

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

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

SEC. 303. ASSUMPTION OF EXECUTIVE BENEFIT PLANS.

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

(1) in subsection (a), by striking “and (d)” and inserting “(d), (g), and (r)”;

(2) by adding at the end the following:

“(q) No deferred compensation arrangement for the benefit of insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor shall be assumed if a defined benefit plan for employees of the debtor has been terminated pursuant to section 4041 or 4042 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341, 1342), on or after the date of the commencement of the case or within 180 days before the date of the commencement of the case.

“(r) No plan, fund, program, or contract to provide retiree benefits for insiders, senior executive officers, or any of the 20 next most highly compensated employees of the debtor shall be assumed if the debtor has obtained relief under subsection (g) or (h) of section 1114 to impose reductions in retiree benefits or under subsection (d) or (e) of section 1113 to impose reductions in the health benefits of active employees of the debtor, or reduced or eliminated health benefits for active or retired employees within 180 days before the date of the commencement of the case.”.

SEC. 304. RECOVERY OF EXECUTIVE COMPENSATION.

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

“§ 563. Recovery of executive compensation

“(a) If a debtor has obtained relief under 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 non-qualified 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. 305. PREFERENTIAL COMPENSATION TRANSFER.

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

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

“(A) made—

“(i) to or for the benefit of an insider (including an obligation incurred for the benefit of an insider under an employment contract) made in anticipation of bankruptcy; or

“(ii) in anticipation of bankruptcy to a consultant who is formerly an insider and who is retained to provide services to an entity that becomes a debtor (including an obligation under a contract to provide services to such entity or to a debtor); and

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

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

“(3) The trustee or a committee appointed pursuant to section 1102 may commence an action to recover 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 (27), by striking “and” at the end;

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

(3) by inserting after paragraph (28) the following:

“(29) of the commencement or continuation of a grievance, arbitration, or similar dispute resolution proceeding established by a collective bargaining agreement that was or could have been commenced against the debtor before the filing of a case under this title, or the payment or enforcement of an award or settlement under such proceeding.”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 425—SUPPORTING THE DESIGNATION OF MARCH 2018 AS “NATIONAL COLORECTAL CANCER AWARENESS MONTH”

Mr. ENZI (for himself and Mr. MENENDEZ) submitted the following resolution; which was considered and agreed to:

S. RES. 425

Whereas colorectal cancer is the second leading cause of cancer death among men and women combined in the United States;

Whereas, in 2018, it is estimated that more than 140,250 individuals in the United States will be diagnosed with colorectal cancer and approximately 50,630 more will die from it;

Whereas colorectal cancer is one of the most preventable forms of cancer because screening tests can find polyps that can be removed before becoming cancerous;

Whereas screening tests can detect colorectal cancer early, which is when the disease is most treatable;

Whereas the Centers for Disease Control and Prevention estimates that if every individual who is 50 years of age or older had regular screening tests, as many as 60 percent of deaths from colorectal cancer could be prevented;

Whereas the 5-year survival rate for patients with localized colorectal cancer is 90 percent, but only 39 percent of all diagnoses occur at that stage;

Whereas colorectal cancer screenings can effectively reduce the incidence of colorectal cancer and mortality, but 1 in 3 adults between 50 and 75 years of age are not up to date with recommended colorectal cancer screening;

Whereas public awareness and education campaigns on colorectal cancer prevention, screening, and symptoms are held during the month of March each year; and

Whereas educational efforts can help provide to the public information on methods of prevention and screening as well as symptoms for early detection: Now, therefore, be it

Resolved, That the Senate—

(1) supports—

(A) the designation of March 2018 as “National Colorectal Cancer Awareness Month”; and

(B) the goals and ideals of National Colorectal Cancer Awareness Month; and

(2) encourages the people of the United States to observe National Colorectal Cancer Awareness Month with appropriate awareness and educational activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2071. Mr. HOEVEN submitted an amendment intended to be proposed by him to the bill S. 2155, to promote economic growth, provide tailored regulatory relief, and enhance consumer protections, and for other purposes; which was ordered to lie on the table.

SA 2072. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2073. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2074. Mr. HELLER (for himself and Mr. MANCHIN) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2075. Mr. HELLER submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2076. Mr. HELLER submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2077. Mr. HELLER submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2078. Mr. PORTMAN (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2079. Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2080. Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2081. Mr. KENNEDY (for himself and Mr. SCHATZ) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2082. Mr. WYDEN (for himself, Mr. MERKLEY, and Ms. WARREN) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2083. Mr. WYDEN (for himself and Mr. BOOKER) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2084. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2085. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2086. Mr. BLUMENTHAL submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2087. Mr. BROWN submitted an amendment intended to be proposed by him to the

bill S. 2155, supra; which was ordered to lie on the table.

SA 2088. Mrs. GILLIBRAND (for herself and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2089. Mr. NELSON (for himself, Ms. HARRIS, Ms. WARREN, Mr. BLUMENTHAL, Mr. MERKLEY, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2090. Mr. TILLIS (for himself, Ms. WARREN, and Mr. SCOTT) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2091. Mr. TILLIS submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2092. Mr. TILLIS submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2093. Mrs. SHAHEEN (for herself and Mr. LEAHY) submitted an amendment intended to be proposed by her to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2094. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2095. Mrs. SHAHEEN (for herself and Mr. UDALL) submitted an amendment intended to be proposed by her to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2096. Mrs. SHAHEEN submitted an amendment intended to be proposed by her to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2097. Mr. WHITEHOUSE (for himself, Mr. REED, and Ms. WARREN) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2098. Mr. WHITEHOUSE (for himself and Mr. SANDERS) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2099. Mr. SCOTT (for himself, Mrs. MCCASKILL, Mr. CASSIDY, Mr. PETERS, Mr. HOEVEN, Ms. STABENOW, and Mr. JONES) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2100. Mr. SCOTT (for himself, Mr. KAINE, Mr. JONES, Ms. DUCKWORTH, Mrs. MCCASKILL, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2101. Mr. SCOTT (for himself, Mr. JONES, Mrs. ERNST, and Mr. HOEVEN) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2102. Mr. INHOFE (for himself, Mr. UDALL, Mr. KENNEDY, Mr. CASSIDY, and Mr. HOEVEN) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2103. Mr. DURBIN (for himself, Mr. REED, Ms. WARREN, Mrs. MURRAY, Mr. BROWN, Mr. BLUMENTHAL, Ms. BALDWIN, Ms. DUCKWORTH, and Mr. WHITEHOUSE) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2104. Mr. CRAPO proposed an amendment to the bill S. 97, to enable civilian research and development of advanced nuclear energy technologies by private and public institutions, to expand theoretical and prac-

tical knowledge of nuclear physics, chemistry, and materials science, and for other purposes.

SA 2105. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 2155, to promote economic growth, provide tailored regulatory relief, and enhance consumer protections, and for other purposes; which was ordered to lie on the table.

SA 2106. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2107. Mr. MERKLEY (for himself, Ms. MURKOWSKI, Mrs. MURRAY, Mr. WYDEN, Mr. PAUL, Mr. BENNET, Mr. MARKEY, Ms. WARREN, Mr. SANDERS, and Ms. HARRIS) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2108. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2109. Mr. MERKLEY (for himself and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2110. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2111. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2112. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2113. Mr. MERKLEY submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2114. Mr. SANDERS submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2115. Ms. DUCKWORTH (for herself and Mr. DURBIN) submitted an amendment intended to be proposed by her to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2116. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2117. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2118. Mr. MENENDEZ (for himself and Mr. BLUMENTHAL) submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2119. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2120. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2121. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2122. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.

SA 2123. Mr. MENENDEZ submitted an amendment intended to be proposed by him to the bill S. 2155, supra; which was ordered to lie on the table.