

yet again despite recent recoveries in the stock market.

We have to do what we must to strengthen our economy and to give our workers and their families and our businesses some peace of mind. That might be the best way to describe it. So this is more than just a looming crisis, more than just a problem in the near term, it is a problem we have to deal with right now, in the next couple of months.

Recently, the House Ways and Means Committee held a hearing that focused on pension funding relief. They gave an example at the hearing. NCR Corporation, a 125-year-old global technology company, testimony at this hearing provided a specific example of how company pension plans have been affected. NCR, this global technology company, had a pension plan that was 110 percent funded as of January 1, 2008.

So at the beginning of 2008, they were funded at 110 percent. They were in good shape, for the most part. The funding status, as those in the business know, is based on the amount of assets compared to the amount of liabilities. By January 1, 2009, just 1 year later, this same company, due to unprecedented losses in the market, had its funding percentage drop to 75 percent. So in 1 year, this company goes from 110 up of funding to 75 percent, a huge loss.

This is what it means in terms of dollars. The percentages only tell part of the story. Prior to the market loss, this company, NCR Corporation, expected to make payments totaling \$200 million over a 7-year period. That is what they could see down the road: \$200 million over that period. Instead, that payment has increased to \$1.5 billion—\$1.5 billion looking out ahead of them instead of \$200 million. So \$200 million becomes \$1.5 billion, and that is what we are going to see unless Congress provides some relief.

We have heard from countless companies across Pennsylvania and across the country that are in the same situation as this one example, the NCR company. The companies are not requesting a bailout. Let me say that again: They are not requesting a bailout. The companies are not requesting the American taxpayer to assist directly. The companies are simply asking Congress to extend the time period of recognizing the losses incurred during the market downturn.

In 2009—I will point to another study—Watson Wyatt reported that there would be \$32 billion in payments to fund pension plans in America. Without any relief from Congress in 2010, that amount will increase to over \$90 billion and increase to \$146 billion in 2011. So we go from, in 2009, \$32 billion, to 2010, and it keeps going up until we get to 2011, just 2 years from now, \$146 billion to pension plans in America.

American companies that are already struggling to break even today will have to decide between funding their

pension plans and cutting jobs. In order to avoid losing more jobs, at a time when the national unemployment rate is 9.8 percent, Congress should act swiftly to extend the amortization period for recognizing certain losses in pension plan assets, including other temporary provisions that will provide funding relief. Any relief should apply to single- and multiemployer pension plans.

As companies recover from the economic recession, we should not discourage economic growth by requiring a pension payment that will require companies to cut jobs. Instead, Congress should provide targeted relief—targeted relief—that will enable companies to spread out the losses over an extended period of time, which will allow capital to be invested in activities that will promote growth.

Ultimately, the intention of any pension funding relief legislation is to ensure the survival of the pension plan system. The American people have a right to expect that pension plans be stable and secure for their future. In Congress, we should work to implement any legislation that provides a healthy pension system just in the same way we provide security with a reformed health care system. In exchange for ensuring a good pension, a secure pension, and a better health care system—that is what we are saying to the American workers and to American businesses—it is important that we be very honest with people, with our workers.

We are going to say to our workers: We want you to compete in a world economy; we want you to go out and get more education; we want you to enhance your skill level; we want you to have a broader-based skill level so that when the economy takes a turn or market forces lead to a change in the industry that you are employed in or lead to a change in our economy, you will have the skill and the knowledge and the training and the education to be able to adjust.

So we encourage people all the time to get more education. We encourage people all the time to enhance their skill level. But we will be more successful in achieving that goal and we will be more honest with workers if we can say to them: You don't have to worry as much as you used to about your pension or about health care.

That should be a large part of the bargain, a large part of the agreement we make with our workers and our businesses because, if we are going to compete in a world economy, if we are going to have a highly skilled workforce that does that for us over time, we cannot say to people: Go out and improve your skills, go out and get more education, but we are not sure we can help you with your retirement security or your health care security. We can't ask them to do three things at one time. We can't ask them to go to work every day and worry about whether they are going to have health

care coverage or worry about whether their kids are going to be covered or worry about whether there is going to be a preexisting condition that will bar them from treatment or coverage.

We can't allow a situation to persist where we say to them: Go to work every day and continue to improve your skills and maybe get more education, but we are not sure we can help you on health care and, by the way, your pension plan might be at risk in the future; it may not be there for you when you retire.

We have to do something in a very strategic and focused way to take away some of that worry on health care and on pension and retirement security. If we do that, if we lessen that anxiety for people, I believe we are going to have a much more successful strategy as it relates to telling people and encouraging our workers to get more education, to get a heightened degree of training. If we do that, we are going to have a much stronger long-term economy. But we can't ask people to do it all themselves—to bear the burden of health care, to bear the burden of retirement security, and to bear the full burden of their education, their training, and their skill development.

So that is why this pension issue, even in the midst of a health care debate, is so critically important.

Madam President, I yield the floor and note the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. UDALL of Colorado). Without objection, it is so ordered.

MORNING BUSINESS

Mrs. SHAHEEN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

PASSAGE OF THE MATTHEW SHEPARD HATE CRIMES PREVENTION ACT

Mr. LEAHY. Mr. President, tomorrow afternoon President Obama will sign the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act into law. I commend the President for acting so quickly on this critical civil rights measure. Its protections are long overdue. Last week, when the Senate was about to consider the Department of Defense authorization conference report, I spoke in strong support of its provisions including the hate crimes measure. At that time, I requested my entire statement be included in the RECORD. Unfortunately, my entire statement did not make it

into the CONGRESSIONAL RECORD so I ask that it now be printed in full as it was prepared and offered at that time. I understand that this error will be corrected in the bound version of the RECORD, but I wanted my full statement to be immediately available for those following the specific details of how the language in the conference report differed from my hate crimes amendment that the Senate passed earlier this year.

After more than a decade, Congress is finally set to pass the Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 as an amendment to the National Defense Authorization Act, and I expect the President to sign it promptly. I am proud that Congress has come together to show that violence against members of any group because of who they are will not be tolerated in this country.

I thank Senator COLLINS for cosponsoring the amendment with me. I commend Senator LEVIN for working so hard to ensure that this provision would go forward as part of the conference report. I congratulate the Senate majority leader, Senator REID, for his essential role in this matter. In the House of Representatives, Speaker PELOSI and Congressman CLYBURN were similarly instrumental in this enactment.

I also want to take this opportunity to remember Senator Ted Kennedy who provided steadfast leadership on this issue for more than a decade. I wish he could have been here to see this bill, about which he was so passionate, finally enacted. I am honored to be able to see it through to the finish for him. I know it meant a lot to him. We miss him but his good work goes on.

Earlier this month was the 11th anniversary of the brutal murder of Matthew Shepard, a college student who was beaten and killed solely because of his sexual orientation. Matthew's parents have worked courageously and tirelessly for this legislation, which aims to ensure that this kind of despicable act will never be tolerated in this country. The bill was named for Matthew, as well as for James Byrd, Jr., a Black man who was killed in 1998 because of his race in another awful crime that galvanized the Nation against hateful violence. We appreciate and honor the important contributions of James Byrd's family as they have worked hard for this legislation.

Unfortunately, the years since these two horrific crimes have made clear that hate crimes remain a serious and growing problem. Most recently, the shooting at the Holocaust Memorial Museum showed that these vicious crimes continue to haunt our country. This bipartisan legislation will help law enforcement respond more effectively to this problem.

It is a testament to the importance of this legislation that the Attorney General of the United States came to the Judiciary Committee in June to testify in favor of it. We have been

urged to pass this bill by State and local law enforcement organizations, and dozens of leaders in the faith and the civil rights communities. Michael Lieberman of the Anti-Defamation League and my friend, Janet Langhart Cohen, among others, also testified passionately in favor of this legislation before the Senate Judiciary Committee earlier this year. I also very much appreciate the support of Wade Henderson of the Leadership Conference on Civil Rights and Joe Solmonese of the Human Rights Campaign, who have worked tirelessly to see this legislation passed.

The answer to hate and bigotry has to ultimately be found in increased respect and tolerance for all our citizens. In the meantime, strengthening our Federal hate crimes legislation to give law enforcement the tools they need is a necessary step.

The facts set out in several recent reports show that hate crimes and hate groups remain a major problem. Last June, the Leadership Conference for Civil Rights released a report finding that "the number of hate crimes reported has consistently ranged around 7,500 or more annually, or nearly one every hour of the day." A recent report from the Southern Poverty Law Center found that hate groups have increased by 50 percent since 2000, from 602 hate groups in 2000, to 926 in 2008.

This historic hate crimes provision will improve existing law by making it easier for Federal authorities to investigate and prosecute crimes of racial, ethnic, or religious violence. Victims will no longer have to engage in a narrow range of activities, such as serving as a juror, to be protected under Federal law. It also focuses the attention and resources of the Federal Government on the problem of crimes committed against people because of their sexual orientation, gender, gender identity, or disability, which are much needed protections. In addition, this legislation will provide resources to State, local, and tribal law enforcement to address hate crimes.

In preparing this legislation and moving it through Congress, we have worked closely with the Justice Department to ensure that we are advancing legislation that is fair, constitutional, and effective in cracking down on brutal acts of hate-based violence. It ensures that Federal prosecutors are able to rely on evidence of limited and relevant additional conduct to prove that the violent act in question was motivated by bias. It would also strengthen Federal jurisdiction over hate crimes and clarify key certification requirements to allow the Federal Government to appropriately support, but not to substitute for, State and local law enforcement. As a former State prosecutor, I believe respect for local and State law enforcement is critical.

This legislation was carefully crafted to respect constitutional limits and differences of opinion. It will combat

acts of violence motivated by hatred and bigotry, but it does not target speech, however offensive or disagreeable, and it does not target religious expression.

I wish there had been more Republican support for this important civil rights amendment. Nonetheless, in the Senate we worked to address bipartisan concerns and issues. We incorporated Republican amendments mandating guidelines for hate crimes prosecutions, further changing first amendment protections, and creating a new criminal offense for attacks against servicemembers because of their service.

I am disappointed that the servicemembers provision contains a mandatory minimum sentence because I believe that mandatory minimum sentences can have unintended and unfortunate effects on sentencing and on our criminal justice system. However, I was pleased that we were able to limit the provision to one modest mandatory minimum sentence and require the United States Sentencing Commission to study the effect of mandatory minimum sentences. I am also glad that we were able to pass this bill without adding a new Federal death penalty, which would have needlessly inserted a divisive issue into this legislation.

I want to note that the sponsors and supporters intend with its passage, to authorize Federal investigations and prosecutions of those hate crimes described to the fullest extent permitted by the Constitution. Section 4707(a) of the defense authorization bill, which creates §249(a)(2)(B) of the new hate crimes statute, is desired to apply to the full extent of congressional authority under the Commerce Clause. Similarly, section 249(a)(1) should be interpreted broadly, to the full extent of Congress's authority under the 13th amendment.

Section 4710 of the bill sets out rules of construction for hate crimes legislation. These rules of construction are meant to be read as a collective whole. They simply confirm that the statute should be applied consistent with the first amendment and the Federal Rules of Evidence. They are not meant to prevent the admission of any evidence that is relevant, consistent with the first amendment, and otherwise admissible under the Federal Rules of Evidence, including under rule 404(b).

President Obama has worked closely with us to facilitate the quick passage of this vital hate crimes legislation. In his first few months in office, he has acted to ensure that Federal benefits are awarded more equitably, regardless of sexual orientation, and now to ensure that this hate crimes legislation becomes law. Unlike in previous years, our bipartisan hate crimes bill does not face a veto threat. We have a President who understands that crimes motivated by bias are particularly pernicious crimes that affect more than just their victims and those victims' families. I expect the President to sign this legislation without delay.

Hate crimes instill fear in those who have no connection to the victim other than a shared characteristic such as race or sexual orientation. For nearly 150 years, we have responded as a Nation to deter and to punish violent denials of civil rights by enacting Federal laws to protect the civil rights of all of our citizens. The Matthew Shepard and James Byrd, Jr. Hate Crimes Prevention Act of 2009 continues that great and honorable tradition. Passage of this legislation, at last, will show, once again, that America values tolerance and protects all of its people.

VOTE EXPLANATION—DOD AUTHORIZATION

Mr. HATCH. Mr. President, I rise today to discuss my decision to vote no for the fiscal year 2010 National Defense Authorization Act.

Throughout my career I have always been a staunch supporter of our men and women that serve our Nation. Their courage in the face of danger to preserve our freedom is inspiring. And my vote on the Defense authorization bill does not change that belief at all. In fact, I was pleased to include legislation in this years bill that will require the Secretary of Defense to review and establish a long-term plan to sustain the solid rocket motor industrial base. This review will be vital to ensure we maintain a robust industrial base and our ultimate strategic defense for decades.

I have always been impressed with the great working relationship I have enjoyed with my esteemed colleagues on the Armed Services Committee and their professional staffs. My vote by no means diminishes my respect for the Armed Forces.

Unfortunately, the congressional majority has decided to needlessly inject controversy into what should have been a bipartisan effort to fund and support our troops in a time of war. I am, of course, speaking of the decision to attach the unrelated hate crimes provisions to this legislation. For one reason or another, the Democrats have once again decided that, even with their overwhelming majorities in the House and Senate, the Federal hate crimes legislation cannot be debated and passed on its own merits and that, instead, this divisive legislation should become part and parcel with our efforts to provide our military with much-needed resources.

I have long been opposed to this approach with regard to hate crimes. Make no mistake, none of us are indifferent to the problems associated with violence motivated by prejudice and violence. However, I believe that the approach provided for in this bill would needlessly expand the powers of the Federal Government at the expense of the traditional police powers of the States. Worst of all, it would do so without a demonstrated need. Indeed, a few months back, I asked the Attorney

General—who supports this legislation, by the way, in a hearing whether there was any evidence of a trend that these crimes were going unpunished at the State level. He stated without reservation that there was no such evidence and that, in fact, the States were, by and large, doing a fine job in this area. If that is the case, what is the purpose of this legislation? Why are we going to expand the law enforcement powers of the Federal Government into what are essential State crimes when these crimes are already being handled adequately by the States? I have yet to hear a decent answer to that question.

Now, some of us may be tempted simply to vote for the Defense authorizations bill with the hate crimes provisions attached simply because the balance of the bill is good and worthy of support. Well, I worry that if we go along with this now, what will they add to so-called “must pass” bills in the future? I believe that when it comes to funding our troops, we should do our best to speak in a unified voice. By taking this path, it seems that the majority would rather make a political statement than offer the military our bipartisan support. For that, I am greatly disappointed.

OBJECTION TO S. 1782

Mr. GRASSLEY. Mr. President, I would like to alert my colleagues that I intend to object to any unanimous consent agreement for the consideration of S. 1782, the Federal Judiciary Administrative Improvements Act of 2009. This legislation will increase the Federal outlays for the judicial branch and does not have an offset to the spending increases.

In particular, I object to two provisions in S. 1782. First, this legislation will increase Federal expenditures by allowing senior executives in the Federal courts, the Federal Judicial Center, and the Sentencing Commission to carry over more annual leave days from 1 year to another. The bill would change the current allowance, 240 hours—30 days—to 720 hours—90 days. This provision is a limited benefit to a number of senior executives and will cost Federal taxpayers millions of dollars.

Second, the legislation includes a provision increasing the salaries of the four division directors at the Federal Judicial Center. This provision would increase the salary from Executive Schedule V—\$139,600—to Executive Schedule IV—\$149,000. While this is only a slight increase to the spending outlays, it is the wrong message to send the American taxpayers when nearly 10 percent of the workforce is unemployed.

Americans across the country are tightening their belts and finding ways to save money. Social Security beneficiaries are fighting to stretch their dollars because they will not see a cost-of-living increase for 2010 for the first time in nearly three decades. To

expand benefits in the judicial branch for a chosen group of senior executives is the wrong thing to do when everyone is making sacrifices and millions of Americans are looking for work.

If the Senate majority insists on offering S. 1782 for consideration notwithstanding my objection, at the very least, I will insist on offering S. 657, the Sunshine in the Courtroom Act as an amendment and request a rollcall vote. Unless this amendment is afforded a vote, I will continue to object to any unanimous consent agreement regarding S. 1782. In this time of financial uncertainty, we should not be providing senior executives in the judiciary increased benefits absent legislation that will bring some sunshine to the courts by allowing media coverage of court proceedings.

ADDITIONAL STATEMENTS

TRIBUTE TO NORTH CAROLINA WWII VETERANS

• Mrs. HAGAN. Mr. President, I am proud to recognize a group of 102 World War II veterans from the Triad region of North Carolina who are traveling to Washington, DC, on October 28 to visit the memorials and monuments that recognize the sacrifices of our Nation's invaluable servicemembers.

The Triad Flight of Honor sponsored this trip to the Nation's Capital for surviving World War II veterans in the Triad area. Our veterans will visit the World War II, Korean, Vietnam, and Iwo Jima Memorials.

This will be the second Triad Flight of Honor trip. The organization flew their inaugural group of veterans to Washington, DC, on October 3, 2009. I had the honor of visiting with that group of veterans when they returned to Greensboro, NC. I was joined by my father-in-law, MG (Ret) Charles T. Hagan, Jr., U.S. Marine Corps Reserve, a World War II veteran, just before he died. Two more Triad flights for the spring of 2010 have already been scheduled, and hundreds of veterans in the area are hoping to participate.

World War II was the defining period for a generation that bravely answered the call to serve our country. Young men and women, driven to protect America, enlisted in droves. Unfortunately, too many of those brave servicemembers met an untimely death on the battlefields of Europe and the South Pacific. More than 400,000 American servicemembers were slain during the course of the long war, and over 60 million people worldwide were killed, including 40 million civilians. The Allied Forces' ultimate victory is a testament to the brave soldiers, sailors, airmen, and marines who put their lives on the line to fight for liberty and freedom.

This week, 102 Triad veterans will see the memorials dedicated to their service. I thank the Triad Flight of Honor for making these trips a reality.