amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2244. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2245. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2246. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2247. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2248. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2249. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2250. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2251. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2252. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2253. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2254. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2255. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2256. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2257. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2258. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2259. Mr. FITZGERALD submitted an amendment intended to be proposed to amendment SA 2233 proposed by Mr. GRASSLEY (for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY) to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2260. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill H.R. 3108, supra; which was ordered to lie on the table.

SA 2261. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill H.R. 3108, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2236. 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:

(___) RESTRICTIONS ON APPLICATION FOR FUNDING WAIVER FOR EMPLOYERS ELECTING ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION.—An employer who makes 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 for 2 plan years may not receive a funding waiver under section 412(d) of such Code for any plan year beginning after December 27, 2005, and before December 28, 2007.

SA 2237. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike sections 3, 4, and 5 and insert:

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 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 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 90 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 lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if 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 less than 75 percent, 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 filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph).''

(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 90 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 lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if 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 less than 75 percent, 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.

''(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.

''(iv) PUBLIC INFORMATION.—If an employer making an election under this paragraph is a member of a controlled group subject to section 4010, the Pension Benefit Guaranty Corporation may make public the assets, liabilities, and funded liability percentage of any plan maintained by the plan sponsor for any plan year which corresponds to the plan year of the election and each of the 4 succeeding plan years.

''(F) ELECTION.—An election under this paragraph shall be filed with the Secretary of the Treasury within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph).''

(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)''.

(e) 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 fourth 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).

(f) ELECTION.—Each 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) shall be counted as an election of a funding waiver for purposes of section 412(d)(1) of the Internal Revenue Code of 1986.

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, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.

''(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), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) 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 fair market 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 permitted under 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 written in a manner so as to be understood by the average plan participant, and

''(B) 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 may issue regulations (including a model notice) that implement the amendments made by this section. If such regulations are not issued, the administrator of a defined benefit plan which is a multiemployer plan shall comply with the provisions of section 4011 of the Employee Retirement Income Security Act of 1974 in a reasonable manner to the extent necessary to meet the notice requirements of such amendments.

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

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), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 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 (solely on account of increased contributions) 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, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, 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, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

''(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, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which such Corporation would pay if the plan terminated while underfunded. The first sentence of such notice shall also provide a statement that the plan elected to defer an amount of its investment losses and as a result the plan may not have enough money to pay all benefits if the plan requires financial assistance from such Corporation.

''(vii) An election under this subparagraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information.''

(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), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 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 (solely on account of increased contributions) 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, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, 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, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

''(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 filed with the Secretary of Labor within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph or section 302(b)(7)(F) of the Employee Retirement Income Security Act of 1974 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 of the Employee Retirement Income Security Act of 1974 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information.''

(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).''

SA 2238. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike section 3 and insert:

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 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 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 90 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 lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if 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 less than 75 percent, 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.

''(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 filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph).''

(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 90 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 lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if 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 less than 75 percent, 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.

''(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.

''(iv) PUBLIC INFORMATION.—If an employer making an election under this paragraph is a member of a controlled group subject to section 4010, the Pension Benefit Guaranty Corporation may make public the assets, liabilities, and funded liability percentage of any plan maintained by the plan sponsor for any plan year which corresponds to the plan year of the election and each of the 4 succeeding plan years.

''(F) ELECTION.—An election under this paragraph shall be filed with the Secretary of the Treasury within 30 days after the beginning of the plan year to which the election applies (or, if later, within 30 days after the date of the enactment of this paragraph).''

(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)''.

(e) 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 fourth 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).

(f) ELECTION.—Each 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) shall be counted as an election of a funding waiver for purposes of section 412(d)(1) of the Internal Revenue Code of 1986.

SA 2239. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 12, line 10 through page 13, line 6 and strike page 16, line 24 through page 17, line 20.

SA 2240. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 10, line 13 through page 11, line 14 and insert:

''(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 90 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 lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if 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 less than 75 percent, or

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

Strike page 15, line 1 through page 16, line 8 and insert:

''(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 90 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 lesser of—

''(I) the contemporaneous rate of increase in average wages of participants covered by the amendment, or

''(II) the increase in the consumer price index for the preceding year,

''(iii) the amendment is required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph, except that this clause shall not apply if 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 less than 75 percent, or

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

SA 2241. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Starting on page 21, line 4, insert the following new paragraph (e):

''(e) ELECTION.—Each election under section 412(1)(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) shall be counted as an election of a funding waiver for purposes of section 412(d)(1) of the Internal Revenue Code of 1986.''

SA 2242. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Starting on page 20, line 22, insert at the end the following new sentence:

''If an employer makes an election for a plan 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), and if that plan terminates within four years after the end of the plan year to which the election applies, the maximum guarantee limitation under section 422(b)(3) of the Employee Retirement Income Security Act of 1974 and the phase-in rate of benefit increases under section 4022(b)(5) and (7) of the Employee Retirement Income Security Act of 1974 shall be frozen as of the beginning of the plan year to which the election applied.''

SA 2243. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Starting on page 20, line 10, insert at the end the following subparagraph:

''(iv) If the employer is part of a controlled group subject to section 4010 of the Employee Retirement Income Security Act of 1074, the Pension Benefit Guaranty Corporation may make public the assets, liabilities, and funded percentage for that plan year and the following four plan years for any plan maintained by the controlled group.''

SA 2244. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 13, lines 20 through 22, and insert:

''(E) ELECTION.—An election under this paragraph shall be made within 30 days after the beginning of the plan year to which the election applies, or if later, within 30 days of enactment, by filing with the Secretary in such manner as the Secretary may prescribe.''

Strike page 20, lines 10 through 13, and insert:

''(F) ELECTION.—An election under this paragraph shall be made within 30 days after the beginning of the plan year to which the election applies, or if later, within 30 days of enactment, by filing with the Secretary in such manner as the Secretary may prescribe.''

SA 2245. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike sections 4 and 5 and insert:

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, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.

''(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), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) 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 fair market 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 permitted under 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 written in a manner so as to be understood by the average plan participant, and

''(B) 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 may issue regulations (including a model notice) that implement the amendments made by this section. If such regulations are not issued, the administrator of a defined benefit plan which is a multiemployer plan shall comply with the provisions of section 4011 of the Employee Retirement Income Security Act of 1974 in a reasonable manner to the extent necessary to meet the notice requirements of such amendments.

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

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), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 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 (solely on account of increased contributions) 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, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, 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, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

''(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, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of the deferral. Such notice shall also include the maximum guaranteed monthly benefits which such Corporation would pay if the plan terminated while underfunded. The first sentence of such notice shall also provide a statement that the plan elected to defer an amount of its investment losses and as a result the plan may not have enough money to pay all benefits if the plan requires financial assistance from such Corporation.

''(vii) An election under this subparagraph shall be filed with the Secretary within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph and section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information.''

(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), except that all gains and losses shall be immediately recognized and assets shall be valued at their fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 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 (solely on account of increased contributions) 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, except that this subclause shall not apply if the funded current liability percentage (as determined under clause (ii)(I)) as of the end of the plan year of the increase is projected (taking into account the increase) to be less than 75 percent, 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, but only if the collective bargaining agreement was in effect on the date of the enactment of this clause.

''(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 filed with the Secretary of Labor within 30 days after the beginning of the plan year to which the election applies (or, if later, 30 days after the date of the enactment of this subparagraph). The plan administrator of any multiemployer plan that elects an amortization hiatus under this subparagraph or section 302(b)(7)(F) of the Employee Retirement Income Security Act of 1974 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 of the Employee Retirement Income Security Act of 1974 as if the plan were subject to those requirements for that plan year and the following 4 plan years. The Corporation may make public asset, liability, and funded percentage information.''

(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).''

SA 2246. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 21, line 12 through line 18 and insert:

''(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, to each employer that has an obligation to contribute under the plan, and to the Pension Benefit Guaranty Corporation.''

SA 2247. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 22, line 6 through line 11 and insert:

''(i) a statement as to whether the plan's funded current liability percentage (as defined in section 302(d)(8)(B) except that all gains and losses shall be immediately recognized in full and assets shall be valued at fair market value) for the plan year to which the notice relates is at least 100 percent (and, if not, the actual percentage);''

SA 2248. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 22, line 12 through line 16 and insert:

''(ii) a statement of the fair market 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;''

SA 2249. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 23, line 6 through line 10 and insert:

''(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include any additional information which the plan administrator elects to include to the extent permitted by the regulations prescribed by the Secretary.''

SA 2250. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 23, line 18 through line 19, and redesignate subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

SA 2251. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 24, line 7 through line 11 and insert:

''(c) REGULATIONS AND MODEL NOTICE.—The Secretary of Labor may issue regulations (including a model notice) that implement the provisions of this section. If such regulations are not issued, the administrator of a defined benefit plan which is a multiemployer plan shall comply with the provisions of section 4011 of the Employee Retirement Income Security Act of 1974 and the regulations thereunder in a reasonable manner to fulfill the notice requirement under this section.''

SA 2252. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 24, line 12 through line 14 and insert:

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

SA 2253. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 25, line 16 through line 19 and insert: ''Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 of the plan years beginning after June 30, 2002, and before July 1, 2006.''

Strike page 29, line 14 through line 18 and insert: ''Notwithstanding the preceding sentence, a plan may elect to have this subparagraph apply to net experience losses for only 2 of the plan years beginning after June 30, 2002, and before July 1, 2006.''

SA 2254. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 26, line 1 through line 5 and insert:

''(I) the funded current liability percentage (as defined in subsection (d)(8)(B) except that all gains and losses shall be immediately recognized in full and assets shall be valued at fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,''

Strike page 30, line 3 through line 8 and insert:

''(I) the funded current liability percentage (as defined in subsection (1)(8)(B) except that all gains and losses shall be immediately recognized in full and assets shall be valued at fair market value) as of the end of the plan year is projected (taking into account the effect of the amendment) to be at least 90 percent,''

SA 2255. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 26, line 6 through 16 and insert:

''(II) if the funded current liability percentage is at least 75 percent and 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 solely on account of increased contributions 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 solely on account of increased contributions by the end of the third plan year following the end of the last hiatus period of the plan, or''

Strike page 30, line 9 through line 22 and insert:

''(II) if the funded current liability percentage is at least 75 percent and 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 solely on account of increased contributions 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 solely on account of increased contributions by the end of the third plan year following the end of the last hiatus period of the plan, or''

SA 2256. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 26, line 20 through line 23 and insert:

''(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 required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph.''

Strike page 31, line 1 through line 6 and insert:

''(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 required by a collective bargaining agreement which is in effect on the date of enactment of this subparagraph.''

SA 2257. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 26, line 20 through line 23 and insert:

''(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 but in no case shall the rate of increase in such benefits exceed the change in the consumer price index for the preceding year in the case of any collective bargaining agreement which was not in effect on the date of enactment of this subparagraph.''

Strike page 31, line 1 through line 6 and insert:

''(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 but in no case shall the rate of increase in such benefits exceed the change in the consumer price index for the preceding year in the case of any collective bargaining agreement which was not in effect on the date of enactment of this subparagraph.''

SA 2258. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 27, line 7 through line 21 and insert:

''(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, to each employer that has an obligation to contribute under the plan and to the Pension Benefit Guaranty Corporation. Such notice shall include with respect to any election the amount of the net experience loss to be deferred and the period of 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. The first sentence of such notice shall also provide a statement that the plan elected to defer the amount of investment losses and as a result the plan may not have enough money to pay all benefits if the plan requires financial assistance from the PBGC.''

SA 2259. Mr. FITZGERALD submitted an amendment intended to be proposed 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; which was ordered to lie on the table; as follows:

Strike page 27, line 22 through line 25 and insert:

''(viii) An election under this subparagraph shall be filed within 30 days after the beginning of the plan year to which the election applies, or if later, within 30 days after the date of enactment, by filing with the Secretary in such manner as the Secretary, after consultation with the Secretary of Treasury, may prescribe. The plan administrator of any multiemployer plan that elects an amortization hiatus under section 412(b)(7)(F) of the Internal Revenue Code of 1986 for any plan year must provide to the Pension Benefit Guaranty Corporation the actuarial information required by section 4010 of the Employee Retirement Income Security Act of 1974 and the regulations thereunder as if the plan were subject to those requirements for that plan year and the following four plan years. The PBGC may make public asset, liability, and funded percentage information.''

SA 2260. Mr. SPECTER submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. ___. RESTORATION OF CERTAIN PLANS TERMINATING IN 2003.

(a) IN GENERAL.—Notwithstanding any provision of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974, the provisions of subsection (b) shall apply to any defined benefit plan that was—

(1) maintained by a commercial passenger air carrier,

(2) maintained for the benefit of such carrier's employees pursuant to a collective bargaining agreement, and

(3) terminated during the calendar year 2003 while the employer was in bankruptcy under chapter 11 of title 11 of the United States Code.

(b) RESTORATION OF PLAN.—The Pension Benefit Guaranty Corporation shall restore any plan described in subsection (a), pursuant to the terms described in subsection (g), and the control of the plan's assets and liabilities shall be transferred to the employer. The date of restoration shall be not later than 60 days after the date the terms of the plan are determined pursuant to subsection (g).

(c) EXCLUSION OF EXPECTED INCREASE IN CURRENT LIABILITY.—In applying section 412(l)(1)(A)(i) of such Code and section 302(d)(1)(A)(i) of such Act with respect to a plan restored under subsection (b), any expected increase in current liability due to benefits accruing during each plan year as described in section 412(1)(2)(C) of such Code and section 302(d)(2)(C) of such Act shall be excluded.

(d) AMORTIZATION OF UNFUNDED AMOUNTS UNDER RESTORATION PAYMENT SCHEDULE.—

(1) POST-RESTORATION INITIAL UNFUNDED ACCRUED LIABILITY.—In the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the initial restoration amortization base for a plan described in subsection (a) shall be an amount equal to the excess of—

(i) the accrued benefit liabilities returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the initial restoration amortization base shall be amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date, and the funding standard account of the plan under section 412 of such Code and section 302 of such Act shall be charged with such installments.

(2) UNFUNDED SECTION 412(l) RESTORATION LIABILITY.—For purposes of section 412 of such Code and section 302 of such Act, in the case of a plan restored under subsection (b)—

(A) the initial post-restoration valuation date for a plan described in subsection (a) shall be January 1 of the calendar year following the date of restoration,

(B) the unfunded section 412(l) restoration liability shall be an amount equal to the excess of—

(i) the current liability returned by the Corporation, over

(ii) the market value of plan assets returned by the Corporation, and

(C) the unfunded section 412(l) restoration liability amount shall be equal to the unfunded section 412(l) restoration liability amortized in level annual installments over a period determined pursuant to subsection (g) but not to exceed 30 years after the initial post-restoration valuation date.

(3) RULES OF SPECIAL APPLICATION.—In applying the 30-year amortization described in paragraph (1)(C) or (2)(C)—

(A) the assumed interest rate for purposes of paragraph (1)(C) shall be the valuation interest rate used to determine the accrued liability under section 412(c) of such Code and section 302(c) of such Act,

(B) the assumed interest rate for purposes of paragraph (2)(C) shall be the interest rate used to determine current liability as of the initial post-restoration valuation date under section 412(l) of such Code and section 302(d) of such Act,

(C) the actuarial value of assets as of the initial post-restoration valuation date shall be reset to the market value of assets with a 5-year phase-in of unexpected investment gains or losses on a prospective basis, and

(D) for plans using the frozen initial liability (FIL) funding method in accordance with section 412(c) of such Code and section 302(c) of such Act, the initial unfunded liability used to determine normal cost shall be reset to the initial restoration amortization base.

(e) QUARTERLY CONTRIBUTIONS.—The requirements of section 412(m) of such Code

and section 302(e) of such Act shall not apply to a plan restored under subsection (b) until the plan year beginning on the initial post-restoration valuation date. The required annual payment for that year shall be the lesser of—

(1) the amount determined under section 412(m)(4)(B)(i) of such Code and section 302(e)(4)(B)(i) of such Act, or

(2) 100 percent of the amount required to be contributed under the plan for the plan year beginning January 1, 2003, and ending on the date of plan termination.

(f) RESETTING OF FUNDING STANDARD ACCOUNT BALANCES.—In the case of a plan restored under subsection (b), any accumulated funding deficiency or credit balance in the funding standard account under section 412 of such Code or section 302 of such Act shall be set equal to zero as of the initial post-restoration valuation date.

(g) TERMS OF RESTORED PLAN.—

(1) IN GENERAL.—The terms of a plan which is restored pursuant to subsection (b) shall be determined by mutual agreement of the employer and the collective bargaining representative of employees covered by the plan. If such parties are unable to reach mutual agreement on such terms, then the terms of the restored plan will be determined by a neutral arbitrator. The neutral arbitrator will be selected by the parties within 7 days after the earlier of the date the parties reach an impasse or 60 days after the date of the enactment of this Act. The neutral arbitrator will be selected by the parties from a panel of neutrals provided by the National Mediation Board. The neutral arbitrator will render his or her determination not later than 120 days after the date of the enactment of this Act. Such determination shall be final and binding on the parties.

(2) SPECIFIC TERMS.—The terms of the restored plan are subject to the following:

(A) Benefits under the restored plan for any participant or group of participants may not be greater than, but may be less than, those under the plan prior to its termination, and forms of distribution under the restored plan for any participant or group of participants may exclude forms available under the plan prior to its termination, and any such reductions in benefits or forms of distribution shall be deemed to comply with section 411(d)(6) of such Code and section 204(g) of such Act.

(B) For any participant, benefits under the restored plan shall be offset by the value of contributions made on behalf of such participant to any defined contribution pension plan established by the parties in conjunction with the termination of the restored plan.

(C) The amortization periods for the initial restoration amortization base and the unfunded section 412(l) restoration liability shall not exceed 30 years.

(D) The minimum required cost of the restored plan shall not be less than the greater of—

(i) the projected cost of any defined contribution pension plan established in conjunction with the termination of the restored plan, or

(ii) the amount allowed as costs under the employer's original plan of reorganization for all of the employer's retirement plans minus the minimum required cost determined as of the plan restoration date of all of the employer's retirement plans excluding the restored plan.

(h) PBGC LIABILITY LIMITED.—In the case of any plan which is described in subsection (a), which is restored pursuant to subsection (b), and which subsequently terminates with a date of plan termination before the end of the fifth calendar year after the date of restoration, section 4022 of the Employee Retirement Income Security Act of 1974 shall be applied as if the plan had been amended to provide that participants would receive no credit for benefit accrual purposes under the plan for service on and after the first day of the plan year beginning after the date of the enactment of this Act.

(i) EFFECTIVE DATE.—This section shall apply to plan years beginning after December 31, 2002.

SA 2261. Mr. GRASSLEY submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

At the end, add:

SEC. ___. EXTENSION OF TRANSFERS OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.

(a) AMENDMENT OF INTERNAL REVENUE CODE OF 1986.—Paragraph (5) of section 420(b) of the Internal Revenue Code of 1986 (relating to expiration) is amended by striking ''December 31, 2005'' and inserting ''December 31, 2013''.

(b) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Pension Stability Act''.

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking ''Tax Relief Extension Act of 1999'' and inserting ''Pension Stability Act''.

(3) Paragraph (13) of section 408(b) of such Act (29 U.S.C. 1108(b)(3)) is amended—

(A) by striking ''January 1, 2006'' and inserting ''January 1, 2014'', and

(B) by striking ''Tax Relief Extension Act of 1999'' and inserting ''Pension Stability Act''.

SEC. ___. CLARIFICATION OF EXEMPTION FROM TAX FOR SMALL PROPERTY AND CASUALTY INSURANCE COMPANIES.

(a) IN GENERAL.—Section 501(c)(15)(A) of the Internal Revenue Code of 1986 is amended to read as follows:

''(A) Insurance companies (as defined in section 816(a)) other than life (including interinsurers and reciprocal underwriters) if—

''(i) the gross receipts for the taxable year do not exceed $600,000, and

''(ii) more than 50 percent of such gross receipts consist of premiums.''.

(b) CONTROLLED GROUP RULE.—Section 501(c)(15)(C) of the Internal Revenue Code of 1986 is amended by inserting '', except that in applying section 1563 for purposes of section 831(b)(2)(B)(ii), subparagraphs (B) and (C) of section 1563(b)(2) shall be disregarded'' before the period at the end.

(c) CONFORMING AMENDMENT.—Clause (i) of section 831(b)(2)(A) of the Internal Revenue Code of 1986 is amended by striking ''exceed $350,000 but''.

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

SEC. ___. DEFINITION OF INSURANCE COMPANY FOR SECTION 831.

(a) IN GENERAL.—Section 831 of the Internal Revenue Code of 1986 is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

''(c) INSURANCE COMPANY DEFINED.—For purposes of this section, the term 'insurance company' has the meaning given to such term by section 816(a)).''.

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

AUTHORIZATION TO SENATE LEGAL COUNSEL

Mr. KYL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 291, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 291) to authorize testimony and legal representation in the case of James McKoy v. North Fork Services/Joint Venture.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony in an administrative proceeding before the U.S. Department of Labor. An employee of a private contractor at the Plum Island Animal Disease Center, a Department of Homeland Security facility in New York, was terminated from his employment.

An investigation by the Occupational Safety and Health Administration sustained the employee's allegations that his termination was in retaliation for his voicing environmental safety concerns to the Homeland Security Department and to Senator CLINTON's office and was therefore in violation of the employee protection provisions of the Clean Air Act and the Federal Water Pollution Control Act of 1972. That finding is now the subject of the employer's appeal to the Labor Department and is set for an evidentiary hearing.

The regional director in Senator CLINTON's Long Island Office is a direct fact witness to the events underlying this controversy and, hence, is a necessary witness in this proceeding. Accordingly, this resolution would authorize Senator CLINTON's employee to testify at this hearing, with representation by the Senate Legal Counsel.

Mr. KYL. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the matter be printed in the RECORD.

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

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas, in the case of James McKoy v. North Fork Services/Joint Venture, No. 2004–CAA–00002, pending before the United States Department of Labor, testimony has been requested from Resi Cooper, an employee in the Long Island office of Senator Hillary Rodham Clinton;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of