol.

Next Meeting of the **SENATE**

12 noon, Tuesday, January 27

Senate Chamber

Program for Tuesday: Senate will continue consideration of H.R. 3108, Pension Funding Equity Act. At 2:30 p.m., Senate will vote on Kyl Amendment No. 2234.

(Senate will recess from 12:30 p.m. until 2:15 p.m. for their respective party conferences.)

Next Meeting of the **HOUSE OF REPRESENTATIVES**

12:30 p.m., Tuesday, January 27

House Chamber

Program for Tuesday: To be announced.

Congressional Record

The *Congressional Record* (USPS 087–390). The Periodicals postage is paid at Washington, D.C. The public proceedings of each House of Congress, as reported by the Official Reporters thereof, are printed pursuant to directions of the Joint Committee on Printing as authorized by appropriate provisions of Title 44, United States Code, and published for each day that one or both Houses are in session, excepting very infrequent instances when two or more unusually small consecutive issues are printed one time. ¶Public access to the Congressional Record is available online through *GPO Access*, a service of the Government Printing Office, free of charge to the user. The online database is updated each day the Congressional Record is published. The database includes both text and graphics from the beginning of the 103d Congress, 2d session (January 1994) forward. It is available through GPO Access at www.gpo.gov/gpoaccess. Customers can also access this information with WAIS client software, via telnet at swais.access.gpo.gov, or dial-in using communications software and a modem at (202) 512–1661. Questions or comments regarding this database or GPO Access can be directed to the GPO Access User Support Team at: E-Mail: gpoaccess@gpo.gov; Phone 1–888–293–6498 (toll-free), 202–512–1530 (D.C. area); Fax: 202–512–1262. The Team's hours of availability are Monday through Friday, 7:00 a.m. to 5:30 p.m., Eastern Standard Time, except Federal holidays. ¶The Congressional Record paper and 24x microfiche will be furnished by mail to subscribers, free of postage, at the following prices: paper edition, $252.00 for six months, $503.00 per year, or purchased as follows: less than 200 pages, $10.50; between 200 and 400 pages, $21.00; greater than 400 pages, $31.50, payable in advance; microfiche edition, $146.00 per year, or purchased for $3.00 per issue payable in advance. The semimonthly Congressional Record Index may be purchased for the same per issue prices. To place an order for any of these products, visit the U.S. Government Online Bookstore at: bookstore.gpo.gov. Mail orders to: Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954, or phone orders to (866) 512–1800 (toll free), (202) 512–1800 (D.C. Area), or fax to (202) 512–2250. Remit check or money order, made payable to the Superintendent of Documents, or use VISA, MasterCard, Discover, American Express, or GPO Deposit Account. ¶Following each session of Congress, the daily Congressional Record is revised, printed, permanently bound and sold by the Superintendent of Documents in individual parts or by sets. ¶With the exception of copyrighted articles, there are no restrictions on the republication of material from the Congressional Record.

POSTMASTER: Send address changes to the Superintendent of Documents, Congressional Record, U.S. Government Printing Office, Washington, D.C. 20402, along with the entire mailing label from the last issue received.