

COCHRAN, Mr. JOHNSON, Mr. HATCH, Mr. KOHL, Ms. MURKOWSKI, Mrs. BOXER, Mr. INHOFE, Ms. LANDRIEU, Mr. FEINGOLD, Mr. INOUE, Mrs. LINCOLN, and Ms. MIKULSKI submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 71

Whereas today's youth are vital to the preservation of our country and will be the future bearers of the bright torch of democracy;

Whereas youth need a safe haven from various negative influences such as child abuse, substance abuse and crime, and they need to have resources readily available to assist them when faced with circumstances that compromise their safety;

Whereas the United States needs increased numbers of community volunteers acting as positive influences on the Nation's youth;

Whereas the Safe Place program is committed to protecting our Nation's most valuable asset, our youth, by offering short term "safe places" at neighborhood locations where trained volunteers are available to counsel and advise youth seeking assistance and guidance;

Whereas the Safe Place program combines the efforts of the private sector and non-profit organizations uniting to reach youth in the early stages of crisis;

Whereas the Safe Place program provides a direct way to assist programs in meeting performance standards relative to outreach and community relations, as set forth in the Federal Runaway and Homeless Youth Act guidelines;

Whereas the Safe Place placard displayed at businesses within communities stands as a beacon of safety and refuge to at-risk youth;

Whereas more than 700 communities in 41 states and more than 14,000 locations have established Safe Place programs;

Whereas more than 75,000 young people have gone to Safe Place locations to get help when faced with crisis situations;

Whereas through the efforts of Safe Place coordinators across the country each year more than one-half million students learn that Safe Place is a resource if abusive or neglectful situations exist;

Whereas increased awareness of the program's existence will encourage communities to establish Safe Places for the Nation's youth throughout the country: Now, therefore, be it

*Resolved*, That the Senate—

(1) proclaims the week of March 13 through March 19, 2005 as "National Safe Place Week" and

(2) requests that the President issue a proclamation calling upon the people of the United States and interested groups to promote awareness of and volunteer involvement in the Safe Place programs, and to observe the week with appropriate ceremonies and activities.

#### AMENDMENTS SUBMITTED AND PROPOSED

SA 42. Mr. SCHUMER (for himself, Mr. BINGAMAN, Mr. DURBIN, Mrs. FEINSTEIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes.

SA 43. Mrs. CLINTON (for herself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 256, supra; which was ordered to lie on the table.

SA 44. Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, Mr.

FEINGOLD, and Mr. DAYTON) proposed an amendment to the bill S. 256, supra.

SA 45. Mr. DORGAN (for himself, Mr. DURBIN, and Mr. BYRD) proposed an amendment to the bill S. 256, supra.

SA 46. Mr. NELSON, of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 47. Mr. SCHUMER (for himself, Mr. REID, Mr. LEAHY, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 256, supra; which was ordered to lie on the table.

SA 48. Mr. SPECTER proposed an amendment to the bill S. 256, supra.

SA 49. Mr. DURBIN (for himself, Mr. KENNEDY, and Mr. DAYTON) proposed an amendment to the bill S. 256, supra.

SA 50. Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill S. 256, supra.

#### TEXT OF AMENDMENTS

SA 42. Mr. SCHUMER (for himself, Mr. BINGAMAN, Mr. DURBIN, Mrs. FEINSTEIN, and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 205, between lines 16 and 17, insert the following:

##### SEC. 332. ASSET PROTECTION TRUSTS.

Section 548 of title 11, United States Code, as amended by this Act, is further amended by adding at the end the following:

"(e) The trustee may avoid a transfer of an interest of the debtor in property made by an individual debtor within 10 years before the date of the filing of the petition to an asset protection trust if the amount of the transfer or the aggregate amount of all transfers to the trust or to similar trusts within such 10-year period exceeds \$125,000, to the extent that debtor has a beneficial interest in the trust and the debtor's beneficial interest in the trust does not become property of the estate by reason of section 541(c)(2). For purposes of this subsection, a fund or account of the kind specified in section 522(d)(12) is not an asset protection trust."

SA 43. Mrs. CLINTON (for herself and Mr. CORZINE) submitted an amendment intended to be proposed by her to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

##### SEC. . SELF-SETTLED TRUSTS.

Section 541(c)(2) of title 11, United States Code, is amended by striking the period at the end and inserting the following:

"unless—

"(A) the settler of the trust is also a trust beneficiary;

"(B) the trust is a domestic self-settled trust; or

"(C) the trust is a foreign self-settled trust."

SA 44. Mr. KENNEDY (for himself, Mrs. CLINTON, Mr. KERRY, Ms. MIKULSKI, Mr. FEINGOLD, and Mr. DAYTON) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

At the appropriate place, insert the following:

#### TITLE —FEDERAL MINIMUM WAGE

##### SEC. .01. SHORT TITLE.

This Act may be cited as the "Fair Minimum Wage Act of 2005".

##### SEC. .02. MINIMUM WAGE.

(a) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

"(1) except as otherwise provided in this section, not less than—

"(A) \$5.85 an hour, beginning on the 60th day after the date of enactment of the Fair Minimum Wage Act of 2005;

"(B) \$6.55 an hour, beginning 12 months after that 60th day; and

"(C) \$7.25 an hour, beginning 24 months after that 60th day;"

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 60 days after the date of enactment of this Act.

##### SEC. .03. APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.

(a) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(b) TRANSITION.—Notwithstanding subsection (a), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(1) \$3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(2) increased by \$0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

SA 45. Mr. DORGAN (for himself, Mr. DURBIN, and Mr. BYRD) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

Add at the end the following:

#### TITLE XVI—SPECIAL COMMITTEE OF SENATE ON WAR AND RECONSTRUCTION CONTRACTING

##### SEC. 1601. FINDINGS.

Congress makes the following findings:

(1) The wars in Iraq and Afghanistan have exerted very large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States.

(2) Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds.

(3) Waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war.

(4) The magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch.

(5) The Senate Special Committee to Investigate the National Defense Program, popularly known as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also be extended to wartime and postwar reconstruction activities.

(6) The Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollars.

(7) The public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent.

#### **SEC. 1602. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.**

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting (hereafter in this title referred to as the "Special Committee").

#### **SEC. 1603. PURPOSE AND DUTIES.**

(a) **PURPOSE.**—The purpose of the Special Committee is to investigate the awarding and performance of contracts to conduct military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(b) **DUTIES.**—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or noncompetitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) **INVESTIGATION OF WASTEFUL AND FRAUDULENT PRACTICES.**—The investigation by the Special Committee of allegations of wasteful and fraudulent practices under subsection (b)(6) shall include investigation of allegations regarding any contract or spending entered into, supervised by, or otherwise involving the Coalition Provisional Authority, regardless of whether or not such contract or spending involved appropriated funds of the United States.

(d) **EVIDENCE CONSIDERED.**—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a) and any contract or spending covered by subsection (c).

#### **SEC. 1604. COMPOSITION OF SPECIAL COMMITTEE.**

(a) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) **DATE.**—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) **VACANCIES.**—Any vacancy in the Special Committee shall not affect its powers,

but shall be filled in the same manner as the original appointment.

(c) **SERVICE.**—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) **CHAIRMAN AND RANKING MEMBER.**—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) **QUORUM.**—

(1) **REPORTS AND RECOMMENDATIONS.**—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) **TESTIMONY.**—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) **OTHER BUSINESS.**—A majority of the members of the Special Committee, or  $\frac{1}{2}$  of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

#### **SEC. 1605. RULES AND PROCEDURES.**

(a) **GOVERNANCE UNDER STANDING RULES OF SENATE.**—Except as otherwise specifically provided in this resolution, the investigation, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) **ADDITIONAL RULES AND PROCEDURES.**—The Special Committee may adopt additional rules or procedures if the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

#### **SEC. 1606. AUTHORITY OF SPECIAL COMMITTEE.**

(a) **IN GENERAL.**—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) **HEARINGS.**—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Special Committee considers advisable.

(c) **ISSUANCE AND ENFORCEMENT OF SUBPOENAS.**—

(1) **ISSUANCE.**—Subpoenas issued under subsection (b) shall bear the signature of the Chairman of the Special Committee and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) **ENFORCEMENT.**—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated

place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) **MEETINGS.**—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

#### **SEC. 1607. REPORTS.**

(a) **INITIAL REPORT.**—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section 1603 not later than 270 days after the appointment of the Special Committee members.

(b) **UPDATED REPORT.**—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) **ADDITIONAL REPORTS.**—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) **FINDINGS AND RECOMMENDATIONS.**—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 1603.

(e) **DISPOSITION OF REPORTS.**—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

#### **SEC. 1608. ADMINISTRATIVE PROVISIONS.**

(a) **STAFF.**—

(1) **IN GENERAL.**—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) **APPOINTMENT OF STAFF.**—

(A) **IN GENERAL.**—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) **MAJORITY STAFF.**—The majority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) **MINORITY STAFF.**—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) **NONDESIGNATED STAFF.**—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) **COMPENSATION.**—

(1) **MAJORITY STAFF.**—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) **MINORITY STAFF.**—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) **NONDESIGNATED STAFF.**—The chairman and ranking member shall jointly fix the compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) **REIMBURSEMENT OF EXPENSES.**—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) **PAYMENT OF EXPENSES.**—There shall be paid out of the applicable accounts of the

Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

#### SEC. 1609. TERMINATION.

The Special Committee shall terminate on February 28, 2007.

#### SEC. 1610. SENSE OF SENATE ON CERTAIN CLAIMS REGARDING THE COALITION PROVISIONAL AUTHORITY.

It is the sense of the Senate that any claim of fraud, waste, or abuse under the False Claims Act that involves any contract or spending by the Coalition Provisional Authority should be considered a claim against the United States Government.

**SA 46.** Mr. NELSON of Nebraska submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 244, after line 22, add the following:

#### SEC. 448. COMPENSATION OF BANKRUPTCY TRUSTEES.

Section 330(b)(2) of title 11, United States Code, is amended—

(1) by striking “\$15” the first place it appears and inserting “\$55”; and

(2) by striking “rendered.” and all that follows through “\$15” and inserting “rendered, which”.

**SA 47.** Mr. SCHUMER (for himself, Mr. REID, Mr. LEAHY, and Mrs. MURRAY) submitted an amendment intended to be proposed by him to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; which was ordered to lie on the table; as follows:

On page 205, between lines 16 and 17, insert the following:

#### SEC. 332. NONDISCHARGEABILITY OF DEBTS INCURRED THROUGH VIOLATIONS OF LAWS RELATING TO THE PROVISION OF LAWFUL GOODS AND SERVICES.

Section 523(a) of title 11, United States Code, as amended by this Act, is further amended—

(1) in paragraph (18), by striking “or” at the end;

(2) in paragraph (19), by striking the period at the end and inserting “; or”; and

(3) by inserting after paragraph (19) the following:

“(20) that results from any judgment, order, consent order, or decree entered in any Federal or State court, or contained in any settlement agreement entered into by the debtor, including any court ordered damages, fine, penalty, citation, or attorney fee or cost owed by the debtor, arising from—

“(A) an action alleging the violation of any Federal, State, or local statute, including but not limited to a violation of section 247 or 248 of title 18, that results from the debtor’s—

“(i) harassment of, intimidation of, interference with, obstruction of, injury to, threat to, or violence against, any person—

“(I) because that person provides, or has provided, lawful goods or services;

“(II) because that person is, or has been, obtaining lawful goods or services; or

“(III) to deter that person, any other person, or a class of persons, from obtaining or providing lawful goods or services; or

“(ii) damage to, or destruction of, property of a facility providing lawful goods or services; or

“(B) a violation of a court order or injunction that protects access to—

“(i) a facility that provides lawful goods or services; or

“(ii) the provision of lawful goods or services.

Nothing in paragraph (20) shall be construed to affect any expressive conduct (including peaceful picketing or other peaceful demonstration) protected from legal prohibition by the first amendment to the Constitution of the United States.”.

**SA 48.** Mr. SPECTER proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 194, strike line 13 and all that follows through page 195, line 22, and insert the following:

#### SEC. 325. UNITED STATES TRUSTEE PROGRAM FILING FEE INCREASE.

(a) ACTIONS UNDER CHAPTER 7, 11, OR 13 OF TITLE 11, UNITED STATES CODE.—Section 1930(a) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) For a case commenced under—

“(A) chapter 7 of title 11, \$200; and

“(B) chapter 13 of title 11, \$150.”; and

(2) in paragraph (3), by striking “\$800” and inserting “\$1000”.

(b) UNITED STATES TRUSTEE SYSTEM FUND.—Section 589a(b) of title 28, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

“(1)(A) 40.63 percent of the fees collected under section 1930(a)(1)(A) of this title; and

“(B) 70.00 percent of the fees collected under section 1930(a)(1)(B);”;

(2) in paragraph (2), by striking “one-half” and inserting “75 percent”; and

(3) in paragraph (4), by striking “one-half” and inserting “100 percent”.

(c) COLLECTION AND DEPOSIT OF MISCELLANEOUS BANKRUPTCY FEES.—Section 406(b) of the Judiciary Appropriations Act, 1990 (28 U.S.C. 1931 note) is amended by striking “pursuant to 28 U.S.C. section 1930(b)” and all that follows through “28 U.S.C. section 1931” and inserting “under section 1930(b) of title 28, United States Code, 31.25 of the fees collected under section 1930(a)(1)(A) of that title, 30.00 percent of the fees collected under section 1930(a)(1)(B) of that title, and 25 percent of the fees collected under section 1930(a)(3) of that title shall be deposited as offsetting receipts to the fund established under section 1931 of that title”.

(d) SUNSET DATE.—The amendments made by subsections (b) and (c) shall be effective during the 2-year period beginning on the date of enactment of this Act.

(e) USE OF INCREASED RECEIPTS.—

(1) JUDGES’ SALARIES AND BENEFITS.—The amount of fees collected under paragraphs (1) and (3) of section 1930(a) of title 28, United States Code, during the 5-year period beginning on the date of enactment of this Act, that is greater than the amount that would have been collected if the amendments made by subsection (a) had not taken effect shall be used, to the extent necessary, to pay the salaries and benefits of the judges appointed pursuant to section 1223 of this Act.

(2) REMAINDER.—Any amount described in paragraph (1), which is not used for the purpose described in paragraph (1), shall be deposited into the Treasury of the United

States to the extent necessary to offset the decrease in governmental receipts resulting from the amendments made by subsections (b) and (c).

**SA 49.** Mr. DURBIN (for himself, Mr. KENNEDY, and Mr. DAYTON) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 499, strike line 3 and all that follows through page 500, line 2, and insert the following:

#### SEC. 1402. FRAUDULENT TRANSFERS AND OBLIGATIONS.

(a) FEDERAL FRAUDULENT TRANSFER AMENDMENTS.—Section 548 of title 11, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking “one year” and inserting “4 years”;

(B) in subparagraph (A), by striking “or” at the end;

(C) in subparagraph (B), by striking the period at the end and inserting “; or”; and

(D) by adding at the end the following:

“(C) made an excess benefit transfer or incurred an excess benefit obligation to an insider, if the debtor—

“(i) was insolvent on the date on which the transfer was made or the obligation was incurred; or

“(ii) became insolvent as a result of the transfer or obligation.”;

(2) in subsection (b), by striking “one year” and inserting “4 years”; and

(3) in subsection (d)(2)—

(A) in subparagraph (C), by striking “and” at the end;

(B) in subparagraph (D), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following:

“(E) the terms ‘excess benefit transfer’ and ‘excess benefit obligation’ mean—

“(i) a transfer or obligation, as applicable, to an insider, general partner, or other affiliated person of the debtor in an amount that is not less than 10 times the amount of the mean transfer or obligation of a similar kind given to nonmanagement employees during the calendar year in which the transfer is made or the obligation is incurred; or

“(ii) if no such similar transfers were made to, or obligations incurred for the benefit of, such nonmanagement employees during such calendar year, a transfer or obligation that is in an amount that is not less than 25 percent more than the amount of any similar transfer or obligation made to or incurred for the benefit of such insider, partner, or other affiliated person of the debtor during the calendar year before the year in which such transfer is made or obligation is incurred.”.

(b) FAIR TREATMENT OF EMPLOYEE BENEFITS.—

(1) DEFINITION OF CLAIM.—Section 101(5) of title 11, United States Code, is amended—

(A) in subparagraph (A), by striking “or” at the end;

(B) in subparagraph (B), by inserting “or” after the semicolon; and

(C) by adding at the end the following:

“(C) right or interest in equity securities of the debtor, or an affiliate of the debtor, held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2))), including an employee stock ownership plan, for the benefit of an individual who is not an insider, officer, or director of the debtor, if such securities were attributable to—

“(i) employer contributions by the debtor or an affiliate of the debtor other than elective deferrals (within the meaning of section 402(g) of the Internal Revenue Code of 1986), and any earnings thereon; and

“(ii) elective deferrals (and any earnings thereon) that are required to be invested in such securities under the terms of the plan or at the direction of a person other than the individual or any beneficiary, except that this subparagraph shall not apply to any such securities during any period during which the individual or any beneficiary has the right to direct the plan to divest such securities and to reinvest an equivalent amount in other investment options of the plan.”

(2) PRIORITIES.—Section 507(a) of title 11, United States Code, is amended—

(A) by redesignating paragraphs (8) and (9) as paragraphs (9) and (10), respectively;

(B) by redesignating paragraphs (6) and (7), as redesignated by section 212, as paragraphs (7) and (8), respectively;

(C) in paragraph (7), as so redesignated, by striking “Sixth” and inserting “Seventh”;

(D) in paragraph (8), as so redesignated, by striking “Seventh” and inserting “Eighth”;

(E) in paragraph (9), as so redesignated, by striking “Eighth” and inserting “Ninth”;

(F) in paragraph (10), as so redesignated, by striking “Ninth” and inserting “Tenth”; and

(G) by striking paragraph (5), as redesignated by section 212, and inserting the following:

“(5) Fifth, allowed unsecured claims for contributions to an employee benefit plan—

“(A) arising from services rendered before the date of the filing of the petition or the date of the cessation of the debtor’s business, whichever occurs first; but only

“(B) for each such plan, to the extent of—

“(i) the number of employees covered by each such plan multiplied by \$15,000; less

“(ii) the aggregate amount paid to such employees under paragraph (4), plus the aggregate amount paid by the estate on behalf of such employees to any other employee benefit plan.

“(6) Sixth, allowed claims with respect to rights or interests in equity securities of the debtor, or an affiliate of the debtor, that are held in a pension plan (within the meaning of section 3(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)) and section 101(5)(C) of this title), without regard to when services were rendered, and measured by the market value of the stock at the time the stock was contributed to, or purchased by, the plan.”

**SA 50.** Mr. REID (for Mr. BAUCUS) proposed an amendment to the bill S. 256, to amend title 11 of the United States Code, and for other purposes; as follows:

On page 47, strike lines 12 through 14, and insert the following:

**SEC. 202. EFFECT OF DISCHARGE.**

Section 524 of title 11, United States Code, is amended—

(1) in subsection (g)(1), by adding at the end the following:

“(C)(i) Congress finds that—

“(I) the vermiculite ore mined and milled in Libby, Montana, was contaminated by high levels of asbestos, particularly tremolite asbestos;

“(II) the vermiculite mining and milling processes released thousands of pounds of asbestos-contaminated dust into the air around Libby, Montana, every day, exposing mine workers and Libby residents to high levels of asbestos over a prolonged period of time;

“(III) the responsible party has known for over 50 years that there are severe health risks associated with prolonged exposure to asbestos, including higher incidences of asbestos related disease such as asbestosis, lung cancer, and mesothelioma;

“(IV) the responsible party was aware of accumulating asbestos pollution in Libby, Montana, but failed to take any corrective action for decades, and once corrective action was taken, it was inadequate to protect workers and residents and asbestos-contaminated vermiculite dust continued to be released into the air in and around Libby, Montana, until the early 1990s when the vermiculite mining and milling process was finally halted;

“(V) current and former residents of Libby, Montana, and former vermiculite mine workers from the Libby mine suffer from asbestos related diseases at a rate 40 to 60 times the national average, and they suffer from the rare and deadly asbestos-caused cancer, mesothelioma, at a rate 100 times the national average;

“(VI) the State of Montana and the town of Libby, Montana, face an immediate and severe health care crisis because—

“(aa) many sick current and former residents and workers who have been diagnosed with asbestos-related exposure or disease cannot access private health insurance;

“(bb) the costs to the community and State government related to providing health coverage for uninsured sick residents and former mine workers are creating significant pressures on the State’s Medicaid program and threaten the viability of other community businesses;

“(cc) asbestos-related disease can have a long latency period; and

“(dd) the only significant responsible party available to compensate sick residents and workers has filed for bankruptcy protection; and

“(VII) the responsible party should recognize that it has a responsibility to work in partnership with the State of Montana, the town of Libby, Montana, and appropriate health care organizations to address escalating health care costs caused by decades of asbestos pollution in Libby, Montana.

“(ii) In this subparagraph—

“(I) the term ‘asbestos related disease or illness’ means a malignant or non-malignant respiratory disease or illness related to tremolite asbestos exposure;

“(II) the term ‘eligible medical expense’ means an expense related to services for the diagnosis or treatment of an asbestos-related disease or illness, including expenses incurred for hospitalization, prescription drugs, outpatient services, home oxygen, respiratory therapy, nursing visits, or diagnostic evaluations;

“(III) the term ‘responsible party’ means a corporation—

“(aa) that has engaged in mining vermiculite that was contaminated by tremolite asbestos;

“(bb) whose officers or directors have been indicted for knowingly releasing into the ambient air a hazardous air pollutant, namely asbestos, and knowingly endangering the residents of Libby, Montana and the surrounding communities; and

“(cc) for which the Department of Justice has intervened in a bankruptcy proceeding; and

“(IV) the term ‘Trust Fund’ means the health care trust fund established pursuant to clause (iii).

“(iii) A court may not enter an order confirming a plan of reorganization under chapter 11 involving a responsible party or issue an injunction in connection with such order unless the responsible party—

“(I) has established a health care trust fund for the benefit of individuals suffering from an asbestos related disease or illness; and

“(II) has deposited not less than \$250,000,000 into the Trust Fund.

“(iv) Notwithstanding any other provision of law, any payment received by the United States for recovery of costs associated with the actions to address asbestos contamination in Libby, Montana, as authorized by the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), shall be deposited into the Trust Fund.

“(v) An individual shall be eligible for medical benefit payments, from the Trust Fund if the individual—

“(I) has an asbestos related disease or illness;

“(II) has an eligible medical expense; and

“(III)(aa) was a worker at the vermiculite mining and milling facility in Libby, Montana; or

“(bb) lived, worked, or played in Libby, Montana for at least 6 consecutive months before December 31, 2004.”; and

(2) by adding at the end the following:

**NOTICES OF HEARINGS/MEETINGS**

**SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS**

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that S. 476, to authorize the Boy Scouts of America to exchange certain land in the State of Utah acquired under the Recreation and Public Purposes Act; and S. 485, to reauthorize and amend the National Geologic Mapping Act of 1992, have been added to the agenda for the hearing previously scheduled before the Subcommittee on Public Lands and Forests, on Tuesday, March 8, at 10 a.m. in room SD-366 of the Dirksen Senate Office Building.

**AUTHORITY FOR COMMITTEES TO MEET**

**COMMITTEE ON ARMED SERVICES**

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on March 3, 2005, at 9:30 a.m., in open session to receive testimony on the Defense Authorization Request for fiscal year 2006 and the Future Years Defense Program.

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

**COMMITTEE ON ENERGY AND NATURAL RESOURCES**

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, March 3, at 10 a.m., to receive testimony on the President’s proposed budget for fiscal year 2006 for the Department of Energy.

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

**COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS**

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Thursday, March 3, 2005, at 3 p.m., to conduct a hearing regarding S. 131, Clear Skies Act of 2005.

The hearing will be held in SD 406.