

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 Re-

tirement 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

1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate; and

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Resi Cooper is authorized to testify in the case of *James McKoy v. North Fork Services/Joint Venture*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Resi Cooper in connection with the testimony authorized in section one of this resolution.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on today's calendar: Calendar Nos. 514 through 535.

I further ask unanimous consent that the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, and the President be immediately notified of the Senate's action, and the Senate resume legislative session.

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

The nominations considered and confirmed en bloc are as follows:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jose Antonio Aponte, of Colorado, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Sandra Frances Ashworth, of Idaho, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2004.

Edward Louis Bertorelli, of Massachusetts, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Carol L. Diehl, of Wisconsin, to be Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Allison Druin, of Maryland, to be Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Beth Fitzsimmons, of Michigan, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 2006.

Patricia M. Hines, of South Carolina, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2005.

Colleen Ellen Huebner, of Washington, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Stephen M. Kennedy, of New Hampshire, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2007.

Bridget L. Lamont, of Illinois, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Mary H. Perdue, of Maryland, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

Herman Lavon Totten, of Texas, to be a Member of the National Commission on Libraries and Information Science for a term expiring July 19, 2008.

DEPARTMENT OF EDUCATION

Raymond Simon, of Arkansas, to be Assistant Secretary for Elementary and Secondary Education, Department of Education.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

Drew R. McCoy, of Massachusetts, to be a Member of the Board of Trustees of the James Madison Memorial Fellowship Foundation for a term of six years.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

James McBride, of New York, to be a Member of the National Council on the Arts for a term expiring September 3, 2008.

UNITED STATES INSTITUTE OF PEACE

Laurie Susan Fulton, of Virginia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

J. Robinson West, of the District of Columbia, to be a Member of the Board of Directors of the United States Institute of Peace for a term expiring January 19, 2007.

DEPARTMENT OF EDUCATION

Susan K. Sclafani, of the District of Columbia, to be Assistant Secretary for Vocational and Adult Education, Department of Education.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

ORDERS FOR TOMORROW

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 12 noon tomorrow, Tuesday, January 27. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then resume consideration of H.R. 3108, the pensions bill, with the time until 12:30 equally divided between the bill's managers or their designees.

I further ask unanimous consent that the Senate recess from 12:30 to 2:15 for the weekly policy luncheons. In addition, I ask unanimous consent that the time from 2:15 to 2:30 be equally divided between Senators KYL and BAUCUS or their designees; provided that at 2:30 the Senate proceed to a vote on or in relation to the Kyl amendment No. 2234, with no intervening action or debate.

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

SCHEDULE

Mr. McCONNELL. Mr. President, tomorrow the Senate will resume consideration of H.R. 3108, the pensions bill. Under the previous order, at 2:30, the Senate will proceed to vote on or in relation to the Kyl amendment No. 2234.

It is our intention to complete action on this bill no later than Wednesday of this week. Again, I encourage all Members who wish to offer amendments to contact the bill managers so they can establish an order for amendment consideration. I also inform all Senators that additional rollcall votes should be anticipated during tomorrow's session.

ADJOURNMENT UNTIL TUESDAY, JANUARY 27, 2004

The PRESIDING OFFICER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 5:52 p.m., adjourned until Tuesday, January 27, 2004, at 12 noon.

NOMINATIONS

Executive nominations received by the Senate January 26, 2004:

AMTRAK

LOUIS S. THOMPSON, OF MARYLAND, TO BE A MEMBER OF THE REFORM BOARD (AMTRAK) FOR A TERM OF FIVE YEARS, VICE JOHN ROBERT SMITH, TERM EXPIRED.

DEPARTMENT OF TRANSPORTATION

KIRK VAN TINE, OF VIRGINIA, TO BE DEPUTY SECRETARY OF TRANSPORTATION, VICE MICHAEL P. JACKSON, RESIGNED.

FEDERAL LABOR RELATIONS AUTHORITY

PETER EIDE, OF MARYLAND, TO BE GENERAL COUNSEL OF THE FEDERAL LABOR RELATIONS AUTHORITY FOR A TERM OF FIVE YEARS, VICE JOSEPH SWERDZEWski, RESIGNED.

MERIT SYSTEMS PROTECTION BOARD

SUSANNE T. MARSHALL, OF VIRGINIA, TO BE CHAIRMAN OF THE MERIT SYSTEM PROTECTION BOARD, VICE BETH SUSAN SLAVET.

NEIL MCPHIE, OF VIRGINIA, TO BE A MEMBER OF THE MERIT SYSTEMS PROTECTION BOARD FOR THE TERM OF SEVEN YEARS EXPIRING MARCH 1, 2009, VICE BETH SUSAN SLAVET, TERM EXPIRED.

UNITED STATES POSTAL SERVICE

JAMES C. MILLER III, OF VIRGINIA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 2010, VICE EINAR V. DYHRKOPP, TERM EXPIRED.

FOREIGN CLAIMS SETTLEMENT COMMISSION

DAVID B. RIVKIN, JR., OF VIRGINIA, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2004, VICE LARAMIE FAITH MCNAMARA.

CONFIRMATIONS

Executive nominations confirmed by the Senate January 26, 2004:

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

JOSE ANTONIO APONTE, OF COLORADO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE FOR A TERM EXPIRING JULY 19, 2007.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SANDRA FRANCES ASHWORTH, OF IDAHO, TO BE A MEMBER OF THE NATIONAL COMMISSION ON LIBRARIES