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There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 4041

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

"SEC. 189. EXPENDITURES TO REMOVE ARCHITECTURAL AND TRANSPORTATIONAL BARRIERS TO THE HANDICAPPED

"(a) TREATMENT AS EXPENSE.—

"(1) IN GENERAL.—A taxpayer may elect to treat qualified architectural and transportation barrier removal expenses which are paid or incurred by him during the taxable year as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction.

"(2) ELECTION.—An election under paragraph (1) shall be made at such time and in such manner as the Secretary or his delegate prescribes by regulations.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ARCHITECTURAL AND TRANSPORTATIONAL BARRIER REMOVAL EXPENSE.—The term 'architectural and transportation barrier removal expense' means an expenditure for the purpose of making any facility owned or leased by the taxpayer for use in connection with his trade or business more accessible to, and usable by, handicapped individuals.

"(2) QUALIFIED ARCHITECTURAL AND TRANSPORTATIONAL BARRIER REMOVAL EXPENSE.—The term 'qualified architectural and transportation barrier removal expense' means an architectural or transportation barrier removal expense with respect to which the taxpayer establishes, to the satisfaction of the Secretary or his delegate, that the resulting removal of an architectural or transportation barrier meets the standards set forth by the Administrator of the General Services Administration, the Secretary of Defense, and the Secretary of Housing and Urban Development pursuant to the Architectural Barriers Act of 1968.

"(c) REGULATIONS.—The Secretary or his delegate shall prescribe such regulations as may be necessary to carry out the provisions of this section."

(b) The table of sections for such part VI is amended by adding at the end thereof the following new item:

"Sec. 189. Expenditures to remove architectural and transportation barriers to the handicapped."

(c) The amendments made by this Act shall apply to taxable years ending after the date of the enactment of this Act, but only with respect to the expenditures paid or incurred after that date.

A SUMMARY OF THE BILL

A bill to amend the Internal Revenue Code of 1954 to permit tax deductions in lieu of depreciation or amortization for the cost of accessibility renovations in any facility owned or leased by the taxpayer for use in connection with his trade or business.

By Mr. MONDALE:

S. 4043. A bill to prohibit pyramid sales transactions, and for other purposes. Referred to the Committee on Commerce.

Mr. MONDALE. Mr. President, today I am introducing legislation designed to protect the consumer public from what is rapidly becoming the "consumer fraud of the 1970's"—the pyramid sales operation.

In the world of consumer fraud, the faces change but the vice remains the same. The Wisconsin Supreme Court has accurately described today's pyramid sales operation:

However long the scheme lasts, it will infallibly leave a greater or lesser crowd of dupes at the end with no opportunity to recoup their losses because the bubble has at last burst. It contemplates an endless chain of purchasers, or, rather, a series of constantly multiplying endless chains, with nothing but fading rainbows as the reward of those who are unfortunate enough to become purchasers the moment before the collapse of the scheme. While contemplating large gains to the original promoters and early purchasers, it necessarily contemplates losses to the later purchasers; losses increasing in number with the greater success of the scheme. . . .

That description of chain selling was made in 1906. Nearly 70 years later, we find ourselves in the midst of an epidemic of vicious chain selling enterprises, which William J. Casey, Chairman of the Securities and Exchange Commission, recently estimated had taken over \$300 million in investment money from the American public.

The operation of pyramid selling schemes has many, often complex variations. However, the basic scheme follows a recognizable general pattern.

The organization through which pyramid selling operates is composed of a number of different marketing levels. Consumers make an initial investment in one of the lower levels in the organization. For the money paid, they are given an inventory of the product which the organization is ostensibly organized to promote. The retail value of this initial inventory is usually considerably below the cost of the investment required.

These initial recruitments are made at promotional meetings, which are themselves an objectionable feature of these schemes. A wide variety of deceptive, high-pressure sales techniques are used to recruit new investors, including the planting of shills in the audience, who prominently display wads of large bills and promise the potential investor that the road to easy riches is at hand.

In one pyramid sales operation, those trying to recruit new members are advised to "buy a Cadillac, assure everybody you're making a fortune, hand out big checks at opportunity meetings, advise people they better get in fast because only a few slots are left." Prospective investors are bombarded with professionally staged selling talks from these shills, with the result that potential investors cannot make a rational choice.

Once the initial investment is made, the investor is encouraged to move up along the various marketing levels of the company—investing more money at each step—on the promise that he will be able to share in the allegedly lucrative amounts of money to be earned through the recruitment of still others to join the scheme. In the pyramid sales operations, it is made clear at the promotional meetings that the real "opportunity for riches" comes not from selling the product or service ostensibly promoted by the operation, but rather from inducing others to join.

As the Securities and Exchange Commission states in its complaint against "Dare to be Great," one of a number of pyramid selling operations promoted by Mr. Glenn W. Turner:

As part of said scheme the defendants through Dare To Be Great purport to market a series of tape recorded, self-improvement courses, which are designated "Adventure's" I, II, III, and IV. The Marketing of said courses is but the vehicle by which defendants involve the purchasers therein in their centrally directed, nationwide, pyramid-selling scheme, whereby said investors are induced by the promise and expectation of fantastic income to invest their money for the right to introduce others who will in turn be similarly induced by the defendants to invest and bring still other investors into the pyramid. . . .

An investor at the Adventure III level is induced to pay an aggregate of \$2,000 primarily upon the promise of an opportunity to share in profits derived from his introduction of other investors that the defendants recruit either at the Adventure I, Adventure II, or Adventure III level. An investor at the Adventure IV level is induced to pay an aggregate of \$5,000 primarily upon the promise of an opportunity to share in profits derived from his introduction of investors that the defendants recruit at any Adventure level.

In this operation, an investor who wishes to rise to the top marketing level must pay an aggregate of \$5,000. Of that amount, a total of \$3,800 goes to previous investors who are paid huge fees for recruiting others to their ranks. In another similar operation—Holiday Magic—a person wishing to attain the top marketing rank—"general distributor"—must pay \$4,000, of which \$3,000 goes to the previous "general distributor" who "sponsors" the new person wishing to attain this rank.

The motivation all along the chain, therefore, becomes that of recruiting new bodies to join the chain, thereby reaping the large amounts of money supposedly to be derived from this recruitment of those further along the chain.

As with any chain selling device, however, promise and performance are usually very different. Although a certain number of individuals who are into the chain at an early stage do make money—occasionally large amounts of money—the essential vice of these operations is that of any chain referral scheme: There are simply not enough bodies to keep the chain in motion.

Thus if one person recruited six "friends" into his scheme, and if this friend obtained six more friends, and if this process were repeated for a total of nine times, the number of people in the chain would total 10,077,696. Obviously, this is a process which cannot be sustained. Unfortunately, however, those who enter this operation after the first few steps in the chain find that out only after a substantial investment of money.

There is no doubt that the net effect of these types of promotions results in large losses to the consumer public. The Pennsylvania Bureau of Consumer Protection obtained information from Dare to be Great, Inc., concerning their operation in Pennsylvania. They concluded that only 26 percent of the money invested in Dare to be Great by Pennsylvania residents had been recouped by investors—only \$356,700 out of \$1,358,-

300. In addition, a New York deputy attorney general who investigated Koscot International, another one of Mr. Turner's enterprises, reported that of 1,604 distributors and subdistributors in New York State, only 79 had earned more than \$5,000 during the year under study and only 10 had earned more than \$20,000. This was in an operation in which every investor was promised—before he invested—that he would make at least \$100,000 per year.

The investigator in New York reported that if all the people in the New York program were to make the promised \$100,000 per year, "at the end of the first year at least 150,000 new distributorships would have to be created and at the end of the second year New York alone would have to have 150 million distributors."

These pyramid sales operations are a major consumer problem which largely remains unsolved today. The vice chairman of the Consumer Protection Committee of the National Association of Attorneys General, in a letter to me, called these operations "perhaps the most serious pending consumer fraud problem." Bruce Craig, assistant attorney general in Wisconsin, stated in a letter to me that—

It has been by personal experience, gained from contacts with many other attorneys general or their assistants, that these chain schemes have caused more concern among state enforcement officials than any other form of white collar offense.

At both the State and Federal levels, there have been significant steps taken to combat the problem.

At the Federal level, both the Federal Trade Commission and the Securities Exchange Commission have begun proceedings to attack these pyramid sales operations. Recently, a Federal district judge in Oregon granted a preliminary injunction against Glenn Turner's Dare to be Great operation from selling its courses in interstate commerce until it had registered them with the SEC as a security.

In addition, State attorneys general have begun vigorous enforcement against some of these pyramid operations. Nineteen States currently have laws dealing with the pyramid sales problem, and 42 States have begun some legal action against one or another of Mr. Turner's enterprises. Over half a dozen States have legal action pending against the "Holiday Magic" group of companies, which, after the Glenn Turner operations, is the largest pyramid sales scheme currently transacting business in the United States.

In Minnesota, Attorney General Warren Spannaus has vigorously pursued pyramid sales companies which have taken approximately \$4 million from Minnesotans since 1970. Last week, the attorney general obtained convictions against Holiday Magic and two of its local distributors in the first criminal case which has proceeded to trial.

Yet, despite his success in obtaining injunctions and criminal convictions, Attorney General Spannaus has written me of the need for Federal action:

Although we have been highly successful, the efforts of this office have not eradicated

the pyramid sales problem in Minnesota. Bordering states have different types of multi-level and pyramid sales regulations or prohibitions, and in some cases, have no legislation at all. The companies we have stopped in Minnesota move to North Dakota, or some other neighboring state, and lure our citizens across the border. To fully protect the Minnesota investor, Federal action is necessary. . . . Each month new pyramid sales and multi-level distribution schemes are developed. Unquestionably, there is a need for uniform Federal legislation which will protect all consumers from the evils of pyramid sales distribution. I consider the need for this legislation to be immediate.

This perceived need for Federal action is shared by others who have been active in fighting pyramid sales organizations.

Dean W. Determan, vice president for Government and Legal Affairs for the Council of Better Business Bureaus, stated in a letter to me that—

While the Federal Trade Commission and the Securities and Exchange Commission are both taking actions in this sphere of business activity, their rules and orders are directed against individual companies and promoters, and each action takes a long time to accomplish.

And Douglas R. Carlson, assistant attorney general in Iowa, has written me that—

As soon as a company is run out of one state it then increases its activities in other states and may even form an additional corporation and go back into the state banned in, forcing that state to bring additional litigation against each new corporation brought into existence. This type of individual state attack has also resulted in a situation where such companies are now concentrating their activities in states which have no prohibitory legislation against their activities. Many companies are now conducting heavy drives to fly, but or otherwise induce residents of other states to travel into states their activities are not prohibited in, there to be given the company's sales pitch.

There exists a definite need for effective Federal legislation to alleviate this problem.

Any such Federal legislation, however, must be aimed squarely at the fraudulent pyramid sales operation, and not the many legitimate corporations which sell products or services using commissions, door-to-door selling techniques, or legitimate franchise arrangements.

The Council of Better Business Bureaus has developed a number of yardsticks by which to separate the legitimate from the fraudulent multilevel sales corporation.

Among these are whether the company promotes retail sale of its product, or whether it stresses unending recruitment of distributors; whether there are promises of high potential earnings made; whether the company requires more than a minimal initial inventory at relatively low cost to become a distributor; and whether the firm will guarantee in writing that any products ordered but not sold will be bought back by the company within a reasonable period of time for a certain percentage of the price paid.

The basic vice of the fraudulent pyramid sales device is the combination of limited or minimal emphasis given to sales of products or services to the consuming public—as distinguished from resale between various levels of the

pyramid sales operation—and the heavy emphasis on the alleged profitability to be derived from recruitment of other "bodies" to join the endless chain.

The legislation which I am introducing today imposes criminal and civil penalties on those fraudulent pyramid sales operators who prey on the public with unfounded presentations of future earnings through endless chain promotions.

This legislation would provide for a fine of up to \$10,000 or imprisonment for up to 5 years, or both, for those selling or attempting to sell a participation in a pyramid sales scheme.

In addition, any person who induces another person to participate in such a scheme shall be liable to that person for twice the amount of the consideration paid, and recovery of court costs and reasonable attorney's fees.

Pyramid sales schemes are defined by the proposed legislation as including any plan or operation for the sale or distribution of goods, services, or other property wherein a person for a consideration acquires the opportunity to receive a pecuniary benefit, which is not primarily contingent on the volume or quantity of goods, services, or other property sold or distributed or to be sold or distributed to persons for purposes of resale to consumers, and which is based upon the inducement of additional persons, by himself or others, to participate in the same plan or operation.

This language seeks to isolate out the fraudulent pyramid sales operation, while not affecting the hundreds of legitimate corporations which do business using commission arrangements or franchise organizations, in which the primary aim is sales to the consuming public, rather than recruitment of additional persons into an endless chain system.

Thus, in order to come under the statute's coverage, a pyramid sales operation must first, base the pecuniary benefit held out to the recruitee on something other than a normal commission-type arrangement—in which the volume of products or services sold determines compensation—and, second, base that pecuniary benefit on the inducement of additional people to participate in the plan.

The proposed legislation also provides that either the Department of Justice or the chief law enforcement officer of any State in which an illegal pyramid sales practice has occurred may seek injunctive relief in the U.S. district courts.

This combination of remedies—prosecution by the Department of Justice of criminal violations, action by an aggrieved person to recover double damages plus costs and legal fees, and suits brought by either Federal or State authorities to gain injunctive relief—affords the variety of procedures needed to protect the consumer public and offer relief to those who have been defrauded.

The injunctive relief provisions are particularly important in view of the tendency of many pyramid sales operations to deluge a State with a quick, massive sales attack. Unless State or Federal officials can gain quick injunctive relief, consumers will be defrauded of millions of dollars before the plan can be forced to stop operating in that State.

The legislation I am offering today meets the need for a tough but flexible statute to end these practices which take millions of dollars from American consumers each month. By providing a variety of remedies, and by defining pyramid sales schemes to prohibit only those operations which use fraudulent or improper practices, it offers hope of a quick end to this recurring national consumer fraud problem.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the RECORD. I also ask unanimous consent that the correspondence herewith attached be printed in the RECORD.

There being no objection, the bill and letters were ordered to be printed in the RECORD, as follows:

S. 4043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. As used in this Act—

(1) the term "sale or distribution" includes the acts of leasing, renting or consigning;

(2) the term "goods" includes any personal property, real property, or any combination thereof;

(3) the term "other property" includes a franchise, license distributorship, or other similar right, privilege, or interest; and

(4) the term "pyramid sales scheme" includes any plan or operation for the sale or distribution of goods, services, or other property wherein a person for a consideration acquires the opportunity to receive a pecuniary benefit (A) which is not primarily contingent on the volume or quantity of goods, services, or other property sold or distributed or to be sold or distributed to persons for purposes of resale to consumers, and (B) which is based upon the inducement of additional persons, by himself or others, to participate in the same plan or operation.

SEC. 2. Whoever, in connection with the sale or distribution of goods, services, or other property by the use of any means or instruments of transportation or communication in interstate or foreign commerce or by use of the mails, sells or offers or attempts to sell a participation or the right to participate in a pyramid sales scheme shall be fined not more than \$10,000 or imprisoned for not more than 5 years, or both.

SEC. 3. Any contract made in violation of section 2 of this Act is void and any person who induces another person to participate in a pyramid sales scheme shall be liable to that person in an amount equal to the sum of—

(1) twice the amount of consideration paid; and

(2) in the case of any successful action to enforce such liability, the costs of the action together with a reasonable attorney's fee, as determined by the court.

An action under this section may be brought in any United States district court within one year from the date on which such consideration was paid.

SEC. 4. Whenever it appears that any person is engaged or is about to engage in any act or practice which constitutes a pyramid sales scheme, the Attorney General of the United States or the chief law enforcement officer of the State in which the act or practice occurred may bring an action in the appropriate United States district court to enjoin such act or practice, and upon a proper showing, a temporary restraining order or a preliminary or permanent injunction shall be granted without bond.

OFFICE OF THE ATTORNEY GENERAL,
St. Paul, Minn., September 25, 1972.

HON. WALTER F. MONDALE,
U.S. Senate,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: Throughout the past year, this office has waged an extensive campaign against pyramid sales and multi-level distribution companies operating in the State of Minnesota. To date, we have been very successful. We have obtained injunctions against eight pyramid sales operations and recently, in the sole criminal case which has proceeded to trial, we obtained the conviction of Holiday Magic, Inc. and two of its local distributors.

Although we have been highly successful, the efforts of this office have not eradicated the pyramid sales problem in Minnesota. Bordering states have different types of multi-level and pyramid sales regulations or prohibitions, and in some cases, have no legislation at all. The companies we have stopped in Minnesota move to North Dakota, or some other neighboring state, and lure our citizens across the border. To fully protect the Minnesota investor, federal action is necessary.

Since 1970, Minnesota citizens have paid approximately four million dollars for distributorships in pyramid sales schemes. Very little of the four million dollars has been recouped by those citizens. The Minnesota situation is hardly unique. Fellow attorneys general have informed me that they have experienced similar problems with pyramid sales companies. The evil of pyramid sales schemes can no longer be disputed. In a false and highly charged atmosphere of success and happiness, unwary buyers are lured into spending thousands of dollars for "distributorships." These distributorships are ostensibly related to some product or service. Actually, the new "distributor" is simply earning the chance to make money by recruiting additional persons to participate in the pyramid sales scheme.

The pyramid sales evil knows no economic or social boundaries. Once stricken with pyramid sales fever, "good" citizens use illegal methods in order to acquire the funds to invest. For example, during our investigation of pyramid sales and multi-level distribution schemes, we learned of fraudulent loans obtained from state and nationally chartered banks by persons who desired to invest in those schemes. Those fraudulent loans, in almost every instance, were obtained by a method suggested by persons already participating in the pyramid sales operation.

Each month new pyramid sales and multi-level distribution schemes are developed. Unquestionably, there is a need for uniform federal legislation which will protect all consumers from the evils of pyramid sales distribution. I consider the need for this legislation to be immediate. Accordingly, after considerable review, I strongly support your proposed pyramid sales legislation.

Sincerely,

WARREN SPANNAUS,
Attorney General.

DEPARTMENT OF JUSTICE,
Madison, Wis., August 28, 1972.

Re Chain Distributor Schemes.
HON. WALTER MONDALE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: I am pleased to learn of your interest in dealing with chain distributor schemes at the Federal level. This office has been engaged in litigation against companies offering these schemes since May of 1969. It has been my personal experience, gained from contacts with many other Attorneys General or their Assistants, that these chain schemes have caused more concern

among state enforcement officials than any other form of white collar offense.

Because these chain plans are usually made to appear as business investments which will provide a continuing source of income through distribution of product, injury to investors is not limited to the initial payment of \$2000 to \$6000. It can have the more serious effect of inducing the investor to leave his prior employment and alternative source of income. Thus, once the chain scheme fails for the investor, as it often does, he is not only out his \$6000 but he also is without the job he previously held and whatever attendant retirement benefits he might have acquired before quitting. Most investors are in the economic category where their losses can result in the dissipation of life savings or the imposition of substantial debt.

Our best estimate of investments by Wisconsin citizens in chain distributor schemes approximates \$4.5 million. For the most part this estimate is taken from filed court exhibits which we could make available to you if you so desire.

Enforcement attempts by state officials is considerably hindered by the out of state character of the companies involved. Distributors are scrupulously designated as "independent contractors" and principal policy makers are seldom if ever available for process or civil discovery proceedings. Piecemeal litigation on a state by state basis against these well funded companies has caused a wide variety of legal decisions and probably has resulted in a substantial delay in effective and conclusive enforcement.

For your information I am enclosing a copy of a recent Wisconsin Supreme Court decision commenting on these schemes, a copy of the Wisconsin regulation Ch. Ag. 122 which prohibits chain distributor schemes and representative affidavits indicating some of the recruiting activities of these companies.

If I can be of any further assistance to you, please let me know.

Sincerely yours,

BRUCE A. CRAIG,
Assistant Attorney General.

COUNCIL OF BETTER BUSINESS
BUREAUS, INC.,

Washington, D.C., August 29, 1972.

HON. WALTER MONDALE,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR MONDALE: We are pleased to hear that you are considering the introduction of Federal legislation to control the abuses of some "multi-level" or "chain distribution" sales techniques.

For your information, our computer tabulation of consumer complaints and inquiries reflects that this subject is the most inquired about business concept coming to Better Business Bureaus across the country. 2.8% of the millions of inquiries received by BBBs nationally involved multi-level sales schemes. We do not get a significant number of complaints about these schemes, presumably because people hate to admit when they have made an unwise investment.

While the Federal Trade Commission and the Securities and Exchange Commission are both taking actions in this sphere of business activity, their rules and orders are directed against individual companies and promoters, and each action takes a long time to accomplish.

Our files and staff are available to assist you in any way on this endeavor.

Sincerely,

DEAN W. DETERMAN,
Vice President, Government and Legal Affairs.

By Mr. EAGLETON (for himself,
Mr. BEALL, Mr. WILLIAMS, Mr.
RANDOLPH, Mr. PELL, Mr. KEN-