${\bf AMENDMENT\ NO.}\_$	Calendar No
•	the authority of bankruptcy courts to onuses and severance pay to corporate
IN THE SENATE OF T	THE UNITED STATES—109th CONGRESS, 1st Session
	S. 256
To amend title 11 of	the United States Code, and for other purposes.
Referred to the Come	mittee on and redered to be printed
Ordered to lie	e on the table and to be printed
AMENDMEN	T intended to be proposed by
Viz:	
1 On page 202,	between lines 12 and 13, insert the fol-
2 lowing:	
3 SEC. 331. LIMITAT	TION ON RETENTION BONUSES, SEVER-
4 ANCE	E PAY, AND CERTAIN OTHER PAYMENTS.
5 Section 503	of title 11, United States Code, is
6 amended by addin	g at the end the following:
7 "(c) Notwiths	standing subsection (b), there shall nei-
8 ther be allowed, no	or paid—

1	"(1) a transfer made to, or an obligation in-
2	curred for the benefit of, an insider of the debtor for
3	the purpose of inducing such person to remain with
4	the debtor's business, absent a finding by the court
5	based on evidence in the record that—
6	"(A) the transfer or obligation is essential
7	to retention of the person because the individual
8	has a bona fide job offer from another business
9	at the same or greater rate of compensation;
10	"(B) the services provided by the person
11	are essential to the survival of the business; and
12	"(C) either—
13	"(i) the amount of the transfer made
14	to, or obligation incurred for the benefit of,
15	the person is not greater than an amount
16	equal to 10 times the amount of the mean
17	transfer or obligation of a similar kind
18	given to nonmanagement employees for
19	any purpose during the calendar year in
20	which the transfer is made or the obliga-
21	tion is incurred; or
22	"(ii) if no such similar transfers were
23	made to, or obligations were incurred for
24	the benefit of, such nonmanagement em-
25	ployees during such calendar year, the

1	amount of the transfer or obligation is not
2	greater than an amount equal to 25 per-
3	cent of the amount of any similar transfer
4	or obligation made to or incurred for the
5	benefit of such insider for any purpose
6	during the calendar year before the year in
7	which such transfer is made or obligation
8	is incurred;
9	"(2) a severance payment to an insider of the
10	debtor, unless—
11	"(A) the payment is part of a program
12	that is generally applicable to all full-time em-
13	ployees; and
14	"(B) the amount of the payment is not
15	greater than 10 times the amount of the mean
16	severance pay given to nonmanagement employ-
17	ees during the calendar year in which the pay-
18	ment is made; or
19	"(3) other transfers or obligations that are out-
20	side the ordinary course of business and not justified
21	by the facts and circumstances of the case, including
22	transfers made to, or obligations incurred for the
23	benefit of, officers, managers, or consultants hired
24	after the date of the filing of the petition.".