

What's more, this legislation included an across-the-board cut in all programs, and that is not a responsible budget practice. Such a cut means that 24,000 fewer children will be served by title I in their schools, 26,500 fewer veterans will get health care, and \$170 million will be lost for needed highway construction.

Under the process imposed in this must pass legislation, Senators have no chance to offer amendments or make changes. This is simply not right, and therefore, I vote no in protest. I vote no, to taking away the rights of West Virginians.

I understand that the votes are there to pass the underlying legislation to keep the government functioning and provide support to West Virginia projects. I agree that VA healthcare funding needs to be increased, but this bill falls far short. I agree with the \$1 billion increase for the Title 1 education program, but I also must point out that we are still \$6 billion short of the amount promised for the No Child Left Behind Act.

Again, my vote is a protest vote against the effort to rob West Virginia of its representation in the appropriations process and in opposition to the egregious provisions inserted into this legislation without bipartisan support, or full and fair discussion. I am pleased that after over 4 months, Federal funding is decided, but the process must be changed.

The PRESIDING OFFICER. The Senator from Kentucky.

#### PENSION FUNDING EQUITY ACT OF 2003

Mr. McCONNELL. Mr. President, pursuant to the order previously agreed to, I ask unanimous consent that the Senate now proceed to the consideration of H.R. 3108, the pension bill.

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

Pursuant to the previous order, the Committee on Finance is discharged from further consideration of the measure and the clerk will report the bill by title.

The assistant legislative clerk read as follows:

A 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.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in support of this piece of legislation. I join the Senator from Iowa, the chairman of the Finance Committee, along with the senior Senator from the Democratic party on my committee, Mr. KENNEDY, and I believe Senator BAUCUS. We worked long and hard to address this issue—and it is a critical

issue—of how we make sure the pension system in this country, or especially relating to defined benefit pensions, is maintained in a viable and strong way.

The pension system in this country is, regrettably, in trouble. But the amendment being offered today is designed to restore stability to the pension system and give us the time to solve the broad, difficult problems facing the pension system.

Last week, when the Pension Benefit Guaranty Corporation released its annual report outlining record losses, Labor Secretary Chao put the issue in proper perspective when she said:

While PBGC [Pension Benefit Guaranty Corporation] is not in crisis—the agency has sufficient assets to meet its obligations for a number of years into the future—it is clear that the financial integrity of the federal pension insurance system is at risk. It is equally clear that comprehensive reform of the nation's pension funding rules must be enacted to strengthen the financial health of the defined benefit pension system.

Time is the key thing here. That is why we need to legislate today. The amendment gives critical players the time they need in the area of reform to accomplish the changes necessary to get through this period in front of us.

There is in this bill a temporary interest rate fix which gives Congress time to review all of the options and make the right decisions on funding, reporting, and many other issues facing the troubled pension system.

There is also in this bill something called the deficit reduction contribution relief area which gives airlines and steel companies the time they need to get their affairs in order after a unique and unusual period of pressure.

Further, there is reform in the area of the multiemployer pension system which will give relief to management and labor to get their agreements in order relative to collective bargaining in order to make sure those funds are solvent.

No one—Congress, employers, nor unions—is absolved of responsibility under this amendment. By granting time, we do not reduce—that should be stressed—anyone's debts nor allow anyone to avoid liability for debts they have voluntarily accepted.

What we do is provide the necessary breathing room so reforms and repayments are made in a responsible and manageable fashion and not under the threat of "the sky is falling" situations we confront today.

The amendment has essentially four elements, as I have outlined. First is reform of the 30-year Treasury note as being the vehicle by which we assess pension funding. Second is temporary relief for specific single-employer pension plans from deficit reduction contributions, such as airlines and steel. Third is a 2-year delay in the amortization of recent investment losses experienced by multiemployer pension plans and the imposition of significant improvements in the disclosure of information requirements of those plans to their participants, which is critical.

Turning to the interest rate fix issue, this is the key issue for me. I have spoken about this a number of times on this floor. In fact, back in May I said: Now is the time to address this. I guess "now" has become now. But the fact is, we have today a system where 30-year Treasury bond rates are required in the current pension law for funding purposes.

We will replace that with a conservative rate pegged to the high-quality bond corporate basket. The reason for this is that 30-year bonds essentially do not exist anymore so we have an artificial rate under which we were requiring companies and pension funds to be funded. The practical effect of that was that the bond rate was artificially low, which meant the return on these funds was artificially low and the funding requirements became, unfortunately, in real terms, extraordinarily high and inconsistent with what a realistic rate would be.

By shifting to a corporate basket of high yield corporate bonds, we will correct this problem, significantly improve the viability of the pension system, and allow the corporations, for a period of 2 years, to use this temporary fix. It is a temporary fix.

Two years is a risk, I admit. Whether or not we can put in place the necessary law changes and reach agreement between the various players that are involved at the table, including the unions, corporations, and the guaranteed fund is a question.

It is a short timeframe to resolve this issue. I would have preferred more time so we could be sure we would reach an accommodation and a timeframe that were realistic, but that is not what others wanted. It was not what we were able to accomplish. As we all know, legislating is sometimes the art of compromise, and in this instance that was the case.

So we have a 2-year hiatus using a basket of high yield corporate bonds as the new benchmark for funding. That will be positive relief, and it will mean, in practical terms, that funds which would have been artificially flowing into funding pension funds—and unnecessarily flowing into those funds as a result of having to use the low Treasury rate—will now be flowing into capital investment which translates directly into jobs. That is what this is about, protecting jobs and protecting pensions.

The second area is the deficit reduction contribution relief function. The amendment grants 2 years of relief to the airline and steel industries from mandatory deficit reduction contributions. Other companies may also apply to the Treasury Department for similar relief. Companies getting relief must remain current on their pension obligations and cannot increase the benefits that they create under their pension funds during this period.

Airlines are the main focus of the deficit reduction contribution relief. Airlines are the main focus because of

the unique stress these companies have suffered. In recent years, profit pressures within the U.S. airline industry have been amplified by severe pricing competition, the recession, and, most importantly, by the effects of terrorism and the war in Iraq. Severe acute respiratory syndrome, SARS, also created pressure on the entire industry, especially those flying overseas.

The industry is in transition. The public has been reluctant to return since September 11 to the level of travel we had before September 11. Two airlines have already filed for bankruptcy protection. Others may follow suit. It is our intention with this amendment to ensure that pension rules are not the determining factor in selecting which airlines survive and which fail. We should not be kicking airlines over into bankruptcy on the issue of pensions. If that happens, it should be a function of their operating activity in the area of competing for passengers.

The PBGC is also concerned about the steel industry, especially two specific companies which have filed bankruptcy. Last year the agency absorbed the largest pension plan in its history when it trusteeed the Bethlehem Steel plan. Only a few steel company pension plans still exist.

The DRC portion of the amendment gives these plans in this troubled industry a chance to get their finances in order without the imminent threat of a takeover by the PBGC. The DRC provisions are important safeguards to the system and especially to the PBGC. Plans taking the relief must pay 20 percent of their obligation in the first year and 40 percent of their obligation the second year or the plan's expected current liability for the year, whichever is greater. This ensures that no plan will lose ground and become worse off than it was when we started this process. Plans that are funded at only 75 percent or less are also prohibited from increasing benefits during this 2-year moratorium. There is strict accountability. Furthermore, there has been talk of freezing the PBGC guarantee for these plans.

The multiple employer benefit plan relief is another area that this bill addresses. What the amendment does is allow plans to suspend amortizing their experience losses for 2 years. Multis may amortize experience losses over 15 years under current law. Multiemployer plans also would be required, under the amendment, to send annual notices to all participants disclosing the funding status of the plan. This is an important reform. It will mean that we will have transparency in multiemployer programs—something we don't have today—so employees can find out the status of their plans. This reform will have a very positive impact.

Without this relief, many companies participating in multiemployer plans will face significant taxes and monetary penalties. This is an attempt to address that problem over the next 2-

year period. It is done as a result of pressure which we are seeing within the industry to move out of these types of plans and, in fact, abandon the field of pensions completely in the area of defined benefits plans.

We understand that if we do not reform these plans and their funding more substantively over the 2-year hiatus being granted to us, we will have lost a huge opportunity to make available to employees effective pension benefits.

Our goal is to make sure we don't arbitrarily force a number of employers out of the pension area simply because we have an artificial rate at which they have to fund their plans; that we don't create an atmosphere where, in the area of airlines and steel, we are essentially forcing these industries into bankruptcy because of their pension structure but, at the same time, not create an atmosphere where we unduly undermine their commitment to their pension structure; thirdly, not create an atmosphere where multiemployers basically abandon the field of pension activity and we end up with many employees not having the opportunity to participate in pensions.

That is our goal. Our basic goal is to assure that we have a viable pension system for our employees and the option, as part of that viable pension system, that we have a strong defined benefit element of the system. We know, regrettably, that as we came out of the period of the bubble of the 1990s, tremendous pressure was put on these different pension plans because of their investment experience. It was not unique to pension plans. Many American citizens who invested in the 1990s found the same problem. At the end of the 1990s, most of these plans were extremely solvent and strong. Today they are weak. They need this type of relief in order to get through this period.

We have been through this type of experience before. I point to the Chrysler bailout process as an example of how the Government, through intelligent approaches toward companies that are in stress, could maintain those industries and be sure that they work their way through the process during the hard times and, as we move back into a strong economy, have the opportunity to do the reform necessary to strengthen those plans so they get them back up to speed.

This is a much more logical approach than the haphazard, sky-is-falling approach of forcing the plans through reorganizations, through dramatic funding events that are artificially created through the interest rates or by making the plans much less attractive because the pension costs are so high. So I think the bill makes sense. There is consensus on it and we should move forward with it.

Before I yield the floor, I thank the chairman of the Finance Committee for his commitment to this effort and the strong work of his staff in this

area, and the cooperation which the Health, Education, Labor, and Pensions Committee has had on this effort.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, in turn, I thank the Senator from New Hampshire as the chairman of the committee dealing with some pension legislation. I thank him for his cooperation. That cooperation has been over a long period of time, going back to at least a year when we started efforts to work together on pension legislation so we would have a solid approach on the floor of the Senate.

Mr. President, the replacement of the so-called "30-year Treasury" interest rate has reached an emergency. This is the statutory rate used to value pension liabilities.

There is an inverse relationship between interest rates and pension liabilities: As interest rates go up, pension liabilities go down. Conversely, as interest rates go down, pension liabilities go up. Small changes in interest rates mean big differences in pension contributions.

Current interest rates are at historic lows. Low interest rates have caused pension plan liabilities to skyrocket. To make matters worse, the recession that began in 2000 brought down stock values.

The combination of unusually low interest rates and the decline in stock values have combined to worsen the pension plan funding problem. Just when you think things can't get any worse, they do.

In October 2001, the U.S. Department of the Treasury discontinued the 30-year Treasury bond. The 30-year bond is the statutory rate used by pension plans to value their liabilities. While the Treasury Department still calculates the yield on the 30-year Treasury bond, the number is increasingly "soft."

To help plans cope with high funding requirements, Congress adjusted the rate to 120 percent of the 30-year Treasury shortly after the terrorist attack of September 2001. That adjustment was effective for 2002 and 2003. Plans were depending on Congress to extend that relief before December 31, 2003. We missed our deadline.

At the end of the last session, we needed unanimous consent to pass an interest rate bill, but we did not have UC to proceed. The objections were not over replacing the rate, they were over deficit reduction contribution, or "DRC relief" and over relief to multiemployer plans.

Let me talk about DRC relief for a moment. There is an honest difference of opinion in the Senate over whether or not to grant DRC relief to underfunded pension plans.

The real answer to the question of whether underfunded plans should be given DRC relief is: It depends.

If a company is otherwise healthy but in a cyclical industry, should the

combination of the economic downturn and an arbitrary pension rule force them into bankruptcy?

I respectfully suggest that DRC payments should not force an otherwise healthy company into bankruptcy. Remember, the company could survive if the Government takes its thumb off the pension DRC scale for a little while.

So what should Congress do?

The Senate Finance Committee decided that we should provide temporary relief to overburden plans. The HELP Committee did not take action on this issue.

Out of respect to the HELP Committee, we agreed to winnow back the relief to qualifying airlines and steel firms, but to allow others to apply to the Government for relief so long as they meet the qualification requirements. The bill provides only 2 years of limited DRC relief. Relief for 2004 is limited to 80 percent of the deficit reduction contribution.

In 2005, the DRC relief is further limited to only 60 percent of the otherwise payable deficit reduction contribution.

Plans that were poorly funded in 2000 are not eligible for this relief. We are concerned that for the healthy companies, the DRC creates an artificial cash demand on companies. The DRC is well-intentioned, but it may be a flawed requirement.

We wish we had time now to simply reform the DRC. If we had anticipated the amount of time it has taken us to get to this point, we would have reformed the DRC. As an alternative to reform, we are providing short-term DRC relief to qualifying companies.

Now, let me turn to the multiemployer plans.

The same fiscal and financial conditions that have caused the pension funding crisis among single-employer plans are working against the multiemployer plans.

Since we have already given 2 years of relief to single-employer plans (in 2002 and 2003), it is only fair that we now provide some relief to the multiemployer plans.

This amendment gives multiemployer plans an extra couple of years to amortize their experience losses. If we don't give them relief, excise taxes will cascade down the employers who contribute to the plan. The excise taxes and penalties will hurt the employers—not the unions. The excise taxes start at 5 percent, but they quickly increase to 100 percent.

These taxes do not help fund the pension plan. They just enrich the Federal Government.

The reason that this relief is a little different from the single-employer language is that the multiemployer plans are structured very differently than a single-employer plan.

A multiemployer plan consists of tens, or hundreds, or a thousand employers contributing to the same fund. Each employer may have a slightly different arrangement for its work force.

With all those employers and all the potential differences in the individual arrangements, the plan cannot change overnight.

The language that we are bringing to the floor gives the multiemployer plans a little extra time to rearrange their contributions and benefits before these excise taxes would take effect. It gives the plans time to go back to the bargaining table and renegotiate.

This package has been drafted to give temporary funding relief to both single-employer and multiemployer defined benefit pension plans.

Currently these plans are straining to pay their contributions. Relief is limited in duration. It will expire at the end of 2005.

Our objective is always to balance the requirement that participants' benefits be funded and guaranteed, but to do so without driving otherwise healthy employers into insolvency.

Pension funding rules need to be revised. We know that. While we work toward that goal, however, this proposal will lessen the burden that usually low interest rates place on plan funding.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I rise to speak on behalf of the members of the Finance Committee, and in particular for Senator MAX BAUCUS, and for members of our committee. I think now of our good friend and good ally to the chairman of the committee and to the other members of the Finance Committee who have been working on this legislation for a significant period of time.

Most of us remember the mishap that happened to Senator BAUCUS some time ago, during an event that very few, if any, of us would participate in—a 50-mile road race. During that race, he slipped and had a small accident, or so he thought at the time, but still continued the race. Then, because of complications that took place a number of weeks after the mishap, additional treatment and care was necessary. So he is not present with us today.

Senator BAUCUS wanted the Senate to move ahead on this legislation, which is typical of Senator BAUCUS. He encouraged us to go ahead and he told the leadership on our side and on the other side, that he wants the Senate to work its will on this legislation because it is enormously important.

All of us are very mindful today that Senator MAX BAUCUS has been facing a challenge in terms of recovery. He is doing well. He is getting better. He will soon be back with all of us.

I certainly thank him—and I think I speak for all of us on our side—for all the good work he has done in terms of the development of this legislation. His work has been indispensable and extremely important.

I also thank the chairman of the Finance Committee, Senator GRASSLEY, and the chairman of the HELP Committee, Senator GREGG, for their work

on this legislation. This legislation has an enormous impact on workers in this country, and it has an incredible impact on small businesses and other businesses in this country that are trying to be responsible and do the right thing.

All of us understand that retirement income is dependent on a three-legged stool comprised of Social Security, personal savings, and a pension. Those are the three elements which men and women, who have worked hard and played by the rules, look to in terms of their future and of their golden years. That is why it is so important that we preserve Social Security.

We are all mindful of what has happened in recent times in terms of personal savings, where savings have been reduced as a result of a lot of different factors and forces. The market has been off. And although it has come back to some extent in the last few weeks, overall there has been a loss among many of those who had 401(k)s.

Then there is the serious challenge to the whole pension system. It is indispensable that we find common ground and work to deal with this issue which is of such incredible importance. The fact we have been able to work on both sides of the aisle on this extremely important legislation is, I think, enormously significant.

The chairman of the Finance Committee and I have enjoyed working with my colleague and friend from New Hampshire, Senator GREGG. We haven't cosponsored or worked together all that many times, but I always enjoy it when we do, and even when we differ, I enjoy that as well.

I can't underscore enough the importance of this legislation, and we are extremely hopeful that the kind of agreement we have had so far will continue to be the basis of the legislation as it moves forward.

Defined benefit pension plans are, as I mentioned, a key part of retirement security for millions of Americans. They promise a monthly benefit starting at retirement and continuing for the rest of your life. Defined benefit plans are different from defined contribution plans and all the other pension plans. Only a defined benefit plan provides benefits backed by the Pension Benefit Guaranty Corporation.

Americans in every industry benefit from these plans. Nearly 35 million workers and retirees are covered by single employer plans, and 9.7 million more are covered by the multiemployer plans. One in every five workers participates in a defined benefit plan.

But today the secure retirement of these workers is at risk. As we have heard from many experts, a "perfect storm" is overtaking defined benefit plans. The longest downturn in the stock market since the Great Depression, combined with a troubled economy, and historically low interest rates have led to the underfunding of many of these pension plans, and the storm threatens to wreck the pension dreams of millions of Americans.

This amendment that Senator BAUCUS, Senator GRASSLEY, Senator GREGG, and I are offering will provide immediate short-term measures needed to deal with this temporary crisis.

The amendment has the broad support of Democrats and Republicans, employers and unions. Despite our differences, all of us agree that employees deserve to receive the benefits promised by their pension plans. To protect the security of their retirement, we need a solution, and we need it quickly.

Our amendment takes three steps to help defined benefit pension plans. First, it temporarily replaces the 30-year Treasury bond rate used to calculate employers' contributions to pension plans with a corporate bond rate.

As the interest rate on 30-year Treasury bonds has fallen, the decline has created huge uncertainties for pension plans. As many as 20 percent of defined benefit pension plans are at risk of being terminated or frozen. Temporarily replacing the 30-year Treasury bond rate will stabilize these plans and enable them to continue to provide the benefits they have promised.

Second, our bill provides for additional deficit reduction contribution relief.

Although the Bush administration keeps speaking of an economic recovery, the recent economic growth has not translated into job security for Americans—indeed, only 1,000 jobs were created in December. Many sectors, such as the airline and steel industries, continue to struggle.

The men and women in the airline industry are well aware of the threat to their jobs. Over 100,000 airline workers have lost their jobs in the last 2 years, and thousands more are accepting cuts in pay and benefits to preserve their jobs. These workers have done their part to keep the skies safe and keep their companies flying and they need our help to protect their jobs and pensions.

The steel industry is also struggling to find new ways to increase efficiency and compete in the world market. But the industry continues to face serious challenges, and relief is essential.

The deficit reduction contribution relief in our amendment would provide relief from these payments to companies that had well-funded pension plans in the past and need extra assistance now. These are companies that have met their responsibility and through the confluence of events are today challenged. This helps provide temporary relief.

This relief is needed to help protect the pensions and jobs of workers in these industries. These are industries that can come back—and must come back—to help drive our economic recovery.

Our amendment also includes important relief for the multiemployer plans, which fill major needs in our pension system by providing pensions to many low-wage workers, as well to short-term and seasonal workers who

might not otherwise be able to earn a pension.

Forty percent of these workers are in construction, building homes and offices. They worked around the clock at the World Trade Center site after the tragedy of September 11. Because many construction jobs are short term, these workers rely on multiemployer plans to guarantee their retirement.

Thirty percent of these workers are in retail or service industries. They clean hotel rooms and corporate offices. They bag groceries and serve food in restaurants. They do not have golden parachutes or executive stock options. Without a multiemployer plan, many of them would have no pension at all.

Ten percent are in the trucking services, traveling across the country at all hours of the day and night to deliver goods safely to stores, factories, and homes. A multiemployer plan helps them reach their retirement destination safely, too.

Multiemployer pension plans also help employees of small businesses. Only 8 percent of companies with fewer than 100 employees offer a defined benefit pension plan. Many small businesses find it most affordable to provide such benefits through a multiemployer plan. As one pension expert testified before the House, multiemployer plans “provide literally tens of thousands of small employers with the opportunity to provide competitive and comprehensive benefit plans to their employees . . . which would otherwise be too expensive and administratively complex for them to provide on their own.” The larger companies can provide the self-insurance, so to speak, for the pension plans. The smaller ones have to be involved in these multiemployer plans that include a variety of different companies.

Like single-employer plans, the multiemployer plans have been devastated by the stock market. Because of these losses, the plans are in trouble. The modest relief in our amendment will provide both companies and workers with more time to negotiate contracts to meet the soaring funding needs.

These three bipartisan steps provide a vital temporary solution to the problems faced by the Nation's pension plans. Once these problems have passed, more must be done to preserve and expand the defined benefit system that means so much to so many employees today. Our amendment provides 2 years of relief enough to allow us to begin.

I urge my colleagues to join in providing this much-needed protection to the millions of hard-working Americans who have worked for and earned a secure retirement.

To review the highlights of this legislation one further time, there are 35 million Americans who are covered by the single-employer defined benefit pension plans. This gives some idea of the importance. There are 9.7 million, effectively 10 million, more who are

covered by multiemployer defined benefit pension plans. This is effectively 45 million employees who are going to be affected, and obviously thousands of employers. Only defined benefit plans provide a secure monthly benefit backed by the Pension Benefit Guaranty Corporation.

What are the factors? Why is this legislation necessary? Why is it needed? I mentioned in my other comments about the “perfect storm,” the series of events which have taken place. These are the factors which have impacted these pension programs in an adverse way.

First, the prolonged downturn of the stock market during this administration, the longest since the Great Depression; extremely low 30-year Treasury bond interest rates. Bond interest rates have been low. That has had some positive impact, obviously, in terms of the refinancing of automobiles and homes, which has been extraordinarily important, but adverse in terms of these pension programs. The weak economic conditions mean the companies cannot afford to make the additional payments and pay excise taxes imposed by our pension laws. Because of the economic pressures, the companies are hard pressed to meet their responsibilities. They have been responsible in trying to set up these pension plans. They want to provide for their workers. They want to do the right thing. This helps them, at least in a temporary way, to deal with those issues.

Those are basically the reasons why this legislation is necessary. This is a temporary program, but it affects almost 45 million of our fellow Americans.

I want to mention one other factor, and that is that multiemployer plans provide literally tens of thousands of small employers with the opportunity to provide competitive, comprehensive benefit plans to their employees, which otherwise would be too expensive and administratively complex for them to provide on their own.

This really helps the small businesses in a very important way. I will give some idea to our colleagues about the people who are affected by this action. Multiemployer plans provide pensions to low-wage workers, and workers in seasonal or short-term employment. They provide pension plans for workers in many industries. 38 percent are in the construction industry, clearly the largest industry. Truck transportation is 9.8 percent; services, 15 percent; retail trade, 14.5 percent; 15.2 percent of all of those workers are in manufacturing. I think all of us understand the challenge this Nation is facing in retaining manufacturing jobs in America. This is enormously important in helping preserve it. There are a lot of different elements in terms of what we are going to have to do to preserve manufacturing jobs, but this is vital.

This chart gives the idea. It is manufacturing, it is retail and service, it is transportation, again, it is construction. For individuals who are moving

from project to project, by the nature and definition of the construction industry, they absolutely need the multi-employer plans. They work. They have been successful. But they are hard pressed, as I mentioned.

This is a balanced program. It is a temporary program. It has the broad support of employers, large and small. It has the support of workers from large companies and large unions to small companies and individual workers. It responds to a very important and significant issue, which is, I think, at the heart of the American dream, and that is how we are going to view retirement. The Greeks used to define a great civilization by how it cared for its senior citizens. These are the men and women who have sacrificed, the ones who helped bring this Nation out of recession, who fought in the various wars in which we have been involved and, most important, they have sacrificed for their children. They have sacrificed for their children's educations or for whatever challenges they had.

But they have been working hard, over a lifetime. They have been prudent and they have saved. Now, at the time when they are getting close to retirement, because of forces and factors far beyond their control—that retirement is threatened in a very significant and important way.

This legislation makes sense. It has broad support. I am hopeful we can pass it. It is necessary and it is important.

I commend our leader, Senator FRIST, for scheduling this as an early priority in this session. I think it is a matter of enormous importance and consequence, and it is a great priority. I commend the leaders for giving the Senate the opportunity to take action on it.

Mr. President, I yield.

Mr. GRASSLEY. Mr. President, I want to follow on what Senator KENNEDY said in his opening remarks about this bill being here through a great deal of cooperation between two committees, and Republicans and Democrats within those committees. It also gives me an opportunity to thank Senator BAUCUS because I always have a very close working relationship with him on our Finance Committee. This is a result of that cooperation. But, as I previously said, and it has been alluded to by Senator KENNEDY and Senator GREGG, this is an issue where two committees, the Finance Committee and the Health, Education, Labor, and Pensions Committee share jurisdiction. So we have had a remarkable cooperation between the two committees, and that includes Senator KENNEDY's cooperation to get this bill out and hopefully not only get it to the floor but that this sort of cooperation helps us expedite this bill.

This is a very important piece of legislation and is needed by a lot of segments of the economy in order to keep companies viable.

In addition, I hope we will be able to have Senator BAUCUS back with us quickly. Originally when he left the hospital we heard it might be 2 weeks' recovery. I hope that is coming along OK and he should be back here with us very shortly.

Mr. President, I will suggest the calling of a quorum.

Mr. KENNEDY. If the Senator will withhold, we understand the leaders have set this time now for debate. We are here and ready for debate and discussion. This is enormously important. The leaders wanted us to try to consider the concerns of the Members on both sides of the aisle today. We are going to be at our posts, Senator GRASSLEY and myself, today and also on Monday.

I think it was the leader's desire to stack the votes for Monday afternoon. It is now Thursday afternoon, quarter of 2. We are here and ready for action. We know some Members have spoken with us about their concerns about different provisions. We are ready to deal with those issues, or at least be able to debate them and make sure that our colleagues are going to be fully informed about them by the time we vote.

I certainly hope those who do have amendments would come over here and present them so we might be able to consider them, work on them through the afternoon or through the evening, and make as much progress as we can. I hope we are not going to be left for these to come in at a later period. We are prepared to consider these issues at the earliest possible time.

Mr. GRASSLEY. Yes, the unanimous consent provision does allow for amendments, an equal number on both sides. We hope the people who are interested in following that rule will come over. I have been told there is at least one Member on my side of the aisle who should be here shortly to offer an amendment. I urge that to happen.

Obviously, we will be glad to have debate and accommodate everybody in any way we can.

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

The PRESIDING OFFICER (Mr. ALEXANDER). Without objection, it is so ordered.

Mr. LOTT. Mr. President, what is the parliamentary situation? I wish to speak on the pending legislative issue, the pension bill. Is the floor open for comments?

The PRESIDING OFFICER. Yes, it is.

Mr. LOTT. Mr. President, I rise in support of this legislation. I commend the Senators who have been involved in working out most of the disagreements, including Senators GRASSLEY, BAUCUS, GREGG, KENNEDY, and, of

course, our leaders, Senator FRIST and Senator DASCHLE, who have all been involved in working through the difficulties of this legislation.

Quite frankly, this is complicated and difficult legislation to understand. A lot of times, people start referring to issues by acronyms such as COLA or DRC. If you are not really involved in the intricacies of pension issues and, particularly, this area of deficit reduction contribution, you can get lost in the details. You can even be misled as to what the reason for it is and what the impact will be.

I have followed this issue because I am a member of the Finance Committee, which has jurisdiction in the area of pension plan contributions, and also as chairman of the Aviation Subcommittee of the Commerce, Science, and Transportation Committee. I do believe the airline industry is in a difficult situation now, but I think they are a critical part of America's economy and our transportation system. There is no question that they have been greatly impacted by fuel costs, the events of 9/11, and even, temporarily at least, by the war in Iraq. They have been struggling to deal with those issues. They also have had mistakes in their past, in management decisions. Some of the contracts they have with labor put real pressure on them in terms of being able to make enough money to pay all the costs of delivering this service. Regardless of that, I think it is hugely important for America that we have a viable and available airline industry.

We have been doing things to try to help them. Right after 9/11, we passed major airline relief, leading up to the war in Iraq. In the aftermath of 9/11, we provided direct assistance to the airlines. Late last year, we passed the Federal Aviation Administration reauthorization, a significant multiyear legislation that was hard to get through, but we got it done. It was supported by management and labor and the administration in the end. That gives some certainty about what the administration will be doing, what they can do. We opened up some areas that needed some changes. This area is also very important to the survival of some of our airlines.

Some will argue that it gives the major airlines an advantage over the smaller airlines. I certainly am not in a position to want to do that. I want all of our airlines to be able to meet the responsibilities and commitments of their pension plans but also to be able to stay in business and provide service. We need the shorter routes, the ones that fly from point to point, and the hub airlines. I want a healthy airline industry. This is one step in that process.

Some people will attack this legislation and say the airlines brought it on themselves. Sure, they have made mistakes, but a lot of things they are being hit with cannot be put at their doorstep as being their fault. They

didn't cause 9/11. They have not been responsible for the increasing and up and down prices of fuel. A number of factors that have played into their economic situation they cannot be blamed for. They have certainly made mistakes, but this is not something they brought on. This is a requirement in the law that we put on them. This is a part of the PBGC legislation, where they have to pay into the pensions, and we capped how much they could pay in.

A few years ago, in 2000, the airlines were committed and paying, I think, 100 percent of what was needed. But in the last year or two, they have fallen under severe pressure, and, as a result of the quirks in the law, they now would have to pay an accelerated penalty, even more money, because of the 30-year Treasury bond calculation process to determine how much they paid in. That has come to a conclusion. They have to go to a new system.

My point is that I think this DRC relief is the right thing to do. It is a temporary 2-year deal. They are not absolved of all of their responsibilities. It is an 80-60 percent—80 percent relief in the first year, 60 percent in the second year, and only plans that were not subject to the deficit reduction contribution relief in 2000 would be eligible for this relief.

The plans would not be able to increase benefits if they were 75 percent funded or less. An application process would allow companies that are not in those industries to request DRC relief if they were not subject to the DRC in 2000.

This is a temporary modification to provide relief to allow airlines to work through the difficulties they are having now. I believe this relief will enable them to move forward and fulfill their commitments in the future.

It is not going to bring in all of the plans. It is targeted at airlines and steel only, and I understand only a couple of steel companies would be affected by this.

This legislation is bipartisan. Democrats and Republicans have been working to try to address some of the concerns and deal with the recognition that interest rates have contributed to this problem, stock market declines have contributed to this problem, and what would we do to be of assistance to the airlines. But it also makes sure the PBGC is not left holding the bag. I think we have come up with the right solution.

Some people will argue the DRC relief will actually worsen the financial standing of the PBGC. I am concerned about the financial stability of the PBGC, but I think this temporary, limited relief will actually be in its best interest. If we do not do this, some of these airlines will go into bankruptcy and PBGC will have an even more difficult situation on their hands. If these companies wind up taking chapter 11, then the pension fund is going to have a problem.

The point might be made: Let's wait for the bigger pension reform bill. I

know Chairman GRASSLEY and others want to have broad pension reform. We need to do that. But we are not going to be able to do it in the next month or two, and I don't even think we are going to be able to get it done this year. We need to do it. We ought to do it. This problem is imminent. If we don't act by April 1, these airlines and steel companies are going to have to pay at the accelerated rate, which they are not going to be able to do. So it is timely. We have to act now because in a very short period of time, the roof will come falling in on these companies.

I understand there may be a couple of amendments. I appreciate the fact that Members did work with me on a provision I had concerning multiemployer withdrawal liability. We worked on compromise language that is in the legislation which I think is acceptable. Many of the questions that were raised by the chairman of the Budget Committee and by Senator KYL of Arizona have been addressed. I understand they may have an amendment or two. We ought to debate those amendments and have a vote. But then I hope my colleagues will allow this legislation to move forward, go on to conference, and let's get it done in a timely fashion. It is in the best interest of the airline industry and, I believe, the PBGC, and the American taxpayer.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, is time controlled?

The PRESIDING OFFICER. It is not.

Mr. BYRD. I thank the Chair.

Is the distinguished senior Senator from Massachusetts a manager of the bill?

Mr. KENNEDY. The Senator is correct. We have had a good discussion by those who are the principal sponsors, and we are awaiting, hopefully, those who would like to amend the bill, but they have not indicated they are on their way just yet, so we have some time. If the Senator would like to speak, we obviously would like to accommodate him in any way.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I always like to be on God's side, and then I like to be on Senator KENNEDY's side. If there is a choice between the two, why, I think I will pass for the moment.

Mr. President, it is not hyperbole to suggest that the sky is falling for too many American workers. You could also say that the ship is sinking. You could say that the mine wall is collapsing, that the dam is giving way, or use any number of metaphors for a looming disaster to describe the current state of America's private pension system.

The entire system is wobbling under assaults from every direction. On the one side, the stock market plunge has left the pensions for over 44 million workers underfunded by an estimated \$350 billion. Last year, the Pension

Benefit Guaranty Corporation had to assume the pension obligations for scores of bankrupt companies, ranging from airlines to steelmakers, pushing the PBGC's balance sheet into the red by an alarming \$11.2 billion.

On the other side, the assault is coming from historically low interest rates that have triggered painful new funding requirements for employers. Even companies that want to provide for their employees find themselves unable to compete in a global marketplace against competitors unencumbered by the legacy costs of pension and health care benefits.

U.S. employers are warning they will be forced to freeze their pension plans or terminate them unless the Congress provides them with relief from their pension obligations. Yet, with \$350 billion in underfunded pensions and a growing deficit, the Federal pension insurer is warning that unless those pension obligations are funded, a massive taxpayer bailout, akin to the 1980s savings and loan crisis, is just over the horizon.

At a time when working families are looking for assurances that their pensions will be protected and their retirement will be secure, the Congress is offering neither assurances nor security. This legislation provides funding relief to employers, but it does little to ensure that the pension benefits promised to workers will be there when they retire.

While this short-term patch may be necessary to keep the ship afloat for a while longer, it does not change the fact that the ship is sinking, and the Congress has not yet readied the lifeboats.

The Congress is telling workers that once the needs of business have been addressed, then it can act to ensure their pensions are fully funded. The Congress is wagering that the pension system will stay afloat that long. It is a theme I have noticed repeatedly during the tenure of this administration. While the top of the economic pyramid receives immediate relief, the hard-working middle class is given only vague promises, uncertain promises of uncertain relief and delayed benefits. I have seen it over and over and over. The corporate elite receives immediate tax cuts, while America's working-class families, the people who work with their hands, the people who get their hands dirty, the people who are soiled in grime when it is time to go home and have supper, are told to wait, wait for the economy to survive.

The pharmaceutical industry receives billions of dollars in taxpayer subsidies while middle-class families wait endlessly for lower drug prices.

Corporate profits continue to increase while middle-class families wait for those profits to trickle down to them. In asking middle-class Americans to wait for the economy to improve, wait for health care costs to go down, wait for their wages to rise, it confirms that this administration of

corporate CEOs and Texas oilmen do not have the slightest comprehension of the plight of American workers, the people who work with their hands, who get their hands dirty, who get their fingernails dirty, whose shirt sleeves are dirty. They are the American worker.

It is a grim, bleak time for working Americans. Two and a half million jobs have disappeared under this administration's economic stewardship. Most of them are in our once powerful manufacturing sector, which has lost jobs for 41 consecutive months. Just come to West Virginia and see what has happened. The glass plants have gone. The pottery works have gone. The steel mills, to a large degree, have gone. The coal industry, which used to employ 125,000 men when I first came to Congress, today employs perhaps 15,000, 16,000, 18,000 workers who mine just as much coal as in the days when there were 125,000 men working in the mines.

Yes, 1 million jobs have been lost. Where have they gone? They have gone overseas. Eight million workers are unemployed, without hope for tomorrow, listening to their children, listening to their spouses, saying: Where will we go? What will we do? What will happen to us?

Eight million workers are unemployed. Half a million discouraged workers have dropped out of the labor pool saying there is no hope; hope is gone; the hope to which I held for these many days, these many weeks, these many months is gone. Three and a half million workers are collecting unemployment benefits, with an average 350,000 workers signing up for benefits each week. At the same time, 80,000 jobless workers are exhausting their unemployment benefits each week, forcing them to cut back on health care, forcing them to cut back on food purchases. Workers are losing their health insurance. Two and a half million more people joined the ranks of the uninsured last year, the largest single increase in a decade. Think of that.

Put yourself in the shoes of these who go to bed hungry, who go to bed with heavy burdens, the burdens of forlorn hopes. With health care costs spiraling out of control, 44 million people must do without health insurance. Retired workers are forced to do without lifesaving drugs, without digoxin, without Coumadin, without Singulair. For those workers with health insurance, the out-of-pocket costs are soaring, more than doubling for employees of large companies since 1998. Costs are up sharply and going up more, too, for workers who pay monthly premiums but rarely see a doctor. Worker pensions are in danger, with the Federal pension insurer taking over 122 plans last year, slashing the pension benefit promised to over 200,000 workers. Two million additional Americans fell into poverty in 2002.

Yes, we can afford to rebuild the oil pipeline, the oil wells in Iraq. Yes, we can afford to rebuild the infrastructure

in Iraq. What about our own people? What about our own workers, who with their sweat and their toil have built this country and made it the wonder of the world? Not coincidentally, almost 2 million workers earn wages at the statutory minimum, \$5.15 per hour. These are real people. It may be hard to comprehend that there are people who are working for that minimum wage, and that that minimum wage is the only thing that stands between them and their children and starvation. These are real people. These are real stories about working people in this land of the free, this home of the brave. These people earn their wages at the statutory minimum of \$5.15 per hour. Think of it. Their wages are eroded every year by inflation, with the real value of the minimum wage dropping. While the wealthiest taxpayers receive tens of thousands of dollars in tax cuts, the administration denies a meager \$1.50 per hour raise to our most impoverished workers. These administration people who oppose an increase in the minimum wage come from the other side of the tracks.

To quote President Franklin Roosevelt, the test of our progress is not whether we add more to the abundance of those who have much, it is whether we provide enough for those who have too little.

After three colossal tax cuts, this administration has denied much to those who have little in order to provide more to those who have much. The American worker—have you ever been a worker? The American worker has once again become the forgotten man. While the administration is offering only vague promises of hope, the American workforce is forced to endure the most hostile assault in decades. The Bush administration has tried to repeal the 40-hour workweek and strip workers of their right to overtime pay. Think of that. It has attacked the civil service system. It has repealed the safety rules necessary for the protection of America's workers. It has neglected their health and safety in the workplace. Now the administration is blocking an increase in the Federal minimum wage.

It is blocking efforts to provide unemployment benefits to jobless workers. It is trying to push through a rule to strip 8 million workers of their hard-earned overtime pay. And it does so always with the promise that these benefits for businesses and the corporate elite will one day trickle down to the middle class. This is not the record of an administration that understands the needs of working families.

Mr. KENNEDY. Will the Senator be good enough to yield?

Mr. BYRD. Yes.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Massachusetts.

Mr. KENNEDY. I commend my friend from West Virginia on speaking of the forgotten man, the worker of this country, because he has just listed the

series of actions which threaten the well-being and the livelihood of millions of families. As he says these words, I think it is important that our colleagues and the American people understand their significance.

He mentions, for example, the failure to act on the minimum wage. It has been 7 years since we have acted on an increase in the minimum wage—7 years. The purchasing power of the minimum wage now is just about as low as it has ever been. The minimum wage, as it is defined, is for people who work hard, who play by the rules. This is an issue which affects women because the majority of recipients of the minimum wage are women. It affects their children because many of the women have children. So it is a children's issue. It is a family issue. It is a civil rights issue because many of those who receive the minimum wage are men and women of color. It is a fairness issue because if you work hard and play by the rules, 40 hours a week, 52 weeks of the year, in the country that has the strongest economy in the world, that is the United States of America, you should not have to live in poverty.

We have been blocked, as the Senator remembers, by our friends on the other side from even having a vote. We have a majority in this body who support an increase, but we are blocked.

The Senator speaks about unemployment compensation. The Senator well knows there are 90,000 workers a week who are losing their unemployment compensation. Our friends on the Republican side, have blocked even a temporary extension on it—90,000 a week.

Overtime? Eight million. I discussed this earlier today. I am not sure whether the Senator is familiar, I am not sure how many Americans are familiar, with the definition of professionalism in the Labor Department's proposed regulation, which will make American workers ineligible for overtime. This definition will include training received in the Armed Forces of this country. There are 200 different training programs that men and women receive in the Armed Forces. They go for this training, they serve in Iraq with the finest military in the world, and then they come back, and are hired here, and under the Bush proposal on overtime, can be denied overtime pay because they have received training in the military.

Can someone possibly tell us why? Why would the administration include training programs in the military? An important incentive for many young people to join the military is to get the education and training. I see my friend from Tennessee, who served as a Secretary of Education. He knows the value of education and training. Here we find the training which veterans of our military have received while serving our country will make them ineligible for overtime pay. This proposed rule would also deny overtime, to firefighters, police officers, and nurses.

The Senator, when he speaks about the forgotten man, speaks wisely about his people in West Virginia, but he speaks for all those workers in my State, too, and I daresay for workers around this country. He mentions these words, these words that have real meaning: before eliminating overtime pay, consider the family that is struggling to pay the mortgage, feed their family, clothe their family—people who are working hard.

The final point I want to mention to the Senator, although I know he knows this already, is that this proposed regulation works against women. Many of the professions which will be denied overtime pay are professions dominated by women, wives, mothers, working hard, trying to provide for their families, playing by the rules.

There are many things wrong with our economy. But maybe the good Senator from West Virginia can tell me, of all the things that are wrong with our economy, why is it that singling out these working families for a reduction in pay is so important? I just cannot understand it. The Senator was here when we voted in this body against the administration's proposal. The House of Representatives voted against it. Then in the middle of the night the provision preserving overtime pay was stripped out of the omnibus bill. I know that is an enormous concern to many families.

I just want to know whether the Senator doesn't believe we ought to be addressing issues in this Congress that are necessary to protect the interests of the working people. Does he join in the challenge this presents? Does he join me in saying to those workers who are listening to the Senator from West Virginia, we are not going to let them down, we are going to battle on these issues on the days ahead?

Mr. BYRD. Mr. President, the very able Senator from Massachusetts, Mr. KENNEDY, has led this fight to increase the minimum wage time and time and time again. I admire him for it.

Yes, this administration has joined in the maiming and the raping of the Constitution and the rules of the Senate and in doing as it did with respect to the items that were changed in conference, the items that were added in conference, the items that passed each of the two Houses and were deleted in conference. What a shame. What a disgrace. I have been a Member of Congress 51 years, going into 52 years, and I have never seen such a disgraceful act as that which was done while you, the American working people out there, were asleep—were asleep. These changes were being made behind closed doors. The minority was not present.

What would John Taber, the Republican chairman of the House Appropriations Committee when I came to the House—what would he think of this underhanded method of operating? What would Joe Martin, Speaker of the House of Representatives from Massachusetts in that day—what would he

think? The Republicans of that day would not have stood for it. They believed in the American system. They believed in the Constitution. This is a disgrace. It is a shame, the way this Congress has acted, the way the Republican leadership in both Houses, and the White House, has acted in dealing with the taxpayers' money, the working people, the common people.

You know, I say to the distinguished Senator from Massachusetts, I came into this world and was an orphan after 1 year.

I grew up in a coal miner's home. I married a coal miner's daughter. Some leaders of this administration ought to know what it is to have to buy a stick of pepperoni, a piece of longhorn cheese and a box of crackers, sit down on railroad rails and eat that humble fare, and what is left put into a paper bag to eat the next morning for breakfast. This crowd down here in the White House doesn't know what it is. They come from the other side of the tracks. They do not know what it is to get their hands dirty working long hours at night, working to scratch out a living for their spouses and their children. They do not know what it is to walk into a coal miner's home and go to the cupboard and look and see what that family has left to eat. No. They grew up in the corporate boardrooms of this country. They do not know what it is.

When God turned man out of the Garden of Eden and told him to earn his bread by the sweat of his brow, that has been the lot of the workingman. Then to see that workingman further trampled by the policies and programs of this thoughtless administration is a story in itself.

This is not the record of an administration that understands the needs of working families. American workers are sinking on the *Titanic* and this administration can only promise workers to send back the lifeboats once the first-class passengers have been taken to safety.

I recall the great *Titanic*. It went down I believe on April 15, 1912. I believe 1,517 passengers and workers on that great *Titanic* went to their deaths in the depths of the deep blue ocean. Now this administration promises workers to send back the lifeboats, but only after the first-class passengers have been taken to safety.

Americans would have to look back to the Hoover administration during the nadir of the Great Depression to find an administration that has treated workers more shabbily. I grew up in that Hoover administration. The first 20 years I was in politics, I campaigned against the Hoover administration. It was gone but not forgotten. I have seen those window shades, those boarded-up windows on the store buildings and business places and homes of people in southern West Virginia. They were called "Hoover window shades."

In 1932, Presidential candidate Franklin Roosevelt blasted the Hoover administration and blasted the Repub-

lican-controlled Congress for ignoring the plight of American workers, workers who Roosevelt claimed had become the "forgotten man" under the Hoover administration's top-down economic policies.

I am glad I lived in the Great Depression. I am sorry we had to have one, but since we had one, I am glad I lived in the Great Depression. I am glad that there are a few people still alive in this country who remember the Great Depression.

The "present condition of our Nation's affairs is too serious to be viewed through partisan eyes for partisan purposes," the future President Franklin Delano Roosevelt charged. "These unhappy times call for the building of plans that rest upon the forgotten, the unorganized but the indispensable units of economic power, for plans . . . that build from the bottom up and not from the top down, that put their faith once more in the forgotten man at the bottom of the economic pyramid." The forgotten man.

I urge Senators to heed those words and to offer workers more than just ideologically based promises that would have us view the plight of America's workers from the top down, rather than from the bottom up.

This year, the Congress must extend unemployment benefits. It must protect workers' pensions. It must increase the minimum wage. It must protect the overtime pay of our Nation's workforce.

The administration has invested its energies, its resources, its political fortunes in those at the top of the economic pyramid, and this administration has abandoned—abandoned—the workers at the bottom of the economic pyramid. The elected representatives of the people in this Chamber must not do the same.

I close with Edwin Markham's poem.

#### THE RIGHT TO LABOR IN JOY

Out on the roads they have gathered,  
A hundred-thousand men,  
To ask for a hold on life as sure  
As the wolf's hold in his den.

Their need lies close to the quick of life  
As rain to the furrow sown:  
It is as meat to the slender rib,  
As marrow to the bone.

They ask but the leave to labor  
For a taste of life's delight,  
For a little salt to savor their bread,  
For houses water-tight.

They ask but the right to labor,  
And to live by the strength of their hands—  
They who have bodies like knotted oaks,  
And sinews like iron bands.

And the right of a man to labor,  
And his right to labor in joy—  
Not all your laws can strangle that right,  
Nor the gates of hell destroy.  
For it came with the making of man,  
And was kneaded into his bones,  
And it will stand at the last of things  
On the dust of crumbled thrones.

I yield the floor.

Mr. KENNEDY. 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. DASCHLE. 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. DASCHLE. Mr. President, I know we will have more opportunity to debate this legislation in the coming days. I wanted to come to the floor for a few moments to express my gratitude and my admiration to those colleagues who have worked so diligently to bring us to this point. We deal with a lot of divisive issues in the Senate. We just dealt with one moments ago, the Omnibus appropriations bill. People sometimes ask me, as I travel the country and in my home State: Why don't you all ever get together on something?

Here is an illustration where Republicans and Democrats have gotten together with a work product that I think merits our support, and I say our enthusiastic support. Senator KENNEDY, of course, one of our key sponsors of this legislation, particularly deserves great thanks and great recognition for the work he has done to get us to this point.

We have a pension time bomb in this country. That time bomb is going to explode with even greater impact on the lives of millions and millions of Americans unless we begin dealing with the issues of retirement security.

A couple of nights ago, when I had the pleasure of responding to the State of the Union, one of the points that I made and I know is shared by my colleagues, especially on this side of the aisle, is on the issue of pension security. Retirement security is increasingly becoming an issue of great interest and concern to not only our retirees but to so many of our workers who are today concerned about whether they can retire at all as a result of the problems with pensions.

I have some charts I know have already been used, but in case others missed the opportunity to walk through these charts and to hear the explanation of this legislation, I want to share a couple of observations, first about our circumstances, and then why I believe this bill is as good as it is.

This chart talks about the defined benefit plans that are currently available, and we have defined benefit plans that have worked well over the course of the last 50 or 60 years, in particular. Thirty-five million Americans are covered today by plans that have been incorporated and utilized within corporations and businesses to provide a defined benefit at retirement.

Mr. President, 9.7 million Americans are covered by multiemployer pension plans, only a fraction of what single-employer defined benefit plans entail, but both the multiemployer and single-employer plans are currently the ones that are causing employers, employees, and retirees very serious concern.

Only defined benefit plans provide a secure monthly benefit backed by the

Pension Benefit Guaranty Corporation, and that is where we begin to run into some very serious problems.

We have 35 million Americans covered by single-employer plans and 9.7 million Americans covered by multi-employer defined benefit pension plans.

What has happened, of course, over the last couple of years in particular—but it goes back longer than that—is that a perfect storm has been created that has caused grave concern to those analyzing the viability of these pension plans. The perfect storm involves a number of factors that threaten the very essence of defined benefits as we have known them now for so long.

The first factor in the defined benefit plan was a prolonged downturn of the stock market during this administration, the longest downturn we have had since the Great Depression, almost 70 years ago. We have had extremely low 30-year Treasury bond interest rates, and that, too, has contributed to the funding problems some defined benefit plans face. Then we have had weak economic conditions, which means companies cannot afford to make the payments and pay the excise tax imposed in the pension laws themselves.

So we have one of the worst economic circumstances that could possibly befall these pension plans as pension designers and pension officials were attempting to struggle with the responsibilities and the direct legal requirements provided of these pensions.

That is why this legislation is so important. This legislation addresses that perfect storm. It addresses the circumstances we are now facing across the country.

What the Grassley-Baucus-Gregg-Kennedy legislation provides is only temporary relief but, nonetheless, important and essential relief if we are going to deal with this perfect storm of circumstances.

The legislation temporarily replaces the 30-year Treasury bond with a corporate bond rate. That will help stabilize these circumstances and begin putting some greater confidence within the system.

It provides targeted additional deficit reduction contribution relief to the hardest hit industries. We can walk through those, but there are some, such as the airline industry, that are really suffering very serious consequences as a result of this perfect storm. Some industries have been hurt worse than others. Airlines, perhaps, have been hurt the hardest of all.

The legislation also provides temporary relief to the multiemployer pension plans by giving employers and workers time to negotiate changes to the contributions and benefits in order to preserve these pension plans in the first place.

Again, this is a very commonsense approach, an opportunity for us to say, at least in the short term, that we recognize the problem. We understand this is not going to be resolved with only these actions, but this will go a long

way to providing that temporary relief and that confidence that is going to be required if we can ensure we begin to turn around the circumstances we are facing in this perfect storm today.

One of the most important aspects of this legislation, in my view, is the third piece of the proposal that I have just described which deals with multi-employer plans. I am concerned, frankly, that we may sometimes minimize the importance of these plans and not fully appreciate the magnitude of their importance to millions of workers. Those 9.7 million workers have only this to fall back on. We need to be fully appreciative of the importance these plans have in the daily lives of the American workers today.

What they allow workers to do is earn pensions under many different employers, as I said a moment ago, helping workers in short-term or seasonal employment. We are talking about construction, hospitality, entertainment, sometimes retail. This is their only opportunity. They have no real access to retirement security unless they have access to a multiemployer plan. They couldn't earn pensions in the single-employer system. It doesn't exist for them. Multiemployer plans provide pensions to low-wage workers—hotel workers, restaurant workers, janitors, the people who work through the night oftentimes so that the buildings are clean when we come back; the people who oftentimes are the workers in the kitchen.

This is a critical source of pensions for employees in small businesses as well. In South Dakota, that is the bulk of our business community—small business. We have thousands and thousands of small business employees who have absolutely no access to pensions today were it not for the multiemployer system that we created.

We are talking about a serious concern and, I would say, a serious response to that concern as we consider this legislation today.

I think this chart lays out very vividly in a picture what I just described in more rhetorical terms. The multi-employer plans provide some help to workers in virtually all industries: 15.2 percent of those 9.7 million Americans are in manufacturing; 14 percent in retail trade; 15 percent in services; almost 10 percent in truck transportation; and 38 percent in construction.

This chart in particular caught my attention because we are talking about South Dakota, and we are talking about rural States in particular, but we could be talking about any State. Multiemployer plans provide literally tens of thousands of small employers with the opportunity to provide competitive, comprehensive benefit plans to their employees, which would otherwise be too expensive and administratively too complex for them to provide on their own.

As so many of my colleagues know, one of the concerns we have in our State is young people taking flight,

leaving our State, once having been educated. We oftentimes in our State compare it to a good crop. The crop is grown, it is nurtured, and then somebody from out of State comes along with a combine, harvests the grain, takes it to another country, sells it, and makes a profit.

In some ways that is a little bit like our young people. We educate them, nurture them, teach them our values, and then somebody comes along and hires them away before the first employer has a chance. One of the reasons they are able to hire them away is oftentimes they can provide better wages and better benefits.

Well, this is an opportunity for South Dakotans, South Dakota small businessmen and other rural small businesses, to say, look, we have an opportunity to keep you in our State, to provide you with a competitive pension benefit, so you do not have to leave and go to a big city. That is important as well to small businesses that otherwise are not able to be competitive.

So this is not just a retirement bill; this is not just a pension security bill. This is legislation that will provide competitiveness to small businesses, whether it is in any one of the industries I mentioned. We have to find ways to ensure that we level the playing field between big business and small. In part, this legislation will do it.

So I will end where I started. I am very appreciative of the efforts made by our colleagues to get us to this point, to contribute to public policy in a way that I think will send hope to millions of workers and retirees who are concerned about being right in the center of that perfect storm today, and, of course, to millions of small businesspeople who want very much to be able to provide benefits in a meaningful way and therefore compete, as they do so effectively each and every day, in our free market system today.

So I likely will have more to say about this legislation prior to the time we vote on final passage. I again thank my colleague Senator KENNEDY for his leadership and those who have brought us to this point. This is good legislation. It merits our support.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. SUNUNU). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## AMENDMENT NO. 2233

(Purpose: Substitute amendment to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to temporarily change the determination of the interest rate used for funding and other purposes from use of the 30-year treasury bond rate to a composite corporate bond rate, and for other purposes.)

Mr. GRASSLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Iowa [Mr. GRASSLEY], for himself, Mr. BAUCUS, Mr. GREGG, and Mr. KENNEDY, proposes an amendment numbered 2233.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

(The amendment is printed in today's RECORD under "Text of Amendments.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill 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 (Mr. CORNYN). Without objection, it is so ordered.

## AMENDMENT NO. 2234 TO AMENDMENT NO. 2233

Mr. KYL. Mr. President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 2234 to amendment No. 2233.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To limit the liability of the Pension Benefit Guaranty Corporation with respect to a plan for which a reduced deficit contribution is elected)

At the end of section 3, insert:

( ) LIMITATIONS ON PBGC LIABILITY FOR PLANS TO WHICH ALTERNATIVE DEFICIT REDUCTION CONTRIBUTION APPLIES.—

(1) IN GENERAL.—If a plan with respect to which an election under section 412(1)(12) of the Internal Revenue Code or section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section) is made terminates during the applicable period, the maximum guarantee limitation under section 4022(b)(3) of such Act, and the phase-in rate of benefit increases under paragraph (5) or (7) of section 4022(b) of such Act, shall be the limitation and rates determined as if the plan terminated on the day before the first day of the applicable period.

(2) APPLICABLE PERIOD.—For purposes of paragraph (1), the term "applicable period" means, with respect to any plan, the period—

(A) beginning on the first day of the first applicable plan year with respect to the plan, and

(B) ending on the last day of the second plan year following the last applicable plan year with respect to the plan.

For purposes of this paragraph, the term "applicable plan year" has the meaning given such term by section 412(1)(12) of the Internal Revenue Code of 1986 and section 302(d)(12) of the Employee Retirement Income Security Act of 1974 (as added by this section).

Mr. KYL. Mr. President, let me describe briefly what the background of this amendment is and what the amendment will do—the effect of the amendment is actually quite simple—and then I will discuss the reasons for it.

As you are aware, the background of this legislation is the House-passed bill, H.R. 3108. An amendment to that bill has been offered by the chairman of the Finance Committee, the ranking member, and others that would make some corrections to the House bill, H.R. 3108 and, among other things, provide for a partial waiver of some payments that otherwise would be made into the fund that helps to guarantee the pension benefits of employees.

We are aware of the fact that the Federal Government has undertaken a responsibility for ensuring that pensions which are funded by employers will actually be there when the employees need to collect on those pensions. But in some cases, corporations run out of money, go bankrupt, go out of business, or otherwise can't meet these obligations. In that situation, the Federal Government has to step in and has agreed to do so under certain terms through the Pension Benefit Guaranty Corporation. As a result, we have an obligation to ensure that the funding for these contingent liabilities is secure. Part of the way we do that is to ensure that the employers that make the obligations to their employees pay in enough money to be able to pay for the benefits they have promised.

The problem is that some of these corporations are not in very good shape. As a result, there is a fear that they are not going to be able to make the contributions they need to make in order to pay the benefits to their employees when the time comes.

As a result of this concern, what we have done is to say these corporations need to make some catchup payments to ensure the money will be there. This is necessary in part because of a technical problem in the way that the funding was fixed based upon a U.S. Government security that is no longer issued, as a result, we are having to substitute a different basis for the payment which will be a blended corporate bond rate, a technicality, but that is going to be the basis for a couple of years of contributions for corporations until another method is devised.

In the meantime, corporations whose pensions are underfunded are being required to make up some of these contributions, and it is called the deficit

reduction contribution, or the DRC, to reduce the deficit that has been created and that we need to make up if the money is going to be there for the employees when it comes time to collect their pensions.

This deficit reduction contribution, according to the amendment offered by Senators GRASSLEY, BAUCUS, GREGG, and KENNEDY, as I understand it, would apply to those entities that are 90-percent funded or less. In other words, where the plan does not fund its benefits at 100 percent, can't pay 100 percent, it can only pay 90 percent or perhaps even less. So for those entities that are in this kind of financial shape, they are going to have to make a deficit reduction contribution, a special catchup contribution.

Under the amendment, they are going to actually be given a waiver of part of this contribution. The idea is that they can't afford to make the full contribution; therefore, we are only going to make them pay part of it. In fact, we are going to waive 80 percent under the amendment—80 percent of this obligation—in the first year and 60 percent of the obligation in the second year. That means they are only making 20 percent in the first year and 40 percent in the second year of the obligation they have. These are corporations that are in difficult financial condition right now and cannot pay the full 100 cents on the dollar that their employees would be entitled to when those employees attempt to collect their pensions.

We clearly have a difficult situation here. The purpose of the amendment, obviously, is to have them pay something in and try to stay economically viable in the meantime. The concern, of course, of the Pension Benefit Guaranty Corporation and others is that all we are doing is digging the hole deeper or, in effect, throwing bad money after good is another way of putting it.

What we are doing is giving companies that might well fail a chance to incur further obligations, not pay for those obligations, and then put the taxpayers at risk for the additional obligations incurred during this 2-year period of time. That is the risk. That is the concern we have.

Clearly, if that transpired, there would be several losers. In the first place, this partial waiver would be harmful to the workers themselves because they jeopardize the expected pension benefits, especially for those workers who are supposed to receive larger pensions than the Pension Benefit Guaranty Corporation will actually guarantee.

One category of people is airline pilots, for example. So companies should be required, in my view, to fund their pension promises to their employees. They should not be excused from these promises because, in effect, what they are doing is making bargains that are easy to make with unions and with others, promising to make payments, and then saying: We are sorry, we can't

make them, but we would like to have the Federal Government bail us out.

The Pension Benefit Guaranty Corporation right now estimates \$400 billion in unfunded liabilities. That is a lot of money to be backing up. Last year their deficit was \$11.2 billion.

The amount of the waiver we are talking about is about \$16 billion in benefits. So according to the relief that is being granted by this partial deficit reduction contribution waiver, the PBGC, or the Pension Benefit Guaranty Corporation, would lose about \$16 billion worth of funding relief. That is money that obviously may be required at some future date but will not be there because we are not asking these companies to pay in that amount of money.

Another loser: We think it is unfair to the healthy plans, to those corporations and employees who have actually been part of businesses that have paid attention to their economics, have ensured they are putting enough money into their pensions to fund the benefits that their employees are due.

If the underfunded plan fails to pay the amount they are supposed to and the insurance premiums then go up, the healthy plans are the ones that end up paying that difference. I believe it is unfair to excuse these companies that have made the promises and then not require them to go ahead and pay that money and fulfill their promises.

It is also unfair to competitors. Stop and think about an airline, for example. I feel this may well be the situation because the waiver is granted to certain airline companies that need it, allegedly, and to a couple of steel companies. It is a very selected kind of waiver. The competitors of the airlines—the airlines that have been trying to watch their pennies and not overcommit themselves in their pensions—will be at a disadvantage. They have made their commitments to employees. They have paid the money into their pension plans to make sure they can pay those commitments to employees, and now their competitors, that maybe have overpromised or are now going to be underfunding, will be able to take that difference and apply it to other aspects of their business to compete with the airlines that have done a good job.

There is nothing that says they cannot take the difference and undercut the other airlines in terms of their fare structure. That could easily happen, and there is nothing we have here that precludes that from happening. That is a very big concern I have.

We should not be playing favorites, one company against another, in a particular business, and the airline business is certainly one in which this might apply. In effect, it is a backdoor bailout for some companies, those who have not been able to fund the benefits they have promised to their employees. It seems to me, therefore, another potential loser are the competitors of the airlines we would actually be bene-

fitting here. Finally, it is a big loss to the American taxpayer if the taxpayer ends up on the hook for these deficits.

As I said, the PBGC reported a deficit of \$11.2 billion in its single-employer insurance plan for fiscal year 2003, which is a record deficit. Even though it estimates it will have assets sufficient to meet obligations for the foreseeable future, the PBGC estimates the sum total of all the single-employer pension plan underfunding amounts to about \$400 billion, and it is Congress, meaning Congress on behalf of all U.S. taxpayers, who will be held responsible to bail out the Pension Guaranty Board rather than to allow the entire insurance system to collapse.

In my view, these waivers are the wrong thing to do for the employees, for the competitors, for the system, and certainly for the American taxpayer. Companies that habitually underfund plans should not be bailed out at the expense of others. I think the primary reason we are even thinking about doing this is because at least one of the companies that would be eligible simply cannot post the security or the bond that is required to obtain a general funding waiver from the Treasury Department.

Let me make a point that in the law there is already an ability of these companies to seek a waiver. It is the general waiver authority that can be sought from the Treasury Department. To do that, you have to prove some things. You have to post a bond and you have to prove some things to the Department of the Treasury. Why can't these companies go through that process? Why do they need special relief from the Congress to bail them out? Is it too much to ask that they just follow the current law and apply for the regular waiver as they have the right to do today? It seems to me that would be the appropriate way to handle this.

We have the amendment before us, and the reason I have offered this second-degree amendment is at least in one small way it limits the liability of the taxpayers should things go wrong. That is the purpose for this amendment.

Now what is it? It is called a hold-harmless provision. What it says is the PBGC, the guaranty board, would be held harmless for any benefit accruals that occurred during the waiver period—the waiver period is 2 years—or that occur 2 years after that. If a plan fails during this DRC waiver period, or within 2 years after the waiver period, then the PBGC would only have to fund the benefits that accrued up to the time the waiver was claimed. It would not have to finance any benefits that accrued after the waiver was claimed. If you stop to think about it, this makes very good sense. It is obviously important to protect the going businesses, the healthy plans, and the taxpayers with this kind of hold harmless.

One of the big dangers with this waiver of these companies that are not funding their pensions adequately is

these plans claiming the waiver are going to fail, anyway. The whole point of doing this for them is they are very close to failing, and the argument made on their behalf is they are about to fail. You do not want them to fail, do you? You do not want the Government to have to make good on all of these pension guarantees. Let's keep going for a little while longer, and if we waive the pension benefit they have to pay in, the amount of the contribution they have to pay in, then maybe they can stay in business a little longer.

Well, maybe they can; maybe they cannot. That is a big gamble we are taking. What we are saying in the legislation is, all right, we will try to help keep you afloat for another couple of years, but if you fail during that period of time or within 2 years of that period of time, we should not be on the hook. We are doing our part to bail you out, but we are not going to pay all of your past benefits, all of the benefits that have accrued to date, plus the benefits you accrue from now forward by virtue of the fact that we have put in the money, or conversely we have granted a waiver to you so you can stay in business during this period of time.

We would in effect be saying we will help you stay afloat to incur new benefits that then we are going to pay for, and it would be unfair for the taxpayers to be on the hook for that. So this hold-harmless provision would mitigate this potential. It would limit the drains on the healthy plans. It would limit the amount of the money the taxpayers would be on the hook for, and I think it is eminently fair. It seems to me to be impossible for these companies to argue that not only should they have this special benefit nobody else has, that gives them an advantage over their competitors, that keeps them in business a little while longer, not only should they have that and put at risk for the American taxpayers that they are going to have to get bailed out, but also during this period of time that they are trying to get back on their feet charge the taxpayers with the new benefits that are accrued during that period of time. That is what the hold harmless is designed to try to protect against. We will take care of the benefits you have incurred up to now, but nothing incurred from now forward during this 4-year window of time. That seems to be eminently reasonable to me, and what I hope is that even though this will not be voted on until probably next Tuesday, my colleagues could take a look at this, consider whether it is worth supporting, and perhaps we could—I will not even call a rollcall vote if Members are willing to support the amendment and we can prevail on it, but I do insist we get this passed.

There is another amendment I will file, but I do not intend to send to the desk at this time, that I think would further strengthen the situation so it is not quite as big a potential drain on

the taxpayers. It has to do with the fact that I think it totally reasonable to ask these companies if they are going to ask for this waiver today that that be it, that they not be asking for any more waivers in the future.

The other idea I have that I will perhaps offer later is a plan that accepts this DRC funding waiver we are offering in the original amendment would then not be able to apply for a general funding waiver for 2 years after the waiver period ends. Otherwise, all we are doing is essentially postponing the inevitable. If they intend to file for a general waiver after 2 years, they can clearly file for a general waiver today. If they think they can prove the case that they need to get that general waiver from the Department of the Treasury in 2 years, then they could do it today.

In effect, under the manager's amendment, they have a 2-year holiday for making their full DRC payments, which are designed to bring their plans into full funding. I believe it would be inappropriate to allow a plan that claims this 2-year DRC waiver at the end of that period to then seek the general waiver for 2 more years, and would note the fact that the companies that apply to the Treasury for this have to show there is a substantial business hardship—they ought to be able to show that—that it is temporary. If it is not temporary, then I do not know why we are throwing taxpayer money at the problem in the first place.

It is reasonable to expect the plan cannot continue unless the waiver is granted. That is in effect what at least one of these companies has been telling Members of Congress that they have to have this relief or else they are not going to be able to stay in business. At that point then the Secretary of the Treasury can demand of them some security, some kind of bond, and grant this waiver.

I do not know why that general authority in the statute today is not adequate to take care of this problem and why we have to grant this specific waiver. It seems to me if we grant this specific waiver, then it is not unfair to ask them to commit to us that they are not going to seek additional waivers after that.

But, again, that is something that I think makes sense. I may offer that amendment later. But the amendment that I do offer, which I think is eminently reasonable and which I cannot imagine my colleagues would not support, is simply an amendment that would hold the taxpayers harmless for events that occurred during the period of time this specific waiver is in effect, and for a period of 2 years after that.

I conclude by saying I think we are on a bit of a slippery slope with this entire approach. It was entirely appropriate for the House of Representatives to focus on the need for some kind of temporary substitute formula for contributions because the old formula clearly couldn't work anymore. The

Government was no longer issuing the securities on which the formula was based.

There were different choices we could have made. I thought the Treasury Department had the best solution, but that solution would have required the companies to pay in more money than they were willing to pay in. That probably is the most fiscally sound. But what was decided on as a compromise was this temporary corporate bond rate. I do not think that is enough to assure the corporation pension benefits will be secure, but that is what is before us.

By itself, I would be willing to support that for a couple of years. But what I am not willing to support is this waiver of the payment for just two companies in one business, steel, and certain airlines that say they need it and for some reason don't want to go the general waiver route. I think this is entirely too generous.

But if we are going to do that, then I say at least let's ask for a "hold harmless" during the period of the waiver and for a period of 2 years afterward so at least we, the taxpayers, are not liable for new benefits accrued during this period of time that we are trying to help these companies out. That, I think, is the least we could expect.

I hope we will have a chance to visit a little bit more on this with colleagues when they are here on Tuesday or perhaps on Monday morning, and we can have a vote at that time. Therefore, for the time being, that is the extent of my discussion on this particular amendment.

Mr. President, seeing no other Member here, 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. FRIST. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### MORNING BUSINESS

Mr. FRIST. I ask unanimous consent there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

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

#### VOTE EXPLANATION

Mr. DOMENICI. Madam President, today, Thursday, January 22, I am necessarily absent because I am needed in New Mexico. Today, President George W. Bush is visiting Roswell, NM to address the pressing issue of terrorism. Not only do I have the pleasure of welcoming the President to my home State, but I also have the distinct honor of introducing him at his speech in Roswell.

Roswell is home to the International Law Enforcement Academy and a short