

of \$5,100 for every man, woman, and child in America. In every Federal prison, we spend an average of \$3,800 for every prisoner. On every Indian reservation, we will spend \$1,900 total for every man, woman, and child, one half of what we spend for Federal prisoners. So it is no wonder that people die at a rate hundreds of times greater on the reservation than they do anywhere else.

America is obligated, by law and by treaty, to provide free health care for American Indians—a commitment the U.S. Government made to the Indian people in exchange for their lands. America is not honoring that commitment.

The White House's budget this year included only \$2.1 billion for IHS clinical services. That is more than 60 percent below the bare minimum needed to provide basic health care for people already in the IHS system.

The problems run still deeper. Even when both groups have roughly the same insurance coverage, the same income, the same age and the same health conditions, minorities receive less aggressive and less effective care than white Americans.

The racial and ethnic disparities in our health care system are not merely a minority issue or a health care issue. The high incidence of diabetes, asthma and other diseases among minorities as a result of this health care gap costs our Nation billions of dollars every year.

But most importantly it is a moral issue. A health care system that provides lesser treatment for minorities offends every American principle of justice and equality. We have been promised that we would address these issues at some point in the future, but we have seen no action whatsoever. We have attempted to pass the Healthcare Equality and Accountability Act of 2003, and no action has yet been taken.

This legislation would reduce health disparities and improve the quality of care for racial and ethnic minorities. The bill would expand health coverage by expanding eligibility and streamlining enrollment in Medicaid and the State Children's Health Insurance Program; it would remove language and cultural barriers by providing additional funding for cultural and language services; it would offer incentives to improve health workforce diversity; it would offer new funding to State, local, and tribal initiatives that take innovative approaches to reducing the disparities; and it would increase minority health research and data collection.

The bill would also strengthen and hold accountable the government institutions responsible for ensuring health care equity. And finally, the bill would provide adequate funding for the Indian Health Service—so that we can finally reach some adequate funding level and stop the shameful underfunding of Indian health needs.

This legislation would represent a strong first step, moving us closer to

the goal of ensuring equal access to quality health care.

Last year, the majority leader said:

Inequity is a cancer that can no longer be allowed to fester in health care.

I agree completely. We know what happens when cancer is allowed to spread.

Too many Americans in minority communities have lost their lives because they are subjected to a two-tiered health care system that keeps them from getting the care they need. We cannot afford to wait any longer to confront the minority health gap in our country. Americans are asking for our leadership on a challenge that is quickly becoming a national emergency. We have an obligation to answer their call.

I yield the floor.

#### MEDICAL MALPRACTICE CLOTURE VOTE

Mr. BYRD. Mr. President, yesterday, for the third time in this Congress, the Senate failed to invoke cloture on the motion to proceed to a one-sided, take-it-or-leave-it medical malpractice bill.

Last year, the majority leader tried to bring up a comprehensive bill. The Senate did not invoke cloture. Rather than sit down with the other side to craft a reasonable bill that could be brought up, debated, and amended, the majority leader took the same flawed bill, applied it to only one sector of the health industry, and attempted to bring it up again, just a few weeks ago.

At that time, I voted for cloture, not because I agreed with the underlying legislation, but because I had hoped for a legitimate debate, a serious look at the issues that are part of the growing medical malpractice crisis. I recognize that there are serious problems with medical malpractice in this country, and specifically with the availability of OB/GYN services in my home State of West Virginia. I voted to end debate on the motion to proceed to that bill. But, again, cloture was not invoked.

After two unsuccessful cloture votes, one would think that, if they truly wanted to pass legislation on this important issue, the Republican leadership would sit down with their Democratic colleagues and negotiate a bill that was less partisan. But there has been no such effort. Instead, the majority continues to add physician groups here and there, trying to rack up more political points. This is not a serious effort to address a real challenge. This series of votes is not designed to advance legislation. Instead, this is choreographed political theater, played for the benefit of core supporters of the Republican party. This is not a successful strategy for advancing legislation, or for solving serious problems facing our Nation, and I can not lend my support to this charade.

I do hope that the Senate can reach a consensus on this issue. Doctors and, most importantly, patients need stability in this system and the peace of

mind that comes with a reliable, high-quality health care system.

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. CHAMBLISS). Morning business is now closed.

#### PENSION FUNDING EQUITY ACT OF 2004—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of the conference report to accompany H.R. 3108, which the clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate 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, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House of the RECORD of April 1, 2004.)

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. It is my understanding there are 4 hours equally divided; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. GREGG. This is an important piece of legislation which deals with the solvency of a large number of companies and benefits that are paid to those companies' employees. The core, the essence of this bill is the fact that traditionally, companies have been required to fund their defined benefit plans in relationship to the rate of return that is accounted for on a 30-year Treasury bond. That affects how much money they must pay into these plans. Unfortunately, for companies that have such plans, the 30-year bond no longer exists as a viable benchmark. That is because we as a government are not issuing 30-year bonds. Therefore, when people value a 30-year bond, it has become, in the last few years, an understated value. It is not reflecting what the true interest is, the true rate of return is, in the marketplace any longer.

If we continue to use the 30-year bond as a benchmark, an inflated payment is required by those companies which come under this rule.

The effect of that is a large amount of money—it is estimated to be \$80 billion—would flow inaccurately or inappropriately as a result of the fact that the decision as to that payment is

based on the 30-year bond which no longer exists and is understated. It understates returns.

That \$80 billion, if it is artificially moved around, becomes a problem because it means companies actually have to come up with the money. When they do, they are taking money away from investments which create jobs. If a company is planning to create a new plant or buy new equipment to create new efficiencies or simply to pay its people more—the people who work with that business with that activity—find they can't do that. As a result, the jobs which would be created through that \$80 billion infusion of money will not be created. And it will have a fairly significant chilling effect on the economy generally, if we do not make this change in the calculation of the interest rates.

This bill replaces the 30-year bond with a market basket of high-grade corporate bonds as a reflection of what the appropriate interest rate should be. I think there is general consensus on that part of the bill, and it is the most important part of the bill.

The bill also has a series of rifleshots changes for some single-employer plans and for a small number of multiemployer plans.

That is where the contest over the bill occurs most intently because those single-shot changes affect a few industries, a few airlines, a couple of steel companies, and a large multiemployer plan in the Midwest.

But that was not my reason for aggressively pursuing this piece of legislation. I wanted to fix the 30-year bond rate. I have been trying to do that now for almost 9 months. I feel very strongly if we don't do it we will end up losing jobs in America. We will end up making ourselves less competitive. We will end up with less investment, and we will end up with fewer people in our country working for businesses which are efficient and, therefore, can compete internationally.

I think it is critical that we pass this piece of legislation.

These other items which are part of this legislation are obviously important to those employees who participate in those different areas—the airlines, the steel companies, and the multiemployer plans that are impacted.

But for me, the core of this bill is fixing the 30-year bond rate and the problem it has in artificially affecting the playing field as to where investment flows in America.

It is very critical in a market economy that you allow dollars to be invested where they can be most efficiently used. When you have a system which creates an artificially inaccurate benchmark or how these various funds must be funded by using the 30-year bond, you undermine the ability of the marketplace to adequately discipline through market forces the investment of dollars. The practical effect of that is to produce inefficiency, less capital investment, and less jobs.

This is a very important bill. In fact, it is the ultimate jobs bill. Eighty-billion dollars of investment is a lot of investment which is going to create lots of jobs. There are important jobs bills, but amongst the jobs bills we are taking up in Congress, this is certainly one of the most important. It is subject to some significant time restraints. If we don't do this by April 15, then some of this miscalculation of resources begins to occur, and we end up losing the investment in jobs we need.

That is the essence of this bill.

As I understand it, Senator KENNEDY, who is the senior Democrat on the Health, Education, Labor and Pensions Committee, intends to speak on the bill. A number of other folks also wish to make points on the bill.

At this point, I yield the floor and reserve the remainder of our time and hope we can get to a vote fairly promptly.

The PRESIDING OFFICER. Who seeks time? The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I would welcome the opportunity to yield such time as our friend and colleague from Louisiana would care to use.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I understand we have about 2 hours on the Democrat side to debate this important bill. I appreciate the Senator from Massachusetts giving me such time as I might use. It will probably be 15 or 20 minutes, perhaps longer but hopefully not.

I want to start by asking my colleague from New Hampshire—I appreciate his work on this important piece of legislation. I actually agree with him. The people who are covered in this bill need relief in the pension provisions which we govern through our laws covering ERISA as well as in our Tax Code. I don't disagree with him that we have provided much needed and extremely important relief. But I want to ask, before I start my remarks, if he could comment on the approximately 9.5 million Americans who seem to be left out of this act and are working in the construction industry. If we seek to create jobs in America, that is one of the sectors we have the potential—as the economy begins, hopefully, to recover—where we could see some people actually going back to work.

I was wondering if maybe the Senator could comment about the multiemployers. I think there are about 9.5 million. Would he care to comment about why they have been left out?

The PRESIDING OFFICER. The Senator does not have a right to propound questions to other Senators who do not have the floor.

Ms. LANDRIEU. Mr. President, I will leave the question out there. I appreciate the clarification.

As we debate for the next 4 hours, I hope someone might come to the floor

who is arguing that this bill is as good as it can get. I happen to believe this bill was pretty good when it left the Senate, and it has come back fairly effective. I would like to leave that question open to any of my colleagues who would care to come to the floor and explain in front of the cameras and for all to review why when it left here everyone was covered—all of the single employers and multiemployers—and as it has come back, why they have only received partial relief.

I have a reason, but I am not sure my reason is correct. I am going to leave that question out there and hopefully my good friend from Massachusetts and I can get an answer to that question before this debate concludes in 4 hours.

I am going to begin by refreshing our collective memory about what the President said. When President George Bush was elected in one of the closest elections ever in our Nation, he said it was time to rise above a house divided and to move together to create economic opportunity and economic hope.

When this bill had as its core very good purposes, when it left the Senate we were united. It had 86 votes, a majority of both the Democrat and Republican caucuses to give relief to every pension. Times have been tough. There were certain rules that were in place that prevented some of these multiemployer pension plans from stashing away money in the good times. They were prevented from doing that by our laws, rules, and regulations. When the market turned down and they started losing some of their investments, they had to kick in extra contributions, which caused them to take money away from employment and put it into their pension plans.

They asked for relief. Our Senate Republicans and Democrats said that large corporations as well as multiemployer pension systems deserve that relief. It left here with 86 votes a couple of months ago. It has come back, however, with only one group included and the other group left out.

I am concerned and worried. I am not confused. The answer is not pretty. I am told by the experts there is no economic justification for this. There is no cost to the Treasury to have those plans included. Although their plans are not run the same way, they deserve the same help and same relief because they are invested in the same stock market. I don't think there are two separate stock markets, one where the large corporations are invested and then another for everyone else. They have suffered the same up-and-down swings of the market.

However, I have to believe, unless my question is answered, the only reason they did not get help is simply because the White House did not want to help them. It would not cost the Treasury anything to give help to these plans. It would not cost the Treasury a nickel. It is a change in the law that buys them additional time that the actuaries and the experts believe would be

responsible and safe, that would still make sure the pensions are safe and the money is there.

The bill left the Senate, with Democrats and Republicans working together. It went to what is seeming to be every day the most politically driven White House, where they were simply eliminated from the bill.

I ask, during the four hours we are discussing this, if any Member would be willing to come to the Senate and state why this has happened to 9.5 million workers, many of whom are union workers but not all, and some businesses that are affected, that are employing people, not minimum-wage workers?

These are workers who wake up early before the sun comes up, construction workers. Even when the temperatures go below freezing, they put their gloves on and an extra jacket and they go out and work. These are the workers we see on tops of buildings. These are the workers we see digging deep holes under the ground, driving electric lines, making sure the infrastructure in this country is what it should be, making sure when buses go over a bridge, the bridge does not collapse.

I ask anyone in the Senate to tell me why these workers have been left out. The only reason I am given is it is a political directive from the White House. These are evidently Americans who the President either does not like, does not want to help, does not think they deserve it, does not think they need help. If this is the kind of administration we are a part of, then I don't want to be a part of this kind of administration. I want to be part of an administration that helps everyone when everyone can be helped unless there is some real good reason not to.

I can understand we cannot afford to give everybody the same kind of tax cuts when there is money coming out of the Treasury. I understand about making priorities. It is my understanding that does not cost the Treasury a penny. It is my understanding, having served as State treasurer of my State for 8 years and served on my pension boards, and having some knowledge of the way pensions are made and the estimates and assumptions actuaries make in terms of pensions that control how much contributions are put in and taken out of a pension plan, it is my understanding the experts agree everyone could use some help.

One plan is helped, which is included in this bill, making a temporary adjustment to the rate of return to give them some relief. Another group said, We do not operate exactly that way, but we could use some help just stretching out our payments for 3 years so we could create more construction jobs. This White House, for some reason, said no to 9.5 million Americans.

Maybe we are getting to a point—I hope my colleagues will come down here and correct me—maybe we are getting to some ridiculous point in this Capitol where before you can get relief

you have to show your voter registration card. When Democrats are in control, if you are a Republican, if you do not show a Democratic card, you do not get relief. Most of the people who were left out were union members. Not all of them, but most of them were union members. Again, there are businesses that were affected.

If it was the White House's intention to punish this group of people because they are not overwhelmingly supportive of administration policies, this is not an administration I want to be a part of. I would not for 1 minute walk to the Senate and say some of the corporations that are getting help in this business, because they are not overwhelmingly supportive of Democrats, do not deserve a fair shake by this body. They got a fair shake when it left the Senate.

We had Democrats and Republicans come to the Senate and say, yes, these large corporations that have suffered terrible losses in the stock market—and we all did; whether you were a little or big investor, everyone took a big loss—yes, we want to create jobs. Yes, they deserve relief. Democrats came down. Senator BAUCUS from Montana argued passionately for this bill and 87 Members voted for it. It comes back with 9 million people missing, and they just happen to be part of multiemployer pension plans, most of whom are union but not all, and some small businesses have been cut out with no explanation.

It is a very ugly way to do the people's business and it flies in the face of what this administration promised: to unite us and not divide us, to give help to everyone who needed it when it was in our power to do so, whether they were a little fry or a big fry, whether they were a little fish or a big fish, whether they were a union company or not.

I don't know how others feel, but people in my State, whether they are for or against unions, are for jobs. We have lost almost 3 million jobs since this administration took office. I remind my colleagues that people want good jobs. They do not want jobs that pay \$5.15 an hour. You cannot feed your children, pay rent, and put gasoline in your car for \$5.15 an hour.

We want to create construction jobs. My construction workers make good money. They usually build darn good buildings and they build them for little towns and big cities in Louisiana. They came up here asking for help—not a lot of help. It does not cost a dime. Not a dime. They are turned away because they might be Democrats? They might be union members?

I have been to the Senate before on a number of other issues in my disapproval with this administration. Across the hall in some other building, Condoleezza Rice is testifying. We have marines being killed in Iraq. If the President were leading in the right direction, I think he would use every opportunity, even small ones such as

this. This is not a huge deal, but it is a big deal to the 9.5 million workers who have been left out.

I would think he would be using every opportunity to unite this country, to create jobs at home, to create goodwill so we can get through maybe one of the toughest times in recent history. But, oh, no, the bill leaves the Senate with 87 votes—of Republicans and Democrats—and comes back with Republican-only fingerprints all over it, taking 9.5 million workers out because they dared to ask for help in times of tough economic downturn.

I have to hear the rhetoric coming out of the White House: They are trying to create jobs. Well, let me tell you, here is a good chance to create jobs, to help save those pension plans people have contributed to, to give them a little help that does not cost anything—and they were sent away emptyhanded.

So I am going to sit here for 4 hours. I may have to leave for a few minutes, but I want my colleague from Massachusetts to know I am going to sit on this floor until I get an answer to my question: Why were 9.5 million workers left out, when it does not cost us a red penny to help them? If it was not done for political retribution reasons, I would like a good explanation as to why it was done. If I can get a good explanation, then I will change these remarks and I will acknowledge perhaps I was mistaken about the reason.

But I know the way pension funds work. I know what they asked for was not much to ask. I know it would not cost us any money to do it. I know the experts said we could help them, if we had the will to. But we just willed a different way. We made other choices.

Finally, I am going to tell you, these choices—we all make these choices. Choices have consequences. The choices the White House made to leave these 9.5 million workers out—and the businesses that employ them—are going to cost us jobs. They are going to make people more cynical. They are going to raise the anger level in this country, when we need to be pulling people together and not tearing people apart. For the little it would have cost to keep them in, I think there is going to be a big price to pay for taking them out.

I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Who yields time?

Ms. LANDRIEU. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. LANDRIEU. Mr. President, until some other Members come to the floor, I want to add for the RECORD that, for

Louisiana, there are 56 electrical contracting companies that participate in the National Electrical Workers Plan that will receive no relief in this bill. There are 18 Louisiana sheet metal contracting companies that have joined the Sheet Metal National Plan that will have their pensions in jeopardy, perhaps. But whether their plans are in good shape, they came here to ask for relief that would not have cost a penny, and they were turned away.

There are 1,200 Louisiana workers who belong to the grocery store workers plan. They perhaps need to start worrying about when they will be able to retire because they were left out of this plan.

Mr. President, 32,000 construction workers in Louisiana who have multi-employer pension plans have been excluded.

Let me repeat, all of these workers—the thousands—the 18 Louisiana sheet metal contracting companies that employ thousands of people; the 32,000 construction workers; the 1,200 grocery store workers; and the 56 electrical contracting companies, which probably together employ, I am going to estimate, at least over 5,000 workers—all of those workers were included, along with these multinational corporations and large businesses. They were all included because they all need help. They all have legitimate requests that could be given by the Senate. When we debated this in the Senate, they were all included. And 87 of us—Republicans and Democrats—voted to keep them in.

So I am going to be on the floor. If someone would come to tell me why these thousands of workers in Louisiana have been left out, I would be happy to know the answer.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the quorum call be charged to both sides.

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

Ms. LANDRIEU. I now suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. KENNEDY. Mr. President, I yield myself 30 minutes.

The issue, as my friend and colleague, the Senator from Louisiana, and the Senator from New Hampshire, pointed out, is the issue of pensions that are facing a very challenging time

due to the economic challenges we are facing now in this particular time, and the efforts of Congress to try to give these pension programs some time to be able to recover. As the Senator from Louisiana pointed out, that is a very worthwhile goal we should embrace.

As she pointed out in an excellent presentation, we had passed bipartisan legislation to help all those at risk, those workers who were going to be in single-employer plans and those who were going to be in the multiemployer plans. We passed legislation 86 to 9. Rarely does the Senate, particularly in the present climate, come together and recognize there is an immediate problem and then begin to face up to it.

As we were listening to the Senators from Louisiana and New Hampshire, and thinking about points to be made regarding this legislation, I am once again reminded Senators' pensions are not at issue. All our pensions are adequately funded. I dare say, if the issue arose where we were going to leave over 20 percent of the Members of the Senate out, as this bill does for workers, there would be more Members in this Chamber right now than there are.

The American people understand the pensions the Members have here are adequately funded. What we are talking about is a proposal that has been advanced, with the support of the White House, that is going to take care of about 80 percent of those who are in trouble and leave over 20 percent out.

The Senate, in a bipartisan way, included everyone. This proposal excludes over 20 percent. This doesn't mean we are not for the remedies that are available to the other 80 percent. We are. We are strongly in favor of those. But we do think fairness demands we also include the other 20 percent. We understand if we were able to defeat this particular proposal today, it would take about 5 minutes to remedy this in a way that would provide fairness and equity for all those who are vulnerable. The House of Representatives would take that so fast, people's heads would turn. It would be on the way down to the White House as well.

That is the question, whether we believe we ought to have a solution that takes care of not only workers in the Fortune 500, but workers who are in the fortune 10,000. That is the issue. The issue is fairness. The issue is workers.

I will mention very briefly, to set the stage, what the challenges are with regard to pensions nationally at the present time. The troubled economy is jeopardizing workers' retirement. There are 3.3 million Americans who have lost pension coverage since the year 2000. Only 53.5 percent of the Nation's workers are participating in a retirement program, the lowest level in over a decade. The declining quality of jobs in our country also means declining benefits for American workers. Part-time and low-wage workers are far less likely to have a pension than

full-time workers. This is what is happening in the real world.

We don't have enough pensions to cover all workers, and many of the workers who are covered are losing it. The pension system is in crisis. Rather than addressing the whole problem, our Republican friends say: We are not going to do that; we are only going to take care of some.

We believe everyone who is part of a pension system ought to get fair and equal treatment.

This chart points out the issue. We have 35 million Americans who are covered by single-employer defined benefit programs. These workers will be protected. The Senator from Louisiana and I are for giving that kind of protection. But we don't understand why, if we are going to give the protection to 35 million Americans, we leave out the 9.7 million Americans who are covered by multiemployer defined benefit pension programs.

The Senator from Louisiana asked exactly the right question. Why are we taking care of 35 million and leaving out effectively 10 million. There is absolutely no other answer than the White House decided it was going to be punitive and pulled the strings on the conference—of which I was a member, and I will go through that shortly—and said: We are not going to do it because so many of these are union members and we don't like unions.

That is telling us something new in the Senate, when we know what has been happening recently?

Before I get into that, this chart shows what has been happening with regard to general benefit pensions. We have what you call a perfect storm of factors hurting pension plan funding levels: The prolonged downturn of the stock market during the Bush administration, the longest since the Great Depression; extremely low 30-year Treasury bond interest rates; weak economic conditions which mean companies cannot afford to make the additional payments and pay excise taxes imposed by pension laws.

These factors have affected the single-employer and the multiemployer the same. That is why the Senate decided to deal with both single and multiemployer plans. But not the conference committee. Although we made real progress, the fact is, we are facing an administration that at best is indifferent and at worst hostile to working families.

I don't make that statement lightly. But you cannot look at the record of this administration with regard to working families and not come to that conclusion. If you look at what has happened with the creation of jobs, we have an administration that said, yes, we are going to create 5.2 million jobs. They made that statement in 2001. But we have seen the loss of 2 million jobs because of their economic policies.

This chart shows there are 2.4 million more unemployed workers now in 2004 than there were in 2001. Workers are

losing their jobs, and there are 10 million workers who are in the multiemployer plans who are going to get shortchanged as well. They are losing their jobs. If we look at the job growth over the last 3 years, as compared to other economic recoveries, from 1991, this shows the expansion of jobs, the recovery from 1991 to 1993. This chart indicates the current recovery is virtually flat.

How are workers reacting to this? American workers are working longer and harder than ever before. Look at this chart that shows what is happening for workers in industrial nations. These bars represent different countries. These are mostly the European countries: Denmark, France, Ireland, United States, Italy, and Germany. Look at the United States, about 400 hours more per year than any other industrial nation. Workers are working longer. They are working harder. More and more of them are losing their jobs. Of the new jobs that are being created, they are paying 21 percent less than the jobs that were replaced.

The average wage in 2001 was \$44,000 a year. Now it is \$35,000, a 21-percent loss. Workers working longer, harder. And if they lose their job and come back into the market, look what happens to them. They are suffering under this administration's economic policies.

We ask, I wonder why that is happening?

Well, Mr. President, the answer is it is very easy to see why it is happening. If you look at the recoveries from the early nineties and before, when you had an expansion of the economy and coming out of the recession, what you had with the new investments, 60 percent went to workers' wages and 39 percent went to corporate profits. In today's recovery, you have 86 percent going to corporate profit and 13 percent going to workers' wages.

This system is stacked against workers. We have an administration that has the opportunity to help American workers in with multiemployer pensions—they won't do it, again. This is what is happening. Corporations are doing very well. Under this bill, they are going to do very well, too. But not the smaller companies. We have seen this—if you look at what has happened, we have gone through this on unemployment compensation. Under President Clinton, even at a time when we were coming out of the recession of the early nineties, they kept in the unemployment compensation until we had seen the growth of 3 million new jobs.

We have seen now the early loss of over 2 million jobs and this administration cuts off the unemployment compensation. What is the effect of that to those workers? The effect of that is there are 90,000 Americans a week losing their unemployment compensation. That is 2½ times the capacity of Fenway Park in Boston. And they say that this administration is concerned

about workers, concerned about the expansion of jobs, concerned about the unemployment compensation. They are opposed to the increases in the minimum wage. We have had that battle. When you look over the value of the increase in the minimum wage, the administration says thumbs down; we are not going to go for the increase in the minimum wage. If we don't have an increase in the minimum wage, the minimum wage will be at almost its lowest purchasing power ever in the history of the minimum wage. When we offered that amendment, the current Republican leadership pulled the bill rather than having a vote on an increase in the minimum wage.

No increase in the minimum wage, no unemployment compensation, proposals to eliminate overtime, which is going to affect the firefighters and policemen and nurses in this country. That is their record. These are the groups that are going to be affected with the proposal under the administration to eliminate overtime.

I make this point because what we are facing today is a continuum of the administration's indifference and opposition and hostility to workers, and primarily union workers, who are affected by this.

Let me point out what is happening across this country. We are finding out as a result of these conditions, there are real people and families who are hurting. More than half of the unemployed adults have had to postpone medical treatment, 57 percent; or cut back on spending for food, 56 percent; 1 in 4 has had to move to other housing or move in with friends or relatives; 38 percent have lost telephone service or are worried they will lose their phone; more than one-third—36 percent—have had trouble paying their gas or electric bills. That isn't even the beginning.

I want to take a minute or two to talk about what is happening out in the countryside in terms of hunger. I don't know how many saw this. This is last week's Parade Magazine. "How can we help end childhood hunger?" Imagine that in the United States of America, childhood hunger. How can we avoid that? The Agriculture Department reported 300,000 more families are hungry today than when President Bush first took office. That is going to increase. Let me read some of this article. This is from the Parade Magazine:

Last year, according to the Department of Agriculture, 34.9 million Americans . . . were "food insecure," the Government's term for those who must survive on a diet not nutritious enough to keep a child healthy. More than 13 million of those people were children. The U.S. Conference of Mayors expects that requests for emergency food for families with children will increase to 91 percent of the Nation's cities this year. They also document that emergency food outlets in 56 percent of the Nation's cities turned away hungry families last year because they ran out of resources. The safety net that most Americans presume is there to catch children before they sink too far is torn in too many places, leaving too many in free fall. "Food is a basic right for every American child,"

says Bill Schorr, executive director of Share Our Strength, the anti-hunger organization that works with Parade and other partners to sponsor the Great America Bake Sale. "This is the wealthiest Nation on Earth. We have the resources to wipe out child hunger in our time. All it takes is the political will to make the welfare of children one of the Nation's top priorities. The first step is coming to terms with the shattering effect the unstable economy has had on the families."

"Despite a recent report that the economy has rebounded, our pantry soup kitchens are trying to serve a surging number of families," says Robert Forner, CEO of America's Second Harvest, a network of more than 200 regional food banks. Second Harvest distributed nearly 2 million pounds of food last year to 23 million hungry Americans, 9 million children. "Millions of people have used up their unemployment insurance benefits, spent their savings, sold off their assets, and come to us because they have no way to feed their families."

This is happening, Mr. President. So we have a thumbs down on minimum wage, thumbs down on unemployment compensation, overtime, and now an undermining of the pension system.

I want to mention who is being affected by the decision to exclude the multiemployer pension programs. By cutting the multiemployer relief plan, President Bush—I will review the bidding. We went to the conference and we had 5 days of hearings. We basically had agreed we could not do 100 percent because the House didn't do it, so we were going to do 20 percent. That was reported in the newspapers. They all show we had an agreement. The conferees understood that, until the White House said, no, no, we are not going to do that. They said you are going to take 3 or 4 percent. We said that is not a bargain, that is an insult. They said you can take it, and effectively they wrote the conference report, submitted it to the conference, and then during the final conference, Senator GRASSLEY, to his credit, tried to find common ground. He said, OK, we won't take the 20 percent, but let's go to 8, or 10, or 9 percent on this. Many of us supported that. It was not a great proposal, but it was at least targeted on the neediest multiemployer programs. That was rejected under the orders of the White House—not the conferees. We worked it out at 20 percent. Now we have the proposal, according to the Wall Street Journal today, that effectively eliminates all—except perhaps 2 percent of the multiemployer programs.

Let's find out what this is all about. The 9½ million people—who are they? Millions of workers could find themselves in the same situation as 500 retired ironworkers in Buffalo, NY, whose plan is on the verge of collapse because of stock market losses, economic downturn. These retirees could lose half of their pensions if their plan fails. Four hundred workers from Rockford, IL, whose employers have drastically increased contributions, cannot guarantee future benefits, so workers are paying for a pension they may never receive. A thousand workers in Connecticut, who have 50 employers

who contribute to their pension fund—these employers are facing collapse if the pension fund fails. Workers across the country, from cement masons in Missouri, to sheet metal workers, to carpenters in Wisconsin, and electrical workers in Alaska are seeing their benefits cut as they and their employers are trying to save their plans. The problem is growing too rapidly. They are seeing the collapse of the pensions under the multiemployer system, and we are putting a death knell to them with this proposal before us.

Low-wage workers are also being hurt. Hundreds of thousands of grocery store workers across the country are seeing the rate at which they earn their pensions slashed, sometimes cut in half. Many of these workers' only pension is a few hundred dollars a month. They are earning only half of that, so they will never have enough to retire. We are talking about grocery store clerks and cashiers around the country who are facing a threat to their pension.

These workers earn from \$10 to \$15 an hour. Their average pension is only \$500 a month. They cannot afford to see those pensions cut. Mr. President, 30,000 grocery store clerks and cashiers in the Seattle area have pension funds that are hitting a funding deficiency, where their employers owe excise taxes that drastically reduce the contributions, putting that whole program at risk. Workers agreed to cut their future pensions in half to save the plan. They are still facing a crisis in their plans.

They did not need to face this crisis. All we need is to give consideration to the multiemployer plans, as we did to the single-employer plans, and at what risk to the Pension Guaranty Corporation? Virtually zero, as the Senator from Louisiana pointed out. Virtually zero risk. All they need is time. But, no, because these are workers and many of them belong to unions.

In southern California, 70,000 workers have had the rate at which they earn pensions slashed. They are facing an imminent funding crisis. In the Southeast, 40,000 workers at Kroger and Bruno grocery stores in Georgia and neighboring States have had their pensions cut by a third. In Portland, OR, 20,000 workers had the rate at which they earn pensions cut in half. But this is not nearly enough to avert what is an imminent funding crisis.

All these funds are in serious crisis, with companies facing increased contributions, penalties, and workers having their pensions cut. Not a single one of these funds is eligible for relief from the narrow bill dictated to the Congress by the White House in the conference report. These are basically the small businesses that are affected.

Just a week ago, the President claimed the small business agenda is vibrant and foremost on his agenda. He says it is important to reduce taxes to small businesses so they will have more money to invest, while at the

same time he was saying this, the staff at the White House was pulling the rug out from under thousands of businesses in multiemployer plans.

Over half of the 65,000 multi-employers are small businesses. Small businesses, family businesses are the ones that will be hurt. They will not be able to use their money to invest and expand, and they will be paying excise taxes imposed by the IRS on the pension plans. These are just a few examples.

Acme Industrial Pipefitting in Chattanooga, TN, which has 50 workers, is going to see their annual contributions to its pension plan more than double from \$200,000 to \$500,000. We had their president, Jim Bailey, say: I am not asking for a nickel from the Federal Government; just give me the time you are giving to the big boys. No, we are not going to do that, not for Acme Pipefitting in Chattanooga.

The Coghlin Electrical Contractors, a fourth generation family business, faced increased payments of millions of dollars. Mr. Coghlin, and other contractors in the area, say this is catastrophic.

Procaccio Painting in the Chicago area: Mr. Procaccio tells us he just cannot participate in any economic recovery.

You know what they are basically saying, although they will not announce it. They are going to terminate the pension programs, and this is completely unnecessary. This is what we are facing.

That is where we find ourselves. This conference report provides \$80 billion—\$80 billion—for single-employer plans and \$1.6 billion for airlines and steel, but less than \$250 million for a handful of multiemployer plans. These provisions are punitive, unfair, and discriminatory. Clearly, President Bush cares more about hurting the union workers than helping small businesses.

This chart shows who gets the relief. Here it is: \$81.6 billion for the single-employer; less than \$250 million for the multiemployer. That represents effectively 10 million workers. I can show just who they are.

The multiemployer plans allow workers to earn pensions under different employers. This helps workers in short-term or seasonal employment—construction, hospitality, entertainment or retail—to earn a pension. Many could not earn pensions in the single-employer system.

The multiemployer plans provide pensions to low-wage workers, including hotel workers, restaurant workers, and janitors. Multiemployer plans are a critical source of pensions for employees of small businesses. Without these plans, small businesses could not afford to provide pensions.

This chart shows the percentage of workers in construction, about 38 percent; truck transportation, 10 percent; services, 15 percent; retail trade, 14 percent; and manufacturing, 15 percent. These are workers in small businesses.

As I pointed out earlier, this chart shows what has happened in this legislation. The Senate bill provides 100-percent relief for the single-employer plans. The conferees agreed to provide relief for 20 percent of those who need it the most in multiemployer plans, and the White House insisted the final conference comes out with less than 4 percent. It is wrong, Mr. President. We are talking about the same workers who have been the most vulnerable in the job market, who have lost their jobs, and if they get reemployed, they will be paid less. They are the ones who depend on unemployment insurance when they lose their jobs. That is being terminated. Many of them depend upon an increase in the minimum wage. That has been lacking. Many of them depend on overtime, and this administration is threatening them. Finally, they may just have been able to have something put away for a pension, and that is being destroyed. That is wrong. It is unfair.

The bill that applies to the single-employer plan should give the same coverage to multiemployer plans. That is all we are asking. We have fought for the single-employer, but we also fight for the multiemployer. All we are asking is fairness to both. This bill does not provide it.

If we were able to defeat this proposal, as I said, it would take 5 minutes to readdress it, the House would pass it, and we would have a bill on the President's desk. That would be fair. That would be just. That is the way we should proceed.

I will be glad to yield 10 minutes to the Senator from New York.

Mr. SCHUMER. Mr. President, I know my colleague from New Jersey wishes to speak on this issue for 2 minutes. I thank the Senator for his generous yielding of time. I yield 2 of my 10 minutes to Senator CORZINE, and I will then take the other 8 myself.

The PRESIDING OFFICER. The Senator from New Jersey is recognized for 2 minutes.

Mr. CORZINE. Mr. President, I rise to join with my colleague from Massachusetts to say this is an extraordinary failure to deal with small business employers across this country and their workers.

I find it difficult to believe that what is necessary for the Fortune 500 is not necessary for the small grocery stores, construction contractors, and others across this Nation. These pension funds are at risk, and there is no reason we should not apply the same rules to the small companies and the workers who are at risk in their pensions as we do for the large companies.

We spent in 2003 \$5 million on these small companies we have eliminated in this conference report. We spent billions on large companies—billions. Where is the sensibility, particularly from the administration and from my colleagues on the other side of the aisle who are so enamored with every economic argument they make that they



want to support small business, and they are walking away from this.

This is absolutely outside the context of reasonableness. We can turn this around and get this bill corrected and have it deal with small business and multiemployer pension funds, as well as the Fortune 500. We would make a major improvement. Thirty percent of the workers we are talking about who are exposed—almost 10 million—are being left out. As the Senator from Massachusetts so ably said, these are the same people who are getting pressed over and over on property taxes, the cost of tuition, rising gas prices—the middle class, the hardest working folks in America. We are turning our backs on them saying this is great.

By the way, I want this for major employers. We want it. Continental Airlines is headquartered in New Jersey. We need to do it. I support this effort by the Senator from Massachusetts.

We should oppose this conference report, fix it, and bring it back for a vote.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, first let me thank my colleague from Massachusetts for his generous yielding of time and for his leadership on this issue.

There is no question about it, this is a sad day when we have to pit workers who work for large employers versus workers who work for small employers in terms of their pension.

#### TESTIMONY OF CONDOLEEZZA RICE

I am not here to address that issue. As head of our Task Force on National Security and Homeland Security, I am here to respond to the testimony of adviser Condoleezza Rice. The hearings we have had and Condoleezza Rice's decision to testify is all to the good. To quote from the Scriptures, the truth shall set you free, and this Commission—half Democrat, half Republican—has endeavored, is endeavoring, will endeavor to find the truth.

The bottom line is the Commission is bipartisan. The people on it tend to be those who look at things not as Democrats or Republicans but as experts, and the Commission is needed. The bottom line, too, is we should not look to this Commission for pointing fingers of blame. It is very easy, in hindsight, to say this should be done or that should be done, and I do not object to the fact this administration—or I understand the fact this administration and others made mistakes. Everyone in America made mistakes. So that is not the problem with the testimony of Condoleezza Rice.

The problem is something else. Unfortunately, we did not hear from Adviser Rice three important words: We made mistakes.

Of course, we made mistakes. This administration made mistakes. The previous administrations made mistakes. The inability of this administra-

tion and of the National Security Adviser to admit mistakes were made makes us fear we will make future mistakes because, after all, the only way we are able to understand what went wrong is to first acknowledge it and then say we are going to correct it.

We may not be dealing with al-Qaida in the future. We may be dealing with Chechnyans or East Timorese or skinheads. Unless we realize what went wrong and why we failed to pick up the warning signs, we are less likely to pick up future warning signs that could create even greater terror than the terrible terror on September 11 that befell my city.

Is it for sure that had everything been done right we could never have prevented 9/11, as Adviser Rice says? I doubt it. There are six facts that, if they all were to be put together, would have clearly pointed the arrow at what happened.

First, 12 intelligence reports throughout the 1990s showed terrorists would use planes as missiles to attack American targets.

Second, upon entering office in January, Dr. Rice read a memo from Dick Clarke indicating there were active al-Qaida cells in the United States.

Third, in the summer of 2001, there was a threat spike about terrorist activities against American targets, including hijackings and warnings that something very big was about to happen.

Fourth, on July 10, 2001, a document was sent to FBI headquarters in Washington from Phoenix, warning several Islamic militants had enrolled in flight schools in Arizona and positing that al-Qaida was trying to infiltrate the U.S. aviation system.

Sixth, we missed warning signs from Special Agent Rowley in Minnesota about Zacarias Moussaoui, an Islamic radical who was getting special aviation training.

Finally, on August 6, a White House briefing memo to the President stated, "bin Laden determined to attack in the United States," which was specific examples from the FBI of al-Qaida moves against Americans.

If, if, if, if on August 6 word went from the White House out to the FBI and all of the intelligence agencies, go turn over every rock and find out what al-Qaida is up to, it is very conceivable we would have been able to figure out what they might be doing, certainly disperse some of the terrorists, two of whom were known to be in the United States, from doing what they had done.

Is it a certainty? Absolutely not. Is it a possibility? For sure. To say it would be impossible to add up these signs and figure out what happened is dead wrong, as it would be dead wrong to say it is a certainty you could figure that out.

So the bottom line is simple. It is not the fact this administration did not try very hard on terrorism, because in the eyes of Security Adviser Rice they did. It is not the fact certain things were

missed. They were missed by this administration—and let me underscore previous administrations—but it is the fact this administration, the President and his advisers, have this inability to say mistakes were made, under our watch and under previous watches. That leads to an attitude that we do not correct the problems.

Every parent knows when their child makes a mistake, they try to get the child to understand they made the mistake and maybe they will not do it again, but somehow we have this stonewalling and that is the most destructive fact.

Right now we hope and pray the messy situation in Iraq ends and ends quickly and that our Armed Forces can do the job against such bad people as this Sadr leader, but if the eyes of the administration were more open to what had been done wrongly in the past, maybe we would be better off in Iraq today. I say that as somebody who has been largely supportive of fighting the war on terror, voting for the war in Iraq.

What bothers me most about the testimony of Condoleezza Rice and the actions of this administration is not that they did not do everything right. Who could ask anyone to do that in this brave, new, post-9/11 world? But there is an inability to want to gather all the truth and figure out from that truth what was done right, what was done wrong, and improve and make things better.

The one lesson we learned in Vietnam is when our leaders did not accept the truth, it made matters worse. When our leaders failed to admit mistakes, it made things worse. Unfortunately, today's testimony shows an inability to admit mistakes were made and move forward and correct those mistakes and make America a more secure place in the future. I hope and pray it changes.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Hampshire.

Mr. GREGG. How much time remains?

The PRESIDING OFFICER. The Senator from New Hampshire has 112 minutes.

Mr. GREGG. And the minority?

The PRESIDING OFFICER. Sixty minutes.

Mr. GREGG. Mr. President, I had not thought this debate was going to enlarge itself into the issue of the testimony before the 9/11 Commission, but it appears the other side of the aisle has decided the pension bill is not enough to debate today on this floor, even though that is what it was to be limited to, but it raises this issue. So I think it is appropriate at least respond briefly, although the response could be much more extensive. However, I will try to return to the pension bill at the appropriate time since that is what we are debating.

I will respond briefly to the statements of the Senator from New York,

which I found to be outrageous. Maybe the Senator from New York did not listen to the testimony of Mr. Clarke. He very possibly did not, because he appears to have decided to make up his mind long before the National Security Adviser, Ms. Rice, testified.

I think it was Mr. Clarke who said—in fact, I know it was Mr. Clarke who said, in response to a question from Senator Gorton, if the administration had put in place every recommendation you suggested to the prior administration and to this administration, and which you put in your memos and your statements upon arrival of this administration in office in January, if the administration had done that—in other words, if the administration had pursued every course which had been laid out by Mr. Clarke, who was the guru of terrorism in the prior administration, which I also wish to comment on, would that have stopped the 9/11 event? Would that have prevented the 9/11 event? A one-word answer from Mr. Clarke: No.

Yet we have the Senator from New York say the opposite. I do not think the Senator from New York has the expertise of Mr. Clarke, and most certainly he has not presented himself as an expert on terrorism. Mr. Clarke has presented himself as an expert on terrorism, was the expert on terrorism in the Clinton administration, and did say definitively, in a one-word answer, no, 9/11 would not have been avoided had everything gone into place I wanted in place—I being Mr. Clarke.

The statement by the Senator from New York is excessive, to say the least, when he says 9/11 could have been avoided.

Then when he goes on to accuse this administration of not learning from lessons of the past—I will tell you something. This administration did learn from lessons of the past. The lessons of the past were the lessons of the Clinton administration, which were when our embassies were attacked in Africa and when our ship was attacked in Yemen, what was the response of the prior administration? They lobbed a missile into an empty terrorist camp in Afghanistan and then lobbed another missile into the wrong factory in Sudan and then washed their hands of Mr. bin Laden and said they had accomplished their purpose of defeating terrorism.

What we learned after 9/11 was that those sorts of marginal responses, those sorts of tepid responses to terrorism do not work in the present world and certainly this administration learned that.

I hesitate to think where we would be today had Al Gore been elected President. I suspect we would still be negotiating with the Taliban in Afghanistan.

This administration decided not to negotiate. This administration decided to take action. It went into Afghanistan and it destroyed the base of al-Qaida operations in that country and replaced a repressive regime that did

not even allow women out of their houses and supported all forms of terrorism across this globe and especially the al-Qaida terrorism. They learned the lessons of the prior administration, which were tepid response does not work.

Then we moved into Iraq. As a government, we voted to move in that direction. Why? Because some of us understood that Saddam Hussein was a significant, dramatic threat to world peace and specifically was a dictator who had the capacity and had used weapons of mass destruction, who was oppressive at a level which hadn't been seen since the times of Nazi Germany, and who had the capacity to use his oppressiveness and his megalomania and his criminal view of the world to our detriment. He was a threat to us because of his ability to pass on that threat, the capacity to pass on weaponry, the capacity to be a sanctuary, and the capacity to be a feeding ground for people who caused us harm.

We are at war, there is no question about that, and we have, as a government under this President, pursued that war with an aggressiveness which was absolutely appropriate. We have chased these people who wished to do us harm across the globe. We have kicked over the rocks under which they live and we have brought them to justice so today their fear, their concern, is about where they sleep, not who they are going to attack tomorrow.

That is the type of response we needed as a government and as a nation, in light of what happened to us on 9/11. For the Senator from New York to come down here and say we did not learn the lessons of 9/11 and the lessons of the prior administration—which approached terrorism with such tepidness—is an absolute misstatement.

For them to come down here and say, after Mr. Clarke, who they have held up as the epitome of knowledge and expertise in the area of terrorism, testified in one word that 9/11 could not have been stopped, when he said “no” to that exact question, had all of his proposals been put in place—for the Senator from New York to come down here and make the statement we could have avoided 9/11, in light of that testimony, I find excessive to an incomprehensible degree.

I didn't intend to speak on this issue, but unfortunately it was drawn into this debate and I think it required a response.

The National Security Adviser today went before the Commission and testified under oath and made a clear and concise statement of how we as a nation are responding to terrorism, how we as a nation are fighting a war against people who have decided to try to destroy our culture and who have proven their willingness to kill Americans indiscriminately, whether they are men, women, or children.

We are using all our resources as a result of this President's commitment,

which is total and absolute, to bring these terrorists to justice. I do not think statements such as those of the Senator from New York are constructive to the debate on that issue.

To return to the pension fund, a little less inflammatory subject, obviously not having the import of the fight for survival, which is what this war on terrorism is about for us as a culture, but still legislation we need to address on the floor.

We have heard from a number of speakers on the other side of the aisle how the bill, as it came back from conference, to use their phrase, is an attack on 9.5 million union workers who were not included in the multiemployer reform language of the bill.

My interest in this bill was to correct the interest rate question, which has been done. It was the essence of this bill. As I said earlier, it corrects the fact that \$80 billion could be misallocated if we did not correct it. If we did not correct it, we could undermine capital investment and job creation.

But I do want to respond, not necessarily to the debate about how many multi's should have been included, but to some of the language which was used as to why the “multi” language was limited in scope, because it was partisan, to say the least, especially from the Senator from Louisiana, who said that 9.5 million construction workers who are union people would be left out of the “multi” reform bill as it was structured.

That is hard to do, because there are only 8.5 million people who are in the private sector union membership rolls, so she must have found another million people somewhere in the private sector union membership rolls to come up with that number. She must have assumed that none of the people who were protected—whose concerns were addressed, as was pointed out by the Senator from Massachusetts, where he had the number of 35 million people who would be positively impacted by the fix on interest rates—that none of those people are union people and that none of the people whose issues are addressed by the rifleshot DRC reform dealing with airlines are union people and that the White House somehow, according to the Senator from Louisiana, just picked out union people and decided to cut them out of this agreement.

But on the face of it that doesn't fly. First off, there are not 9.5 million people in the private sector union movement; there are only 8.5 million or 8. That is a lot of people, 8.5 million people. A large number of those folks are included in the DRC program, which is a targeted program, which happens to be the reason the UAW supports this bill—another large group of these people who are included in the interest rate fix, which is why the UAW supports this bill. A large number of the union people are pilot union people and other union people who work for airlines who are included under the DRC



section of this bill, so they are happy with this bill.

This bill is not broken down on the basis of whether you are union or not union. To make that statement is totally disingenuous on the face of the fact that it can't be defended. In fact, it is so indefensible that when Senator KENNEDY spoke he talked about how the people impacted here were small businesspeople and how the administration left out all of the small businesspeople by not including all the multi's because most of those are small businesspeople. You can't have it both ways. You can't say the White House is attacking the labor movement by leaving out a group of multi's in this bill claiming that was the case—I will get to that in a second; it wasn't necessarily the White House—and at the same time say you are attacking the small business folks by leaving out the multi's.

That is so inconsistent on its face that it brings a smile. Obviously, small businesses, theoretically at least, traditionally have been considered to be very supportive of this President and of Republican philosophy. If they are saying the White House, by not agreeing to the full multi language, was attacking small business, then at the same time you can't say the bill was structured to attack unions, which is exactly what they said. It is exactly what the Senator from Louisiana said, anyway. I think the Senator from Massachusetts also had some comments in that vein.

The inconsistency of the argument on its face is so apparent that it holds no validity. I was not actively involved in this negotiation. Obviously, I was in the conference, but I didn't, as they say, "have a dog in this fight" because I was focused on trying to get the interest rate fix through, which I think is a bigger part of the package. But the reason the debate on multi's got shifted around was that—I would, again, point this out to the Senator from Louisiana who asked why this didn't happen, why didn't they get their way—it is two branches of Government. When it left the House, this bill had no multi's, none, zero, zip. The White House took the position there should be no multicoverage. That is one-half of the legislative branch and all of the executive branch saying they do not want any multicoverage. The Senate came out with language that said all multi's should be covered.

In the process of negotiation, compromise and conference, which happens to be basically how you do things in a democracy, what is known as an agreement was reached which gave coverage to a certain number of multiplans, about 50. It was a limited number; no question about it. It was a very small number.

But the way that number was reached, as I understand it, there was an understanding that all multi's shouldn't be covered. There was a general consensus on that.

Again, when the Senator from Louisiana came down here and said not all multi's had been covered, that this was an attack on multi's, that was never the understanding when we reached conference. Everyone in that room in the conference came to the conclusion that the multi's which should be covered were those at serious risk of defaulting. Those were the ones we were going to try to take care of. We had a real issue from an actuarial standpoint of figuring out exactly which that was and how you calculated it. It is not an easy issue to resolve.

The Senator from Massachusetts took the very legitimate position that 20 percent of the multi's were probably at risk. That was a calculation which he reached through an actuarial firm that took a look at it.

The White House took the position there should be no multi's at all.

Remember, these multi's are small employers. It wasn't an attack on unions. It was both small employers and unions.

It wasn't a philosophical or a political decision, as the Senator from Louisiana said. If you have a union card, and you weren't allowed to play in the game, or Democratic card I think they said that is absolutely ridiculous. The small businesses don't carry union cards, and hopefully not too many carry Democrat cards, either. But who knows?

As a practical matter, they did not divide on the issue of whether you voted and why you voted. They divided on the philosophical position of whether multi's should be included in this 2-year reform package.

The impact of the White House position equally impacted union plans, union members, and affected more significantly small businesses than it did members of the union. It is quite obvious. I suspect there are more small businesses affected by the White House position that multi's shouldn't be included than there are members of unions. It was such a fallacious argument that it doesn't even stand up to the laugh test.

But the point is, when we got into the conference, there was a difference between the Senator from Massachusetts who said 20 percent of the plans were at risk and the White House that thought no plans should be included. The White House initially said no plan should be included, but then after a while, due to the strong and effective advocacy of the Senator from Massachusetts and the Senator from Iowa, a series of different proposals were put on the table until they finally got to a point where they could get a majority vote in the conference to support a position. It was a compromise position; no question about it. It was definitely a compromise position.

Senator GRASSLEY did make another offer that was not accepted. The offer that was finally accepted—because we happen to be a government where you have to get the Senate and the House

to agree and you have to get the White House to agree—was the package that is before us. The package that is before us has the inherently good benefit, as the Senator from Massachusetts appropriately pointed out, of benefiting 35 million American workers by correcting the interest rate fix issue, and of benefiting, if you are so inclined, three major airlines which potentially would go under if this bill didn't pass, and two major steel companies, which are integrated steel companies which would go under if this bill didn't pass, and 50 multiplans, including the single largest plan in the country, the Midwestern plan.

That is how we got to this point. It is not the perfect bill. Nothing that ever comes out of conference is the perfect bill. We have certainly proven that over and over again. I think judicial note can be taken about that. But it is a bill that was reached by compromise through the process with a lot of different players at the table who had a very strong opinion as to where we should go. It was not done on the basis of any sort of retribution or attempt to single out an interest group and negatively impact them. On the face of it, that position cannot be defended because so many small businesspeople are impacted by the multilanguage in this bill, and also because of the fact so many union members are benefited by the interest rate fix in the bill and by the targeted rifleshot that goes into this bill dealing with airlines and steel companies.

That, hopefully, puts to rest that side of the argument made on this case.

If the Senator from Massachusetts has other very legitimate concerns in this bill, I acknowledge the fact we didn't get the 20 percent he wanted on the multi's that were at risk which might go into default. That is a legitimate reason to oppose this bill, if that is the position. You cannot oppose this bill, as the Senator from Louisiana did, on the basis that it is an attack on some group. That is simply a function of politics. It clearly isn't, and the facts and the debate from the other side prove it.

I reserve the remainder of our time.

THE PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I ask unanimous consent to have printed in the RECORD a list of the small business organizations and business groups that are in strong support of the conference including the multiemployer provisions. They include the Association of General Contractors of America, the Cherne Contracting Group, Energab, Inc., the Finishing Contractors Association, National Electrical Contractors Association, Printing Industries of America, Sheet Metal and Air Conditioning Contractors' National Association, Schnuck Markets, Inc., the Food Marketing Institute, the Mechanical Contractors' of America United Association of Journeymen and

Apprentices of Plumbing and Pipe Fitting Industry of the United States and Canada, and the Washington Group International, as well as others. This represents only part of the small business groups and associations that believe if we are going to provide help and relief for the single employer, we should do it for the multiemployer as well.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

American Federation of Musicians  
American Federation of Television and Radio Artists  
The Associated General Contractors of America  
Cherne Contracting Corp.  
Construction Industries of Massachusetts—Labor Relations Division  
Enerfab, Inc.  
International Association of Bridge, Structural, Ornamental and Reinforcing Iron Workers  
International Association of Heat and Frost Insulators and Asbestos Workers  
International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers  
International Brotherhood of Electrical Workers  
International Brotherhood of Teamsters  
International Union of Bricklayers and Allied Craft Workers  
International Union of Electrical Workers  
International Union of Elevator Constructors  
International Union of Operating Engineers  
International Union of Painters and Allied Trades of the United States and Canada  
Laborers' International Union of North America  
National Association of Construction Boiler-maker Employers (NACBE)  
Finishing Contractors Association  
National Coordinating Committee for Multi-employer Plans (NCCMP)  
National Electrical Contractors Association  
NEA—The Association of Union Constructors Operative Plasterers' and Cement Masons' International Association of the United States and Canada  
Plumbers' and Pipefitters' National Pension Fund  
Printing Industries of America, Inc.  
Sheet Metal and Air Conditioning Contractors' National Association  
Sheet Metal Workers' International Association of the United States and Canada  
Schnuck Markets, Inc.  
The Food Marketing Institute  
The Mechanical Contractors' of America  
United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada  
United Brotherhood of Carpenters and Joiners of America  
United Food and Commercial Workers' International Union  
United Union of Roofers, Waterproofers and Allied Workers  
Washington Group International

Mr. KENNEDY. Madam President, I point out for the RECORD the fact that when the Senate considered the pension reform bill, the provisions in the bill that provided for the multiemployers actually provided a \$42 million favorable score for the Federal Treasury. They made money while the single-employer had a cost of \$1.5 billion. The multiemployer actually made money for the Treasury.

The idea included in the White House letter opposing the inclusion of the multiemployer because it was going to put the burden on the Pension Guaranty just does not measure up. That is the point of the Senator from Louisiana. There has to be another reason. It is not because it will cost the PBGC.

This chart says PBGC assistance to multiemployer plans is less than 1 percent of assistance to single-employer plans. This is the GAO finding representing 35 million workers. This represents 10 million, except these programs, although they have not been costly—\$5 billion in 2003—are excluded. That is what is unfair. The question is, Why are we excluding them? It is not the additional burden. It could not be. The facts do not justify it. There has to be another reason. The reason is, I believe, the fact they are the union members which the administration has been strongly opposed to providing.

We say the White House is against it. The House is against it. Therefore, why should we include it? The fact is, the Senate had 100 percent, the House had nothing. You should have at least 50 percent.

The nature of the discussion in the course of the conference was, let's find out what the real need is. That seemed to be a sensible and responsible position, whatever the percentage. So we looked at what they call the single corporation, which is accepted by Republican and Democratic—certainly, the staffers, the professionals on this—as being a fairminded assessment. They found one in three of the multiemployers are facing difficulty, but one in nine are facing severe difficulty. We took the one in nine and tried to translate that into a formula that would help those in the most serious trouble. We all agreed on that—get a formula. It came out to approximately 20 percent.

That was in the newspapers. That is what the staff would certainly have agreed Thursday, 2 weeks ago. That was the agreement. It was in the Washington Post, not that that is the final word, but they have been following it closely. There is agreement that 20 percent of the worst-off plans should get assistance. That was my understanding. That was reported. No one contested that.

Then we get a surprise. We are about to have a final meeting and the White House suddenly gets the word on this and says, no, no, we are not going to do that. They come up with language that will get us down to approximately 4 percent.

The rest is history. The efforts that were made to try to get it up, move it from 20 down to 12 or 10, were all rejected as well. According to the Wall Street Journal, taking the language and going back to Segal, it is now probably 2 percent. The fact is, this is not going to put an additional burden on the Pension Guaranty Corporation. The employer plans are more stable than single-employer pension plans be-

cause even if one employer goes out of business, the other employers continue to support the pension fund.

Of the thousands of multiemployer plans that have been insured by the Pension Benefit Guaranty Corporation, only 33 multiemployer plans have ever received financial assistance from the PBGC, and the PBGC multiemployer program has enjoyed a surplus for a 20-year history.

The idea is we have a fragile Pension Guaranty Corporation; we can only do the single employer; we cannot afford to do the other. It does not hold. So we have to ask, What is the other reason? Particularly after we reached a fair compromise to only deal with those that were at greatest risks. The answer was, we are not going to compromise on this. As I mentioned at the time of the proposal, it was not a compromise, it was basically an insult.

That is it. What the conference did was admirable with regard to single-employer plans. It is grossly unfair to the multiemployer plans. It is basically excluding coverage for almost 10 million workers who are facing the same kind of economic challenges. The others, I seriously believe, we would have passed overwhelmingly, a proposal that would have taken into consideration those that were at the greatest risk in the multiple. They are the ones that are the pension programs that deal with the smaller businesses. Some of those small business associations strongly support the inclusion of the multiemployer and, of course, the large number of workers that will be affected.

I still believe we ought to take a position and a stand that says, look, what we did for the single one makes sense. We are supporting. But we also think it is grossly unfair to 10 million Americans to say we are giving them the back of the hand when their expansion plans are under the similar kind of pressure and they are representing workers who are generally lower income and from smaller businesses and whose pension plans are heavily stretched, given the economic times.

I talked to my friend from New Hampshire, and the Senator from Washington wanted some time. I believe the Senator from Iowa, Senator HARKIN, wanted a few minutes, and the Senator from New York. Then we would be prepared to suggest to work out with the leadership an appropriate way to have a vote at an appropriate time and let others who would like to speak on another subject be able to address the Senate. If there are other colleagues who want to speak, if they can let us know forthwith, we will try to work out with the leadership and the other side an appropriate time for a vote.

I yield 10 minutes to the Senator from Washington.

UNANIMOUS CONSENT REQUEST—S. 2236

Ms. CANTWELL. I thank the Senator from Massachusetts for yielding some time from this important debate on

pensions. Obviously it has been a busy day in Washington talking about a variety of different issues important to our country.

One issue our colleagues ought to realize is pending business on our calendar that could be brought up for discussion is, what should we do in light of the fact that we finally got a recommendation on reports about the blackouts that happened in our country from New York through the Midwest? We now have a report saying that liability legislation is needed to ensure consumers can be protected from the transmission grid and the blackouts that have been occurring.

Many of my colleagues may think of the latest New York blackout that happened just several months ago as a great catastrophe. Some of them may have forgotten that since 1996, we have had many blackouts throughout the United States. In fact, all of the States in black on this map show the number of blackouts we have had in various regions. In our Northwest region, in Washington, we had a blackout several years ago that cost consumers not only inconvenience, but millions of dollars of impact.

The question is, What are we going to do to try to get consumers more reliability in electricity? While a lot of my colleagues would like to say we will pass an energy bill, it has been clear for some time that the Energy bill has gotten bogged down with a variety of items involving pork barrel spending. The most famous line my constituents remind me of in the Energy bill: Hooters, polluters and Enron looters. What are we doing about getting the energy policy this country needs and moving it forward?

One piece of legislation that has been hung up has been the reliability standards legislation. We have, this week, a report issued by the United States-Canada Power System Task Force, their final report, asking, Why did the blackout happen in the United States and Canada and what do we want to do?

The No. 1 recommendation from the report is make reliability standards mandatory and enforce them with penalties for noncompliance. That was the No. 1 recommendation out of that report. Why don't we do that? If we cannot agree on the rest of the Energy bill, why don't we take this stand-alone piece of legislation and pass it so we can give consumers the confidence that we have some rules and regulations in place for reliability.

A lot of Americans woke up after the New York and Midwest blackout and said, geez, how did this happen?

I think a lot of people assumed there were rules and regulations in place on reliability, but there are not. There is no rule in place that says: This is how much electricity you have to have as a backup. There is no rule in place that says: This is how you need to make sure Akron, OH, or Toledo, OH, or someplace in New York has enough electricity, given the kinds of demands

and the peak we are going to see in those areas. Those rules are not in place.

You can ask yourself why those rules are not in place, and what has transpired on energy policy and been debated over the last several years, as we moved towards deregulation. But the bottom line is, now that a majority of States across the country since 1996 have had blackouts, we have had a demand for reliability legislation. We also now have a task force that has said the No. 1 thing you need to do is pass this legislation. Yet this legislation is being held hostage to passing a larger energy bill.

If my colleagues think I am overstating this case, I would like them to think about the legislative history here, because my predecessor, Slade Gorton, introduced similar legislation after Washington State had a blackout. We had a blackout and said: Gee, this is crazy. How can you not have reliability standards? How can you not have rules in place to make sure there is enough power for consumers at peak times? He proposed reliability legislation that actually passed the Senate, and got held hostage in the House of Representatives because people wanted to see more energy deregulation, so the legislation never passed. Now we have been through two more Congresses where no reliability legislation was passed.

The interesting thing is the majority of Members in both the House and the Senate actually support this bill, this stand-alone bill, that now is sponsored by Senator BINGAMAN, Senator SNOWE, Senator CLINTON, Senator JEFFORDS, Senator SCHUMER, Senator DASCHLE, Senator REID, and myself. This legislation, I believe, does have the majority of support by both House and Senate Members. People want to see it pass, but it continues to be held hostage to getting a general energy bill.

I can tell my colleagues we have had enough of the energy debate, and I think even that this latest FSC/ETI bill, in which some of the energy package was added to that legislation, is a sign of recognition by my colleagues it is going to be very tough to get that comprehensive bill this year. So why not do the responsible thing? Why not do the responsible thing and have this energy legislation pass now as a stand-alone bill and give consumers the confidence there are rules and regulations in place before we have another blackout?

The issue has been clear for some time now, and has been debated and studied by U.S.-Canada Power System Task Force. In fact, the task force even went on to say:

If reliability legislation had been enacted when first proposed (in 1999), I believe that a blackout would not have occurred.

That is a statement from the chairman of the North American Energy Reliability Council. He testified before the Energy Committee. I asked him this very question. I said: Do we need

to pass this legislation? And should we pass it as a stand-alone? He said: Yes, we should. He was, I think, then followed by the chairman of the committee, who said: Well, it is not time to do that yet. Let's keep pushing on the larger Energy bill.

How many more weeks are we going to let go by with the American consumer not having reliability standards in place, having their energy supply in question about whether they are going to have reliability?

I know some people think: Well, gee, things happen. There is too much demand.

You have an impact. Consumers, individuals, in various regions of the country have dealt with it. People should understand the New York blackout cost us between \$4 billion and \$10 billion for those days that businesses did not have power, when people could not conduct business, and could not continue with their livelihoods. That is merely what we ended up losing in terms of revenue. Not only is it an inconvenience to consumers and unsafe—an issue where we have left a lot of elderly people without the resources and reliability they have counted on—we also have negatively impacted our economy.

While we are here in Washington talking about national security and how we make everyone more secure, the clearest answer is—at least with regard to the electricity grid—to pass this legislation, and pass it now before we adjourn for another recess and leave these standards again hostage to this Energy bill, saying we have to have a comprehensive energy bill to pass it. It is not responsible to the citizens of this country to leave them without these standards.

The legislation specifically gives the Federal Energy Regulatory Commission the authority to make sure, working with the North American Energy Reliability Council, that these rules and regulations are in place. Again, for some of my colleagues who may not be familiar with our electricity grid and how the system works, we do not have somebody right now who determines, in the various regions of the country, how much power supply an organization must have, or penalties for not having that supply.

The way regional transmission organizations have been formed, and the way they operate, is it is only one entity pushes the electricity out and puts more power onto the grid. These RTOs have no obligation or responsibility to make sure there is reliability in the system.

I think that is shocking that our country, with a large economic engine and so many people depending on things such as e-commerce that are absolutely dependent upon electricity for millions of dollars, if not billions of dollars, a day in transactions, can say that we have no reliability standards in place to protect consumers and businesses from these kinds of outages that have occurred in the past.

UNANIMOUS CONSENT REQUEST—S. 2236

Madam President, I ask unanimous consent that the pending bill be set aside and that the Senate now turn to Calendar No. 465, S. 2236, a bill to enhance the reliability of the electric system; that the bill be read a third time and passed, and the motion to reconsider be laid on the table, without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. GREGG. I object.

The PRESIDING OFFICER. Objection is heard.

Ms. CANTWELL addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

Ms. CANTWELL. Thank you, Madam President.

Mr. KOHL. Mr. President, I rise today in reluctant support, for the conference report in front of us.

The conference agreement makes great strides towards heading off an impending crisis in private pensions. Requiring private companies to measure the solvency of their defined benefit plans with the 30-year Treasury bill as a benchmark has not been feasible for some time. Ever since the U.S. Government stopped issuing these bonds, the market for them, and the interest rates they pay, have been distorted. That forced businesses to contribute more to their pension plans than was really necessary. During a time when private enterprise is under so much pressure from foreign competition and a weak economy, these extra contributions have been a tremendous strain on small and large businesses alike. Without the changes laid out in this bill, many companies would be forced to end their defined benefit plans.

Defined benefit plans are too scarce today, and we need to encourage and sustain their use by companies that have chosen to offer them. These plans, which offer a set benefit usually based on how long an employee has worked for a company, provide a kind of security for employees that market-dependent 401(k)s and IRAs cannot.

Unfortunately, the benefits the bill handed out to all single-employer plans were not given equally to multiemployer plans. There seems to be little reason for this decision, other than some of my colleagues on the other side of the aisle were unwilling to help out plans that benefit members of organized labor. There is some help for multiemployer plans in this bill, but it is not nearly enough. I have heard from many unions, especially the construction trades, who strongly oppose this bill because they believe it is mean spirited and will force their members to make significant sacrifices. I am reluctant to vote against the men and women who build our homes and move our goods, but I am not left much choice.

If we delay this bill beyond April 15, businesses across the country will be forced to contribute large amounts of

money to their pension plans to meet their quarterly obligations. Some of them will be unable to make those contributions and will be forced to withdraw the plan from their employees. To keep workers from losing their pension benefits, and to remedy a long-overdue policy, I have to support the bill before us.

I would like to take this opportunity to highlight a section of the bill that will substantially benefit both businesses and consumers in Wisconsin. Included in the pension legislation is a repeal of an outdated section of the Tax Code, section 809, which limits the ability of mutual life insurance companies to deduct a policy holder's dividends. The intent of the original legislation, as passed in 1984, was to ensure equity between mutual and stock life insurance companies. While this concern has expired as the number of mutual life companies in the Nation has dramatically decreased, the damaging economic impact of the legislation remains. Mutual life insurers have been forced to reduce the amounts paid to policyholders as dividends or benefits, thereby increasing the cost of insurance.

Tax savings that will result from a repeal of section 809 will be passed on to policyholders in the form of increased dividends and lower insurance costs. This comes at a critical time for Wisconsinites, where the effect of repeal will be twofold. In addition to providing such benefits to consumers, the mutual life insurance industry employs thousands of workers in my State. At a time when job loss across the country has been severe, this repeal will allow companies to avoid cost-cutting measures often resulting in job loss.

Unfortunately, the conferees were not as fair or reasoned in their judgment when they decided to include an antitrust exemption for graduate medical resident matching program in this conference report. This antitrust exemption was not reviewed or debated by either the Senate or the House, much less voted upon. The exemption will end many of the claims in an ongoing lawsuit brought by a number of medical students and residents that has already survived efforts to have it dismissed. The students contend that through the matching program, the hospitals depress wages and cause residents to work inordinately long hours to the detriment of patient care. This exemption appears to eliminate all of the students' claims with the exception of their allegation of price fixing.

In general it is bad policy to provide exemptions to the antitrust laws. It is certainly unusual to enact an exemption that ends part or all of an ongoing lawsuit. We should have had the opportunity to debate this issue and determine whether there was any merit to the exemption, rather than see the exemption mysteriously appear on an unrelated bill. It appears that this provision, enacted in this way, is nothing more than a giveaway to one particular

special interest. Without judging the merits of the issue, we should have had an opportunity to explore it and make that decision for ourselves.

I have to agree with many of my colleagues who have argued that this conference report would have been greatly improved had Democratic conferees been allowed to participate fully in the conference. We have a bill before us now that deserves support, but is not the good and fair work of which this body is capable, nor is it even near the quality of the bill passed overwhelming out of the Senate earlier this year. I hope the Senate approves the measure today and continues to work to address the inequities continued or created in the conference report.

Mr. LIEBERMAN. Mr. President, today I will vote in support of the Pension Funding Equity Act conference agreement—although I do so with some reluctance. On January 28, 2004, the Senate passed H.R. 3108 with broad bipartisan support. The Senate-passed version addressed the critical need to update the interest rate for the purposes of calculating pension contributions. It also provided deficit reduction relief for single-employer pension plans, and multiemployer plan relief. It was a balanced bill which recognized that all companies holding defined benefit plans are suffering from the same market ills.

Apparently, because of heavy-handed pressure from the White House, the conference agreement before us omits critical relief for all but 4 percent of multiemployer pension plans, to the detriment of thousands of union workers and small businesses that participate in multiemployer pension plans. In my State of Connecticut, for example, the economic downturn has been devastating for the Connecticut Iron Workers pension fund. This plan, which was fully funded a few years ago, now faces a financial crisis, and is desperately in need of the relief which is denied under this bill, but which is being offered to 35 million workers covered under single employer plans.

Senate conferees demonstrated an admirable willingness to reach a reasonable compromise on the multiemployer pension relief provision. This compromise would have limited the multiemployer relief provisions to cover only 20 percent of multiemployer plans. I understand conferees were willing to compromise even further. But the White House was adamant in their opposition to multiemployer plan provisions, which is hard to understand because, historically, multiemployer plans place very little burden on the Pension Benefit Guaranty Corporation.

I wish the President had taken a different stance. I understand that my colleague, the distinguished Senator from Massachusetts, Mr. KENNEDY, will soon introduce legislation to address the concerns of multiemployer pension plans. I intend to support and cosponsor this legislation, and would hope that Congress would act swiftly to pass such a measure.

In the meantime, I will vote for this bill, because I believe it is essential that we update the interest rate formula for pension calculations prior to April 15, when the first quarterly payments of the year become due. Without this relief, many pension plans will face unmanageable financial strains, and that will ultimately hurt workers. Companies will be forced to grapple with decisions about layoffs, pension cutbacks, and withholding critical investments. Like many companies around the Nation, Connecticut hospitals, for example, and other healthcare employers in my State, have been hard hit by poor asset returns, declining interest rates, and spiraling pension plan costs. Without this replacement to the 30-year Treasury bond interest rate, I am informed that Connecticut hospitals will face financial hits that they simply cannot absorb and will be forced to cut benefits.

I will vote in support of H.R. 3108 so that millions of current workers covered by defined benefit plans will not see their benefits slashed, and so that additional resources will be available for investment and job creation. I urge my colleagues, however, to support legislation to provide relief for multiemployer pension plans, and I urge the White House to listen to reason.

Mr. LEVIN. Mr. President, with so many baby boomers nearing retirement age, increasing the likelihood and availability of secure retirement savings is more important than ever. Strengthening our private, employer-based pension system is a critical component of this effort.

Right now, our Nation's companies are confronting real challenges in providing adequate, guaranteed retirement benefits as the number of retired workers grows and global competition increases. This is a big part of the crisis that we are experiencing in our manufacturing sector. Across the Nation, 2.8 million manufacturing jobs have been lost during the Bush administration. Michigan alone has lost over 180,000 manufacturing jobs since 2000. Our States and our Nation cannot continue to sustain such losses, and action is needed on many fronts to address the crisis.

This bill is a small, but important, step toward helping with our manufacturing crisis. For the companies whose plans this bill helps, it will free up resources for equipment upgrades, new hires, R&D, and other investments in the future.

I am troubled by the fact that the component of this bill dealing with most multiemployer pension plans that had overwhelming support in the Senate has been dropped out of this conference report. I am hopeful that we can provide relief to those multiemployer plans soon. That is why I will cosponsor Senator KENNEDY's bill that would do just that.

If I thought that defeating this bill would help the many pension recipients whose plans were left out of this con-

ference report, that would be one thing. However, after careful thought, I have concluded that defeating this bill would not achieve that goal but would only hurt those who do get the much-needed relief in the bill.

Mr. FITZGERALD. Mr. President, I rise today to oppose the conference report for H.R. 3108, the Pension Funding Equity Act, which the Senate is now considering. The original version of this bill that the House passed last year changed the discount rate used by defined benefit pension plans to calculate their pension liabilities from an interest rate based on the now defunct 30-year Treasury bond to an interest rate based on the average rate of return on high-quality long-term corporate bonds for plan years beginning in 2004 and 2005. There is a strong but not conclusive argument that the discount rate should be changed. According to the Pension Benefit Guaranty Corporation—PBGC, replacement of the 30-year Treasury rate will allow companies to lower their pension contributions by \$80 billion over the next 2 years.

When this legislation reached the Senate, however, it became a magnet for giveaways to financially weak companies. The industries in which some of these financially weak companies operate are notorious for having woefully underfunded pension plans. Furthermore, select companies were also given additional relief. Why these companies deserve special breaks and others do not is not easily discernable. Multiemployer plans were also given a 2-year delay in recognizing investment losses. The most troubling section in the Senate version of the bill provided that any company could apply with the Secretary of the Treasury to waive a portion of its deficit reduction contribution. Fortunately for taxpayers, this provision was stripped from the bill during conference.

While the House-Senate conference report produced a pension bill that is much more limited in increasing PBGC's deficit than the Senate version, it still allows companies with underfunded pension plans to set aside less, thus increasing their pension deficits. According to the PBGC, the deficit reduction contribution waivers, special breaks to select companies, and the multi-employer plan relief, will allow companies to pay billions less into their pension plans, in addition to the \$80 billion less because of the discount rate change. In total, the conference committee report probably relaxes corporate pension funding requirements by close to \$90 billion over 2 years.

Allowing weak companies to pay less into their pension plans than is required by current law would be analogous to a credit card company allowing a financially distressed customer to pay less than his or her required monthly minimum payments. Just as credit card companies require minimum payments to ensure consumers

do not fall too far behind in debt, the PBGC requires companies with defined benefit pension plans to make deficit reduction contributions to catch up on their funding. I think all of my colleagues would agree, when you're in a hole, the first rule of thumb is to stop digging. Allowing companies with underfunded pension plans to dig the hole deeper could cause premiums for well-funded plans to rise, and retirees could face cuts in pension benefits if their defined benefit pension plans are terminated.

I also am deeply concerned that the conference report does not include a "hold harmless" provision for the PBGC. The agency is currently in the worst financial condition in its history. Because it continues to absorb the losses of terminated pension plans, the PBGC reported a record deficit in its single employer program of \$11.2 billion for fiscal year 2003, and for the first time ever, its multi-employer program ended the fiscal year in a deficit situation. The PBGC currently remains exposed to \$85 billion in pension underfunding in plans sponsored by financially weak employers. I am thus concerned that taxpayers may one day be forced to bail out the PBGC.

In September 2003, as chairman of the Governmental Affairs Subcommittee on Financial Management, the Budget, and International Security, I held a hearing on the PBGC and defined benefit pension plans. While proponents of the deficit reduction contribution waiver and multi-employer plan relief claimed that funding rules are too strict for companies in America, what I found was just the opposite—that current funding requirements are inadequate to fully protect the pensions of America's workers and retirees when their plans terminate. Companies can stop making contributions when their plans are funded at 90 percent of "current liability." Trouble is, the definition of "current liability" is the result of past legislative compromises, and does not reflect the amount of money needed to pay all benefits if a plan terminates. "Current liability" assumes the company is an on-going business, and thus does not recognize the early retirements that take place when an employer goes out of business and terminates its pension plan. Nor does "current liability" recognize the full cost of providing annuities as measured by group annuity practices in the private market.

Pension benefits are measured against "termination liability" if a company goes out of business and terminates its pension plan. Termination liability reflects an employer's cost to settle pension obligations in the private market. In the example of Bethlehem Steel, the company reported that it was 84 percent funded on a "current liability" basis in its last filing prior to termination. When the PBGC took over the Bethlehem plan, however, it turned out that the plan was

only 45 percent funded on a termination basis. In my judgment, therefore, further relaxing the already lax contribution requirements for weak companies with underfunded plans is imprudent.

As members of Congress we should not pass laws that encourage companies to manage pension plans in an irresponsible manner. Companies with underfunded pension plans will continue to run up deficits until everyone loses—workers, retirees, and taxpayers. We make a mistake today by giving weak companies the tools to dig their holes deeper.

Mr. GREGG. I would like to ask my colleague Senator GRASSLEY, a fellow manager of the conference report and Chairman of the Senate Finance Committee, whether he shares my view that, notwithstanding the enactment of this legislation, all of the existing relief measures applicable to multiemployer plans under ERISA and the Internal Revenue Code will remain available to multiemployer plans. Specifically, the multiemployer plan relief provisions in this legislation are in addition to, and not in lieu of, the existing relief measures applicable to multiemployer plans. Multiemployer plans that satisfy the criteria for relief under the existing measures are not precluded from obtaining relief under the existing relief measures. Is that your understanding?

Mr. GRASSLEY. Yes. I share my colleague's understanding. Under current law, the IRS is authorized to waive all or a portion of the minimum funding standard requirements for a given year or, alternatively, to allow plans to extend the period for amortizing their liabilities for up to an additional 10 years, so long as certain required showings are made. IRS regulations also include what is known as the "shortfall funding method." The enactment of the short-term multiemployer plan relief in this legislation is not in any way intended to foreclose the availability of any of these existing relief measures to multiemployer plans.

Mr. FEINGOLD. Mr. President, I will vote against the conference report on H.R. 3108. While there is much to commend in the measure, the conferees failed to include meaningful relief for the multiemployer pension plans to which thousands of mostly small businesses and their workers contribute. That was not the case when this measure left the Senate, nor was it apparently the case in the conference committee prior to the intervention of the Administration. Members of the conference committee have noted that bipartisan negotiations on this measure in committee had been productive prior to the insistence by the White House that the provisions extending relief to multiemployer plans be greatly restricted, leaving thousands of businesses and 9.4 million workers high and dry.

Particularly disturbing are reports that while multiemployer plan relief

was drastically reduced by the conferees, special consideration was provided for at least one large corporation that contributes to a multiemployer plan. The Wall Street Journal today reported that "the final provisions also showed the remarkable influence" of that corporation, noting that it "used the bill to pursue its own agenda" and that the provisions in the conference report were "tailored to provide the most help" to the fund to which the company contributed. This tailored assistance stands in stark contrast to the lack of relief to the thousands of smaller employers and the workers they employ.

Mr. President, I supported the pension relief package that the Finance Committee crafted a few weeks ago. I am pleased that some of the provision in that measure remain in the conference report, and that with the expected passage of this legislation many plans will get the relief they need. But I regret that while conferees reportedly tailored multiemployer relief to help at least one large corporation, they abandoned the multiemployer relief that helps thousands of small businesses and their workers. I very much hope this body will act to correct that serious flaw without delay.

Mr. FEINGOLD. Mr. President, I spoke earlier about the conference report to H.R. 3108. I wanted to discuss one additional provision of the bill that has not received much attention in the debate because it was not part of the bill until just a day or two ago.

I am very troubled by the eleventh hour addition to this conference report of a provision that purports to grant an antitrust exemption to the graduate medical resident matching programs. We have had no hearings on that issue in the Senate Judiciary Committee, and no language has ever been presented to the Committee or to the Senate. For the managers of this bill to insert a controversial provision with no Senate debate or discussion is the worst way to legislate, particularly in the complicated area of antitrust law.

I note, in addition, that Subsection (b)(3) of section 207 explicitly preserves the right to bring an antitrust lawsuit alleging any type of price-fixing arrangement among two or more graduate medical education programs. Therefore, the antitrust exemption that is described in subsection (b)(2) apparently does not apply to the lawsuit pending in the U.S. District Court for the District of Columbia.

Mr. DURBIN. Mr. President, although I rise in support of the conference report for the Pension Funding Equity Act, I have serious reservations about the lack of relief for multiemployer pension plans. This provision is yet another instance of the White House undermining conference committee negotiations and shutting out fair and full participation by Democratic conferees.

During the 108th Congress, Democrats have been locked out of con-

ference negotiations time and time again in an unprecedented manner. This includes the energy bill, Medicare prescription drug benefit, and the omnibus appropriations. Given the importance of addressing the use of the 30-year Treasury bond rate to compute pension liabilities, our side reluctantly agreed to a conference on this bill as a test case for bipartisan cooperation. Unfortunately, the Senate has failed that test.

The Senate version of this legislation, which passed by a vote of 86-9, would have provided relief to all 1,600 multiemployer pension plans and the 9.7 million workers who have such pensions. During the conference negotiations, there was a tentative agreement to provide relief to 20 percent of the multiemployer plans and to reduce the amount of relief that the Senate version would have provided by roughly half. But then the White House interfered and insisted that the relief for multiemployer pension plans be dramatically reduced. Offers to cover 12 percent or even 10 percent of all multiemployer pension plans—only half of the original conference agreement—were rejected.

As a result, this conference report—approved by a party-line vote—provides relief to less than 4 percent of all multiemployer pensions and provides less than one-third of the relief provided by the Senate version.

In addition to my concerns regarding this procedural breakdown in the conference committee, I also am troubled by the substance of this provision that the White House insisted be reduced. This conference report provides only \$250 million in relief to multiemployer pension plans. These plans receive no aid from the other provisions in this legislation.

Without relief from Congress, these plans will remain in crisis. For example, in Rockford, IL, the local iron workers union has a pension plan that covers more than 400 participants and has approximately 100 employer contributors. This plan is in jeopardy. Although multiemployer pension plans often are characterized as providing pensions for "unionized workers," bear in mind that more than 60,000 businesses—mostly small businesses—contribute to multiemployer pension plans. In Rockford, if the iron workers' pension plan is not viable, the 100 companies and contractors that contribute to that plan and act as its signatories may face collapse if faced with the plan's failure and its withdrawal liability.

Therefore, we must provide aid to protect the millions of workers covered by multiemployer pensions and the tens of thousands of small businesses that employ these workers. Today, I am joining with Senators KENNEDY, BAUCUS, DASCHLE, and others to introduce a bill that would provide fair and equitable aid for these troubled multiemployer pensions. I hope this measure will be enacted as quickly as possible.



Despite my concerns regarding the lack of relief for multiemployer pensions, I rise in support of the conference report because of its deficit reduction contribution relief and its 30-year Treasury bond rate fix. For almost 6 months, I have worked to ensure that DRC relief—especially for the airline and steel industries—would be included in any pension legislation enacted by this Congress.

The DRC relief in this conference report would provide more than \$1.6 billion in aid to the airline and steel industries over the next 2 years for companies that had well-funded pension plans as recently as 2000, but need assistance now. This aid would allow these industries to regain their financial footing by providing relief from DRC surcharges of up to 80 percent in 2004 and 2005. This assistance is vital for United Airlines, based in my home State Illinois. As a result, the pensions of almost 130,000 participants in United's pension plans, including over 22,000 participants in Illinois, will be more secure.

I also support this conference report because it would provide a 2-year replacement of the 30-year Treasury bond rate in computing pension liabilities. Nationally, this provision will provide \$80 billion in relief to the 31,000 companies that provide single-employer pension plans and cover nearly 35 million workers and retirees.

I have heard from many Illinois companies supporting this provision. They include Caterpillar, Goodyear, John Deere, Smurfit Stone and the Children's Memorial Hospital. Unless this provision is enacted before April 15, the pension funding requirements for these companies will grow by millions of dollars and the pensions of thousands of Illinois workers will be in jeopardy.

Although this conference report is not perfect, I will vote in favor of it to provide aid to the airline and steel industries and to companies that provide single-employer pensions. However, I also look forward to working with my colleagues on both sides of the aisle to provide adequate and equitable relief to multiemployer pension plans as soon as possible.

Mr. KYL. I want to express my great disappointment with this conference agreement and to explain why I will vote against it.

This legislation, H.R. 3108, was originally intended to provide a temporary solution to a legitimate and serious problem facing all defined benefit pension plans—the interest rate used to calculate funding liabilities, the 30-year Treasury bond, is no longer being issued by the Federal Government, and consequently the rate has dropped to a point that companies would be forced to contribute far in excess of what is necessary to their pension plans if Congress does not provide a remedy. I have always supported efforts to make this necessary change to the interest rate and, in fact, I believe that President Bush put forward a reasonable permanent solution last year.

Because of disagreements over that permanent interest rate change, however, Congress was forced to seek a temporary solution to give us additional time to resolve our differences. H.R. 3108, as originally approved by the House, only included temporary interest rate relief; and that is all it ever should have included.

When it came time for the Senate to consider H.R. 3108, it was viewed as a “must do” bill, and thus attracted additional items that I believe should not have been included.

My primary concern is that the Senate added relief from the “deficit reduction contribution” for certain severely underfunded plans. The DRC is a special catch-up contribution that seriously underfunded plans—generally, plans that are 90 percent funded or less—are supposed to make to bring their plans back to full-funding. When the Senator began discussing adding DRC relief for airlines, steel companies, and possibly other industries, I expressed my opposition.

I believe that the DRC relief is harmful to workers, unfair to healthy pension plans, unfair to competitors who are not receiving the relief, and exposes taxpayers to unacceptable risks.

Underfunded plans are harmful to workers because they jeopardize expected pension benefits—especially for workers who are to receive larger pensions than the Pension Benefit Guarantee Corporate—PBGC—will guarantee, such as airline pilots. Companies should be required to fund their pension promises to their employees, they should not be excused from these promises.

DRC relief is unfair to healthy plans because an underfunded plan that fails will pay benefits using the insurance premiums paid to the PBGC by healthy plans. Further, many plans have made the difficult yet responsible financial decisions to fully fund their pensions. It is unfair to excuse other companies, who may have been less responsible, from these same promises.

The DRC waiver in the conference agreement applies only to certain airline and steel companies. The DRC waiver is really a back-door bailout for some companies and is unfair to their competitors that cannot benefit from the waiver, either because they have fully funded their pension plans or because they offer a different kind of retirement benefit to their employees.

Finally, the DRC waiver exposes taxpayers to a greater risk that the PBGC will require a taxpayer bailout. The PBGC recently reported a deficit of \$11.2 billion in its single-employer insurance plan for fiscal year 2003—a record. While the PBGC estimates it will have sufficient assets to meet obligations for years to come, the failure of several large plans could change that.

Further, PBGC estimates that the sum total of all single-employer pension plan underfunding is about \$400 billion. And Congress—meaning the

U.S. taxpayers—would certainly bail out the PBGC, rather than allow the entire insurance system for defined benefit pension plans to collapse.

Because the Senate was insistent upon providing some DRC relief, however, I worked with my colleagues in the Republican leadership and on the Senate Finance Committee to scale back the relief so that it would cause less damage to our pension system, would be less harmful to competition, and would expose the taxpayers to marginally less liability. I worked to reduce the DRC waiver to 80 percent of the DRC liability in the first year and 60 percent in the second year. The idea was that by the second year, and with the interest rate relief, plans should begin turning their finances around such that they can make a greater percentage of the necessary payments to bring their plans back to full funding. This is what the Senate approved in its version of H.R. 3108 and I am very disappointed that the Senate position was abandoned during the conference negotiations.

I am also disappointed that we could not agree to protect the taxpayers from increased liabilities that could occur as a result of the DRC waiver. At a minimum, we should have stipulated that the PBGC would be “held harmless” for any benefit increases that occur during the waiver period. I believe we should have protected healthy plans and taxpayers by adopting a “hold harmless” provision for the PBGC. One of the big dangers with the DRC waiver is that the plans claiming the waiver will fail anyway in the near future, and by granting these plans a DRC waiver their funding situation will be even worse when the PBGC assumes these plans. A “hold harmless” provision would have mitigated this harm and limit the drain on healthy plans.

The DRC waiver is exactly the wrong thing to do. The system of DRC payments was devised because companies were habitually underfunding their plans. We should not aid and abet habitual underfunders by waiving much of their DRC liability. I must vote against the conference agreement because the DRC waiver is more comprehensive than what was approved by the Senate; because it fails to protect taxpayers; because the waiver is unfair to healthy plans that have responsibly funded their promises; and because the waiver provides a back-door bailout to certain airlines and steel companies, which is unfair to their competitors. I agree that there may be problems with the DRC system and that reforms may be in order. But we should make any reforms through a more thoughtful and deliberate process, taking into consideration the experience and recommendations of the PBGC.

Mr. HARKIN. Mr. President, I rise to discuss my thoughts before this very difficult vote on the Pension Funding Equity Act conference bill. The bill arrives at a reasonable immediate solution to a very complicated problem.

However, I do have concerns about the larger problem of pension funding rules in the US, and I have grave concerns about the treatment of multi-employer plans in this conference bill.

I supported this bill when it passed the Senate in January by a vote of 86-9. That bill provided a reasonable approach to funding single-employer plans—a 2 year corporate bond rate. I was especially satisfied with the 2-year amortization of losses for multi-employer plans.

When the White House wanted this provision struck in conference, an agreement was arrived at by conferees to cover the 20 percent of multi-employer plans most in need. The White House, however, held up these important negotiations and insisted on virtually eliminating multi-employer relief.

Clearly, immediate funding relief is needed. We have known that this was coming for well over a year. With the drop in the 30-year treasury rate corresponding directly with declining stock values, pension plans have become drastically underfunded. This situation doesn't just hurt the bottom line right now, it hurts the defined benefit system as a whole and jeopardizes the retirement security of millions of workers.

I have been concerned as this bill has evolved that it represents a band-aid approach that addresses immediate funding obligations without fixing the larger problem. There are perverse incentives that actually prevent employers from keeping money in the pension plan when times are good, so that we end up having to bail them out when times are bad. We need to put serious effort in the coming years to work out defined benefit pension plan funding in general.

I don't believe we take these long-term problems seriously enough. Two years ago, when we came up with the initial readjustment of the 30-year treasury rate, it was my hope that we would address these problems before the issue came up again. But, here we are—2 years later and no farther ahead. I am afraid that unless we focus on this issue this Congress, we'll be looking at simply extending this rate again in 2 years without any understanding of the impact of this rate on defined benefit pensions, on the economy, or on the Pension Benefit Guarantee Corporation.

I am sure that it comes as no shock to my colleagues that the stock market actually falls from time to time. Sometimes, by more than 25 percent. Yet, we allow companies to transfer funds out of their pensions when times are good, leaving only a 25 percent cushion for when times are bad. We offer little in the way of incentives to pad plans in the good years to carry them through the bad years.

Many advocates characterize this funding climate as the "perfect storm." I believe that it's a storm that could have been more easily weathered

had companies been prepared for a rainy day. However, the onus is reasonably on Congress to establish tax and accounting policies that create positive incentives to do so. I think we should consider increasing the funding level required prior to a section 420 transfer, at the same time, increasing the amount of money that can be kept on hand receiving favorable tax treatment.

I look forward to working with my colleagues to find a more precise solution to this delicate balance between making defined benefit pensions attractive for companies, while protecting workers. I share with my colleagues the goal of ensuring the viability of the defined benefit system.

Having said that, there is no other answer for the immediate problems facing us than to provide the funding relief provided in this measure. I think we absolutely need to do something now for the companies we can help. We need to help the airlines, we need to help the machinists. Eighty percent of this bill makes sense and is the right policy for the moment. Unfortunately, the White House has chosen to play politics with the income security of workers in multi-employer plans, and of the businesses that participate in those plans. There is no good reason for dropping these plans from the agreement, except to cause pain to certain working families. I plan to work with Senator KENNEDY and other colleagues very soon to repair the harm done in this portion of the bill to members of the construction trades, the Teamsters, IBEW, Plumbers and Steamfitters, Sheet Metal, Finishing Contractors, Operating Engineers, Bricklayers and other participants in multi-employer plans.

I am supporting this conference bill to help enact its truly necessary provisions—the vast bulk of the legislation which will keep other plans from freezing in the face of the current funding situation. But I will not drop my concern for those who are harmed.

(At the request of Mr. DASCHLE, the following statement was ordered to be printed in the RECORD.)

• Mr. KERRY. Mr. President, I would like the record to show my views on the conference on H.R. 3108, the Pension Funding Equity Act. The conference report includes several provisions that I support. Most important among them is funding relief for single-employer defined-benefit pension plans, which will aid 35 million workers. The conference report also closes a huge tax loophole utilized by the wealthiest Americans to shield investment income known as the small insurance company loophole, or Section 501(c)(15). I applaud the work that crafted these provisions. I am particularly pleased that the pensions of hard-working Americans in the auto, steel, airline and other industries will have safer pensions and more secure retirements. I strongly support these provisions, and I can understand why many

of my colleagues will cast a vote for this conference report.

The problem, and the reason for my opposition to the overall conference report, is that it provides hardly any relief for millions of Americans participating in multi-employer pension plans, despite strong bipartisan support for such relief in the original Senate bill. The Senate bill provided relief to all multi-employer plans, and that bill passed the Senate by the overwhelming vote of 86 to 9. After that, the conferees agreed on a bipartisan basis to limit relief to the 20 percent of plans that most needed it. But then, we have been told, the White House insisted that multi-employer relief be essentially gutted. I regret that the White House and the Republican conferees, on a strictly partisan basis, have done this. It means that nearly 10 million Americans who participate in multi-employer pension plans have been cast aside for no good reason.

The Republicans' insistence that multi-employer relief be stripped from the legislation, despite overwhelming Senate support for more widespread relief, also means that America's small businesses that participate in multi-employer plans will receive very little help. As ranking member on the Committee on Small Business and Entrepreneurship, I believe that to ignore small business is to ignore the great engine of our economy. More jobs are created in America by small businesses than any other sector of our economy.

Just a week ago, President Bush claimed that "the small business agenda is vibrant and foremost on our agenda." He said that it's important to reduce taxes, so "small businesses have got more money to invest and to expand." But at the same time the White House was pulling the rug out from under thousands of small businesses. More than half of the 65,000 employers in multi-employer plans are small businesses—real small businesses run by real families. So despite the President's rhetoric about small business, the White House has refused to help small business owners provide more secure pensions for themselves and their workers. These small businesses won't be able to invest and expand because they'll be paying excise taxes imposed by the IRS due to the crisis in their pension plans.

Mr. President, I support funding relief for single-employer plans. I am very glad that Congress has acted to help Americans participating in those plans. I am also glad to see tax loopholes closed whenever possible. But I regret that the Senate, after voting 86 to 9 to help Americans in both single-employer and multi-employer plans, is now leaving nearly 10 million Americans and thousands of small businesses out in the cold. •

Mrs. FEINSTEIN. Mr. President, I will vote in support of this conference report today because many of the private pension systems in this nation are on the verge of collapse.

Many companies are staring at an April 15 pension payment date. Without this legislation many companies will not be able to make their payments because of the effect of both the recent economic recession and the requirement that they use a payment calculation that is based on the discontinued 30-year Treasury bond.

I deeply regret the action taken by the conference committee to remove much of the assistance targeted toward multi-employer plans. I will support steps to correct this grievous action.

It is critical, however, that we pass this legislation today because 44 million pensioners are at risk of losing their hard-earned benefits.

While I wish the bill would do more, I believe it is important for several reasons:

One, this bill corrects several problems facing our private pension plans. These plans use the 30-year Treasury bond to determine the interest rate they may assume when making their periodic pension payments.

Because the 30-year Treasury bond is no longer in use by the federal government we must replace this mechanism and this bill does that.

Companies that have fallen behind in their pension payments are required under current law to make catch-up payments, or what we call deficit reduction contribution payments. A company must make these payments in addition to its regularly scheduled pension payments.

These additional payments raise the possibility that many companies will be driven into bankruptcy when it is discovered that they simply do not have the cash available to make these payments. This bill gives companies 2 years of relief from these payments.

This 2-year relief period provides these companies with an opportunity to get back on solid financial ground before beginning these payments again and it goes a long way in preventing the closure of pension plans by helping companies avoid bankruptcy.

Two, this bill targets much needed relief to the airline, steel, and iron industries by allowing them to receive the deficit reduction relief automatically unless they were subject to these catch-up payments in 2000.

These industries, more than most, have been reeling from the lingering effects of September 11, 2001 and the ensuing economic downturn. I have received more than 280 phone calls from United Airline pilots telling me that if this bill does not pass, United Airlines may have to terminate their pension plan as they work through bankruptcy. Management and labor at United Airlines are in total agreement on this issue and I have 35,000 United Airline pension participants in my home State of California.

It is clear that this bill provides more relief to single-employer pension plans than those maintained by a multiple number of employers—the so-called multi-employer pension plans. I

would like to see us address this issue in the near future and I will work with Senator KENNEDY to make sure this happens. But, today we have the opportunity to do something good for the 35 million pension plan participants who are participating in mostly single-employer plans.

This legislation is not perfect, but it represents a commonsense approach to help solve the problem facing the majority of pension plans. I supported the Senate version of this bill because it included better assistance for multi-employer plans and I continue to think that the conference committee should have reported a bill that provided these multi-employer plans broader coverage.

While the conference committee did not provide us a bill containing all that I had hoped for, it did report to us a bill that will provide real support to real companies and labor groups.

We must do what we can before these faltering pension plans are driven under by the impending April pension payments.

I cannot support a move to defeat the whole bill because it doesn't address every need.

Thirty-five million pensioners will be assisted by this bill. Companies like C&H Sugar located in Northern California will be helped and more than 35,000 United Airlines pension plan participants who live in California will be helped.

The men and women who have invested their careers in a company should not lose the pensions they are due. But, if we do not pass this conference report, many will and this should not be allowed to happen.

While this legislation is not perfect, it represents movement in the right direction and I support it with the understanding that we need to address the larger issue facing multi-employer plans.

Mrs. BOXER. Mr. President, I am voting for this pension conference report, but I do so with serious reservations.

There are 35 million workers nationwide who participate in single-employer pension plans and who will benefit from this legislation. They need help now. Many of their pension plans are in trouble. Some are teetering on the verge of bankruptcy. This bill will help ensure greater retirement security for these hard working Americans.

Unfortunately, this bill does not help all pension plans and all workers. More than 9 million workers in multi-employer pension plans will not be covered by this bill. All of these workers were covered in the bill that passed the Senate, which I supported and which passed the Senate with 86 votes. Leaving them out was a partisan and ideological decision that leaves us with a truly sub-par solution to the pension plan crisis in America.

There is nothing wrong with what is in the bill. The problem is what has been left out. Senator KENNEDY is abso-

lutely right on the merits. We should help all workers. We should not be picking winners and losers. I will work with Senator KENNEDY and the rest of my colleagues to pass the Senate provision on assisting multi-employer plans at the first and every available opportunity.

Mr. ROCKEFELLER. Mr. President, this afternoon I will vote to adopt the pension reform legislation before the Senate. However, I do so with serious reservations. The reforms in this bill are critical for both pension security and economic growth. Congress cannot allow April 15 to pass without updating the interest rate on which pension liabilities are based. As constructive as this legislation is, it is incomplete. This bill fails to address the needs of multi-employer pension plans. I will support the pension improvements we have before us today, but I will continue to fight for similar relief for the millions of employees who were left behind in this unfortunately partisan process.

It is not an exaggeration to say that the bill before us today is critical. If the Senate fails to pass this legislation today, then next week businesses will be required to make contributions to their pension plans based on an outdated interest rate. If we require companies to make billions of dollars in overpayments to their pension plans, then we are hurting economic growth and ultimately undermining the plans. I do not want workers to lose their pension benefits, because their employers determined that they could not comply with unreasonable funding rules.

This conference report also provides much needed relief from deficit reduction contributions (DRC), especially for airlines and steel companies. The grace period provided here does not diminish employers' obligations to fully meet the promises they have made to their workers. It simply provides some needed flexibility to help companies recover from the recent economic downturn. This relief is essential for the financial stability of the steel industry and the airline industry. Protecting the pensions of those workers while ensuring that their employers have the opportunity to strengthen their businesses has been one of my main priorities since this debate began. I am very pleased that the DRC relief was included in the final legislation.

Mr. President, while there is much to support in this bill, there is also a gaping whole in the pension security we are providing to American workers. Almost 10 million workers, participants in multi-employer pension plans, were abandoned by the conference committee. Despite strong bipartisan support for multi-employer relief in the Senate, the White House insisted it be dropped from the bill. I cannot account for this insensitivity. Participants in multi-employer pension plans are typically lower wage, union workers who are employed by several small businesses over the course of their careers.

To claim that these workers do not deserve the same pension security as other workers is unconscionable.

When the Senate voted on its own version of pension relief which included multi-employer plans, it garnered 86 votes in favor. Senators were pleased to support a bill that is so important for businesses and workers all across this country. The process by which the conference committee flagrantly disregarded the interests of 86 Senators is another sad example of the partisan dysfunction that has come to characterize House-Senate conference committees. And it is a lesson that this Senator will not forget.

So, Mr. President, today I will meet my responsibilities to update the pension funding rules prior to the April 15 deadline for required pension contributions. I will gladly support the DRC relief that this legislation accords single-employer pension plans. But let my colleagues be aware, I will continue to fight to provide similar security to all of the workers who are participating in multi-employer plans. I am hopeful that in the near future Congress will live up to our obligations to those workers as well.

Ms. MIKULSKI. Mr. President, I rise today in opposition to the conference report on the Pension Funding Equity Act of 2003. The conference report the Senate is considering today is a hollow promise for America's workers. This bill helps some companies and workers, but fails others. It provides relief for pension plans that cover 35 million American workers, including auto, steel and transit workers, and airline pilots. I support making sure their pension plans are safe.

But, this conference report fails to provide relief to the multi-employer pension plans that cover 9.7 million unionized workers. Many of these Americans work for small businesses, including many in my state. These workers are boilermakers, shipbuilders, electricians, and carpenters. I want to stand up for these workers to make sure their pensions are safe also.

I voted for a bill in the U.S. Senate in January, which was a truly genuine, bipartisan effort, passing by an overwhelming vote of 86-9. The bill I voted for wasn't perfect, but it was a solid, bipartisan bill.

Because of recent economic events, pension plans were hit by the perfect storm of a stock market crash, historically low interest rate, and a weak economy. So, many pension plans were in a crisis. Pension plans were calculating their liabilities based on an outdated rate that is no longer issued. By switching to a more accurate rate, pension plans will have lower funding needs which frees up money to buy plants and equipment and hire workers. This is a temporary fix while Congress reviews the issue and comes up with a permanent solution. I support this move.

Large pension plans that were particularly hit hard by the downturn in

the stock market and the weak economy also are given a temporary break on their "catch up" contributions to give them a break while the economy recovers. I also support this provision.

Yet when I voted for the pension bill last January, there was pension relief for all pension plans, the large pension plans and the multi-employer plans which are common in small businesses, and used by plumbers, carpenters, shipbuilders, and truckers.

Some believe that the conference report we're considering today is the best we can do. I believe we could have done better. We must do better. We make sure all workers pensions are safe.

I'm voting against this bill because of its impact on people, yet I have to say something about the process. This was far from Congress's usual procedure. It was passed by the Senate by an overwhelming majority. However, the Senate's views were disregarded in conference. We were handed this conference report and told to take it or leave it. This is legislation that will affect the lives of 44 million Americans, but it fails to provide help for nearly 10 million of those Americans. I cannot support that.

I know that some in Maryland are asking, "Why are you voting this way Barb?" They're saying, "We need help now. Our pension may be in trouble." To these Marylanders, I want you to know that I want to help you now. I want to ease your worry about your retirement security. But, I want to give you something real. Not all Marylanders will be helped by this bill.

So, I won't vote to pass this bill because I want to make sure all Marylanders have a safe and secure retirement. We can do better. We must do better, and we must do better this year.

There are twenty weeks left in this session of Congress. During these weeks, we can make sure all workers are protected. That is why I will be joining with my colleagues to fight to make sure that all pensions plans are safe.

Mr. GREGG. The Senator from New Mexico suggested today in the debate on the conference report to S. 3108 that the provisions of the conference report relating to Graduate Medical Education Residency Matching Programs were not intended to apply to antitrust litigation currently pending in the United States District Court for the District of Columbia.

That is not the case. The legislation applies to all anti-trust lawsuits, including pending and future lawsuits brought against Graduate Medical Education Residency Matching Programs which appropriately aligns the preferences of medical students and residency programs.

Mr. BUNNING. Mr. President, I understand that the conference report to H.R. 3108 before us today includes a provision repealing Section 809 of the Internal Revenue Code. I support repeal of this arcane provision of the tax

code relating to the taxation of mutual insurance companies. I also support the repeal of another equally arcane provision of the tax code—Section 815 which affects stock insurance companies. This provision, which triggers a tax on a fictitious account under certain circumstances and unduly ties up needed capital, is unnecessarily complex and antiquated. Repeal of this provision will allow the affected companies to gain access to these idle funds and use them to expand their businesses and hire more employees. I am pleased that the JOBS Act, which we are also considering on the floor of the Senate, contains a temporary repeal of Section 815 and I urge the Senate to consider full repeal of this provision at the earliest possible opportunity.

Mr. DODD. Mr. President, I rise today to discuss the pension conference report that the Senate recently voted on.

I have long supported initiatives aimed at strengthening and protecting individuals' employer-sponsored retirement plans. Pension benefits are a critically important means of securing a measure of comfort and self-sufficiency for retirees, and we should do all we can to ensure that pension plans are secure and viable.

The intent of the Pension Funding Equity Act of 2004, H.R. 3108, is to provide temporary pension relief to businesses whose pensions have been hurt as a result of the economic downturn that began about 3 years ago. Understanding that companies were in need of relief, in January, by a vote of 86 to 9, the Senate passed H.R. 3108, which provided relief to single-employer plans, steel companies, the airline industry, and multiemployer plans. I supported this legislation.

Unfortunately, the pension bill was significantly weakened in conference, for no reason other than to single out multiemployer plans. In so doing, the conference report puts at risk 65,000 small businesses and their 9.5 million workers. To the best of my knowledge, more than 50,000 workers in Connecticut will be left without any relief under this conference report. Because of this exclusion, I was not able to support this conference report.

There is no sound policy reason to not provide multiemployer plans with relief. It does not cost the Treasury any money. The weak economic conditions plaguing our country have adversely affected multiemployer plans no less than single-employer plans. Since multiemployer plans are overwhelmingly used by workers who belong to a labor union, the only conclusion that I can draw for why the Republican conferees would not want to provide relief to multiemployer plans is to penalize union workers and the small businesses that employ them.

This is a regrettable and callous action by our Republican colleagues in this Chamber and the other Chamber. As we all know, conference reports cannot be amended. If they could, I would

eagerly support an amendment to ensure that multiemployer plans are covered.

This conference report primarily helps the Fortune 500 companies, which I am not against. In fact, that is one of the reasons I had supported the pension bill in January. I understand that employers across the country have faced extraordinary pension liabilities based upon the obsolete Treasury bond rate. And I supported providing these plans with relief. But the conference report leaves behind our small businesses. It excludes our construction workers, electricians, plumbers, service workers, and others, and I cannot pretend that that is OK.

This bill was supposed to be about maintaining the viability of pension plans, about doing what is right for our workers and their families, and for our small businesses. Instead, it unfairly left out thousands of our small businesses and millions of our workers, for no good reason.

I will continue to work with my colleagues to ensure that multiemployer plans are provided with relief so that we also can ensure the viability of these important plans.

Mr. DASCHLE. Mr. President, the conference report on the Pension bill is another example of a broken legislative process. We passed a good bill in the Senate. There was bipartisan cooperation. Two committees—Chairs and Rankings—worked together in a constructive manner.

This bill garnered overwhelming support here in the Senate, passing 86-9.

On the Democratic side, there was concern about having this bill go to conference. Too often in the past several months, we have seen the will of the Senate disregarded by House Republican leaders eager to rewrite bills in conference.

Our colleagues on the other side said no, that the Senate conferees would advance the Senate position on the main issue of disagreement on multi-employer plans.

Under the Senate bill 100 percent of multi-employer plans were covered. The House had no provision to protect multi-employer plans. We expected some give and take, some compromise. And we reached a good faith agreement. The Senate bending over backward to accommodate the House, going from 100 percent coverage, down to 20 percent of multiemployer plans in the most dire circumstances.

After an agreement was seemingly reached, the White House stepped in and told Republican conferees that they could not reach a compromise. They had to ignore what the Senate passed and fall in line.

The result is the conference report before us which covers only a tiny fraction—3 percent—of multi-employer plans.

This puts the secure retirements of nearly 10 million Americans at risk.

We are talking about people working for small businesses. Three-quarters of

the approximately 60,000–65,000 employers that participate in multiemployer plans have fewer than 100 employees.

We are talking about hard working people bricklayers, carpenters, painters, janitors, hotel workers. In a multi-employer plan, a person gets to count all of the pension credit he earns working for any employer in the pension plan. Multiemployer plans are thus particularly important in industries like construction or hospitality where work can be short-term or seasonal.

Multiemployer plans have traditionally been well-funded. Only 31 multi-employer plans have ever received financial assistance in the history of the PBGC multiemployer insurance program. And the PBGC multiemployer program had never experienced a deficit through 2002.

Workers in multiemployer pension plans deserve the same relief we are giving to workers in single-employer plans. Like single employer plans, multiemployer plans have been hurt by three years of poor stock market performance. As many as 30 percent of multiemployer plans could face funding deficiencies in the next few years.

Moreover, multiemployer plans are not subject to the Deficit Reduction Contribution (DRC) as single employers are. Instead, participating employers have to pay excise taxes—these excise taxes can place huge burdens on employers. Companies also have to pay the amount needed to make up the funding deficiency.

Let's be clear—what the Republican majority is saying is that would prefer to impose tax increases on small businesses across the country instead of providing some reasonable period of pension relief. This is inexplicable.

Many employers may not be able to make these payments. If they can't they will go bankrupt, and this will jeopardize the pensions of the workers who have earned pensions under their collective bargaining agreement.

This legislation misses an important opportunity to help small businesses and millions of American workers.

At the same time, there are many good provisions in this bill that we support.

It would provide some protection for 35 million Americans covered by single-employer pensions. These are traditional pensions that provide monthly federally guaranteed checks earned after a lifetime of work. In combination with Social Security, these pensions provide a dignified retirement and most importantly, peace of mind.

As a result of a combination of economic factors, pensions faced a "perfect storm" in recent years. The recession, a bear stock market, and a drop in interest rates, all put extraordinary pressure on pension funds.

The airline industry has been especially hard hit in recent years as a result of fears caused by the attacks on the Pentagon and World Trade Center and the SARS outbreak. The secure retirements of employees of the airline

industry were at extreme risk if we did nothing.

Congress needs to act to restore some stability to the defined benefit pension system. If we don't, jobs will be lost. We do not want to see deficit reduction pension obligations push companies into bankruptcy and push more workers onto the unemployment line.

While the lack of protection for workers with multi-employer pensions and the implicit tax increase on small businesses make it impossible for me to support this bill, the good it will do for 35 million American workers, their employers, and the economy compel us not to stand in its way.

But this legislation should be just the beginning of our work to defend the retirements of American workers. Democrats will be back to fight for those who have been left behind. We chose not to take out the wrong the Republicans have done to small businesses on those in who work for the airlines, the auto companies and other large employers. But we will be back to press this critical multiemployer issue.

Ten million Americans are seeing their retirements put at risk and Congress has an opportunity to come to their aid. I regret that this legislation does not offer them any help, and I promise them that Democrats will not rest until they have the retirement security they have earned.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Madam President, I yield such time as he may consume to the Senator from Iowa.

Ms. LANDRIEU. Madam President, may I inquire how much time is remaining on both sides?

The PRESIDING OFFICER. There are 40 minutes remaining on the minority side, and 91 minutes remaining on the majority side.

Ms. LANDRIEU. Madam President, can I simply inquire from the Senator from Iowa, who I know wants to speak in favor of the bill, how much time he may take, because there are other Senators who want to speak on our side.

Mr. GRASSLEY. I am going to speak for, I believe, in the neighborhood of 20 minutes.

Ms. LANDRIEU. OK. Madam President, I ask unanimous consent that after the Senator from Iowa speaks, I be allowed to speak for another 10 or 15 minutes. And I understand there are other Senators coming down to speak.

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

The Senator from Iowa.

Mr. GRASSLEY. Madam President, today, in the Senate, as you can tell from the debate, we are considering a bill that is critical to our Nation's pension system and is necessary to help this economy as a whole, primarily because of airlines being so essential to the economy of the United States of America, although it affects other segments of the economy.

This bill, H.R. 3108, is entitled the Pension Funding Equity Act. It provides a temporary 2-year fix to the interest rate companies are required to

use in their pension calculations. Without this legislation, companies will be required to make pension contributions based on the 30-year Treasury bond interest rate, even though the Government stopped issuing 30-year bonds way back in the year 2001.

Clearly, this is a rule, under the 30-year bond rule, that does not make sense anymore, so we have to change the pension laws to conform. This legislation will fix that by adopting a conservative, long-term corporate bond rate for the next 2 years.

While the bond rate of corporations is in place for the next 2 years, Congress will have a chance to find a permanent replacement. That is what we are about doing already. For instance, that is one of the major issues before the Senate Finance Committee.

This bill also includes provisions to provide some temporary help to the pension plans that need it most. Airlines and steel companies that have been hit very hard by tough economic times are given a little more time to get their plans' funding levels up to where they need to be. Of course, even multiemployer pension plans that were hit hardest by the bear market are given more time to make up their losses.

This bill is truly a must-pass bill. Without it, pension coverage for millions of workers across the country will be in jeopardy. Without it, tens of billions of dollars that could be used to create jobs and grow businesses will unnecessarily be drained from our economy. Without it, some companies could be forced into bankruptcy. In my own State of Iowa, I know there are a lot of companies working hard to compete in today's challenging economic environment. These companies want to provide pension plans for their employees, but they also need to know what the rules are for contributing to those plans. They want those rules in the process to make sense.

Without this legislation, some companies could see their pension contributions increase three or four times in 1 year; in some cases, even more. That is a very difficult burden for any company to bear. For a smaller or medium-size company, that kind of burden is probably too much.

This bill then gives our pension system a rule so pension contributions will be calculated based on a rational interest rate rather than one that is obsolete and artificially low.

I know this bill does not do everything everyone wanted. This is true. But the provisions in this bill have broad bipartisan support. And, of course, as I constantly remind my colleagues, nothing of substance gets done in this body if it is not done in a bipartisan way, unlike the House of Representatives where partisanship can prevail from time to time and does most of the time.

This legislation before us is simply too important not to be enacted now. Companies must pay their next pension

payment on April 15, just around the corner. Failure to pass this bill would have devastating consequences for workers and the economy. This is a temporary bill, but we need to be working on permanent reforms. The Senate Finance Committee is about doing that.

Mr. LOTT. Madam President, will Senator GRASSLEY yield to me for some comments about his efforts in this regard?

Mr. GRASSLEY. Madam President, I am glad to yield without losing the floor, yes.

Mr. LOTT. Madam President, I commend the chairman of the Finance Committee, the Senator from Iowa, for the work he has done on this legislation. It should have been relatively easy to get this done, but it turned out to be a long process and a huge lift.

He was persistent, dogged, because he knew we had a problem we could responsibly address before this deadline of April 15 would cost billions of dollars for companies in a way that is not necessary and could affect their solvency.

I particularly want to note, since there have been some questions raised about it, if you are going to write a textbook about how a conference should be handled, this is it. The chairman of the committee didn't try to go around the other members. I was not a conferee, but I followed it very closely. The conferees met, House and Senate, Republican, Democrat. Everybody was involved. Everybody had a chance to make their case. Amendments were considered. In fact, the Senator from Iowa even offered a last-minute amendment that would have moved it more toward what Senator KENNEDY was advocating, and it was defeated.

I am not sure I agreed with that effort, but I make that point to magnify the point this was a full conference. It wasn't short-circuited. Nobody was cut out of the process. You may not like the results, but it was a good conference and it produced a good bill.

The criticism we are hearing today, in my opinion, is to threaten the good in pursuit of the perfect from somebody else's point of view.

I want to say for the record, to my colleagues and the American people, Senator GRASSLEY did a good job. We should pass this bill. I believe this conference report will pass overwhelmingly, and this is the way conferences should and can be done.

I thank the Senator for giving me a chance to commend him on his job on this legislation.

Mr. GRASSLEY. Madam President, I thank the Senator from Mississippi for his kind comments. He was active in helping us arrive at a solution, even though he was not on the conference committee. I would emphasize one thing he said, because I hope it sets a pattern for the future and maybe would relieve the Democratic Members of the Senate of some nervousness they have about conferences: This does set an example of both sides of the aisle partici-

pating fully in the conference, because we want to be able to use that pattern for the future. Wherever I am involved, we are going to use that in the future.

I thank the Senator from Mississippi. When the Senator from Mississippi asked to intervene, I had already emphasized the temporary aspects of this legislation and what it included and the necessity for it. Now I want to speak about the need for permanent reform because this is temporary legislation. It is a first step in what needs to be done to preserve the defined benefit pension plan.

While this 2-year interest rate fix provides a temporary solution, we must take action then on a permanent solution. Pension plan sponsors continue to confront a world of uncertainty until we get a permanent replacement. They need to be able to budget for future pension expenses. It is unfair to leave them in financial limbo. If we continue to do so, many will simply abandon pension plans altogether. We ought to be promoting the concept of pensions rather than doing things that encourage companies to abandon pensions for their employees.

There is uncertainty facing our pension system on a variety of other fronts as well. Our pension system needs funding rules that make sense and help avoid the funding problems many plans are facing today. In that regard, I was very pleased this conference agreement included a provision from the Senate bill that allowed plans that have funded their plans well and responsibly in recent years to continue making contributions.

Pension plans also are facing uncertainty due to the fact many of our pension laws predate the development of new and innovative pension plan designs that have been developed to meet the needs of today's workers. This uncertainty should be removed, and our pension laws and regulations should be brought up to date to take account of positive developments and evolutions in pension plans.

Defined pension plans are an irreplaceable part of our national retirement system. We owe it to the millions of workers and retirees who participate in these plans to make them as strong as possible. We also owe it to the young people of our country today to ensure our pension system remains healthy and vibrant, so they can benefit from these plans many years from now.

This bill is a first step to address what many experts have called a crisis in our pension system. I hope we in Congress can work on a bipartisan basis to address these problems. I look forward to working with my colleagues on that long-term solution.

(The remarks of Mr. GRASSLEY pertaining to the introduction of S. 2307 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Louisiana is recognized.



Mr. SPECTER. Will the Senator from Louisiana yield for a unanimous consent request?

Ms. LANDRIEU. Yes, I will.

Mr. SPECTER. Madam President, I ask unanimous consent that following the statement by the Senator from Louisiana, I be recognized for 10 minutes.

Ms. LANDRIEU. Reserving the right to object, I want to make sure that time is not applied to the Democratic side that remains on the underlying bill.

Mr. SPECTER. Madam President, if I may have the attention of the Senator from Iowa, Mr. GRASSLEY, I seek 10 minutes to talk about the asbestos bill, which we are having a meeting on this afternoon.

Mr. GRASSLEY. I will yield the Senator 10 minutes for that purpose, yes.

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

The Senator from Louisiana is recognized.

Ms. LANDRIEU. Madam President, I thank the Senator from Pennsylvania. I know the issue he wants to speak about—asbestos—is a very important issue that has great ramifications for workers and businesses in our country. I know he spent a great deal of time on that subject.

We only have, on this side, about 45 minutes to debate this very important pension bill that also affects large, small, and medium-sized corporations and workers, whether they are union workers or not. I wanted to come to the floor after the opening of this debate this morning and answer some of the questions that were raised, or comments made by my good friend, the Senator from New Hampshire, and also the Senator from Iowa.

Before the Senator from Iowa leaves, I thank him for his leadership. He has worked very hard on this bill and there is no doubt, as the Senator from Mississippi came to the floor and said, that there is a great deal of good being accomplished in this pension reform bill that helps us to direct capital in a much more effective and productive way, at a time when our country needs to be creating jobs, not destroying them, and at a time when we need to be strengthening all of our companies, not weakening them.

There is no argument on this side about that issue—none. No Democratic Senator has come to the floor to argue that there are not a lot of good things in this bill for companies in America, particularly the airline industry and steel companies, which are in very precarious situations with a deadline looming. Let me put that in the RECORD.

What is at issue is why 10 million workers are left out—10 million workers and the companies that employ them. Some of those companies are small and medium-sized companies that employ unionized workers. Some of them employ nonunionized workers.

I want to respond to a couple of things. The Senator from Iowa made a

statement I would like to correct. He said it could not possibly affect 9.7 million workers. I have the GAO report—and that is where we get this information—which says 9.7 million participants, because of the White House's position and the very partisan Republican approach on the House side that was taken—this is the GAO report that shows clearly there are 9.7 million workers who will be left out. About 13 million workers in the country are unionized, and a great deal of them will be left out.

The second point is, the Senator from New Hampshire came to the floor and said: The Senator from Louisiana could not possibly be right because she claims this bill—the compromise purposely denied help to union workers because the underlying bill protects unions.

For the record, I will say he is correct in part. This is the difference. If you are a union that is fortunate enough to be attached to a big company that the Republican leadership in the House wants to help, you get help in this bill. Let me repeat that. If you are a union that happens to be attached to a very large company that the Republican leadership in the House, with the support of the White House, wants to help, you get relief, and you get relief whether your company is in trouble or not.

Let me submit for the record that General Electric Company will get relief, and they deserve it. General Electric deserves this help. Their pension is funded at 116 percent. Verizon is funded at 104 percent. AT&T pensions are funded at 111 percent. Prudential is funded at 112.1 percent. Edison Electric is funded at 100.2 percent. J.P. Morgan is funded at 102.8 percent. Southern Companies is funded at 112.8 percent. Wells Fargo is funded at 102.8 percent.

These are large companies; some are union, some are not. There is a company that was written in on a special provision, and they may deserve it, but it causes some of us to be cynical about how these conferences, behind closed doors, work. UPS, which is a large company and a union company—and I support their help—gets help. If you are a company that is overly funded, and a company that has union workers, the union is lucky to be attached to you because if they are left on their own, they don't get help. If you are a multiemployer plan, a union, not fortunate enough to be attached to a big company, but you are attached to a little company, or to a medium-size company, the White House and the Republican leadership in the House decided you don't deserve the help.

I have been waiting on the floor for 4 hours to get an answer to the question, why were they denied help? The RECORD shows—and I will submit for the RECORD—the fix that Senator KENNEDY asked for and that 86 Members of this body voted for—the fix in this bill, which would have given relief to everyone, whether you are a big company or

a little company, whether you were union or nonunion, and that passed the Senate with 86 votes.

We are proud of that work. It went over to the House, and under partisan political leadership, the help for 10 million workers was stripped out because they were not lucky enough to be attached to a big enough company. That is the truth. The fix would have given money to the Federal Treasury, not taken money. Again, this fix did not cost anything. I can understand if someone would come to the floor and say: Senator, we simply could not afford it; we just could not afford it; we are fighting a war in Iraq; we have deficits; we cannot afford it.

Let me remind everyone, there is no cost to the Federal Treasury for this particular fix. In fact, as Senator KENNEDY spoke about, fixing the multiemployer pension plan adds money to the Treasury.

I have to sit here and listen to people argue that this was a good compromise? I have to go home and explain to my constituents, and I cannot explain it to them. Let me just tell you how it works in Washington these days: Bills that cost money to the Treasury get passed all day long. Bills that add money to the Treasury cannot get passed. I don't know how to explain that to my constituents in Louisiana. I don't know how to go home and explain to my constituents in Louisiana that the big companies, some union and some nonunion, get help, but the small companies that some people purport to represent and union workers got left out for no good reason.

Let me answer another charge. One of the Senators said: Senator, this is just the process; this happens all the time. I remember a time when it did not happen this way. I came to the Senate 7 years ago. When I got here, there used to be a Senate position and a House position, not a Republican position and a Democratic position. We had a Senate position. I am proud to be part of the Senate of men and women, Republicans and Democrats, who can put a fair deal together and will fight for a fair deal and not collapse, capitulate, and give in, and that is exactly what happened in conference.

So when my colleagues ask, Does this give this Senator confidence or any Senator confidence that the conference process works, I would say simply, No, it diminishes confidence. It undermines confidence. It does not build good will. It tears down what little good will is left and makes a mockery of it.

I wish for once the Senate would stand up and send a bill over to the House and say there is no reason we can't include everyone; it doesn't cost anything. These poor people who wake up early in the morning and stay up late at night trying to put bread on the table and pay their rent and buy gasoline that is now over \$2 deserve a fair shake. It doesn't cost anything. There is no skin off your back. But no, we just cave, all of us just cave. It is a shame.

No, this does not help the process. This does not build confidence. This does not encourage anyone.

The fourth point I want to answer is, oh, there she goes, the Senator from Louisiana and other Senators on the Democratic side, making the perfect the enemy of the good. I am not looking for a perfect bill. I am looking for a square deal. I did not come here looking for a perfect bill. No Senator comes here looking for a perfect bill. There is no such thing. But I am still waiting for one Senator to come to the floor and give me one—one—good reason why 10 million workers and the companies that hire them that came here asking us for help when it is in our power to help, when it does not cost us anything to help, why were they taken out of this bill?

I have not received an answer to that question yet. I will tell my colleagues, we may vote on this bill in an hour or so, and I may end up voting for this conference report. Some Democrats will vote no. But because there are some very good provisions in this bill and there are companies in my State that will be helped—and I want to support large companies because they are hiring, they are struggling; some of them are not; some of them are doing very well. I have no problem. We all need to be pro-business, pro-growth, and pro-jobs.

I am probably going to vote for this conference report. I don't know how the rest of the caucus will vote. Some will and some will not, but that still does not answer my question or solve this problem.

I have to go back and tell 10,000, maybe more, workers in Louisiana: Sorry, you were left out. When they ask: Senator, we didn't cost them anything, why did they leave us out? I want someone to tell me why so I can go back and tell them. I am going to ask that question on every bill, and I am going to put an amendment on every bill, with Senator KENNEDY's help and other colleagues, whether this conference report is adopted or not, until we finally get an answer.

I hope it is not the answer I think it is. I will state it again and, until I get my answer, I am going to keep stating it. I think the answer is, because these employers that have multiemployer plans are mostly unions that are not attached to big companies, that have a lot of money invested in lobbyists and others who can be here talking to everybody all day long, and I think the White House decided that because most of these are unions that do not support them at election time, they are not going to support them at this time.

I know that is harsh, and I know it sounds very direct. I don't know any other way to be because that is the only conclusion to which I can come.

Again, it does not cost money. They were in the original bill; 86 of us voted for it. Until I get a better answer, I am going to have to go around and tell people that is the answer. If someone

wants to debate me here, in a private debate somewhere else, write me a letter, give me a report, then I will stop saying that, and I will just say I was wrong and here is a good reason, and I will accept that and accept it as the process and just go on and fight another day. But I have yet to hear the answer.

Let me state again for the RECORD, in case anybody thinks the only businesses that are getting help are businesses that are in trouble, GE is funded at 116 percent; AT&T at 111 percent. So we are not just helping companies whose pensions are in bad shape. Part of the bill is to not put money in a pension that doesn't need it—obviously, these pensions don't need it because they are overfunded—and to get that money back in circulation to create jobs. I am for that 100 percent.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator's time has expired.

Ms. LANDRIEU. Mr. President, I ask unanimous consent for 1 more minute.

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

Ms. LANDRIEU. Mr. President, if it works for these big guys, why can't it work for the little guy, the little contractors, for the union guys? We better get past the politics of deciding something is good or bad, whether it helps people who vote Republican or vote Democrat, and start thinking about the country, start thinking about America, start thinking about our troops and get serious about creating jobs.

When this White House says they are serious about creating jobs, I am going to bring this up to the White House at every point. You could have created jobs. It didn't cost you a penny to do it. In fact, it would have added money. But you turned your back, you walked away, and you left them standing there.

I hope those who were thinking maybe they would not get active might get active because of this, because it would sure wake me up if I wasn't paying much attention to what was going on.

I don't want to take any more time. I know the Senator from Pennsylvania has been very patient. I will yield the floor but reserve the time that is remaining for debate on this side, according to the unanimous consent agreement. I think it is the Senator's time to speak.

The PRESIDING OFFICER. The Senator from Pennsylvania.

#### ASBESTOS DELIBERATIONS

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly upon the status of legislation to deal with the asbestos crisis which faces America. We have had it said that purportedly there are some 70 companies which have gone into bankruptcy proceedings or reorganization proceedings. There are some 600,000 claims which have been filed by individuals who have been exposed to asbestos and make al-

legations of injury; some 8,500 companies have been sued. So we have a net situation today where there are people who have been exposed to asbestos, who suffered from mesothelioma, which is a deadly disease, and they are now not being compensated because the defendants are in bankruptcy. We have had a ruling by the Supreme Court of the United States that claimants who have been exposed to asbestos may receive compensation for whatever injuries they may in the future sustain, without having the proof as to existing damages, which seems inappropriate to this Senator. It was a narrow 5 to 4 decision.

We have had many companies, some in my home State, and all across the country, in bankruptcy proceedings where commerce has been impeded, and if we are able to find an answer to this very vexing problem, it would be an enormous economic stimulus to the economy of the United States.

In July, the Judiciary Committee passed out a bill largely along party lines. I supported it even though I said at the committee markup that I thought there were many infirmities and many problems, but I voted to move it out of committee to get the process going. A very unique, really unprecedented procedure was then adopted where the former Chief Judge of the Court of Appeals for the Third Circuit, a very distinguished jurist, Judge Edward R. Becker, agreed to participate in what were essentially mediation proceedings for 2 days in August, August 18 and 19. Judge Becker and I sat in his chambers in Philadelphia with representatives of the manufacturers, of the insurers, the reinsurers, the AFL-CIO, and the trial lawyers to start going through the very complex issues which were involved to try to come to some resolution.

Following those 2 days of meetings, we have met on 14 occasions in my offices in Washington with those same participants, the same so-called stakeholders. In between the meetings which Judge Becker and I have held with the stakeholders, they have met among themselves and have worked out many of the issues.

I am pleased to report at this time that agreements have been reached on quite a number of the tough issues. For example, the startup arrangements have been worked out so that funding has been provided for the defendants' expanded borrowing authority to make money available right away. There are provisions which provide for increased liquidity and upfront funding so that claims can be paid in short order. There have been provisions worked out for streamlining the administrative process. The Court of Federal Claims initially had that authority.

We have worked with the Department of Labor. I compliment the Department of Labor for helping us work through a procedure for streamlining the administrative process.

We have to define exigent health claims so people who are suffering from

mesothelioma and other deadly ailments will get early treatment. We have worked through the processes on judicial review. We have worked through the processes on medical commodity.

I ask unanimous consent that a schedule of the meetings which have been held with Judge Becker, some 14 in number, and the manufacturers' representatives, representatives of the insurers, AFL-CIO and trial lawyers, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1125, THE FAIRNESS IN ASBESTOS INJURY  
RESOLUTION ACT OF 2003  
IMPORTANT DATES

5/22/03—Senator Hatch introduces S. 1125  
6/19/03—Committee mark-up  
6/24/03—Committee mark-up  
6/26/03—Committee mark-up  
7/10/03—Committee mark-up; voted out of  
Committee—10 yeas, 8 nays and 1 pass  
8/18/03—Meeting with Judge Becker in Philadelphia  
8/19/03—Meeting with Judge Becker in Philadelphia  
9/12/03—Meeting with Judge Becker in Washington, DC  
9/26/03—Meeting with Judge Becker in Washington, DC  
10/3/03—Meeting with Judge Becker in Washington, DC  
10/14/03—Meeting with Senator Frist in Washington, DC  
10/21/03—Meeting with Labor in Washington, DC  
11/11/03—Meeting with Judge Becker in Washington, DC  
11/12/03—Meeting with Department of Labor in Washington, DC  
1/22/04—Meeting with Judge Becker in Washington, DC  
2/12/04—Meeting with Judge Becker in Washington, DC  
2/25/04—Meeting with Judge Becker in Washington, DC  
3/4/04—Meeting with Judge Becker in Washington, DC  
3/11/04—Meeting with Judge Becker in Washington, DC  
3/18/04—Meeting with Judge Becker in Washington, DC  
3/30/04—Meeting with Judge Becker in Washington, DC  
4/7/04—Frist/Hatch substitute introduced  
4/8/04—Meeting with Judge Becker in Washington, DC

Mr. SPECTER. We are proceeding with another meeting this afternoon. The majority leader has deferred taking up the bill; had originally planned to do so in March, and at the request of a number of people, including this Senator, the majority leader has deferred taking floor action on the bill and has now listed floor action for the day we return from the next recess, which is April 19.

Just yesterday, the majority leader, Senator FRIST, and Senator HATCH, the chairman of the committee, introduced a substitute bill. Senator HATCH has done an outstanding job on this matter, has worked through the process of establishing a trust fund which was originally set at \$108 billion, since has been increased, with a schedule of payments to be determined very much like worker's compensation so that liability does not have to be established.

Senator LEAHY spoke earlier today and raised questions about the desirability of the substitute bill which was introduced yesterday, with Senator LEAHY saying that there has yet to be achieved consensus on two essential elements of a FAIR trust fund, that is fair value awards and the total amount of the trust fund.

The parties are as yet substantially apart on these two items, and it is my hope that we can come to agreement. Senator FRIST, the majority leader, has made a determination that setting a date will facilitate more intense negotiations, so to speak, on the courthouse steps, and that is a generalization. I hope that if we are not in agreement, but close to agreement, that there may be yet some flexibility in the date listed for floor action.

I declined to join with Senator FRIST and Senator HATCH in their substitute bill because I think it is the better practice to try to work through these problems. We have made enormous progress, and it is my hope we can make more progress to be ready to reach the date which the majority leader has set.

If we are able to come to terms, it will be an enormous economic stimulus to rescue some 70 companies which are in bankruptcy, and it will be of enormous importance to the workers who have been exposed to asbestos and have serious ailments, including mesothelioma, which is a deadly ailment.

We are going to proceed to try to do that work. I am hopeful we will be able to come to terms with these outstanding problems and present a bill which can be enacted into law to solve these very serious problems.

To reiterate, on April 7, 2004, Majority Leader FRIST and Senator HATCH introduced a substitute bill to S. 1125, the Fairness in Asbestos Injury Resolution Act, FAIR Act, of 2004. S. 1125 was reported out of the Judiciary Committee on July 10, 2003, by a vote of 10 yeas, 8 nays and 1 pass. I voted for it.

According to The RAND Institute for Civil Justice, "about two-thirds of the claims are now filed by the unimpaired, while in the past they were filed only by the manifestly ill." According to RAND, the number of claims continues to rise, with over 600,000 claims filed already. More than 8,500 companies have been named as defendants in asbestos litigation." In 2003 alone, a record 100,000 asbestos claims were filed. Seventy companies have already gone bankrupt due to asbestos liability.

As it has been noted before, the bill reported out of the Judiciary Committee bill required a great deal of evaluation, analysis and significant changes. I contacted senior Circuit Judge Edward R. Becker, who had been chief judge of the Court of Appeals for the Third Circuit until May 5 of last year. Judge Becker has expert insights into this matter and since August of 2003, we have convened some 14 meetings with the representatives from the

manufacturers, the insurance companies, the reinsurers, organized labor and the trial lawyers.

Through the series of meetings with Judge Becker, we have wrestled with and have been able to solve a number of very complex issues. We have had the cooperation of many Senators. Senators HATCH and LEAHY have had representatives at the meetings. In fact, Senator HATCH addressed this "working group" at one of our meetings. The majority leader and minority leader have had representatives at the meetings. Senators DODD, CARPER, FEINSTEIN and NELSON have been represented as well.

I am encouraged and appreciative to note that some of these agreements that resulted from our meetings have been incorporated into the Frist-Hatch substitute asbestos bill. Included in the substitute bill are the following provisions negotiated through these meetings.

No. 1, streamlining administrative process, S. 2290 creates a more streamlined administrative system that can be up and running quickly. The trust fund will be administered by the Department of Labor, as opposed to the Court of Federal Claims under S. 1125.

No. 2, early startup, the bill aims to ensure that the compensation program under the bill can commence operations and begin paying claims quickly, particularly for living mesothelioma victims and for other exigent claimants who may have little time to wait. Such claimants should not be subject to unacceptable delays in obtaining compensation due to impediments in commencement of Fund operations. The agreed-upon administrative structure, for example, includes provisions for interim regulations and houses the Office for Asbestos Disease Compensation in the Department of labor, which has the experience and the infrastructure to help expedite the establishment of a claims processing system.

The proposal addresses the need to ensure that monies are available to the Fund in a short amount of time to be able to pay claims. It has two elements: 1, requiring up-front funding; and 2, providing increased borrowing authority.

First, participants would be required to provide funding on an expedited basis. This bill would establish a system where all participants would be required to make initial payments within 6 months of enactment.

Participants may seek judicial review after they make a payment, but cannot use judicial review to delay payment. Strict deadlines on lawsuits challenging the constitutionality of the funding procedure have been included in the judicial review provisions, and reviewing courts will be precluded from staying funding obligations pending review.

Also, the borrowing authority of the administration under the bill would be expanded to allow for borrowing initial

monies needed to establish and operate the asbestos compensation program from the date of enactment.

No. 3, defining exigent health claims that should be given priority during the startup period. A claim shall qualify for treatment as an exigent health claim if the claimant is living and the claimant provides: 1, documentation that a physician has diagnosed the claimant as having mesothelioma; or 2, a declaration or affidavit, from a physician who has examined the claimant within 120 days before the date of such declaration or affidavit, that the physician has diagnosed the claimant as being terminally ill from an asbestos-related illness and having a life expectancy of less than one year.

The Secretary may, in final regulations promulgated, designate additional categories of claims that qualify as exigent health claims under this subsection.

No. 4, judicial review, language is included in S. 2290 which is designed to ensure prompt judicial review of a variety of regulatory actions and to ensure that any constitutional uncertainties with regard to the legislation are resolved as quickly as possible. Specifically, it provides that any action challenging the constitutionality of any provision of the Act must be brought in the United States District Court for the District of Columbia. The provision also authorizes direct appeal to the Supreme Court on an expedited basis. An action under this section shall be filed within 60 days after the date of enactment or 60 days after the final action of the administrator or the commission giving rise to the action, whichever is later. The District Court and Supreme Court are required to expedite to the greatest possible extent the disposition of the action and appeal.

No. 5, medical monitoring, the working group also worked very hard in making sure that the medical monitoring provisions ensured that the initial doctor's visit was covered.

We will be back to work today to continue addressing the remaining issues. We are determined to solve the problems. The stakes are very high. We have many injured workers who are relying on some answers for just compensation. The companies are looking for answers, and the economy needs to be stimulated and also looks for an answer.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

HONORING OUR ARMED FORCES

Mr. BINGAMAN. Mr. President, I have three subjects I intend to address today. Let me address the first and the most sad of those. That is, of course, the enormous price that many families are paying as part of the current engagement that we are in in Iraq.

PFC CHRISTOPHER RAMOS

General Robert E. Lee was once quoted as saying:

Duty, then, is the sublimest word in the English language. You should do your duty

at all times. You can never do more. You should never wish to do less.

On Monday, April 5, just 3 days ago, PFC Christopher Ramos, age 26, did his duty with the First Marine Division. He lost his life in action against Iraqi insurgents in Al Anbar Province in Iraq. Christopher Ramos was from Albuquerque, NM. While at West Mesa High School, he dreamed about serving his country as a U.S. marine. Private Ramos' father, Al Ramos, said of his son Christopher:

He was proud of what he was doing. He wanted to be a Marine. He said it was either the Marines or nothing.

Today, it is important that we in the Senate honor his memory and service, and the service of so many other brave young men and women who have answered the call to duty and have made the ultimate sacrifice for their Nation. It is equally important that we keep the families of those individuals in mind and in our prayers.

Private First Class Ramos leaves behind a wife, Diana Ramos, and an 18-month-old daughter, Malaya.

ARMY SGT LEE DUANE

In addition to that terrible news, the Four Corners area, which includes my State of New Mexico, also lost another fine young man in the last few days, Army SGT Lee Duane Todacheene, who was from Lukachukai, AZ, and was the nephew of the vice president of the Navajo Nation, Frank Dayish, Jr. This young man, Sergeant Todacheene, was killed in an Iraqi ambush, according to the Navajo Nation. We extend our sympathies to his family as well.

MARINE LT ERASMO VALLES

Finally, last week Marine LT Erasmo Valles of Hobbs, NM, was severely injured in an attack in Falluja when his Humvee was hit by a roadside bomb. He is being treated at Bethesda Naval Hospital and we wish him a speedy and a full recovery.

These brave soldiers were put in harm's way by their country, and their sacrifice needs to be noted by all of us. Just as we celebrate the safe return of many, we need to acknowledge and mourn those who are not going to return. I regret that PFC Christopher Ramos and other brave marines and soldiers have lost their lives in this endeavor, and our sympathies go out to their families.

Mr. GREGG. Will the Senator allow me to make a unanimous consent request?

Mr. BINGAMAN. I yield to my colleague.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. I ask unanimous consent that the vote on the adoption of the pending conference report occur at 2:45 today, with the time until 2:45 being equally divided, provided further that the last 8 minutes of debate be divided so that Senator KENNEDY or his designee be recognized for up to 4 minutes, to be followed by the chairman of the committee or his designee to close for the final 4 minutes.

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

Mr. BINGAMAN. Mr. President, let me move to another subject and express some words about the pension bill that is pending before us.

I intend to support this bill, but I say that with substantial reservations because of the process, once again, that was followed in getting this bill to the Senate floor—the partisan way in which it was handled. I also say it because of what wound up in this pension bill that was not intended to be there. There were things that were left out, and many of my colleagues have spoken eloquently about those. The multi-employer plans were not treated fairly, as they should have been and as I believe most Senators would want them to be, but also there were provisions included in this bill—at least one provision that I think is highly objectionable.

Section 207 of the conference report creates an antitrust exemption for the graduate medical residency program that currently assigns medical students to hospitals where they are required to work for 60 to 100 hours per week for an average of \$9 or \$10 an hour. To people who are not familiar with the way this place functions in recent years, they would be surprised to find that we have written into the pension bill a retroactive exemption from the antitrust laws related to this issue of medical residency programs. I understand there is currently a lawsuit pending before Judge Paul Friedman in the U.S. District Court for the District of Columbia brought by medical residents that alleges a price-fixing scheme among graduate medical education programs in the United States.

On February 11 of this year, Judge Friedman issued an opinion that denied most of the defendants' motions to dismiss and allowed the lawsuit to proceed. In his opinion, the judge explained that the lawsuit involves one claim—that the defendant graduate medical education programs engaged in price fixing.

Subsection (b)(3) of section 207 explicitly preserves the right to bring an antitrust lawsuit alleging any type of price-fixing arrangement among two or more graduate medical education programs. Clearly this subsection ensures that the antitrust exemption that is described in subsection (b)(2) does not apply to this pending lawsuit.

The last sentence in subsection (b)(2) states that evidence of participation in a graduate medical education residency matching program shall not be admissible in Federal court to support a claim alleging antitrust violations.

However, subsection (b)(3) clearly states that:

"Nothing in this section shall be construed to exempt from the antitrust laws" any agreement on the part of graduate medical education programs to fix prices.

Obviously, the restrictions on the admissibility of certain evidence in subsection (b)(2) cannot apply to price-fixing lawsuits that are explicitly preserved in subsection (b)(3). The provision says "nothing" in this section shall provide exemptions from price-fixing claims. Therefore, any provision that would not allow necessary evidence to be admitted in price-fixing cases must not apply and could not be construed to apply.

That being said, the antitrust exemption that is established by subsection (b)(2) raises grave constitutional concerns. There has been no justification presented to this Congress, to any committee of this Congress for depriving medical residents of the same protections under the antitrust laws that are enjoyed by other workers and other Americans. I do not see how it is constitutionally permissible to take away the equal protection and the due process rights of medical residents without any showing that is necessary or beneficial.

Frankly, this is outrageous for Congress to be legislating in this way, without any hearings, without any testimony, without any knowledge of what it is doing.

The reason we have debate on the Senate floor is to allow Members to express views when we are getting ready to change the law. This is a time-honored process. It is one that was not honored in this case. As far as I know, there has been no debate on the floor nor has there been debate in committee about this issue.

I spoke to the ranking member of the Judiciary Committee, which is the committee with jurisdiction over our antitrust laws, and asked if he was informed about this provision being included in the pension bill. He said he had not been informed. It is my understanding that the chairman of the Judiciary Committee was not informed either.

This is a provision that was added in a conference, without participation of Democratic Senators, and clearly it is contrary to good policy and to proper procedure here in the Senate.

Let me conclude by having printed in the RECORD a letter that Senator CRAIG, Senator FEINGOLD, Senator HERB KOHL and I all wrote to our majority leader, BILL FRIST, and to the Democratic leader, Senator DASCHLE, last November, expressing our concern about this exact type of legislative proposal and stating our strong objection to the inclusion of this kind of provision in legislation at that time or any time in the future. I ask unanimous consent that letter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Hon. BILL FRIST,  
Majority Leader,  
Washington, DC.  
Hon. TOM DASCHLE,  
Minority Leader,  
Washington, DC.

GENTLEMAN: We are writing to express our concern about legislative proposals that have the potential to undermine ongoing antitrust litigation against the National Resident Match Program (known as the "Match") by granting the "Match" a retroactive antitrust exemption.

It is our view that Congress should subject proposals like this one that hold widespread implications for patient safety and the working conditions of hundreds of thousands of medical residents to the regular legislative process—including hearings and consideration in the appropriate committees—before allowing it to move through Congress. This is particularly important considering that such proposals would retroactively interfere with pending litigation, in which the factual record has not yet been developed and the court has not yet ruled on the merits of the claims. In addition, it is important for the Committee to consider the specific language of any such proposal, as legislation intending to exempt the Match could have broader, unintended effects, including effectively immunizing price-fixing and other anticompetitive practices alleged in the litigation.

By permitting such a bill to go forward without full consideration of all the factual and legal issues, we would set a precedent that will encourage defendants in all types of pending litigation to come to Congress for relief. We request, therefore, that the Senate convene hearings on this matter before taking further action.

Thank you for your consideration.

Sincerely,

LARRY E. CRAIG.  
JEFF BINGAMAN.  
RUSSELL D. FEINGOLD.  
HERB KOHL.

#### ELECTRIC GRID STABILITY

Mr. BINGAMAN. In November of 1965, a disturbance on the electric grid resulted in the loss power to some 30 million people in the Northeastern U.S. Almost all of New York, Connecticut, Massachusetts, Rhode Island, and parts of Pennsylvania and New Jersey were blacked out for up to 13 hours.

In July of 1977, power lightning caused the loss of power to 9 million people in New York city and surrounding areas.

In December of 1982, high winds caused the failure of a transmission tower. Power was lost to 5 million people.

In July of 1996, power was lost to 2 million customers in 14 States in the West, 2 Canadian provinces and 1 Mexican state. The outage was the immediate result of a line sagging into a tree.

In August of 1996, again as the result of contact with trees, another outage affected 7.5 million people in 14 Western States, 2 Canadian provinces and 1 Mexican state.

In August of last year 50 million people in 8 Northeastern and Midwestern States and 3 Canadian provinces were blacked out for up to 4 days.

These were only a few of the major outages that have rendered parts of our

Nation powerless over the last few years. The most dramatic outage ever was only last summer. I don't have to tell the Members of this body how serious the effects on the economies of these regions were. We all saw it. Airports were shut down for days. Traffic was snarled for hours. Businesses were closed, schools shut down. The estimates of losses were in the tens of billions of dollars.

After the first big blackout, in 1965, the industry, under pressure from the government, created a voluntary association to try to govern the reliability of the system. That association became the North American Electric Reliability Council or NERC.

After the West Coast blackout in 1996, the Department of Energy put together a task force on reliability headed by former Congressman Phil Sharp. That task force made a number of recommendations. Chief among them was that Congress should pass legislation creating a mandatory structure for reliability, with penalties for failure to comply with the rules, and with government oversight.

In 1999, the Senate unanimously passed a bill sponsored by Senator Slade Gorton of Washington, that did just that. The House did not pass such a bill and no final action was taken.

After this most recent blackout, the Department of Energy, along with the Canadian Government, convened a task force to look at the causes of the outage and to make recommendations as to how to prevent future blackouts. That task force issued its final report Monday. There are a number of recommendations contained in that report, but the one that this body most needs to pay attention to is the recommendation that the Congress pass legislation to create a mandatory system for ensuring reliability, with penalties for failure to comply with the rules, and with government oversight. The report says: "The U.S. Congress should enact reliability legislation no less stringent than the provisions now included in the pending comprehensive energy bills, HR. 6 and S. 2095."

The bill that is before contains those very provisions.

I don't think that anybody in the Senate believes that we should not pass this legislation. The only question is in what form. This bill is the same as the language contained in S. 2095, Senator DOMENICI's more comprehensive energy bill. I am not optimistic that the larger bill will pass the Senate, or if it does, survive a conference with the House to make it to the President's desk.

Again and again this country has experienced crippling blackouts. Again and again investigating panels have recommended that the Congress pass legislation to establish a mandatory regime for governance of reliability, with penalties for failure to comply with the rules and with government oversight. Again and again, the Congress has failed to do so.

It is time for us to pass this legislation.

I ask unanimous consent that several articles be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Akron Beacon Journal, Apr. 7, 2004]

**AFTER THE BLACKOUT—FIRSTENERGY HAS BEEN KICKED AROUND. WHEN WILL CONGRESS COMPLETE THE URGENT TASK OF IMPROVING OVERSIGHT OF THE POWER INDUSTRY?**

In the immediate aftermath of the massive August blackout, President Bush and others in Washington were quick to call for sweeping repairs of the nation's electricity grid. Many talked about an investment of \$100 billion (a hefty sum, even on Capitol Hill). What has happened in the meantime? Virtually nothing. Proposals to improve the grid are part of a comprehensive energy bill long stalled in Congress.

The country would benefit from a broadly conceived approach to energy. Unfortunately, narrow interests have shaped a large part of the legislation under consideration. Those lawmakers arguing for a separate measure to address the electricity grid make sense. Perhaps their efforts will be advanced by the U.S.-Canadian task force that has issued its final report on the causes of the blackout.

As expected, the task force blamed FirstEnergy Corp. for plunging much of the Midwest, Northeast and Ontario into darkness. The Akron-based power company has admitted trouble with its computers, hampering coordination and diminishing its grasp of events that August day. In that sense, the task force faulting the company for failing to react more quickly seems off the mark. How could FirstEnergy respond when it wasn't fully aware of the problem?

The company already has made repairs. Among other things, trees near power lines have been trimmed. What will Congress do? Tough as the task force was on FirstEnergy, its 46 recommendations suggest (correctly) troubles far beyond one utility.

The task force proposed writing into federal law rules that more effectively ensure the reliability of power supplies. As it is, an industry group, the North American Electric Reliability Council, monitors the performance of power companies. Compliance with operating standards is voluntary. Meeting the standards should be mandatory. The monitoring effort should be independent of the industry.

If FirstEnergy operated at the edge of reliability (as the task force concluded), federal officials have little clue whether other utilities are doing so.

That lack of knowledge compounds the risk of blackouts, larger and smaller, in view of the changing realities of the power industry. The country asks the electricity grid to defy physics. An industry once defined by local utilities supplying electricity to nearby communities has been dramatically transformed the past decade. Electricity now travels long distances, across, say, Ohio into Canada, placing substantial strain on the system.

Independent power plants tap into the grid with few concerns about their overall impact. An industry pushed to embrace market principles requires a new regulatory scheme. That is the task Congress must complete—before the next blackout. That is the urgent message of the U.S.-Canada task force.

[From the Bergen Record, Apr. 7, 2004]

#### AVOIDING BLACKOUTS

Last August, a blackout left 50 million people in eight U.S. states and parts of east-

ern Canada without power. Although embarrassed utilities are almost certainly more vigilant, the blackout could happen again because in the eight months since not much on the federal regulatory front has changed.

On Monday, a joint U.S.-Canadian task force that has been studying the blackout issued its final report, with 46 recommendations to prevent a recurrence. Many of them are highly technical, but one is startlingly simple:

Congress should give the utilities' oversight body, the North American Electric Reliability Council, the power to set mandatory, enforceable reliability standards for power grids.

The big blackout started when a tree in Ohio brushed against a 345,000-volt line in an overgrown transmission corridor. There are currently no mandatory federal standards for how far back trees and brush should be cleared from high-voltage power lines.

Congress is considering mandatory reliability standards as part of the Bush administration's woeful energy bill, a rich mixture of subsidies and tax breaks for energy companies. The bill is now stalemated because of a dispute over costly ethanol subsidies and immunity from lawsuits for manufacturers of the fuel additive MTBE. The Bush administration's arguments that the bill would ease high gasoline prices were undercut when a study by its own Energy Department showed that the bill would actually raise gasoline prices by a few tenths of a percent.

One of the few levers left to backers is the mandatory reliability provision. But this is unfair to consumers because the energy bill could well fail to pass this year. A responsible energy policy would be to strip out the mandatory federal standards and pass them as a stand-alone bill.

[From the Cleveland Plain Dealer, Apr. 7, 2004]

#### PROBING THE DARKNESS

"We have no clue," lamented a First Energy Corp. engineer as his computer system sputtered and a massive blackout rolled across eight states last August.

Now, thanks to the final report of the joint U.S.-Canadian blackout task force, FirstEnergy, along with others, should have a fundamental understanding of how the lights went out and what it will take to keep them on in the future. So should the U.S. Senate, where an energy bill that could create mandatory reliability standards for utility companies is frozen because of other squabbles.

The task force has not wavered in blaming FirstEnergy for the blackout. It continues to dismiss FirstEnergy's notion that an unstable grid was to blame. Its interim report blasted FirstEnergy for failing to cut trees that stood too close to its high voltage lines. Now it adds that FirstEnergy could have limited the damage if it had cut power to its Greater Cleveland customers on Aug. 14. FirstEnergy executives might begin repairing the company's reputation by mustering the courage to utter three simple words: We are sorry.

Though FirstEnergy bears the primary responsibility for the blackout, it is not the sole culprit. Unlike other parts of the country with powerful regional grid operators with the authority to isolate trouble spots, the weaker Midwest Independent Transmission System Operator, Inc. could act once emergencies develop.

There is hope for the MISO, which was criticized for its poor coordination with FirstEnergy and its failure to tell other utilities about the grid's mounting troubles. Since the blackout, it now has a computer model that gives minute details about the

grid and it has improved communications with other grid operators. For its part, FirstEnergy has agreed to cooperate with an industry preparedness audit.

The blackout report also recommends that the North American Electric Reliability Council, which sets voluntary standards for electric companies, become independent and break its financial ties to utility companies if it wishes to work closely with the Federal Energy Regulatory Commission. FERC has been pushing for the authority to control electric grids so it can make them more reliable.

The stalled Senate bill would boost FERC's power to rein in frontier-style grids.

Experts predict that without a powerful sheriff over the Midwest grid, another blackout is likely. Responsible senators should strip the electric provisions out of the energy bill and push for their separate approval before that dark day comes.

[From the Long Island Newsday, Apr. 7, 2004]

#### PASS ELECTRICITY RELIABILITY LAW

The failure by Congress to pass a national energy bill is trying up legislation that would help avoid another blackout like the one that shut down much of New York and the northeastern United States last year. The remedy is simple: Split off and pass the sections dealing with reliability of the nation's electric grid separately—and promptly.

The final report of the U.S.-Canada task force investigating the blackout makes explicit the need for enforceable reliability rules for North America's interlinked electric utilities. It was because one Ohio utility, FirstEnergy Corp., failed to follow the industry-recommended standards—neglecting to shut down part of its electric grid temporarily when a problem developed—that about 50 million people were left without power, some for up to 4 days, last August. The estimated cost to the U.S. economy: up to \$10 billion.

It was something as simple as a transmission line shorting out on a tree branch that started the cascading chain of events. The task force found that the outage got out of hand because FirstEnergy violated several of the North American Electric Reliability Council's voluntary standards—by not responding properly to the power failure as it developed and by failing to let neighboring utilities know what was happening, among other shortcomings.

That's why the reliability rules need to be mandatory.

The necessary legislation is now part of a far-reaching and controversial energy bill that has been stalled in Congress for two years. The electric utility portion that would help avert future blackouts has broad support. Holding it hostage to the larger bill only delays the necessary effort to make the nation's power supply more reliable and secure.

[From the Newark Star-Ledger, Apr. 7, 2004]

#### HEAD OFF MORE BLACKOUTS

Last August the intricate web of power plants, transformer stations and transmission lines that form our nation's electric power grid failed, shutting out the lights for tens of millions in the Northeast and portions of Canada.

An international review team says it happened because the utility industry in general, and an Ohio utility in particular, failed to follow voluntary rules designed to ensure electricity flowed reliably.

Computers were faulty. Control room operators didn't realize the system was about to crash. Trees hadn't been trimmed, allowing high-voltage lines that were sagging to short



out. The industry board that set the rules isn't independent enough.

Another summer is approaching and the rules are still voluntary, held hostage to the political battle in Washington over a larger energy bill.

The power industry insists that another giant blackout is unlikely. Utilities are upgrading maintenance, training and equipment, spending lots of money to keep the juice flowing. They may be right, for now. This summer the utilities are likely to be on their toes.

But backsliding is inevitable without strong mandatory rules. Sooner or later, there will be another power disaster.

There is widespread support in Congress for tough new regulations. Unfortunately, GOP senators merged these reforms into the larger federal energy bill, seeing them as leverage to get support for the whole package, complete with lavish new subsidies for oil, gas and coal producers and expanded drilling in wilderness areas.

The energy bill is going nowhere in a presidential election year. Congress should see the light and pass a narrow bill designed to fix the electric grid and prevent future blackouts.

[From the Westchester Journal News, Apr. 7, 2004]

#### PREVENTING FUTURE BLACKOUTS

The power outage of August 2003 that left tens of millions of people without electricity in New York, seven other states and part of Canada should not have happened, according to the final report released Monday by a joint U.S.-Canadian task force that investigated the worst blackout in U.S. history.

The report, U.S. Energy Secretary Spencer Abraham said, "makes clear that this blackout could have been prevented." Perhaps now—eight months later—Congress will act on its promise to fix the problems that caused the blackout.

The outage was not prevented, the report said, because poorly trained operators in the FirstEnergy Corp. of Ohio control room failed to alert other utilities that its computer system malfunctioned so the cascade of outages could have been short-circuited. The utility also had not followed through on safeguards to deal with power failures and lacked a backup monitoring system.

The result—in addition to the impact on millions of people, including 6.7 million in New York—was a \$10 billion bite out of the economy.

The task force recommended establishing reliability standards under an international overseer with the authority to punish companies that violate them. That would replace the voluntary rules of the North American Electric Reliability Council, which has no enforcement power. The task force found that FirstEnergy had at least seven violations of the voluntary rules.

FirstEnergy has since increased staff training and spent \$10 million on new computer controls, company spokeswoman Ellen Rains told USA Today. That's more than Congress has done.

Measures addressing electricity reliability are contained in an energy bill that is stalled in Congress for a third year. These include upgrading the nation's rickety grid, and taking control away from some 130 separate power authorities and forming new regional transmission networks regulated by the Federal Energy Regulatory Commission to ensure adequate electricity distribution.

Those measures, along with task force recommendations, should be separated from other measures in the dead-ended energy bill and approved quickly in stand-alone electricity reliability legislation such as that

proposed by Sen. Maria Cantwell, D-Wash., and others.

New York state, it should be noted, has also done nothing about keeping an adequate flow of power to meet the state's current and future needs despite its own warning even before the massive 2003 blackout. In 1999, a blackout left 200,000 people without power in parts of Manhattan. The Democratic-controlled Assembly and Republican-dominated Senate are in political gridlock. Sadly, that's typical of a state government that hasn't passed a budget on time in 20 years. But nothing is happening.

Both Congress and the state Legislature need to act to prevent another costly blackout.

[From the Albany Times-Union, Apr. 8, 2004]

#### BLACKOUT LESSONS

A REPORT ON LAST AUGUST'S POWER FAILURE MAKES CLEAR THE NEED FOR TOUGHER REGULATIONS

Last summer's blackout plunged much of the Northeast and parts of Canada into blackness. But a newly released report on what caused the power failure, and whether it might have been prevented, is illuminating. It should put to rest the once-fashionable argument that the utility industry is best served by government deregulation. Perhaps in terms of a free market, less bureaucracy would lead to greater efficiency and lower rates. But what of reliability? If anything, the report is Exhibit 1 in a case for close government oversight.

As expected, the report, compiled by a joint U.S.-Canada task force, faults FirstEnergy Corp. of Ohio for failing to contain the blackout by shutting off 1,500 megawatts of power in the Cleveland-Akron area right after the first surge in voltage occurred in transmission lines south of Cleveland. Not only that, but the investigators found that FirstEnergy should have been more alert to the possibility of a power failure because the region it serves had a known history of grid instability.

The report found that FirstEnergy not only failed to act promptly but was ill prepared for an emergency because it hadn't followed voluntary industry guidelines for long-range planning and system monitoring. Just as alarming, the investigators faulted the Midwest Independent Transmission System Operator, which oversees FirstEnergy, for failing to alert neighboring regions of a gathering crisis, as well as other safeguards designed to stave off widespread outages.

The report's authors have rightly called for replacing the voluntary guidelines with government regulations designed to ensure the reliability of the nation's power grid. Given the huge cost associated with the blackout, not to mention the inconvenience for millions of stranded commuters and the hazards they faced, ensuring reliability must be a top priority. Given the vulnerability of the grid system to potential terrorist acts, reliability must be an urgent priority.

Regrettably, though, there are signs that any proposed regulations might become mired in yet another partisan standoff in Congress. Rep. Pete Domenici, R-N.M., prime sponsor of a sweeping energy bill, believes that his legislation already contains provisions that address most of the task force's concerns. But Sen. Maria Cantwell, D-Wash., has warned that the energy bill could become a "quagmire" for new regulations and has proposed a separate bill instead.

She is right. It's past time for corrective action. Perhaps no one has made that point better than Gov. George Pataki did last August, when he bitterly recalled the assurances of power systems managers that there

would never be a repeat of the East Coast blackout of the 1960s. He should remind Sen. Domenici that those who do not learn from history are destined to repeat it.

[From the Baltimore Sun, Apr. 8, 2004]

#### POWERLESS

Imagine the moment. George W. Bush steps to the podium at Madison Square Garden. The roar of approval from his fellow Republicans is deafening as the president prepares to formally accept their nomination to seek a second term in the White House.

Then, suddenly, just as Mr. Bush is about to speak, the lights go out; the sound system goes dead; the air-conditioning clicks off.

Terrorism! Everyone suspects that at first. But they're wrong. It's just another particularly ill-timed power blackout in the Big Apple. A preventable disaster caused by a utility company that failed to follow safety procedures Congress has yet to make mandatory—even after a similar incident last summer shut off the juice for days to more than 40 million people in eight states and parts of Canada.

Admittedly, the odds of such a blackout disrupting the Republican National Convention in August are slim. And the GOP will likely be prepared with backup generators in any case.

A repeat of last summer's debacle is quite likely to occur at some point, however, until Congress enacts the reliability standards that are being held hostage to an internal Republican dispute over Mr. Bush's long-stalled energy bill.

Lawmakers should set aside that dispute and move quickly to enact a narrower proposal that would deal exclusively with electricity standards and penalties for utilities that fail to comply. There appears to be no disagreement in either party that such mandatory standards are needed.

Massive, cascading blackouts are not new, but they are getting worse. The first big blackout in November 1965 cut off power to about 30 million people in the Northeast for up to 13 hours. Other major outages have crippled Western states and parts of Mexico.

Task force after task force has recommended that voluntary reliability standards put in place in 1965 be stiffened through the force of federal law and oversight. The most recent such recommendation came this week from a joint U.S.-Canadian panel studying the reasons for last summer's grid collapse, which closed airports, schools and businesses and cost tens of billions of dollars.

Most or all of the consequences could have been avoided if an Ohio power company had been prepared, as it should have been, with emergency plans to contain the damage caused by three high-voltage lines that sagged onto untrimmed trees and short-circuited.

Even if Mr. Bush's comprehensive energy bill represented an enlightened approach to public policy, its failure to win enactment so far wouldn't justify further delay in approving the electricity standards. But this bill is a turkey, so laden with giveaways to the energy industry it makes many in his own party gag.

It's time for Mr. Bush to set the electricity standards free. If he doesn't, the trendy question this summer may not be "Where were you when the lights went out?" but "Who was in charge of the switch?"

[From the Memphis Commercial Appeal, Apr. 8, 2004]

#### LITTLE CHANGE IN THE GRID

Last August, a blackout left 50 million people in eight U.S. states and parts of eastern Canada without power. Although embarrassed utilities are almost certainly more

vigilant, the blackout could happen again because in the eight months since not much on the federal regulatory front has changed.

Last week, a joint U.S.-Canadian task force that has been studying the blackout issued its final report, with 46 recommendations to prevent a recurrence. Many of them are highly technical, but one is startlingly simple:

Congress should give the utilities' oversight body, the North American Electric Reliability Council, the power to set mandatory, enforceable reliability standards for power grids.

The big blackout started when a tree in Ohio brushed against a 345,000-volt line in an overgrown transmission corridor. There are currently no mandatory federal standards for how far back trees and brush should be cleared from high-voltage power lines. Had those standards been in effect last summer and enforced—no blackout.

Congress is considering mandatory reliability standards as part of the Bush administration's woeful energy bill, a rich mixture of subsidies and tax breaks for energy companies. Even though its 10-year cost has been pared down from \$31 billion to \$14 billion, it is still too rich for many lawmakers.

The bill is now stalemated because of a dispute over costly ethanol subsidies and immunity from lawsuits for manufacturers of the fuel additive MTBE. And its backers are running out of arguments why the bill should be passed. The Bush administration's arguments that the bill would ease high gasoline prices were undercut when a study by its own Energy Department showed that the bill would actually raise gasoline prices by a few tenths of a percent.

One of the few levers left to backers like Sen. Pete Domenici, R-N.M., and Rep. Joe Barton, R-Texas, the chairmen of the Senate and House Energy committees, is the mandatory reliability provision. But this is unfair to consumers because the energy bill could well fail to pass this year. A responsible energy policy would be to strip out the mandatory federal standards and pass them as a stand-alone bill.

Otherwise, the lights, elevators and air-conditioning could go out against his summer, and this time we won't need a joint U.S.-Canadian commission to know who is responsible.

[From the Toledo Blade, Apr. 8, 2004]

#### REGULATING THE GRID

The massive power blackout that darkened much of the northeastern U.S. and southeastern Canada last Aug. 14 showed that voluntary regulation isn't enough to keep the North American electric grid reliable. The final report of a U.S.-Canadian task force, which found that the outage was preventable, only reinforces that view.

What Congress needs to do is strip new mandates for operation of the grid from its moribund energy bill and pass them as separate legislation. And it should do so now, not later, before another catastrophic blackout ensues.

The North America Electric Reliability Council, which runs the interconnected grid, is a creature of the power industry. It should be, as the U.S.-Canada panel suggests, replaced by a body that would impose mandatory federal standards on the transmission of electric power, along with penalties for utilities that violate them.

Very simply, the panel found at least seven violations of the voluntary industry standards. NERC has no enforcement authority, even among its own members, and hundreds of millions of U.S. and Canadian residents should not have to depend on the good will of the industry for reliable electricity.

In addition, the panel has reinforced its earlier conclusion that Akron-based FirstEnergy Corp., parent of Toledo Edison, was largely responsible for failing to take quick measures that would have prevented the blackout's spread to parts of eight states and the province of Ontario.

Failures in FirstEnergy lines south of Cleveland started a voltage imbalance that tilted the system out of control on Aug. 14, the report said, but earlier warnings went unheeded by the company.

Months before the blackout, "there was clear experience and evidence that the Cleveland-Akron area was highly vulnerable to voltage instability problems," the report said. Unfortunately, neither FirstEnergy nor the Midwest Independent System Operator, which was supposed to be overseeing the utility, were prepared to assess or deal such emergencies.

Cutting off the power of much of metropolitan Cleveland immediately might have limited the blackout, the task force said. We can understand FirstEnergy's reluctance to target certain customers, although failing to take action had far worse consequences. The outage ultimately affected some 50 million Americans and Canadians.

FirstEnergy and its subsidiaries are carrying out an aggressive tree-trimming program in the wake of the blackout, but it is important to remember that what happened on Aug. 14 was about more than limbs on wires.

As the panel pointed out, electric deregulation and the resulting need for greater long-distance power transmission have helped put the grid in jeopardy. In 1986, investor-owned utilities bought just 18 percent of their power from other producers. In 2002, the figure was 37 percent.

During the same period, U.S. electric demand grew by 26 percent and generating capacity rose 22 percent, but the grid's capacity remained largely static.

Those trends illustrate vividly the need to put the electric grid under stringent federal regulation. Otherwise, we'll never be sure the lights will stay on.

**THE PRESIDING OFFICER.** Who yields time?

**Mr. GREGG.** Mr. President, I ask unanimous consent the time be charged to our side until we get to the 8 minutes which was reserved for the two managers of the bill if there is nobody speaking.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. GREGG.** Mr. President, I suggest the absence of a quorum.

**THE PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

**Mr. GREGG.** Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

**Mr. GREGG.** Mr. President, I ask unanimous consent that the Senator from Massachusetts be allowed to speak until there are 4 minutes remaining prior to the vote.

**THE PRESIDING OFFICER.** Without objection, it is so ordered.

The Senator from Massachusetts.

**Mr. KENNEDY.** Mr. President, how much time remains?

**THE PRESIDING OFFICER.** There are 4 minutes on the minority side, and

there are 6 minutes 50 seconds remaining on the majority side.

**Mr. KENNEDY.** Mr. President, I ask the Chair to let me know when 3½ minutes have been used.

**Mr. President,** the issue before the Senate at this time is whether we are going to treat all workers fairly and equitably in the pension system.

As we know, there are two different pension systems. The single-employer pension system has 35 million Americans, and effectively 9.7 million are in the multiemployer plans. Both of those pension systems are under pressure because of the adverse economic impact.

We have tried in conference to make sure those 9.7 million Americans in a multiemployer pension system which are at serious risk are going to get the same kind of fairness and attention as in the single-employer plans. We were unable to do that. We had that basically agreed on.

They are effectively excluded. It is like taking 100 Members of the Senate and saying we are going to take care of 80, but we are leaving 20 out. That is not right. What we ought to be doing is taking care of the whole 100.

That is why I ask people to vote in opposition and give us a chance to come back and include all of those. We shouldn't exclude all those.

Who are the 9.7 million?

First of all, if we look at what has happened in the pension systems in America, we see the rapid decline and loss of pension coverage in America. Among the groups that are losing it the fastest are those low wage workers. They are the ones in the multipension systems. They are the ones at the greatest risk. They are the ones we ought to be out there trying to protect. They are the ones involved as workers in the small business. That is what this is all about.

Why shouldn't we provide the protection for those workers in small businesses that are at the lower economic income as we are providing for the Fortune 500? This legislation provides for the workers in the Fortune 500. We are saying there are "fortune 10,000" companies as well. I have read into the RECORD the various companies and corporations.

We now know there is an assault on pension coverage. Without the kind of protection of including multi-employers, there are going to be hundreds of thousands of workers at risk, who play by the rules, work hard, and who have been falling further and further behind in the economic progress of this country.

Final point: The point has been made that the White House says we can't include the multiemployer programs because we do not want to put more pressure on the Pension Guaranteed Corporations.

Look at this: Last year, \$2.4 billion in 2003 drawdown on the pension PPGC for single-employer plans; less than \$5 million last year for multiemployer plans.

These smaller companies need protection, they need fairness, they need equity. These companies need the kind of attention and relief that we are providing for the single employer. This legislation doesn't do it.

Let us defeat this legislation and then embrace it and include all the workers.

The PRESIDING OFFICER. The Senator has used 3½ minutes.

Mr. KENNEDY. I yield the floor.

Mr. GREGG. Mr. President, what is the time remaining?

The PRESIDING OFFICER. Senator KENNEDY has 32 seconds; the Senator from New Hampshire has 6 minutes 32 seconds.

Mr. GREGG. Does the Senator wish to make any further statement?

I yield the Senator 2 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, it is interesting. Pensions are sort of like health insurance. We all have it in the Senate. We all have good health insurance, unlike the rest of the 270 million Americans. We all have good pensions.

Can you imagine how many Members of the Senate would be over here now if we said over 20 percent of the Senators are going to see their pension effectively undermined?

That is what we are effectively saying to the workforce in this country. We are looking out after 80 percent. There is another 20 percent out there. We all have good ones in here. Why don't we at least make sure, if we are going to protect the 80 percent of American workers, that we protect the other 20 percent?

That is the issue that is before the Senate. It is an issue of fairness in how we are going to act for workers in this country. That is why I hope Senators will vote no.

I thank the Senator from New Hampshire for his courtesy, as always. I appreciate it.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, the issue before the Senate is how we correct an imminent problem, an immediate problem that many pension funds are facing because the present way their payments into their pension funds are valued is based on an instrument that no longer exists, the 30-year Treasury bond; therefore, they are being asked to contribute an artificial number which has no relationship to the actual interest rate charges and revenues or interest rate return that the marketplace would naturally generate.

The practical effect is \$80 billion will be misallocated within the marketplace. The practical effect is that a significant amount of investment—the purchase of machines, the purchase of things which make things more efficient, contributions to people's employment and other areas, including wages—will be impacted negatively because dollars will be artificially moved, rather than where they are most efficiently used, meaning a loss of jobs.

The companies will be less competitive, the people who work for these companies do not have the support they need in the way of capital equipment and compensation, and there will be a negative impact on employment in the marketplace. We need to correct that in the short term. This is a short-term bill, a 2-year bill.

The Senator from Massachusetts has raised some very legitimate concerns about where the multiemployer plans are going, but that is a very complicated issue. This bill is a very small attempt to address the most severely distressed elements of the multiplans. It has targeted language to address a few individual plans which are employer plans which are under clear stress—specifically, airlines and steel companies—but it does not try to solve all the problems.

The understanding behind this bill is that we are going to come back to this issue, hopefully promptly, for long-term substantive review of the question and a fix. This is a 2-year bill. The most important part is to get the 30-year bond issue straightened out so the \$80 billion is not misallocated and the jobs that would be lost are not lost. That is why we need to pass this bill at this time.

I urge adoption.

The PRESIDING OFFICER. All time is expired.

Mr. GREGG. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. GREGG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. GREGG. Mr. President, I ask for the yeas and nays on the question.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the conference report.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. CRAPO). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 19, as follows:

[Rollcall Vote No. 68 Leg.]

YEAS—78

Alexander	Boxer	Clinton
Allard	Breaux	Cochran
Allen	Brownback	Coleman
Baucus	Bunning	Collins
Bayh	Burns	Conrad
Bennett	Campbell	Cornyn
Biden	Cantwell	Craig
Bingaman	Carper	Crapo
Bond	Chambliss	Dayton

DeWine	Inhofe	Pryor
Dole	Inouye	Roberts
Domenici	Jeffords	Rockefeller
Dorgan	Johnson	Santorum
Durbin	Kohl	Schumer
Enzi	Landrieu	Shelby
Feinstein	Levin	Smith
Frist	Lieberman	Snowe
Graham (FL)	Lincoln	Specter
Graham (SC)	Lott	Stabenow
Grassley	Lugar	Stevens
Gregg	McConnell	Sununu
Hagel	Miller	Talent
Harkin	Murkowski	Thomas
Hatch	Murray	Voinovich
Hollings	Nelson (FL)	Warner
Hutchison	Nelson (NE)	Wyden

NAYS—19

Byrd	Fitzgerald	Nickles
Chafee	Kennedy	Reed
Corzine	Kyl	Reid
Daschle	Lautenberg	Sarbanes
Dodd	Leahy	Sessions
Ensign	McCain	
Feingold	Mikulski	

NOT VOTING—3

Akaka	Edwards	Kerry
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The conference report was agreed to. Mr. FRIST. Mr. President I move to reconsider the vote.

Mr. DASCHLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FRIST. Mr. President, for the information of colleagues, in terms of the schedule, we will not be in session tomorrow. There will be no further rollcall votes today. We still have some business to do, which I will comment on shortly.

On the Monday after recess, we will have no rollcall votes on that day. I will come back and announce the specifics of the schedule later today or tonight.

We are making real progress on establishing the universe of amendments for the FSC/ETI bill. We will continue to work. We have made real progress over the course of the day in the area of this important bill.

We have a number of issues to address over the course of the afternoon. Again, there will be no rollcall votes tomorrow. We will not be in session tomorrow. We will have no rollcall votes on the first day back after the recess.

The PRESIDING OFFICER. The Senator from Arizona.

#### ADOPTING A DRUG-TESTING POLICY BY MAJOR LEAGUE BASEBALL

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 335 submitted by this Senator earlier today.

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

The legislative clerk read as follows:

A resolution (S. Res. 335) expressing the sense of the Senate that Major League Baseball clubs and their players take immediate action to adopt a drug-testing policy that effectively deters Major League Baseball players from using anabolic steroids and any other performance-enhancing substances that create a competitive advantage for, and