

Congress must act now to protect individual retirement accounts and pension benefits and assets.

This bill provides relief for seniors age 70½ and older whom current law requires to take distributions from their retirement plans.

Individuals would have the option to keep their retirement savings where they are. We should not force them to take out huge portions of their savings when the market is down.

This bill also contains a number of provisions to help ease the strain on pension plans. And this bill would help to prevent the need for some plans to reduce benefits or make extraordinary funding contributions due to the market downturn.

If we fail to act and provide short-term funding relief, pension plans would be unable to afford their increased contributions. By one estimate, current law would require 350 of the Fortune 500 companies to contribute an extra \$100 billion or more to their pension plans next year, even if the market rebounds. If these companies did this, they would reduce their investment spending by \$60 to \$70 billion next year. That is something that our economy cannot afford.

This bill provides relief for single-employer plans that fall below the set funding target percentage set in the Pension Protection Act of 2006.

And the bill provides analogous relief for multi-employer plans that are faced with significant underfunding due to market losses. This relief would allow them to temporarily freeze their current funding certification or extend the time period that they have to restore their funding levels.

The bill also helps prevent benefit restrictions for those single-employer plans that may be significantly underfunded next year due to the market downturn.

This bill also contains a number of critical technical amendments to the Pension Protection Act of 2006. The Pension Protection Act of 2006 arguably marks the most sweeping changes to the pension laws since the enactment of the Employee Retirement Income Security Act of 1974.

Like many complicated pieces of legislation, technical corrections to the law must be made.

Technical corrections to the law are often time sensitive. That is, many of them must be passed by both Houses of Congress before the effective date of the statute.

Many of the rules under the Pension Act were effective January 1, 2008. This means that the time for passing technical corrections has come and gone.

If we were not to act and pass these time-sensitive provisions now, the pension community and the Department of the Treasury—the agency tasked with interpreting the statute and providing the necessary details on how the new law works—would be placed in a very tough spot.

That is, the Department of the Treasury would not have the necessary cor-

rections and clarifications of the original intent of the act to sufficiently issue the details necessary to allow the pension community to achieve proper compliance. This would not be fair to the pension community or the Treasury Department.

Failing to pass these technical corrections would therefore be irresponsible.

Here in the Senate, we passed the technical corrections contained in this act back in December 2007. We already said that these corrections are good pension policy.

Americans need real help from Congress to make sure that their retirement savings are safe and sound and available to them when they need it. This bill contains a number of provisions that would help to provide relief to individuals and pension plans and move the economy toward recovery.

Individuals and the pension community warned that individual retirement account holders and pension plan participants could be adversely affected without the provisions contained in this bill. Passing this pension package sends the right message to individuals, plan sponsors, and pension plan participants.

I thank my colleagues for helping to make passage of this bill possible today.

Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statements related to the bill be printed in the RECORD.

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

The bill (H.R. 7327) was ordered to a third reading, was read the third time, and passed.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

NOMINATION OF ERIC HOLDER

Mr. KYL. Mr. President, I want to speak for just a moment about the comments that Senator SPECTER made earlier about the process for considering the nomination of Eric Holder as Attorney General.

The Republican members of the Judiciary Committee have been seeking information and doing work to prepare for the hearing. But there is a great deal of information that is not yet available and a great deal of information that hasn't yet been reviewed, all to the point that it is going to take a little bit of time to prepare for the hearing in order to do it right. Of course, we want to do it right.

While there is absolutely no desire on anyone's part to slow a process down or filibuster or in any other way make it difficult for the orderly process to unfold for the confirmation of the nominee of the President, we do ask that we be accorded the same consideration that was given to others in this situation and that there be adequate time to confirm him. I see no reason, if he is qualified and if he is confirmed, that he could not take office very soon after the President himself takes office, perhaps as early as a week or two after that. So nobody is talking about a long delay, but we do need to have adequate time.

In that regard, since the chairman of the Judiciary Committee has indicated he would like to begin holding hearings on January 8, which is literally right after we begin the swearing in of the new Members and the beginning of the next session, there is not adequate time for the kinds of things that have to be done if that is the date that we meet. This has been conveyed to the chairman by Senator SPECTER. He has asked for a reasonable amount of time to get prepared. I hope that can be accommodated. It is of sufficient concern that several of us have indicated, through a letter to the chairman, that we are going to insist on having adequate time for the consideration of his nomination.

I remember the nomination of John Ashcroft who was a colleague of everyone here, a Senator from Missouri, when he was nominated to become the Attorney General; nevertheless, it took 4 days of hearings for the Senate to decide to confirm him. His hearings began on Tuesday, January 16. As I said, they lasted for 4 days. The chairman of the committee has, as I said, indicated that the Holder hearings would be scheduled for January 8, more than a week earlier. I don't think that is adequate for the things we have to do. Ashcroft was voted on by the full committee on January 30. He was confirmed on February 1. So that timing certainly would be totally appropriate for nominee Holder and would not in any way delay the administration with respect to the office of the Attorney General. In fact, irony of ironies, because Senator Ashcroft was not confirmed until February 1, Eric Holder himself, who was in charge at the end of the Clinton administration, served as Acting Attorney General at the beginning of the Bush administration. Senator SPECTER, when he was chairman, accommodated numerous requests for sufficient time on the part of the then-ranking Democrat, Senator LEAHY, on, for example, the nominees of Chief Justice Roberts and Justice Alito. I think reciprocity would be in order.

Right now, we don't even have Eric Holder's questionnaire or FBI background investigation, all of which are necessary to prepare for the hearing.

Senator SPECTER noted that we currently have 86 boxes of archived committee documents relating to Mr. Holder's tenure at the Justice Department to review. There are additional documents that have been sought from the Department of Justice and the Clinton library which would provide additional information that we will need to examine.

One might say this is a lot of work to do for a nominee. Bear in mind, this is the Attorney General of the United States, an individual who has some controversy in his past. I don't know whether this controversy is sufficient to suggest that he should not be confirmed, but that is what the investigation and hearings, of course, are all about. We are familiar with what these items are.

Mr. Holder was involved in the pardons of members of the FALN organization by President Clinton, the pardons of Marc Rich, Pincus Green, Susan Rosenberg, and Linda Sue Evans. He was also involved in a controversial raid in Miami by the Border Patrol action to take Elian Gonzales into custody. He was involved in death penalty approvals, rejections, or disputes. One that troubles me—and I want to get to the bottom of this—was the decision of the Department of Justice not to defend the power of Congress to enact a particular statute, 18 U.S.C 3501. There was Supreme Court litigation called *Dickerson v. United States*, including Department of Justice responses to Judiciary Committee inquiries on the subject and views of U.S. attorneys and Department advisory panels on the matter. The case involved challenging *Miranda* doctrine. Paul Cassell, a competent attorney, argued that case. The Justice Department, contrary to precedent and tradition, didn't defend the Government's position; that is to say, the Congress having passed a statute and defended the power of Congress to enact that statute.

I don't know whether any of those controversial matters are enough to reject the nominee, but they are well known, controversial, and I think we have an obligation to look into all of these matters. I am not alone. Richard Cohen wrote in the *Washington Post* that Eric Holder should not be the Attorney General. I don't know whether he is right or not, but the questions he raises need to be examined.

Glenn Greenwald wrote in the *Salon* magazine that Holder's involvement with the Rich pardon was "substantial, continuous, and concerted, much, much more than 'peripheral,'" which is the way Holder himself described it.

One final note. In addition to having plenty of time to review and prepare and review documents and the FBI interviews and background checks of Eric Holder and prepare for his hearings, we will want to have sufficient time also to carefully consider other top Department of Justice nominees, such as the Deputy Attorney General,

Associate Attorney General, Solicitor General, and the heads of the Office of Legal Counsel, the Criminal Division, the Civil Rights Division, and the National Security Division.

I hope if we set the right precedent with the Attorney General himself, these other matters will be considered in due time and we won't have to argue each time there is an insufficient opportunity to conduct the kind of examination that would be necessary for positions as important as these.

So I hope our colleague, the chairman of the committee, will reconsider his initial decision to schedule the hearings on January 8. If we can move those back even a week, that would provide time for us to conduct the process properly. We are not asking for some outrageous delay just for the sake of delay. I hope he can accommodate us, and knowing of the views of the other members of the committee on the Republican side, that he would be willing to do so.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. NELSON of Florida). Without objection, it is so ordered.

Mr. WHITEHOUSE. Mr. President, a moment ago I had the honor of presiding before the distinguished Senator from Florida replaced me in the chair, and I was presiding during the time the distinguished Senator from Iowa, Mr. GRASSLEY, and the distinguished Senator from Arizona, Mr. KYL, came to the floor to discuss the timing of the nomination proceedings for the President-elect's candidate for Attorney General, Eric Holder. I had the chance to hear the points that they made, and I wish, just briefly, to respond to a few of them.

As the junior member of the Senate Judiciary Committee, I am certainly in no position to speak for the chairman. Obviously we heard Senator KYL ask that the timing be done on a reasonable basis, and I think Senator LEAHY, the very distinguished chairman of the Judiciary Committee, is nothing if not reasonable and has shown enormous reasonableness with the timing of all the nominees that have come before him. And I would expect this to be no different. But in evaluating the reasonableness of the schedule that the chairman has proposed, or, I should say, announced, it may be worth putting it into the context of the history of these sorts of nominees.

If you go all the way back to President Carter, for more than 30 years, whether the Senate was controlled by Republicans or Democrats, or the President was a Republican or a Democrat, we have had nominees for Attorney General come through the process. And throughout that long span of time,

the average time between the announcement by the President of his choice for Attorney General and the nomination hearing, the average amount of time has been 29 days. And the average amount of time until a committee vote has been 37 days.

So that is the background. If you average over 30 years, from the announcement, 29 days to the hearing, 37 days to the vote. The schedule that Chairman LEAHY has proposed is 39 days to the hearing, and he hopes for 50 days to the vote.

So instead of the average that it has been over 30 years of 29 days, the Republicans have 10 extra days beyond the average to do the work that they assert that they need to do, and the vote may not come for 50 days, which is 11 days longer than the average.

I think everyone in this body understands the importance of a new President having his new Attorney General in place quickly. The President is going to be sworn in on January 20, and I think it is in all our interests as Americans to make sure that his choice is honored in a reasonable timeframe so that when the President takes office, he has an intact team. Certainly with the Attorney General as such an important part of the President's national security team in this time of national security concerns, he should have an intact team.

And so it seems to me that the average is a pretty reasonable place to start, and when the chairman has given an extra 10 days beyond the average just to the beginning of hearings, and hopefully an extra 13 days beyond the average for the vote, it's a pretty good signal that the chairman is being very reasonable about this.

Most recently, some of the Attorneys General whom we have seen, Attorney General Mukasey had a period of 30 days from his nomination to the start of the hearings. That was at President Bush's request. Remember, he indicated that he wanted to get him in place soon. The Department was in grave distress and we needed to act quickly. We acted in 30 days. We are acting here in 39 days, more than was given for Attorney General Mukasey. The vote hopefully will be the same as for Attorney General Mukasey: 50 days from the announcement to the vote.

It doesn't sound unreasonable. Nobody said it was unreasonable when Attorney General Mukasey was put through that schedule. I don't see how it can be unreasonable that Eric Holder should have a more generous schedule, and somehow that is no longer reasonable.

For Attorney General Ashcroft, it was 25 days to the hearing instead of 39; 39 days to the vote instead of the hoped-for 50. For Attorney General Reno, 26 days to the hearing instead of 39 days; 27 days to the vote instead of the hoped-for 50. Nearly twice as much time as for Attorney General Reno.

So I think the point is pretty clear. It is the tradition and the history of

this body to honor the President's request to act quickly, and in terms of the reasonableness of the schedule that Chairman LEAHY has proposed, he has proposed a schedule that is on the generous side of the average and of recent history.

With respect to the concern that there is a lot to look at in Eric Holder's history, well, every lawyer who is experienced and active enough in the profession to be a candidate to be Attorney General of the United States has got a long history to look at. That is a given. That is a constant. That is not something that is different about Eric Holder than about any of his predecessors.

Indeed, if anything, the opposite concern would be justified, which is that we have already had a lot of time to look at Eric Holder. First of all, he has an astonishingly distinguished record to be Attorney General. It is remarkable—his personal story, his career. It is all spectacular, truly. But specific to the question of nomination, this is a lawyer who came right after law school to the Department of Justice and served as a prosecutor for a decade prosecuting public corruption cases. So he had to be cleared by the FBI to come in as a Department of Justice attorney, and he served there for all those 10 years. That is all a matter of clear public record. Everybody has had a chance to look at that forever.

The next thing that happened, in 1988, Eric Holder was nominated by President Ronald Reagan to the bench to serve as Superior Court judge in Washington, DC. Again, he was confirmed by the Senate. We had a full look of everything up to 1988.

After his service on the bench, Eric Holder was nominated by President Clinton to serve as the United States Attorney for the District of Columbia. United States Attorney Holder and I were colleagues; me in Rhode Island, him down in DC. I went through that process of nomination and confirmation. It is exhaustive. It was done for him. He was confirmed at that time. So as of the date he was appointed United States Attorney for the District of Columbia, we had done a complete Senate look of his record to that point.

And that wasn't the last time. In 1997, President Clinton nominated United States Attorney Holder to serve as the Deputy Attorney General of the United States, Attorney General Reno's No. 2 in that department. And he was then confirmed by this body, the Senate, unanimously. And, again, we had that full record of his before us at that time.

So this is a guy who has been the subject of very public attention as a public official, the Deputy Attorney General. There isn't a whole lot that one does as Deputy Attorney General that isn't available to the public, that isn't in the news media. This is not somebody who has come out of nowhere and who has a great, vast mysterious past history that we need to

have a look at. Indeed, this body has had three looks at him, confirmed him three separate times. The most recent time as late as 1997, unanimously. So I think the notion that—with only 1997 to now to look through, a period of a mere decade—the idea that he is being shoved unreasonably rapidly through the process, when he is substantially slower than the average, simply doesn't hold water.

And I would urge my Republican colleagues—again, they can have discussions with the chairman that obviously are at a rank higher than mine—but I would urge my colleagues to consider their views in that context: in the context of a spectacularly qualified individual who has thrice been confirmed by this body, as recently as 1997, and who is being given more time for scrutiny than the average or the recent Bush appointees, and in an environment in which I think we can all agree that after the Bush management of the Department of Justice, we badly need a new Attorney General in there and soon.

So with those observations I will yield the floor. I thank my colleagues for waiting while I finished my remarks. I see the distinguished Senator from Oklahoma on the other side of the Chamber and I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. COBURN. I ask to speak in morning business.

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

Mr. COBURN. Mr. President, I appreciate my colleague and his informed words. Much of what he has stated I agree with, but there is a significant difference. No. 1 is I was not in the Senate when Mr. Holder was confirmed. Given the facts that played out associated with pardons that President Clinton had, the look needs to be refreshed without any question because there is no question that Mr. Holder erred in his judgment and has essentially said so, in association with one Mr. Marc Rich, a fugitive.

I do not doubt Mr. Holder has a distinguished record. He is well qualified for lots of areas. I do not think it ought to be on the floor that we debate whether we have a hearing. But I can tell you that the information we have requested, both from the Clinton libraries and others, will not be available to us to peruse and to study. I may in fact in the long term end up voting for Mr. Holder, but I am not about to do anything less than a very thorough job.

I also remind my colleagues I was the first Republican Senator in the midst of the committee to call for the resignation of Attorney General Gonzales—rightly so. The position of Attorney General, although it is appointed by the President, is very different than all the rest of the appointments because he is for all of us, every citizen in this country, the chief law enforcement officer of this land. His

loyalty is not to the President. His loyalty has to be to the Constitution. It has to be to the responsible bodies that guide this country, although if we in fact have hearings early, we will have to have additional hearings. We will not allow a vote to occur until we have thoroughly, to each member of the Judiciary Committee's satisfaction, had the record examined and had the questions answered that are going to need to be answered with regard to some of the events that have taken place late in the Clinton administration.

That is not to cast any aspersions on Mr. Holder. I think he is a fine man. But judgment is the key thing that is most important and there is a red flag. So if it is insisted that we go early, earlier than we are prepared so we can truly ask the questions we think the country would need us to ask, then I think we will have a difficult time ever moving that nomination.

That should not be the case. The fact is this gentleman deserves the best, the most thorough opportunity to explain himself in a way where people are asking proper questions, not improper questions. More important, the American people deserve for us to do our job. That means we have to be very well briefed, very well studied on the questions and circumstances about which we will apply them.

Mr. WHITEHOUSE. Will the Senator yield for a question?

Mr. COBURN. I will be happy to in a moment.

I have given positive comments to the press on Mr. Holder, so I am not necessarily someone in opposition. But I can tell you I am in opposition to not being in a position to do my job. It is going to be impossible, and I will tell my colleague that, with the schedule that has been set forth. I will not be able to be prepared at the time. I have one staff lawyer. For us to go through everything to my satisfaction, for me to fulfill my oath, that is not a possibility between now and January 9.

The other thing I would say is much of the information we have requested is not even going to be available to us until January 6. So it would be terrible to start the next Congress off having a fight about a fight. My hope is we can come to a compromise so we all feel very well prepared.

There is no intent to delay Mr. Holder's nomination. There is every intent to make sure we are prepared to thoroughly vet his qualifications of independence and judgment. It is not his qualifications as to whether he has the capability to fulfill the role. It is whether he will demonstrate the independence and the judgment with which to fulfill it.

As my colleague knows—he was at the hearing when I asked the Attorney General to resign—I am not a partisan. The President-elect who nominated this man I have a great deal of respect for. But I am going to do my job. If it means holding up a nomination until I get all the answers, then that is what I

will do. So there is no reason for us to do that by not accommodating the ranking member on this committee and setting the schedule with which the minority on that committee are not prepared to be prepared to answer that.

With that, I am happy to yield to my colleague.

Mr. WHITEHOUSE. I appreciate that very much. I thank the Senator from Oklahoma for his courtesy for yielding.

I wanted to make sure the distinguished Senator was not suggesting that when the Senate allowed 26 days between Attorney General Reno's announcement and her nomination hearing, or allowed 25 days between Attorney General Ashcroft's announcement and his nomination hearing, or allowed 30 days between Attorney General Mukasey's announcement and his nomination hearing that the Senate was then underprepared or had not done its job in evaluating, or didn't have enough time to evaluate those candidates. I think they probably did. They appeared to going forward. By comparison, the 39 days—

Mr. COBURN. Reclaiming my time—

Mr. WHITEHOUSE. If I could finish the question—

Mr. COBURN. I suggest we did a poor job with Attorney General Gonzales, that is No. 1. No. 2, I was not here then so I don't know whether we did or did not. Mukasey—the difference that would lie is there is a large red flag on one or two specific actions of this gentleman as he acted as assistant Attorney General. That requires good scrutiny.

I assure my colleague that does not mean, and I think he knows this—I have not made a decision on this gentleman and I will not until we have gone through the hearing process. As I have said to the press, I am generally inclined to think he is very well qualified for this. But the question of judgment will require a lot of research on associated issues that have been outlined here.

So, to me, it is not a game I am playing. I think my colleagues in the Senate know I work very hard to stay informed and up to detail on every issue that is before us. I would say to my colleague, to me, I don't care what the time was ever. What I care about is do we do it right so we do not have a repeat.

I am sure my colleague knows he doesn't want us to have a repeat of making a mistake and not thoroughly vetting someone to the degree we should.

My hope is the Judiciary Committee in the next Congress operates very smoothly, that we stand on the principles that we spoke about as we went through this last year, and that we do not see the process of trying to slow down judicial appointments because it is a partisan issue.

He has my pledge that will never be anything I will pertain to or partici-

pate in. If somebody is qualified and they are this President's nominee and they are qualified after going through the Judiciary Committee and I believe they should be voted on, I intend to vote for them and not hold them up. But I think this is a very different instance. There are two specific problems that have to be very well vetted.

From what we have seen so far, the vast majority and minority have not met Mr. Holder. We are going to be asked to meet with him on the day before the committee hearing so we will not have had the time even after we meet with him to be able to cross-check what we have asked him against what facts we know because we will not have all the facts in, because we will not even have all the records from the Clinton library at that time.

I suggest we ought to start it off in more of a spirit of cooperation. My ranking member is of the learned opinion for the years that he has been here, and he is a proven expert in the law, that we need more time. We hope that request would be honored.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized.

Mr. WHITEHOUSE. I wanted, while the Senator from Oklahoma is still on the floor, to let him know I appreciate his concern and I am grateful for his kind words. I would hope the one or two red flags that he has mentioned are not such as to justify necessarily extending the period between nomination and confirmation hearings more than 2 weeks beyond what the Senate gave for other nominees such as Attorney General Thornburgh, Attorney General Barr—almost 2 weeks for Attorney General Reno, 2 weeks longer than for Attorney General Ashcroft, 1 day short of 2 weeks longer than for Attorney General Meese. Some of these people have some red flags too, but the Senate was able to do its job timely and I hope we will do so again.

I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

EXTENSION OF MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that we extend morning business until 7:30.

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

The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I will share a few remarks on the matter before us. I was pleased to support Mr. Holder when he was nominated to be the Deputy Attorney General. He came as a Superior Court Judge in DC, and as a U.S. attorney. I thought he had many of the gifts and graces that would be appropriate for a Clinton deputy. He might not have been my top choice, but I thought he had a good background and I supported that. I have considered him a friend. I tried to

be supportive of him throughout his tenure.

But I have to say there are some problems that are going to have to be dealt with. I went through the very painful process of Attorney General Gonzales and the difficulties he had. It was very painful for me. I am not sure he was treated fairly, to tell you the truth. But it came to a point where I think he concluded, and maybe everybody concluded, it was best for him to step down as Attorney General. He wanted to do the right thing, I believe, but made some errors. It damaged the Department.

I spent 15 years in the Department of Justice. I was an Assistant U.S. attorney for 2½ years and U.S. attorney for 12. That is a pretty long time; the biggest part of my professional career, for sure.

I love the Department of Justice. I believe it is very important that we have leaders committed to following the law regardless of position or power or influence; that the Attorney General should set the example. When I was there they did and there was no doubt about it. We were encouraged to do the right thing. If you took political heat, if you were right, the Attorney General would back you up, no matter what politician might call or what influential contributor or friend might try to intervene. You were expected to do your duty. That is the way I trained my assistants and that is the way I was expected to perform.

So I have no more grim prospect in mind, in the beginning of next year, than to have to go through a contentious hearing for the Attorney General of the United States. As I said, I have had nothing but personal affection for Eric Holder.

I want to make a couple of points. First, I believe Senator SPECTER is justified in asking that this hearing not start so soon. President-elect Obama is not in office. He will not be President. President-elect Obama will not be President at that time. He is talking about starting it on January 8 and that is very early. Members of the committee have sought a bunch of documents. I am not sure they are entitled to all of those documents, but many of them are public record documents that are quite appropriate to be requested. These members have requested those documents and they need to be looked at because there are some questions here that are going to have to be examined.

I note Attorney General Griffin Bell, who is one of the great Attorney Generals ever to serve in this country, serving under President Carter, that his hearings lasted 6 days.

John Ashcroft, a member of the Judiciary Committee, one of our own, and I believe a man of great integrity and commitment to the law, had 4 days and my colleagues on the other side had 23 outside witnesses testify in an effort to try and find something to complain about. Basically, they did not have