(1) in subparagraph (A) by—

(A) striking '$1,500,000'' and inserting ''3,000,000''; and

(B) striking ''80'' and inserting ''50''; and

(2) in subparagraph (B)(ii) by

striking ''$1,500,000'' and inserting ''$3,000,000''.

AMENDMENT NO. 2522, AS MODIFIED

(Purpose: To provide for the expenses of long term care)

On page 7, line 15, strike ''(ii)'' and insert ''(ii)(I)''

On page 7, between lines 21 and 22, insert the following:

''(II) In addition, the debtor's monthly expenses may include, if applicable, the continuation of actual expenses paid by the debtor that are reasonably and necessary for care and support of an elderly, chronically ill, or disabled household member or member of the debtor's immediate family (including parents, grandparents, and siblings of the debtor, the dependents of the debtor, and the spouse of the debtor in a joint case) who is not a dependent and who is unable to pay for such reasonable and necessary expenses.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

PRIVILEGE OF THE FLOOR

Mr. INHOFE. Mr. President, I ask unanimous consent that Glen Powell be given floor privileges for the duration of the day.

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

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized as if in morning business.

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

RECESS APPOINTMENTS

Mr. INHOFE. Mr. President, I wish to have a brief word about the issue of recess appointments.

For quite some number of years, Presidents—Democrats and Republicans—have, in my opinion, violated the Constitution by making recess appointments. The Constitution is very explicit when it says that recess appointments can only be made in the event the vacancy occurs during the recess. There is a reason for this, historically.

Back in the days when we were on horses and we had legislative sessions that might have lasted 1, 2, or 3 months, we found ourselves in recess more than we were in session. Therefore, on occasion it would be necessary for the Secretary of State, who may have died in office—or when vacancies had occurred while we were in recess—to have to reappoint somebody. So we did. It made sense. But since that time—over the last several years—that privilege has been abused. As I say, this is not just an abuse that takes place by Republican or Democrat Presidents; it is both of them equally.

Consequently, the Constitution, which says that the Senate has the prerogative of advice and consent, has been violated. It was put there for checks and balances. It was put there for a very good reason. That reason is just as legitimate today as it was when our Founding Fathers put it in there; that is, the Senate should advise and consent to these appointments. It means we should actually be in on the discussion as well as consenting to the decision the President has made by virtue of his nomination.

In 1985, President Reagan was making a number of recess appointments that, in my opinion, and in the opinion of most of the Democrats and Republicans, was not in keeping with the Constitution. And certainly the majority leader at that time—who was Senator BOB BYRD from West Virginia, the very distinguished Senator—made a request of the President not to make recess appointments. He extracted from him a commitment in writing that he would not make recess appointments and, if it should become necessary because of extraordinary circumstances to make recess appointments, that he would have to give the list to the majority leader—who was, of course, BOB BYRD—in sufficient time in advance that they could prepare for it either by agreeing in advance to the confirmation of that appointment or by not going into recess and staying in pro forma so the recess appointments could not take place.

In order to add some leverage to this, the majority leader, Senator BYRD, said he would hold up all Presidential appointments until such time as President Reagan would give him a letter agreeing to those conditions. The President did give him a letter. President Reagan gave him a letter.

I will quote for you from within this letter. This was on October 18, 1985. He said:

. . . prior to any recess breaks, the White House would inform the Majority Leader and [the Minority Leader] of any recess appointment which might be contemplated during such recess. They would do so in advance sufficiently to allow the leadership on both sides to perhaps take action to fill whatever vacancies that might be imperative during such a break.

This is exactly what we talked about. This is the reason President Reagan agreed to this. He gave a letter to Senator BYRD. Senator BYRD was satisfied.

Along came a recess last May or June, and the President did in fact appoint someone he had nominated long before the recess occurred—in fact, not just months but even more than a year before that—and who had not complied with the necessary information in order to come up for confirmation. In that case, President Clinton did in fact violate the intent of the appointment process in the advice and consent provision found in the Constitution.

I wrote a letter to President Bill Clinton. My letter said exactly the same thing the letter said from BOB BYRD to President Reagan in 1985. It was worded the same way President Reagan's letter was worded. It said: Unless you will give us a letter, I am going to personally put a hold on all recess appointments.

The President started appointing people. And I put a hold on all of them—it didn't make any difference; I put a hold on all nonmilitary appointments—until finally, I remember one time somebody said: Well, we have a really serious problem because we can't get confirmation on the President's nominee for Secretary of the Treasury. This could have a dramatic adverse effect on the economy. The value of the dollar could go down. All these things came into the picture. What are you going to do about that? I said: I am not going to do anything, but you had better tell the President about that because it is serious. Finally, he agreed to it.

Mr. President, I ask unanimous consent that all of these documents be printed in the RECORD immediately following my remarks.

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

(See Exhibit 1.)

Mr. INHOFE. The letter finally came on June 15, 1999. I will read one sentence out of that letter.

I share your opinion that the understanding reached in 1985 between President Reagan and Senator BYRD cited in your letter remains a fair and constructive framework which my Administration will follow.

Once again, what is he following? He is saying, prior to any recess, the White House will inform the majority leader and the minority leader of any recess appointments which might be contemplated during such recess? Would they do so in advance sufficiently to allow leadership on both sides to perhaps take action to fill whatever vacancies might be imperative during such break? He agreed to it.

I have not seen such a document, but I think in anticipation of the recess we are going in, it is my understanding that the President merely sent a list of some 150 nominees he has. Again, I didn't see it. It was never officially received by the majority leader. It was sent back to the White House.

If he thinks this is a loophole in the commitment he made, it certainly is not a loophole.

Anticipating that this President—who quite often does things he doesn't say he is going to do and who quite often says things that aren't true—is going to in fact have recess appointments, we wrote a letter. It is not just on my letterhead signed by me, but also I believe there are 16 other Senators saying that if you make recess appointments during the upcoming recess, which violates the spirit of your agreement, we will respond by placing holds on all judicial nominees.

The result would be a complete breakdown in cooperation between our two branches of government on this issue which could prevent the confirmation of any such nominees next year.

I want to make sure there is no misunderstanding and that we don't go into a recess with the President not understanding that we are very serious about that. It is not just me putting a hold on all judicial nominees for the remaining year of his term of service, but 16 other Senators have agreed to do that.

It would be very easy for the President to just go ahead and comply with that agreement he has in his letter of June 15, 1999, rather than feeling compelled to make judicial appointments during this recess.

I want to serve notice to make it very clear.

I received a letter from the President. He did not honor me with a personal letter. It came from John Podesta, Chief of Staff to the President. Without reading the whole letter, because it is rather lengthy, it says that they might not comply with this.

I want to make sure it is abundantly clear without any doubt in anyone's mind in the White House—I will refer back to this document I am talking about right now—that in the event the President makes recess appointments, we will put holds on all judicial nominations for the remainder of his term. It is very fair for me to stand here and eliminate any doubt in the President's mind of what we will do.

EXHIBIT I

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, June 10, 1999.

Hon. WILLIAM JEFFERSON CLINTON,
The White House, Washington, DC.

DEAR MR. PRESIDENT: I appreciate our conversation this morning, and our mutual desire to come to an understanding about recess appointments. We have often worked together to help promote the smooth operation of the government, and I believe that we can once again come to an agreement.

As you know, the recent recess appointment of the U.S. Ambassador to Luxembourg has caused great concern to many members of the Senate. I believe that it would be constructive for us to reach an understanding in principle on how we will now proceed to ensure that we avoid similar sparring between the Executive Branch and the Senate in the future.

I agree that we will use the understanding reached between President Reagan and Senator Byrd in 1985, cited by your Chief of Staff today. That understanding, described in the CONGRESSIONAL RECORD of October 18, 1985, states ". . . prior to any recess breaks, the White House would inform the Majority Leader and [the Minority Leader] of any recess appointment which might be contemplated during such recess. They would do so in advance sufficiently to allow the leadership on both sides to perhaps take action to fill whatever vacancies that might be imperative during such a break."

I believe that this is both a reasonable and a constructive framework. Following this precedent will help us to proceed in a cooperative and expeditious manner on future nominees.

Mr. President, I appreciate your stated desire to work with me on this issue, and I look forward to hearing from you soon.

Sincerely,

TRENT LOTT.

THE WHITE HOUSE,
Washington, June 15, 1999.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: I was pleased to learn from your letter of June 10 that you agree with my Chief of staff on the matter of recess appointments. As Mr. Podesta indicated in his letter to you, my Administration has made it a practice to notify Senate leaders in advance of our intentions in this regard, and this precedent will continue to be observed.

I share your opinion that the understanding reached in 1985 between President Reagan and Senator Byrd cited in your letter remains a fair and constructive framework, which my Administration will follow. I also appreciate your view that our nominees merit expeditious consideration through bipartisan cooperation among Senators; I sincerely hope that this spirit will prevail in the days to come.

Sincerely,

BILL CLINTON.

U.S. SENATE,
Washington, DC, November 10, 1999.

The PRESIDENT,
The White House, Washington, DC.

DEAR MR. PRESIDENT: We write to urge your compliance with the spirit of our recent agreement regarding recess appointments and to inform you that there will be serious consequences if you act otherwise.

If you do make recess appointments during the upcoming recess which violate the spirit of our agreement, then we will respond by placing holds on all judicial nominees. The result would be a complete breakdown in cooperation between our two branches of government on this issue which could prevent the confirmation of any such nominees next year.

We do not want this to happen. We urge you to cooperate in good faith with the Majority Leader concerning all contemplated recess appointments.

Sincerely,

Jesse Helms, Wayne Allard, Michael Crapo, Michael B. Enzi, Bob Smith, George Voinovich, Pete B. Domenici, James M. Inhofe, Phil Gramm, Mitch McConnell, Craig Thomas, Rod Grams, Tim Hutchinson, Conrad Burns, Chuck Grassley, Richard Shelby.

THE WHITE HOUSE,
Washington, November 12, 1999.

Senator JAMES INHOFE,
Senate Office Building,
Washington, DC.

DEAR SENATOR INHOFE: Thank you for your recent letter of November 10, 1999 on the need for cooperation between the Legislative and Executive branches and the President's right to recess appoint as defined by the Constitution.

We appreciate and thank the Senate, especially the Majority and Minority Leaders, for the 84 confirmations from Wednesday November 10, which includes eight republican nominees recommended by the Majority Leader. These confirmations reduce the number of nominees awaiting confirmation to 153 for this year. While nominees wait an average of six months to be confirmed, we thank you for confirming 62% of nominees this year.

We look forward to working with you on the 153 remaining nominees and new nominations this session and next session. They are important to the public, because they include nominations critical to the safety of our citizens and the integrity of our criminal justice system (US Marshals, US Attorneys and judges).

Compared with previous administrations, the President has used his authority to make recess appointments infrequently. President Reagan made 239 recess appointments. During President Bush's four-year term, 78 persons were recess appointed. We have made only 59 in 7 years, fewer than President Bush in four years. Several of our recess appointees have been republican nominees, done with the cooperation of the Senate leadership.

Because of the importance of filling these positions and pursuant to an agreement with the Majority Leader, we continue to notify the Majority and Minority Leaders of any effort the President may make a appoint temporarily a person into a vacancy, while awaiting confirmation by the Senate.

We will continue to meet with the Majority Leader's Office to accomplish our goal of confirming and appointing these nominees. We want to cultivate a cooperative relationship with you, and ask for your continued help in expeditiously confirming nominees so important to the US public.

Sincerely,

JOHN PODESTA,
Chief of Staff to the President.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. Acting in the capacity of the Senator from Montana, I ask unanimous consent the order for the quorum call be rescinded.

Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:27 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GREGG].

The PRESIDING OFFICER. The Chair, in my capacity as a Senator from the State of New Hampshire, suggests the absence of a quorum. The clerk will call the roll.

The legislative assistant proceeded to call the roll.

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

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

BANKRUPTCY REFORM ACT OF 1999—Continued

Mr. LEAHY. Mr. President, I should note just on the bankruptcy bill, we are making more progress. This morning we were able to clear four more amendments. I understand there is a total of 31 amendments that been accepted to improve the Bankruptcy Reform Act. These are amendments that have been offered on both sides of the aisle.

I commend the distinguished deputy Democratic leader, the Senator from Nevada, Mr. REID, for his help. He has