under the Medicare program, and for other purposes.

S. 3058

At the request of Mr. SCOTT of South Carolina, the name of the Senator from Georgia (Mr. WARNOCK) was added as a cosponsor of S. 3058, a bill to award a congressional gold medal to the United Negro College Fund, Inc. and the institutions that make up its membership on the occasion of its 80th year of existence.

S. 3294

At the request of Mr. CASEY, the name of the Senator from Connecticut (Mr. MURPHY) was added as a cosponsor of S. 3294, a bill to amend the Richard B. Russell National School Lunch Act with respect to reimbursements under the child and adult care food program, and for other purposes.

S. 3369

At the request of Mr. HEINRICH, the name of the Senator from Hawaii (Ms. HIRONO) was added as a cosponsor of S. 3369, a bill to amend title 18, United States Code, to restrict the possession of certain firearms, and for other purposes.

S. 3981

At the request of Mr. HICKENLOOPER, the names of the Senator from California (Mr. PADILLA) and the Senator from New Mexico (Mr. LUJÁN) were added as cosponsors of S. 3981, a bill to amend the Public Health Service Act to authorize the Secretary of Health and Human Services to carry out a program of research, training, and investigation related to Down syndrome, and for other purposes.

S. 4004

At the request of Mr. CRAPO, the name of the Senator from New Jersey (Mr. HELMY) was added as a cosponsor of S. 4004, 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. 4477

At the request of Mrs. BRITT, her name was added as a cosponsor of S. 4477, a bill to reauthorize the Second Chance Act of 2007.

S. 4510

At the request of Mrs. BLACKBURN, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of S. 4510, a bill to amend the American Taxpayer Relief Act of 2012 to delay implementation of the inclusion of oral-only ESRD-related drugs in the Medicare ESRD prospective payment system.

S. 4514

At the request of Mr. DURBIN, the names of the Senator from Washington (Mrs. MURRAY) and the Senator from Alabama (Mr. TUBERVILLE) were added as cosponsors of S. 4514, a bill to clarify that amounts from declinations should be deposited in the Crime Victims Fund and to temporarily provide additional deposits into the Crime Victims Fund.

S. 5208

At the request of Mr. MARKEY, the name of the Senator from Connecticut (Mr. MURPHY) was added as a cosponsor of S. 5208, a bill to establish protections for warehouse workers, and for other purposes.

S. 5392

At the request of Mr. LANKFORD, the names of the Senator from New Hampshire (Ms. HASSAN) and the Senator from Tennessee (Mrs. BLACKBURN) were added as cosponsors of S. 5392, a bill to prohibit discrimination based on political affiliation in granting disaster assistance.

S. 5415

At the request of Ms. WARREN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Connecticut (Mr. BLUMENTHAL) and the Senator from Vermont (Mr. SANDERS) were added as cosponsors of S. 5415, a bill to amend title 11, United States Code, to prohibit nonconsensual release of a nondebtor entity's liability to an entity other than the debtor, and for other purposes.

S. CON. RES. 8

At the request of Ms. STABENOW, the name of the Senator from Wyoming (Ms. LUMMIS) was added as a cosponsor of S. Con. Res. 8, a concurrent resolution expressing the sense of Congress that tax-exempt fraternal benefit societies have historically provided and continue to provide critical benefits to the people and communities of the United States.

S. RES. 74

At the request of Mr. WYDEN, the name of the Senator from Rhode Island (Mr. REED) was added as a cosponsor of S. Res. 74, a resolution condemning the Government of Iran's state-sponsored persecution of the Baha'i minority and its continued violation of the International Covenants on Human Rights.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SCHUMER:

S. 5442. A bill to amend the Internal Revenue Code of 1986 to remove the differentiation between mead and low alcohol by volume wine for purposes of the tax imposed on wines; to the Committee on Finance.

Mr. SCHUMER. Madam 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. 5442

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 ''Bubble Tax Modernization Act of 2024''.

SEC. 2. REMOVING DIFFERENTIATION BETWEEN MEAD AND LOW ALCOHOL BY VOLUME WINE.

(a) IN GENERAL.—Section 5041(h) of the Internal Revenue Code of 1986 is amended to read as follows:

''(h) LOW ALCOHOL BY VOLUME WINE.—

''(1) IN GENERAL.—For purposes of subsections (a) and (b)(1), low alcohol by volume wine shall be deemed to be still wines containing not more than 16 percent of alcohol by volume.

''(2) DEFINITION.—For purposes of this section, the term 'low alcohol by volume wine' means a wine—

''(A) containing not more than 0.64 gram of carbon dioxide per hundred milliliters of wine, except that the Secretary may by regulations prescribe such tolerances to this limitation as may be reasonably necessary in good commercial practice, and

''(B) which contains less than 8.5 percent alcohol by volume.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to wine removed after December 31, 2024.

By Mr. DURBIN (for himself, Mr. HAWLEY, Mr. SCHATZ, Ms. HIRONO, Ms. DUCKWORTH, Mr. BROWN, Mr. MERKLEY, Ms. KLOBUCHAR, and Mr. WHITEHOUSE):

S. 5443. 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. Madam 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. 5443

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 2024''.

(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 redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(B) in the matter preceding clause (i), as so redesignated, by inserting ''(A)'' before ''Fourth'';

(C) in subparagraph (A), as so designated, in the matter preceding clause (i), as so redesignated—

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

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

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

(D) by adding at the end the following:

''(B) Severance pay described in subparagraph (A)(i) shall be deemed earned in full upon the layoff or termination of employment of the individual to whom the severance is owed.''; and

(2) in paragraph (5)—

(A) in subparagraph (A)—

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

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

(B) 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, if—

''(i) the equity securities are 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 highest compensated employees of the debtor who are not insiders or senior executive officers;

''(ii) the equity 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; and

''(iii) 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 AND CONTRIBUTIONS TO EMPLOYEE BENEFIT PLANS.

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 of the debtor, a senior executive officer of the debtor, the 20 highest compensated employees of the debtor who are not insiders or senior executive officers, any department or division manager of the debtor, or any consultant providing 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

''(11) any contribution to an employee benefit plan that is due on or after the date of the filing of the petition.''.

SEC. 104. FINANCIAL RETURNS FOR EMPLOYEES AND RETIREES.

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

(1) 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 the effective date of the plan 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).''; and

(2) 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).''.

SEC. 105. PRIORITY FOR WARN ACT DAMAGES.

Section 503(b)(1)(A)(ii) of title 11, United States Code is amended by inserting ''any back pay, civil penalty, or damages for a violation of any Federal or State labor and employment law, including the Worker Adjustment and Retraining Notification Act (29 U.S.C. 2101 et seq.) and any comparable State law, and'' before ''wages and benefits'' each place that term appears.

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 as provided in section 103(m) for collective bargaining agreements covered by the Railway Labor Act (45 U.S.C. 151 et seq.), 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 collective bargaining agreement that modifications are being proposed under this section, and shall promptly provide an initial proposal for modifications to the collective bargaining 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 the collective bargaining 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 position of the debtor with respect to the competitors in the industry of the debtor, subject to the needs of the labor organization to evaluate the proposals of the trustee and any application for rejection of the collective bargaining 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 collective bargaining 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 collective bargaining 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 collective bargaining 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 collective bargaining 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 collective bargaining 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 subsection (c)(3)(B);

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

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

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

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

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

''(E) the court concludes that rejection of the collective bargaining agreement and immediate implementation of the proposal of the trustee 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, during the bankruptcy, the trustee has implemented a program of incentive pay, bonuses, or other financial returns for an insider of the debtor, a senior executive officer of the debtor, any of the 20 highest compensated employees of the debtor who are not insiders or senior executive officers, any department or division manager of the debtor, or any consultant providing services to the debtor, 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 a collective bargaining agreement entered into between the trustee and the labor organization providing mutually satisfactory modifications, at any time after that collective bargaining 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 during which a collective bargaining agreement at issue under this section continues in effect and a motion for rejection of the collective bargaining agreement has been filed, if essential to the continuation of the business of the debtor 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 and may be authorized for not more than 14 days in total.

''(f)(1) Rejection of a collective bargaining agreement constitutes a breach of the collective bargaining 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 '', and a labor organization serving as the authorized representative under subsection (c)(1),'' after ''section'';

(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 position of the debtor with respect to the competitors in the industry of the debtor, subject to the needs of the authorized representative to evaluate the proposals of the trustee 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 the subsection designation 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 proposal of the trustee 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 proposal of the trustee 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, during the bankruptcy, a trustee has implemented a program of incentive pay, bonuses, or other financial returns for insiders of the debtor, senior executive officers of the debtor, the 20 highest compensated employees of the debtor who are not insiders or senior executive officers, any department or division managers of the debtor, or any consultants providing services to the debtor, 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 (f)(3)(C).''; and

(B) in the matter following paragraph (3)—

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

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

(ii) by striking ''is consistent with the standard set forth in paragraph (3)'' and inserting ''assures that all creditors, the debtor, and all of the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities'';

(5) in subsection (h)(1), by inserting ''for a period of not longer than 14 days'' before the period; and

(6) 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.

(a) REQUIREMENT TO PRESERVE JOBS AND MAINTAIN TERMS AND CONDITIONS OF EMPLOYMENT.—Section 363 of title 11, United States Code, is amended by adding at the end the following:

''(q)(1) In approving a sale or lease of property of the estate under this section or a plan under chapter 11, the court shall give substantial weight to the extent to which a prospective purchaser or lessee of the property will—

''(A) preserve the jobs of the employees of the debtor;

''(B) maintain the terms and conditions of employment of the employees of the debtor; and

''(C) assume or match the pension and health benefit obligations of the debtor to the retirees of the debtor.

''(2) If there are two or more offers to purchase or lease property of the estate under this section or a plan under chapter 11, the court shall approve the offer of the prospective purchaser or lessee that will best carry out the actions described in subparagraphs (A) through (C) of paragraph (1).''.

(b) CHAPTER 11 PLANS.—Section 1129(a) of title 11, United States Code is amended by adding at the end the following:

''(17) If the plan provides for the sale of all or substantially all of the property of the estate, the plan requires the purchaser of the sale to carry out the actions described in subparagraphs (A) through (C) of section 363(q)(1).''.

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 (29 U.S.C. 1341, 1342), 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 that Act (29 U.S.C. 1322), 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—

(1) by adding ''(1)'' after ''(c)''; and

(2) by adding at the end the following:

''(2) If one or more employees of the debtor have not received wages, accrued vacation, severance, or any other compensation owed under a plan, program, policy or practice of the debtor, or pursuant to the terms of a collective bargaining agreement, for services rendered on or after the date of the commencement of the case, or the debtor has not made a contribution due under an employee benefit plan on or after the date of the commencement of the case, such unpaid obligations shall be deemed reasonable, necessary costs and expenses of preserving, or disposing of, property securing an allowed secured claim and benefitting the holder of the allowed secured claim, and shall be recovered by the trustee for payment to the employees or the employee benefit plan, as applicable, even if the trustee, or a successor or predecessor in interest 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) in subsection (a), as amended by section 104 of this Act, 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 assets of the debtor and preserves jobs that sustain productive economic activity.''; and

(B) in subsection (c)—

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

(ii) 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 assets of the debtor 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

(3) 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—

''(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; and

''(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:

''(12) with respect to withdrawal liability owed to a multi-employer 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 total 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, as amended by sections 104 and 206 of this Act, is amended—

(1) in paragraph (4)—

(A) by adding ''(A)'' after ''(4)'';

(B) in subparagraph (A), as so designated, by striking ''Any payment'' and inserting ''Subject to subparagraph (B), any payment''; and

(C) by adding at the end the following:

''(B)(i) Subject to clause (ii), the plan does not provide for payments or other distributions to, or for the benefit of, an insider of the debtor, a senior executive officer of the debtor, any of the 20 highest compensated employees of the debtor who are not insiders or senior executive officers, any department or division manager of the debtor, or any consultant providing services to the debtor, unless—

''(I) the payments or other distributions are part of a program that is generally applicable to all full-time employees of the debtor; and

''(II) the payments or distributions do not exceed the compensation limits established in section 503(c)(1) in comparison to the nonmanagement workforce of the debtor.

''(ii) The requirement under clause (i) shall not apply to the compensation described in paragraph (5)(C).'';

(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 under subparagraph (B) has been approved by, or is subject to the approval of, the court as—

''(i) reasonable when compared to individuals holding comparable positions at comparable companies in the same industry as the debtor;

''(ii) not more than the amount corresponding to the 50th percentile of the compensation of the individuals described in clause (i); and

''(iii) not excessive or disproportionate in light of economic losses of the nonmanagement workforce of the debtor.''.

SEC. 302. LIMITATIONS ON EXECUTIVE COMPENSATION ENHANCEMENTS.

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

(1) in the matter preceding paragraph (1), by inserting ''and subject to section 363(b)(3)'' after ''subsection (b)'';

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting '', a senior executive officer of the debtor, any the 20 highest compensated employees of the debtor who are not insiders or senior executive officers, any department or division manager of the debtor, or any consultant providing services to the debtor'' before ''for the purpose''; and

(ii) 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,'';

(B) by amending subparagraph (A) to read as follows:

''(A) the transfer or obligation is part of a program that is generally applicable to all full-time employees of the debtor; and'';

(C) by striking subparagraph (B);

(D) by redesignating subparagraph (C) as subparagraph (B);

(E) in subparagraph (B), as so redesignated—

(i) in clause (i), by striking ''10'' and inserting ''2''; and

(ii) in clause (ii)—

(I) by striking ''25'' and inserting ''10''; and

(II) by striking ''insider'' and inserting ''person'';

(3) in paragraph (2)—

(A) in the matter preceding subparagraph (A), by inserting '', a senior executive officer of the debtor, any of the 20 highest compensated employees of the debtor who are not insiders or senior executive officers, any department or division manager of the debtor, or any consultant providing services to the debtor,'' before '', unless''; and

(B) in subparagraph (B), by striking ''10'' and inserting ''2''; and

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

''(3) other transfers or obligations to, or for the benefit of, an insider of the debtor, a senior executive officer of the debtor, the 20 highest compensated employees of the debtor who are not insiders or senior executive officers, any department or division manager of the debtor, or any consultant providing services to the debtor that are outside of the ordinary course of business, except as part of a plan of reorganization and subject to the approval of the court under paragraphs (4) and (5) of section 1129(a).''.

SEC. 303. PROHIBITION AGAINST SPECIAL COMPENSATION PAYMENTS.

Section 363 of title 11, United States Code, as amended by section 203 of this Act, is amended—

(1) in subsection (b), by adding at the end the following:

''(3) No plan, program, or other transfer or obligation to, or for the benefit of, an insider of the debtor, a senior executive officer of the debtor, the 20 highest compensated employees of the debtor who are not insiders or senior executive officers, any department or division manager of the debtor, or any consultant providing services to the debtor shall be approved if the debtor has, on or after the date that is 1 year before the date of the filing of the petition—

''(A) discontinued any plan, program, policy, or practice of paying severance pay to the nonmanagement workforce of the debtor; or

''(B) modified any plan, program, policy, or practice described in subparagraph (A) in order to reduce benefits under the plan, program, policy, or practice.''; and

(2) in subsection (c)—

(A) in paragraph (1), by striking ''If the business'' and inserting ''Except as provided in paragraph (5), if the business''; and

(B) by adding at the end the following:

''(5) In the case of a transaction that is a transfer or obligation described in paragraphs (1) through (3) of section 503(c), the trustee shall obtain the prior approval of the court after notice and an opportunity for a hearing.''.

SEC. 304. 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 an insider of the debtor, a senior executive officer of the debtor, or any of the 20 highest compensated employees of the debtor who are not insiders or senior executive officers 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 (29 U.S.C. 1341, 1342), on or after the date that is 1 year before the date of the commencement of the case.

''(r) No plan, fund, program, or contract to provide retiree benefits for insiders of the debtor, senior executive officers of the debtor, or the 20 highest compensated employees of the debtor who are not insiders or senior executive officers 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 has otherwise reduced or eliminated health benefits for employees or retirees of the debtor on are after the date that is 1 year before the date of the commencement of the case.''.

SEC. 305. 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 section 1113(d) or section 1114(g), 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 obligations of the debtor 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 (29 U.S.C. 1341, 1342), 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 that 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 (29 U.S.C. 1341, 1342), 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 section 1113(d), or section 1114(g), 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 (29 U.S.C. 1301 et seq.) 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) of this section 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. 306. 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 of the debtor (including an obligation incurred for the benefit of an insider under an employment contract), a senior executive officer of the debtor, the 20 highest compensated employees of the debtor who are not insiders

or senior executive officers, any department or division manager of the debtor, or any consultant providing services to the debtor 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 a transfer described in paragraph (1), except that, if neither the trustee nor such committee commences an action to recover the 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 (28), by striking ''and'' at the end;

(2) in paragraph (29), by striking the period at the end and inserting ''; and''; and

(3) by inserting after paragraph (29) the following:

''(30) 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.''.

SEC. 403. EFFECT ON COLLECTIVE BARGAINING AGREEMENTS UNDER THE RAILWAY LABOR ACT.

Section 103 of title 11, United States Code, is amended by adding at the end the following:

''(m) Notwithstanding sections 365, 1113, or 1114, neither the court nor the trustee may change the wages, working conditions, or retirement benefits of an employee or a retiree of the debtor established by a collective bargaining agreement that is subject to the Railway Labor Act (45 U.S.C. 151 et seq.), except in accordance with section 6 of that Act (45 U.S.C. 156).''.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 922—EXPRESSING SUPPORT FOR THE DESIGNATION OF OCTOBER 2024 AS ''NATIONAL CO-OP MONTH'' AND COMMENDING THE COOPERATIVE BUSINESS MODEL AND THE MEMBER-OWNERS, BUSINESSES, EMPLOYEES, FARMERS, RANCHERS, AND PRACTITIONERS WHO USE THE COOPERATIVE BUSINESS MODEL TO POSITIVELY IMPACT THE ECONOMY AND SOCIETY

Ms. SMITH submitted the following resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 922

Whereas a cooperative—

(1) is a business that is owned and governed by its members, who are the individuals who use the business, create the products of the business, or manage the operation of the business; and

(2) operates under the 7 principles of—

(A) voluntary open membership;

(B) democratic control;

(C) owner economic participation;

(D) autonomy and independence;

(E) education, training, and information;

(F) cooperation among cooperatives; and

(G) concern for community;

Whereas cooperative entrepreneurs can be found in almost every economic sector in the United States, throughout all 50 States and the territories of the United States, and in every congressional district in the United States;

Whereas cooperatives help farmers increase incomes and become more resilient to economic business cycles by working together to plan and prepare for the future, while contributing significantly to the economic activity in the agriculture and food markets of the United States;

Whereas the roughly 1,700 agricultural cooperatives in the United States operate more than 9,500 facilities, employ a record $111,000,000,000 in assets, and generate more than $231,400,000,000 in business;

Whereas the majority of the 2,000,000 farmers in the United States belong to an agricultural cooperative;

Whereas agricultural cooperatives offer members the opportunity to access commodity value-added profits throughout the handling, processing, and distribution chains;

Whereas member-owners in agricultural cooperatives are dedicated to providing the highest quality product for consumers;

Whereas agricultural cooperatives add significant benefits to the economic well-being of rural areas of the United States by providing more than 250,000 jobs with annual wages totaling more than $11,000,000,000;

Whereas agricultural cooperatives provide resources to their member-owners, such as low-cost supplies, effective marketing, and services;

Whereas farmer members in agricultural cooperatives have the opportunity to pool resources and reinvest profits into the communities of the farmer members;

Whereas the principles of cooperation and the cooperative business model help smallholder farmers organize themselves and gain access to local and global markets, training, improved inputs, conservation programs, and aggregated sales and marketing;

Whereas the cooperative business model provides farmers ownership over their economic decisions, a focus on learning, and a broader understanding of environmental and social concerns;

Whereas the cooperative business model has been used throughout the history of the United States to advance civil rights and to help ensure that all people have equal access to economic opportunity;

Whereas cooperative values promote self-determination and democratic rights for all people;

Whereas the comprehensive global food security strategy established under section 5 of the Global Food Security Act of 2016 (22 U.S.C. 9304) (commonly known as ''Feed the Future'') and the Cooperative Development Program of the United States Agency for International Development use cooperative principles and the cooperative business model to advance international development, nutrition, resilience, and economic security;

Whereas the Interagency Working Group on Cooperative Development—

(1) is an interagency group that is coordinated and chaired by the Secretary of Agriculture to foster cooperative development and ensure coordination with Federal agencies and national and local cooperative organizations that have cooperative programs and interests; and

(2) as of the date of introduction of this resolution, has organized 11 meetings;

Whereas the bipartisan Congressional Cooperative Business Caucus unites Members of Congress to—

(1) create a better-informed electorate and a more educated public on the important role that cooperatives play in the economy of the United States and the world;

(2) promote the cooperative business model because that model ensures that consumers have access to high-quality goods and services at competitive prices and costs that improve the lives of individuals, families, and their communities; and

(3) address and correct awareness challenges among the public and within the Federal Government relating to what cooperatives look like, who participates in cooperatives, where cooperatives are located, and why individuals choose cooperatives;

Whereas the Bureau of the Census, as part of the 2017 and 2022 Economic Censuses, asked each business if the business was organized as a cooperative, and the responses of businesses yielded both quantitative and qualitative data on the effects and importance of cooperatives across the economy of the United States;

Whereas, throughout the rural United States, many utility service providers operate as cooperatives and are tasked with the delivery of public services, such as electricity, water, telecommunications, and broadband, in areas where investor-owned utility companies typically do not operate;

Whereas utility cooperatives have innovated to meet the evolving needs of their member-owners, create more resilient communities, and help rural individuals in the United States prosper;

Whereas electric cooperatives serve 56 percent of the landmass of the United States, including 92 percent of persistent poverty counties, and energy cooperatives power more than 21,500,000 homes, businesses, and schools;

Whereas there are approximately 260 telephone cooperatives in the United States with total annual revenues of $3,900,000,000;

Whereas, in the financial services sector, cooperatives, including credit unions, farm credit banks, and other financing organizations that lend to cooperatives, provide numerous benefits to the member-owners of those cooperatives;

Whereas, nationally, approximately 4,800 credit unions serve 138,000,000 members;

Whereas member-owners of cooperatives vote in board elections, and earned profits cycle back into cost-saving programs or return as dividend payments;

Whereas purchasing and shared service cooperatives allow independent and franchise businesses to thrive;

Whereas food cooperatives range in size from small, local institutions to multi-store regional giants that compete with chain stores with locations across the United States;

Whereas food cooperatives support local producers in all 50 States and reduce food insecurity;

Whereas, in the housing sector, housing cooperatives and resident-owned communities in which members own the building or land—