

SEC. 15. CONSULTATION BY ATTORNEY GENERAL.

In carrying out the provisions of this Act including the issuance of regulations, the Secretary shall consult with the Attorney General and other Federal departments and agencies administering Federal grant-in-aid programs.

SEC. 16. INTERSTATE AGREEMENTS OR COMPACTS; PURPOSES.

The consent of Congress is hereby given to any 2 or more States to enter into agreements or compacts, not in conflict with any law of the United States—

(1) for cooperative effort and mutual assistance in support of homeland security planning and programs carried out under this Act as they pertain to interstate areas and to localities within such States; and

(2) to establish such agencies, joint or otherwise, that the States consider desirable for making such agreements and compacts effective.

SEC. 17. MATCHING REQUIREMENTS; SUSPENSION OF REQUIREMENTS FOR ECONOMICALLY DISTRESSED AREAS.

(a) **MATCHING REQUIREMENT.**—Grant recipients shall contribute, from funds other than those received under this Act, an amount equal to 10 percent of the total funds received under this Act, which shall be used in accordance with the grantee's statement of homeland security objectives.

(b) **WAIVER FOR ECONOMIC DISTRESS.**—The Secretary shall waive the matching requirement under subsection (a) for grant recipients that the Secretary determines to be economically distressed.

By Mr. DURBIN (for himself and Mr. FITZGERALD) (by request):

S. 2022. A bill to designate the Federal building located at 250 West Cherry Street in Carbondale, IL the "Senator Paul Simon Federal Building"; to the Committee on Environment and Public Works.

Mr. DURBIN. Mr. President, recently we lost our colleague Paul Simon, a great public servant and a great friend.

At the age of 19, Paul Simon became the Nation's youngest editor-publisher when he accepted a Lion's Club challenge to save the Troy Tribune in Troy, IL. From that start, he built a chain of 13 newspapers in southern and central Illinois. He also used his post in the newspaper world to expose criminal activities and in 1951, at age 22, he was called as a key witness to testify before the U.S. Senate's Crime Investigating Committee.

Paul Simon served the state of Illinois and the United States for years. He is the only individual to have served in both the Illinois House of Representatives and the Illinois Senate, and the U.S. House of Representatives and U.S. Senate. He also served as Lieutenant Governor for Illinois. In addition, he served in the U.S. Army.

Paul Simon highly valued education and the youth of our Nation. In addition to his work in Congress to strengthen public education in America, he started the public affairs reporting program at Sangamon State University, now the University of Illinois at Springfield. He later became the founder and director of the Public Policy Institute at Southern Illinois University in Carbondale, IL, and taught there for more than 6 years. In addition,

Paul Simon wrote over 20 books and earned over 50 honorary degrees.

From journalism to government to education, Paul Simon set the standard for honesty and caring in public life. He was an unapologetic champion of the less fortunate. He was genuine in his politics, life and values.

Now those of us who loved and respected him will do our best to carry on his tradition. We will find many ways, great and small, to honor him.

Today, I am introducing companion legislation to a bill Congressman JERRY COSTELLO has introduced in the House. This bill would designate the federal building at 250 West Cherry Street in Carbondale, IL, as the "Senator Paul Simon Federal Building." I am happy to have Senator FITZGERALD as a cosponsor of this legislation.

Paul Simon moved to Carbondale in 1974, where he was elected to serve in the U.S. House of Representatives. He continued to call the Carbondale area his home until his death. Naming this building in Carbondale after him will help present and future generations remember and honor Paul Simon, a great man who lived in and worked for the people of Carbondale and served our federal government with the greatest integrity. I urge my colleagues to work with Congressman COSTELLO and me to quickly pass this 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. 2022

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

SECTION 1. DESIGNATION OF FEDERAL BUILDING.

The Federal building located at 250 West Cherry Street in Carbondale, Illinois shall be known and designated as the "Senator Paul Simon Federal Building".

SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, paper or other record of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the Senator Paul Simon Federal Building.

By Mrs. BOXER (for herself and Mr. LAUTENBERG):

S. 2023. A bill to limit Department of Defense contracting with firms under investigation by the inspector General of the Department of Defense; to the Committee on Armed Services.

Mrs. BOXER. Mr. President, I am introducing legislation, along with my good friend from New Jersey, Senator LAUTENBERG, to ensure that American taxpayers are given greater protection when the Defense Department seeks to procure property or services. The United States is spending billions of dollars in its military and reconstruction efforts in Iraq and Afghanistan, and much of this money is going to private companies.

The purpose of this legislation is simple. It would ban companies under in-

vestigation for procurement abuse and possible criminal conduct from receiving no-bid defense contracts. By closing a loophole in current law, the Department of Defense would no longer be permitted to enter into contracts, through a process that does not ensure full and open competition, with contractors simultaneously being investigated by the Pentagon's Office of Inspector General. The legislation also provides that if the President chooses to waive the prohibition in the interest of national security, he must notify Congress with a full and public explanation.

While our men and women in the Armed Services are making extraordinary sacrifices for this country, companies under investigation by the Pentagon's Inspector General should be barred from lining their pockets with money from no-bid contracts.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2233. Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) proposed an amendment to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes.

SA 2234. Mr. KYL proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra.

TEXT OF AMENDMENTS

SA 2233. Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) proposed an amendment to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; as follows:

Strike all after the first word, and insert:
1. SHORT TITLE.

This Act may be cited as the "Pension Stability Act".

SEC. 2. TEMPORARY REPLACEMENT OF INTEREST RATE ON 30-YEAR TREASURY SECURITIES WITH INTEREST RATE ON CONSERVATIVELY INVESTED LONG-TERM CORPORATE BONDS.

(a) **INTERNAL REVENUE CODE OF 1986.**—

(1) **DETERMINATION OF PERMISSIBLE RANGE.**—

(A) **IN GENERAL.**—Section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended—

(i) in subclause (I), by inserting "or (III)" after "subclause (II)";

(ii) by redesignating subclause (II) as subclause (III);

(iii) by inserting after subclause (I) the following new subclause:

"(II) **SPECIAL RULE FOR 2004 AND 2005.**—In the case of plan years beginning in 2004 or 2005, the term 'permissible range' means a rate of interest which is not above, and not

more than 10 percent below, the weighted average of the conservative long-term corporate bond rates during the 4-year period ending on the last day before the beginning of the plan year. The Secretary shall, by regulation, prescribe a method for periodically determining conservative long-term bond rates for purposes of this paragraph. Such rates shall reflect the rates of interest on amounts invested conservatively in long-term corporate bonds and shall be based on the use of 2 or more indices that are in the top 2 quality levels available reflecting average maturities of 20 years or more.”; and

(iv) in subclause (III), as so redesignated—
(I) by inserting “or (II)” after “subclause (I)” the first place it appears; and

(II) by striking “subclause (I)” the second place it appears and inserting “such subclause”.

(2) DETERMINATION OF CURRENT LIABILITY.—Section 412(l)(7)(C)(i) of such Code is amended by adding at the end the following new subclause:

“(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).”.

(3) CONFORMING AMENDMENT.—Section 412(m)(7) of such Code is amended to read as follows:

“(7) SPECIAL RULE FOR 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (l)(7)(C)(i)(III), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability of the plan for the preceding plan year shall be redetermined using 120 percent as the specified percentage determined under subsection (l)(7)(C)(i)(II).”.

(4) LIMITATION ON CERTAIN ASSUMPTIONS.—Section 415(b)(2)(E)(ii) of such Code is amended by inserting “, except that in the case of plan years beginning in 2004 or 2005, ‘5.5 percent’ shall be substituted for ‘5 percent’ in clause (i)” before the period at the end.

(5) ELECTION TO DISREGARD MODIFICATION FOR DEDUCTION PURPOSES.—Section 404(a)(1) of such Code is amended by adding at the end the following new subparagraph:

“(F) ELECTION TO DISREGARD MODIFIED INTEREST RATE.—An employer may elect to disregard subsections (b)(5)(B)(ii)(II) and (l)(7)(C)(i) of section 412 solely for purposes of determining the interest rate used in calculating the maximum amount of the deduction allowable under this section for contributions to a plan to which such subsections apply.”

(b) EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) DETERMINATION OF PERMISSIBLE RANGE.—

(A) IN GENERAL.—Section 302(b)(5)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(b)(5)(B)(ii)) is amended—

(i) in subclause (I), by inserting “or (III)” after “subclause (II)”;

(ii) by redesignating subclause (II) as subclause (III);

(iii) by inserting after subclause (I) the following new subclause:

“(II) SPECIAL RULE FOR YEARS 2004 AND 2005.—In the case of plan years beginning in 2004 or 2005, the term ‘permissible range’ means a rate of interest which is not above, and not more than 10 percent below, the weighted average of the conservative long-term corporate bond rates (as determined under section 412(b)(5)(B)(ii)(II) of the Internal Revenue Code of 1986) during the 4-year period ending on the last day before the beginning of the plan year.”; and

(iv) in subclause (III), as so redesignated—

(I) by inserting “or (II)” after “subclause (I)” the first place it appears; and

(II) by striking “subclause (I)” the second place it appears and inserting “such subclause”.

(2) DETERMINATION OF CURRENT LIABILITY.—Section 302(d)(7)(C)(i) of such Act (29 U.S.C. 1082(d)(7)(C)(i)) is amended by adding at the end the following new subclause:

“(IV) SPECIAL RULE FOR 2004 AND 2005.—For plan years beginning in 2004 or 2005, notwithstanding subclause (I), the rate of interest used to determine current liability under this subsection shall be the rate of interest under subsection (b)(5).”.

(3) CONFORMING AMENDMENT.—Section 302(e)(7) of such Act (29 U.S.C. 1082(e)(7)) is amended to read as follows:

“(7) SPECIAL RULE FOR 2002.—In any case in which the interest rate used to determine current liability is determined under subsection (d)(7)(C)(i)(III), for purposes of applying paragraphs (1) and (4)(B)(ii) for plan years beginning in 2002, the current liability of the plan for the preceding plan year shall be redetermined using 120 as the specified percentage determined under subsection (d)(7)(C)(i)(II).”.

(4) PBGC.—Section 4006(a)(3)(E)(iii) of such Act (29 U.S.C. 1306(a)(3)(E)(iii)) is amended by adding at the end the following new subclause:

“(V) In the case of plan years beginning in 2004 or 2005, the annual yield taken into account under subclause (II) shall be the annual yield computed by using the conservative long-term corporate bond rate (as determined under section 412(b)(5)(B)(ii)(II) of the Internal Revenue Code of 1986) for the month preceding the month in which the plan year begins.”

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2003.

(2) LOOKBACK RULES.—For purposes of applying subsections (l)(9)(B)(ii) and (m)(1) of section 412 of the Internal Revenue Code of 1986, and subsections (d)(9)(B)(ii) and (e)(1) of section 302 of the Employee Retirement Income Security Act of 1974 to plan years beginning after December 31, 2003, the amendments made by this section may be applied as if such amendments had been in effect for all years beginning before such date.

(3) TRANSITION RULE FOR SECTION 415 LIMITATION.—In the case of any participant or beneficiary receiving a distribution after December 31, 2003 and before January 1, 2005, the amount payable under any form of benefit subject to section 417(b)(3) of the Internal Revenue Code of 1986 and subject to adjustment under section 415(b)(2)(B) of such Code shall not, solely by reason of the amendment made by subsection (a)(4), be less than the amount that would have been so payable had the amount payable been determined using the applicable interest rate in effect as of the last day of the last plan year beginning before January 1, 2004.

SEC. 3. ELECTION OF ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.

(a) AMENDMENT OF 1986 CODE.—Section 412(l) of the Internal Revenue Code of 1986 (relating to applicability of subsection) is amended by adding at the end the following new paragraph:

“(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

“(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under para-

graph (1) for any applicable plan year shall be the greater of—

“(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

“(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

“(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable shall be adopted during any applicable plan year, unless—

“(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

“(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant’s compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment,

“(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, or

“(iv) the amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

“(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable employer’ means an employer which is—

“(I) a commercial passenger airline,

“(II) primarily engaged in the production or manufacture of a steel mill product, or

“(III) an organization described in section 501(c)(5) and which established the plan to which this paragraph applies on June 30, 1955.

“(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

“(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary may prescribe) to be treated as an applicable employer for purposes of this paragraph.

“(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

“(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable plan year’ means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

“(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

“(E) ELECTION.—An election under this paragraph shall be made at such time and in

such manner as the Secretary may prescribe.”

(b) AMENDMENT OF ERISA.—Section 302(d) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082(d)) is amended by adding at the end the following new paragraph:

“(12) ALTERNATIVE INCREASE FOR CERTAIN PLANS MEETING REQUIREMENTS IN 2000.—

“(A) IN GENERAL.—In the case of a defined benefit plan established and maintained by an applicable employer, if this subsection did not apply to the plan for the plan year beginning in 2000 (determined without regard to paragraph (6)), then, at the election of the employer, the increased amount under paragraph (1) for any applicable plan year shall be the greater of—

“(i) 20 percent (40 percent in the case of an applicable plan year beginning after December 27, 2004) of the increased amount under paragraph (1) determined without regard to this paragraph, or

“(ii) the increased amount which would be determined under paragraph (1) if the deficit reduction contribution under paragraph (2) for the applicable plan year were determined without regard to subparagraphs (A), (B), and (D) of paragraph (2).

“(B) RESTRICTIONS ON BENEFIT INCREASES.—No amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted during any applicable plan year, unless—

“(i) the funded current liability percentage (as defined in paragraph (8)(B)) as of the end of such plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

“(ii) the amendment provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment,

“(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, or

“(iv) the amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

If a plan is amended during any applicable plan year in violation of the preceding sentence, any election under this paragraph shall not apply to any applicable plan year ending on or after the date on which such amendment is adopted.

“(C) APPLICABLE EMPLOYER.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable employer’ means an employer which is—

“(I) a commercial passenger airline,

“(II) primarily engaged in the production or manufacture of a steel mill product, or

“(III) an organization described in section 501(c)(5) of the Internal Revenue Code of 1986 and which established the plan to which this paragraph applies on June 30, 1955.

“(ii) OTHER EMPLOYERS MAY APPLY FOR RELIEF.—

“(I) IN GENERAL.—Except as provided in subclause (II), an employer other than an employer described in clause (i) shall be treated as an applicable employer if the employer files an application (at such time and in such manner as the Secretary of the Treasury may prescribe) to be treated as an applicable employer for purposes of this paragraph.

“(II) EXCEPTION.—Subclause (I) shall not apply to an employer if, within 90 days of the filing of the application, the Secretary of the

Treasury determines (taking into account the application of this paragraph) that there is a reasonable likelihood that the employer will be unable to make future required contributions to the plan in a timely manner.

“(D) APPLICABLE PLAN YEAR.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable plan year’ means any plan year beginning after December 27, 2003, and before December 28, 2005, for which the employer elects the application of this paragraph.

“(ii) LIMITATION ON NUMBER OF YEARS WHICH MAY BE ELECTED.—An election may not be made under this paragraph with respect to more than 2 plan years.

“(E) NOTICE REQUIREMENTS FOR PLANS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTIONS.—

“(i) IN GENERAL.—If an employer elects an alternative deficit reduction contribution under this paragraph and section 412(l)(12) of the Internal Revenue Code of 1986 for any year, the employer shall provide, within 30 days (120 days in the case of an employer described in subparagraph (C)(ii)) of filing the election for such year, written notice of the election to participants and beneficiaries and to the Pension Benefit Guaranty Corporation.

“(ii) NOTICE TO PARTICIPANTS AND BENEFICIARIES.—The notice under clause (i) to participants and beneficiaries shall include with respect to any election—

“(I) the due date of the alternative deficit reduction contribution and the amount by which such contribution was reduced from the amount which would have been owed if the election were not made, and

“(II) a description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation and an explanation of the limitations on the guarantee and the circumstances under which such limitations apply, including the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

“(iii) NOTICE TO PBGC.—The notice under clause (i) to the Pension Benefit Guaranty Corporation shall include—

“(I) the information described in clause (ii)(I),

“(II) the number of years it will take to restore the plan to full funding if the employer only makes the required contributions, and

“(III) information as to how the amount by which the plan is underfunded compares with the capitalization of the employer making the election.

“(F) ELECTION.—An election under this paragraph shall be made at such time and in such manner as the Secretary of the Treasury may prescribe.”

(c) EFFECT OF ELECTION.—An election under section 412(l)(12) of the Internal Revenue Code of 1986 or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) with respect to a plan shall not invalidate any obligation (pursuant to a collective bargaining agreement in effect on the date of the election) to provide benefits, to change the accrual of benefits, or to change the rate at which benefits become nonforfeitable under the plan.

(d) PENALTY FOR FAILING TO PROVIDE NOTICE.—Section 502(c)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(3)) is amended by inserting “or who fails to meet the requirements of section 302(d)(12)(E) with respect to any participant or beneficiary” after “101(e)(2)”.
SEC. 4. MULTIEMPLOYER PLAN FUNDING NOTICES.

(a) IN GENERAL.—Section 104 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 104) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

“(d) MULTIEMPLOYER DEFINED BENEFIT PLAN FUNDING NOTICES.—

“(1) IN GENERAL.—The administrator of a defined benefit plan which is a multiemployer plan shall for each plan year provide a plan funding notice to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and to each employer that has an obligation to contribute under the plan.

“(2) INFORMATION CONTAINED IN NOTICES.—

“(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

“(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

“(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B)) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);

“(ii) a statement of the value of the plan's assets, the amount of benefit payments, and the ratio of the assets to the payments for the plan year to which the report relates;

“(iii) a summary of the rules governing insolvent multiemployer plans, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan); and

“(iv) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

“(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.

“(3) TIME FOR PROVIDING NOTICE.—Any notice under paragraph (1) shall be provided no later than two months after the deadline (including extensions) for filing the annual report for the plan year to which the notice relates.

“(4) FORM AND MANNER.—Any notice under paragraph (1)—

“(A) shall be provided in a form and manner prescribed in regulations of the Secretary,

“(B) shall be written in a manner so as to be understood by the average plan participant, and

“(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.”

(b) PENALTIES.—Section 502(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(1)) is amended by striking “or section 101(e)(1)” and inserting “, section 101(e)(1), or section 104(d)”.
(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor shall, not later than 1 year after the date of the enactment of this Act, issue regulations (including a model notice) necessary to implement the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

SEC. 5. AMORTIZATION HIATUS FOR NET EXPERIENCE LOSSES IN MULTIEMPLOYER PLANS.

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

(1) IN GENERAL.—Section 302(b)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C.1082(b)(7)) is amended by adding at the end the following new subparagraph:

“(F)(i) If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

“(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

“(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).”

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

“(ii) An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

“(I) the funded current liability percentage (as defined in subsection (d)(8)(B)) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

“(II) the plan’s actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded in the year following the year the increase or other change takes effect, and any increase in the plan’s accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, or

“(III) the plan amendment is otherwise described in subparagraph (A) or (C) of section 304(b)(2).

“(iii) Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf.

“(iv) For purposes of this subparagraph, the term ‘hiatus period’ means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

“(v) Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

“(vi) If a plan elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year, the plan administrator shall provide, within 30 days of filing the election for such year, written notice of the election to participants and beneficiaries, to each labor organization representing such participants or beneficiaries, and to each employer that has an obligation to contribute under the plan. Such notice shall include with respect to any election the amount of the net experience loss to be de-

ferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which the Pension Benefit Guaranty Corporation would pay if the plan terminated while underfunded.

“(vii) An election under this subparagraph shall be made at such time and in such manner as the Secretary, after consultation with the Secretary of the Treasury, may prescribe.”

(2) PENALTY.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended to read as follows:

“(4) The Secretary may assess a civil penalty of not more than \$1,000 a day for each violation by any person of section 302(b)(7)(F)(vi).”

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

(1) IN GENERAL.—Section 412(b)(7) of the Internal Revenue Code of 1986 (relating to special rules for multiemployer plans) is amended by adding at the end the following new subparagraph:

“(F) AMORTIZATION HIATUS.—

“(i) IN GENERAL.—If a multiemployer plan has a net experience loss for any plan year beginning after June 30, 2002, and before July 1, 2006—

“(I) the plan may elect to have the 15-year amortization period under paragraph (2)(B)(iv) with respect to the loss begin in any plan year selected by the plan from among the 3 immediately succeeding plan years, and

“(II) if the plan makes an election under subclause (I) for any plan year, the net experience loss for the year shall, for purposes of determining any charge to the funding standard account, or interest, with respect to the loss, be treated in the same manner as if it were a net experience loss occurring in the year selected by the plan under subclause (I) (without regard to any net experience loss or gain otherwise determined for such year).

Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 plan years beginning after June 30, 2002, and before July 1, 2006.

“(ii) RESTRICTIONS ON BENEFIT INCREASES.—An amendment which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall not take effect for any plan year in the hiatus period, unless—

“(I) the funded current liability percentage (as defined in subsection (l)(8)(B)) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 75 percent,

“(II) the plan’s actuary certifies that, due to an increase in contribution rates, the normal cost attributable to the benefit increase or other change is expected to be fully funded in the year following the year in which the increase or other change takes effect, and any increase in the plan’s accrued liabilities attributable to the benefit increase or other change is expected to be fully funded by the end of the third plan year following the end of the last hiatus period of the plan, or

“(III) the plan amendment is otherwise described in subparagraph (A) or (C) of subsection (f)(2).

“(iii) COLLECTIVELY BARGAINED INCREASES IN CONTRIBUTIONS.—Clause (ii) shall not apply to an increase in benefits for a group of participants resulting solely from a collectively bargained increase in the contributions made on their behalf.

“(iv) HIATUS PERIOD DEFINED.—For purposes of this subparagraph, the term ‘hiatus

period’ means any period during which the amortization of a net experience loss is suspended by reason of this subparagraph.

“(v) INTEREST ACCRUED DURING HIATUS.—Interest accrued on any net experience loss during a hiatus period shall be charged to a reconciliation account and not to the funding standard account.

“(vi) ELECTION.—An election under this subparagraph shall be made at such time and in such manner as the Secretary of Labor, after consultation with the Secretary, may prescribe.”

(2) QUALIFICATION REQUIREMENT.—Section 401(a) of such Code is amended by inserting after paragraph (34) the following new paragraph:

“(35) BENEFIT INCREASES IN CERTAIN MULTIEMPLOYER PLANS.—A trust which is part of a plan shall not constitute a qualified trust under this section if the plan adopts an amendment during a hiatus period (within the meaning of section 412(b)(7)(F)(iv)) which the plan is prohibited from adopting by reason of section 412(b)(7)(F)(ii).”

SEC. 6. 2-YEAR EXTENSION OF TRANSITION RULE TO PENSION FUNDING REQUIREMENTS.

(a) IN GENERAL.—Section 769(c) of the Retirement Protection Act of 1994, as added by section 1508 of the Taxpayer Relief Act of 1997, is amended—

(1) by inserting “except as provided in paragraph (3),” before “the transition rules”, and

(2) by adding at the end the following:

“(3) SPECIAL RULES.—In the case of plan years beginning in 2004 and 2005, the following transition rules shall apply in lieu of the transition rules described in paragraph (2):

“(A) For purposes of section 412(l)(9)(A) of the Internal Revenue Code of 1986 and section 302(d)(9)(A) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 90 percent.

“(B) For purposes of section 412(m) of the Internal Revenue Code of 1986 and section 302(e) of the Employee Retirement Income Security Act of 1974, the funded current liability percentage for any plan year shall be treated as not less than 100 percent.

“(C) For purposes of determining unfunded vested benefits under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974, the mortality table shall be the mortality table used by the plan.”

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2003.

SEC. 7. PROCEDURES APPLICABLE TO DISPUTES INVOLVING PENSION PLAN WITHDRAWAL LIABILITY.

(a) IN GENERAL.—Section 4221 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1401) is amended by adding at the end the following new subsection:

“(f) PROCEDURES APPLICABLE TO CERTAIN DISPUTES.—

“(1) IN GENERAL.—If—

“(A) a plan sponsor of a plan determines that—

“(i) a complete or partial withdrawal of an employer has occurred, or

“(ii) an employer is liable for withdrawal liability payments with respect to the complete or partial withdrawal of an employer from the plan,

“(B) such determination is based in whole or in part on a finding by the plan sponsor under section 4212(c) that a principal purpose of a transaction that occurred before January 1, 1999, was to evade or avoid withdrawal liability under this subtitle, and

“(C) such transaction occurred at least 5 years before the date of the complete or partial withdrawal,

then the special rules under paragraph (2) shall be used in applying subsections (a) and (d) of this section and section 4219(c) to the employer.

“(2) SPECIAL RULES.—

“(A) DETERMINATION.—Notwithstanding subsection (a)(3)—

“(i) a determination by the plan sponsor under paragraph (1)(B) shall not be presumed to be correct, and

“(ii) the plan sponsor shall have the burden to establish, by a preponderance of the evidence, the elements of the claim under section 4212(c) that a principal purpose of the transaction was to evade or avoid withdrawal liability under this subtitle.

Nothing in this subparagraph shall affect the burden of establishing any other element of a claim for withdrawal liability under this subtitle.

“(B) PROCEDURE.—Notwithstanding subsection (d) and section 4219(c), if an employer contests the plan sponsor's determination under paragraph (1) through an arbitration proceeding pursuant to subsection (a), or through a claim brought in a court of competent jurisdiction, the employer shall not be obligated to make any withdrawal liability payments until a final decision in the arbitration proceeding, or in court, upholds the plan sponsor's determination.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any employer that receives a notification under section 4219(b)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1399(b)(1)) after October 31, 2003.

SA 2234. Mr. KYL proposed an amendment to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to temporarily replace the 30-year Treasury rate with a rate based on long-term corporate bonds for certain pension plan funding requirements and other provisions, and for other purposes; as follows:

At the end of section 3, insert:

() LIMITATIONS ON PBGC LIABILITY FOR PLANS TO WHICH ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION APPLIES.—

(1) IN GENERAL.—If a plan with respect to which an election under section 412(l)(12) of the Internal Revenue Code or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) is made terminates during the applicable period, the maximum guarantee limitation under section 4022(b)(3) of such Act, and the phase-in rate of benefit increases under paragraph (5) or (7) of section 4022(b) of such Act, shall be the limitation and rates determined as if the plan terminated on the day before the first day of the applicable period.

(2) APPLICABLE PERIOD.—For purposes of paragraph (1), the term “applicable period” means, with respect to any plan, the period—

(A) beginning on the first day of the first applicable plan year with respect to the plan, and

(B) ending on the last day of the second plan year following the last applicable plan year with respect to the plan.

For purposes of this paragraph, the term “applicable plan year” has the meaning given such term by section 412(l)(12) of the Internal Revenue Code of 1986 and section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section).

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on January 22, 2004, at 9:30 a.m., in closed session to receive a classified operations/intelligence briefing regarding ongoing military activities in Iraq and Afghanistan, as well as other areas of interest.

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

COMMITTEE ON THE JUDICIARY

Mr. LOTT. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on Thursday, January 22, 2004, at 10 a.m., on “Judicial Nominations,” in the Dirksen Senate Office Building Room 226.

Panel I: Senators.

Panel II: Raymond W. Gruender to be United States Circuit Judge for the Eighth Circuit.

Panel III: Ricardo S. Martinez to be United States District Judge for the Western District of Washington, Gene E.K. Pratter to be United States District Judge for the Eastern District of Pennsylvania, Neil Vincent Wake to be United States District Judge for the District of Arizona.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on January 22, 2004 at 2:30 p.m. to hold a closed hearing on Intelligence Matters.

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

PRIVILEGES OF THE FLOOR

Mr. GRASSLEY. Mr. President, I ask unanimous consent that Kathleen West, a fellow on the Finance Committee staff, be permitted access to the floor during debate on the Pension Funding Equity Act.

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that people on Senator BAUCUS's staff, Jane Bergeson, Simon Chabel, and Trace Thaxton, interns with the Finance Committee, be granted the privilege of the floor for the remainder of the debate on H.R. 3108, the 30-year Treasury bill.

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

THE SENATE WEEK

Mr. FRIST. Madam President, I take a minute and again welcome everyone back for this second session, this being close to completion of the first week. We have had a very good and productive week in the Senate.

The President delivered his State of the Union Address Tuesday night, which is always an uplifting experience for all who have the opportunity to participate directly. And very much I express my appreciation for his very positive, constructive message as we all work together to move this country forward. Indeed, as the President said, the state of the Union is strong, and it is confident.

Today we were able to finish our appropriations work for this fiscal year, really the unfinished business for last year. It took a strong, bipartisan vote of 65 to 28. And with that, we adopted the Omnibus appropriations conference report, which will allow us to proceed to a regular order for this upcoming fiscal year.

In a few moments we will be considering and confirming several executive nominations. We have been working on that over the course of this afternoon. We will continue to discuss further nominations tomorrow, and I am very hopeful we will have a number of other nominations to be approved tomorrow. I am personally appreciative and glad we have been able to continue this process. It is important for us to continue that work and bring these nominations forward as soon as they are available.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. Madam President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 511, 512, 513. I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action.

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

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF VETERANS AFFAIRS

Cynthia R. Church, of Virginia, to be an Assistant Secretary of Veterans Affairs (Public and Intergovernmental Affairs).

Robert N. McFarland, of Texas, to be an Assistant Secretary of Veterans Affairs (Information and Technology).

Gordon H. Mansfield, of Virginia, to be Deputy Secretary of Veterans Affairs.

NOMINATION DISCHARGED

Mr. FRIST. Madam President, I ask unanimous consent that the nomination of James C. Miller III, PN99, be discharged from the Governmental Affairs Committee, returned to the President, and the Senate then resume legislative session.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.