

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

#### RESERVATION OF LEADER TIME

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

#### COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of H.R. 10, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 10) to provide for pension reform, and for other purposes.

Pending:

Daschle (for Hatch/Baucus) amendment No. 2170, in the nature of a substitute

#### RECOGNITION OF THE MAJORITY LEADER

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

Mr. DASCHLE. Madam President, I will reserve some of my leader time to make a short statement as we wait to complete our work on the railroad retirement bill.

#### TERRORISM IN THE MIDDLE EAST

Mr. DASCHLE. Madam President, when our country was attacked on September 11, countless countries came forth to express condolences, to condemn those heinous attacks and to make clear that they stood with America in our time of trouble. The statements were a welcome reassurance from the family of nations that we would not be standing alone in the campaign against terror.

I come to the floor today to send my condolences to the families of the 26 Israelis killed in this weekend's attacks in Jerusalem and Haifa, to send my prayers to the scores more who were injured, to condemn in the strongest terms those attacks—and the attack that occurred just this morning, and to reassure our friends in Israel that just as they stood with us, we stand with them.

Like people all over the world, I went to bed on Saturday deeply shaken by the horrifying images from Jerusalem.

Not only were the attacks timed to occur during busiest time of the week in an area frequented by young people, but a second bomb was intended to maim and kill emergency response workers trying to assist the victims. It is some small measure of consolation that the second bomb didn't kill anyone. Still, it is hard to imagine a more inhumane plan; hard to imagine, that is, until I woke up Sunday morning, and heard reports of the second attack—in Haifa. In this case, a suicide

bomber boarded a bus full of innocent people just starting their work week.

These coordinated bombings marked the deadliest terrorist attacks in the history of the State of Israel.

For the past 15 months, the United States, Europe, and moderate Arab states have called on Chairman Arafat to use his authority to put an end to this violence. At times we have heard helpful words, but we have not yet seen decisive action. Even this morning, after 2 days of international pressure to stop such violence, we hear of another suicide bombing in Jerusalem.

Terrorists have used the territories as a haven to plan and organize their murderous assaults, to build their bombs and recruit their suicide bombers. Instead of cracking down on this violence, Chairman Arafat has seemed all too willing to use it as a negotiating tool.

Such a strategy is more than cynical. It is dangerous, and it stands in stark contrast to the Oslo process that brought the region so close to a comprehensive peace just one year ago.

After Jerusalem and Haifa, Chairman Arafat's words alone are not enough. Symbolic actions—rounding up the usual suspects only to let them go again—is not enough.

Concrete steps to bring the planners of this weekend's attacks to justice are just a starting point. The world also expects—in fact, the world demands—that Chairman Arafat crack down on the organizations that harbor and support these terrorists.

We have already begun to hear a litany of reasons why it is difficult for Chairman Arafat to do what has to be done.

He is not responsible for the attacks, we are told.

He is not capable of controlling the terrorists. No one is, we are told.

We are also told that Israel's response hinders the Palestinian Authority's ability to move against the terrorists.

None of these excuses will stop the violence. And none is acceptable.

Time has run out. We are at the point where Chairman Arafat's lack of action against terrorists is a question not of capability, but of will. Only if he chooses to act decisively can he put this perception to rest.

If not, he will confirm the worst fears of the international—community that he is unable and unwilling to confront terror.

Without concrete action, Israel will be left with no choice but continue to defend itself.

The suicide bombings in Jerusalem in Haifa ended 26 innocent lives, but they also ended something else.

They ended any patience the world has for excuses and inaction on the part of Chairman Arafat and the Palestinian Authority.

It is time for them to prove that they have both the ability and the will to stop the bloodshed. It is time for them to join the family of nations and work to end the specter of global terrorism.

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

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Continued

##### AMENDMENT NO. 2170

Mr. NICKLES. Madam President, I make a point of order that the Daschle amendment No. 2170 violates section 302(f) of the Congressional Budget Act.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Oklahoma is recognized to raise a point of order.

Under the previous order, the Senator from Montana is recognized to make a motion to waive the point of order.

Mr. BAUCUS. Madam President, I move to waive the relevant section of the Budget Act, and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second?

Mr. BAUCUS. I withdraw the request, Madam President.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. Under the previous order, there will now be 30 minutes of debate to be equally divided between the Senator from Montana and the Senator from Oklahoma or their designees.

The Senator from Oklahoma.

Mr. NICKLES. Madam President, for the information of our colleagues, it is anticipated we will be voting at 10 o'clock. We may try to shorten that somewhat. It is anticipated we will have two votes, one on a motion to waive a Budget Act point of order, as entered by Senator BAUCUS, and also on final passage of the Railroad Retirement Act. I notify our colleagues that probably in the next 20 minutes or so we will be voting on these two measures, for them to plan accordingly.

I make a budget point of order because we didn't have any funding. The \$15 billion in outlays we are getting ready to pass was not in the budget. Granted, this bill has a lot of support. It had a lot of support when we passed the budget, but it was not included. It was not included in the House budget. It was not included in the Senate budget.

We had a budget. The budget we agreed upon said we were going to have so much in spending. This was not part of it. So we have to waive the budget if we are going to pass it, or a budget point of order lies, or else we are just breaking the budget.

The reason I raise this point is that Congress in the last several months has

been, in my opinion, pretty irresponsible. We have had spending grow dramatically, and yet many people are saying it is not enough. Some people are saying, because of the disaster on September 11, we need a lot more money for this and for that. Some of us need to kind of total it up. I don't think we have totaled it up. Spending is growing dramatically.

I looked at the amount of money we spent in fiscal year 2000, last year. It was \$584 billion in total discretionary spending. In 2001, the year we just completed, it was 640. That was a 9.6-percent increase for domestic spending. For nondefense spending, that was 14-percent growth over the previous year.

That is a big increase. Nondefense spending last year, the year we just completed in September, grew at 14 percent.

President Bush's budget said let's have spending grow, total discretionary spending, up to \$679 billion. That was a 6-percent increase. After the disaster of September 11, we had a bipartisan agreement to get the budget agreed to of \$686 billion. In addition to that, President Bush agreed to the \$40 billion, money for New York, for Virginia, for defense. That was an additional \$40 billion. Add the \$40 billion to the \$686 billion; that is \$726 billion. That is a growth in outlays of 13.3 percent. And that is still not enough. It doesn't include the \$15.3 billion we are talking about that will be required outlays for railroad retirement. If you add that together, that is another 15.6 percent.

Somebody said that doesn't count because we have scorekeeping. We said we are going to put language in here: don't count it. The fact is, you are going to have outstanding publicly held debt that is going to grow by \$15.3 billion as a result of this bill. The fact is, we will be borrowing that \$15.3 billion; Treasury will borrow additional money. It is not coming out of the surplus. It is not even coming out of Social Security. It is coming out of publicly held debt. We are going to borrow more money, and we are paying about \$1 billion per year every year, maybe every year forever, to pay for this bill.

The 10-year cost in interest expense is going to be about \$10 billion. Our colleagues should know that. The amount of outstanding publicly held debt as a result of passage of this bill will be growing. I think people have not looked at that.

Then there are a few other items in the mill. When we take up the DOD appropriations bill, I understand Senator BYRD has an amendment to add an additional \$15 billion for homeland defense and other things on top of it. We haven't considered that yet, but that is in the mill.

We have already passed airline assistance. I didn't add that. That had outlays of about \$5 or \$6 billion, loan guarantees for up to another 10. We don't know how that will score. It depends on how many will default. But there is additional exposure there as well.

We have a stimulus package that was reported out of the Finance Committee, two-thirds of which was spending, mostly outlays. Some of it was for unemployment compensation, some of it for cash payments to people who didn't pay taxes. But the net result of that stimulus bill that passed out of the Finance Committee and that we considered on the floor was about an additional \$50 billion in outlays.

We have an agriculture bill we will be considering probably later today. It has additional outlays. And we have a victims compensation fund that was part of the airline bailout bill that no one knows, no one in the genius of this body who authorized and passed that legislation, how much it is going to cost. It could cost billions of dollars. We don't know how much the insurance companies are going to pay. We don't know what kinds of rewards are going to be made to the survivors and to the victims of the September 11 disaster. It could cost billions. Congress legislated that little package. I was part of the negotiations in the final hours. No one has a clue how much it is going to cost. It could be in the multbillions of dollars.

My point is, if you add all these numbers, we may be looking at spending growth in the 20- or 24-percent range. It is as if there is no budget whatsoever.

I raise a budget point of order. That is why we have a budget. A budget doesn't do any good if you are not going to use a point of order. Unfortunately, in many cases people in the Budget Committee haven't felt inclined to use it. We waive budgets in cases of national emergency. I supported the \$40 billion that was included. We believed that was a national emergency. We were attacked. Let's give money for defense of our country to go after those persons who attacked the United States. I am all for that. Let's assist people who need the help in New York and Virginia and Pennsylvania. We supported that. We waived the budget to do it.

Maybe we will waive the budget to do railroad retirement. I expect we probably will. The special interest groups have everybody on board this bill regardless of how much it costs, regardless if it may bankrupt the fund. The railroad retirees and their own accountants say the trust fund balance goes down to almost 1 year of payments in several years, almost bankrupting the fund.

How does it do that? It greatly increases benefits, and it cuts payroll taxes. It leaves Uncle Sam as still guaranteeing the benefits. I would be all in favor of the railroads and the employees making whatever kind of deal they want to make for their benefits. If it is more generous than any other retirement plan in America, so be it, as long as they don't ask for taxpayers to guarantee it and pay it.

Unfortunately, they are asking for both. They want one of the most generous retirement benefits in the coun-

try: 100 percent retirement at age 60, 100 percent survivor benefits. That is great. But they also want us to pay for it if the fund goes broke, and even their own projections have it almost going broke. Then to say now, yes, and we want to waive the budget—the budget doesn't count?

If we are going to have a budget, let's use it. Let's abide by it. Let's have unanimous votes if we are going to waive it for cases of national emergency. This is not a national emergency. That is the reason I made the budget point of order. I urge my colleagues to support it.

I don't want to see our colleagues on the floor next year, or maybe even a month from now, saying: Where did the budget surplus go? We are now in deficits. Where did it go? It must have been those Republicans. They passed a tax cut. That tax cut, in the first year, was \$37 billion.

Let's see, I totaled up \$40 billion for emergency spending, \$15 billion for airlines, \$15 billion for railroads, and \$15 billion that Senator BYRD is trying to pass. No telling how much spending will be in the so-called stimulus package. When you add it up, there is going to be much more of a spending problem than a tax cut problem.

My colleagues may say: Wait a minute, did I vote to waive the budget? Did I vote for that extra spending?

This is deficit spending. We are going to borrow an additional \$15 billion. We are going to have to waive the budget to do so. I urge my colleagues to vote "no" on the motion to waive the budget point of order.

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

Mr. BAUCUS. Madam President, I yield such time as the Senator from Delaware desires.

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

Mr. CARPER. Madam President, I agree with my friend from Oklahoma on several of the comments he just made. We can ill afford, even in the environment in which we live today, to forget about fiscal restraint and the responsibility to manage our finances, not only in the short term but in the long-term. But it is not just spending that we need to watch. It is also the nature of the tax cuts that we have adopted and the ones we are considering adopting as part of the economic stimulus package.

Let me take a somewhat different approach to the legislation before us, for which we are now considering the step of waiving the Budget Act. I thank Senator BAUCUS for bringing the measure to the floor. I thank our leader for bringing this measure to the floor. I salute Senator HATCH and others who have introduced the legislation, which I have cosponsored. I am not aware of anywhere in the Federal Government where we have a private sector type of pension plan. The railroad retirement

is somewhat difficult to understand. Let me take a minute and contemplate what it is and what it is not.

The railroad retirement, which provides retirement benefits for hundreds of thousands of railroaders and their survivors, is a two-tier plan. Tier 1 deals with Social Security benefits, or reflects and mirrors Social Security benefits. We are not talking about addressing or dealing with those. Tier 2 is a pension plan that goes beyond Social Security benefits. Most people who work in the private sector in this country realize Social Security benefits. They also have a pension plan, in many cases, from their own employer. Those employers contribute to those plans. The employees contribute to their employer's pension plan established for them. Most employers, private sector employers and, frankly, most public sector employers around the country who have pension plans—the moneys that go into those plans are invested, but they are not invested exclusively in securities issued by the U.S. Treasury.

Tier 2 of the railroad retirement plan is different because the moneys that are contributed by the employers—the railroad companies—and moneys contributed by employees of those railroads to the pension fund, the trust fund, are invested only in securities issued by the U.S. Treasury. Many States and local governments have changed the way they invest their pension moneys. They have invested now in equities, corporate stocks, and other investment options because the yield there is greater and they are able to provide better benefits and reduce their contribution into their pension fund.

The question before us in this bill is, Should we provide the same kind of flexibility for railroad companies and railroad retirees when contributing to their tier 2 pension plans? Should we give them the same flexibility that is enjoyed by other employers throughout the country? I believe we should. The question also is, In doing that, does that somehow cause an outlay by the Federal Government? We still work in the Federal Government under a cash basis of accounting. Most companies and, in fact, almost all State and local governments use the accrual form of accounting. If we use an accrual form of accounting, my guess is we would not be debating whether or not this is actually a \$15 billion cash outlay. I think the point would be moot. But we still use the cash basis, so that is the law under which we operate.

Having said that, we are not talking about the need to spend another \$15 billion to build roads. We are not talking about another \$15 billion to provide better health care. We are not talking about another \$15 billion to provide better environmental protection. We are talking about a step here that says to the folks who oversee tier 2 pension funds contributed to by employers—the railroad companies—and the railroad employees: You don't have to just in-

vest the money in your trust fund in U.S. Treasury obligations. You can invest in other kinds of investments, such as securities, which would provide a greater yield, and then that anticipated yield, which has been proven over history, that greater yield will enable that pension fund to provide better benefits to railroad retirees and to their survivors.

That anticipated greater yield—again, proven historically—would enable the railroad companies, the employers, and the employees—particularly the railroad employers—to reduce their contribution somewhat. That is what this is all about. And because of an anachronism, we are forced to go through this procedure of waiving the budget law and the extraordinary procedure yesterday of directing the spending.

This is a good measure. When we think it through and we look at the numbers and the requirement for the railroad companies, the employers, to increase their contribution, if the tier 2 fund does run out of money, this is a measure that is responsible. I want to say to those who brought it to the floor, on behalf of the hundreds of thousands of railroad employees and pensioners and survivors, thank you for taking this step for them and the companies for whom they work. I say to the chairman of the Finance Committee, thank you again for bringing the measure to the floor and for yielding this time to me today.

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

Mr. GRAMM. How much time do we have on our side?

The ACTING PRESIDENT pro tempore. Six minutes.

Mr. GRAMM. Madam President, let me first congratulate the Senator from Oklahoma. I think what has happened basically is that we have seen a very impressive lobbying effort where the railroads have gotten together with the unions and divided up \$15 billion, which is the only barrier between the taxpayer and massive injection of Federal funds into the railroad retirement program. And basically this has been lobbed as some movement toward private investment in railroad retirement.

The Senator from Oklahoma and I both support private investment, but the problem is that under the cloak of investing this \$15 billion, as the actuaries of railroad retirement show very clearly, under this bill, \$15 billion plus all the interest earned on all the investments made will be pillaged over the next 17 years as that money is taken out and miraculously divided exactly equally between the railroads and the railroad retirees.

The railroads have lobbied hard for the bill because they say they cannot pay 16.1-percent payroll taxes. They can't afford it. Yet under this bill, in 19 years, they are going to be moving toward paying 22-percent payroll taxes because they will have depleted the

trust fund. Does anybody believe they can or will pay 22-percent payroll taxes in 19 years? Does anybody believe the railroads are not going to be before the Congress saying they will be driven into bankruptcy, and they will have to shut down every railroad in America if they are forced to pay a 22-percent payroll tax? But that is what is required to keep this program solvent, after you pile up \$15 billion.

I thank the Senator from Oklahoma. This has been an uphill battle. Americans love bipartisanship and they love consensus. Those are wonderful things, but they are very dangerous things. What we have had is the railroads and the labor unions getting together, each having their affection attracted because they each get \$7.5 billion, but what we have really seen is a consensus against the taxpayers' interest. The Senator from Oklahoma has been courageous in standing up and pointing out that this emperor has no clothing. I congratulate him for that. We are going to have one final vote before the bill is passed, and that is a point of order.

The telltale sign of the problem with this bill is not just that \$15 billion is divided up between the railroads and the railway unions. It is that in making the transfer this year, we are going to increase the deficit by \$15.3 billion. We have a budget that gives us some power in trying to prevent these things from happening. If we were offsetting the \$15.3 billion in some other way, there would be no budget point of order, but there is a budget point of order because we are violating the budget.

The final vote we are going to have is the vote on whether or not we are going to enforce the budget. I have to say, we have already started to see a partisan debate where many of our colleagues are saying we have a deficit because of the tax cut. Today on this bill, we are going to raise the deficit by 40 percent of the impact of the entire tax cut for this year. In fact, we are approaching the point where we will have increased spending \$100 billion above the budget this year.

If somebody votes to waive the budget point of order and says, we do not care about the budget, the sky is the limit, we can spend anything we want to spend and this is a popular thing to spend it on, then I hope they will not be out arguing that they are very concerned about the deficit.

You cannot have it both ways. You cannot be for adding \$15 billion to the deficit and be concerned about the deficit. You cannot be for increasing the deficit on one day and blaming somebody else for it on the other.

I thank our colleague for his leadership. I intend to vote against waiving the budget point of order. I hope my colleagues will as well.

I yield the floor.

The PRESIDING OFFICER (Mr. CARPENTER). The Senator from Montana.

Mr. BAUCUS. Mr. President, I will be brief. We have had these arguments

and made our points many times. It is important to put all of this in perspective. There is a lot of arcane budget language discussion here. A lot of that is very important. There is an important reason for having budgets.

Cutting through all the technical budget arcane language and green eyeshade stuff, very simply the situation is this: The railroad retirement trust fund has built up a large balance. The question is what we should do about that.

We have decided in this legislation that the balance should be reduced by lowering the taxes the railroad companies have to pay—and they are extraordinarily high taxes today—and also increasing survivor benefits, for example, and the early retirement age which conforms with current practices in other industries.

The charge is made that the balance will be too low, and that is going to jeopardize the budget, it is going to jeopardize the trust fund.

The fact is this legislation provides for many safeguards; there are actuarial reports, financial statements, and reports to the contrary. The actuary himself has said at no time, even under this legislation, will the balance in the trust fund be at such a level that it jeopardizes the fund or payments to the beneficiaries or cause undue strain on the railroad companies. That is the actuary's projection. He makes that projection for the next 75 years.

Those of us in Congress have a hard time trying to predict what the economic situation is going to be 10 years from now. That is pretty hard to predict. What we are talking about with this legislation is at least 20 years from now, because that is when the trust fund is going to be dipping down to a lower level than is the case today. We have all kinds of oversight reports required by the legislation to make sure the trust fund is safe.

The Senator from Oklahoma says we have to borrow \$15 billion. That is technically true, but that is a wash because the trust fund will receive \$15 billion in assets. We have unified accounting in this case, so as a practical matter, that has virtually no effect on the budget.

Also, with respect to the trust fund, it is a wash, too, because some of those securities will be private securities as opposed to public securities.

Altogether, this is a bill that has been worked on for a long time. Seventy-four Members of the Senate co-sponsored this legislation. We considered the bill last year in the Finance Committee. Over 20 amendments were offered. The House has passed this legislation twice, both times by very large margins. If this point of order is not waived, if this technicality is not waived, then there will be no bill passed and this bill is going to die.

Mr. REID. Will the Senator yield 2 minutes to the Senator from Nevada?

Mr. BAUCUS. Absolutely.

Mr. REID. Mr. President, this legislation is sponsored by Senators BAUCUS

and HATCH. If there were ever two people who are fiscally conservative, it is Senators BAUCUS and HATCH. I do not need anything else other than to know they are the ones who are pushing this legislation to make me very comfortable with every vote I have taken.

I publicly commend and applaud Senators BAUCUS and HATCH for their leadership on this issue. We have gone a long way the last few days under their leadership. Everyone should feel very good about waiving the Budget Act. Remember, we are being asked to do this by two of the most fiscally conservative people we have in the Senate—Senators BAUCUS and HATCH.

Mr. BAUCUS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Fifty-three seconds.

Mr. NICKLES. Mr. President, I want to clarify a few points. This \$15 billion transfer in the outstanding publicly held debt is not a wash. That is \$15 billion added to the deficit, added to national debt. We are going to have to borrow about \$1 billion a year, maybe forever, to pay for this. The Senator from Montana said this legislation makes benefits conform with the norm. It is not the norm in the private sector pension benefits to get a 100-percent pension benefit at age 60. That is not the norm. Nor is it the norm to have survivor benefits equal 100 percent. That is not the norm. They are very generous benefits.

I do not begrudge them having generous benefits. I just do not want to have taxpayers pay for them when and if the fund goes broke, and even under their projections it almost goes broke. Why? Because we increase benefits and cut the taxes and also we keep the Federal guarantee, and we have to waive the Budget Act to do it.

We did not put this money in the budget. We should have. I urge my colleagues not to waive the budget act provisions.

I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Montana has 4½ minutes remaining.

Mr. BAUCUS. Mr. President, I am not going to use all my time. We have had a very good debate on this bill. I strongly urge Members to vote to waive the point of order because this is a very sound, fiscally responsible bill. I know Senators will be very proud in voting for this legislation.

The PRESIDING OFFICER. The Senator yields back his time.

All time having expired, the question is on agreeing to the motion to waive section 302(f) of the Congressional

Budget Act of 1974 in relation to amendment No. 2170. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senate from Connecticut (Mr. LIEBERMAN) is absent attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 80, nays 19, as follows:

[Rollcall Vote No. 350 Leg.]

YEAS—80

Akaka	Domenici	McCain
Allen	Dorgan	Mikulski
Baucus	Durbin	Miller
Bayh	Edwards	Murkowski
Biden	Enzi	Murray
Bingaman	Feingold	Nelson (FL)
Bond	Feinstein	Nelson (NE)
Boxer	Fitzgerald	Reed
Breaux	Graham	Reid
Brownback	Grassley	Roberts
Burns	Hagel	Rockefeller
Byrd	Harkin	Santorum
Cantwell	Hatch	Sarbanes
Carnahan	Hollings	Schumer
Carper	Hutchinson	Sessions
Chafee	Hutchison	Shelby
Cleland	Inhofe	Smith (OR)
Clinton	Inouye	Snowe
Collins	Jeffords	Specter
Conrad	Johnson	Stabenow
Corzine	Kennedy	Stevens
Craig	Kerry	Torricelli
Crapo	Kohl	Voinovich
Daschle	Landrieu	Warner
Dayton	Leahy	Wellstone
DeWine	Levin	Wyden
Dodd	Lincoln	

NAYS—19

Allard	Gramm	Nickles
Bennett	Gregg	Smith (NH)
Bunning	Helms	Thomas
Campbell	Kyl	Thompson
Cochran	Lott	Thurmond
Ensign	Lugar	
Frist	McConnell	

NOT VOTING—1

Lieberman

The PRESIDING OFFICER. On this vote, the yeas are 80, the nays are 19. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to. The point of order falls.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Under the previous order the amendment No. 2170 is agreed to.

Mr. SMITH of Oregon. Mr. President, I rise today in strong support of legislation to reform the Railroad Retirement system. Reform legislation has 75 cosponsors in the Senate and I am proud to be one of them. Over the past 65 years, Railroad Retirement has provided a safe guarantee of benefits to railworkers and their families. In order to keep these benefits secure, both management and labor have endeavored to come up with an agreement that would strengthen the Railroad Retirement system, and I believe that this legislation, The Railroad Retirement and Survivors' Improvement Act has done just that.

This legislation represents a balanced benefits package that together with phased-in tax cuts can provide and ensure the financial integrity of the Railroad Trust fund. This bill introduces sound investment techniques into the effort to make better use of resources built up by railway employees many who live in my home State of Oregon.

The legislation relies upon a number of features to ensure the fund will meet its benefit obligations to retirees:

Fund Reserves. The legislation maintains four to six years worth of benefits in reserve as a safety margin.

Automatic Tax Adjustment. Tax rates on employers and employees will be adjusted automatically in an effort to maintain a fund balance sufficient to pay between four and six years of benefits.

Asset Management. Assets will be managed much like private pension funds, providing the opportunity to earn higher rates of return than the current 6 percent rate of return. Higher returns will provide additional funds for benefit payments and reduce the need for high payroll taxes.

I have been particularly worried about the plight of widows and widowers of retired railroad employees. Under current law, their monthly checks actually decline by two-thirds when a spouse dies. I believe this trust fund can do better by these widows and widowers and am happy that this legislation calls for the surviving spouse to receive 100 percent of what the retired employee was entitled to. Almost 50,000 retirees will be affected by this provision.

Further, this legislation allows the industry to reduce the burdensome payroll tax it now carries to provide benefits. A three percentage point drop in payroll taxes is phased in over three years. The payroll tax was a very real disincentive to hiring employees or replacing retirees and it frees up capital for other expenditures.

I am sure that the relatively swift passage of this reform legislation is welcome by those in the Railroad industry and urge all my colleagues, including the 75 cosponsors of this bill in the Senate, to continue to give it strong backing to ensure these needed improvements are enacted and beneficiaries see these desperately-needed changes.

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CONGRATULATING SENATOR STROM THURMOND ON HIS BIRTHDAY

Mr. DASCHLE. Mr. President, this is a historic day in the Senate's history. Our colleague, the senior Senator from South Carolina, is celebrating his 99th birthday today. Bob Dole used to say that he followed STROM THURMOND very carefully; whatever he ate Bob Dole would eat. I have taken on that practice myself.

I congratulate Senator THURMOND on his 99th birthday today and wish him well. We are delighted to serve with him and honored that he is here with us today. We congratulate him on a

very special occasion, not only in his life but in the life of the Senate as well.

(Applause, Senators rising.)

Mr. THURMOND. I love all of you men, but you women even more.

Mr. LOTT. Mr. President, I observe Senator THURMOND's microphone was not on at that moment. I do want to observe also on this very happy 99th birthday, he is looking rather dapper today. He asked if perhaps the tie was a little too bright, and I said, no, it was befitting of him on this special occasion.

We all extend our birthday wishes and very best wishes for the future to Senator THURMOND. He has been an example and an inspiration to all of us. He has been a tremendous servant for the people of South Carolina. I have known very few people in my life more dedicated to their job and to the people they represent. We are just so very proud of Senator THURMOND and extend him our very best wishes. Thank you, sir.

(Applause, Senators rising.)

Mr. THURMOND. Thank you very much. I want to thank all of you. I appreciate every one of you, especially you ladies. You're all good looking. God bless you.

(Applause, Senators rising.)

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COMPREHENSIVE RETIREMENT SECURITY AND PENSION REFORM ACT OF 2001—Continued

The PRESIDING OFFICER. The cloture motion is vitiated and the clerk will read the bill for the third time.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. Under the previous order, the bill having been read the third time, the question is, Shall the bill pass?

Mr. BAUCUS. Mr. President I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Connecticut (Mr. LIEBERMAN) is absent attending a funeral.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 90, nays 9, as follows:

[Rollcall Vote No. 351 Leg.]

YEAS—90

Akaka	Bunning	Collins
Allen	Burns	Conrad
Baucus	Byrd	Corzine
Bayh	Campbell	Craig
Bennett	Cantwell	Crapo
Biden	Carnahan	Daschle
Bingaman	Carper	Dayton
Bond	Chafee	DeWine
Boxer	Cleland	Dodd
Breaux	Clinton	Domenici
Brownback	Cochran	Dorgan

Durbin	Johnson	Roberts
Edwards	Kennedy	Rockefeller
Ensign	Kerry	Santorum
Enzi	Kohl	Sarbanes
Feingold	Landrieu	Schumer
Feinstein	Leahy	Sessions
Fitzgerald	Levin	Shelby
Frist	Lincoln	Smith (OR)
Graham	Lugar	Snowe
Grassley	McCain	Specter
Hagel	McConnell	Stabenow
Harkin	Mikulski	Stevens
Hatch	Miller	Thompson
Hollings	Murkowski	Thurmond
Hutchinson	Murray	Torricelli
Hutchison	Nelson (FL)	Voinovich
Inhofe	Nelson (NE)	Warner
Inouye	Reed	Wellstone
Jeffords	Reid	Wyden

NAYS—9

Allard	Helms	Nickles
Gramm	Kyl	Smith (NH)
Gregg	Lott	Thomas

NOT VOTING—1

Lieberman

The bill (H.R. 10) was passed.

Mr. BAUCUS. Mr. President, I move to reconsider the vote.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the title amendment be agreed to and the motion to reconsider be laid upon the table.

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

The title amendment was agreed to.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I thank all those who worked so assiduously, thoughtfully, and carefully on this bill. There are lots of people I could commend. Two people I particularly commend are on my staff: Tom Klouda and Alan Cohen, who are sitting at my left. They know this issue inside and out and have been of invaluable service to me personally. I just want them to know how much I appreciate their very fine work. They have done a great job.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. NELSON of Florida). The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent to address the Chamber as in morning business.

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

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UNANIMOUS CONSENT REQUEST—

H.R. 1291

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 194, S. 1088; further, that the Rockefeller-Specter substitute amendment at the desk be agreed to, the committee-reported substitute amendment be agreed to, as amended, the bill be read a third time, that the Veterans Affairs Committee be discharged from further consideration of H.R. 1291, the Senate proceed to its immediate consideration, that all after the enacting clause be stricken, the text of S. 1088, as amended, be