the Highway Trust Fund, and for other purposes.

S. 1014

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 1014, a bill to amend the Federal Food, Drug, and Cosmetic Act to ensure the safety of cosmetics.

S. 1032

At the request of Mr. GRASSLEY, the names of the Senator from Iowa (Mrs. ERNST) and the Senator from South Carolina (Mr. SCOTT) were added as cosponsors of S. 1032, a bill to expand the use of E-Verify, to hold employers accountable, and for other purposes.

S. 1056

At the request of Mr. CARDIN, the name of the Senator from Massachusetts (Mr. MARKEY) was added as a cosponsor of S. 1056, a bill to eliminate racial profiling by law enforcement, and for other purposes.

S. 1088

At the request of Mrs. GILLIBRAND, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 1088, a bill to amend the National Voter Registration Act of 1993 to provide for voter registration through the Internet, and for other purposes.

S. 1116

At the request of Mr. THUNE, the name of the Senator from Georgia (Mr. PERDUE) was added as a cosponsor of S. 1116, a bill to require that the Federal Government procure from the private sector the goods and services necessary for the operations and management of certain Government agencies, and for other purposes.

S. 1117

At the request of Mr. JOHNSON, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1117, a bill to amend title 38, United States Code, to expand the authority of the Secretary of Veterans Affairs to remove senior executives of the Department of Veterans Affairs for performance or misconduct to include removal of certain other employees of the Department, and for other purposes.

S. 1121

At the request of Ms. AYOTTE, the names of the Senator from Rhode Island (Mr. WHITEHOUSE), the Senator from Rhode Island (Mr. REED), the Senator from New Hampshire (Mrs. SHAHEEN), the Senator from Pennsylvania (Mr. CASEY), the Senator from Oregon (Mr. WYDEN) and the Senator from Virginia (Mr. KAINE) were added as cosponsors of S. 1121, a bill to amend the Horse Protection Act to designate additional unlawful acts under the Act, strengthen penalties for violations of the Act, improve Department of Agriculture enforcement of the Act, and for other purposes.

S. 1127

At the request of Mr. REED, the name of the Senator from Massachusetts (Ms. WARREN) was added as a cosponsor of S. 1127, a bill to amend the Internal Revenue Code of 1986 to expand the denial of deduction for certain excessive employee remuneration, and for other purposes.

S. 1136

At the request of Mr. TESTER, the name of the Senator from Connecticut (Mr. BLUMENTHAL) was added as a cosponsor of S. 1136, a bill relating to the modernization of C–130 aircraft to meet applicable regulations of the Federal Aviation Administration, and for other purposes.

AMENDMENT NO. 1147

At the request of Mr. BARRASSO, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of amendment No. 1147 proposed to H.R. 1191, a bill to amend the Internal Revenue Code of 1986 to ensure that emergency services volunteers are not taken into account as employees under the shared responsibility requirements contained in the Patient Protection and Affordable Care Act.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BARRASSO (for himself, Mr. DONNELLY, Mr. INHOFE, Ms. HEITKAMP, Mr. ROBERTS, Mr. MANCHIN, Mr. SULLIVAN, Mr. ROUNDS, Mr. BLUNT, Mr. MCCONNELL, Mrs. CAPITO, Mrs. FISCHER, and Mr. HOEVEN):

S. 1140. A bill to require the Secretary of the Army and the Administrator of the Environmental Protection Agency to propose a regulation revising the definition of the term ''waters of the United States'', and for other purposes; to the Committee on Environment and Public Works.

Mr. BARRASSO. Mr. President, last week, I spoke on the floor about a new report by the Bipartisan Policy Center. This report talked about the great progress we have made so far in this Congress, as far as getting things done in a bipartisan way. I believe that is good news. Republicans in the Senate are committed to continuing our progress and to holding more votes on areas of bipartisan agreement. So I want to speak about something Senators on both sides of the aisle agree we can do to protect America's navigable waters.

Our rivers, lakes and other waterways are among America's most treasured resources. In my home State of Wyoming, we have some of the most beautiful rivers in the world: the Snake River, the Wind River, dozens of others.

The people of Wyoming are devoted to keeping these waterways safe and pristine for our children and our grandchildren. They understand there is a right way and a wrong way to do that. It is possible to have reasonable regulations to help preserve our waterways, while at the same time allowing it to be used as natural resources.

We have done it for years under the Clean Water Act. That is the right way to do it. The wrong way to do it is for Washington bureaucrats—bureaucrats—unelectable, unaccountable, to write harsh and inflexible rules that could block any use of water or even use of land in much of the country. The Environmental Protection Agency and the Army Corps of Engineers have proposed a new rule, a new rule that would expand the Clean Water Act in what I believe is a dangerous new direction.

The rule is an attempt to change the definition of what the law calls waters of the United States. Under the rule, this term could include ditches, it would include dry areas where water only flows for a short time after it rains. Federal regulations have never before listed ditches and other manmade features as waters of the United States.

What the administration is proposing now simply makes no sense. Under this new rule, the new rule they are proposing, isolated ponds could be regulated as waters of the United States. This is the kind of pond that might form in a low-lying piece of land with no connection to a river or a stream. It could be in someone's back yard.

An isolated pond is not navigable water. That is not what the law was designed to protect. This is bipartisan, and there is bipartisan agreement that Washington bureaucrats have no business, none at all, regulating an isolated pond as a water of the United States. Under this newly proposed rule, agriculture water management systems could be regulated as waters of the United States.

We are talking about irrigation ditches. An irrigation ditch is not navigable water. These are manmade ditches that people dig to move water from one place to another to grow crops. This kind of agriculture water is not what the law was designed to protect. There is bipartisan agreement that Washington bureaucrats have no business regulating an irrigation ditch as waters of the United States.

Under this outrageously broad new rule, Washington bureaucrats would now have a say in how farmers and ranchers and families use their own property. It would allow the Environmental Protection Agency to regulate private property just based on things such as whether it is used by animals or birds or even insects. It could regulate any water that moves over land or infiltrates into the ground.

Well, this is an ominously far-reaching definition. It is the wrong way—the wrong way—to protect America 's precious water resources. This rule is not designed to protect the traditional waters of the United States, it is designed to expand the power of Washington bureaucrats.

Now, there is a better way to protect America's water, and there is bipartisan support for it in this body. Today, I have introduced the Federal Water Quality Protection Act, along with Senators DONNELLY, INHOFE, HEITKAMP, ROBERTS, MANCHIN, SULLIVAN, ROUNDS,

BLUNT, MCCONNELL, CAPITO, and FISCHER. That is bipartisan. It is a bipartisan agreement that says we need a different approach.

This bill says yes to clean water and no to extreme bureaucracy. It will give the Environmental Protection Agency the direction it needs, the direction to write a strong and reasonable rule that truly protects America's waterways, one that keeps Washington's hands off things such as irrigation ditches, isolated ponds, and groundwater, one that does not allow the determination to be based on plants and insects, one that protects streams that could carry dangerous pollutants to navigable waters or wetlands that protect those waters from pollutants.

It would make sure Washington bureaucrats comply, comply with other laws and Executive orders that, well, they have been avoiding. They would have to do an economic analysis and conduct reviews to protect small businesses, to protect ranchers, to protect farmers. They would have to consult with the States. They have to make sure, by consulting with the States, that we have the approach that works best everywhere, not just the approach Washington likes best.

The Environmental Protection Agency says our concerns are overblown. The administration says there is a lot of misunderstanding about what their regulation covers. It says the Agency has no intention of regulating things like I have just described. The key word there is ''intention.'' This bill would help to make sure the rules are crystal clear.

It gives certainty and clarity to farmers, to ranchers, and to small business owners and their families. People would be able to use their property without fear of Washington bureaucrats knocking on their door. We would also be able to enjoy the beautiful rivers and the lakes that should be preserved and protected. This bipartisan bill does nothing to block legitimate protection of the true waters of the United States. It simply restores Washington's attention to the traditional waters that were always the focus before.

That is what this law should protect. This bill is one easy thing we can do to protect Americans from runaway bureaucracy. The Senate has been very productive so far this year. We are going to keep going. We are going to go with more ideas that have bipartisan support. The Federal Water Quality Protection Act is one of them. I want to thank some of the many cosponsors.

By Ms. COLLINS (for herself and Mr. CASEY):

S. 1141. A bill to amend the Internal Revenue Code of 1986 to provide tax incentives for small businesses; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise to introduce the Small Business Tax Certainty and Growth Act of 2015. I am very pleased to be joined by my friend and colleague from Pennsylvania, Senator CASEY, in introducing this bipartisan bill.

I know it will come as no surprise to the Presiding Officer that small businesses are our Nation's job creators. Firms with fewer than 500 employees generate about 50 percent of our Nation's GDP, account for more than 99 percent of employers, and employ nearly half of all workers. According to the Bureau of Labor Statistics, small businesses generated 63 percent of the net new jobs that were created between 1993 and 2013.

Even the smallest firms have a notable effect on our economy. The Small Business Administration's data indicates that businesses with fewer than 20 employees accounted for 18 percent of all private sector jobs in 2013. Our bill allows small businesses to plan for capital investments that are vital to expansion and job creation. It eases complex accounting rules for the smallest businesses and it reduces the tax burden on newly formed ventures.

Recent studies by the National Federation of Independent Business, NFIB, indicate that taxes are the No. 1 concern of small business owners and that constant change in the Tax Code is among their chief concerns, and that is certainly the case in the State of Maine. When I talk with employers across the State, they constantly tell me the uncertainty in our Tax Code and in the regulations that are coming out of Washington make it very difficult for them to plan, to hire new workers, and to know what is going to be coming their way.

A key feature of our bill is that it provides the certainty that small businesses need to create and implement long-term capital investment plans that are vital to their growth. I will give an example. Section 179 of the Internal Revenue Code allows small businesses to deduct the costs of acquired assets more rapidly. The amount of the maximum allowable deduction has changed three times in the past 8 years. Making matters worse, it is usually not addressed until it is part of a huge package of extenders passed at the end of the year, making this tax benefit unpredictable from year to year and, therefore, difficult for small businesses to take full advantage of in their long-range planning. They essentially have to gamble that the tax incentive is going to be extended and that it is going to be made retroactive to the 1st of the year.

Just recently, I spoke with Patrick Schrader from Arundel Machine, a small business in Maine. He told me that the uncertainty surrounding section 179 has hindered his ability to make sound business decisions. The high-tech equipment that he needs requires months of lead time. For a small business like Patrick's, it is very risky to increase spending to expand and create new jobs when the deductibility of the machinery that helps to make those jobs possible remains unknown until late December. For business planning, this is information that is vital to have at the beginning of the year, not at the end of the year. This uncertainty has a direct impact on hiring decisions and the ability to take advantage of business opportunities.

Our bill permanently sets the maximum allowable deduction under section 179 at $500,000, indexed for inflation, and it is also structured in such a way that it is really targeted to our smaller businesses.

Our bill will also permanently extend the ability of restaurants, retailers, and certain businesses that lease their space to depreciate the costs of property improvements over 15 years rather than over 39 years. Think about that. What restaurant is going to be able to wait 39 years before doing upgrades and improvements? What we are trying to do is to better match the depreciation schedule with the need to update a restaurant or a retail space.

The Small Business Tax Certainty and Growth Act also allows more companies to use the cash method of accounting by permanently doubling the threshold at which the more complex accrual method is required from $5 million in gross receipts to $10 million. This includes an expansion in the ability of small businesses to use simplified methods of accounting for inventories.

Our legislation also eases the tax burden on a new startup business by permanently doubling the deduction for those initial expenses from $5,000 to $10,000, and for a very small business, that is really important. Similar to section 179, this benefit is limited to small businesses and the deduction phases out for total expenses exceeding $60,000.

Our legislation extends for 1 year a provision that provides benefits to businesses of all sizes, the so-called bonus depreciation.

Let me make clear that I continue to believe Congress should undertake comprehensive tax reform, with three major goals. It should result in a Tax Code that is more progrowth, that is fairer, and that is simpler. I urge the Senate to undertake such a reform, but in the meantime, the provisions of our bill would make a real difference in the ability of our Nation's small businesses to keep and create jobs.

I will give another real-life example of what the small business expensing provisions can mean. I am proud to say Maine is known for its delicious craft beers. Dan Kleban founded Maine Beer Company with his brother in 2009. In 6 short years, the company has added 21 good-paying jobs with generous health and retirement benefits. They plan to hire at least three more workers shortly. Dan noted that his company's business decisions were directly affected by section 179 expensing.

Here is why. This provision allowed them to expand by reinvesting their capital in new equipment to produce more beer and hire more Mainers.

Those are both good outcomes. In the last 3 years, they have taken the maximum deduction allowed under section 179 to acquire the equipment they needed to expand their business. This year, they hope to use the provision to finance the cost of a solar project that will offset nearly 50 percent of their energy consumption.

If their business had been forced to spread these deductions over many years, its owners would not have been able to grow the business as they have done nor create those good jobs. This economic benefit is multiplied when we consider the effect of the investment by Maine Beer Company and Maine's many other craft brewers on the equipment manufacturers, the transportation companies needed to haul the new equipment to their breweries, the increased inventory in their breweries, and the suppliers of the materials needed to brew the additional beer. So it has a ripple effect that benefits many other businesses and allows them to create more jobs as well.

In February, NFIB released new research that backs up this claim with hard numbers. They found that simply extending section 179 permanently at the 2014 level could increase employment by as much as 197,000 jobs during the 10-year window following implementation. U.S. real output could also increase by as much as $18.6 billion over the same period.

In light of the positive effects this bill would have on small businesses, on job creation, and on our economy, I urge my colleagues to join us in supporting the Small Business Tax Certainty and Growth Act. I would note that the bill has been endorsed by NFIB, the leading voice for small business.

Mr. President, I ask unanimous consent that a letter of endorsement from the NFIB be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, DC, April 29, 2015.

Hon. SUSAN COLLINS,
U.S. Senate, Washington, DC.

DEAR SENATOR COLLINS: on behalf of the National Federation of Independent Business (NFIB), the nation's leading small business advocacy organization, I write in support of your Small Business Tax Certainty and Growth Act, which would provide certainty and permanency with regard to several important tax provisions for small businesses.

The most important source of financing for small business is their earnings, i.e. cash flow. In fact, cash flow is ranked 13th out of 75 potential business problems in NFIB's Small Business and Priorities. This is why NFIB is particularly pleased to see the inclusion of reformed Section 179 expensing and expanded eligibility for cash accounting in your legislation.

Expensing provides small businesses with an immediate source of capital recovery and improved cash flow. Unfortunately, small business expensing levels have only been increased on a temporary basis, and at the beginning of this year the limit reverted back to $25,000, which is highly inadequate for the needs of small businesses. Unless Congress acts, this lower expensing limit will mean that only 30 percent of NFIB members will receive the full benefit of small business expensing in 2015. A 2015 NFIB Research Foundation study shows that a permanent expansion of the expensing deduction allowance limit to $500,000 could increase employment by as much as 197,000 jobs. NFIB supports permanently increasing expensing limits to $500,000 as well as permitting taxpayers to expense the cost of some improvements to real property. We appreciate you accomplishing these goals in your legislation while also permanently indexing this provision to inflation.

Furthermore, small businesses would benefit from the greater ability to use cash accounting for tax purposes. This simplified accounting process would alleviate some of the complexity of the tax code, which currently makes it very difficult for small business owners to plan future investments, hire new workers and grow their businesses. Expanded cash accounting would help business owners manage cash flow while better reflecting their ability to pay taxes.

Thank you for introducing this important legislation. We look forward to working with you to provide tax relief for small businesses in the 114th Congress.

Sincerely,

AMANDA AUSTIN,
Vice President, Public Policy.

By Mrs. MURRAY (for herself, Mr. DURBIN, Ms. MIKULSKI, Mrs. BOXER, Mr. BLUMENTHAL, Mr. MARKEY, Mr. CASEY, Mr. MURPHY, Ms. STABENOW, Mr. BROWN, Mr. PETERS, Mr. SCHUMER, Mr. LEAHY, Mrs. SHAHEEN, Mr. REID, Mr. SCHATZ, Mr. HEINRICH, Mr. WYDEN, Mr. BOOKER, Mr. MERKLEY, Ms. HIRONO, Mr. REED, Mr. FRANKEN, Mrs. GILLIBRAND, Mr. CARDIN, Ms. CANTWELL, Ms. WARREN, Mr. UDALL, Ms. BALDWIN, Mr. KAINE, Mrs. FEINSTEIN, Mr. WHITEHOUSE, and Ms. KLOBUCHAR):

S. 1150. A bill to provide for increases in the Federal minimum wage; to the Committee on Health, Education, Labor, and Pensions.

Mr. LEAHY. Mr. President, Vermont is among only 22 States in the Nation with a minimum wage higher than that of the Federal minimum wage. The Green Mountain State has long recognized the importance of paying workers a fair and livable wage, and it is past time for Congress to catch up with the daily struggles of working American families.

That is why today I am proud to join as a cosponsor of Senator MURRAY's Raise the Wage Act, to increase the Federal minimum wage to $12 by 2020. The Raise the Wage Act will help more 38 million Americans and thousands of Vermonters who yearn for financial security, for the sound footing to build their lives, and the lives of their children.

The Federal minimum wage has not kept up with inflation. In fact, it has lost more than 30 percent of its value since 1968. Over that same time, productivity has doubled, and low-wage workers today bring more experience and education to the workforce. American workers are being asked to work more for less. It is past time to adjust this disparity.

In Vermont, 64,000 workers would see their wages improve if we raised the minimum wage to $12. That is roughly $141 million in added income for families in Vermont—families who could spend these earnings at the store down the street, multiplying the economic impact to resonate through our local economies and downtown businesses.

Today, nearly two-thirds of Americans who earn the minimum wage or less are women; the Raise the Wage Act will improve the hard-earned wages of more than 21 million American women.

No one who works hard in a full-time job should live in poverty in our land, and raising the minimum wage should not be a question; it is commonsense, it is fair, and it is right. It is the right step to take to help ensure that workers can earn wages that support their families.

By Mr. CORNYN (for himself and Mr. CRUZ):

S. 1153. A bill to provide legal certainty to property owners along the Red River in Texas, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CORNYN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1153

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Red River Private Property Protection Act''.

SEC. 2. DISCLAIMER AND OUTDATED SURVEYS.

(a) IN GENERAL.—The Secretary hereby disclaims any right, title, and interest to all land located south of the South Bank boundary line of the Red River in the affected area.

(b) CLARIFICATION OF PRIOR SURVEYS.—Previous surveys conducted by the Bureau of Land Management shall have no force or effect in determining the current South Bank boundary line.

SEC. 3. IDENTIFICATION OF CURRENT BOUNDARY.

(a) BOUNDARY IDENTIFICATION.—To identify the current South Bank boundary line along the affected area, the Secretary shall commission a new survey that—

(1) adheres to the gradient boundary survey method;

(2) spans the entire length of the affected area;

(3) is conducted by Licensed State Land Surveyors chosen by the Texas General Land Office; and

(4) is completed not later than 2years after the date of the enactment of this Act.

(b) APPROVAL OF THE SURVEY.—The Secretary shall submit the survey conducted under this Act to the Texas General Land Office for approval. State approval of the completed survey shall satisfy the requirements under this Act.

SEC. 4. APPEAL.

Not later than 1 year after the survey is completed and approved pursuant to section

3, a private property owner who holds right, title, or interest in the affected area may appeal public domain claims by the Secretary to an Administrative Law Judge.

SEC. 5. RESOURCE MANAGEMENT PLAN.

The Secretary shall ensure that no parcels of land in the affected area are treated as Federal land for the purpose of any resource management plan until the survey has been completed and approved and the Secretary ensures that the parcel is not subject to further appeal pursuant to this Act.

SEC. 6. CONSTRUCTION.

This Act does not change or affect in any manner the interest of the States or sovereignty rights of federally recognized Indian tribes over lands located to the north of the South Bank boundary line of the Red River as established by this Act.

SEC. 7. SALE OF REMAINING RED RIVER SURFACE RIGHTS.

(a) COMPETITIVE SALE OF IDENTIFIED FEDERAL LANDS.—After the survey has been completed and approved and the Secretary ensures that a parcel is not subject to further appeal under this Act, the Secretary shall offer any and all such remaining identified Federal lands for disposal by competitive sale for not less than fair market value as determined by an appraisal conducted in accordance with nationally recognized appraisal standards, including the Uniform Appraisal Standards for Federal Land Acquisitions; and the Uniform Standards of Professional Appraisal Practice.

(b) EXISTING RIGHTS.—The sale of identified Federal lands under this section shall be subject to valid existing tribal, State, and local rights.

(c) PROCEEDS OF SALE OF LANDS.—Net proceeds from the sale of identified Federal lands under this section shall be used to offset any costs associated with this Act.

(d) REPORT.—Not later than 5 years after the date of the enactment of this Act, the Secretary shall submit to the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a list of any identified Federal lands that have not been sold under subsection (a) and the reasons such lands were not sold.

SEC. 8. DEFINITIONS.

For the purposes of this Act:

(1) AFFECTED AREA.—The term ''affected area'' means lands along the approximately 116-mile stretch of the Red River from its confluence with the North Fork of the Red River on the west to the 98th meridian on the east between the States of Texas and Oklahoma.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Director of Bureau of Land Management.

(3) SOUTH BANK.—The term ''South Bank'' means the water-washed and relatively permanent elevation or acclivity, commonly called a cut bank, along the southerly or right side of the Red River which separates its bed from the adjacent upland, whether valley or hill, and usually serves to confine the waters within the bed and to preserve the course of the river; as specified in the fifth paragraph of the decree rendered March 12, 1923, in *Oklahoma v. Texas*, 261 U. S. 340, 43 S. Ct. 376, 67 L. Ed. 687.

(4) SOUTH BANK BOUNDARY LINE.—The term ''South Bank boundary line'' means the boundary between Texas and Oklahoma identified through the gradient boundary survey method ; as specified in the sixth and seventh paragraphs of the decree rendered March 12, 1923, in *Oklahoma v. Texas*, 261 U. S. 340, 43 S. Ct. 376, 67 L. Ed. 687.

(5) GRADIENT BOUNDARY SURVEY METHOD.—The term ''gradient boundary survey method'' means the measurement technique used to locate the South Bank boundary line under the methodology established by the United States Supreme Court which recognizes that the boundary line between the States of Texas and Oklahoma along the Red River is subject to such changes as have been or may be wrought by the natural and gradual processes known as erosion and accretion as specified in the second, third, and fourth paragraphs of the decree rendered March 12, 1923, in *Oklahoma v. Texas*, 261 U. S. 340, 43 S. Ct. 376, 67 L. Ed. 687.

By Mr. DURBIN (for himself, Mr. WHITEHOUSE, Mr. BROWN, and Mr. FRANKEN):

S. 1156. A bill to amend title 11, United States Code, to improve protections for employees and retirees in business bankruptcies; to the Committee on the Judiciary.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 1156

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Protecting Employees and Retirees in Business Bankruptcies Act of 2015''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Business bankruptcies have increased sharply in recent years and remain at high levels. These bankruptcies include several of the largest business bankruptcy filings in history. As the use of bankruptcy has expanded, job preservation and retirement security are placed at greater risk.

(2) Laws enacted to improve recoveries for employees and retirees and limit their losses in bankruptcy cases have not kept pace with the increasing and broader use of bankruptcy by businesses in all sectors of the economy. However, while protections for employees and retirees in bankruptcy cases have eroded, management compensation plans devised for those in charge of troubled businesses have become more prevalent and are escaping adequate scrutiny.

(3) Changes in the law regarding these matters are urgently needed as bankruptcy is used to address increasingly more complex and diverse conditions affecting troubled businesses and industries.

TITLE I—IMPROVING RECOVERIES FOR EMPLOYEES AND RETIREES

SEC. 101. INCREASED WAGE PRIORITY.

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

(1) in paragraph (4)—

(A) by striking ''$10,000'' and inserting ''$20,000'';

(B) by striking ''within 180 days''; and

(C) by striking ''or the date of the cessation of the debtor's business, whichever occurs first,'';

(2) in paragraph (5)(A), by striking—

(A) ''within 180 days''; and

(B) ''or the date of the cessation of the debtor's business, whichever occurs first''; and

(3) in paragraph (5), by striking subparagraph (B) and inserting the following:

''(B) for each such plan, to the extent of the number of employees covered by each such plan, multiplied by $20,000.''.

SEC. 102. CLAIM FOR STOCK VALUE LOSSES IN DEFINED CONTRIBUTION PLANS.

Section 101(5) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''or'' at the end;

(2) in subparagraph (B), by striking the period at the end and inserting ''; or''; and

(3) 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 defined contribution plan (within the meaning of section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34))) for the benefit of an individual who is not an insider, a senior executive officer, or any of the 20 next most highly compensated employees of the debtor (if 1 or more are not insiders), if such securities were attributable to either employer contributions by the debtor or an affiliate of the debtor, or elective deferrals (within the meaning of section 402(g) of the Internal Revenue Code of 1986), and any earnings thereon, if an employer or plan sponsor who has commenced a case under this title has committed fraud with respect to such plan or has otherwise breached a duty to the participant that has proximately caused the loss of value.''.

SEC. 103. PRIORITY FOR SEVERANCE PAY.

Section 503(b) of title 11, United States Code, is amended—

(1) in paragraph (8)(B), by striking ''and'' at the end;

(2) in paragraph (9), by striking the period and inserting a semicolon; and

(3) by adding at the end the following:

''(10) severance pay owed to employees of the debtor (other than to an insider, other senior management, or a consultant retained to provide services to the debtor), under a plan, program, or policy generally applicable to employees of the debtor (but not under an individual contract of employment), or owed

pursuant to a collective bargaining agreement, for layoff or termination on or after the date of the filing of the petition, which pay shall be deemed earned in full upon such layoff or termination of employment; and''.

SEC. 104. FINANCIAL RETURNS FOR EMPLOYEES AND RETIREES.

Section 1129(a) of title 11, United States Code is amended—

(1) by adding at the end the following:

''(17) The plan provides for recovery of damages payable for the rejection of a collective bargaining agreement, or for other financial returns as negotiated by the debtor and the authorized representative under section 1113 (to the extent that such returns are paid under, rather than outside of, a plan).''; and

(2) by striking paragraph (13) and inserting the following:

''(13) With respect to retiree benefits, as that term is defined in section 1114(a), the plan—

''(A) provides for the continuation after its effective date of payment of all retiree benefits at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 at any time before the date of confirmation of the plan, for the duration of the period for which the debtor has obligated itself to provide such benefits, or if no modifications are made before confirmation of the plan, the continuation of all such retiree benefits maintained or established in whole or in part by the debtor before the date of the filing of the petition; and

''(B) provides for recovery of claims arising from the modification of retiree benefits or for other financial returns, as negotiated by the debtor and the authorized representative (to the extent that such returns are paid under, rather than outside of, a plan).''.

SEC. 105. PRIORITY FOR WARN ACT DAMAGES.

Section 503(b)(1)(A)(ii) of title 11, United States Code is amended to read as follows:

''(ii) wages and benefits awarded pursuant to a judicial proceeding or a proceeding of the National Labor Relations Board as back pay or damages attributable to any period of time occurring after the date of commencement of the case under this title, as a result of a violation of Federal or State law by the debtor, without regard to the time of the occurrence of unlawful conduct on which the award is based or to whether any services were rendered on or after the commencement of the case, including an award by a court under section 2901 of title 29, United States Code, of up to 60 days' pay and benefits following a layoff that occurred or commenced at a time when such award period includes a period on or after the commencement of the case, if the court determines that payment of wages and benefits by reason of the operation of this clause will not substantially increase the probability of layoff or termination of current employees or of nonpayment of domestic support obligations during the case under this title;''.

TITLE II—REDUCING EMPLOYEES' AND RETIREES' LOSSES

SEC. 201. REJECTION OF COLLECTIVE BARGAINING AGREEMENTS.

Section 1113 of title 11, United States Code, is amended by striking subsections (a) through (f) and inserting the following:

''(a) The debtor in possession, or the trustee if one has been appointed under this chapter, other than a trustee in a case covered by subchapter IV of this chapter and by title I of the Railway Labor Act, may reject a collective bargaining agreement only in accordance with this section. In this section, a reference to the trustee includes the debtor in possession.

''(b) No provision of this title shall be construed to permit the trustee to unilaterally terminate or alter any provision of a collective bargaining agreement before complying with this section. The trustee shall timely pay all monetary obligations arising under the terms of the collective bargaining agreement. Any such payment required to be made before a plan confirmed under section 1129 is effective has the status of an allowed administrative expense under section 503.

''(c)(1) If the trustee seeks modification of a collective bargaining agreement, the trustee shall provide notice to the labor organization representing the employees covered by the agreement that modifications are being proposed under this section, and shall promptly provide an initial proposal for modifications to the agreement. Thereafter, the trustee shall confer in good faith with the labor organization, at reasonable times and for a reasonable period in light of the complexity of the case, in attempting to reach mutually acceptable modifications of such agreement.

''(2) The initial proposal and subsequent proposals by the trustee for modification of a collective bargaining agreement shall be based upon a business plan for the reorganization of the debtor, and shall reflect the most complete and reliable information available. The trustee shall provide to the labor organization all information that is relevant for negotiations. The court may enter a protective order to prevent the disclosure of information if disclosure could compromise the debtor's position with respect to its competitors in the industry, subject to the needs of the labor organization to evaluate the trustee's proposals and any application for rejection of the agreement or for interim relief pursuant to this section.

''(3) In consideration of Federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, modifications proposed by the trustee—

''(A) shall be proposed only as part of a program of workforce and nonworkforce cost savings devised for the reorganization of the debtor, including savings in management personnel costs;

''(B) shall be limited to modifications designed to achieve a specified aggregate financial contribution for the employees covered by the agreement (taking into consideration any labor cost savings negotiated within the 12-month period before the filing of the petition), and shall be not more than the minimum savings essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor (or any successor to the debtor) in the short term; and

''(C) shall not be disproportionate or overly burden the employees covered by the agreement, either in the amount of the cost savings sought from such employees or the nature of the modifications.

''(d)(1) If, after a period of negotiations, the trustee and the labor organization have not reached an agreement over mutually satisfactory modifications, and further negotiations are not likely to produce mutually satisfactory modifications, the trustee may file a motion seeking rejection of the collective bargaining agreement after notice and a hearing. Absent agreement of the parties, no such hearing shall be held before the expiration of the 21-day period beginning on the date on which notice of the hearing is provided to the labor organization representing the employees covered by the agreement. Only the debtor and the labor organization may appear and be heard at such hearing. An application for rejection shall seek rejection effective upon the entry of an order granting the relief.

''(2) In consideration of Federal policy encouraging the practice and process of collective bargaining and in recognition of the bargained-for expectations of the employees covered by the agreement, the court may grant a motion seeking rejection of a collective bargaining agreement only if, based on clear and convincing evidence—

''(A) the court finds that the trustee has complied with the requirements of subsection (c);

''(B) the court has considered alternative proposals by the labor organization and has concluded that such proposals do not meet the requirements of paragraph (3)(B) of subsection (c);

''(C) the court finds that further negotiations regarding the trustee's proposal or an alternative proposal by the labor organization are not likely to produce an agreement;

''(D) the court finds that implementation of the trustee's proposal shall not—

''(i) cause a material diminution in the purchasing power of the employees covered by the agreement;

''(ii) adversely affect the ability of the debtor to retain an experienced and qualified workforce; or

''(iii) impair the debtor's labor relations such that the ability to achieve a feasible reorganization would be compromised; and

''(E) the court concludes that rejection of the agreement and immediate implementation of the trustee's proposal is essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by liquidation, or the need for further financial reorganization, of the debtor (or any successor to the debtor) in the short term.

''(3) If the trustee has implemented a program of incentive pay, bonuses, or other financial returns for insiders, senior executive officers, or the 20 next most highly compensated employees or consultants providing services to the debtor during the bankruptcy, or such a program was implemented within 180 days before the date of the filing of the petition, the court shall presume that the trustee has failed to satisfy the requirements of subsection (c)(3)(C).

''(4) In no case shall the court enter an order rejecting a collective bargaining agreement that would result in modifications to a level lower than the level proposed by the trustee in the proposal found by the court to have complied with the requirements of this section.

''(5) At any time after the date on which an order rejecting a collective bargaining agreement is entered, or in the case of an agreement entered into between the trustee and the labor organization providing mutually satisfactory modifications, at any time after such agreement has been entered into, the labor organization may apply to the court for an order seeking an increase in the level of wages or benefits, or relief from working conditions, based upon changed circumstances. The court shall grant the request only if the increase or other relief is not inconsistent with the standard set forth in paragraph (2)(E).

''(e) During a period in which a collective bargaining agreement at issue under this section continues in effect, and if essential to the continuation of the debtor's business or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim changes in the terms, conditions, wages, benefits, or work rules provided by the collective bargaining agreement. Any hearing under this subsection shall be scheduled in accordance with the needs of the trustee. The implementation of such interim changes shall not render the application for rejection moot.

''(f)(1) Rejection of a collective bargaining agreement constitutes a breach of the agreement, and shall be effective no earlier than the entry of an order granting such relief.

''(2) Notwithstanding paragraph (1), solely for purposes of determining and allowing a claim arising from the rejection of a collective bargaining agreement, rejection shall be treated as rejection of an executory contract under section 365(g) and shall be allowed or disallowed in accordance with section 502(g)(1). No claim for rejection damages shall be limited by section 502(b)(7). Economic self-help by a labor organization shall be permitted upon a court order granting a motion to reject a collective bargaining agreement under subsection (d) or pursuant to subsection (e), and no provision of this title or of any other provision of Federal or State law may be construed to the contrary.

''(g) The trustee shall provide for the reasonable fees and costs incurred by a labor organization under this section, upon request and after notice and a hearing.

''(h) A collective bargaining agreement that is assumed shall be assumed in accordance with section 365.''.

SEC. 202. PAYMENT OF INSURANCE BENEFITS TO RETIRED EMPLOYEES.

Section 1114 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting '', without regard to whether the debtor asserts a right to unilaterally modify such payments under such plan, fund, or program'' before the period at the end;

(2) in subsection (b)(2), by inserting after ''section'' the following: '', and a labor organization serving as the authorized representative under subsection (c)(1),'';

(3) by striking subsection (f) and inserting the following:

''(f)(1) If a trustee seeks modification of retiree benefits, the trustee shall provide a notice to the authorized representative that modifications are being proposed pursuant to this section, and shall promptly provide an initial proposal. Thereafter, the trustee shall confer in good faith with the authorized representative at reasonable times and for a reasonable period in light of the complexity of the case in attempting to reach mutually satisfactory modifications.

''(2) The initial proposal and subsequent proposals by the trustee shall be based upon a business plan for the reorganization of the debtor and shall reflect the most complete and reliable information available. The trustee shall provide to the authorized representative all information that is relevant for the negotiations. The court may enter a protective order to prevent the disclosure of information if disclosure could compromise the debtor's position with respect to its competitors in the industry, subject to the needs of the authorized representative to evaluate the trustee's proposals and an application pursuant to subsection (g) or (h).

''(3) Modifications proposed by the trustee—

''(A) shall be proposed only as part of a program of workforce and nonworkforce cost savings devised for the reorganization of the debtor, including savings in management personnel costs;

''(B) shall be limited to modifications that are designed to achieve a specified aggregate financial contribution for the retiree group represented by the authorized representative (taking into consideration any cost savings implemented within the 12-month period before the date of filing of the petition with respect to the retiree group), and shall be no more than the minimum savings essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor (or any successor to the debtor) in the short term; and

''(C) shall not be disproportionate or overly burden the retiree group, either in the amount of the cost savings sought from such group or the nature of the modifications.'';

(4) in subsection (g)—

(A) by striking ''(g)'' and all that follows through the semicolon at the end of paragraph (3) and inserting the following:

''(g)(1) If, after a period of negotiations, the trustee and the authorized representative have not reached agreement over mutually satisfactory modifications and further negotiations are not likely to produce mutually satisfactory modifications, the trustee may file a motion seeking modifications in the payment of retiree benefits after notice and a hearing. Absent agreement of the parties, no such hearing shall be held before the expiration of the 21-day period beginning on the date on which notice of the hearing is provided to the authorized representative. Only the debtor and the authorized representative may appear and be heard at such hearing.

''(2) The court may grant a motion to modify the payment of retiree benefits only if, based on clear and convincing evidence—

''(A) the court finds that the trustee has complied with the requirements of subsection (f);

''(B) the court has considered alternative proposals by the authorized representative and has determined that such proposals do not meet the requirements of subsection (f)(3)(B);

''(C) the court finds that further negotiations regarding the trustee's proposal or an alternative proposal by the authorized representative are not likely to produce a mutually satisfactory agreement;

''(D) the court finds that implementation of the proposal shall not cause irreparable harm to the affected retirees; and

''(E) the court concludes that an order granting the motion and immediate implementation of the trustee's proposal is essential to permit the debtor to exit bankruptcy, such that confirmation of a plan of reorganization is not likely to be followed by liquidation, or the need for further financial reorganization, of the debtor (or a successor to the debtor) in the short term.

''(3) If a trustee has implemented a program of incentive pay, bonuses, or other financial returns for insiders, senior executive officers, or the 20 next most highly compensated employees or consultants providing services to the debtor during the bankruptcy, or such a program was implemented within 180 days before the date of the filing of the petition, the court shall presume that the trustee has failed to satisfy the requirements of subparagraph (f)(3)(C).''; and

(B) by striking ''except that in no case'' and inserting the following:

''(4) In no case''; and

(5) by striking subsection (k) and redesignating subsections (l) and (m) as subsections (k) and (l), respectively.

SEC. 203. PROTECTION OF EMPLOYEE BENEFITS IN A SALE OF ASSETS.

Section 363(b) of title 11, United States Code, is amended by adding at the end the following:

''(3) In approving a sale under this subsection, the court shall consider the extent to which a bidder has offered to maintain existing jobs, preserve terms and conditions of employment, and assume or match pension and retiree health benefit obligations in determining whether an offer constitutes the highest or best offer for such property.''.

SEC. 204. CLAIM FOR PENSION LOSSES.

Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(l) The court shall allow a claim asserted by an active or retired participant, or by a labor organization representing such participants, in a defined benefit plan terminated under section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, for any shortfall in pension benefits accrued as of the effective date of the termination of such pension plan as a result of the termination of the plan and limitations upon the payment of benefits imposed pursuant to section 4022 of such Act, notwithstanding any claim asserted and collected by the Pension Benefit Guaranty Corporation with respect to such termination.

''(m) The court shall allow a claim of a kind described in section 101(5)(C) by an active or retired participant in a defined contribution plan (within the meaning of section 3(34) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(34))), or by a labor organization representing such participants. The amount of such claim shall be measured by the market value of the stock at the time of contribution to, or purchase by, the plan and the value as of the commencement of the case.''.

SEC. 205. PAYMENTS BY SECURED LENDER.

Section 506(c) of title 11, United States Code, is amended by adding at the end the following: ''If employees have not received wages, accrued vacation, severance, or other benefits owed under the policies and practices of the debtor, or pursuant to the terms of a collective bargaining agreement, for services rendered on and after the date of the commencement of the case, such unpaid obligations shall be deemed necessary costs and expenses of preserving, or disposing of, property securing an allowed secured claim and shall be recovered even if the trustee has otherwise waived the provisions of this subsection under an agreement with the holder of the allowed secured claim or a successor or predecessor in interest.''.

SEC. 206. PRESERVATION OF JOBS AND BENEFITS.

Chapter 11 of title 11, United States Code, is amended—

(1) by inserting before section 1101 the following:

''§ 1100. Statement of purpose

''A debtor commencing a case under this chapter shall have as its principal purpose the reorganization of its business to preserve going concern value to the maximum extent possible through the productive use of its assets and the preservation of jobs that will sustain productive economic activity.'';

(2) in section 1129(a), as amended by section 104, by adding at the end the following:

''(18) The debtor has demonstrated that the reorganization preserves going concern value to the maximum extent possible through the productive use of the debtor's assets and preserves jobs that sustain productive economic activity.'';

(3) in section 1129(c)—

(A) by inserting ''(1)'' after ''(c)''; and

(B) by striking the last sentence and inserting the following:

''(2) If the requirements of subsections (a) and (b) are met with respect to more than 1 plan, the court shall, in determining which plan to confirm—

''(A) consider the extent to which each plan would preserve going concern value through the productive use of the debtor's assets and the preservation of jobs that sustain productive economic activity; and

''(B) confirm the plan that better serves such interests.

''(3) A plan that incorporates the terms of a settlement with a labor organization representing employees of the debtor shall presumptively constitute the plan that satisfies this subsection.''; and

(4) in the table of sections, by inserting before the item relating to section 1101 the following:

''1100. Statement of purpose.''.

SEC. 207. TERMINATION OF EXCLUSIVITY.

Section 1121(d) of title 11, United States Code, is amended by adding at the end the following:

''(3) For purposes of this subsection, cause for reducing the 120-day period or the 180-day period includes the following:

''(A) The filing of a motion pursuant to section 1113 seeking rejection of a collective bargaining agreement if a plan based upon an alternative proposal by the labor organization is reasonably likely to be confirmed within a reasonable time.

''(B) The proposed filing of a plan by a proponent other than the debtor, which incorporates the terms of a settlement with a labor organization if such plan is reasonably likely to be confirmed within a reasonable time.''.

SEC. 208. CLAIM FOR WITHDRAWAL LIABILITY.

Section 503(b) of title 11, United States Code, as amended by section 103 of this Act, is amended by adding at the end the following:

''(11) with respect to withdrawal liability owed to a multiemployer pension plan for a complete or partial withdrawal pursuant to section 4201 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1381) where such withdrawal occurs on or after the commencement of the case, an amount equal to the amount of vested benefits payable from such pension plan that accrued as a result of employees' services rendered to the debtor during the period beginning on the date of commencement of the case and ending on the date of the withdrawal from the plan.''.

TITLE III—RESTRICTING EXECUTIVE COMPENSATION PROGRAMS

SEC. 301. EXECUTIVE COMPENSATION UPON EXIT FROM BANKRUPTCY.

Section 1129(a) of title 11, United States Code, is amended—

(1) in paragraph (4), by adding at the end the following: ''Except for compensation subject to review under paragraph (5), payments or other distributions under the plan to or for the benefit of insiders, senior executive officers, and any of the 20 next most highly compensated employees or consultants providing services to the debtor, shall not be approved except as part of a program of payments or distributions generally applicable to employees of the debtor, and only to the extent that the court determines that such payments are not excessive or disproportionate compared to distributions to the debtor's nonmanagement workforce.''; and

(2) in paragraph (5)—

(A) in subparagraph (A)(ii), by striking ''and'' at the end;

(B) in subparagraph (B), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(C) the compensation disclosed pursuant to subparagraph (B) has been approved by, or is subject to the approval of, the court as reasonable when compared to individuals holding comparable positions at comparable companies in the same industry and not disproportionate in light of economic concessions by the debtor's nonmanagement workforce during the case.''.

SEC. 302. LIMITATIONS ON EXECUTIVE COMPENSATION ENHANCEMENTS.

Section 503(c) of title 11, United States Code, is amended—

(1) in paragraph (1), in the matter preceding subparagraph (A)—

(A) by inserting '', a senior executive officer, or any of the 20 next most highly compensated employees or consultants'' after ''an insider'';

(B) by inserting ''or for the payment of performance or incentive compensation, or a bonus of any kind, or other financial returns designed to replace or enhance incentive, stock, or other compensation in effect before the date of the commencement of the case,'' after ''remain with the debtor's business,''; and

(C) by inserting ''clear and convincing'' before ''evidence in the record''; and

(2) by amending paragraph (3) to read as follows:

''(3) other transfers or obligations, to or for the benefit of insiders, senior executive officers, managers, or consultants providing services to the debtor, in the absence of a finding by the court, based upon clear and convincing evidence, and without deference to the debtor's request for such payments, that such transfers or obligations are essential to the survival of the debtor's business or (in the case of a liquidation of some or all of the debtor's assets) essential to the orderly liquidation and maximization of value of the assets of the debtor, in either case, because of the essential nature of the services provided, and then only to the extent that the court finds such transfers or obligations are reasonable compared to individuals holding comparable positions at comparable companies in the same industry and not disproportionate in light of economic concessions by the debtor's nonmanagement workforce during the case.''.

SEC. 303. ASSUMPTION OF EXECUTIVE BENEFIT PLANS.

Section 365 of title 11, United States Code, is amended—

(1) in subsection (a), by striking ''and (d)'' and inserting ''(d), (q), and (r)''; and

(2) by adding at the end the following:

''(q) No deferred compensation arrangement for the benefit of insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor shall be assumed if a defined benefit plan for employees of the debtor has been terminated pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, on or after the date of the commencement of the case or within 180 days before the date of the commencement of the case.

''(r) 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 shall be assumed if the debtor has obtained relief under subsection (g) or (h) of section 1114 to impose reductions in retiree benefits or under subsection (d) or (e) of section 1113 to impose reductions in the health benefits of active employees of the debtor, or reduced or eliminated health benefits for active or retired employees within 180 days before the date of the commencement of the case.''.

SEC. 304. RECOVERY OF EXECUTIVE COMPENSATION.

(a) IN GENERAL.—Subchapter III of chapter 5 of title 11, United States Code, is amended by inserting after section 562 the following:

''§ 563. Recovery of executive compensation

''(a) If a debtor has obtained relief under subsection (d) of section 1113, or subsection (g) of section 1114, by which the debtor reduces the cost of its obligations under a collective bargaining agreement or a plan, fund, or program for retiree benefits as defined in section 1114(a), the court, in granting relief, shall determine the percentage diminution in the value of the obligations when compared to the debtor's obligations under the collective bargaining agreement, or with respect to retiree benefits, as of the date of the commencement of the case under this title before granting such relief. In making its determination, the court shall include reductions in benefits, if any, as a result of the termination pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, of a defined benefit plan administered by the debtor, or for which the debtor is a contributing employer, effective at any time on or after 180 days before the date of the commencement of a case under this title. The court shall not take into account pension benefits paid or payable under such Act as a result of any such termination.

''(b) If a defined benefit pension plan administered by the debtor, or for which the debtor is a contributing employer, has been terminated pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974, effective at any time on or after 180 days before the date of the commencement of a case under this title, but a debtor has not obtained relief under subsection (d) of section 1113, or subsection (g) of section 1114, the court, upon motion of a party in interest, shall determine the percentage diminution in the value of benefit obligations when compared to the total benefit liabilities before such termination. The court shall not take into account pension benefits paid or payable under title IV of the Employee Retirement Income Security Act of 1974 as a result of any such termination.

''(c) Upon the determination of the percentage diminution in value under subsection (a) or (b), the estate shall have 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 any officer of the debtor serving as member of the board of directors of the debtor within the year before the date of the commencement of the case, and any individual serving as chairman or lead director of the board of directors at the time of the granting of relief under section 1113 or 1114 or, if no such relief has been granted, the termination of the defined benefit plan.

''(d) The trustee or a committee appointed pursuant to section 1102 may commence an action to recover such claims, except that if neither the trustee nor such committee commences an action to recover such claim by the first date set for the hearing on the confirmation of plan under section 1129, any party in interest may apply to the court for authority to recover such claim for the benefit of the estate. The costs of recovery shall be borne by the estate.

''(e) The court shall not award postpetition compensation under section 503(c) or otherwise to any person subject to subsection (c) if there is a reasonable likelihood that such compensation is intended to reimburse or replace compensation recovered by the estate under this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 11, United States Code, is amended by inserting after the item relating to section 562 the following:

''563. Recovery of executive compensation.''.

SEC. 305. PREFERENTIAL COMPENSATION TRANSFER.

Section 547 of title 11, United States Code, is amended by adding at the end the following:

''(j)(1) The trustee may avoid a transfer—

''(A) made—

''(i) 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; or

''(ii) in anticipation of 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); and

''(B) made or incurred on or within 1 year before the filing of the petition.

''(2) No provision of subsection (c) shall constitute a defense against the recovery of a transfer described in paragraph (1).

''(3) The trustee or a committee appointed pursuant to section 1102 may commence an action to recover such transfer, except that, if neither the trustee nor such committee commences an action to recover such transfer by the time of the commencement of a hearing on the confirmation of a plan under section 1129, 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 shall be borne by the estate.''.

TITLE IV—OTHER PROVISIONS

SEC. 401. UNION PROOF OF CLAIM.

Section 501(a) of title 11, United States Code, is amended by inserting '', including a labor organization,'' after ''A creditor''.

SEC. 402. EXCEPTION FROM AUTOMATIC STAY.

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (27), by striking ''and'' at the end;

(2) in paragraph (28), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(29) of 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 a case under this title, or the payment or enforcement of an award or settlement under such proceeding.''.

By Mr. LEAHY (for himself, Mr. FRANKEN, Ms. WARREN, Mr. BLUMENTHAL, Mr. WYDEN, and Mr. MARKEY):

S. 1158. A bill to ensure the privacy and security of sensitive personal information, to prevent and mitigate identity theft, to provide notice of security breaches involving sensitive personal information, and to enhance law enforcement assistance and other protections against security breaches, fraudulent access, and misuse of personal information; to the Committee on the Judiciary.

Mr. LEAHY. Mr. President, today, I am introducing the Consumer Privacy Protection Act of 2015. This comprehensive legislation will help ensure that the corporations Americans entrust with their most personal information are taking steps to keep it secure. Data breaches continue to plague American businesses and compromise the privacy of millions of consumers. At the same time, the amount of information we share with corporations who are the target of these breaches is growing. Corporations collect and store our social security numbers, our bank account information, and our email addresses. They collect information about our private health and medical conditions. They know what routes we take to and from work and where we drop our kids off at school. They can replicate our fingerprints. We even trust them with private photographs that we store in the cloud.

Corporations benefit financially from our personal information, and they should be obligated to take steps to keep it safe. Too often, however, private information falls into the hands of those who would do us harm and we are not even told. Last year, in what is commonly referred to as the ''Year of the Data Breach,'' breaches at corporations, including Home Depot, Neiman Marcus, and Sony Pictures, as well as many others, demonstrated how vulnerable our corporations are to hackers and cyber criminals. In some cases these breaches exposed credit card data, social security numbers, or bank account information that left millions at risk of financial fraud or identity theft, and in other cases they exposed personal and private information to the public that led to embarrassment and reputational harm.

The Consumer Privacy Protection Act I am introducing today seeks to protect the vast amount of information that we now share with corporations each and every day, and it builds and expands on data security legislation that I have introduced every Congress since 2005. In today's modern world, data security is no longer just about protecting our identities and our bank accounts; it is about protecting our privacy. Americans want to know when someone has had unauthorized access to their emails, to their bank accounts, and to their private family pictures, but they do not just want to be notified of yet another data breach. Americans want to know that the corporations who are profiting from their information are actually doing something to prevent the next data breach. Consumers should not have to settle for mere notice of data breaches. American consumers deserve protection. This legislation would accomplish that.

The Consumer Privacy Protection Act requires that corporations meet certain privacy and data security standards to keep information they store about their customers safe, and requires that corporations notify the customer in the event of a breach. This legislation protects broad categories of data, including, social security numbers and other government-issued identification numbers; financial account information, including credit card numbers and bank accounts; online usernames and passwords, including email names and passwords; unique biometric data, including fingerprints; information about a person's physical and mental health; information about geolocation; and access to private digital photographs and videos.

I understand that not every breach can be prevented. Cyber criminals are determined and constantly looking for new ways to pierce the most sophisticated security systems. But just as we expect a bank to put a lock on the front door and an alarm on the vault to protect its customers' money, we expect corporations to take reasonable measures to protect the personal information they collect from us. Unfortunately, many of the corporations that profit from the very information that we entrust them to protect, have woefully inadequate measures to secure this information. For others, security is simply not a priority. American consumers deserve better.

This legislation creates civil penalties for corporations that fail to meet the required privacy and data security standards established in the bill or fail to notify customers when a breach occurs. The Department of Justice, the Federal Trade Commission, and the State Attorneys General each have a role in enforcement. This legislation also requires corporations to inform Federal law enforcement, such as the Secret Service and the FBI, of all large data breaches, as well as breaches that could impact the federal government. Such notification is necessary to help law enforcement bring these cyber criminals to justice and identify patterns that help protect against future attacks.

Many Americans understandably assume Federal law already protects this sensitive information—common sense tells us that it should. Unfortunately, the reality is that it does not. States provide a patchwork of protection, and while some laws are strong, others are not. For example, 47 States and the District of Columbia require some form of data breach notification, but only 12 States have passed data security requirements designed to prevent data breaches. My home state of Vermont has a strong data breach notification law that has been in effect since 2007.

In crafting Federal law, we must be careful not to override the strong State laws that took years to accomplish with weaker Federal protections, but we also need to ensure that all Americans, regardless of where they live, have their privacy protected. To this end, the Consumer Privacy Protection Act preempts State law relating to data security and data breach notification only to the extent that the protections under those laws are weaker than those provided for in this bill. We must ensure that consumers do not lose privacy protections they currently enjoy. Since this bill is modeled after those States with the strongest consumer protections, however, I believe it will improve protections for consumers in nearly every State.

I am joined today by Senators FRANKEN, WARREN, BLUMENTHAL, WYDEN, and MARKEY in introducing this legislation. These Senators have long shared my commitment to protecting consumer privacy. This legislation also has the support of leading consumer privacy advocates, including: Center for Democracy and Technology, Consumers Union, National Consumers League, New America's Open Technology Institute, Consumer Federation of America, and Privacy Rights Clearinghouse.

Millions of Americans who have had their personal information compromised or stolen as a result of a data

breach consider this issue to be of critical importance and a priority for the Senate. Protecting privacy rights should be important to all of us, regardless of party or ideology. I hope that all Senators will support this measure to better protect Americans' privacy.

By Mr. GRASSLEY (for himself and Mr. WHITEHOUSE):

S. 1169. A bill to reauthorize and improve the Juvenile Justice and Delinquency Prevention Act of 1974, and for other purposes; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, today I am introducing the Juvenile Justice and Delinquency Prevention Reauthorization Act of 2015. Senator WHITEHOUSE is joining me in this effort.

This measure would improve our Nation's response to juvenile offenders in the criminal justice system.

For the last 40 or so years, the Federal Government, through the Juvenile Justice and Delinquency Prevention Act, or JJDPA, has provided guidelines and resources to help States serve troubled adolescents.

This 1974 law provides juvenile justice dollars to States and sets four core requirements for States that choose to accept these Federal funds. The law also created the Office of Juvenile Justice and Delinquency Prevention at the Justice Department.

A centerpiece of the current statute is its standards for the treatment of at-risk youth who come into contact with our criminal justice system. But these standards have not been updated since 2002, and the law's authorization has expired.

Since Congress last extended the law more than a dozen years ago, evidence has emerged that some of the JJDPA's provisions need to be improved or strengthened to reflect the latest research on adolescent development.

As chairman of the Senate Judiciary Committee, I have made this law's renewal a priority. The bill I am introducing would extend the statute for 5 years and update its provisions to reflect the latest research on what works with troubled adolescents.

The bill also would continue Congress's commitment to help State and local jurisdictions improve their juvenile justice systems through a program of formula grants. At the same time, the bill would improve the oversight and accountability of this grant program in several key ways.

Such accountability measures are vitally needed to ensure the grant program's integrity.

The Senate Judiciary Committee heard testimony from whistleblowers last week that the Justice Department is failing to hold participating States accountable for meeting the JJDPA's four core requirements.

After I wrote several letters concerning these whistleblower allegations, the Justice Department admitted to having a flawed compliance monitoring policy in place since 1997. This policy allowed States to receive JJDPA formula grants in violation of the law's funding requirements.

Witnesses at last week's Senate Judiciary hearing recounted violations of law, mismanagement, and waste of limited juvenile justice grant funds, in addition to retaliation against whistleblowers.

This is an injustice not only to the taxpayers but also to the youth who face inadequate juvenile justice systems. It is also an injustice to the children who end up in the justice system as a result of poor experience in the foster care system.

Shortcomings in the juvenile justice system will not be solved overnight. But I look forward to taking the lead on legislation in the 114th Congress that will make measurable improvements.

In closing, numerous organizations have worked with us on the development of this bill, and I thank them for their contributions. I also thank Senator WHITEHOUSE for his cosponsorship of the legislation, and I urge my colleagues to join me in supporting its passage.

By Mrs. FEINSTEIN (for herself and Mr. ENZI):

S. 1170. A bill to amend title 39, United States Code, to extend the authority of the United States Postal Service to issue a semipostal to raise funds for breast cancer research, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mrs. FEINSTEIN. Mr. President, I rise today to introduce legislation to reauthorize the Breast Cancer Research Stamp for 4 more years.

Without Congressional action, this important and effective way of raising additional funds for critical research will expire at the end of this year. These stamps are sold for a little more than the cost of first class postage, so customers can choose to donate in a simple and easy way.

Since 1998, more than 986 million breast cancer research stamps have been sold, raising over $80.4 million for breast cancer research. The funds have gone to support breast cancer research at both the National Institutes of Health, NIH, and the Department of Defense.

For example, the National Institutes of Health has used proceeds from the Breast Cancer Research Stamp to fund the Maternal Pregnancy Factors and Breast Cancer Risk Study. This study was designed to identify possible connections between various conditions during pregnancy and breast cancer risk. After comparing information from women who delivered babies and were later diagnosed with breast cancer to women who delivered babies and were not diagnosed with breast cancer, researchers found that factors like preeclampsia or carrying twins may increase cancer risk. Knowing these risk factors helps both doctors and patients be vigilant about early screening.

Thanks to breakthroughs in cancer research, more and more breast cancer patients are becoming survivors. Nearly all patients with breast cancer caught in the early stages now survive. That is incredible, and a testament to how important this research has been.

Though despite our great successes, the need for continued research and improved screening and treatments remains high.

Breast cancer is the most commonly diagnosed cancer among women in the U.S. and the second leading cause of cancer deaths. One in eight women will be diagnosed, and more than 40,000 die from the disease each year.

Though male breast cancer is less common, an estimated 2,350 men will be diagnosed with breast cancer this year.

The Breast Cancer Research Stamp provides a simple, convenient way for Americans to contribute toward this vitally important research. It also provides a symbol of hope for those affected by this disease.

I thank Senator ENZI for joining me to support this bipartisan legislation and urge my colleagues to join us and ensure the stamp continues for another 4 years.

This bill is supported by organizations including: the American Association of Cancer Research, AACR, American Cancer Society Cancer Action Network, ACS CAN, American College of Obstetrics and Gynecology, ACOG, American College of Surgeons, Are You Defense Advocacy, Breast Cancer Fund, Breast Cancer Research Foundation, Center for Women Policy Studies, Susan G. Komen, and the Tigerlily Foundation.

I look forward to working with my colleagues on this important issue.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 156—EXPRESSING THE SENSE OF THE SENATE WITH RESPECT TO CHILDHOOD STROKE AND RECOGNIZING MAY 2015 AS ''NATIONAL PEDIATRIC STROKE AWARENESS MONTH''

Mr. BLUMENTHAL (for himself, Ms. AYOTTE, and Mr. MURPHY) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 156

Whereas a stroke, also known as cerebrovascular disease, is an acute neurologic injury that occurs when the blood supply to a part of the brain is interrupted by a clot in the artery or a burst of the artery;

Whereas a stroke is a medical emergency that can cause permanent neurologic damage or even death if not promptly diagnosed and treated;

Whereas a stroke occurs in approximately 1 out of every 3,500 live births, and 4.6 out of 100,000 children ages 19 and under experience a stroke each year;