

SEC. 2. AMENDMENTS.

Section 707(b)(2)(D) of title 11, United States Code, is amended—

[(1) in each of clauses (i) and (ii)—

[(A) by indenting the left margins of such clauses 2 ems to the right; and

[(B) by redesignating such clauses as subclauses (I) and (II), respectively;

[(2) by striking “if the debtor is a disabled veteran” and inserting the following:

[(“if—

[(“i) the debtor is a disabled veteran”;

[(3) by striking the period at the end and inserting “; or”;

[(4) by adding at the end the following:

[(“i) while—

[(“I) the debtor is—

[(“(aa) on, and during the 540-day period beginning immediately after the debtor is released from, a period of active duty (as defined in section 101(d)(1) of title 10) of not less than 90 days; or

[(“(bb) performing, and during the 540-day period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32) performed for a period of not less than 90 days; and

[(“(II) if, after September 11, 2001, the debtor while a member of a reserve component of the Armed Forces or a member of the National Guard, was called to such active duty or performed such homeland defense activity.”.]

(1) in clauses (i) and (ii)—

(A) by indenting the left margin of such clauses 2 ems to the right, and

(B) by redesignating such clauses as subclauses (I) and (II), respectively,

(2) by striking “testing, if the debtor is a disabled veteran” and inserting the following: “testing—

“(i) if the debtor is a disabled veteran”;

(3) by striking the period at the end and inserting “; or”;

(4) by adding at the end the following:

“(ii) with respect to the debtor, while the debtor is—

“(I) on, and during the 540-day period beginning immediately after the debtor is released from, a period of active duty (as defined in section 101(d)(1) of title 10) of not less than 90 days; or

“(II) performing, and during the 540-day period beginning immediately after the debtor is no longer performing, a homeland defense activity (as defined in section 901(1) of title 32) performed for a period of not less than 90 days;

if after September 11, 2001, the debtor while a member of a reserve component of the Armed Forces or a member of the National Guard, was called to such active duty or performed such homeland defense activity.”.

SEC. 3. GAO STUDY.

(a) COMPTROLLER GENERAL STUDY.—Not later than 2 years after the effective date of this Act, the Comptroller General shall complete and transmit to the Speaker of the House of Representatives and the President pro tempore of the Senate, a study of the use and the effects of the provisions of law amended (and as amended) by this Act. Such study shall address, at a minimum—

(1) whether and to what degree members of reserve components of the Armed Forces and members of the National Guard avail themselves of the benefits of such provisions,

(2) whether and to what degree such members are debtors in cases under title 11 of the United States Code that are substantially related to service that qualifies such members for the benefits of such provisions,

(3) whether and to what degree such members are debtors in cases under such title that are materially related to such service, and

(4) the effects that the use by such members of section 707(b)(2)(D) of such title, as

amended by this Act, has on the bankruptcy system, creditors, and the debt-incurrence practices of such members.

(b) FACTORS.—For purposes of subsection (a)—

(1) a case shall be considered to be substantially related to the service of a member of a reserve component of the Armed Forces or a member of the National Guard that qualifies such member for the benefits of the provisions of law amended (and as amended) by this Act if more than 33 percent of the aggregate amount of the debts in such case is incurred as a direct or indirect result of such service,

(2) a case shall be considered to be materially related to the service of a member of a reserve component of the Armed Forces or a member of the National Guard that qualifies such member for the benefits of such provisions if more than 10 percent of the aggregate amount of the debts in such case is incurred as a direct or indirect result of such service, and

(3) the term “effects” means—

(A) with respect to the bankruptcy system and creditors—

(i) the number of cases under title 11 of the United States Code in which members of reserve components of the Armed Forces and members of the National Guard avail themselves of the benefits of such provisions,

(ii) the aggregate amount of debt in such cases,

(iii) the aggregate amount of debt of such members discharged in cases under chapter 7 of such title,

(iv) the aggregate amount of debt of such members in cases under chapter 7 of such title as of the time such cases are converted to cases under chapter 13 of such title,

(v) the amount of resources expended by the bankruptcy courts and by the bankruptcy trustees, stated separately, in cases under title 11 of the United States Code in which such members avail themselves of the benefits of such provisions, and

(vi) whether and to what extent there is any indicia of abuse or potential abuse of such provisions, and

(B) with respect to debt-incurrence practices—

(i) any increase in the average levels of debt incurred by such members before, during, or after such service,

(ii) any indicia of changes in debt-incurrence practices adopted by such members in anticipation of benefitting from such provisions in any potential case under such title; and

(iii) any indicia of abuse or potential abuse of such provisions reflected in the debt-incurrence of such members.

SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 60 days after the date of enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall apply only with respect to cases commenced under title 11 of the United States Code in the 3-year period beginning on the effective date of this Act.

Mr. SALAZAR. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements related to the bill be printed in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 3197), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

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

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

UNANIMOUS CONSENT
AGREEMENT—H.R. 7081

Mr. REID. Mr. President, I ask unanimous consent that after the prayer and pledge and any remarks of the leaders on Wednesday, October 1, the Senate proceed to the consideration of H.R. 7081, which is at the desk; that the bill be considered under the following limitations: That there be 60 minutes of general debate on the bill, with the time equally divided and controlled between the leaders or their designees; that the only first-degree amendments in order be those listed in this agreement, with no other amendments in order, and debate time limited on each amendment to 60 minutes, with the time equally divided and controlled in the usual form; further, that an additional debate time of 15 minutes each be provided to Senators FEINGOLD and HARKIN; a Dorgan amendment re: clarify policy in event of Indian test, and a Bingaman amendment re: reporting requirement in event of Indian test; that the amendments in this agreement be subject to an affirmative 60-vote threshold, and that if the amendment achieves that threshold, then it be agreed to and the motion to reconsider be laid upon the table; that if the amendment does not achieve that threshold, then it be withdrawn; that upon the use or yielding back of time with respect to each amendment, the Senate then proceed to vote in relation to the amendment; that upon disposition of all amendments, the use or yielding back of general debate time, the bill be read a third time, and without further intervening action or debate, the Senate proceed to vote on passage of the bill, as amended, if amended; provided further that passage of the bill requires 60 votes.

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

UNANIMOUS CONSENT
AMENDMENT—H.R. 1424

Mr. REID. Mr. President, I ask unanimous consent that on Wednesday, October 1, following the debate with respect to H.R. 7081, the Senate proceed to the consideration of Calendar No. 610, H.R. 1424; that once the bill is reported, the Dodd, et al., amendment, which is at the desk, be considered; except that this agreement is only valid if both leaders are in concurrence with the provisions of the Dodd, et al., amendment and have so notified the Chair, and that there be general debate

on the amendment for 90 minutes, with the time equally divided and controlled between the leaders or their designees; that upon the use or yielding back of this time, the amendment be set aside, and the Senate then consider the only other amendment in order to the bill, a Sanders amendment re: tax on high-income individuals; that there be 60 minutes of debate with respect to that amendment, with the time equally divided and controlled in the usual form; that upon the use or yielding back of all time with respect to the bill and amendments, the measure be set aside to recur upon disposition of H.R. 7081; that with respect to the disposition of the amendments to H.R. 1424, the first vote occur with respect to the Sanders amendment; that upon disposition of that amendment, the Senate would then consider the Dodd, et al., amendment, that upon disposition of that amendment, the bill, as amended, if amended, be read a third time and the Senate proceed to vote on passage of the bill; that upon passage, with the above occurring without further intervening action or debate, the Dodd, et al., amendment and the bill be subject to a 60-vote threshold.

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

UNANIMOUS CONSENT AGREEMENT—HOUSE MESSAGE TO ACCOMPANY H.R. 2095

Mr. REID. Mr. President, I ask unanimous consent that all postcloture time be yielded except for 30 minutes, and that—this is in regard to H.R. 2095, the rail safety bill—at 7 p.m., Wednesday, October 1, the Senate resume consideration of the House message with respect to H.R. 2095 and that the time until 7:30 p.m. be equally divided and controlled between the leaders or their designees; that at 7:30 p.m. the motion to concur with the amendments be withdrawn, and the Senate then proceed to vote on the motion to concur in the House amendment to the Senate amendment to the bill; that upon disposition of the House message, the Senate resume consideration of H.R. 7081, the India-U.S. Cooperative Agreement, and then proceed to vote in relation to the amendments to the bill and passage and that the amendments be voted in the order offered; that on Wednesday, October 1, there be 2 minutes of debate prior to each vote, equally divided and

controlled; and that after the first vote of any sequence, the succeeding votes be 10 minutes in duration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. REID. Mr. President, let me say that after long discussions with Senator DODD, the chairman of the Finance Committee, the chairman of the Budget Committee, and other Senators, including JACK REED, and, of course, in constant contact with the Republican leader, with maybe eight or nine conversations today, and conversations with people in the House and with the White House, it has been determined in our judgment this is the best way to move forward. This is good for the country.

Mr. President, I do not want to sound like a stuck record, but I have known the distinguished Senator from Connecticut for 26 years. We have served in the Senate together for 22 years. We have worked together on many different issues but never as we have during the housing debate which concluded successfully and this financial crisis in which we find ourselves.

Each day that goes by I am more admiring of the work he has done. Today is an example. This has been very difficult, and words cannot express well enough how satisfied I am with the work he has done and what a good thing he has done for the State of Connecticut, the State of Nevada, the State of Kentucky, and our country.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. MCCONNELL. Mr. President, let me just say this is one of the finer moments in the Senate. We have come together on a bipartisan basis and structured a way forward on an important rescue package for our country.

I commend the majority leader, my good friend, for his extraordinary work on this issue, as well as Senator DODD and Senator GREGG, who have been the lead negotiators on this matter for the Senate.

This is an important accomplishment and a way forward to get a result we need to achieve for the American people.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Finally, Mr. President, if I could say this: One person has been with me now for the last 24 hours al-

most constantly: Senator DURBIN from Illinois. He has helped me make dozens of phone calls today. He had a number of meetings. I want the RECORD to reflect his involvement in this has been important and essential.

The PRESIDING OFFICER. The Senator from Illinois.

**ORDERS FOR WEDNESDAY,
OCTOBER 1, 2008**

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10 a.m. tomorrow, Wednesday, October 1; that following the prayer and the pledge, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, the Senate proceed to H.R. 7081, the India-United States Nuclear Cooperation Approval and Nonproliferation Enhancement Act, as provided for under a previous order; further, that the Senate stand in recess from 12:30 to 2:15 p.m. for the weekly conference lunches.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. DURBIN. Mr. President, tomorrow we expect to have the rollcall vote on the motion to concur with respect to H.R. 2095, the rail safety-Amtrak legislation, around 7:30 p.m. Additional rollcall votes are possible tomorrow evening.

RECESS UNTIL 10 A.M. TOMORROW

Mr. DURBIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that it stand in recess under the previous order.

There being no objection, the Senate, at 7:16 p.m., recessed until Wednesday, October 1, 2008, at 10 a.m.

NOMINATIONS

Executive nomination received by the Senate:

UNITED STATES POSTAL SERVICE

ROBERT W. MCGOWAN, OF NEVADA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2015, VICE ALAN CRAIG KESSLER, TERM EXPIRING.