

“(C) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be provided to participants and beneficiaries under subparagraph (B)(i) shall be written in a clear and conspicuous manner and in a manner calculated to be understood by the average plan participant and shall be sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of the information required to be provided in the notification.

“(D) EXEMPTION CONDITIONED ON MAKING REQUIRED INFORMATION AVAILABLE ANNUALLY, ON REQUEST, AND IN THE EVENT OF MATERIAL CHANGE.—The requirements of subparagraph (B)(i) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in subparagraph (B) to the plan, participant, or beneficiary if, at any time during the provision of advisory services to the plan, participant, or beneficiary, the fiduciary adviser fails to maintain the information described in subclauses (I) through (IV) of subparagraph (B)(i) in currently accurate form and in the manner required by subparagraph (C), or fails—

“(i) to provide, without charge, such currently accurate information to the recipient of the advice no less than annually,

“(ii) to make such currently accurate information available, upon request and without charge, to the recipient of the advice, or

“(iii) in the event of a material change to the information described in subclauses (I) through (IV) of subparagraph (B)(i), to provide, without charge, such currently accurate information to the recipient of the advice at a time reasonably contemporaneous to the material change in information.

“(E) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in subparagraph (B) who has provided advice referred to in such subparagraph shall, for a period of not less than 6 years after the provision of the advice, maintain any records necessary for determining whether the requirements of the preceding provisions of this paragraph and of subsection (d)(16) have been met. A transaction prohibited under subsection (c)(1) shall not be considered to have occurred solely because the records are lost or destroyed prior to the end of the 6-year period due to circumstances beyond the control of the fiduciary adviser.

“(F) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—A plan sponsor or other person who is a fiduciary (other than a fiduciary adviser) shall not be treated as failing to meet the requirements of this section solely by reason of the provision of investment advice referred to in subsection (e)(3)(B) (or solely by reason of contracting for or otherwise arranging for the provision of the advice), if—

“(i) the advice is provided by a fiduciary adviser pursuant to an arrangement between the plan sponsor or other fiduciary and the fiduciary adviser for the provision by the fiduciary adviser of investment advice referred to in such section,

“(ii) the terms of the arrangement require compliance by the fiduciary adviser with the requirements of this paragraph,

“(iii) the terms of the arrangement include a written acknowledgment by the fiduciary adviser that the fiduciary adviser is a fiduciary of the plan with respect to the provision of the advice, and

“(iv) the requirements of part 4 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 are met in connection with the provision of such advice.

“(G) DEFINITIONS.—For purposes of this paragraph and subsection (d)(16)—

“(i) FIDUCIARY ADVISER.—The term ‘fiduciary adviser’ means, with respect to a plan, a person who is a fiduciary of the plan by

reason of the provision of investment advice by the person to the plan or to a participant or beneficiary and who is—

“(I) registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) or under the laws of the State in which the fiduciary maintains its principal office and place of business,

“(II) a bank or similar financial institution referred to in subsection (d)(4),

“(III) an insurance company qualified to do business under the laws of a State,

“(IV) a person registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(V) an affiliate of a person described in any of subclauses (I) through (IV), or

“(VI) an employee, agent, or registered representative of a person described in any of subclauses (I) through (V) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

“(ii) AFFILIATE.—The term ‘affiliate’ of another entity means an affiliated person of the entity (as defined in section 2(a)(3) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(3))).

“(iii) REGISTERED REPRESENTATIVE.—The term ‘registered representative’ of another entity means a person described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) (substituting the entity for the broker or dealer referred to in such section) or a person described in section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b-2(a)(17)) (substituting the entity for the investment adviser referred to in such section).”

#### SEC. 6. INSIDER TRADES DURING PENSION PLAN SUSPENSION PERIODS PROHIBITED.

Section 16 of the Securities Exchange Act of 1934 (15 U.S.C. 78p) is amended by adding at the end the following new subsection:

“(h) INSIDER TRADES DURING PENSION PLAN SUSPENSION PERIODS PROHIBITED.—

“(1) PROHIBITION.—It shall be unlawful for any such beneficial owner, director, or officer of an issuer, directly or indirectly, to purchase (or otherwise acquire) or sell (or otherwise transfer) any equity security of such issuer (other than an exempted security), during any pension plan suspension period with respect to such equity security.

“(2) REMEDY.—Any profit realized by such beneficial owner, director, or officer from any purchase (or other acquisition) or sale (or other transfer) in violation of this subsection shall inure to and be recoverable by the issuer irrespective of any intention on the part of such beneficial owner, director, or officer in entering into the transaction.

“(3) RULEMAKING PERMITTED.—The Commission may issue rules to clarify the application of this subsection, to ensure adequate notice to all persons affected by this subsection, and to prevent evasion thereof.

“(4) DEFINITIONS.—For purposes of this subsection—

“(A) PENSION PLAN SUSPENSION PERIOD.—The term ‘pension plan suspension period’ means, with respect to an equity security, any period during which the ability of a participant or beneficiary under an applicable individual account plan maintained by the issuer to direct the investment of assets in his or her individual account away from such equity security is suspended by the issuer or a fiduciary of the plan. Such term does not include any limitation or restriction that may govern the frequency of transfers between investment vehicles to the extent such limitation and restriction is disclosed to participants and beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.

“(B) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—The term ‘applicable individual account plan’ has the meaning provided such term in section 3(42) of the Employee Retirement Income Security Act of 1974.”

#### SEC. 7. EFFECTIVE DATES AND RELATED RULES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by sections 2, 3, 4, and 6 shall apply with respect to plan years beginning on or after January 1, 2003.

(b) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, subsection (a) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for “January 1, 2003” the date of the commencement of the first plan year beginning on or after the earlier of—

(1) the later of—

(A) January 1, 2004, or

(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of the enactment of this Act), or

(2) January 1, 2005.

(c) PLAN AMENDMENTS.—If the amendments made by sections 2, 3, and 4 of this Act require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after January 1, 2005, if—

(1) during the period after such amendments made by this Act take effect and before such first plan year, the plan is operated in accordance with the requirements of such amendments made by this Act, and

(2) such plan amendment applies retroactively to the period after such amendments made by this Act take effect and before such first plan year.

(d) AMENDMENTS RELATING TO INVESTMENT ADVICE.—The amendments made by section 5 shall apply with respect to advice referred to in section 3(21)(A)(i) of the Employee Retirement Income Security Act of 1974 or section 4975(c)(3)(B) of the Internal Revenue Code of 1986 provided on or after January 1, 2003.

#### SUBMITTED RESOLUTIONS

#### SENATE RESOLUTION 212—EX- PRESSING THE CONDOLENCES OF THE SENATE TO THE FAMILY OF DANIEL PEARL

Mr. LOTT (for himself, Mr. DASCHLE, Mr. SMITH of New Hampshire, Mr. WARNER, Mr. ALLEN, Ms. SNOWE, Ms. COLLINS, and Mr. SPECTER) submitted the following resolution; which was considered and agreed to:

S. RES. 212

Whereas Daniel Pearl was a highly respected journalist with keen insight into world affairs;

Whereas Daniel Pearl's high standards of integrity and his quest for knowledge were a credit to his profession;

Whereas in his reporting, Daniel Pearl made a significant contribution to our Nation through his thoughtful analysis of current events;

Whereas in his conduct, Daniel Pearl embodied the American ideal of a free and vigorous press;

Whereas America's war against terrorism is in defense of our fundamental Constitutional principles, including defense of our First Amendment liberties;

Whereas barbaric acts were committed against a citizen of the United States; and

Whereas the United States is determined to vigorously pursue and punish the perpetrators of this unjustified taking of human life: Now, therefore, be it

*Resolved*, That the Senate—

(1) mourns the death of Daniel Pearl and expresses its condolences to his wife, unborn child, and family; and

(2) salutes Daniel Pearl for his principled and fearless pursuit of journalistic excellence.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2927. Mr. MCCONNELL (for Mr. GRAMM (for himself and Mrs. HUTCHISON)) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes.

SA 2928. Mr. DODD (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 565, *supra*.

SA 2929. Ms. LANDRIEU submitted an amendment intended to be proposed by her to the bill S. 565, *supra*; which was ordered to lie on the table.

SA 2930. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 565, *supra*; which was ordered to lie on the table.

SA 2931. Mr. DODD (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 565, *supra*.

SA 2932. Mr. HATCH (for himself, Mr. ENSIGN and Mr. BURNS) submitted an amendment intended to be proposed by him to the bill S. 565, *supra*; which was ordered to lie on the table.

SA 2933. Mr. SMITH of New Hampshire submitted an amendment intended to be proposed by him to the bill S. 565, *supra*.

SA 2934. Mr. HATCH (for himself, Mr. DODD, Mr. ENSIGN, Mr. BURNS, and Mr. THOMAS) proposed an amendment to the bill S. 565, *supra*.

SA 2935. Mr. HATCH (for himself, Mr. LEAHY, and Ms. CANTWELL) proposed an amendment to the bill S. 565, *supra*.

SA 2936. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 565, *supra*.

SA 2937. Mr. SCHUMER (for himself, Mr. WYDEN, Mr. BINGAMAN, Ms. CANTWELL, Mrs. CLINTON, Mr. DURBIN, Mr. HOLLINGS, Mr. KERRY, and Mrs. MURRAY) proposed an amendment to the bill S. 565, *supra*.

SA 2938. Mr. DODD (for Mr. SARBANES) proposed an amendment to the bill S. 565, *supra*.

SA 2939. Mr. DODD (for Mr. SESSIONS) proposed an amendment to the bill S. 565, *supra*.

#### TEXT OF AMENDMENTS

SA 2927. Mr. MCCONNELL (for Mr. GRAMM (for himself and Mrs. HUTCHISON)) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting,

and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 68, between lines 17 and 18, insert the following:

#### SEC. 402. STATE RESPONSIBILITY TO GUARANTEE MILITARY VOTING RIGHTS.

(a) REGISTRATION AND BALLOTING.—Section 102 of the Uniformed and Overseas Absentee Voting Act (42 U.S.C. 1973ff-1), as amended by section 1606(a)(1) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1278), is amended—

(1) by inserting “(a) ELECTIONS FOR FEDERAL OFFICES.—” before “Each State shall—”; and

(2) by adding at the end the following:

“(b) ELECTIONS FOR STATE AND LOCAL OFFICES.—Each State shall—

“(1) permit absent uniformed services voters to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for State and local offices; and

“(2) accept and process, with respect to any election described in paragraph (1), any otherwise valid voter registration application from an absent uniformed services voter if the application is received by the appropriate State election official not less than 30 days before the election.”.

(b) CONFORMING AMENDMENT.—The heading for title I of such Act is amended by striking “FOR FEDERAL OFFICE”.

SA 2928. Mr. DODD (for Mrs. FEINSTEIN) proposed an amendment to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; as follows:

On page 54, between lines 23 and 24, insert the following:

“(K) the technical feasibility of providing voting materials in 8 or more languages for voters who speak those languages and who are limited English proficient; and”.

SA 2929. Ms. LANDRIEU submitted an amendment to be proposed by her to the bill S. 565, to establish the Commission on voting Rights and Procedures to study and make recommendations regarding election technology, voting, and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assist-

ance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections, and for other purposes; which was ordered to lie on the table; as follows:

On page 39, strike lines 3 through 13, and insert the following:

(b) FEDERAL SHARE.—The Federal share of the costs shall be—

(1) in the case of a State or locality that is in the highest ⅓ of all States or localities with respect to the percentage of individuals residing in such State or locality whose income does not exceed the poverty line, as determined based on the 2000 Decennial Census and any supplemental survey thereto, 90 percent;

(2) in the case of a State or locality that is in the middle ⅓ of all States or localities with respect to the percentage of individuals residing in such State or locality whose income does not exceed the poverty line, as determined based on the 2000 Decennial Census and any supplemental survey thereto, 80 percent; and

(3) in the case of a State or locality that is in the lowest ⅓ of all States or localities with respect to the percentage of individuals residing in such State or locality whose income does not exceed the poverty line, as determined based on the 2000 Decennial Census and any supplemental survey thereto, 70 percent.

On page 45, strike lines 8 through 18, and insert the following:

(b) FEDERAL SHARE.—The Federal share of the costs shall be—

(1) in the case of a State or locality that is in the highest ⅓ of all States or localities with respect to the percentage of individuals residing in such State or locality whose income does not exceed the poverty line, as determined based on the 2000 Decennial Census and any supplemental survey thereto, 90 percent;

(2) in the case of a State or locality that is in the middle ⅓ of all States or localities with respect to the percentage of individuals residing in such State or locality whose income does not exceed the poverty line, as determined based on the 2000 Decennial Census and any supplemental survey thereto, 80 percent; and

(3) in the case of a State or locality that is in the lowest ⅓ of all States or localities with respect to the percentage of individuals residing in such State or locality whose income does not exceed the poverty line, as determined based on the 2000 Decennial Census and any supplemental survey thereto, 70 percent.

SA 2930. Mr. NICKLES submitted an amendment intended to be proposed by him to the bill S. 565, to establish the Commission on Voting Rights and Procedures to study and make recommendations regarding election technology, voting and election administration, to establish a grant program under which the Office of Justice Programs and the Civil Rights Division of the Department of Justice shall provide assistance to States and localities in improving election technology and the administration of Federal elections, to require States to meet uniform and nondiscriminatory election technology and administration requirements for the 2004 Federal elections,