VOINOVICH) was added as a cosponsor of S. 1129, a bill to increase the rate of pay for certain offices and positions within the executive and judicial branches of the Government, respectively, and for other purposes.

S. 1248

At the request of Mr. KERRY, the names of the Senator from Louisiana (Ms. LANDRIEU) and the Senator from New York (Mrs. CLINTON) were added as cosponsors of S. 1248, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable, housing for low-income families, and for other purposes.

S. 1278

At the request of Mrs. LINCOLN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 1278, a bill to amend the Internal Revenue Code of 1986 to allow a United States independent film and television production wage credit.

S. 1482

At the request of Mr. HARKIN, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1482, a bill to consolidate and revise the authority of the Secretary of Agriculture relating to protection of animal health.

S. 1712

At the request of Mr. GRASSLEY, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1712, a bill to amend the procedures that apply to consideration of interstate class actions to assure fairer outcomes for class members and defendants , and for other purposes.

S. 1749

At the request of Mr. KENNEDY, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1749, a bill to enhance the border security of the United States, and for other purposes.

S. 1863

At the request of Mr. GRAHAM, the name of the Senator from Texas (Mr. GRAMM) was added as a cosponsor of S. 1863, a bill to amend the Internal Revenue Code of 1986 to clarify treatment for foreign tax credit limitation purposes of certain transfers of intangible property.

S. 1899

At the request of Mr. BROWNBACK, the name of the Senator from Oklahoma (Mr. NICKLES) was added as a cosponsor of S. 1899, a bill to amend title 18, United States Code, to prohibit human cloning.

S. 1911

At the request of Mr. INHOFE, the names of the Senator from Hawaii (Mr. AKAKA), the Senator from North Dakota (Mr. CONRAD), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 1911, a bill to amend the Community Services block Grant Act to reauthorize national and regional programs designed to provide instructional activities for low-income youth.

S. 1917

At the request of Mr. BINGAMAN, his name was added as a cosponsor of S. 1917, a bill to provide for highway infrastructure investment at the guaranteed funding level contained in the Transportation Equity Act for the 21st Century.

At the request of Mr. JEFFORDS, the names of the Senator from Vermont (Mr. LEAHY), the Senator from Maryland (Mr. SARBANES), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Michigan (Mr. LEVIN), the Senator from Florida (Mr. NELSON), the Senator from New York (Mr. SCHUMER), and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1917, supra.

S. 1934

At the request of Ms. MIKULSKI, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1934, a bill to amend the Law Enforcement Pay Equity Act of 2000 to permit certain annuitants of the retirement programs of the United States Park Police and United States Secret Service Uniformed Division to receive the adjustments in pension benefits to which such annuitants would otherwise be entitled as a result of the conversion of members of the United States Park Police and United States Secret Service Uniformed Division to a new salary schedule under the amendments made by such Act.

S. 1961

At the request of Mr. GRAHAM, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1961, a bill to improve financial and environmental sustainability of the water programs of the United States.

S.J. RES. 10

At the request of Mr. KENNEDY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S.J. Res. 10, a joint resolution proposing an amendment to the Constitution of the United States relative to equal rights for women and men.

S. RES. 209

At the request of Mr. SMITH of New Hampshire, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. Res. 209, a resolution to express the sense of the Senate regarding prenatal care for women and children.

AMENDMENT NO. 2907

At the request of Mr. ROBERTS, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 2907 intended to be proposed to S. 565, a bill 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.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI:

S. 1964. A bill to direct the Secretary of the Interior to make a grant to the Hubbard Museum of the American West in Lincoln County, New Mexico; to the Committee on Energy and Natural Resources.

Mr. DOMENICI. Mr. President, I am pleased to introduce this bill which authorizes the expansion of the Hubbard Museum of the American West in Lincoln County, NM. Specifically, this bill would allow the Secretary of Interior to make a grant of up to $4.5 million dollars to cover the Federal share of the museum's expansion.

The Hubbard Museum of the American West has been serving the public since 1993. Opened that year under the name of The Museum of the Horse, the museum welcomed 25,000 visitors in its first full year of operations. Current annual attendance is 130,000 visitors at three locations and one special event within Lincoln County.

As attendance and programs have grown, the museum no longer has the space or facilities to meet the needs of expanded exhibitions and programs. In addition, the Hubbard museum's recent affiliation with the Smithsonian Institute allows the museum to receive artifacts and other collections from the Smithsonian that can be exhibited for the benefit of the public. The Hubbard museum cannot fully serve the visitors or expand its exhibitions and programs without additional space.

The Hubbard Museum of the American West seeks to dramatically expand its facility in order to increase tourism and job development in Lincoln County, NM. This expansion will allow the museum to fully take advantage of its affiliate status with the Smithsonian, address additional needs for collection storage and collection preservation, through climate control, and will provide permanent jobs for an economically challenged region. Early estimates indicate that the project will bring 25 short-term construction jobs and 15 full time museum jobs to Lincoln County. In addition, the expanded tourist attraction will allow an estimated 100 additional jobs to be created throughout the community.

Lincoln County is consistently ranked in the bottom third for income levels in New Mexico, a State that is ranked at the bottom of most income level charts. The citizens of Lincoln and northern Otero counties include Native American, Hispanic Americans, and Anglo-American ethnic groups. It is estimated that one third of the new museum employees will come from each of these ethnic groups. Of special concern is the hiring of a Native American who will act as a curator for the

extensive Native American artifacts that the museum owns and cares for. The museum also plans to add Hispanic staff members to its visitor services division as Spanish speaking visitors make up an estimated 20 percent of the annual visitation. Additionally, the museum plans to work with the New Mexico Department of Labor to identify individuals who can be brought off welfare or less meaningful employment to work for the museum.

The Hubbard Museum has a long history of providing free consulting and operating help to museums and not-for-profit organizations in Lincoln County. It is a true asset and I am pleased to introduce a bill that will help continue these worthwhile efforts.

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. 1964

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

SECTION 1. HUBBARD MUSEUM OF THE AMERICAN WEST, NEW MEXICO.

(a) IN GENERAL.—Subject to the availability of appropriations, the Secretary of the Interior shall make a grant to the Hubbard Museum of the American West in Lincoln County, New Mexico, to pay the Federal share of the cost of expanding the museum.

(b) FEDERAL SHARE.—The Federal share shall be 75 percent.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $4,500,000 for fiscal year 2003, to remain available until expended.

By Mr. WELLSTONE.

S. 1965. A bill to meet the mental health and substance abuse treatment needs of incarcerated children and youth; to the Committee on the Judiciary.

Mr. WELLSTONE. Mr. President, I rise today to reintroduce the Mental Health Juvenile Justice Act of 2002. As many of my colleagues know, increasing numbers of children with mental disorders are entering the juvenile justice system. Each year, more than one million children come into contact with the justice system, and twenty percent of those who are incarcerated have a serious mental illness. Many of these children are, in effect, dumped on the justice system because of cuts in mental health services in the community. These children are overwhelmingly poor, a disproportionate number are children of color, and most come from troubled homes.

Contrary to what many believe, most children who are locked up are not violent. Justice Department studies show that only one in twenty children in the juvenile system has committed a violent offense. Most children with mental disorders have committed minor, nonviolent offenses or status offenses, such as petty theft or skipping school. Still others have simply run away from home to escape physical or sexual abuse from parents or other adults. Whenever possible, these children should be diverted from the juvenile justice system and toward community-based services, including mental health and substance abuse treatment as needed. Because some children with mental disorders commit serious and violent offenses, it is not always possible to divert them from incarceration. Nevertheless, these children need treatment for their disorders to aid in their inevitable return to the community.

Children with mental illness are largely untreated in the current system, although this may contribute to the child's delinquency. The difficult and sometimes deplorable conditions that prevail in detention centers and youth prisons exacerbate the problems of these children. Mental health services both prevent them from committing delinquent offenses and from re-offending. If appropriate mental health care is not provided, our country will pay a higher price in repeated incarcerations, substance abuse, and even suicides.

The Mental Health Juvenile Justice Act of 2002, if enacted into law, will go a long way to help address the needs of these children. This measure outlines a comprehensive federal strategy for providing critical assistance to children with mental illness in our juvenile justice system. It would:

Train state judges, probation officers, and others on the identification and need for appropriate treatment of mental disorders and substance abuse, and on the use of community-based alternatives to placement in juvenile correctional facilities;

Provide block grant funds and competitive grants to the states and localities to develop mental health diversion programs for children who come into contact with the justice system, by strengthening the collaboration of community agencies serving troubled children, and to provide mental health treatment for incarcerated children with emotional disorders;

Establish a Federal Council on the Criminalization of Youth with Mental Disorders to report to Congress on proposed legislation to improve the treatment of mentally ill children who come into contact with the justice system; and

Remove the most damaging provisions of the Prison Litigation Reform Act of 1996, by giving back to the federal courts important tools to remedy abusive conditions in state facilities under which juvenile offenders and mentally ill prisoners are being held.

We can no longer ignore this tragedy. The neglect of youth with emotional disturbances in our prisons must end. We as a society have the moral obligation to see that they get the help they need.

By Mr. BIDEN.

S. 1966. A bill to educate health professionals concerning substance abuse and addiction; to the Committee on Health, Education, Labor, and Pensions.

Mr. BIDEN. Mr. President, I rise today to introduce legislation to address the problem of substance abuse in our country.

Last year the Robert Wood Johnson Foundation called substance abuse America's number one health problem. I don't think that overstates it.

Most of us know someone, a family member, maybe a neighbor, a colleague, or a friend, who is addicted to drugs or alcohol. In fact, 14 million people in this country abuse alcohol or are alcoholics. Nearly 15 million use drugs. And nearly four million are in need of treatment but not receiving it.

Drug and alcohol abuse has far reaching consequences. It exacerbates social ills. It's a public safety problem. It's a public health problem. It's a public expenditure problem. There is an undeniable correlation between substance abuse and crime. Eighty percent of the two million men and women behind bars today have a history of drug and alcohol abuse or addiction or were arrested for a drug-related crime. Illegal drugs are responsible for thousands of deaths each year. They fuel the spread of AIDS and Hepatitis C. They contribute to child abuse, domestic violence, and sexual assault. And we all pay the price.

It costs this Nation almost $276 billion in law enforcement, criminal justice expenses, medical bills, and lost earnings each year. That means that preventing and treating substance abuse makes sense. It makes good criminal justice sense. It makes public health sense. It makes budgetary sense. Not to mention the fact that it's the right thing to do.

Yet there remains a reluctance to recognize substance abuse as a health issue. There's a reluctance to accept addiction as a disease. It's a reluctance that has kept public policy from asserting that addicts should be in treatment. Whether addicts are in prison or out, it seems to me, treatment is the only legitimate choice.

Not only must we authorize it, we must take full advantage of the treatments that have been developed.

For too long, access to effective therapies, such as methadone and LAAM for heroin addiction, has been strangled by layers of bureaucracy and regulation. The result is that only 22 percent of opiate addicts are now receiving pharmaco-therapy treatment.

Yet, when I introduced a bill during the last Congress with Senators HATCH, LEVIN and MOYNIHAN to help improve access by allowing qualified doctors to prescribe certain anti-addiction drugs such as buprenorphine right from their offices, just like other medicines, the bill initially met with resistance.

But, because the facts about addiction are finally beginning to sink in, 69 percent of Americans now support treatment instead of jail as the primary focus for drug abusers, and because we were frustrated enough to be

persistent, the bill eventually passed and President Clinton signed it into law.

But it's not only about increasing access to treatment. It is also about moving treatment into the medical mainstream. Unless family doctors, nurses, physician assistants and social workers can identify addiction when they see it, unless they know how to intervene, we will never make any real progress.

That aspect of the challenge came into sharp focus for me when I read a report a few years ago by The National Center on Addiction and Substance Abuse at Columbia University, CASA.

That report said that fewer than one percent of doctors presented with the classic profile of an alcoholic older woman could diagnose it properly. Eighty-two percent mis-diagnosed it as depression, some treatments for which are dangerous when taken with alcohol. A follow-up study showed that 94 percent of primary care physicians fail to diagnose substance abuse when presented with the classic symptoms. And 41 percent of pediatricians fail to diagnose illegal drug use in teenage patients.

No one recognizes this problem better than the doctors themselves. Fewer than one in five, only 19 percent, feel confident about diagnosing alcoholism. And only 17 percent feel qualified to identify illegal drug use. Having said that, even if they diagnose it, most doctors don't believe that treatment works.

Among practitioners, as well as policy makers, we need to get the message out. It needs to be loud and clear. Addiction is a chronic relapsing disease, and as with other such diseases, while there may not be a cure, medical treatment can help control it.

The medical professionals have to be educated to recognize the signs of substance abuse and to pursue the effective therapies that are available. That is why I am introducing legislation to create a grant program to train medical professionals to prevent and recognize addiction and refer patients to treatment if they need it. Representative Patrick Kennedy will introduce companion legislation in the House of Representatives.

Like treatment, training works.

According to a study published in the Brown University Digest of Addiction Theory and Application, 91 percent of health professionals who took part in training on addiction at Boston University were using the techniques they learned one to five years later.

Every family doctor does not need to be an addiction specialist, but they do need to be able to recognize the signs. And they need to know what help is available.

It's another step, and, in my view, a crucial one, to help bridge the divide between research and practice. It will help chip away at the incredible substance abuse-related costs we face each year in human as well as monetary terms.

I hope that my colleagues will join me to support this important legislation. 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. 1966

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 ''Health Professionals Substance Abuse Education Act''.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Illegal drugs and alcohol are responsible for thousands of deaths each year, and they fuel the spread of a number of communicable diseases, including AIDS and Hepatitis C, as well as some of the worst social problems in the United States, including child abuse, domestic violence, and sexual assault.

(2) There are an estimated 14,800,000 current drug users in America, more than 4,000,000 of whom are addicts. An estimated 14,000,000 Americans abuse alcohol or are alcoholic.

(3) There is a significant treatment gap in the United States. Nearly 4,000,000 drug users who are in need of immediate treatment are not receiving it. This includes more than 1,200,000 children ages 12 to 25. These numbers do not take into account the number of alcoholics in need of treatment.

(4) There are more than 28,000,000 children of alcoholics in America, almost 11,000,000 of whom are under 18 years of age. Countless other children are affected by substance abusing parents or other caretakers. Health professionals are uniquely positioned to help reduce or prevent alcohol and other drug-related impairment by identifying affected families and youth and by providing early intervention.

(5) Drug addiction is a chronic relapsing disease. As with other chronic relapsing diseases (such as diabetes, hypertension and asthma), there is no cure, although a number of treatments can effectively control the disease. According to an article published in the Journal of the American Medical Association, treatment for addiction works just as well as treatment for other chronic relapsing diseases.

(6) Drug treatment is cost effective, even when compared with residential treatment, the most expensive type of treatment. Residential treatment for cocaine addiction costs between $15,000 and $20,000 a year, a substantial savings compared to incarceration (costing nearly $40,000 a year), or untreated addiction (costing more than $43,000 a year). Also, in 1998, substance abuse and addiction accounted for approximately $10,000,000,000 in Federal, State, and local government spending simply to maintain the child welfare system. The economic costs associated with fetal alcohol syndrome were estimated at $1,900,000,000 for 1992.

(7) Many doctors and other health professionals are unprepared to recognize substance abuse in their patients or their families and intervene in an appropriate manner. Only 56 percent of residency programs have a required curriculum in preventing or treating substance abuse.

(8) Fewer than 1 in 5 doctors (only 19 percent) feel confident about diagnosing alcoholism, and only 17 percent feel qualified to identify illegal drug use.

(9) Most doctors who are in a position to make a diagnosis of alcoholism or drug addiction do not believe that treatment works (less than 4 percent for alcoholism and only 2 percent for drugs).

(10) According to a survey by the National Center on Addiction and Substance Abuse at Columbia University (referred to in this section as ''CASA''), 94 percent of primary care physicians and 40 percent of pediatricians presented with a classic description of an alcoholic or drug addict, respectively, failed to properly recognize the problem.

(11) Another CASA report revealed that fewer than 1 percent of doctors presented with the classic profile of an alcoholic older woman could diagnose it properly. Eighty-two percent misdiagnosed it as depression, some treatments for which are dangerous when taken with alcohol.

(12) Training can greatly increase the degree to which medical and other health professionals screen patients for substance abuse. It can also increase the manner by which such professionals screen children and youth who may be impacted by the addiction of a parent or other primary caretaker. Boston University Medical School researchers designed and conducted a seminar on detection and brief intervention of substance abuse for doctors, nurses, physician's assistants, social workers and psychologists. Follow-up studies reveal that 91 percent of those who participated in the seminar report that they are still using the techniques up to 5 years later.

(13) According to the National Clearinghouse for Alcohol and Drug Information, drug and alcohol abuse account for more than $400,000,000,000 in health care costs each year. Arming health care professionals with the information they need in order to intervene and prevent further substance abuse could lead to a significant cost savings.

(14) A study conducted by doctors at the University of Wisconsin found a $947 net savings patient in health care, accident, and criminal justice costs for each individual screened and, if appropriate, for whom intervention was made, with respect to alcohol problems.

(b) PURPOSE.—It is the purpose of this Act to—

(1) improve the ability of health care professionals to identify and assist their patients with substance abuse;

(2) improve the ability of health care professionals to identify and assist children and youth affected by substance abuse in their families; and

(3) help establish an infrastructure to train health care professionals about substance abuse issues.

SEC. 3. HEALTH PROFESSION EDUCATION.

(a) SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary of Health and Human Services may enter into interagency agreements with the Health Resources Services Administration or the Substance Abuse and Mental Health Services Administration to enable each such Administration to carry out activities to train health professionals (who are generalists and not already specialists in substance abuse) so that they are competent to—

(1) recognize substance abuse in their patients or the family members of their patients;

(2) intervene, treat, or refer for treatment those individuals who are affected by substance abuse;

(3) identify and assist children of substance abusing parents; and

(4) serve as advocates and resources for community-based substance abuse prevention programs.

(b) USE OF FUNDS.—Amounts received under an interagency agreement under this section shall be used—

(1) with respect to the Health Resources and Services Administration, to support the

Association for Medical Education and Research in Substance Abuse (AMERSA) Interdisciplinary Project; and

(2) with respect to the Substance Abuse and Mental Health Services Administration, to support the Addiction Technology Transfer Centers counselor training programs to train other health professionals.

(c) COLLABORATION.—To be eligible to enter into an interagency agreement under this section the Health Resources and Services Administration or the Substance Abuse and Mental Health Services Administration shall demonstrate that such Administration will participate in interdisciplinary collaboration and collaborate with other nongovernmental organizations with respect to activities carried out under this section.

(d) EVALUATIONS.—The Health Resources and Services Administration and the Substance Abuse and Mental Health Services Administration shall conduct a process and outcome evaluation of the programs and activities carried out with funds received under this section, and shall provide semi-annual reports to the Secretary of Health Human Services and the Director of the Office of National Drug Control Policy.

(e) DEFINITIONS.—In this section—

(1) the term ''health professional'' means a doctor, nurse, physician assistant, nurse practitioner, social worker, psychologist, pharmacist, osteopath, or other individual who is licensed, accredited, or certified under State law to provide specified health care services and who is operating within the scope of such licensure, accreditation, or certification; and

(2) the terms ''doctor'', ''nurse'', ''physician assistant'', ''nurse practitioner'', ''social worker'', ''psychologist'', ''pharmacist'', and ''osteopath'' shall have the meanings given such terms for purposes of titles VII and VIII of the Public Health Service Act (42 U.S.C. 292 et seq and 296 et seq.).

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $5,500,000 for each of fiscal years 2002 through 2006, of which $1,000,000 in each such fiscal year shall be made available to the Substance Abuse and Mental Health Services Administration and $4,500,000 in each such fiscal year shall be made available to the Health Resources and Services Administration, to carry out this section. Amounts made available under this subsection shall be used to supplement and not supplant amounts being used on the date of enactment of this Act for activities of the types described in this section.

SEC. 4. SUBSTANCE ABUSE FACULTY FELLOWSHIP.

(a) ESTABLISHMENT.—The Secretary of Health and Human Services (referred to in this section as the ''Secretary'') shall establish and administer a substance abuse faculty fellowship program under which the Secretary shall provide assistance to eligible institutions to enable such institutions to employ individuals to serve as faculty and provide substance abuse training in a multidiscipline manner.

(b) ELIGIBILITY.—

(1) INSTITUTIONS.—To be eligible to receive assistance under this section, an institution shall—

(A) be an accredited medical school or nursing school, or be an institution of higher education that offers one or more of the following—

(i) an accredited physician assistant program;

(ii) an accredited nurse practitioner program;

(iii) a graduate program in pharmacy;

(iv) a graduate program in public health;

(v) a graduate program in social work; or

(vi) a graduate program in psychology; and

(B) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) INDIVIDUALS.—To be eligible to receive a fellowship from an eligible institution under this section, an individual shall prepare and submit to the institution an application at such time, in such manner, and containing such information as the institution may require.

(c) USE OF FUNDS.—

(1) IN GENERAL.—An eligible institution shall utilize assistance received under this section to provide one or more fellowships to eligible individuals. Such assistance shall be used to pay not to exceed 50 percent of the annual salary of the individual under such a fellowship for a 5-year period.

(2) FELLOWSHIPS.—Under a fellowship under paragraph (1), an individual shall—

(A) devote a substantial number of teaching hours to substance abuse issues (as part of both required and elective courses) at the institution involved during the period of the fellowship; and

(B) attempt to incorporate substance abuse issues into the required curriculum of the institution in a manner that is likely to be sustained after the period of the fellowship ends.

Courses described in this paragraph should by taught as part of several different health care training programs at the institution involved.

(3) EVALUATIONS.—The Secretary shall conduct a process and outcome evaluation of the programs and activities carried out with amounts appropriated under this section and shall provide semi-annual reports to the Director of the Office of National Drug Control Policy and the Secretary of Health and Human Services.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $3,500,000 for each of the fiscal years 2002 through 2006. Amounts made available under this subsection shall be used to supplement and not supplant amounts being used on the date of enactment of this Act for activities of the types described in this section.

SEC. 5. OVERSIGHT COMMITTEE.

(a) IN GENERAL.—The Director of the Office of National Drug Control Policy shall convene an interagency oversight committee, composed of representatives of the Health Resources and Services Administration, as well as the National Institute on Drug Abuse, the National Institute on Alcohol Abuse and Alcoholism, the Substance Abuse and Mental Health Services Administration, and the National Institute on Mental Health, and non-governmental organizations determined to be experts in the field of substance abuse, to receive updates concerning and coordinate the Federal activities funded under this Act and the activities of various Federal agencies, toward the goal of educating health professionals about substance abuse.

(b) MEETINGS.—The interagency oversight committee established under subsection (a) shall meet at least twice each year at the call of the Director of the Office of National Drug Control Policy.

By Mr. HOLLINGS:

S. 1968. A bill to authorize the Secretary of Transportation to issue a certificate of documentation and coastwise trade endorsement for the vessel *The Islander*; to the Committee on Commerce, Science, and Transportation.

Mr. HOLLINGS. Mr. President, I am introducing a bill today to direct that the vessel *The Islander*, Official Number SC9279BJ, be accorded coastwise trading privileges and be issued a certificate of documentation under section 12103 of title 46, of the U.S. Code.

The Islander is a commuter launch vessel that is intended for commercial use. It is 40 feet in length, and 13 feet in breadth, has a draw of 3 and one half feet, and is self-propelled.

The vessel was purchased by Robert ''Scott'' Fales of Charleston, South Carolina, who purchased it with the intention of using it for the transportation of passengers. However, proof of the origin of this vessel is unknown, and it did not meet the requirements for coastwise license endorsement in the United States. Such documentation is mandatory to enable the owner to use the vessel for its intended purposes. The ship was bought from a boatyard and was built by the Wyman Company. Although records show that the Wyman Companies were based in New Haven, CT, Mr. Fales has been unable to provide conclusive proof that the vessel was U.S. built. He has invested a considerable amount of money in the vessel, and without a Jones Act waiver for the ship, he will be forced to sell it.

Mr. Fales is seeking this waiver because his plans to use the vessel for the transportation of passengers. This usage will not adversely affect the coastwise trade in the U.S. waters. If he is granted this waiver, it is his intention the comply fully with U.S. documentation and safety requirements.

By Mr. HUTCHINSON (for himself, Mr. LOTT, and Mr. GREGG):

S. 1969. A bill to amend title I of the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to provide additional protections to participants and beneficiaries in individual account plans from excessive investment in employer securities and to promote the provision of retirement investment advice to workers managing their retirement income assets, and to amend the Securities Exchange Act of 1934 to prohibit insider trades during any suspension of the ability of plan participants or beneficiaries to direct investment away from equity securities of the plan sponsor; to the Committee on Health, Education, Labor, and Pensions.

Mr. HUTCHINSON. Mr. President, today I am introducing legislation along with Senator LOTT and Senator GREGG which will protect the security of American workers retirement plans without chilling their growth. The Pension Security Act of 2002 is based on President Bush's proposal for pension reform made earlier this month. The President's proposal enhances protections for the 401(k) investments of 42 million American workers by providing individuals with better information about their accounts and significantly more control over their funds.

The success of private pension plans has transformed worker retirement in America. Today, because of these

plans, the majority of retirees can experience the comfortable retirement that was once available only to few. But as the Enron situation has shown us, there are flaws in the system. When Enron stock plummeted 98.8 percent in one year, thousands of workers lost their retirement nesteggs.

What could have prevented such massive losses? For some workers, better information about the wisdom of a diversified investment strategy would have prevented such heavy investment in company stock.

Our bill will give employees better investment information in two ways. First, it will require plans to send quarterly benefits statement to plan participants. This statement will include easy-to-understand information about the importance of a well-balanced and diversified portfolio and the risk of holding a substantial portion of the portfolio in one security. Second, our bill amends complex and outdated laws, although intended to protect workers retirement funds, actually prevent them from obtaining affordable financial advice. This legislation will help employers to provide their workers with access to professional investment advice. This benefit would require full disclosure of any fees or potential conflicts and put strict safeguards in place to ensure that workers receive advice solely in their best interests.

What else could have prevented the loss of so many Enron employees' retirement savings? Many were unable to control what was in their portfolio. Even when they wanted to sell off their company stock, they could not. Our bill addresses this problem as well. Under our proposal, workers could no longer be locked into a portfolio halffilled with company stock until retirement age. Rather, employees would be allowed to control 100 percent of their investment once they have participated in their plan for three years.

Some Enron employees could not diversify their stock when they wanted to because of the well-publicized ''black-out'' or ''lockdown'' period. The Department of Labor is investigating several aspects of the practice of instituting black-out periods for necessary record-keeping adjustments and improvements. However, what has become obvious is that this practice needs legislative guidance. Our bill provides that guidance by requiring 30 days prior notice of any black-out period and codifying definitions associated with the practice. We are also proposing another measure to give workers more control over their investments. During these black-out periods, the law will place the entire burden of liability on the plan. This means that the plan providers would be personally liable for losses to the place caused by a breech of fiduciary duty, and this will be a powerful incentive to keep blackout periods as short as possible.

One of the most infuriating spectacles of the Enron disaster was the Enron executives selling off their own personal shares of company stock while employees were prevented from doing the same during the black-out period. This was unconscionable, and our bill will put a stop to it. If this bill is enacted, what is good for the goose will be good for the gander. If workers cannot control their retirement investments due to a black-out period, neither can the company's owners, directors or officers purchase, acquire, transfer or sell company stock. That change will be a major incentive for companies to keep the necessary periods of time when employees do not control their investments as short as possible.

The proposal we are introducing here today will give workers better information, more choice in their investment options, and more security with their retirement funds. In order to prevent a knee-jerk reaction to the Enron tragedy, which could cause more harm than good, the President has given us a plan which makes retirement savings more secure while also preserving the ability of individuals to make their own choices, based on their own situation, when investing for their retirement. This bill not only preserves this right, it enhances it.

Finally I would like to thank my colleagues Senator GREGG and Senator LOTT for joining me in introducing this bill. This bill is important, and we will work tirelessly to see that America's workers and their retirement security are protected. I thank the President for his leadership on this issue and I commend Congressmen JOHN BOEHNER and SAM JOHNSON for introducing this bill in the House.

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. 1969

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 ''Pension Security Act of 2002''.

SEC. 2. IMPROVED DISCLOSURE OF PENSION BENEFIT INFORMATION BY INDIVIDUAL ACCOUNT PLANS.

(a) PENSION BENEFIT STATEMENTS REQUIRED ON PERIODIC BASIS.—

(1) IN GENERAL.—Subsection (a) of section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by inserting ''and, in the case of an applicable individual account plan, shall furnish at least quarterly to each plan participant (and to each beneficiary with a right to direct investments),'' after ''who so requests in writing,''.

(2) INFORMATION REQUIRED FROM INDIVIDUAL ACCOUNT PLANS.—Section 105 of such Act (29 U.S.C. 1025) is amended by adding at the end the following new subsection:

''(e)(1) The quarterly statements required under subsection (a) shall include (together with the information required in subsection (a)) the following:

''(A) the value of investments allocated to the individual account, including the value of any assets held in the form of employer securities, without regard to whether such securities were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and an explanation of any limitations or restrictions on the right of the participant or beneficiary to direct an investment; and

''(B) an explanation, written in a manner calculated to be understood by the average plan participant, of the importance, for the long-term retirement security of participants and beneficiaries, of a well-balanced and diversified investment portfolio, including a discussion of the risk of holding substantial portions of a portfolio in the security of any one entity, such as employer securities.''.

(3) DEFINITION OF APPLICABLE INDIVIDUAL ACCOUNT PLAN.—Section 3 of such Act (29 U.S.C. 1002) is amended by adding at the end the following new subsection:

''(42) The term 'applicable individual account plan' means any individual account plan, except that such term does not include an employee stock ownership plan (within the meaning of section 4975(e)(7) of the Internal Revenue Code of 1986) unless there are any contributions to such plan (or earnings thereunder) held within such plan that are subject to subsection (k)(3) or (m)(2) of section 401 of the Internal Revenue Code of 1986.''.

(b) CIVIL PENALTIES FOR FAILURE TO PROVIDE QUARTERLY BENEFIT STATEMENTS.—Section 502 of such Act (29 U.S.C. 1132) is amended—

(1) in subsection (a)(6), by striking ''(5), or (6)'' and inserting ''(5), (6), or (7)'';

(2) by redesignating paragraph (7) of subsection (c) as paragraph (8); and

(3) by inserting after paragraph (6) of subsection (c) the following new paragraph:

''(7) The Secretary may assess a civil penalty against any plan administrator of up to $1,000 a day from the date of such plan administrator's failure or refusal to provide participants or beneficiaries with a benefit statement on at least a quarterly basis in accordance with section 105(a).''.

SEC. 3. PROTECTION FROM SUSPENSIONS, LIMITATIONS, OR RESTRICTIONS ON ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT OR DIVERSIFY PLAN ASSETS.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(1) by redesignating the second subsection (h) as subsection (j); and

(2) by inserting after the first subsection (h) the following new subsection:

''(i) NOTICE OF SUSPENSION, LIMITATION, OR RESTRICTION ON ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS IN INDIVIDUAL ACCOUNT PLAN.—

''(1) IN GENERAL.—In the case of an applicable individual account plan, the administrator shall notify participants and beneficiaries of any action that would have the affect of suspending, limiting, or restricting the ability of participants or beneficiaries to direct or diversify assets credited to their accounts.

''(2) NOTICE REQUIREMENTS.—

''(A) IN GENERAL.—The notices described in paragraph (1) shall—

''(i) be written in a manner calculated to be understood by the average plan participant and shall include the reasons for the suspension, limitation, or restriction, an identification of the investments affected, and the expected period of the suspension, limitation, or restriction, and

''(ii) be furnished at least 30 days in advance of the action suspending, limiting, or restricting the ability of the participants or beneficiaries to direct or diversify assets.

''(B) EXCEPTION TO 30-DAY NOTICE REQUIREMENT.—In any case in which—

''(i) a fiduciary of the plan determines, in writing, that a deferral of the suspension, limitation, or restriction would violate the requirements of subparagraph (A) or (B) of section 404(a)(1), or

''(ii) the inability to provide the 30-day advance notice is due to circumstances beyond the reasonable control of the plan administrator,

subparagraph (A)(ii) shall not apply, and the notice shall be furnished as soon as reasonably possible under the circumstances.

''(3) CHANGES IN EXPECTED PERIOD OF SUSPENSION, LIMITATION, OR RESTRICTION.—If, following the furnishing of the notice pursuant to this subsection, there is a change in the expected period of the suspension, limitation, or restriction on the right of a participant or beneficiary to direct or diversify assets, the administrator shall provide affected participants and beneficiaries advance notice of the change. Such notice shall meet the requirements of paragraph (2)(A)(i) in relation to the extended suspension, limitation, or restriction.''.

(b) CIVIL PENALTIES FOR FAILURE TO PROVIDE NOTICE.—Section 502 of such Act (as amended by section 2(b)) is amended—

(1) in subsection (a)(6), by striking ''(6), or (7)'' and inserting ''(6), (7), or (8)'';

(2) by redesignating paragraph (8) of subsection (c) as paragraph (9); and

(3) by inserting after paragraph (7) of subsection (c) the following new paragraph:

''(8) The Secretary may assess a civil penalty against any person of up to $100 a day from the date of the person's failure or refusal to provide notice to participants and beneficiaries in accordance with section 101(i). For purposes of this paragraph, each violation with respect to any single participant or beneficiary, shall be treated as a separate violation.''.

(c) INAPPLICABILITY OF RELIEF FROM FIDUCIARY LIABILITY DURING SUSPENSION OF ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS.—Section 404(c)(1) of such Act (29 U.S.C. 1104(c)(1)) is amended—

(1) in subparagraph (B), by inserting before the period the following: '', except that this subparagraph shall not apply for any period during which the ability of a participant or beneficiary to direct the investment of assets in his or her individual account is suspended by a plan sponsor or fiduciary''; and

(2) by adding at the end the following:

''Any limitation or restriction that may govern the frequency of transfers between investment vehicles shall not be treated as a suspension referred to in subparagraph (B) to the extent such limitation or restriction is disclosed to participants or beneficiaries through the summary plan description or materials describing specific investment alternatives under the plan.''.

SEC. 4. LIMITATIONS ON RESTRICTIONS OF INVESTMENTS IN EMPLOYER SECURITIES.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 407 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1107) is amended by adding at the end the following new subsection:

''(g)(1) An applicable individual account plan may not acquire or hold any employer securities with respect to which there is any restriction on divestment by a participant or beneficiary on or after the date on which the participant has completed 3 years of participation (as defined in section 204(b)(4)) under the plan or (if the plan so provides) 3 years of service (as defined in section 203(b)(2)) with the employer.

''(2) For purposes of paragraph (1), the term 'restriction on divestment' includes—

''(A) any failure to offer at least 3 diversified investment options in which a participant or beneficiary may direct the proceeds from the divestment of employer securities, and

''(B) any restriction on the ability of a participant or beneficiary to choose from all otherwise available investment options in which such proceeds may be so directed.''.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Subsection (a) of section 401 of the Internal Revenue Code of 1986 (relating to requirements for qualification) is amended by inserting after paragraph (34) the following new paragraph:

''(35) LIMITATIONS ON RESTRICTIONS UNDER APPLICABLE DEFINED CONTRIBUTION PLANS ON INVESTMENTS IN EMPLOYER SECURITIES.—

''(A) IN GENERAL.—A trust forming a part of an applicable defined contribution plan shall not constitute a qualified trust under this subsection if the plan acquires or holds any employer securities with respect to which there is any restriction on divestment by a participant or beneficiary on or after the date on which the participant has completed 3 years of participation (as defined in section 411(b)(4)) under the plan or (if the plan so provides) 3 years of service (as defined in section 411(a)(5)) with the employer.

''(B) DEFINITIONS.—For purposes of subparagraph (A)—

''(i) APPLICABLE DEFINED CONTRIBUTION PLAN.—The term 'applicable defined contribution plan' means any defined contribution plan, except that such term does not include an employee stock ownership plan (as defined in section 4975(e)(7)) unless there are any contributions to such plan (or earnings thereunder) held within such plan that are subject to subsections (k)(3) or (m)(2).

''(ii) RESTRICTION ON DIVESTMENT.—The term 'restriction on divestment' includes—

''(I) any failure to offer at least 3 diversified investment options in which a participant or beneficiary may direct the proceeds from the divestment of employer securities, and

''(II) any restriction on the ability of a participant or beneficiary to choose from all otherwise available investment options in which such proceeds may be so directed.''.

(2) CONFORMING AMENDMENT.—Section 401(a)(28)(B) of such Code (relating to diversification of investments) is amended by adding at the end the following new clause:

''(v) EXCEPTION.—This subparagraph shall not apply to an applicable defined contribution plan (as defined in paragraph (35)(B)(i)).''.

SEC. 5. PROHIBITED TRANSACTION EXEMPTION FOR THE PROVISION OF INVESTMENT ADVICE.

(a) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Section 408(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

''(14)(A) Any transaction described in subparagraph (B) in connection with the provision of investment advice described in section 3(21)(A)(ii), in any case in which—

''(i) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

''(ii) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

''(iii) the requirements of subsection (g) are met in connection with the provision of the advice.

''(B) The transactions described in this subparagraph are the following:

''(i) the provision of the advice to the plan, participant, or beneficiary;

''(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

''(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.''.

(2) REQUIREMENTS.—Section 408 of such Act is amended by adding at the end the following new subsection:

''(g) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—

''(1) IN GENERAL.—The requirements of this subsection are met in connection with the provision of investment advice referred to in section 3(21)(A)(ii), provided to an employee benefit plan or a participant or beneficiary of an employee benefit plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

''(A) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

''(i) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

''(ii) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

''(iii) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

''(iv) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser, and

''(v) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice,

''(B) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

''(C) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

''(D) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

''(E) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

''(2) STANDARDS FOR PRESENTATION OF INFORMATION.—The notification required to be

provided to participants and beneficiaries under paragraph (1)(A) 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.

''(3) EXEMPTION CONDITIONED ON CONTINUED AVAILABILITY OF REQUIRED INFORMATION ON REQUEST FOR 1 YEAR.—The requirements of paragraph (1)(A) shall be deemed not to have been met in connection with the initial or any subsequent provision of advice described in paragraph (1) 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 clauses (i) through (iv) of subparagraph (A) in currently accurate form and in the manner described in paragraph (2) or fails—

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

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

''(C) in the event of a material change to the information described in clauses (i) through (iv) of paragraph (1)(A), 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.

''(4) MAINTENANCE FOR 6 YEARS OF EVIDENCE OF COMPLIANCE.—A fiduciary adviser referred to in paragraph (1) who has provided advice referred to in such paragraph 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 subsection and of subsection (b)(14) have been met. A transaction prohibited under section 406 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.

''(5) EXEMPTION FOR PLAN SPONSOR AND CERTAIN OTHER FIDUCIARIES.—

''(A) IN GENERAL.—Subject to subparagraph (B), 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 part solely by reason of the provision of investment advice referred to in section 3(21)(A)(ii) (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 subsection, and

''(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.

''(B) CONTINUED DUTY OF PRUDENT SELECTION OF ADVISER AND PERIODIC REVIEW.—Nothing in subparagraph (A) shall be construed to exempt a plan sponsor or other person who is a fiduciary from any requirement of this part for the prudent selection and periodic review of a fiduciary adviser with whom the plan sponsor or other person enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii). The plan sponsor or other person who is a fiduciary has no duty under this part to monitor the specific investment advice given by the fiduciary adviser to any particular recipient of the advice.

''(C) AVAILABILITY OF PLAN ASSETS FOR PAYMENT FOR ADVICE.—Nothing in this part shall be construed to preclude the use of plan assets to pay for reasonable expenses in providing investment advice referred to in section 3(21)(A)(ii).

''(6) DEFINITIONS.—For purposes of this subsection and subsection (b)(14)—

''(A) 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 section 408(b)(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 clauses (i) through (iv), or

''(vi) an employee, agent, or registered representative of a person described in any of clauses (i) through (v) who satisfies the requirements of applicable insurance, banking, and securities laws relating to the provision of the advice.

''(B) 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))).

''(C) 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).''.

(b) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) EXEMPTION FROM PROHIBITED TRANSACTIONS.—Subsection (d) of section 4975 of the Internal Revenue Code of 1986 (relating to exemptions from tax on prohibited transactions) is amended—

(A) in paragraph (14), by striking ''or'' at the end;

(B) in paragraph (15), by striking the period at the end and inserting ''; or''; and

(C) by adding at the end the following new paragraph:

''(16) any transaction described in subsection (f)(7)(A) in connection with the provision of investment advice described in subsection (e)(3)(B), in any case in which—

''(A) the investment of assets of the plan is subject to the direction of plan participants or beneficiaries,

''(B) the advice is provided to the plan or a participant or beneficiary of the plan by a fiduciary adviser in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of plan assets, and

''(C) the requirements of subsection (f)(7)(B) are met in connection with the provision of the advice.''.

(2) ALLOWED TRANSACTIONS AND REQUIREMENTS.—Subsection (f) of such section 4975 (relating to other definitions and special rules) is amended by adding at the end the following new paragraph:

''(7) PROVISIONS RELATING TO INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—

''(A) TRANSACTIONS ALLOWABLE IN CONNECTION WITH INVESTMENT ADVICE PROVIDED BY FIDUCIARY ADVISERS.—The transactions referred to in subsection (d)(16), in connection with the provision of investment advice by a fiduciary adviser, are the following:

''(i) the provision of the advice to the plan, participant, or beneficiary;

''(ii) the sale, acquisition, or holding of a security or other property (including any lending of money or other extension of credit associated with the sale, acquisition, or holding of a security or other property) pursuant to the advice; and

''(iii) the direct or indirect receipt of fees or other compensation by the fiduciary adviser or an affiliate thereof (or any employee, agent, or registered representative of the fiduciary adviser or affiliate) in connection with the provision of the advice or in connection with a sale, acquisition, or holding of a security or other property pursuant to the advice.

''(B) REQUIREMENTS RELATING TO PROVISION OF INVESTMENT ADVICE BY FIDUCIARY ADVISERS.—The requirements of this subparagraph (referred to in subsection (d)(16)(C)) are met in connection with the provision of investment advice referred to in subsection (e)(3)(B), provided to a plan or a participant or beneficiary of a plan by a fiduciary adviser with respect to the plan in connection with any sale, acquisition, or holding of a security or other property for purposes of investment of amounts held by the plan, if—

''(i) in the case of the initial provision of the advice with regard to the security or other property by the fiduciary adviser to the plan, participant, or beneficiary, the fiduciary adviser provides to the recipient of the advice, at a time reasonably contemporaneous with the initial provision of the advice, a written notification (which may consist of notification by means of electronic communication)—

''(I) of all fees or other compensation relating to the advice that the fiduciary adviser or any affiliate thereof is to receive (including compensation provided by any third party) in connection with the provision of the advice or in connection with the sale, acquisition, or holding of the security or other property,

''(II) of any material affiliation or contractual relationship of the fiduciary adviser or affiliates thereof in the security or other property,

''(III) of any limitation placed on the scope of the investment advice to be provided by the fiduciary adviser with respect to any such sale, acquisition, or holding of a security or other property,

''(IV) of the types of services provided by the fiduciary adviser in connection with the provision of investment advice by the fiduciary adviser, and

''(V) that the adviser is acting as a fiduciary of the plan in connection with the provision of the advice,

''(ii) the fiduciary adviser provides appropriate disclosure, in connection with the sale, acquisition, or holding of the security or other property, in accordance with all applicable securities laws,

''(iii) the sale, acquisition, or holding occurs solely at the direction of the recipient of the advice,

''(iv) the compensation received by the fiduciary adviser and affiliates thereof in connection with the sale, acquisition, or holding of the security or other property is reasonable, and

''(v) the terms of the sale, acquisition, or holding of the security or other property are at least as favorable to the plan as an arm's length transaction would be.

''(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)(ii) 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—EXPRESSING 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;