

**SEC. 2. DEFINITIONS.**

Section 548(d) of title 11, United States Code, is amended by adding at the end the following:

“(3) In this section, the term ‘charitable contribution’ means a charitable contribution, as that term is defined in section 170(c) of the Internal Revenue Code of 1986, if that contribution—

“(A) is made by a natural person; and

“(B) consists of—

“(i) a financial instrument (as that term is defined in section 731(c)(2)(C) of the Internal Revenue Code of 1986); or

“(ii) cash.

“(4) In this section, the term ‘qualified religious or charitable entity or organization’ means—

“(A) an entity described in section 170(c)(1) of the Internal Revenue Code of 1986; or

“(B) an entity or organization described in section 170(c)(2) of the Internal Revenue Code of 1986.”.

**SEC. 3. TREATMENT OF PRE-PETITION QUALIFIED CHARITABLE CONTRIBUTIONS.**

(a) IN GENERAL.—Section 548(a) of title 11, United States Code, is amended—

(1) by inserting “(1)” after “(a)”;

(2) by striking “(1) made” and inserting “(A) made”;

(3) by striking “(2)(A)” and inserting “(B)(i);

(4) by striking “(B)(i)” and inserting “(ii)(1)”;

(5) by striking “(ii) was” and inserting “(II) was”;

(6) by striking “(iii)” and inserting “(III)”;

and

(7) by adding at the end the following:

“(2) A transfer of a charitable contribution to a qualified religious or charitable entity or organization shall not be considered to be a transfer covered under paragraph (1)(B) in any case in which—

“(A) the amount of that contribution does not exceed 15 percent of the gross annual income of the debtor for the year in which the transfer of the contribution is made; or

“(B) the contribution made by a debtor exceeded the percentage amount of gross annual income specified in subparagraph (A), if the transfer was consistent with the practices of the debtor in making charitable contributions.”.

(b) TRUSTEE AS LIEN CREDITOR AND AS SUCCESSOR TO CERTAIN CREDITORS AND PURCHASERS.—Section 544(b) of title 11, United States Code, is amended—

(1) by striking “(b) The trustee” and inserting “(b)(1) Except as provided in paragraph (2), the trustee”; and

(2) by adding at the end the following:

“(2) Paragraph (1) shall not apply to a transfer of a charitable contribution (as that term is defined in section 548(d)(3)) that is not covered under section 548(a)(1)(B), by reason of section 548(a)(2).”.

(c) CONFORMING AMENDMENTS.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (e)—

(A) by striking “548(a)(2)” and inserting “548(a)(1)(B)”;

(B) by striking “548(a)(1)” and inserting “548(a)(1)(A)”;

(2) in subsection (f)—

(A) by striking “548(a)(2)” and inserting “548(a)(1)(B)”;

(B) by striking “548(a)(1)” and inserting “548(a)(1)(A)”;

(3) in subsection (g)—

(A) by striking “section 548(a)(1)” each place it appears and inserting “section 548(a)(1)(A)”;

(b) by striking “548(a)(2)” and inserting “548(a)(1)(B)”.

**SEC. 4. TREATMENT OF POST-PETITION CHARITABLE CONTRIBUTIONS.**

(a) CONFIRMATION OF PLAN.—Section 1325(b)(2)(A) of title 11, United States Code,

is amended by inserting before the semicolon the following: “, including charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3)) to a qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)) in an amount not to exceed 15 percent of the gross income of the debtor for the year in which the contributions are made”.

(b) DISMISSAL.—Section 707(b) of title 11, United States Code, is amended by adding at the end the following: “In making a determination whether to dismiss a case under this section, the court may not take into consideration whether a debtor has made, or continues to make, charitable contributions (that meet the definition of ‘charitable contribution’ under section 548(d)(3)) to any qualified religious or charitable entity or organization (as that term is defined in section 548(d)(4)).”.

**SEC. 5. APPLICABILITY.**

This Act and the amendments made by this Act shall apply to any case brought under an applicable provision of title 11, United States Code, that is pending or commenced on or after the date of enactment of this Act.

**SEC. 6. RULE OF CONSTRUCTION.**

Nothing in the amendments made by this Act is intended to limit the applicability of the Religious Freedom Restoration Act of 1993 (42 U.S.C. 2002bb et seq.).

By Mr. JEFFORDS (for himself, Mr. CONRAD, Ms. COLLINS, Mr. MURKOWSKI, Mr. REID and Mr. AKAKA):

S. 1247. A bill to amend title 38, United States Code, to limit the amount of recoupment from veterans’ disability compensation that is required in the case of veterans who have received special separation benefits from the Department of Defense; to the Committee on Veterans’ Affairs.

**THE SPECIAL SEPARATION BENEFITS IMPROVEMENT ACT OF 1997**

Mr. JEFFORDS. Mr. President, today I rise to introduce the Special Separation Benefits [SSB] Improvement Act of 1997. This legislation would address the unfair provision that double-taxes veterans who participate in the special separation benefits downsizing program run by the Department of Defense [DOD].

Since 1991, in an effort by the DOD to downsize the armed services, certain military personnel have been eligible for a special separation benefit [SSB]. However, since the inception of this program recipients who are subsequently determined to have a service-connected disability must offset the full SSB amount paid to that individual through the withholding of disability compensation by the Department of Veterans Affairs [VA]. Because of these cost cutting provisions, veterans who participate in the DOD’s downsizing by selecting an SSB lump sum payment are forced to pay back the full, pre-tax amount in disability compensation—offsetting money that the disabled veteran would never see. This is a gross injustice to veterans by double taxing their hard earned benefits.

My bill would ease this double taxation for all members who accept an

SSB package, and make these alterations retroactive to December 5, 1991. Thus, service members not able to receive payment concurrently since 1991 will be reimbursed for their lost compensation portion that was taxed. The near-term costs of this bill were estimated by the Congressional Budget Office to be less than \$500,000 through the year 2000 and about \$2 million in 2002—barely a fraction of a percentage of our annual spending on compensation and benefits for former military personnel.

Mr. President, I urge my colleagues to join me in correcting the double-taxing of veterans’ benefits by the Government.

Mr. MURKOWSKI. Mr. President, I rise today as an original cosponsor to the Special Separation Benefits [SSB] Improvement Act of 1997. Offered by my colleague on the Senate Committee on Veterans’ Affairs—Senator JEFFORDS, this legislation will correct a current injustice where service-connected disabled veterans, who participate in the special separation benefits program [SSB], are wrongly doubled taxed on their benefits.

In 1991, the Department of Defense [DOD], in an effort to downsize the armed services, established the SSB, which gives military personnel a lump sum payment to retire. However, for those veterans who are subsequently determined to have a service-connected disability, their SSB benefit amount is offset by withholding the veteran’s disability compensation from the VA. A veteran only receives the SSB benefits after taxes are withheld. At the same time, disability compensation is not taxed. The injustice is that the veteran must repay with his or her disability compensation the pre-tax amount of the SSB payment—in effect double taxing the veteran’s benefits.

The Special Separation Benefits [SSB] Improvement Act of 1997 eases the double taxation for all members who participated in the SSB program retroactively to December 5, 1991. These servicemembers will receive payment for their lost compensation portion that was taxed. According to the Congress Budget Office [CBO], the near term costs are estimated to be less than \$500,000 through the year 2000. For this small amount, Congress has the opportunity to correct an injustice against our veterans who have given so much.

I hope that my colleagues can join me in cosponsoring this legislation.

**ADDITIONAL COSPONSORS**

S. 219

At the request of Mr. DASCHLE, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of S. 219, a bill to amend the Trade Act of 1974 to establish procedures for identifying countries that deny market access for value-added agricultural products of the United States.

S. 755

At the request of Mr. CAMPBELL, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of S. 755, a bill to amend title 10, United States Code, to restore the provisions of chapter 76 of that title (relating to missing persons) as in effect before the amendments made by the National Defense Authorization Act for fiscal year 1997 and to make other improvements to that chapter.

S. 951

At the request of Mr. TORRICELLI, the name of the Senator from New Jersey [Mr. LAUTENBERG] was added as a cosponsor of S. 951, a bill to reestablish the Office of Noise Abatement and Control in the Environmental Protection Agency.

S. 1062

At the request of Mr. D'AMATO, the name of the Senator from Tennessee [Mr. FRIST] was added as a cosponsor of S. 1062, a bill to authorize the President to award a gold medal on behalf of the Congress to Ecumenical Patriarch Bartholomew in recognition of his outstanding and enduring contributions toward religious understanding and peace, and for other purposes.

S. 1096

At the request of Mr. KERREY, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1096, a bill to restructure the Internal Revenue Service, and for other purposes.

S. 1153

At the request of Mr. BAUCUS, the name of the Senator from Pennsylvania [Mr. SANTORUM] was added as a cosponsor of S. 1153, a bill to promote food safety through continuation of the Food Animal Residue Avoidance Database Program operated by the Secretary of Agriculture.

S. 1173

At the request of Mr. WARNER, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 1173, a bill to authorize funds for construction of highways, for highway safety programs, and for mass transit programs, and for other purposes.

S. 1194

At the request of Mr. KYL, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1194, a bill to amend title XVIII of the Social Security Act to clarify the right of Medicare beneficiaries to enter into private contracts with physicians and other health care professionals for the provision of health services for which no payment is sought under the Medicare Program.

S. 1234

At the request of Mr. HOLLINGS, the names of the Senator from West Virginia [Mr. ROCKEFELLER] and the Senator from Hawaii [Mr. INOUE] were added as cosponsors of S. 1234, a bill to improve transportation safety, and for other purposes.

SENATE CONCURRENT RESOLUTION 30

At the request of Mr. HELMS, the names of the Senator from South Da-

kota [Mr. DASCHLE] and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Concurrent Resolution 30, a concurrent resolution expressing the sense of the Congress that the Republic of China should be admitted to multilateral economic institutions, including the International Monetary Fund and the International Bank for Reconstruction and Development.

SENATE CONCURRENT RESOLUTION 48

At the request of Mr. KYL, the name of the Senator from Louisiana [Mr. BREAUX] was added as a cosponsor of Senate Concurrent Resolution 48, a concurrent resolution expressing the sense of the Congress regarding proliferation of missile technology from Russia to Iran.

AMENDMENT NO. 1253

At the request of Mr. MACK, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of amendment No. 1253 proposed to S. 1156, an original bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes.

At the request of Mr. GRAHAM, the name of the Senator from California [Mrs. BOXER] was added as a cosponsor of amendment No. 1253 proposed to S. 1156, *supra*.

#### SENATE RESOLUTION 129—RELATIVE TO PRIVATE RELIEF LEGISLATION

Mr. ABRAHAM (for himself and Mr. LEVIN) submitted the following resolution; which was referred to the Committee on the Judiciary:

SENATE RESOLUTION 129

*Resolved*, That the bill S. 1168 entitled "A Bill for the relief of Retired Sergeant First Class James D. Benoit, Wan Sook Benoit, and the estate of David Benoit, and for other purposes," is referred, with all accompanying papers, to the chief judge of the United States Court of Federal Claims for a report in accordance with sections 1492 and 2509 of title 28, United States Code.

#### AMENDMENTS SUBMITTED

#### THE DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

#### FAIRCLOTH (AND BOXER) AMENDMENTS NOS. 1271-1273

Mr. FAIRCLOTH (for himself and Mrs. BOXER) proposed three amendments to the bill (S. 1156) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1998, and for other purposes; as follows:

AMENDMENT NO. 1271

On page 3, line 9, after "facilities," insert the following: "and for the administrative

operating costs of the Office of the Corrections Trustee."

AMENDMENT NO. 1272

On page 4, line 4 and 5, strike "Administrative Office of the United States Courts" and insert "District of Columbia Financial Responsibility and Management Assistance Authority".

On page 4, lines 15 and 16, strike "Administrative Office of the United States Courts" and insert "District of Columbia Financial Responsibility and Management Assistance Authority".

AMENDMENT NO. 1273

At the appropriate place, insert the following:

SEC. . It is the sense of the Senate that the management teams authorized in the District of Columbia Management Reform Act of 1997 should—

(1) take whatever steps are deemed necessary to identify the structural, operational, administrative, and other problems within the designated departments; and

(2) implement the management reform plans in accordance with the provisions of the District of Columbia Management Reform Act of 1997.

#### BROWNBACK AMENDMENT NO. 1274

Mr. FAIRCLOTH (for Mr. BROWNBACK) proposed an amendment to the bill, S. 1156, *supra*; as follows:

On page 9, line 17, strike "\$1,235,000" and all that follows through "134;" on line 24 and insert "\$3,376,000 from local funds (not including funds already made available for District of Columbia public schools) for public charter schools: *Provided*, That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall be available for new public charter schools on a per pupil basis: *Provided further*, That \$400,000 be available to the District of Columbia Public Charter School Board for administrative costs: *Provided further*, That if the entirety of this allocation has not been provided as payment to 1 or more public charter schools by May 1, 1998, and remains unallocated, the funds shall be deposited into a special revolving loan fund to be used solely to assist existing or new public charter schools in meeting startup and operating costs: *Provided further*, That the District of Columbia Education Emergency Board of Trustees shall report to Congress not later than 120 days after the date of enactment of this Act on the capital needs of each public charter school and whether the current per pupil funding formula should reflect these needs: *Provided further*, That until the District of Columbia Education Emergency Board of Trustees reports to Congress as provided in the preceding proviso, the District of Columbia Education Emergency Board of Trustees shall take appropriate steps to provide public charter schools with assistance to meet all capital expenses in a manner that is equitable with respect assistance provided to other District of Columbia public schools: *Provided further*, That the District of Columbia Education Emergency Board of Trustees shall report to Congress not later than November 1, 1998, on the implementation of their policy to give preference to newly created District of Columbia public charter schools for surplus public school property;"

#### MOYNIHAN AMENDMENT NO. 1275

Mrs. BOXER (for Mr. MOYNIHAN) proposed an amendment to the bill, S. 1156, *supra*; as follows: