

revocation proceedings for repeated violations of its indecency rules;

(6) the Federal Communications Commission should resolve all indecency complaints expeditiously, and should consider reviewing such complaints at the full Commission level; and

(7) the Federal Communications Commission should aggressively investigate and enforce all indecency allegations.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 2227. Mr. FRIST (for Mr. GRASSLEY) proposed an amendment to the bill H.R. 743, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes.

SA 2228. Mr. FRIST (for Mr. ALEXANDER) proposed an amendment to the bill H.R. 2264, An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes.

SA 2229. Mr. FRIST (for Mr. ALEXANDER) proposed an amendment to the bill H.R. 2264, supra.

SA 2230. Mr. FRIST (for Mr. LEVIN) proposed an amendment to the bill S. 1267, to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes.

SA 2231. Mr. FRIST (for Mr. HATCH) proposed an amendment to the bill S. 1177, to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes.

#### TEXT OF AMENDMENTS

SA 2227. Mr. FRIST (for Mr. GRASSLEY) proposed an amendment to the bill H.R. 743, to amend the Social Security Act and the Internal Revenue Code of 1986 to provide additional safeguards for Social Security and Supplemental Security Income beneficiaries with representative payees, to enhance program protections, and for other purposes; as follows:

On page 83, strike lines 14 through 16, and insert “807(i) of the Social Security Act (42 U.S.C. 1007(i)) is amended further by inserting after the”.

Beginning on page 112, strike line 16 and all that follows through page 113, line 6, and insert the following:

“(c)(1) In addition to the amount otherwise appropriated in any other law to carry out subsection (a) for fiscal year 2004, up to \$8,500,000 is authorized and appropriated and shall be used by the Commissioner of Social Security under this subsection for purposes of conducting a statistically valid survey to determine how payments made to individuals, organizations, and State or local government agencies that are representative payees for benefits paid under title II or XVI are being managed and used on behalf of the beneficiaries for whom such benefits are paid.

“(2) Not later than 18 months after the date of enactment of this subsection, the Commissioner of Social Security shall submit a report on the survey conducted in accordance with paragraph (1) to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.”.

Beginning on page 118, strike line 19 and all that follows through page 123, line 12, and insert the following:

#### SEC. 203. DENIAL OF TITLE II BENEFITS TO PERSONS FLEEING PROSECUTION, CUSTODY, OR CONFINEMENT, AND TO PERSONS VIOLATING PROBATION OR PAROLE.

(a) IN GENERAL.—Section 202(x) of the Social Security Act (42 U.S.C. 402(x)) is amended—

(1) in the heading, by striking “Prisoners” and all that follows and inserting the following: “Prisoners, Certain Other Inmates of Publicly Funded Institutions, Fugitives, Probationers, and Parolees”;

(2) in paragraph (1)(A)(ii)(IV), by striking “or” at the end;

(3) in paragraph (1)(A)(iii), by striking the period at the end and inserting a comma;

(4) by inserting after paragraph (1)(A)(iii) the following:

“(iv) is fleeing to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which the person flees, for a crime, or an attempt to commit a crime, which is a felony under the laws of the place from which the person flees, or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed, or

“(v) is violating a condition of probation or parole imposed under Federal or State law.”;

(5) by adding at the end of paragraph (1)(B) the following:

“(iii) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

“(I) a court of competent jurisdiction has found the individual not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the individual for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

“(II) the individual was erroneously implicated in connection with the criminal offense by reason of identity fraud.

“(iv) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, pay the individual benefits that have been withheld or would otherwise be withheld pursuant to clause (iv) or (v) of subparagraph (A) if the Commissioner determines that—

“(I) the offense described in clause (iv) or underlying the imposition of the probation or parole described in clause (v) was non-violent and not drug-related, and

“(II) in the case of an individual from whom benefits have been withheld or otherwise would be withheld pursuant to subparagraph (A)(v), the action that resulted in the violation of a condition of probation or parole was nonviolent and not drug-related.”; and

(6) in paragraph (3), by adding at the end the following:

“(C) Notwithstanding the provisions of section 552a of title 5, United States Code, or any other provision of Federal or State law (other than section 6103 of the Internal Revenue Code of 1986 and section 1106(c) of this Act), the Commissioner shall furnish any Federal, State, or local law enforcement officer, upon the written request of the officer, with the current address, Social Security number, and photograph (if applicable) of any beneficiary under this title, if the officer furnishes the Commissioner with the name of the beneficiary, and other identifying information as reasonably required by the Commissioner to establish the unique identity of the beneficiary, and notifies the Commissioner that—

“(i) the beneficiary is described in clause (iv) or (v) of paragraph (1)(A); and

“(ii) the location or apprehension of the beneficiary is within the officer’s official duties.”.

(b) CONFORMING AMENDMENTS TO TITLE XVI.—Section 1611(e) of the Social Security Act (42 U.S.C. 1382(e)) is amended—

(1) in paragraph (4)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) by inserting “(A)” after “(4)”;

(C) in clause (i) of subparagraph (A) (as redesignated by subparagraph (A)), by striking “or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State” and inserting “or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed”; and

(D) by adding at the end the following:

“(B) Notwithstanding subparagraph (A), the Commissioner shall, for good cause shown, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

“(i) a court of competent jurisdiction has found the person not guilty of the criminal offense, dismissed the charges relating to the criminal offense, vacated the warrant for arrest of the person for the criminal offense, or issued any similar exonerating order (or taken similar exonerating action), or

“(ii) the person was erroneously implicated in connection with the criminal offense by reason of identity fraud.

“(C) Notwithstanding subparagraph (A), the Commissioner may, for good cause shown based on mitigating circumstances, treat the person referred to in subparagraph (A) as an eligible individual or eligible spouse if the Commissioner determines that—

“(i) the offense described in subparagraph (A)(i) or underlying the imposition of the probation or parole described in subparagraph (A)(ii) was nonviolent and not drug-related, and

“(ii) in the case of a person who is not considered an eligible individual or eligible spouse pursuant to subparagraph (A)(ii), the action that resulted in the violation of a condition of probation or parole was non-violent and not drug-related.”; and

(2) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:

“(A) the recipient is described in clause (i) or (ii) of paragraph (4)(A); and

“(B) the location or apprehension of the recipient is within the officer’s official duties.”.

(c) CONFORMING AMENDMENT.—Section 804(a)(2) of the Social Security Act (42 U.S.C. 1004(a)(2)) is amended by striking “or which, in the case of the State of New Jersey, is a high misdemeanor under the laws of such State” and inserting “or, in jurisdictions that do not define crimes as felonies, is punishable by death or imprisonment for a term exceeding 1 year regardless of the actual sentence imposed”.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins on or after the date that is 9 months after the date of enactment of this Act.

On page 126, beginning on line 22, strike “guilty of” and all that follows through “shall be” on line 26, and insert “fined not more than \$5,000, imprisoned not more than 3 years, or both, except that if the offense is committed only by threats of force, the person shall be”.

Beginning on page 129, strike line 16 and all that follows through page 132, line 11, and insert the following:

**SEC. 209. AUTHORITY FOR JUDICIAL ORDERS OF RESTITUTION.**

(a) AMENDMENTS TO TITLE II.—Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(2) by inserting after subsection (a) the following:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the victims of such offense specified in paragraph (4).

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution to victims of such offense under this subsection.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

“(4) For purposes of paragraphs (1) and (2), the victims of an offense under subsection (a) are the following:

“(A) Any individual who suffers a financial loss as a result of the defendant’s violation of subsection (a).

“(B) The Commissioner of Social Security, to the extent that the defendant’s violation of subsection (a) results in—

“(i) the Commissioner of Social Security making a benefit payment that should not have been made; or

“(ii) an individual suffering a financial loss due to the defendant’s violation of subsection (a) in his or her capacity as the individual’s representative payee appointed pursuant to section 205(j).

“(5)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited in the Federal Old-Age and Survivors Insurance Trust Fund, or the Federal Disability Insurance Trust Fund, as appropriate.

“(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (4)(B)(ii), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual’s outstanding financial loss, except that such amount may be reduced by the amount of any overpayments of benefits owed under this title, title VIII, or title XVI by the individual.”; and

(3) by amending subsection (c) (as redesignated by paragraph (1)), by striking the second sentence.

(b) AMENDMENTS TO TITLE VIII.—Section 811 of the Social Security Act (42 U.S.C. 1011) is amended—

(1) by striking subsection (b) and inserting the following:

“(b) COURT ORDER FOR RESTITUTION.—

“(1) IN GENERAL.—Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

“(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

“(B) an individual suffering a financial loss due to the defendant’s violation of subsection (a) in his or her capacity as the individual’s representative payee appointed pursuant to section 807(i).

“(2) RELATED PROVISIONS.—Sections 3612, 3663, and 3664 of title 18, United States Code,

shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

“(3) STATED REASONS FOR NOT ORDERING RESTITUTION.—If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

“(4) RECEIPT OF RESTITUTION PAYMENTS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

“(B) PAYMENT TO THE INDIVIDUAL.—In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual’s outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title XVI by the individual.”

(c) AMENDMENTS TO TITLE XVI.—Section 1632 of the Social Security Act (42 U.S.C. 1383a) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following:

“(b)(1) Any Federal court, when sentencing a defendant convicted of an offense under subsection (a), may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Commissioner of Social Security, in any case in which such offense results in—

“(A) the Commissioner of Social Security making a benefit payment that should not have been made, or

“(B) an individual suffering a financial loss due to the defendant’s violation of subsection (a) in his or her capacity as the individual’s representative payee appointed pursuant to section 1631(a)(2).

“(2) Sections 3612, 3663, and 3664 of title 18, United States Code, shall apply with respect to the issuance and enforcement of orders of restitution under this subsection. In so applying such sections, the Commissioner of Social Security shall be considered the victim.

“(3) If the court does not order restitution, or orders only partial restitution, under this subsection, the court shall state on the record the reasons therefor.

“(4)(A) Except as provided in subparagraph (B), funds paid to the Commissioner of Social Security as restitution pursuant to a court order shall be deposited as miscellaneous receipts in the general fund of the Treasury.

“(B) In the case of funds paid to the Commissioner of Social Security pursuant to paragraph (1)(B), the Commissioner of Social Security shall certify for payment to the individual described in such paragraph an amount equal to the lesser of the amount of the funds so paid or the individual’s outstanding financial loss as described in such paragraph, except that such amount may be reduced by any overpayment of benefits owed under this title, title II, or title VIII by the individual.”; and

(3) by amending subsection (c) (as redesignated by paragraph (1)) by striking “(1) If a person” and all that follows through “(2)”.

(d) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall apply with respect to violations occurring on or after the date of enactment of this Act.

Beginning on page 132, strike line 12 and all that follows through page 133, line 18.

On page 133, line 19, strike “211” and insert “210”.

On page 138, line 17, strike “212” and insert “211”.

On page 139, strike lines 5 through 11, and insert the following:

“(c) For purposes of subsections (a) and (b), the criterion specified in this subsection is that the individual, if not a United States citizen or national—

“(1) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

“(2) at the time any such quarters of coverage are earned—

“(A) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

“(B) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

“(C) the business engaged in or service as a crewman performed is within the scope of the terms of such individual’s admission to the United States.”

On page 139, strike lines 18 through 22, and insert the following:

“(C) if not a United States citizen or national—

“(i) has been assigned a social security account number that was, at the time of assignment, or at any later time, consistent with the requirements of subclause (I) or (III) of section 205(c)(2)(B)(i); or

“(ii) at the time any quarters of coverage are earned—

“(I) is described in subparagraph (B) or (D) of section 101(a)(15) of the Immigration and Nationality Act,

“(II) is lawfully admitted temporarily to the United States for business (in the case of an individual described in such subparagraph (B)) or the performance as a crewman (in the case of an individual described in such subparagraph (D)), and

“(III) the business engaged in or service as a crewman performed is within the scope of the terms of such individual’s admission to the United States.”

On page 139, line 24, strike “filed” and insert “based on social security account numbers issued”.

Beginning on page 141, strike line 9 and all that follows through page 143, line 23, and insert the following:

**SEC. 302. TEMPORARY EXTENSION OF ATTORNEY FEE PAYMENT SYSTEM TO TITLE XVI CLAIMS.**

(a) IN GENERAL.—Section 1631(d)(2) of the Social Security Act (42 U.S.C. 1383(d)(2)) is amended—

(1) in subparagraph (A), in the matter preceding clause (i)—

(A) by striking “section 206(a)” and inserting “section 206”;

(B) by striking “(other than paragraph (4) thereof)” and inserting “(other than subsections (a)(4) and (d) thereof)”; and

(C) by striking “paragraph (2) thereof” and inserting “such section”;

(2) in subparagraph (A)(i)—

(A) by striking “in subparagraphs (A)(ii)(I) and (C)(i),” and inserting “in subparagraphs (A)(ii)(I) and (D)(i) of subsection (a)(2)”; and

(B) by striking “and” at the end;

(3) by striking subparagraph (A)(ii) and inserting the following:

“(ii) by substituting, in subsections (a)(2)(B) and (b)(1)(B)(i), the phrase ‘paragraph (7)(A) or (8)(A) of section 1631(a) or the requirements of due process of law’ for the phrase ‘subsection (g) or (h) of section 223’;

“(iii) by substituting, in subsection (a)(2)(C)(i), the phrase ‘under title II’ for the phrase ‘under title XVI’;

“(iv) by substituting, in subsection (b)(1)(A), the phrase ‘pay the amount of such fee’ for the phrase ‘certify the amount of such fee for payment’ and by striking, in subsection (b)(1)(A), the phrase ‘or certified for payment’; and

“(v) by substituting, in subsection (b)(1)(B)(ii), the phrase ‘deemed to be such amounts as determined before any applicable reduction under section 1631(g), and reduced by the amount of any reduction in benefits under this title or title II made pursuant to section 1127(a)’ for the phrase ‘determined before any applicable reduction under section 1127(a)’; and

(4) by redesignating subparagraph (B) as subparagraph (D) and inserting after subparagraph (A) the following:

“(B) Subject to subparagraph (C), if the claimant is determined to be entitled to past-due benefits under this title and the person representing the claimant is an attorney, the Commissioner of Social Security shall pay out of such past-due benefits to such attorney an amount equal to the lesser of—

“(i) so much of the maximum fee as does not exceed 25 percent of such past-due benefits (as determined before any applicable reduction under section 1631(g) and reduced by the amount of any reduction in benefits under this title or title II pursuant to section 1127(a)), or

“(ii) the amount of past-due benefits available after any applicable reductions under sections 1631(g) and 1127(a).

“(C)(i) Whenever a fee for services is required to be paid to an attorney from a claimant’s past-due benefits pursuant to subparagraph (B), the Commissioner shall impose on the attorney an assessment calculated in accordance with clause (ii).

“(ii)(I) The amount of an assessment under clause (i) shall be equal to the product obtained by multiplying the amount of the representative’s fee that would be required to be paid by subparagraph (B) before the application of this subparagraph, by the percentage specified in subclause (II), except that the maximum amount of the assessment may not exceed \$75. In the case of any calendar year beginning after the amendments made by section 302 of the Social Security Protection Act of 2003 take effect, the dollar amount specified in the preceding sentence (including a previously adjusted amount) shall be adjusted annually under the procedures used to adjust benefit amounts under section 215(i)(2)(A)(ii), except such adjustment shall be based on the higher of \$75 or the previously adjusted amount that would have been in effect for December of the preceding year, but for the rounding of such amount pursuant to the following sentence. Any amount so adjusted that is not a multiple of \$1 shall be rounded to the next lowest multiple of \$1, but in no case less than \$75.

“(II) The percentage specified in this subclause is such percentage rate as the Commissioner determines is necessary in order to achieve full recovery of the costs of determining and approving fees to attorneys from the past-due benefits of claimants, but not in excess of 6.3 percent.

“(iii) The Commissioner may collect the assessment imposed on an attorney under clause (i) by offset from the amount of the fee otherwise required by subparagraph (B) to be paid to the attorney from a claimant’s past-due benefits.

“(iv) An attorney subject to an assessment under clause (i) may not, directly or indirectly, request or otherwise obtain reimbursement for such assessment from the

claimant whose claim gave rise to the assessment.

“(v) Assessments on attorneys collected under this subparagraph shall be deposited as miscellaneous receipts in the general fund of the Treasury.

“(vi) The assessments authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended, for administrative expenses in carrying out this title and related laws.”

(b) CONFORMING AMENDMENTS.—Section 1631(a) of the Social Security Act (42 U.S.C. 1383(a)) is amended—

(1) in paragraph (2)(F)(i)(II), by inserting “and payment of attorney fees under subsection (d)(2)(B)” after “subsection (g)”; and

(2) in paragraph (10)(A)—

(A) in the matter preceding clause (i), by inserting “and payment of attorney fees under subsection (d)(2)(B)” after “subsection (g)”; and

(B) in the matter following clause (ii), by inserting “and payment of attorney fees under subsection (d)(2)(B)” after “State”.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to fees for representation of claimants which are first required to be paid under section 1631(d)(2) of the Social Security Act on or after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act.

(2) SUNSET.—Such amendments shall not apply with respect to fees for representation of claimants in the case of any claim for benefits with respect to which the agreement for representation is entered into after 5 years after the date described in paragraph (1).

**SEC. 303. NATIONWIDE DEMONSTRATION PROJECT PROVIDING FOR EXTENSION OF FEE WITHHOLDING PROCEDURES TO NON-ATTORNEY REPRESENTATIVES.**

(a) IN GENERAL.—The Commissioner of Social Security (hereafter in this section referred to as the “Commissioner”) shall develop and carry out a nationwide demonstration project under this section with respect to agents and other persons, other than attorneys, who represent claimants under titles II and XVI of the Social Security Act before the Commissioner. The demonstration project shall be designed to determine the potential results of extending to such representatives the fee withholding procedures and assessment procedures that apply under sections 206 and section 1631(d)(2) of such Act to attorneys seeking direct payment out of past due benefits under such titles and shall include an analysis of the effect of such extension on claimants and program administration.

(b) STANDARDS FOR INCLUSION IN DEMONSTRATION PROJECT.—Fee-withholding procedures may be extended under the demonstration project carried out pursuant to subsection (a) to any non-attorney representative only if such representative meets at least the following prerequisites:

(1) The representative has been awarded a bachelor’s degree from an accredited institution of higher education, or has been determined by the Commissioner to have equivalent qualifications derived from training and work experience.

(2) The representative has passed an examination, written and administered by the Commissioner, which tests knowledge of the relevant provisions of the Social Security

Act and the most recent developments in agency and court decisions affecting titles II and XVI of such Act.

(3) The representative has secured professional liability insurance, or equivalent insurance, which the Commissioner has determined to be adequate to protect claimants in the event of malpractice by the representative.

(4) The representative has undergone a criminal background check to ensure the representative’s fitness to practice before the Commissioner.

(5) The representative demonstrates ongoing completion of qualified courses of continuing education, including education regarding ethics and professional conduct, which are designed to enhance professional knowledge in matters related to entitlement to, or eligibility for, benefits based on disability under titles II and XVI of such Act. Such continuing education, and the instructors providing such education, shall meet such standards as the Commissioner may prescribe.

(c) ASSESSMENT OF FEES.—

(1) IN GENERAL.—The Commissioner may assess representatives reasonable fees to cover the cost to the Social Security Administration of administering the prerequisites described in subsection (b).

(2) DISPOSITION OF FEES.—Fees collected under paragraph (1) shall be credited to the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, or deposited as miscellaneous receipts in the general fund of the Treasury, based on such allocations as the Commissioner of Social Security determines appropriate.

(3) AUTHORIZATION OF APPROPRIATIONS.—The fees authorized under this subparagraph shall be collected and available for obligation only to the extent and in the amount provided in advance in appropriations Acts. Amounts so appropriated are authorized to remain available until expended for administering the prerequisites described in subsection (b).

(d) NOTICE TO CONGRESS AND APPLICABILITY OF FEE WITHHOLDING PROCEDURES.—Not later than 1 year after the date of enactment of this Act, the Commissioner shall complete such actions as are necessary to fully implement the requirements for full operation of the demonstration project and shall submit to each House of Congress a written notice of the completion of such actions. The applicability under this section to non-attorney representatives of the fee withholding procedures and assessment procedures under sections 206 and 1631(d)(2) of the Social Security Act shall be effective with respect to fees for representation of claimants in the case of claims for benefits with respect to which the agreement for representation is entered into by such non-attorney representatives during the period beginning with the date of the submission of such notice by the Commissioner to Congress and ending with the termination date of the demonstration project.

(e) REPORTS BY THE COMMISSIONER; TERMINATION.—

(1) INTERIM REPORTS.—On or before the date which is 1 year after the date of enactment of this Act, and annually thereafter, the Commissioner shall transmit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate an annual interim report on the progress of the demonstration project carried out under this section, together with any related data and materials that the Commissioner may consider appropriate.

(2) TERMINATION DATE AND FINAL REPORT.—The termination date of the demonstration project under this section is the date which

is 5 years after the date of the submission of the notice by the Commissioner to each House of Congress pursuant to subsection (d). The authority under the preceding provisions of this section shall not apply in the case of claims for benefits with respect to which the agreement for representation is entered into after the termination date. Not later than 90 days after the termination date, the Commissioner shall submit to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate a final report with respect to the demonstration project.

**SEC. 304. GAO STUDY REGARDING THE FEE PAYMENT PROCESS FOR CLAIMANT REPRESENTATIVES.**

(a) STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall study and evaluate the appointment and payment of claimant representatives appearing before the Commissioner of Social Security in connection with benefit claims under titles II and XVI of the Social Security Act (42 U.S.C. 401 et seq., 1381 et seq.) in each of the following groups:

(A) Attorney claimant representatives who elect fee withholding under section 206 or 1631(d)(2) of such Act.

(B) Attorney claimant representatives who do not elect such fee withholding.

(C) Non-attorney claimant representatives who are eligible for, and elect, such fee withholding.

(D) Non-attorney claimant representatives who are eligible for, but do not elect, such fee withholding.

(E) Non-attorney claimant representatives who are not eligible for such fee withholding.

(2) MATTERS TO BE STUDIED.—In conducting the study under this subsection, the Comptroller General shall, for each of group of claimant representatives described in paragraph (1)—

(A) conduct a survey of the relevant characteristics of such claimant representatives including—

(i) qualifications and experience;

(ii) the type of employment of such claimant representatives, such as with an advocacy group, State or local government, or insurance or other company;

(iii) geographical distribution between urban and rural areas;

(iv) the nature of claimants' cases, such as whether the cases are for disability insurance benefits only, supplemental security income benefits only, or concurrent benefits;

(v) the relationship of such claimant representatives to claimants, such as whether the claimant is a friend, family member, or client of the claimant representative; and

(vi) the amount of compensation (if any) paid to the claimant representatives and the method of payment of such compensation;

(B) assess the quality and effectiveness of the services provided by such claimant representatives, including a comparison of claimant satisfaction or complaints and benefit outcomes, adjusted for differences in claimant representatives' caseload, claimants' diagnostic group, level of decision, and other relevant factors;

(C) assess the interactions between fee withholding under sections 206 and 1631(d)(2) of such Act (including under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this Act), the windfall offset under section 1127 of such Act, and interim assistance reimbursements under section 1631(g) of such Act;

(D) assess the potential results of making permanent the fee withholding procedures under sections 206 and 1631(d)(2) of such Act under the amendments made by section 302 of this Act and under the demonstration project conducted under section 303 of this

Act with respect to program administration and claimant outcomes, and assess whether the rules and procedures employed by the Commissioner of Social Security to evaluate the qualifications and performance of claimant representatives should be revised prior to making such procedures permanent; and

(E) make such recommendations for administrative and legislative changes as the Comptroller General of the United States considers necessary or appropriate.

(3) CONSULTATION REQUIRED.—The Comptroller General of the United States shall consult with beneficiaries under title II of such Act, beneficiaries under title XVI of such Act, claimant representatives of beneficiaries under such titles, and other interested parties, in conducting the study and evaluation required under paragraph (1).

(b) REPORT.—Not later than 3 years after the date of the submission by the Commissioner of Social Security to each House of Congress pursuant to section 303(d) of this Act of written notice of completion of full implementation of the requirements for operation of the demonstration project under section 303 of this Act, the Comptroller General of the United States shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the results of the study and evaluation conducted pursuant to subsection (a).

On page 144, strike lines 7 through 13, and insert the following:

**SEC. 401. APPLICATION OF DEMONSTRATION AUTHORITY SUNSET DATE TO NEW PROJECTS.**

Section 234 of the Social Security Act (42 U.S.C. 434) is amended—

(1) in the first sentence of subsection (c), by striking “conducted under subsection (a)” and inserting “initiated under subsection (a) on or before December 17, 2005”; and

(2) in subsection (d)(2), by striking the first sentence and inserting the following: “The authority to initiate projects under the preceding provisions of this section shall terminate on December 18, 2005.”

On page 149, after line 21, add the following:

**SEC. 407. REAUTHORIZATION OF APPROPRIATIONS FOR CERTAIN WORK INCENTIVES PROGRAMS.**

(a) BENEFITS PLANNING, ASSISTANCE, AND OUTREACH.—Section 1149(d) of the Social Security Act (42 U.S.C. 1320b-20(d)) is amended by striking “2004” and inserting “2009”.

(b) PROTECTION AND ADVOCACY.—Section 1150(h) of the Social Security Act (42 U.S.C. 1320b-21(h)) is amended by striking “2004” and inserting “2009”.

Beginning on page 157, strike line 16 and all that follows through page 158, line 2, and insert the following:

**SEC. 416. COVERAGE UNDER DIVIDED RETIREMENT SYSTEM FOR PUBLIC EMPLOYEES IN KENTUCKY AND LOUISIANA.**

(a) IN GENERAL.—Section 218(d)(6)(C) of the Social Security Act (42 U.S.C. 418(d)(6)(C)) is amended by inserting “Kentucky, Louisiana,” after “Illinois.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on January 1, 2003.

Beginning on page 159, strike line 1 and all that follows through page 166, line 8, and insert the following:

**SEC. 418. 60-MONTH PERIOD OF EMPLOYMENT REQUIREMENT FOR APPLICATION OF GOVERNMENT PENSION OFFSET EXEMPTION.**

(a) IN GENERAL.—Section 202(k) of the Social Security Act (42 U.S.C. 402(k)) is amended by adding at the end the following:

“(5)(A) The amount of a monthly insurance benefit of any individual for each month under subsection (b), (c), (e), (f), or (g) (as de-

termined after application of the provisions of subsection (q) and the preceding provisions of this subsection) shall be reduced (but not below zero) by an amount equal to two-thirds of the amount of any monthly periodic benefit payable to such individual for such month which is based upon such individual's earnings while in the service of the Federal Government or any State (or political subdivision thereof, as defined in section 218(b)(2) if, during any portion of the last 60 months of such service ending with the last day such individual was employed by such entity—

“(i) such service did not constitute ‘employment’ as defined in section 210, or

“(ii) such service was being performed while in the service of the Federal Government, and constituted ‘employment’ as so defined solely by reason of—

“(I) clause (ii) or (iii) of subparagraph (G) of section 210(a)(5), where the lump-sum payment described in such clause (ii) or the cessation of coverage described in such clause (iii) (whichever is applicable) was received or occurred on or after January 1, 1988, or

“(II) an election to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 made pursuant to law after December 31, 1987,

unless subparagraph (B) applies.

The amount of the reduction in any benefit under this subparagraph, if not a multiple of \$0.10, shall be rounded to the next higher multiple of \$0.10.

“(B)(i) Subparagraph (A)(i) shall not apply with respect to monthly periodic benefits based wholly on service as a member of a uniformed service (as defined in section 210(m)).

“(ii) Subparagraph (A)(ii) shall not apply with respect to monthly periodic benefits based in whole or in part on service which constituted ‘employment’ as defined in section 210 if such service was performed for at least 60 months in the aggregate during the period beginning January 1, 1988, and ending with the close of the first calendar month as of the end of which such individual is eligible for benefits under this subsection and has made a valid application for such benefits.

“(C) For purposes of this paragraph, any periodic benefit which otherwise meets the requirements of subparagraph (A), but which is paid on other than a monthly basis, shall be allocated on a basis equivalent to a monthly benefit (as determined by the Commissioner of Social Security) and such equivalent monthly benefit shall constitute a monthly periodic benefit for purposes of subparagraph (A). For purposes of this subparagraph, the term ‘periodic benefit’ includes a benefit payable in a lump sum if it is a commutation of, or a substitute for, periodic payments.”

(b) CONFORMING AMENDMENTS.—

(1) WIFE'S INSURANCE BENEFITS.—Section 202(b) of the Social Security Act (42 U.S.C. 402(b)) is amended—

(A) in paragraph (2), by striking “subsection (q) and paragraph (4) of this subsection” and inserting “subsections (k)(5) and (q)”; and

(B) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4).

(2) HUSBAND'S INSURANCE BENEFITS.—Section 202(c) of the Social Security Act (42 U.S.C. 402(c)) is amended—

(A) by striking paragraph (2) and redesignating paragraphs (3) through (5) as paragraphs (2) through (4), respectively; and

(B) in paragraph (2) as so redesignated, by striking “subsection (q) and paragraph (2) of this subsection” and inserting “subsections (k)(5) and (q)”.

(3) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(A) in paragraph (2)(A), by striking “subsection (q), paragraph (7) of this subsection,” and inserting “subsection (k)(5), subsection (q),”; and

(B) by striking paragraph (7) and redesignating paragraphs (8) and (9) as paragraphs (7) and (8), respectively.

(4) WIDOWER'S INSURANCE BENEFITS.—

(A) IN GENERAL.—Section 202(f) of the Social Security Act (42 U.S.C. 402(f)) is amended—

(i) by striking paragraph (2) and redesignating paragraphs (3) through (9) as paragraphs (2) through (8), respectively; and

(ii) in paragraph (2) as so redesignated, by striking “subsection (q), paragraph (2) of this subsection,” and inserting “subsection (k)(5), subsection (q),”.

(B) CONFORMING AMENDMENTS.—

(i) Section 202(f)(1)(B) of the Social Security Act (42 U.S.C. 402(f)(1)(B)) is amended by striking “paragraph (5)” and inserting “paragraph (4)”.

(ii) Section 202(f)(1)(F) of the Social Security Act (42 U.S.C. 402(f)(1)(F)) is amended by striking “paragraph (6)” and “paragraph (5)” (in clauses (i) and (ii)) and inserting “paragraph (5)” and “paragraph (4)”, respectively.

(iii) Section 202(f)(5)(A)(ii) of the Social Security Act (as redesignated by subparagraph (A)(i)) is amended by striking “paragraph (5)” and inserting “paragraph (4)”.

(iv) Section 202(k)(2)(B) of the Social Security Act (42 U.S.C. 402(k)(2)(B)) is amended by striking “or (f)(4)” each place it appears and inserting “or (f)(3)”.

(v) Section 202(k)(3)(A) of the Social Security Act (42 U.S.C. 402(k)(3)(A)) is amended by striking “or (f)(3)” and inserting “or (f)(2)”.

(vi) Section 202(k)(3)(B) of the Social Security Act (42 U.S.C. 402(k)(3)(B)) is amended by striking “or (f)(4)” and inserting “or (f)(3)”.

(vii) Section 226(e)(1)(A)(i) of the Social Security Act (42 U.S.C. 426(e)(1)(A)(i)) is amended by striking “and 202(f)(5)” and inserting “and 202(f)(4)”.

(5) MOTHER'S AND FATHER'S INSURANCE BENEFITS.—Section 202(g) of the Social Security Act (42 U.S.C. 402(g)) is amended—

(A) in paragraph (2), by striking “Except as provided in paragraph (4) of this subsection, such” and inserting “Such”; and

(B) by striking paragraph (4).

(C) EFFECTIVE DATE AND TRANSITIONAL RULE.—

(1) IN GENERAL.—The amendments made by this section shall apply with respect to applications for benefits under title II of the Social Security Act filed on or after the first day of the first month that begins after the date of enactment of this Act, except that such amendments shall not apply in connection with monthly periodic benefits of any individual based on earnings while in service described in section 202(k)(5)(A) of the Social Security Act (in the matter preceding clause (i) thereof) if the last day of such service occurs before July 1, 2004.

(2) TRANSITIONAL RULE.—In the case of any individual whose last day of service described in subparagraph (A) of section 202(k)(5) of the Social Security Act (as added by subsection (a) of this section) occurs within 5 years after the date of enactment of this Act—

(A) the 60-month period described in such subparagraph (A) shall be reduced (but not to less than 1 month) by the number of months of such service (in the aggregate and without regard to whether such months of service were continuous) which—

(i) were performed by the individual under the same retirement system on or before the date of enactment of this Act, and

(ii) constituted “employment” as defined in section 210 of the Social Security Act; and

(B) months of service necessary to fulfill the 60-month period as reduced by subparagraph (A) of this paragraph must be performed after the date of enactment of this Act.

On page 166, strike line 9 and insert the following:

**SEC. 419. DISCLOSURE TO WORKERS OF EFFECT OF WINDFALL ELIMINATION PROVISION AND GOVERNMENT PENSION OFFSET PROVISION.**

(A) INCLUSION OF NONCOVERED EMPLOYEES AS ELIGIBLE INDIVIDUALS ENTITLED TO SOCIAL SECURITY ACCOUNT STATEMENTS.—Section 1143(a)(3) of the Social Security Act (42 U.S.C. 1320b-13(a)(3)) is amended—

(1) by striking “who” after “an individual” and inserting “who” before “has” in each of subparagraphs (A) and (B);

(2) by inserting “(i) who” after “(C)”; and

(3) by inserting before the period the following: “, or (ii) with respect to whom the Commissioner has information that the pattern of wages or self-employment income indicate a likelihood of noncovered employment”.

(B) EXPLANATION IN SOCIAL SECURITY ACCOUNT STATEMENTS OF POSSIBLE EFFECTS OF PERIODIC BENEFITS UNDER STATE AND LOCAL RETIREMENT SYSTEMS ON SOCIAL SECURITY BENEFITS.—Section 1143(a)(2) of the Social Security Act (42 U.S.C. 1320b-13(a)(2)) is amended—

(1) in subparagraph (C), by striking “and” at the end;

(2) in subparagraph (D), by striking the period and inserting “; and”; and

(3) by adding at the end the following:

“(E) in the case of an eligible individual described in paragraph (3)(C)(ii), an explanation, in language calculated to be understood by the average eligible individual, of the operation of the provisions under sections 202(k)(5) and 215(a)(7) and an explanation of the maximum potential effects of such provisions on the eligible individual's monthly retirement, survivor, and auxiliary benefits.”

(C) TRUTH IN RETIREMENT DISCLOSURE TO GOVERNMENTAL EMPLOYEES OF EFFECT OF NONCOVERED EMPLOYMENT ON BENEFITS UNDER TITLE II.—Section 1143 of the Social Security Act (42 U.S.C. 1320b-13) is amended further by adding at the end the following:

“Disclosure to Governmental Employees of Effect of Noncovered Employment

“(d)(1) In the case of any individual commencing employment on or after January 1, 2005, in any agency or instrumentality of any State (or political subdivision thereof, as defined in section 218(b)(2)) in a position in which service performed by the individual does not constitute ‘employment’ as defined in section 210, the head of the agency or instrumentality shall ensure that, prior to the date of the commencement of the individual's employment in the position, the individual is provided a written notice setting forth an explanation, in language calculated to be understood by the average individual, of the maximum effect on computations of primary insurance amounts (under section 215(a)(7)) and the effect on benefit amounts (under section 202(k)(5)) of monthly periodic payments or benefits payable based on earnings derived in such service. Such notice shall be in a form which shall be prescribed by the Commissioner of Social Security.

“(2) The written notice provided to an individual pursuant to paragraph (1) shall include a form which, upon completion and signature by the individual, would constitute

certification by the individual of receipt of the notice. The agency or instrumentality providing the notice to the individual shall require that the form be completed and signed by the individual and submitted to the agency or instrumentality and to the pension, annuity, retirement, or similar fund or system established by the governmental entity involved responsible for paying the monthly periodic payments or benefits, before commencement of service with the agency or instrumentality.”

(d) EFFECTIVE DATES.—The amendments made by subsections (a) and (b) of this section shall apply with respect to social security account statements issued on or after January 1, 2007.

**SEC. 420. POST-1956 MILITARY WAGE CREDITS.**

On page 167, between lines 14 and 15, insert the following:

**SEC. 420A. ELIMINATION OF DISINCENTIVE TO RETURN-TO-WORK FOR CHILDHOOD DISABILITY BENEFICIARIES.**

(A) IN GENERAL.—Section 202(d)(6)(B) of the Social Security Act (42 U.S.C. 402(d)(6)(B)) is amended—

(1) by inserting “(i)” after “began”; and

(2) by adding after “such disability,” the following: “or (ii) after the close of the 84th month following the month in which his most recent entitlement to child's insurance benefits terminated because he ceased to be under such disability due to performance of substantial gainful activity.”

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to benefits payable for months beginning with the 7th month that begins after the date of enactment of this Act.

Beginning on page 173, strike line 3 and all that follows through page 174, line 10, and insert the following:

(e) TRANSFERS.—Section 15A(d)(2) of the Railroad Retirement Act of 1974 (45 U.S.C. 231n-1(d)(2)) is amended—

(1) by inserting “or the Railroad Retirement Account” after “National Railroad Retirement Investment Trust” the second place it appears;

(2) by inserting “or the Railroad Retirement Board” after “National Railroad Retirement Investment Trust” the third place it appears;

(3) by inserting “(either directly or through a commingled account consisting only of such obligations)” after “United States” the first place it appears; and

(4) in the third sentence, by inserting before the period at the end the following: “or to purchase such additional obligations”.

Beginning on page 177, strike line 20 and all that follows through page 178, line 18.

On page 178, line 19, strike “433” and insert “432”.

Beginning on page 179, strike line 5 and all that follows through page 181, line 3.

On page 181, line 4, strike “435” and insert “433”.

On page 182, line 11, strike “436” and insert “434”.

On page 183, line 3, strike “437” and insert “435”.

On page 184, line 6, strike “438” and insert “436”.

Beginning on page 184, strike line 21 and all that follows through page 186, line 22.

Conform the table of contents accordingly.

**SA 2228.** Mr. FRIST (for Mr. ALEXANDER) proposed an amendment to the bill H.R. 2264, An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes; as follows:

Beginning on page 5, strike line 24 and all that follows through page 6, line 11, and insert the following:

(a) IN GENERAL.—There are authorized to be appropriated to the President to carry out the Congo Basin Forest Partnership (CBFP) program \$18,600,000 for fiscal year 2004.

(b) CARPE.—Of the amounts appropriated pursuant to the authorization of appropriations in subsection (a), \$16,000,000 is authorized to be made available to the Central Africa Regional Program for the Environment (CARPE) of the United States Agency for International Development.

(c) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subsection (a) are authorized to remain available until expended.

**SA 2229.** Mr. FRIST (for Mr. ALEXANDER) proposed an amendment to the bill H.R. 2264, An act to authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes; as follows:

Amend the title so as to read: "To authorize appropriations for fiscal year 2004 to carry out the Congo Basin Forest Partnership program, and for other purposes."

**SA 2230.** Mr. FRIST (for Mr. LEVIN) proposed an amendment to the bill S. 1267, to amend the District of Columbia Home Rule Act to provide the District of Columbia with autonomy over its budgets, and for other purposes; as follows:

At the appropriate place, insert the following: (p. 10, after l. 2)

**SEC. \_\_\_\_ METERED CABS IN THE DISTRICT OF COLUMBIA.**

(a) IN GENERAL.—Except as provided in subsection (b) and not later than 1 year after the date of enactment of this Act, the District of Columbia shall require all cabs licensed in the District of Columbia to charge fares by a metered system.

(b) DISTRICT OF COLUMBIA OPT OUT.—The District of Columbia may cancel the requirements of subsection (a) by adopting an ordinance that specifically states that the District of Columbia opts out of the requirement to implement a metered system under subsection (a).

**SA 2231.** Mr. FRIST (for Mr. HATCH) proposed an amendment to the bill S. 1177, to prevent tobacco smuggling, to ensure the collection of all tobacco taxes, and for other purposes; as follows:

On page 17, between lines 23 and 24, insert the following:

(2) in paragraph (5)—

(A) by inserting ", local, or Tribal" after "the State";

(B) by striking "administer the cigarette tax law" and inserting "collect the tobacco tax or administer the tax law"; and

(C) by inserting ", locality, or Tribe, respectively" after "a State".

On page 17, line 24, strike "(2)" and insert "(3)".

On page 18, line 17, strike "(3)" and insert "(4)".

On page 19, strike line 20 and insert the following:

"(13) The term 'Indian Country' has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve.

"(14) The term 'Indian Tribe', 'Tribe', or 'Tribal' refers to an Indian tribe as defined in the Indian Self-Determination and Edu-

cation Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103-454; 25 U.S.C. 479a-1).

"(15) The term 'tobacco tax administrator', in the case of a State, local, or Tribal government, means the official of the government duly authorized to collect the tobacco tax or administer the tax law of the government."

On page 20, line 4, strike "and".

On page 20, between lines 4 and 5, insert the following:

(ii) by inserting ", locality, or Indian Country of an Indian Tribe" after "a State"; and

On page 20, line 5, strike "(ii)" and insert "(iii)".

On page 20, strike lines 8 through 14 and insert the following:

(B) in paragraph (1)—

(i) by striking "administrator of the State" and inserting "administrators of the State and place"; and

(ii) by striking "; and" and inserting the following: "; as well as telephone numbers for each place of business, a principal electronic mail address, any website addresses, and the name, address, and telephone number of an agent in the State authorized to accept service on behalf of such person";

On page 20, strike lines 15 through 19, and insert the following:

(C) in paragraph (2), by striking "and the quantity thereof." and inserting "the quantity thereof, and the name, address, and phone number of the person delivering the shipment to the recipient on behalf of the delivery seller, with all invoice or memoranda information relating to specific customers to be organized by city or town and by zip code; and"; and

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

"(3) with respect to each memorandum or invoice filed with a State under paragraph (2), also file copies of such memorandum or invoice with the tobacco tax administrators and chief law enforcement officers of the local governments and Indian Tribes operating within the borders of the State that apply their own local or Tribal taxes on cigarettes or smokeless tobacco."; and

On page 21, line 4, strike "Each" and insert "With respect to delivery sales into a specific State and place, each".

On page 21, line 9, insert ", local, Tribal," after "all State".

On page 21, beginning on line 10, strike "that occur entirely within the State" and insert "as if such delivery sales occurred entirely within the specific State and place".

On page 21, strike line 14.

On page 21, line 15, strike "(C)" and insert "(B)".

On page 21, line 17, strike "(D)" and insert "(C)".

On page 22, line 3, strike "AND SALES".

On page 22, line 14, strike "by State" and insert "by the State, and within such State, by the city or town and by zip code,".

On page 22, beginning on line 20, strike "attorneys general" and all that follows through "United States" and insert "to local governments and Indian Tribes that apply their own local or Tribal taxes on cigarettes or smokeless tobacco, to the attorneys general of the States, to the chief law enforcement officers of such local governments and Indian Tribes, and to the Attorney General of the United States".

On page 22, strike line 24 and all that follows through page 23, line 12, and insert the following:

"(d)(1) Except as provided in paragraph (2), no cigarettes or smokeless tobacco may be delivered pursuant to a delivery sale in interstate commerce unless in advance of the delivery—

"(A) any cigarette or smokeless tobacco excise tax that is imposed by the State in which the cigarettes or smokeless tobacco are to be delivered has been paid to the State;

"(B) any cigarette or smokeless tobacco excise tax that is imposed by the local government of the place in which the cigarette or smokeless tobacco are to be delivered has been paid to the local government; and

"(C) any required stamps or other indicia that such excise tax has been paid are properly affixed or applied to the cigarettes or smokeless tobacco.

"(2) Paragraph (1) does not apply to a delivery sale of smokeless tobacco if the law of the State or local government of the place where the smokeless tobacco is to be delivered requires or otherwise provides that delivery sellers collect the excise tax from the consumer and remit the excise tax to the State or local government, and the delivery seller complies with the requirement.

On page 23, line 13, insert after "Each State" the following: ", and each local government or Indian Tribal government that levies a tax subject to subsection (a)(3)."

On page 23, line 15, strike "such State. If a State" and insert after "such State, locality, or Indian Tribe. If a State, local government, or Indian Tribe".

On page 23, line 18, insert after "such State" the following: "or locality or in the Indian Country of such Indian Tribe".

On page 23, line 20, insert after "Each State" the following: ", and each local government or Indian Tribal government that levies a tax subject to subsection (a)(3)."

On page 23, line 22, insert ", locality, or Indian Tribe" after "such State".

On page 23, line 23, insert after "A State" the following: ", locality, or Indian Tribal government".

On page 24, line 4, insert after "a State" the following: ", local government, or Indian Tribal government".

On page 24, line 8, insert after "State" the following: "or locality or in the Indian Country of such Indian Tribe".

On page 24, strike line 21 and all that follows through page 25, line 2, and insert the following:

(2) in subsection (a), as so designated—

(A) by inserting "(except for a State, local, or Tribal government)" after "this Act"; and

(B) by striking "shall be guilty of a misdemeanor and shall be fined not more than \$1,000, or imprisoned not more than 6 months" and inserting "shall be guilty of a felony, fined under subchapter C of chapter 227 of title 18, United States Code, imprisoned not more than three years, or both"; and

On page 26, strike line 3 and all that follows through page 27, line 11, and insert the following:

"(b) The Attorney General of the United States shall administer and enforce the provisions of this Act.

"(c)(1)(A) A State, through its attorney general (or a designee thereof), or a local government or Indian Tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer (or a designee thereof), may bring an action in the United States district courts to prevent and restrain violations of this Act by any person (or by any person controlling such person) or to obtain any other appropriate relief from any person (or from any person controlling such person) for violations of this Act, including civil penalties, money damages, and injunctive or other equitable relief.

"(B) Nothing in this Act shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian Tribe against any unconsented lawsuit under this Act, or otherwise to restrict, expand, or modify any

sovereign immunity of a State or local government or Indian Tribe.

“(2) A State, through its attorney general, or a local government or Indian Tribe that levies a tax subject to section 2A(a)(3), through its chief law enforcement officer (or a designee thereof), may provide evidence of a violation of this Act by any person not subject to State, local, or Tribal government enforcement actions for violations of this Act to the Attorney General of the United States or a United State Attorney, who shall take appropriate actions to enforce the provisions of this Act.

“(3)(A) Notwithstanding any other provision of law and subject to subparagraph (B), an amount equal to 50 percent of any criminal and civil penalties collected by the United States Government in enforcing the provisions of this Act shall be available to the Department of Justice for purposes of enforcing the provisions of this Act and other laws relating to contraband tobacco products.

“(B) Of the amount available to the Department under subparagraph (A), not less than 50 percent shall be made available only to the agencies and offices within the Department that were responsible for the enforcement actions in which the penalties concerned were imposed.

“(4) The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, Tribal, or other law.

“(5) Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

“(6) Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian Tribal government official to proceed in Tribal court, or take other enforcement actions, on the basis of an alleged violation of Tribal law.

“(7) Nothing in this Act shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.

“(d) Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 may bring an action in the United States district courts to prevent and restrain violations of this Act by any person (or by any person controlling such person) other than a State, local, or Tribal government.

“(e)(1) Any person who commences a civil action under subsection (d) shall inform the Attorney General of the United States of the action.

“(2) It is the sense of Congress that any attorney general of a State, or chief law enforcement officer of a locality or Tribe, who commences a civil action under this section should inform the Attorney General of the United States of the action.

“(f)(1) The Attorney General of the United States shall make available to the public, by posting such information on the Internet and by other means, information about all enforcement actions undertaken by the Attorney General or United States Attorneys, or reported to the Attorney General, under this section, including information on the resolution of such actions and, in particular, information on how the Attorney General and the United States Attorney have responded to referrals of evidence of violations pursuant to subsection (b)(2).

“(2) The Attorney General shall submit to Congress each year a report containing the information described in paragraph (1).”

On page 27, line 20, strike “The transmission” and insert “(1) Except as provided in paragraph (2), the transmission”.

On page 28, strike line 2 and insert the following:

shall not be deposited in or carried through the mails.

“(2) Paragraph (1) shall apply only to States that are contiguous with at least one other State of the United States.”.

On page 29, line 4, strike “and”.

On page 29, line 25, insert before the semicolon the following: “or, for smokeless tobacco found in Indian Country, is licensed or otherwise authorized by the Tribal government of such Indian Country to account for and pay smokeless tobacco taxes imposed by the Tribal government”.

On page 30, line 6, insert “or a Tribe” after “a State”.

On page 30, beginning on line 8, strike “or a State (including any political subdivision of a State)” and insert “a State (including any political subdivision of a State), or a Tribe (including any political subdivision of a Tribe)”.

On page 30, line 11, strike “duties.” and insert “duties;”.

On page 30, after line 24, add the following:

(c) ADDITIONAL DEFINITIONAL MATTERS.—Section 2341 of such title is further amended—

(1) in paragraph (2), as amended by subsection (a)(1) of this section—

(A) in the matter preceding subparagraph (A), by striking “State cigarette taxes in the State where such cigarettes are found, if the State” and inserting “State, local, or Tribal cigarette taxes in the State, locality, or Indian Country where such cigarettes are found, if the State, local or Tribal government”;

(B) in subparagraph (C)(i), by inserting before the semicolon the following: “, or, for cigarettes found in Indian Country, is licensed or otherwise authorized by the Tribal government of such Indian Country to account for and pay cigarette taxes imposed by the Tribal government”; and

(C) in subparagraph (D)—

(i) by inserting “or a Tribe” after “a State” the first place it appears; and

(ii) by striking “or a State (or any political subdivision of a State)” and inserting “, a State (or any political subdivision of a State), or a Tribe (including any political subdivision of a Tribe)”;

(2) in paragraph (3), by inserting before the semicolon the following: “, or, for a carrier making a delivery entirely within Indian Country, under equivalent operating authority from the Indian Tribal government of such Indian Country”; and

(3) by adding at the end the following new paragraphs:

“(8) the term ‘Indian Country’ has the meaning given that term in section 1151 of title 18, United States Code, except that within the State of Alaska that term applies only to the Metlakatla Indian Community, Annette Island Reserve; and

“(9) the term ‘Indian Tribe’, ‘Tribe’, or ‘Tribal’ refers to an Indian tribe as defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e)) or as listed pursuant to section 104 of the Federally Recognized Indian Tribe List Act of 1994 (Public Law 103-454; 25 U.S.C. 479a-1).”.

On page 31, line 1, strike “(c)” and insert “(d)”.

On page 32, line 20, insert before the period the following: “, and to the chief law enforcement officer and tax administrator of the Tribe for shipments, deliveries or distributions that originated or concluded on the Indian Country of the Indian Tribe”.

On page 33, line 19, strike “(d)” and insert “(e)”.

On page 34, between lines 3 and 4, insert the following:

(f) EFFECT ON STATE, LOCAL, AND TRIBAL LAW.—Section 2345 of that title is amended—

(1) in subsection (a), by striking “a State to enact and enforce” and inserting “a State, local government, or Tribe to enact and enforce its own”; and

(2) in subsection (b), by striking “of States, through interstate compact or otherwise, to provide for the administration of State” and inserting “of State, local, or Tribal governments, through interstate compact or otherwise, to provide for the administration of State, local, or Tribal”.

On page 34, line 4, strike “(e)” and insert “(g)”.

On page 34, line 10, insert after “attorney general,” the following: “a local government or Indian Tribe, through its chief law enforcement officer (or a designee thereof),”.

On page 34, line 15, insert before the period the following: “, except that any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 may not bring such an action against a State, local, or Tribal government”.

On page 34, line 16, insert after “attorney general,” the following: “, or a local government or Indian Tribe, through its chief law enforcement officer (or a designee thereof),”.

On page 34, line 21, add after the period the following: “Nothing in this chapter shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian Tribe against any unconsented lawsuit under this chapter, or otherwise to restrict, expand, or modify any sovereign immunity of a State or local government or Indian Tribe.”.

On page 34, line 23, insert “local, Tribal,” after “State.”.

On page 35, strike lines 1 through 4 and insert the following:

“(4) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized State official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of State or other law.

“(5) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized Indian Tribal government official to proceed in Tribal court, or take other enforcement actions, on the basis of an alleged violation of Tribal law.

“(6) Nothing in this chapter shall be construed to expand, restrict, or otherwise modify any right of an authorized local government official to proceed in State court, or take other enforcement actions, on the basis of an alleged violation of local or other law.”.

On page 35, line 5, strike “(f)” and insert “(h)”.

On page 35, between lines 8 and 9, insert the following:

(2) The section heading for section 2345 of such title is amended to read as follows:

“§ 2345. Effect on State, Tribal, and local law”.

On page 35, strike lines 9 through the matter preceding line 12 and insert the following:

(3) The table of sections at the beginning of chapter 114 of that title is amended—

(A) by striking the item relating to section 2343 and inserting the following new item:

“2343. Recordkeeping, reporting, and inspection.”;

and

(B) by striking the item relating to section 2345 and inserting the following new item:

“2345. Effect on State, Tribal, and local law.”.

On page 35, line 12, strike “(3)” and insert “(4)”.

On page 35, strike line 20 and all that follows through page 37, line 19, and insert the following:

**SEC. 5. COMPLIANCE WITH MODEL STATUTE OR QUALIFYING STATUTE.**

(a) IN GENERAL.—A Tobacco Product Manufacturer or importer may not sell in, deliver

to, or place for delivery sale, or cause to be sold in, delivered to, or placed for delivery sale in, a State that is a party to the Master Settlement Agreement any cigarette manufactured by a Tobacco Product Manufacturer that is not in full compliance with the terms of the Model Statute or Qualifying Statute enacted by such State requiring funds to be placed into a qualified escrow account under specified conditions, or any regulations promulgated pursuant to such terms.

(b) JURISDICTION TO PREVENT AND RESTRAIN VIOLATIONS.—(1) The United States district courts shall have jurisdiction to prevent and restrain violations of subsection (a) in accordance with this subsection.

(2) A State, through its attorney general, may bring an action in the United States district courts to prevent and restrain violations of subsection (a) by any person (or by any person controlling such person).

(3) In any action under paragraph (2), a State, through its attorney general, shall be entitled to reasonable attorney fees from a person found to have willfully and knowingly violated subsection (a).

(4) The remedy available under paragraph (2) is in addition to any other remedies available under Federal, State, or other law.

(5) Nothing in this subsection shall be construed to prohibit an authorized State official from proceeding in State court or taking other enforcement actions on the basis of an alleged violation of State or other law.

(6) The Attorney General may administer and enforce subsection (a).

(c) DEFINITIONS.—In this section:

On page 38, between lines 6 and 7, insert the following:

(3) IMPORTER.—The term “importer” means each of the following:

(A) Any person in the United States to whom non-tax-paid tobacco products manufactured in a foreign country, Puerto Rico, the Virgin Islands, or a possession of the United States are shipped or consigned.

(B) Any person who removes cigars or cigarettes for sale or consumption in the United States from a customs bonded manufacturing warehouse.

(C) Any person who smuggles or otherwise unlawfully brings tobacco products into the United States.

On page 38, line 7, strike “(3)” and insert “(4)”.

On page 38, line 11, strike “(4)” and insert “(5)”.

On page 39, line 1, strike “(5)” and insert “(6)”.

On page 41, strike line 18 and insert the following:

#### SEC. 8. COMPLIANCE WITH TARIFF ACT OF 1930.

(a) INAPPLICABILITY OF EXEMPTIONS FROM REQUIREMENTS FOR ENTRY OF CERTAIN CIGARETTES.—Subsection (b)(1) of section 802 of the Tariff Act of 1930 (19 U.S.C. 1681a) is amended by adding at the end the following new sentence: “The preceding sentence shall not apply to any cigarettes sold in connection with a delivery sale (as that term is defined in section 1 of the Act of October 19, 1949 (15 U.S.C. 375; commonly referred to as the ‘Jenkins Act’)).”

(b) STATE AND TRIBAL ACCESS TO CUSTOMS CERTIFICATIONS.—Section 802 of that Act is further amended by adding at the end the following new subsection:

“(d) STATE AND TRIBAL ACCESS TO CUSTOMS CERTIFICATIONS.—A State, through its attorney general, and an Indian tribe (as that term is defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) through its chief law enforcement officer, shall be entitled to obtain copies of any certification required pursuant to subsection (c) directly—

“(1) upon request to the agency of the United States responsible for collecting such certification; or

“(2) upon request to the importer, manufacturer, or authorized official of such importer or manufacturer.”

(c) ENFORCEMENT PROVISIONS.—Section 803 of such Act (19 U.S.C. 1681b) is amended—

(1) in subsection (b)—

(A) in the first sentence—

(i) by inserting “any of” before “the United States” the first and second places it appears; and

(ii) by inserting before the period the following: “, to any State in which such tobacco product, cigarette papers, or tube was imported, or to the Indian Tribe of any Indian Country (as that term is defined in section 1151 of title 18, United States Code) in which such tobacco product, cigarette papers, or tube was imported”; and

(B) in the second sentence, by inserting “, or to any State or Indian Tribe,” after “the United States”; and

(2) by adding at the end the following new subsection:

“(c) ACTIONS BY STATES AND OTHERS.—

“(1) IN GENERAL.—Any person who holds a permit under section 5712 of the Internal Revenue Code of 1986 may bring an action in the United States district courts to prevent and restrain violations of this title by any person (or by any person controlling such person), other than by a State, local, or Tribal government.

“(2) RELIEF FOR STATE, LOCAL, AND TRIBAL GOVERNMENTS.—A State, through its attorney general, or a local government or Tribe Tribe, through its chief law enforcement officer (or a designee thereof), may in a civil action under this title to prevent and restrain violations of this title by any person (or by any person controlling such person) or to obtain any other appropriate relief for violations of this title by any person (or from any person controlling such person), including civil penalties, money damages, and injunctive or other equitable relief.

“(3) CONSTRUCTION GENERALLY.—

“(A) IN GENERAL.—Nothing in this subsection shall be deemed to abrogate or constitute a waiver of any sovereign immunity of a State or local government or Indian Tribe against any unconsented lawsuit under this title or to otherwise restrict, expand, or modify any sovereign immunity of a State local government or Indian Tribe.

“(B) CONSTRUCTION WITH OTHER RELIEF.—The remedies available under this subsection are in addition to any other remedies available under Federal, State, local, Tribal, or other law.

“(4) CONSTRUCTION WITH FORFEITURE PROVISIONS.—Nothing in this subsection shall be construed to require a State or Indian Tribe to first bring an action pursuant to paragraph (1) when pursuing relief under subsection (b).

“(d) CONSTRUCTION WITH OTHER AUTHORITIES.—

“(1) STATE AUTHORITIES.—Nothing in this title shall be construed to expand, restrict, or otherwise modify the right of an authorized State official from proceeding in State court, or taking other enforcement actions, on the basis of alleged violation of State or other law.

“(2) TRIBAL AUTHORITIES.—Nothing in this title shall be construed to expand, restrict, or otherwise modify the right of an authorized Indian Tribal government official from proceeding in Tribal court, or taking other enforcement actions, on the basis of alleged violation of Tribal law.

(d) INCLUSION OF SMOKELESS TOBACCO.—(1) Sections 802 and 803(a) of such Act are further amended by inserting “or smokeless tobacco products” after “cigarettes” each place it appears.

(2) Section 802 of such Act is further amended—

(A) in subsection (a)—

(i) in paragraph (1), by inserting “or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), respectively” after “section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)”;

(ii) in paragraph (2), by inserting “or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), respectively,” after “section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)”;

(iii) in paragraph (3), by inserting “or section 3(c) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(c)), respectively,” after “section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))”;

(B) in subsection (b)—

(i) in the paragraph caption of paragraph (1), by inserting “OR SMOKELESS TOBACCO” after “CIGARETTES”; and

(ii) in the paragraph caption of paragraphs (2) and (3), by inserting “OR SMOKELESS TOBACCO” after “CIGARETTES”; and

(C) in subsection (c)—

(i) in the subsection caption, by inserting “OR SMOKELESS TOBACCO” after “CIGARETTE”;

(ii) in paragraph (1), by inserting “or section 4 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4403), respectively” after “section 7 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1335a)”;

(iii) in paragraph (2)(A), “or section 3 of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402), respectively,” after “section 4 of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333)”;

(iv) in paragraph (2)(B), by inserting “or section 3(c) of the Comprehensive Smokeless Tobacco Health Education Act of 1986 (15 U.S.C. 4402(c)), respectively” after “section 4(c) of the Federal Cigarette Labeling and Advertising Act (15 U.S.C. 1333(c))”.

(3) Section 803(c) of such Act, as amended by subsection (b)(1) of this section, is further amended by inserting “, or any smokeless tobacco product,” after “or tube” the first place it appears.

(4)(A) The heading of title VIII of such Act is amended by inserting “AND SMOKELESS TOBACCO” after “CIGARETTES”.

(B) The heading of section 802 of such Act is amended by inserting “AND SMOKELESS TOBACCO” after “CIGARETTES”.

#### SEC. 9. EXCLUSIONS REGARDING INDIAN TRIBES AND TRIBAL MATTERS.

(a) IN GENERAL.—Nothing in this Act or the amendments made by this Act is intended nor shall be construed to affect, amend, or modify—

(1) any agreements, compacts, or other intergovernmental arrangements between any State or local government and any government of an Indian tribe (as that term is defined in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(e))) relating to the collection of taxes on cigarettes or smokeless tobacco sold in Indian Country (as that term is defined section 1151 of title 18, United States Code);

(2) any State laws that authorize or otherwise pertain to any such intergovernmental arrangements or create special rules or procedures for the collection of State, local, or tribal taxes on cigarettes or smokeless tobacco sold in Indian Country;

(3) any limitations under existing Federal law, including Federal common law and treaties, on State, local, and tribal tax and regulatory authority with respect to the sale, use, or distribution of cigarettes and smokeless tobacco by or to Indian Tribes or tribal members or in Indian Country;

(4) any existing Federal law, including Federal common law and treaties, regarding State jurisdiction, or lack thereof, over any Tribe, tribal members or tribal reservations; and

(5) any existing State or local government authority to bring enforcement actions against persons located in Indian Country.

(b) COORDINATION OF LAW ENFORCEMENT.—Nothing in this Act or the amendments made by this Act shall be construed to inhibit or otherwise affect any coordinated law enforcement effort by 1 or more States or other jurisdictions, including Indian Tribes, through interstate compact or otherwise, that—

(1) provides for the administration of tobacco product laws or laws pertaining to interstate sales or other sales of tobacco products;

(2) provides for the seizure of tobacco products or other property related to a violation of such laws; or

(3) establishes cooperative programs for the administration of such laws.

(c) TREATMENT OF STATE AND LOCAL GOVERNMENTS.—Notwithstanding any other provision of this Act, the provisions of this Act are not intended and shall not be construed to authorize, deputize, or commission States or local governments as instrumentalities of the United States.

(d) ENFORCEMENT WITHIN INDIAN COUNTRY.—Nothing in this Act or the amendments made by this Act is intended to prohibit, limit, or restrict enforcement by the Attorney General of the United States of the provisions herein within Indian Country.

(e) AMBIGUITY.—Any ambiguity between the language of this section or its application, and any other provision of this Act shall be resolved in favor of this section.

#### SEC. 10. EFFECTIVE DATE.

### AUTHORITY FOR COMMITTEES TO MEET

#### COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on December 9, 2003, at 9:30 a.m., to conduct a hearing on the nominations of Ms. April H. Foley, of New York, to be first Vice President of the Export-Import Bank of the United States; and the Honorable Joseph Max Cleland, of Georgia, to be a member of the board of directors of the Export-Import Bank of the United States.

The PRESIDING OFFICER. Without objection it is so ordered.

#### SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE AND THE DISTRICT OF COLUMBIA

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs Subcommittee on Oversight of Government Management, the Federal Workforce and the District of Columbia, be authorized to meet on Tuesday, December 9, 2003, at 10 a.m. for a hearing entitled, "Fair or Foul: The Challenge of Negotiating, Monitoring, and Enforcing U.S. Trade Laws."

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

### UNANIMOUS CONSENT AGREEMENT—H.R. 3108

Mr. FRIST. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, in consultation with the minority leader, the Senate proceed to consideration of H.R. 3108, the House-passed pensions bill, and that it be considered under the following limitations: That the only amendments in order be relating to the following topics: pension discount rate, deficit reduction contribution relief, multi-employer plan relief. I further ask that the following amendments be the only first-degree amendments in order and that any second-degree amendments be relevant to the first-degree amendment to which they are offered: No. 1, Frist-Daschle managers' amendment; three amendments by the majority leader or his designee; and three amendments by the minority leader or his designee.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. Mr. President, reserving the right to object—and I certainly will not—I just wish to indicate to the majority leader how pleased I am that at long last we have been able to get to this point. This has been a very difficult negotiation involving many Members. I think it is very important that we ultimately accomplish the passage of this legislation. This obviously does not bring us to a point where we will finalize the bill, but I think it sets us up in a way that will allow the completion of our work shortly after we return. That is the message we need to send on a bipartisan basis, and I appreciate the majority leader's leadership in getting us to this point. I will work with him as we coordinate the amendment time and debate, but I hope we can do this soon after we return. I expect we will complete our work at some point shortly after that. I thank him, and I have no objection.

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

Mr. FRIST. Mr. President, in the weeks leading up to the Thanksgiving holiday, and in the time since then, we have been trying to reach an agreement with respect to pension funding rules. As many of my colleagues are aware, the temporary pension discount rate relief we enacted in 2001 expires at the end of this year. There is virtually unanimous agreement that we need to replace the outdated 30 year treasury bill rate with a long-term corporate bond rate. However, absent some action by the House and the Senate, the statutory rate that pension plans must use to calculate their assets and liabilities will snap-back to the old 30-year rate. This will result in companies with pension plans having to assume that they will be making large contributions to their plans in the year to come.

Equally important, in my view, has been an effort to provide relief from the deficit reduction contribution, DRC, requirements that certain plans

are now facing. Under the current pension funding rules, companies that offer defined benefit pension plans are required to make additional contributions to those plans when they are less than 90 percent funded. A pension plan's funding level is determined by comparing the plan's current assets to its promised benefits and then calculating whether the two will match up by the time the benefits promised are due.

The recent drop in the stock market, low interest rates, and generous pension benefits agreed to in better times have caused many defined benefit pension plans to fall well beneath this 90 percent threshold. As a result, many companies are being required to make substantial additional contributions at the time they can least afford them. The Finance Committee-reported bill, which I support, included 3 years of DRC relief.

Despite our best efforts, it is clear that we will not be able to reach an agreement before the end of the year. We have, however, entered into a unanimous consent agreement that gives us a plan for addressing this issue when we return early next year. It is my belief that this issue can be wrapped up with one or two days of debate and that a conference agreement should follow shortly thereafter.

Replacing the current 30-year Treasury rate with a long-term corporate bond rate is a critically important issue, not only to the companies themselves but their employees as well. Equally important, however, is the broader pension bill upon which Senator GRASSLEY and Senator BAUCUS have worked so hard. Resolution of this more immediate issue is but a precursor to consideration of the larger pension reform bill. And even this is but a prelude to an effort to take a broader look at our nation's pension funding rules with an eye toward making more systematic reforms. I look forward to a spirited debate next year as we take the first step in this broader undertaking.

### UNANIMOUS CONSENT AGREEMENT—EXECUTIVE CALENDAR

Mr. FRIST. Mr. President, as in executive session, I ask unanimous consent that during the upcoming adjournment of the Senate, all nominations remain status quo, with the following exceptions which I send to the desk: Colonel Quelly, PN 273-108; Colonel Rubino, PN 299-108; Brigadier General Meyer, PN 750-108; Colonel Baldwin, PN 1035-108; Claude Allen, PN 92 and PN 534; Jeane Kirkpatrick, PN 788; Louise Oliver, PN 943; Peter Eide, PN 617 and PN 104; Neil McPhie, PN 103; Calendar Nos. 219, 233, 234, 235, 236, 480, and 484.

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