making certain payments to an insider, absent certain findings by the court.

Section 302 amends section 503(c)(1), which prohibits such payments when they are intended to induce the insider to remain with the debtor's business, in several respects. First, it expands the provision so that it applies a debtor's senior executive officer and any of the debtor's 20 next most highly compensated employees or consultants. Second, it clarifies that the provision prohibits the payment of performance or incentive compensation, a bonus of any kind, and other financial returns designed to replace or enhance incentive, stock, or other compensation in effect prior to the commencement of the case. And, third, it specifies that the court's findings must be based on clear and convincing evidence in the record.

In addition, section 302 also amends Bankruptcy Code section 503(c)(3), which prohibits other transfers made or obligations incurred outside of the debtor's ordinary course of business and not justified by the facts and circumstances of the case, including transfers made and obligations incurred for the benefit of the debtor's officers, managers or consultants hired postpetition.

Section 302 replaces section 503(c)(3) with a provision prohibiting other transfers or obligations incurred to or for the benefit of insiders, senior executive officers, managers or consultants providing services to the debtor unless they meet certain criteria. First, the court must find, based on clear and convincing evidence (without deference to the debtor's request for authorization to make such payments), that such payments are essential to the survival of the debtor's business or, in the case of a liquidation, essential to the orderly liquidation of the debtor's business and maximization of the value of the debtor's assets. Second, the services for which compensation is sought must be essential in nature. Third, such payments must be reasonable compared to individuals holding comparable positions at comparable companies in the same industry and not disproportionate in light of economic concessions made by the debtor's nonmanagement workforce during the case.

Sec. 303. Assumption of Executive Retirement Plans. Section 303 amends Bankruptcy Code section 365, which sets forth the criteria pursuant to which executory contracts and unexpired leases may be assumed and rejected, to add two provisions. New subsection (q) provides that no deferred compensation arrangement for the benefit of a debtor's insiders, senior executive officers, or any of the 20 next most highly compensated employees may be assumed if a defined benefit pension plan for the debtor's employees has been terminated pursuant to section 4041 or 4042 of ERISA on or after the commencement of the case or within 180 days prior to the commencement of the case.

New subsection (r) provides that no plan, fund, program, or contract to provide retiree benefits for insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor may be assumed if the debtor: (1) has obtained relief under subsection (g) or (h) of section 1114 to impose reductions in retiree benefits; (2) has obtained relief under subsection (d) or (e) of section 1113 to impose reductions in the health benefits of the debtor's active employees; or (3) or reduced or eliminated active employee or retiree benefits within 180 days prior to the commencement of the case.

Sec. 304. Recovery of Executive Compensation. Section 304 adds a new provision to the Bankruptcy Code. New section 563(a) provides that if a debtor reduces its contractual obligations under a collective bargaining agreement pursuant to section 1113(d), or retiree benefits pursuant to section 1114(g), then the court, as part of the order granting such relief, must make certain determinations. The court must determine the percentage of diminution in the value of the obligations as a result of such relief. In making this determination, the court must include any reduction in benefits as a result of the termination pursuant to section 4041 or 4042 of ERISA of a defined benefit plan administered by the debtor, or for which the debtor is a contributing employer, effective at any time within 180 days prior to the commencement of the case. The court may not take into consideration pension benefits paid or payable under title IV of ERISA as a result of such termination.

If a defined benefit pension plan administered by the debtor, or for which the debtor is a contributing employer, is terminated pursuant to section 4041 or 4042 of ERISA, effective at any time within 180 days prior to the commencement of the case, and the debtor has not obtained relief under section 1113(d), or section 1114(g), new section 563(b) requires the court, on motion of a party in interest, to determine the percentage in diminution in the value of benefit obligations when compared to the total benefit liabilities prior to such termination. The court may not take into account pension benefits paid or payable pursuant to title IV of ERISA as a result of such termination.

After such percentage diminution in value is determined, new section 563(c) provides that the estate has a claim for the return of the same percentage of the compensation paid, directly or indirectly (including any transfer to a self-settled trust or similar device, or to a nonqualified deferred compensation plan under section 409A(d)(1) of the Internal Revenue Code of 1986) to certain individuals. These individuals include: (1) any officer of the debtor serving as a member of the debtor's board of directors within the year before the filing of the case; and (2) any individual serving as chairman or as lead director of the board of directors at the time when relief under section 1113 or section 1114 is granted, or if no such relief has been granted, then the termination of the defined benefit plan.

New section 563(d) provides that a trustee or committee appointed pursuant to section 1102 may commence an action to recover such claims. If neither commences such action by the first date set for the confirmation hearing, any party in interest may apply to the court for authority to recover such claims for the benefit of the estate. The costs of recovery must be borne by the estate.

New section 563(e) prohibits the court from awarding postpetition compensation under section 503(c) or otherwise to any person subject to the provisions of section 563(c) if there is a reasonable likelihood that such compensation is intended to reimburse or replace compensation recovered by the estate pursuant to section 563.

Sec. 305. Preferential Compensation Transfer. Bankruptcy Code section 547 authorizes preferential transfers to be avoided. Section 305 adds a new subsection to section 547 to permit the avoidance of a transfer to or for the benefit of an insider (including an obligation incurred for the benefit of an insider under an employment contract) made in anticipation of bankruptcy. The provision also permits the avoidance of a transfer made in anticipation of a bankruptcy to a consultant who is formerly an insider and who is retained to provide services to an entity that becomes a debtor (including an obligation under a contract to provide services to such entity or to a debtor) made or incurred within one year before the filing of the bankruptcy case. In addition, new section 547(j) provides that no provision of section 547(c) (specifying certain exceptions to section 547) may be utilized as a defense. Further, section 547(j) permits the trustee or a committee to commence such avoidance action. If neither do so as of the date of the commencement of the confirmation hearing, any party in interest may apply to the court for authority to recover the claims for the benefit of the estate. The costs of recovery must be borne by the estate.

TITLE IV—OTHER PROVISIONS

Sec. 401. Union Proof of Claim. Section 401 amends Bankruptcy Code section 501(a) to permit a labor organization (in addition to a creditor or indenture trustee) to file a proof of claim.

Sec. 402. Exception from Automatic Stay. Section 402 amends Bankruptcy Code section 362(b) to create an additional exception to the automatic stay with respect to the commencement or continuation of a grievance, arbitration or similar dispute resolution proceeding established by a collective bargaining agreement that was or could have been commenced against the debtor before the filing of the bankruptcy case. The exception also applies to the payment or enforcement of awards or settlements of such proceeding.

CORAL REEF CONSERVATION ACT REAUTHORIZATION AND ENHANCEMENT AMENDMENTS OF 2013

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Ms. BORDALLO. Mr. Speaker, today I reintroduced a bill to amend and reauthorize the Coral Reef Conservation Act of 2000. Conservation of coral reef ecosystems is essential to protect public health, promote environmental sustainability, and ensure long-term economic progress for the jurisdictions we represent in Congress. The sovereign waters of the United States off the coast of Guam, and in the Pacific region as a whole, contain a majority of the shallow-water coral reefs in the United States, as well as some of the world's greatest coral reef biodiversity. These reefs, and reefs around the world, provide habitat and shelter for fisheries, provide food and recreation for our residents, and are the basis for marine tourism industries.

Coral reefs also provide important mitigation from extreme weather events, including hurricanes and typhoons, by absorbing up to 90% of wave energy, mitigating some of the most costly aspects of severe storms. Coastal storms account for 71% of annual disaster losses. Healthy reef systems may protect an estimated $47,000 of property value for every meter of reef during severe weather events.

Today, however, various pressures on the world's reefs threaten to destroy them and the numerous ecosystem services, valued at over $8 billion, which they provide. These threats have led the National Oceanic and Atmospheric Administration to propose that 54 species be listed as threatened and 12 species be listed as endangered under the Endangered Species Act of 1973. Unless the United States acts in conjunction with the global community to support focused, prolonged action on coral reef education, research, and management, the condition of our coral reefs will continue to degrade.

Since its enactment in 2000, the Coral Reef Conservation Act has stimulated a greater commitment to protect, conserve, and restore coral reef resources within jurisdictional waters of the United States. As a result, we now have a much better grasp of the condition of our coral reefs, and more focused management capability than at any time in our history. The Coral Reef Conservation Act Reauthorization and Enhancement Amendments of 2013 expands emergency response mechanisms, establishes a new community-based planning grants program, promotes international cooperation, and recognizes the important contributions of the U.S. Department of the Interior in coral reef management and conservation efforts. The bill does not authorize any new funding.

This bill would also codify the United States Coral Reef Task Force established in 1998 by President Clinton through Executive Order 13089. The work of the Task Force and its mission to coordinate the efforts of the United States in promoting conservation and the sustainable use of coral reefs internationally is vital to our interests. Since 1998, the Task Force has acted to facilitate and support better management and conservation of coral reef resources at the local level. Many beneficial efforts, such as the development and implementation of local action strategies to address threats to our reefs, are underway thanks to the work of the Task Force and its member agencies.

I would like to thank Reps. PIERLUISI, FARR, CHRISTENSEN, and WASSERMAN SCHULTZ for joining me as original cosponsors and I look forward to working with my colleagues on both sides of the aisle to advance this legislation to enhance our capacity for the conservation and restoration of healthy and diverse coral reef ecosystems.

OUR UNCONSCIONABLE NATIONAL DEBT

HON. MIKE COFFMAN

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. COFFMAN. Mr. Speaker, on January 3, 2009, the day I took office, the national debt was $10,627,961,295,930.67.

Today, it is $16,432,705,914,255.48. We've added $5,804,744,618,324.81 to our debt in 4 years. This is a $5.8 trillion in debt our nation, our economy, and our children could have avoided with a Balanced Budget Amendment. I have advocated for a Balanced Budget Amendment since I was sworn in for this very reason.

I will be once more forming the Balanced Budget Amendment Caucus to fight for a return to fiscal responsibility. We must stop this unconscionable accumulation of debt.

INTRODUCTION OF THE HEALTH INSURANCE INDUSTRY ANTITRUST ENFORCEMENT ACT OF 2013

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. CONYERS. Mr. Speaker, today I am pleased to introduce the Health Insurance Industry Antitrust Enforcement Act of 2013.

This bill would level the playing field between health care professionals and insurance companies in the health care industry and improve the quality of patient care. The Health Insurance Industry Antitrust Enforcement Act of 2013 would eliminate the antitrust immunity provided under the McCarran-Ferguson Act for price fixing, bid rigging, and market allocation by health insurance issuers or medical malpractice insurers. The bill would also repeal the McCarran-Ferguson exemption for the business of health insurance and enable enforcement by the Federal Trade Commission.

The purpose of this bill is to extend antitrust enforcement over health insurers and medical malpractice insurance issuers, which currently enjoy broad antitrust immunity under the McCarran-Ferguson Act. This immunity can serve as a shield for activities that might otherwise violate federal law.

This bill will end the mistake Congress made in 1945 when it added an antitrust exemption for insurance companies into the McCarran-Ferguson Act. The blanket antitrust exemption created by the 1945 bill has shielded health insurance companies from legal accountability for decades. Our nation's antitrust laws exist to protect free-market competition and this bill will restore competition to the health insurance marketplace.

The House Judiciary Committee held extensive hearings on the effects of the insurance industry's antitrust exemption throughout the 1980s and early 1990s. It became clear that the exemption was not needed to enable the insurance industry to provide any service to their policyholders, and that policyholders and the economy in general would benefit from increased competition among insurance providers.

I urge my colleagues to support this bill because it would prohibit price fixing, bid rigging, and market allocation, pernicious practices that are detrimental to competition and result in fewer options and higher prices for consumers.

The bill I introduce today is intended to root out unlawful activity in an industry that has grown complacent by decades of protection from antitrust oversight. In doing so, we aim to make health insurance more affordable to more Americans.

THE 2ND ANNUAL DR. MARTIN LUTHER KING JR. MEMORIAL TRIBUTE

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. CLAY. Mr. Speaker, I rise today to give distinct recognition to the 2nd Annual Dr. Martin Luther King Jr. Memorial Tribute—an event paying tribute to men and women of diverse social strata committed to strengthening civil rights, corporate responsibility, civic involvement, education and humanitarian efforts through dedicated responsibilities.

Saint Louis University will honor six distinguished individuals at the event, with the Donald Brennan Humanitarian Award bestowed upon Dr. Karla Scott, Director of Black Studies for the University. In addition, the Martin Luther King Civil Rights Award will recognize Ms. Xernona Clayton, for her extraordinary commitment to the advancement of the civil rights movement.

Other awardees include Kathy Osborn, the President and CEO of the Regional Business Council for her civic dedication, Judge Jimmie Edwards, founder of the Innovative Concept Academy for bridging the academic achievement gap of African American students, and James Buford, President and Chief Executive Officer of the Urban League of Metropolitan St. Louis for his leadership in service to the community.

This year's celebrated corporate leadership awards will honor the efforts of Thomas Voss and Keith Williamson. Voss, the President of Ameren Corporation, and Williamson, Senior Vice President of Centene Corporation have demonstrated exemplary social responsibility to remove barriers to the success of minorities through their business models, accomplishments and corporate giving.

Mr. Speaker, the 2nd Annual Dr. Martin Luther King Jr. Tribute inspires advocacy for social justice through the works, accomplishments and deeds of the honored men and women. I urge my colleagues to join me in recognizing this event slated to be held this January in the beautiful City of St. Louis.

INTRODUCTION OF THE BALANCED BUDGET CONSTITUTIONAL AMENDMENT

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, January 3, 2013

Mr. GOODLATTE. Mr. Speaker, I rise to reintroduce legislation that will amend the United States Constitution to force Congress to rein in spending by balancing the federal budget.

We have a spending addiction in Washington, DC, and it has proven to be an addiction that Congress cannot control on its own and which is bringing dire consequences. We have gone in a few short years from a deficit of billions of dollars to a deficit of trillions of dollars. We are printing money at an unprecedented pace, which presents serious risks of massive inflation. Our national debt recently surpassed an astonishing $16 trillion and continues to rapidly increase, along with the waste associated with paying the interest on that debt.

Our first Secretary of State, Thomas Jefferson, warned of the consequences of out-of-control debt when he wrote: "To preserve [the] independence [of the people,] we must not let our rulers load us with perpetual debt. We must make our election between economy and liberty, or profusion and servitude." Unfortunately, it increasingly appears that Congress has chosen the latter path.