

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.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

ORDERS FOR FRIDAY, JANUARY 23, 2004

Mr. FRIST. Madam President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Friday, January 23. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. The Senator from Nevada.

THANKING THE PAGES

Mr. REID. Reserving the right to object, Madam President, we have had a very difficult year that has just been completed. The majority leader and those of us who have the honor of serving in the Senate have our names appear in print, we are on television, and people see and know what we do. But the one reason for our success is these wonderful pages. I have served now going on 22 years in the Congress, and they are just part of our lives. We take them for granted. They do the most menial things but which are so meaningful to us.

For example, a lot of times I have meetings in Senator DASCHLE's office. My office is up on the third floor. These pages have taken my briefcase upstairs 50 times. They bring us water. They make sure the people at the desk have the right amendment. They do so many things that make us look good, and they get no honor or glory for doing this.

These pages are juniors in high school. They are going to graduate. The reason I mention this is that they are graduating in the morning and we likely, Mr. Leader, will never see these young people again. Some of them we will, maybe.

But over the years, as I have indicated, I have developed such a great affection for these wonderful young men and women. They sit on different sides of the rostrum: Democrats here, Republicans here. But to us they are just wonderful young people, and they are representative of what our country is all about.

We are here doing the Nation's business and these young people represent the future. I want each of these young people to know, even though they get none of the glory, how essential they are to the running of this institution.

I know the leader joins me, and I know he will be a speaker in the morning at their graduation.

There are just a few people there. Here there are people watching. I want them to know all over the country that

this is a long tradition of the Congress to have these young people helping us. We could not make it without them.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Madam President, I would like to reinforce what the assistant Democratic leader just said in that the operation of this body is dependent on the boys and girls who are here with us. We don't have that opportunity very often to publicly say thank you. It is important to do that. I will have the opportunity tomorrow to briefly thank them and their parents and family members who will be here.

I will simply add to what the assistant leader has said: It is a lot of hard work being a page. We are here a lot of hours in the day. Tonight is a reasonable time to get out, 6:20. We start early in the morning at 9:30. That is hard work. On top of that, they are going to school. So they are putting in hours every day and at the same time carrying a heavy workload in high school. At the same time they are here and working, they realize later tonight they will be doing homework, class work. It is pretty remarkable that they are here all day allowing us to carry on the Nation's business and facilitating that and helping in ways that, if they were not here, this would not be possible, or it would take longer and be a lot less efficient, and at the same time they are committing the time and the energy and hard work to education, which is a big subject on the floor all the time as we work.

It leads me to say thank you. We all have tremendous respect for you. It has been a hard 5 months. We know that. We thank you for that. The curriculum itself is fascinating here because at the same time they are learning from great teachers through the Senate in terms of formal education, they are picking up what makes this great democracy the shining light that it is for the world.

Mr. REID. No objection.

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

PROGRAM

Mr. FRIST. Tomorrow morning the Senate will be in a period of morning business. We will not have rollcall votes during tomorrow's session. Members who wish to speak to the pending bill, the pension bill, are encouraged to do so. We want to continue to make progress on that important bill, and we do ask that they come to the floor to continue that debate tomorrow.

We will resume consideration of that legislation on Monday to allow Members to offer their amendments. However, it is my intent to stack votes on those amendments on Tuesday. Therefore, to clarify statements made earlier today, we will have no rollcall votes on Monday. Again, I encourage Senators to be available for the consideration of their amendments on that day, continuing the progress on this bill.

It is our intention to finish the legislation Tuesday or Wednesday of next week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Madam President, if the assistant Democratic leader has no further comment and if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:20 p.m., adjourned until Friday, January 23, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate January 22, 2004:

EXECUTIVE OFFICE OF THE PRESIDENT

DAVID SAFAVIAN, OF MICHIGAN, TO BE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY, VICE ANGELA STYLES.

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES COAST GUARD RESERVE UNDER TITLE 10, U.S.C., SECTION 12203(A):

To be captain

LARRY L. JONES, 0000

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

VINCENT T. JONES, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

RICHARD H. VILLA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

ROBERT J. BERNARD, 0000
WILLIAM A. BLANCHETTE, 0000
DEBORA K. ESQUE, 0000
ALLEN F. GILBAR, 0000
JAMES T. PATTERSON, 0000
ROBERT A. SOUSA, 0000
OBA L. VINCENT, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

HARRIS H. BROOKS, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

PAULA C. GOULD, 0000
RICHARD W. KLEPERIS, 0000
CALVIN R. LOTT JR., 0000
MARK A. SCHULER, 0000
ROBERT R. SINGLETON, 0000
GERT J. P. VISSER, 0000
JOHN J. WINKOPP III, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE AIR FORCE UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JEFFREY S. ALDERFER, 0000
KEITH AMBURGEY, 0000
NORMAN C. ANDERSON, 0000
JERRY W. ANGUS, 0000
JEFFREY C. ARMSTRONG, 0000
ROBERT S. ARTHUR, 0000
LYNN A. ASPEGREN, 0000
AUDREY A. BAHLER, 0000
WILLIAM E. BAIRD JR., 0000
JEFFREY K. BARNSON, 0000
HAL K. BIRD, 0000
CHARLES F. BOIVIN II, 0000
ALAN J. BOYKIN, 0000
MARGARET A. BRADLEY, 0000