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# Senate

The Senate met at 8:59 a.m. and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Almighty God, infinite and eternal, in Your being, wisdom, holiness, goodness, truth, and grace, we praise You for Your providential care of this Nation. We humbly accept Your sovereignty over us and commit ourselves to emulate Your justice and truth. You know each of us completely. Your light of truth exposes our inner selves: our thoughts, feelings, and memories. We can be unreservedly honest with You for You know everything. Now, Father, help us to be as open and honest with each other. We commit ourselves to mean what we say and to say what we mean.

Thank You for the Senate and the mutual trust the Senators share. Bless them today as they work together. May their differences be debated but never divide them as people. Strengthen their love for You and their loyalty to America, enabling a oneness that will inspire the citizens of this great Nation. Through our Lord and Savior. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader, the Senator from Mississippi, is recognized.

## SCHEDULE

Mr. COCHRAN. Mr. President, at the request of the majority leader, I am pleased to announce that at 9:45 a.m. this morning there will be a vote on the cloture motion on the motion to proceed to the consideration of the missile defense bill, the American Missile Protection Act. The time between now and 9:45 will be equally divided for debate on that motion. I will be pleased to control the time on the Republican side of the aisle and the distinguished Senator from Michigan, Senator LEVIN, will control the time on the other side in opposition.

The leader intends to resume consideration, after this issue is completed, of the Interior appropriations bill and, further, at 4:30 p.m. today, the Senate will begin 30 minutes of debate prior to a cloture vote on the motion to proceed to the bankruptcy bill. That vote is expected to occur at 5 p.m. Therefore, Members should expect rollcall votes throughout today's session, with the first vote occurring, as I said, at 9:45 this morning.

## CONGRATULATING MARK McGWIRE ON HIS HISTORIC 62ND HOME RUN

Mr. COCHRAN. Mr. President, I think before we start debate on that cloture motion, we should recognize the tremendous accomplishment of Mark McGwire who just broke Babe Ruth's home run record, Roger Maris' home run record and any other record that anyone has had for hitting home runs. The fact is that this is something we are all very happy to celebrate today, and we join with all Americans in congratulating Mark McGwire on this magnificent accomplishment.

## AMERICAN MISSILE PROTECTION ACT OF 1998—MOTION TO PROCEED

The PRESIDING OFFICER (Mr. ALLARD). Under the previous order, there will now be 45 minutes of debate on the motion to proceed to S. 1873, the American Missile Protection Act of 1998.

Mr. COCHRAN. Mr. President, the issue we are debating this morning is not new to the Senate. In May of this year, the Senate voted on a motion to invoke cloture so that we could proceed to consider the American Missile Protection Act. That motion was not successful. The vote was 59 in favor and 41 against. Therefore, we fell one vote short of invoking cloture so the Senate could proceed to debate the American Missile Protection Act.

We have another chance today, Mr. President, to go on record in favor of considering this bill. So it should be put in context what we are voting for and what we are not voting for. We are not voting to pass the bill without any debate. That is not the issue. We are voting to proceed to consider the bill. Now let us put in context what the facts are today as compared with last May when we fell just one vote short of voting to consider this bill.

At the time we voted in May, India had just tested—that very day—for the second time, a nuclear weapons device. We were not aware that India was going to conduct that test. Our intelligence community was surprised. All the world was surprised.

We used that example to urge the Senate to change our current policy on national missile defense, because the current policy is that we will make a decision to deploy a national missile defense system if we learn that some nation has developed the capacity to put us at risk, to threaten the security of American citizens with a ballistic missile system.

So the assumption is that our intelligence community and our resources for learning things like this are so sophisticated and so reliable that we will be able to detect this, that we will have an early warning, that we will be able to know well in advance of any nation having the capability of inflicting damage or destruction on America's soil, through a ballistic missile system, in enough time that we could deploy a national missile defense system.

Another consideration is that we have not yet developed a national missile defense system. We have various

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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programs that are being tested in various stages of development—theater ballistic missile defense systems—that can defend us against regional attacks, shorter-range attacks. But this bill is talking about a national ballistic missile defense system and whether or not our policy should be to wait and see if other countries develop the capability to put us at risk and then decide—then decide—whether we should work to deploy a system to protect against that kind of threat.

What has changed since the vote in May is that not only did Pakistan proceed to test a nuclear device—we were not sure they were going to do that—they also had just recently tested a missile system that we did not know they had. We had been told a few months earlier that they had a missile system that was in the 180 mile range. They tested one that had a range of about 900 miles without our knowing they had the capability to do that, without our knowing that they had that missile. But they had acquired either the missile, the component parts, or the design from other countries or another country—according to press reports, North Korea was involved in that—and they were able to actually launch that across that distance, and it was a surprise to our intelligence community, to our country and to the world.

Those events occurred about the time we voted in May. Since then, look what has happened. Iran has tested a longer-range missile than we expected them to have. North Korea has tested and has fired a multiple-stage ballistic missile. We had discussed the fact that that was possibly under development, the Taepo Dong missile. We are calling it the Taepo Dong I because we are told that there is a Taepo Dong II under development. That has been publicly reported in the press.

The missile that was tested the other day by North Korea, the multiple-stage missile, was fired over Japan. There was evidence that the missile actually crossed the territory of Japan. Do you realize, Mr. President—I know Members of the Senate are aware—that we have some 37,000 Americans deployed in South Korea as a part of a defense stability effort in that region, and we have more than that in Japan, in the Okinawa area?

The whole point is that if you consider all of that, we have 80,000 Americans who are at risk now because of the proven capability of North Korea and its new advanced missile capability. We have gone to great lengths in the last few years to dissuade North Korea from proceeding to develop nuclear weapons. We were very concerned that they were proceeding to do just that. Some think that they have made substantial progress in doing just that.

Incidentally, the Taepo Dong II that I just mentioned has the capacity of striking the territory of the United States. Many troops and military assets and resources are located in Alaska. According to press reports, the Taepo Dong II would have the capacity to destroy that area, as well as striking Hawaii.

Now, the issue is, do we proceed with the wait-and-see policy of this administration, or do we today vote to proceed to consider legislation that will change that policy, that will say as soon as technology permits, the United States will deploy a national missile defense system that will protect it against ballistic missile attack, whether unauthorized or accidental or intentional. We have all worried about accidental and unauthorized launches from China and Russia. We know those countries have the capability of striking us. But think about this other fact: What else has changed recently?

The United States has observed the Russian Government slowly deteriorate to the point that the command and control structure of the military is seriously in question. Who really controls the armed forces of Russia to the point that you can rely upon the good intentions of the Yeltsin government not to target U.S. sites with their missile systems, their intercontinental ballistic missiles, the most lethal and accurate of any other country in the world, with multitudes of warheads, nuclear-tipped warheads? We are sitting here hoping and assuming that we can continue to work with Russia and whatever government does come out of the struggle for power there to continue to destroy nuclear weapons under Russian control rather than to build them up and make them more accurate and lethal.

By the way, it is not like they have dismantled the nuclear weapon systems in Russia. They exist. They are lethal. They are capable of striking anywhere in the United States they might decide to strike, and we are glad that they don't have any intention of doing that. But they have the capability of doing that and there could be an unauthorized or accidental launch and we have absolutely no defense against that kind of attack. We have been operating under the assumption that we can assure them we will retaliate—we have the capacity to—and we will destroy any country who attempts to strike us in that way. That has been the system for defense that we have had.

We have had no defense. The defense is that we will destroy you if you attack us in that way. That doesn't work with North Korea or Iran or some other rogue states, leaders, and terrorists who have announced that it is their stated goal to kill Americans and to destroy America and to build missile systems to do that or to sell missile systems to those who want to do that. North Korea said just that. An official stated publicly that they are in the business of selling missile systems. They need the money. That was the explanation. We know that is true. They have sold missile systems; they have sold component parts. Russia has people who are cooperating in Iran right now, and have in the past, to develop systems that could inflict great damage not only in that region but beyond.

Now, some are saying that we already have authorization and funds in the pipeline to develop these missile systems to protect us—interceptor missiles—and we read about the testing that is going on of theater systems. But we have no program that has as its goal the development and deployment of a missile defense that will protect the United States against unauthorized, accidental, or intentional ballistic missile attack.

That is what this legislation addresses. It has two parts. The first is recitation of all of the facts that we have been able to gather through hearings over the last 2 years in our Subcommittee on International Security, Proliferation, and Federal Services. We have had hearings. We have published a report called Proliferation Primer. It has been widely distributed. It documents the fact that throughout the world there is a growing capability for the use of ballistic missiles.

We talk about how it is happening and what people are saying who are in charge of those countries who are involved in this. It clearly, in our view, justified our asking this Congress to legislate a change in our policy to carry out now the express recommendations of the Rumsfeld Commission, which has, since our vote in May, given its report on the state of affairs regarding the ballistic missile threat to the United States. It was concluded in that report that our intelligence community does not have the capacity for making the early warning assessment that is contemplated under current administration policy.

The Director of Central Intelligence has admitted in previous statements to the Senate that there are gaps and uncertainties in the information that his agency can obtain in making decisions about whether or not countries are developing or have the capacity to deploy ballistic missile systems that put our Nation at risk. Now that assessment and that description of the situation has been borne out by those recent developments.

Admiral Jeremiah made a recent study of our intelligence agencies in the wake of some of these events, and he reported a similar problem.

Given those facts, Mr. President, it seems clear to me, the cosponsors of this legislation, and 59 Senators, that the time has come to change the policy from wait and see to proceed as soon as technologically possible to deploy a national missile defense system to protect the security interests of the United States and its citizens. There is no higher responsibility that this Government has—no higher responsibility, no priority any greater—than the security of U.S. citizens. We are putting that security at risk, Mr. President, under the current policy. It is as clear as anything can be.

The time has come today—this morning at 9:45 a.m.—to vote to proceed to consider this proposal, which simply calls for the deployment, as soon as technology permits, of a national missile defense system.

Mr. President, I urge Senators to vote in support of the motion to invoke cloture.

I ask unanimous consent that several articles pertaining to this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 16, 1998]

PANEL SAYS U.S. FACES RISK OF A SURPRISE MISSILE ATTACK

(By Eric Schmitt)

WASHINGTON—Rogue nations or terrorists could develop and deploy ballistic missiles for an attack against the United States with ''little or no warning,'' an independent commission announced Wednesday.

But senior American intelligence officials disputed the finding, which challenges a longstanding intelligence estimate that no country except Russia and China, which already possess ballistic missiles, could hit American targets, and that North Korea could perhaps field long-range missiles before 2010.

The unanimous conclusions of the bipartisan commission, headed by former Defense Secretary Donald Rumsfeld, provide fresh ammunition for supporters of a national missile defense, and sharpen an election-year issue that Republicans want to wield against the administration and Democrats in Congress.

''It's a very sobering conclusion,'' said Speaker Newt Gingrich, a strong supporter of national missile defenses, who called on the administration to work with Congress in the next several months to address the heightened threat as described in the report.

The United States has spent more than $40 billion since the Reagan administration to build a space- or land-based defense against ballistic missile strikes, but has yet to construct a workable network.

Indeed, a report Wednesday by the General Accounting Office, the auditing arm of Congress, concluded that it is unlikely that a program to develop a national missile defense will meet an important deadline in 2000.

The commission did not address the merit of any particular defensive system, focusing instead on the ballistic missile threat to the United States.

''The major implication of our conclusions is that warning time is reduced,'' said Rumsfeld, who was defense secretary under President Gerald Ford. ''We see an environment of little or no warning of ballistic missile threats to the U.S. from several emerging powers.''

The commission singled out North Korea, Iran and Iraq for scrutiny. For example, the panel's report said, ''We judge that Iran now has the technical capability and resources to demonstrate an ICBM-range ballistic missile'' similar to a North Korean model.

But in a letter sent to Congress on Wednesday, George Tenet, the director of Central Intelligence, said the government stood by a threat assessment first made in 1995 and reaffirmed most recently in March.

The government assessments, Tenet said in his letter, ''were supported by the available evidence and were well tested'' in an internal review.

But the commission, in its 300-page classified report delivered to the House and Senate on Wednesday, as well as in an unclassified 27-page version, said the American intelligence community was wrong in relying on the much-longer warning times.

Rumsfeld said rogue nations, such as Iran and Iraq, had obtained sensitive missile technology, in part because of loosened export controls among industrialized nations. ''Foreign assistance is not a wildcard,'' Rumsfeld said. ''It is a fact of our relaxed post-Cold-War world.''

Rumsfeld also said that these suspect countries had become more adept at concealing their missile programs, making it more difficult for Western intelligence analysts to gauge a country's progress and intentions.

In a hastily called briefing for reporters, senior intelligence officials said Wednesday that the commission had examined the same information available to government analysts, but had come to different conclusions.

These intelligence officials said that they tended to focus on specific evidence to reach their conclusions, assigning various degrees of certainty to each assessment.

The intelligence officials said the panel, officially titled the Commission to Assess the Ballistic Missile Threat to the United States, took the same information and, in essence, assumed the worst about what was known for a particular country's missile program, and drew its conclusions.

Rumsfeld concurred: ''We came at this subject as senior decision-makers would, who have to make difficult judgments based on limited information.''

For that reason, the report, even though it was praised in particular by Republicans, is likely to stoke the debate over ballistic missile threats rather than be viewed as the definitive conclusion.

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[From the Washington Times, July 23, 1998]

IRAN TESTS MEDIUM-RANGE MISSILE

(By Bill Gertz)

Iran conducted its first test flight of a new medium-range missile Tuesday night, giving the Islamic republic the capability of hitting Israel and all U.S. forces in the region with chemical or biological warheads, The Washington Times has learned.

''It is a significant development because it puts all U.S. forces in the region at risk,'' said one official familiar with the test.

U.S. intelligence agencies detected and monitored the launch, which took place at a missile range over land in northern Iran late Tuesday night, said officials familiar with intelligence reports.

The missile was identified as Iran's new Shahab–3 missile, which is expected to have a range of 800 to 930 miles, far longer than any of Iran's current arsenal of short-range Scud-design and Chinese missiles.

Data on the test are still being analyzed, but the missile appeared to be a modified North Korean Nodong missile, which Iran is using as the basis for its Shahab–3 design.

The launch has raised new fears that Iran has acquired more Nodongs, which have a range of about 620 miles, from North Korea.

Intelligence officials said the Shahab–3 is a liquid-fueled system carried on a road-mobile launcher. Mobile launchers are extremely difficult to detect and track.

The Shahab is believed by U.S. intelligence agencies to be inaccurate and thus is expected to be armed with chemical or biological warheads. Iran is developing nuclear warheads but is believed to be years away from having them.

Officials said the test's success is significant because U.S. military planners must regard the weapon as capable of being used even though it was only fired once.

North Korea's Nodong also was flight-tested only once and recently was declared ''operational'' by the Pentagon, which puts it in a position to threaten U.S. troops throughout that region.

In April, Pakistan for the first time also tested a Nodong-design missile called the Ghauri.

A congressional report released last week by a commission set up to assess the missile threat said, ''Iran is making very rapid progress in developing the Shahab–3 medium-range ballistic missiles.

''This missile may be flight tested at any time and deployed soon thereafter,'' said the report by the commission, headed by former Defense Secretary Donald Rumsfeld.

Iran also is building a longer-range Shahab–4, which is expected to have a range of up to 1,240 miles—long enough to hit Central Europe.

The Shahab—which means ''meteor'' in Farsi—was first disclosed by The Times last year.

''The development of long-range ballistic missiles is part of Iran's effort to become a major regional military power,'' a Pentagon official said recently.

A second U.S. official said data on the missile test are being evaluated by U.S. spy agencies to determine in more detail its estimated range, payload capacity and other characteristics.

''This is something that was anticipated by the intelligence community,'' this official said.

The Shahab missile program has benefited greatly from Russian technology and materials, as well as Chinese and North Korean assistance, according to a CIA report on proliferation released Tuesday.

The report said companies and agencies in Russia, China and North Korea ''continued to supply missile-related goods and technology to Iran'' throughout last year.

''Iran is using these goods and technologies to achieve its goal of becoming self-sufficient in the production of medium-range ballistic missiles,'' the report said. A medium-range missile is one with a range between 600 and 1,800 miles.

Russian assistance to Iran's missile program has meant Tehran could deploy a medium-range missile ''much sooner than otherwise expected,'' the CIA said.

A U.S. intelligence official said recently that Shahab–3 deployment was about one year away and that before Russian help it had been estimated to be up to three years from being fielded.

The Iranian Shahab program has been a target of intense diplomatic efforts by the Clinton administration, which has been seeking to curtail Russian technology and material assistance.

Asked to comment on the test, Rep. Curt Weldon, Pennsylvania Republican, said it was ''devastating news.'' He said the test confirms the findings of a bipartisan congressional panel that emerging missile threats are hard to predict.

''We now have evidence that Iran has already tested a missile system that the intelligence community said would not be tested for 12 to 18 months,'' he said. ''That means the threat to Israel, to our Arab friends in the region and to our 25,000 troops in the region is imminent, and we have no deployed system in place to counter that threat.''

Mr. Weldon, a member of the House National Security Committee and an advocate of missile defenses, said Iran would most likely deploy chemical or biological weapons on the Shahab–3, depending on what types of advanced guidance systems it may have obtained from Russia.

''There is evidence Iran is aggressively pursuing nuclear weapons and within a short period of time—months not years—will have a nuclear warhead,'' Mr. Weldon said.

Henry Sokolski, director of the Nonproliferation Policy Education Center, said the test firing shows that long-range missiles are likely to be the threat of the future.

''This stuff is moving a lot faster than we thought five years ago in the Bush administration,'' said Mr. Sokolski, a former defense official.

EARLY WARNING

When the history books on the 21st century are written, the Shehab–3 may show up on a list of early warning signs that schoolchildren memorize about great catastrophes. The medium-range ballistic missile that Iran tested last week is just that—a warning that the missile threat is here and now, not years away. The coming catastrophe is a ballistic missile attack on an undefended U.S. or U.S. ally by a rogue nation.

You can't say we haven't been warned. The week before the launch of the Shehab–3, made from a North Korean design, a bipartisan panel headed by former Defense Secretary Donald Rumsfeld issued a report to Congress on the ballistic missile threat. The unanimous finding? Ballistic missiles from rogue nations could strike American cities with ''little or no warning.''

The security and defense experts on the Rumsfeld Commission noted that North Korea is developing missiles with a 6,200-mile range, capable of reaching as far as Arizona or even Wisconsin, and that Iran is seeking missile components that could result in weapons with similar range, able to hit Pennsylvania or Minnesota. That information is from the unclassified version of the report. The general public doesn't get to hear about the really scary stuff. The bipartisan Rumsfeld Commission report, or course, received little play in the general media, which seems to have concluded somehow that this issue is no big deal.

Earlier this year, Senator Thad Cochran's Subcommittee on International Security reached many of the same conclusions. Using open-source materials, the committee published ''The Proliferation Primer,'' which lists in detail the progress being made by a host of countries toward the development and deployment of weapons of mass destruction. ''The Proliferation Primer'' didn't make it into the headlines either.

As the Shehab–3 drama was being staged in Iran, Vice President Gore found himself in Russia, playing another scene in the absurd theater of arms control. This is a form of diplomatic drama that employs repetitious and meaningless dialogue and plots that lack logical or realistic development. Over the past 30 years, every act in this ongoing show has been structured around the same ludicrous theme: arms control works.

And so it goes in Moscow, where Mr. Gore, reading from the usual script, expressed U.S. concern last week about the transfer of Russian missile technology to Iran and other rogue states, and signed two agreements on the peaceful uses of nuclear technology. President Clinton voiced similar concerns in Beijing last month.

Meanwhile, two-dozen countries are hard at work on improvements to their ballistic-missile capabilities and North Korea is exporting do-it-yourself Nodong missile kits like the one that Iran used to build Shehab-3. In addition to all this there is the so-called loose-nukes problem, by which it is feared that a Russian missile might find its way into the hands of a terrorist group.

No arms-control agreement can provide the necessary protection against such threats. Not so long ago the threat was a massive Soviet missile attack, but today it is more likely to be one or two ballistic missiles in the hands of a calculating national leader or government determined to operate outside civilized norms. What do hoary notions of ''arms control'' have to do with these realities? Is anyone seriously going to propose that the way to keep more Iranian Shehab-3s from being produced is to invite the ayatollahs for a stay at Geneva's finest hotels and a long meeting of the minds across a green baize table?

What prospect is there at all that Iran will ''agree,'' much less comply with any commitment to give up what it now has? What it has is a medium-range missile that can reach U.S. allies Turkey, Israel and Saudi Arabia and Egypt. And if similar minds somewhere in the world get hold of a missile capable of reaching San Francisco or Honolulu or New York, what ''agreement'' could induce them to give that up?

The fact that the U.S. has absolutely no defenses against ballistic-missile-attack is an unacceptably large negative incentive to this country's enemies. The way to deter them is not by signing more archaic arms-control agreements but by researching and deploying a national missile-defense system as quickly as possible after the next President takes office.

[From the Washington Times, Sept. 1, 1998]

N. KOREA FIRES MISSILE OVER JAPAN

[By Rowan Scarborough and Bill Gertz]

North Korea yesterday conducted the first test launch of an extended-range ballistic missile in a provocative flight that crossed Japan and signaled the hard-line regime is now able to threaten more neighboring countries.

The Taepo Dong–1 and its dummy warhead traveled about 1,000 miles, surpassing by 380 miles the reach of North Korea's operational medium-range missile, the No Dong.

Taepo Dong's debut was predicted by Washington. The flight was tracked by U.S. Navy ships and by surveillance aircraft as the missile left northern North Korea, dropped its first stage in the Sea of Japan and then crossed Japan's Honshu island before falling in the Pacific Ocean.

The test of the medium-range missile immediately raised security fears not only in Asia, but in the Middle East and the United States as well.

Republicans in Congress renewed demands for President Clinton to accelerate development of a national missile defense that could intercept incoming ballistic missiles. Mr. Clinton has put off a decision until 2000 despite a blue-ribbon commission's finding that a rogue nation, such as North Korea, could launch a ballistic missile onto U.S. soil within the next five years without warning.

''The test of the Taepo Dong indicates that a North Korean threat to the continental United States is just around the corner,'' said Richard Fisher, an Asia expert at the Heritage Foundation. ''It is now long past overdue for the administration to finally wake up, smell the coffee and get serious about missile defense.''

By flying the missile directly over Japan, Mr. Fisher said, North Korea is showing it has the ability to hit U.S. military facilities there and can eventually field a missile capable of hitting bases farther south in Okinawa. ''Okinawa is the military reserve area for the United States in any potential Korean peninsula conflict,'' he said.

David Wright, a physicist at the Massachusetts Institute of Technology in Cambridge and researcher at the Union of Concerned Scientists, said of utmost concern is ''that this is a two-state missile.''

Creating a multiple-stage missile is ''one of the more complicated hurdles . . . in developing a longer range,'' he said. ''But in and of itself it doesn't give much new capability to North Korea.

''The accuracy of these missiles is very low,'' he told Agence France-Presse, adding that they would most likely be used to carry biological or chemical weapons.

Japan reacted to the test by abruptly withdrawing plans to extend $1 billion in aid to build two civilian nuclear reactors. North Korea agreed to shut down its nuclear-weapons program in exchange for the two plants and U.S. deliveries of fuel oil.

Japanese analysts saw the missile launch as a ploy in winning concessions from the West during ongoing nuclear-disarmament talks in New York.

Secretary of State Madeleine K. Albright, visiting Sarajevo, Bosnia-Herzegovina, said, ''This is something that we will be raising with North Koreans in the talks that are currently going on,'' the Associated Press reported.

A South Korean Cabinet meeting of 15 ministers said North Korea's ''reckless'' test-firing of a missile over Japanese territory poses a direct threat to the region.

North Korea is the world's largest exporter of ballistic missiles. It has been helping Iran develop a missile arsenal that can reach deployed American forces, moderate Arab states and Israel. A North Korean envoy told congressional aides last week the motive for exporting missile technology is simple: badly needed hard currency for the famine-ridden country.

Intelligence officials said Iranian technicians observed yesterday's test, underscoring the close ties between Pyongyang and Tehran, which tested its own medium-range missile, the Shahab-3, with a range of about 800 miles, last month.

North Korea, which boasts a 5-million-man army and stocks of chemical and biological weapons, is also developing the intermediate range Taepo Dong-2. Scheduled for operation in 2002, the weapon is designed to travel up to 3,700 miles, putting it within range of Alaska. Eventually, Pyongyang wants to deploy an intercontinental ballistic missile capable of reaching the continental United States.

The U.S. has 37,000 troops stationed in South Korea, where they are already vulnerable to North Korea's arsenal of short-range missiles and thousands of artillery pieces. The forces enjoy limited protection through Patriot interceptors used in the 1991 Persian Gulf war to knock down Iraqi Scud missiles.

Maj. Bryan Salas, a Pentagon spokesman, said, ''We were not surprised by the launching. We're still evaluating all the specifics in the matter and we consider it a serious development.''

The missile test comes as Mr. Clinton and Republicans are at odds on national missile defense.

The GOP got a boost this summer when a congressionally appointed panel of experts, led by former Defense Secretary Donald Rumsfeld, stated the United States could be blindsided by a missile attack within the next five years from North Korea or another rogue nation.

But the Joint Chiefs of Staff, in a letter disclosed last week by The Washington Times, rejected the finding and continued to support a 2003 deployment date at the earliest for a national system.

''The administration needs to wake up,'' said Rep. Curt Weldon, Pennsylvania Republican and a leading missile defense advocate. ''From what we know about this missile, it can even reach U.S. soil with a range that can strike U.S. citizens in Guam.''

Sen. Kay Bailey Hutchison, Texas Republican, added: ''The administration's decision to block development and deployment of missile defenses means we are unable to protect either our important allies . . . or the

thousands of American troops stationed there.''

North Korea has the expertise to mount chemical and biological warheads on its ballistic missiles. It also has been attempting to develop nuclear weapons, but promised to end the program in return for economic aid.

''When you begin to feed the wolf, the wolf just gets hungrier and hungrier,'' Mr. Fisher said. ''The aid to North Korea since 1995 can be said to have indirectly assisted the North Korean missile program because it allowed them to spend less money on feeding their people and sustain their missile develop budgets.''

The Rumsfeld panel dismissed a CIA conclusion the United States faces no ballistic missile threat from a rogue nation for 15 years. The panel was particularly leery of North Korea and its ally, Iran.

Its report said: ''The extraordinary level of resources North Korea and Iran are now devoting to developing their own ballistic missile capabilities poses a substantial and immediate danger to the U.S., its vital interest and its allies. . . . In light of the considerable difficulties the intelligence community encountered in assessing the pace and scope of the No Dong missile program, the U.S. may have very little warning prior to the deployment of the Taepo Dong-2.''

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I yield myself 6 minutes.

Mr. President, this bill will not contribute to our national security. As a matter of fact, it will weaken and jeopardize our national security.

That is not just me saying it and those of us who oppose this bill. The Chairman of the Joint Chiefs of Staff has written us a very, very strong letter supporting the current national missile defense policy, which is to develop defenses against these long-range missiles but not to commit to deploy such defenses, since such a commitment will violate an agreement that we have with Russia which has made it possible for us to reduce the number of nuclear weapons in this world.

Committing to break out of a treaty which has allowed us to reduce the number of nuclear weapons will result in Russia—they have told us this—not ratifying START II, and then, indeed, deciding to reverse the START I reductions. START I reductions, START II reductions, and hopefully START III reductions are based on an agreement that we have with Russia that neither party will deploy defenses against long-range missiles.

If we violate that agreement—this bill commits us to a position which would violate that agreement—if we violate that agreement, we are going to see Russia reverse the direction in which it is going—reduction of nuclear weapons. Indeed, there will be a much greater threat of the proliferation of nuclear weapons, because thousands of additional weapons will then be on Russian soil.

This bill is a pro-proliferation of a nuclear weapons bill. That is not the intent, obviously. But that is the effect of this bill, because instead of Russia just having a few thousand nuclear weapons on its soil—which are then subject to being stolen, or pilfered, or sold—it will have many more thousands of nuclear weapons.

It is not in the security interests of this Nation to trash the START II agreement by threatening another treaty called the Antiballistic Missile Treaty upon which START II is based, upon which START I is based, and upon hopefully START III will be based.

Can we negotiate a modification in that ABM Treaty? I hope so. Might it be desirable for both sides to move to defenses against long-range missiles? I think so. Should we develop defenses against long-range missiles but not commit to violate the ABM Treaty by committing to deploy those missiles? Yes. We should develop those defenses. And we are at a breakneck speed—by the way, a very high-risk speed.

This bill, which would change our policy, will not speed up the development of national missile defenses by 1 day. We are already developing those defenses as fast as we possibly can.

Mr. President, I want to just read briefly—if my 4 minutes are up, I ask for an additional 2 minutes.

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

Mr. LEVIN. Mr. President, the Chairman of the Joint Chiefs of Staff wrote Senator INHOFE a letter on August 24, which I ask unanimous consent to be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIRMAN OF THE
JOINT CHIEFS OF STAFF,
*Washington, DC, August 24, 1998.*

Hon. JAMES M. INHOFE,
*U.S. Senate, Washington, DC.*

DEAR SENATOR INHOFE: Thank you for the opportunity to provide my views, together with those of the Joint Chiefs, on the Rumsfeld Commission Report and its relation to national missile defense. We welcome the contributions of this distinguished panel to our understanding of ballistic missile threat assessments. While we have had the opportunity to review only the Commission's prepublication report, we can provide answers to your questions subject to review of the final report.

While the Chiefs and I, along with the Intelligence Community, agree with many of the Commission's findings, we have some different perspectives on likely developmental timelines and associated warning times. After carefully considering the portions of the report available to us, we remain confident that the Intelligence Community can provide the necessary warning of the indigenous development and deployment by a rogue state of an ICBM threat to the United States. For example, we believe that North Korea continues moving closer to the initiation of a Taepo Dong I Medium Range Ballistic Missile (MRBM) testing program. That program has been predicted and considered in the current examination. The Commission points out that through unconventional, high-risk development programs and foreign assistance, rogue nations could acquire an ICBM capability in a short time, and that the Intelligence Community may not detect it. We view this as an unlikely development. I would also point out that these rogue nations currently pose a threat to the United States, including a threat by weapons of mass destruction, through unconventional, terrorist-style delivery means. The Chiefs and I believe all these threats must be addressed consistent with a balanced judgment of risks and resources.

Based on these considerations, we reaffirm our support for the current NMD policy and deployment readiness program. Our program represents an unprecedented level of effort to address the likely emergence of a rogue ICBM threat. It compresses what is normally a 6–12 year development program into 3 years with some additional development concurrent with a 3-year deployment. This emphasis is indicative of our commitment to this vital national security objective. The tremendous effort devoted to this program is a prudent commitment to provide absolutely the best technology when a threat warrants deployment.

Given the present threat projections and the potential requirement to deploy an effective limited defense, we continue to support the ''three-plus-three'' program. It is our view that the development program should proceed through the integrated system testing scheduled to begin in late 1999, before the subsequent deployment decision consideration in the year 2000. While previous plus-ups have reduced the technical risk associated with this program, the risk remains high. Additional funding would not buy back any time in our already fast-paced schedule.

As to the Anti-Ballistic Missile (ABM) Treaty, the Chiefs and I believe that under current conditions continued adherence is still consistent with our national security interests. The Treaty contributes to our strategic stability with Russia and, for the immediate future, does not hinder our development program. Consistent with US policy that NMD development be consistent with the ABM Treaty, the Department has an ongoing process to review NMD tests for compliance. The integrated testing will precede a deployment decision has not yet gone through compliance review. Although a final determination has not been made, we currently intend and project integrated system testing that will be both fully effective and treaty compliant. A deployment decision may well require treaty modification which would involve a variety of factors including the emerging ballistic missile threat to the United States (both capability and intent), and the technology to support an effective national missile defense.

Again, the Chiefs and I appreciate the opportunity to offer our views on the assessment of emerging ballistic missile threats and their relation to national missile defense.

Sincerely,

HENRY H. SHELTON.

Mr. LEVIN. Mr. President, part of the Joint Chiefs' letter is the following:

* * * we reaffirm our support for the current [National Missile Defense] policy and deployment readiness program.

Those are the key words.

Based on these considerations, we reaffirm our support for the current [National Missile Defense] policy and deployment readiness program.

Then General Shelton wrote the following:

Our program represents an unprecedented level of effort to address the likely emergence of a rogue ICBM threat. It compresses what is normally a 6–12 year development program into 3 years with some additional development concurrent with a 3-year deployment. This emphasis is indicative of our

commitment to this vital national security objective. The tremendous effort devoted to this program is a prudent commitment to provide absolutely the best technology when a threat warrants deployment.

Given the present threat projections and the potential requirement to deploy an effective limited defense, we continue to support the ''three-plus-three'' program. It is our view that the development program should proceed through the integrated system testing scheduled to begin in late 1999, before the subsequent deployment decision consideration in the year 2000.

Then he points out that:

Additional funding would not buy back any time in our already fast-paced schedule.

Finally, General Shelton said the following:

The [ABM] Treaty contributes to our strategic stability with Russia and, for the immediate future, does not hinder our development program.

Mr. President, our program now calls for the development of defenses against long-range missiles. Let no one misunderstand that, or misstate that. That is our current program.

We are moving as quickly as possible. Indeed, it is a high-risk move that we are making because we have collapsed this development schedule so much. We are not going to speed up this schedule 1 day by threatening to destroy the ABM Treaty. All we will do, if this bill passes, is to contribute to the threat of the proliferation of nuclear weapons on the soil of Russia. That is not in our security interest. I hope we do not proceed to the consideration of this bill.

I yield the floor.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. COCHRAN. Mr. President, I yield 1 minute to the distinguished chairman of the Senate Armed Services Committee, the distinguished Senator from South Carolina, Mr. THURMOND.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I am a cosponsor of this amendment. I believe that it is a very important amendment. Other countries are going forward and developing missile systems. Can we afford not to do it? For the sake of our people and the sake of this Nation, we should seize this opportunity to go forward on this matter promptly. It is in the interest of our Nation and the people of this country that we take that step.

I thank the Senator, very much, for yielding to me.

Mr. COCHRAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, I yield 2 minutes to the distinguished Senator from Oklahoma, Senator INHOFE.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Thank you, Mr. President.

I regret that we are on such a tight constraint, because I think this is the most significant issue this Senate will be addressing certainly this year. We are talking about the lives of American citizens.

As one who is from Oklahoma and can see what type of terrorist devastation can take place, and realizing that the devastation in Oklahoma was one-thousandth of the power of the smallest nuclear warhead known, it is a very scary thing.

I believe right now—I don't think there is a Senator here who doesn't believe this—that there could very well be a missile headed our direction as we speak. It is not a matter of a rogue nation learning how to make missiles to deliver the weapons of mass destruction that we know they have. It is a matter of just getting that technology and those systems from a country that already does. China is such a country.

China fully has missiles that can reach Washington, DC, from any place in the world. We have no way in the world of knocking them down. We know that China is trading technology systems with countries like Iran—countries that would not hesitate to use missiles against us.

I wish I were speaking last, because there are going to be some things said about the exorbitant costs of such a system. We can complete a system to protect us against a limited missile attack for about $4 billion. In the case of our AEGIS ship system, we have 22 AEGIS ships that have the capability of knocking down a missile, but not an ICBM. We have a $50 billion investment in that system, and for only $4 billion more we could have that system to protect Americans.

I hope that people will give consideration to this resolution. I think it is the most significant resolution we will be considering this year.

I ask unanimous consent that three items pertaining to this matter be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[April 15, 1998]

PAKISTAN'S FIRST TEST OF ITS NEW BALLISTIC MISSILE

(By Rahul Bedi, New Delhi and Duncan Lennox, London)

The first test of Pakistan's new ballistic missile, the Hatf 5 or 'Ghauri', took place on 6 April. Statements from the Pakistani government said that the missile has a maximum range of 1,500km, a payload of 700kg and a launch weight of 16,000kg.

Some earlier statements had implied that the 'Ghauri' might also be used as the basis for a satellite launch vehicle.

Currently described by government officials as ''a research effort for the time being'', its indigenous development and research status means that ''no international sanctions or regimes apply to its development or production''.

Claims that the missile was tested over land are confusing as the length of Pakistan's territory does not allow for the range attributed to 'Ghauri'. Other reports have indicated that the missile was test launched from a location near Jhelum in northeast Pakistan to the area southwest of Quetta, a range of about 800km to 1,000km, which would agree with the reported flight time of around eight minutes.

An earlier secret test of the 'Ghauri' missile in January was reported by the Islamabad News, which said that further tests would be made before a public demonstration of the missile on 23 March. The ''secret'' test probably refers to a static motor firing and systems check-out, and is unlikely to have been a flight test.

The 'Ghauri' missile was not displayed during Pakistan's National Day parade on 23 March. A missile similar to the Hatf 1 short-range missile was the only ballistic missile displayed.

Pakistani official statements are limited to the maximum range, payload and launch weight. From the pictures released, the missile is similar in shape to the earlier Hatf 1 design, which is also similar to the Chinese M–9 (CSS–6/DF–15). The launch weight of 16,000kg makes 'Ghauri' much heavier than the M–9, which has a launch weight of 6,000kg. This would appear to support the payload weight quoted for 'Ghauri' of 700kg over the maximum range of 1,500km.

It appears to be a scaled-up Hatf 1 single or two-stage solid-propellant missile that may use some Chinese technologies. The missile shown does not bear any resemblance to the Chinese CSS–2 (DF–3), which uses liquid propellants and has a launch weight of 64,000kg.

An alternative option might be that 'Ghauri' is based on the Chinese CSS–5 (DF–21) and CSS–N–3 (JL–1) ballistic missile design, which has a launch weight of 15,000kg, a payload of 600 kg and a maximum range of between 1,700km and 1,800km. The CSS–N–3 SLBM version entered service in 1983 and the CSS–5 in 1987.

The Iranian 'Shahab 3' ballistic missile project has a similar range and payload to 'Ghauri', and, although the Iranians have never quoted a launch weight for 'Shahab 3', it might be in the 16,000kg bracket.

'Shahab 3' is believed to be an Iranian-developed single-stage liquid-propellant ballistic missile, based on North Korea's 'Nodong 1' design, and a series of motor tests were reported last year.

It is not clear whether Pakistan and Iran have shared missile technologies, but their development approaches appear to have followed relatively similar lines and in similar timescales.

Unconfirmed reports have suggested that Pakistan and Iran may have received either missiles or technologies associated with the Chinese solid-propellant M–11 (CSS–7/DF–11) and M–9 programmes, and it is to be expected that there might have been some assistance given both ways.

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[From the Daily Oklahoman, Sept. 8, 1998]

VULNERABLE AND AT RISK

Recently, U.S. Sen. James Inhofe, R-Tulsa, asked Gen. Henry H. Shelton, chairman of the Joint Chiefs of Staff, to comment on a new report questioning U.S. readiness to deal with a long-range missile attack. The general's response was illuminating, particularly so in light of North Korea's subsequent test of a missile capable of carrying nuclear warheads.

Inhofe raised the issue after release of the Rumsfeld Commission Report, warning a missile threat may come sooner than many in the U.S. government think. The panel said it's possible an enemy could develop a ballistic missile program in a way that would give the United States little or no warning before an attack.

In fairness, Shelton and the joint chiefs answer to Bill Clinton, so it's not surprising they echo his administration's soft-line on missile defense.

Shelton reiterated to Inhofe that the chiefs don't think a real threat is near. They believe the United States should continue to

comply with the 1972 Anti-Ballistic Missile Treaty and they support Clinton's ''3-plus-3'' plan for a national missile defense. The policy calls for three years of development with another three years for deployment—if a missile threat is identified. ''We remain confident that the Intelligence Community can provide necessary warning of . . . an ICBM threat,'' Shelton wrote.

Inhofe points out that U.S. intelligence was surprised by India's nuclear testing this summer and considered attacks on embassies in Africa unlikely. As for the ABM treaty, Inhofe says it ''reinforces the discredited policy of mutual-assured destruction at a time when the U.S. is being targeted by numerous potentially undeterrable rogue states and terrorists.''

Inhofe's ally on missile defense, U.S. Rep. Floyd Spence, R-S.C., cut to the dangers of the Clinton administration's ostrich-like approach to missile defense in an interview with Frank Gaffney, director of the Center for Security Policy.

''The first warning of a heart attack is a heart attack,'' Spence said. ''The Clinton administration's response to all this is that we are working on a system and we are going to experiment for about three years. And if the threat arises, we will decide at that time whether or not to deploy. My God, the threat is right now here, this minute, this moment, not some time in the future.''

The Oklahoman urges Inhofe, Spence and other patriots in Congress to hold hearings highlighting America's vulnerability to missile attack.

Bold action is needed to counter Clinton's idle approach to defending the U.S. against a grave and growing threat.

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[From the Wall Street Journal, Sept. 8, 1998]

SHOOTING STARS

''Nothing in life is so exhilarating as to be shot at without success,'' Winston Churchill once famously said. Perhaps. But the Japanese might have a different take, having now had North Korea fire a missile over their heads. In a world where Pathan tribesmen with rifles have been replaced by rogue states with ballistic missiles, Churchill would have been the first to argue that the leader of the free world needs more going for him then the other guy's bad aim. To wit, a missile defense.

If the events of the past few weeks have taught us anything, it is that the bad guys out there—Saddam Hussein, Kim Jong II, Osama bin Laden and the like—are not kidding when they threaten to blow up Americans. What we don't yet know is just how many of them have the capability to follow through on their threats, though recent tests by both North Korea and Iran confirm that some are not that far away. We shouldn't have to wait until a missile lands in Times Square to find out.

Unfortunately that is precisely what Democratic Senators have been doing. Back in March, GOP Senator Thad Cochran introduced a bill calling for the U.S. ''to deploy as soon as is technologically possible an effective National Missile Defense System capable of defending the territory of the United States against limited ballistic missile attack.'' When the motion to move it to the floor for debate and amendments came up, it fell just one vote shy of the 60 needed. All 41 opposed were Democrats. While bin Laden bombs, the Democrats filibuster.

They have a chance to redeem themselves when the reintroduced petition comes up for a vote tomorrow. Events since the March 13 filibuster have tragically underscored just how irresponsible a move it was: India and Pakistan have exploded nuclear bombs; Iran and North Korea have tested ballistic missiles; Saddam Hussein has forced U.N. inspectors to a standstill; and bin Laden blew up two American embassies in Africa.

Indeed, it has lent a prophetic tone to the findings of the Rumsfeld Commission, a team of defense experts which in July warned that America's enemies could deliver a ballistic missile threat to the U.S. within five years of any decision to acquire such a capability. More ominously, the Rumsfeld report warns that ''during several of those years, the U.S. might not be aware that such a decision has been made.''

In face of these tangible threats, the continued Democratic preference for arms control agreements in the bush over real defense capabilities in the hand is baffling. And our guess is that an American public that has now watched North Korea and seen for itself some of bin Laden's handiwork also would be a hard sell. We wouldn't be surprised, then, if these developments, coupled with a President suffering from a severe loss of moral authority, might lead some of these Democrats to consider whether they want to continue to block debate about ways to protect Americans—especially the 13 Democratic Senators up for re-election which follow:

UP FOR RE-ELECTION

Democratic senators who voted against closure on the American Missile Protection Act of 1998.

Barbara Boxer, California.
John Breaux, Louisiana.
Thomas A. Daschle, S. Dakota.
Christopher J. Dodd, Connecticut.
Byron L. Dorgan, N. Dakota.
Russell D. Feingold, Wisconsin.
Bob Graham, Florida.
Patrick J. Leahy, Vermont.
Barbara A. Mikulski, Maryland.
Carol Moseley-Braun, Illinois.
Patty Murray, Washington.
Harry Reid, Nevada.
Ron Wyden, Oregon.

Source: Coalition to Defend America.

Bill Clinton might have his own second thoughts. It is worth asking whether Mr. Clinton could even have taken the limited action he did against sites in Afghanistan and the Sudan had bin Laden somehow managed to buy a missile of his own—or pay the North Koreans or Iranians to shoot one off for him.

Likewise, could George Bush have prosecuted the Gulf War if Saddam Hussein had had a missile capability? As Mr. Clinton has had impressed on him, just four or five warheads in hands like Kim Jong II's pose a far more immediate and practical threat to American lives and interests than the 2,000 or so in the Russian arsenal. Especially given North Korea's willingness to sell its missiles to anyone with cash.

Providing an American President with the wherewithal to shoot down a ballistic missile on its way to an American city shouldn't be a partisan issue. But if the Democrats decide again to make it one in the coming vote, that would be a persuasive Republican argument for a filibuster-proof Republican Senate. If we ever get a missile defense system this country needs, we may owe more to Monica Lewinsky and Osama bin Laden than we do to our Democratic Senators.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I yield Senator CONRAD 4 minutes.

Mr. CONRAD. Mr. President, I rise as a strong supporter of national missile defense. But I also rise as a strong opponent of the Cochran bill that is before us. I believe so strongly in national missile defense that I have introduced legislation promoting national missile defense that has passed the U.S. Senate.

I support national missile defense because we have an unpredictable and rapidly emerging ICBM threat to this country from the so-called rogue states. The Rumsfeld Commission recently alerted us to the growing need for national missile defense. As I have said many times on the Senate floor, we must be prepared before we are surprised.

But the bill before us is fatally flawed because it does not include the correct criteria for a decision to deploy. It says that we should deploy ''as soon as technologically possible.'' Mr. President, that isn't the right test. Let's make sure that we deploy the best initial system, not simply the first one off the shelf. The first one off the shelf may be significantly inferior to one that follows soon thereafter that would be a far more effective system of national missile defense.

Further, the Cochran bill is also seriously flawed because it has only one criterion—''as soon as technologically possible.'' It completely disregards three other vital criteria for national missile development:

No. 1, treaty compliance. As the Joint Chiefs have said in several letters, the ABM Treaty and START accords must not be endangered. Mr. President, I direct my colleagues' attention to a statement by General Henry Shelton, the current Chairman of the Joint Chiefs. He said that the effect that ''NMD deployment would have on arms control agreements and nuclear arms reductions should be included in any bill on national missile defense.''

Are we going to listen to the top military leadership of our country on this question? I hope so. I hope we are going to listen to the Chairman of the Joint Chiefs of Staff.

The second key criterion is cost. A system we can't afford, such as one with space-based weapons, is a fantasy in the short run and protects no one. We need to have a system that we can afford.

The third criterion is use of proven technology to ensure performance and contain costs. We ought to use technology we know will work. Again, rushing to failure will not protect one single American family.

Mr. President, we are in a development stage on national missile defense, and that is where our efforts must be. I applaud our colleagues on the Appropriations Committee and Armed Services Committee for fully funding aggressive development of national missile defense. However, the Cochran bill, at this point, is counterproductive because it applies the wrong criteria to the decision to deploy. The Senate should again vote no on cloture.

I thank the Chair. I yield the floor and give back the remainder of my time.

The PRESIDING OFFICER. Who seeks time?

Several Senators addressed the Chair.

Mr. LEVIN. I yield 4 minutes to Senator DORGAN.

Mr. DORGAN. Mr. President, this debate and this vote are not about whether we support research on a missile defense system. I am on the Appropriations Committee. I am on the Defense Appropriations Subcommittee. The Defense appropriations bill has over $3 billion for research and development of theater and national missile defense programs. I expect all Members of the Senate support that. I do.

But this bill presents us with a different question. This bill would put the Senate on record saying there must be a deployment of a national missile defense system—there must be a deployment as soon as ''technologically feasible.'' And we must then deploy.

Well, 25 years ago, we had an antiballistic missile system in North Dakota. I guess that particular system was technologically feasible then. Of course, that system would have used nuclear bombs to intercept and destroy incoming missiles. But it was built, at the cost of over $20 billion in today's terms. Thirty days after it was declared operational, it was mothballed. That system was too expensive and too controversial.

Let's keep that cautionary tale in mind as we consider this bill.

If this bill were to pass, the question is, What is technologically feasible? What kind of technology? At what cost? Does cost have any relevance at all? How will the bill affect arms control? Will this bill crowd out spending on other ways of dealing with terrorism? What other defense programs that respond to terrorist threats or rogue nations will then lack funding because we forced deployment of a system when someone said we now have the technology, and we forced deployment notwithstanding costs?

Frankly, a rogue nation or a terrorist state is much more likely to pose a threat to us with a suitcase nuclear bomb planted in the trunk of a rusty Yugo car at a dock in New York City. The threat is much more likely to be a nuclear weapon put on top of a cruise missile—not an ICBM, but a cruise missile. There is far greater proliferation of cruise missiles and greater access to them. Will this defend against cruise missiles? No. Will it do anything about the suitcase bomb? No. What about a fertilizer bomb in a truck parked in front of a building? No. What about a vial of the most deadly biological agents? Again, no.

There are a lot of terrorist and rogue nation threats that we ought to be concerned about, and we ought to worry about developing missile defense—and we are. But rushing to say we must deploy now, as soon as it is technologically feasible, notwithstanding any other consideration, makes no sense.

The Senator from Michigan was asking what this bill would do to arms control. I want to hold up a chart of unclassified pictures to try and show what arms control means. This is a photo from March 26, 1997. It shows the launching of an SSN–20 missile from a Russian submarine in the Barents Sea. The submarine launched a missile, and within minutes the missile was destroyed. And the last picture here shows the missile's pieces falling into the sea.

Why was that missile destroyed? Because of arms control agreements that we have reached with Russia. There was a whole series of these ''launch-to-destruction'' launches, because they were an inexpensive way for Russia to destroy its submarine-launched missiles and for us to verify their destruction. That is the way to deal with these threats—a reduction of nuclear weapons, reduction of delivery vehicles. This is the kind of thing, with Nunn-Lugar and other efforts, especially arms control agreements, that results in a real reduction of threat.

The question is, What will the vote today do to arms control? Will it mean more delivery systems, more nuclear weapons? A greater arms race? I don't think anybody in this Chamber has that answer. My colleague, Senator CONRAD, put it well. To those who support—and I think almost all of us do—theater missile defenses and the research on national missile defense, it doesn't make any sense to say that notwithstanding any other consideration we must deploy as soon as technologically feasible. That is not, in my judgment, the right thing or the thoughtful thing to do in order to defend this country.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I yield Senator BINGAMAN 3 minutes.

Mr. BINGAMAN. Mr. President, I thank the Senator from Michigan for yielding me time. I want to join my colleagues in resisting S. 1873, this proposal. In my view, what this proposal would do is to put our Defense Department in an untenable position. It essentially says that, in this case, in the case of national missile defense, as distinguished from all other cases, they should ignore the criteria that they use for deciding which programs to go ahead and deploy. Those criteria are that they maintain a sensible balance among cost, schedule, and performance considerations, given affordability constraints.

Now, that is the criteria the Department of Defense has set up. This proposal by my colleague from Mississippi would have them ignore those provisions and rush ahead to develop this as soon as it is technologically feasible. We have some experience with efforts by Congress to turn up the political pressure on the Department of Defense and to urge them to rush ahead with development of programs before they can be safely deployed. The most recent example is one that many of us are familiar with; it is the THAAD Program, Theater High Altitude Area Defense Program. In that case, again, we were anxious to get this program fielded. The Congress put increased pressure on the Department of Defense to move ahead. Accordingly, we have had disaster. In that case, the program is 4 years behind schedule. There have been five consecutive flight test failures of the THAAD interceptor. The cost of the program has risen from $10 billion to $14 billion today.

General Larry Welch, who reviewed this missile defense program and other programs indicated that one reason is that there was a very high level of risk, that we were, in fact, engaged in what he called a ''rush to failure'' in the THAAD Program. We do not need a rush to failure in the national missile defense program to follow onto the rush to failure in the THAAD Program. We need a program that the Department of Defense can develop on an urgent basis, but on a reasonable basis. I believe they are on that course. I believe when General Shelton asks us to refrain from this kind of a legislative proposal, I think we should take his advice. I hope we will defeat the proposal by the Senator from Mississippi.

The PRESIDING OFFICER. The minority has 3½ minutes.

Mr. LEVIN. I yield 3 minutes to Senator BIDEN.

Mr. BIDEN. Mr. President, whatever our views on a nationwide ballistic missile defense, it seems to me that we should reject S. 1873.

Were that bill to pass, deploying a national missile defense system could, in my view, break the back of the economy at a moment when we finally have gotten a handle on things.

A week ago, General Lyles warned that our current programs are over budget and ''may not be all affordable.''

We spent years getting some budget discipline. We have finally achieved that. We must not throw that all away.

This bill would require deployment even without a threat of new strategic missiles; and it would throw taxpayers' money at the first available technology, rather than the best technology.

As Dr. Richard L. Garwin warns, the first technology will be vulnerable to missiles with penetration aids, which Russia surely has and others can easily develop. Missile defense is expensive; penetration aids are cheap.

This bill will also guarantee what General Welch calls a ''rush to failure.'' Five test failures with the THAAD theater defense system are a reminder of how difficult it is to develop any missile defense. A policy of deploying the first ''technologically possible'' system is almost bound to fail.

Finally, this bill does not even permit consideration of the negative consequences of deployment. S. 1873 would destroy the Anti-Ballistic Missile Treaty, and thus end any hope of implementing START Two or of achieving START Three.

''Star Wars'' may seem easier than the hard, patient work of reducing great power armaments and stabilizing our forces. But the ''easier'' path can also be the dangerous path.

Last week, Presidents Clinton and Yeltsin agreed to share real-time data on third-country missile launches, to reduce the risk of accidental nuclear war. That is a good, sensible initiative.

But what happens if we say we will deploy a national missile defense? We may call it just a defense, but others will see it as a second-strike defense that enables us to mount first-strike nuclear attacks. Russia and China will adopt a hair-trigger, ''launch on warning'' posture to overwhelm that defense, and the risk of nuclear war will rise.

Now, some day we may need a nation-wide ballistic missile defense. That is why the Defense Department has the ''3+3'' policy of developing technology that would permit deployment within three years of finding an actual threat on the horizon.

Some of my colleagues believe we cannot wait for that. But Iran's missiles will hit the Middle East and parts of Europe. North Korea's missiles will hit Japan and Okinawa. Despite recent missile tests, these countries are several years away from threatening even the far western portions of Alaska and Hawaii, as General Shelton made clear in his letter of August 24.

And should a real threat materialize, there are far cheaper alternatives to fielding a national missile defense. So, while sensible policy on ballistic missile defense is perfectly feasible, S. 1873 is not such a sensible policy.

Mr. President, the Senate has real work to do. Americans deserve a Patient's Bill of Rights; we can enact campaign finance reform that even the House of Representatives had enough sense to pass; and we must stop the slaughter of our teenagers by Big Tobacco.

Let us get back to legislation that meets real, current needs and that will not destroy the balanced budget. Let us reject cloture on the motion to debate S. 1873, and get this Senate back to work.

Mr. DOMENICI. Mr. President, as a cosponsor of the legislation before the Senate, I rise in strong support of the objectives set forth in this bill. As we all know, this legislation would establish a policy for the U.S. to develop and deploy a national missile defense as soon as technologically possible. This system will defend all 50 states against any limited ballistic missile threats.

Mr. President, allow me to offer a couple of observations about the changed international and national security environment which directly impact U.S. defense needs. The original impetus for a national missile defense system was the perceived threat from the Soviet Union during the cold war.

Although some assume that the collapse of the Soviet Union and the continued thaw in previously frosty relations with Russia have rendered such defensive capabilities unnecessary, this view is naive. I believe that in many respects the threat has actually increased.

The increased threat results from several interrelated factors. The collapse of the bipolar geopolitical order defined by U.S.-Soviet confrontation has ushered in multipolar instability. The threats we confront today as a nation are diffuse. Moreover, our potential enemies are abundant in a world where interstate relations are no longer delineated according to membership in one of two ideological camps.

I would like to emphasize a further change brought about by changes in the international environment. An additional aspect of the post-cold-war world is the rapid and, in some cases, uncontrollable diffusion of advanced technologies. While earlier non-proliferation efforts relied heavily on stringent export control regimes, heavy reliance on multilateral controls is insufficient to protect U.S. interests.

The U.S. continues to maintain a complex and multi-layered system of export controls as a deterrent to would-be proliferators or rogue nations. However, an export control regime is only as strong as its weakest link. Furthermore, rogue nations—such as North Korea—who already possess threatening capabilities, are more than willing to sell their know-how to others.

I am aware of others' predictions that ballistic missile capability will not present a threat for more than another decade. I believe, however, that these predictions rely too heavily on the assumption that export controls will keep rogue nations at bay. Without the technology, our potential enemies are presumably impotent. I think this is an overly optimistic view.

More than 15 nations already possess short-range ballistic missiles. Many of these same nations are pursuing weapons of mass destruction to accompany these missile capabilities. Several of these same countries are hostile to U.S. interests.

Any country with the know-how to launch low-orbit satellites is also capable of achieving long-range delivery of a nuclear or other type of warhead. In contrast to the CIA's earlier prediction, the recently released Rumsfeld Report stated that the threat is only five years away. Moreover, the Rumsfeld Commission determined that the U.S. may not be able to identify the source of a threat, thus having little or no warning.

Let me simply offer one concrete example why the Administration's current policy is dangerous. The Administration assumes it will have three years warning of a ballistic missile threat to the U.S. Although U.S. intelligence previously believed that Iran could not field a medium-range missile until 2003, this system was flight-tested in July.

According to intelligence sources, the light-weight alloys as well as equipment for testing these Iranian missiles came from Russia.

If we assume the predictions about othe5r countries; lack of technological capacities are accurate and postpone implementation of our own defensive capabilities based on these assumptions, the U.S. will be rendered vulnerable while we test the accuracy of these predictions. If these assumptions are proven false, the results would be devastating.

This is a risk to U.S. security and a risk to U.S. civilians that I personally am not willing to take.

It has been an enduring objective of U.S. defense policy to achieve the capability to defend our country from ballistic missiles, whether the threat be from deliberate, accidental or unauthorized launch.

A further reality we confront under changed circumstances is the steady deterioration of Russia's system of command and control over its nuclear warheads.

Although the Russian situation presents a potential threat now and deployment is not slated for another several years, no one can assume that the command-and-control elements in any state possessing weapons of mass destruction and long-range delivery capability will remain impenetrable and secure. This is one more reason that devising and deploying missile defense makes sense.

There has been sufficient debate as to whether this bill is necessary in addition to the Defense Department's three-plus-three program. I believe it is for the following reasons:

First, although the three-plus-three program provides for development of national missile defense (NMD) technology, it does not commit to deployment.

Under the Administration's program, the U.S. would achieve the means to deploy an NMD system, but would await an imminent threat to do so. Capability that is not deployed opens a window of vulnerability. Certainly the plans of an attack on the U.S. by a hostile nation are not going to include a great deal of advanced warning. By not providing a commitment to deployment, as is the objective of this legislation, we are deliberately creating an indefinite phase of vulnerability.

Second, opponents to this legislation firmly believe that by committing to deployment we may end up with an inadequate or faulty system. This bill neither prematurely locks the U.S. into specific technological solutions nor does it freeze our missile defense options.

We already are deploying systems, even though the technologies involved continue to evolve. The specific technologies utilized and the defense capabilities achieved are in no way determined by this legislation. Further development and improvements to the system are anticipated, and this legislation allows for that.

An additional strategic consideration is that the lack of a U.S. NMD system may actually provide an additional incentive to would-be rogues. If the U.S. implements an NMD system early enough, this may serve as a deterrent to these states.

As mentioned, I believe that predictions regarding the technical mediocrity of hostile nations are excessively optimistic. However, I also firmly believe that a national missile defense system undoubtedly raises the bar on the technological capability necessary to inflict damage.

Any nation hostile to the U.S. would not only have to achieve long-range capability, but they would also have to be sophisticated enough in their delivery system to defeat a defensive shield. The financial and technical means necessary to accomplish this goal does, indeed, comprise a substantial deterrent.

More importantly, a missile defense system places strategic stability on a more reliable and less adversarial foundation. The cold war deterrence relied on vulnerability and threats of retaliation. Missile defenses create a shield of protection, while the maintenance of a reliable stockpile underpins our credibility in threats of retaliation if attacked.

Arms reductions can only achieve objectives of stable U.S.-Russian relations if these reductions are accompanied by national missile defense deployment. With such a system in place, possible non-compliance and third party threats are not as pertinent. This would provide the confidence necessary to achieve even greater reductions.

Mr. President, based on these concerns about U.S. national security in conjunction with my commitment to disarmament objectives I cosponsored and fully support the legislation before us today.

National missile defense will provide the necessary additional security requisite in an unstable and transitional global environment where hostile nations are rapidly amassing threatening and sophisticated weapons capability. The objectives set forth in this legislation achieve that goal.

Mr. MURKOWSKI. Mr. President, I rise today in support of S. 1873, the American Missile Protection Act. This bill is simple, but extremely important. It makes it clear that it is the policy of the United States to deploy, as soon as technologically possible, a national missile defense system which is capable of defending the entire territory of the United States against limited ballistic missile attack.

We voted on cloture earlier this year—the motion fell one vote shy. Well, as is common in this business, we are dealing with changed circumstances. North Korea continues to defy rational behavior. As we all know, it recently fired a multi-stage missile over Japan! Starvation in North Korea is rampant, and many North Korea watchers have long predicted that government's imminent collapse. Well, Mr. President, the North Korean Government continues to defy the odds—but, what concerns me is the old adage that ''desperate times often call for desperate measures.'' If North Korea is truly desperate, to what extent will it go to try to hold on to its grasp of power?

We have almost 80,000 American troops in the Asia/Pacific Theater. Most of these troops are already in the range of current North Korean missile technology. As their missile development program advances, we can expect more American lives and territory to be at risk. We cannot stand idly by and wait! We need to be prepared so that we can protect our citizens and our territory from such a reckless or accidental strike by North Korea or some other nation.

Alaskans have been justifiably concerned with this issue for some time. I ask unanimous consent to have printed in the RECORD at this time a resolution passed by the Alaska State Legislature which calls on the Administration to include Alaska and Hawaii in all future assessments of the threat of a ballistic missile attack on the United States. More than 20 percent of our domestic oil comes from Alaska, all of it through the Trans-Alaska Pipeline. Alaskans are concerned, as should the rest of the country be concerned, that a strike at the pipeline could have dire consequences to our domestic energy production.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:'

STATE OF ALASKA—LEGISLATIVE RESOLVE NO. 36

Whereas Alaska is the 49th State to enter the federal union of the United States of America and is entitled to all of the rights, privileges, and obligations that the union affords and requires; and

Whereas Alaska possesses natural resources, including energy, mineral, and human resources, vital to the prosperity and national security of the United States; and

Whereas the people of Alaska are conscious of the State's remote northern location and proximity to Northeast Asia and the Eurasian land mass, and of how that unique location places the state in a more vulnerable position than other states with regard to missiles that could be launched in Asia and Europe; and

Whereas the people of Alaska recognize the changing nature of the international political structure and the evolution and proliferation of missile delivery systems and weapons of mass destruction as foreign states seek the military means to deter the power of the United States in international affairs; and

Whereas there is a growing threat to Alaska by potential aggressors in these nations and in rogue nations that are seeking nuclear weapons capability and that have sponsored international terrorism; and

Whereas a National Intelligence Estimate to assess missile threats to the United States left Alaska and Hawaii out of the assessment and estimate; and

Whereas one of the primary reasons for joining the Union of the United States of America was to gain security for the people of Alaska and for the common regulation of foreign affairs on the basis of an equitable membership in the United States federation; and

Whereas the United States plans to field a national missile defense, perhaps as early as 2003; this national missile defense plan will provide only a fragile defense for Alaska, the state most likely to be threatened by new missile powers that are emerging in Northeast Asia;

*Be it resolved,* That the Alaska State Legislature respectfully requests the President of the United States to take all actions necessary, within the considerable limits of the resources of the United States, to protect on an equal basis all peoples and resources of this great Union from threat of missile attack regardless of the physical location of the member state; and be it

*Further resolved,* That the Alaska State Legislature respectfully requests that Alaska be included in every National Intelligence Estimate conducted by the United States joint intelligence agencies; and be it

*Further resolved,* That the Alaska State Legislature respectfully requests the President of the United States to include Alaska and Hawaii, not just the contiguous 48 states, in every National Intelligence Estimate of missile threat to the United States; and be it

*Further resolved,* That the Alaska State Legislature urges the United States government to take necessary measures to ensure that Alaska is protected against foreseeable threats, nuclear and otherwise, posed by foreign aggressors, including deployment of a ballistic missile defense system to protect Alaska; and be it

*Further resolved,* That the Alaska State Legislature conveys to the President of the United States expectations that Alaska's safety and security take priority over any international treaty or obligation and that the President take whatever action is necessary to ensure that Alaska can be defended against limited missile attacks with the same degree of assurance as that provided to all other states; and be it

*Further resolved,* That the Alaska State Legislature respectfully requests that the appropriate Congressional committees hold hearings in Alaska that include defense experts and administration officials to help Alaskans understand their risks, their level of security, and Alaska's vulnerability.

Copies of this resolution shall be sent to the Honorable Bill Clinton, President of the United States; the Honorable Al Gore, Jr., Vice-President of the United States and President of the U.S. Senate; the Honorable Newt Gingrich, Speaker of the U.S. House of Representatives; the Honorable Ted Stevens, Chair of the U.S. Senate Committee on Appropriations; the Honorable Bob Livingston, Chair of the U.S. House of Representatives Committee on Appropriations; the Honorable Strom Thurmond, Chair of the U.S. Senate Committee on Armed Services; the Honorable Floyd Spence, Chair of the U.S. House of Representatives Committee on National Security; and to the Honorable Frank Murkowski, U.S. Senator, and the Honorable Don Young, U.S. Representative, members of the Alaska delegation in Congress.

Mr. MURKOWSKI. Last year North Korean defectors indicated that the North Korean missile development program already poses a verifiable threat to American forces in Okinawa and seems on track to threaten parts of Alaska by the turn of the Century. The Taepodong missile, which is under development, would have a range of about 3,100 miles. From certain parts of North Korea, this weapon could easily target many of the Aleutian islands in

western Alaska, including the former Adak Naval Air Base.

The Washington Times reported earlier this year that the Chinese have 13 of 18 long-range strategic missiles armed with nuclear warheads aimed at American cities. This is incredible, Mr. President. Opponents to the motion to invoke cloture somehow fail to understand that this threat is real and that we have a responsibility to protect the United States from attack, be it deliberate or accidental. Without question, the threat of an attack on the United States is increasingly real, and we must act now to make certain that it is the policy of the United States to construct a national missile defense system with the capability of intercepting and deterring an aggressive strike against American soil from all parts of the United States—as soon as possible.

Finally, Mr. President, I would mention for a moment that S. 1873 is not, and I repeat not, in any way a strike at Russia. The ABM treaty was crafted and agreed to when the United States and the Soviet Union were the only nuclear powers. The mutually assured destruction system was agreed to under the understanding that we were dealing with the Soviet Union, and not third parties. Times have changed; there are countless more players that have complicated the issues. We have a responsibility to protect ourselves, and we must act now to do so.

Mr. President, I support the motion to proceed to the bill and hope that my colleagues will vote overwhelmingly in favor of this legislation this morning and pass it in the near future.

Mr. MACK. Mr. President, I am pleased to be a cosponsor of S.1873, the American Missile Protection Act of 1998 drafted by Senators COCHRAN and INOUYE. While I have been an ardent supporter of a vigorous missile defense program with a specific architecture and under a specific deployment schedule, a sufficient minority of members has been able to derail this effort over the last few years. Therefore, the modest proposal under consideration today, is an attempt to compromise by affirmatively establishing as U.S. policy the deployment of an effective National Missile Defense (NMD) system as soon as technologically possible.

I have long argued that such a system is both necessary and prudent because the threat of an attack or an inadvertent launch did not end with the termination of the cold war, but is real and continues to grow. In fact, the threat is greater today than any time in United States history. The technology revolution aids equally those who want to bring good into the world, as well as those who would do harm.

Recent activities in Africa, namely the bombing of our embassies in Kenya and Tanzania, and the launch of ballistic missiles (or a satellite) by North Korea, as well as the shoot-down of two unarmed American aircraft in the Florida straits two years ago, reminds us of the threat the United States and our allies face from rogue and terrorist states, and non-state actors.

Beyond these, the future of Russia and China remains unclear. While we wait to see if the forces of freedom and democracy prevail in the internal struggles happening in these countries, we must remember that they maintain the capability to launch weapons of mass destruction. Other states continue efforts to develop destructive capabilities. Recently, Iran has made dramatic progress in its missile development. We know that China's proliferation has aided the development of Pakistan's nuclear program, adding to the instability of South Asia.

My primary concern with the Administration's ''plan'' on deploying an anti-ballistic missile defense system is that it is premised on deploying a system within three years of clearly identifying an emerging threat. I believe the Administration greatly overestimates its intelligence gathering capability.

In early 1997, a CIA official testified that Iran was not expected to have the capability to field a medium range ballistic missile until 2007. Less than a year later, that nine year time frame was significantly reduced by the CIA, and another Administration official predicted Iran could have the capability in as early as one-and-a-half years. Similarly, in 1997 the Department of Defense only credited Pakistan with a 300 km capability. However, less than six months later Pakistan launched a missile capable of traveling 1,500 km.

Based on past performance, I am very hesitant to base the fielding of a missile defense system on the Administration's determination of the existence of an emerging threat. I believe such a plan is grossly inadequate and could have catastrophic consequences for the American people.

Mr. THOMPSON. Mr. President, last May, in the wake of India's nuclear weapons tests, the Senate rejected by one vote a motion to allow us to consider the need for a national missile defense. At that time I came to the floor and urged my colleagues to support defending our nation against missile attack. I recalled how the President, in his State of the Union address, underscored the importance of foresight and the need to prepare ''for a far off storm.'' The President wasn't talking about weapons proliferation and national missile defense, but I suggested he should have been—and that the thunder clouds of proliferation were gathering.

Since that vote in May, the storm has picked up force and is not so ''far off.'' That weapons proliferation is a serious threat to our nation is more obvious today that even a few month ago.

Allow me to remind my colleagues of a few developments since the Senate last considered missile defense:

Following India's nuclear tests, Pakistan conducted six of its own tests. The South Asian subcontinent—rife with smoldering disputes—is now perched on the edge of a nuclear arms race.

The following month, in June, North Korea blatantly announced that it was selling, and would continue to sell, ballistic missiles to any and all comers. The only requirement is cash on the barrel-head.

In July, the Congress received stark warning of our under-preparedness from the Rumsfeld Commission. This distinguished, bi-partisan, group of experts concluded that our assessment of the missile threat to America was inadequate, and that hostile countries were closer to developing and deploying ballistic missiles than we thought. As if to prove the Rumsfeld Commission right, Iran test-launched its Shahab-3 missile that same month. This weapon was based on a North Korean design and updated with Russian and Chinese assistance. It is capable of striking U.S. allies and troops in the Middle East. Iran also continues its work on the Shahab-4, which will be able to reach central Europe.

Then, just a few weeks ago, North Korea test-launched its Taepo-Dong 1 missile—and they shot it right over our key ally, Japan. The Taepo-Dong 1 is a huge breakthrough for North Korea. It is a multi-stage rocket that puts North Korea over a critical technology threshold. Their next missile, already under development, is the Taepo-Dong 2 which will be capable of striking American shores.

When I spoke on this subject in May, I cautioned that developments such as these were on the horizon. Indeed, I noted a few of them specifically. But I truly did not expect to stand here this soon and recount that so many dangerous developments actually occurred. My friends, the past few months demonstrate that the threats from weapons of mass destruction and missiles with increasingly greater range are an imminent threat. We have consistently underestimated that threat and must proceed with development and deployment of a national missile defense as soon as possible.

I do not know if there will be another proliferation development to report this month. Given the recent track record, it's very likely there will be. It's certain that missile development in hostile countries will continue apace. Moreover, world events are becoming more and more chaotic each day. The instability in Russia and Asia and the continuing proliferation activities of countries like China and North Korea only heightens the prospect that dangerous weapons technology will be sold to rogue actors.

President Clinton was recently quoted in the press that requiring certification regarding other countries' actions only creates the need for the Administration to ''fudge'' its reporting. More recently, it appears the Administration took an active role to limit weapons inspections in Iraq, despite all its rhetoric to the contrary. Mr. President, events like these are

highly worrisome because they suggest the President is less than forthcoming to the American people, to our allies and to our foes on issues of national defense and foreign policy. Perhaps even more worrisome, however, is the possibility that Administration policy makers may be fooling themselves. In the case of missile defense, this appears to be so. Their defense policy is based on hollow rhetoric and delusion. It is based on the hope of a three-year advanced warning. My friends, we're receiving our warnings now—over and over again. It's time to act.

It's time to wake up and it's time to act. The technology to develop nuclear and other weapons of mass destruction is widely available. If we do not prepare today, when the day arrives that America is paralyzed by our vulnerability to ballistic missile attack, or when an attack actually occurs, we will be reduced to telling the American people—and history—that we had hoped this would not happen. We will have to say we had ample evidence of a growing threat, but did not act for whatever reason.

Mr. President, if we're going to err on this issue, we should err on the side of caution. If our choices are to deploy a missile defense either too early or too late, let's make it early. The first step in raising our guard is to pass S. 1873, the American Missile Protection Act, and commit the United States to a policy of deploying national missile defenses.

Mr. DASCHLE. Mr. President, as I listen to the debate on S. 1873, two observations come to my mind. First, it appears that a rigid adherence to ideology seems to be trumping the judgment of this nation's most senior military leaders. Second, advocates of S. 1873 apparently lack confidence in their own publicly stated position. They are insisting that the critical and costly decision about whether we deploy a national missile defense should be based on a single criterion—technological feasibility—a simplistic test that the bill's supporters are unwilling to use for any other federal program.

The Senate should act as it did in May. We should oppose cloture and move on to the Patients' Bill of Rights, campaign finance reform, education, agricultural relief, and the environment—all issues of greater urgency for working families in this country.

The proponents of this latest attempt to deploy ballistic missile defenses at all costs have entitled this bill the American Missile Protection Act. But let's be clear, enactment of this bill will provide precious little if any additional protection. If the Senate were to immediately adopt this bill, we would not be a single day closer to actually having a national missile defense. In fact, as stated by the Secretary of Defense and the Chairman of the Joint Chiefs of Staff in recent letters to Congress, deployment of national missile defenses at this time is unnecessary, premature, and could effectively increase the nuclear threats this country faces.

Quoting from S. 1873, ''the United States should deploy as soon as is technologically possible an effective national missile defense system.'' In the eyes of the sponsors of this bill, the only standard that must be met in deciding whether to deploy defenses is that they be technologically possible.

Mr. President, I cannot find a clear definition of effective defenses in S. 1873. That troubles me greatly, though it apparently doesn't trouble the bill's supporters. They are strangely silent when it comes to establishing even the most minimal performance requirements for missile defenses. Many of these bill supporters are the same people who reject important domestic programs such as health care and school construction because they fail to meet their stringent—sometimes logically impossible—set of conditions.

This irony is not lost on me, nor should it be lost on the rest of the Senate. As I noted in May when we last debated this bill, the attitude displayed by the proponents of S. 1873 is cavalier even by military spending standards. Some research by the Department of Defense shows that S. 1873 would make history. For the first time ever, we would be committing to deploy a weapons system before it had been developed, let alone thoroughly tested.

An additional irony is that most experts believe that a rush to judgment on ballistic missile defenses will not necessarily lead to the deployment of the most effective system. According to General John Shalikashvili, the former Chairman of the Joint Chiefs of Staff, ''if the decision is made to deploy a national missile defense system in the near term, then the system fielded would provide a very limited capability. If deploying a system in the near term can be avoided, the Defense Department can continue to enhance the technology base and the commensurate capability of the missile defense system that could be fielded on a later deployment schedule.''

In addition to its silence on the effectiveness issue, there is not a word in S. 1873 about the costs of this system. The Congressional Budget Office estimates that the deployment of even a very limited system could cost tens of billions of dollars. And given that so much of the necessary technology remains unproven, history tells us the real cost could be much, much more. Despite the hefty price tag and the questionable technology, proponents of this bill essentially say, ''the costs be damned, full speed ahead.'' Yet when it comes to proven proposals to improve our nation's schools, increase the quality of health care, or enhance the environment, the first question out of the mouths of the proponents of S. 1873 is, ''how much does it cost?''

Mr. President, S. 1873 also says absolutely nothing about how a U.S. declaration that it plans to unilaterally deploy national missile defenses will affect existing and future arms control treaties. It should be clear to every one in this chamber that if the United States unilaterally abrogates the ABM Treaty, which is what S. 1873 states we will do, the Russians will effectively end a decades-long effort to reduce strategic nuclear weapons. They will back out of START I. They will not ratify START II. And they will not negotiate START III. In other words, a unilateral U.S. deployment of national missile defenses could end the prospect for reducing Russia's strategic nuclear arsenal from its current level of 9,000 weapons down to as few as 2,000.

I find it hard to believe that many of my colleagues are willing to forego the opportunity to eliminate thousands of Russian nuclear weapons today in exchange for the possibility that we might some day be able to deploy a system that can intercept a few missiles. This is much too steep a price to pay for a course of action that at present is unproven, unaffordable, and unnecessary.

Supporters of S. 1873 have argued that the Senate should reconsider its position on this issue as a result of three major developments since May—the nuclear weapons tests in India and Pakistan, the Rumsfeld Commission report on the threat posed by ballistic missiles, and North Korea's test of a medium-range ballistic missile. In reality, none of these events suggests we should go forward with premature deployment of national missile defenses. The tests of nuclear weapons by India and Pakistan as well as the larger issue of proliferation of nuclear weapons can best and most directly be addressed by swift consideration and ratification of the Comprehensive Test Ban Treaty. Adoption of S. 1873 does not directly address this situation and will, in fact, lead to more, not less, nuclear weapons. Unfortunately, the majority side of the Senate Foreign Relations Committee has not seen fit to conduct a single hearing on this issue, let alone report out this treaty for consideration by the full Senate.

As for the remaining two events, I commend to all members of the Senate an excellent letter from General Shelton, this nation's most senior military leader. General Shelton and the rest of the service chiefs take issue with the Rumsfeld Commission's findings and reaffirm their support for the Clinton Administration's current missile defense policy and deployment readiness program. As for the recent Korea missile test, although the letter was written prior to the test, the Chairman's conclusions were explicitly based on the assumption that North Korea would continue the development and testing of their missile program. Quoting General Shelton, the North Korean missile program, ''has been predicted and considered in the current examination.''

Mr. President, I ask my colleagues to reflect on the advice of the Secretary of Defense and the Joint Chiefs of Staff and vote against cloture on S. 1873.

Mr. ALLARD. Mr. President, I rise as a cosponsor and strong supporter of S. 1873, the American Missile Protection Act, and I urge all my colleagues to vote in favor of this much needed legislation.

Let me begin by being blunt—the United States cannot defend its borders against a single ballistic missile attack. This leaves all fifty states, especially Alaska and Hawaii, defenseless against any country that wants to threaten the U.S. with ballistic missiles.

We will hear that there is no need for a national missile defense because the Soviet Union is gone. This is true, but the USSR's demise has given rise to many nations ready to take their place. Russia has 25,000 nuclear warheads and recent reports show that their technology and warheads are readily available. Just as problematic is that 25 nations have or are developing nuclear, biological and chemical weapons. Over 30 nations have ballistic missiles, with many more attempting to strengthen their weapon of mass destruction capability.

Until just recently, China, with its over 400 warheads, had strategic nuclear missiles targeted at the United States. However, these missiles could be red-targeted within minutes if so desired. Just last week, North Korea placed all of South Asia on high alert due to their missile test. They now have demonstrated the capability to build two-stage missiles, which is significant because adding stages increases missile range. While the Administration plays down the threat, I cannot. This leaves the region and our over 80,000 troops in the area vulnerable to attack. Also, according to ''Jane's Strategic Weapons Systems,'' North Korea is developing long-range missile capability that could threaten southern Alaska and with additional assistance from Russia could later develop missiles with ranges which could threaten the west coast of the U.S.

Opponents will also argue that a missile defense system cannot defend the United States against suitcase nukes or terrorist attacks on our own soil. They are right, and we need to do more to detect this form of terrorism, but it should not be done at the risk of a ballistic missile attack. To quote William Safire, ''. . . nations like China, Iran, Iraq, North Korea, India, and Pakistan have not been investing heavily in suitcases.'' These countries are spending money on long range missiles. While many of these countries may never threaten the United States, we should not base all of our future threats on the present.

Opponents also point out that nonproliferation agreements will end the need for a missile defense. The problem is that not all countries abide by these agreements, or even sign at all. Presently, China, North Korea, and Russia are all engaged in the transfer of missile components and technologies. Despite past denials, North Korea now admits to testing and selling missiles in an effort to help build the arsenals of Iran, Iraq, and Syria. Again, despite the threats and pleadings of the Administration, North Korea has refused to stop developing, testing, and deploying missiles.

Lastly, opponents of a missile defense system point to the Administration's 1995 National Intelligence Estimate which stated that the United States would not face a threat of a missile attack for at least 15 years. However, to come to this conclusion, they had to exclude any threat to Alaska and Hawaii. This intentional omission is deceptive at best. We must not sacrifice the protection of U.S. citizens living in Alaska and Hawaii just to score political points. By leaving one state vulnerable, we leave the country vulnerable. This is unacceptable.

While I am a strong supporter of the capability of our intelligence community, they are not perfect. In May, the U.S. intelligence community was caught by surprise when India conducted a series of nuclear tests on the 11th and 13th of that month. In another surprise, despite intelligence estimates that Iran could not field its medium range ballistic missile until 2003, Iran flight-tested this system on July 22nd of this year. Also, it has been reported that Iran is developing a longer-range version capable of reaching Central Europe.

Again, the Administration believes that we will have at least 3 years warning before any missile attack would be feasible. However, on July 15th, the Congressionally mandated bipartisan Rumsfeld Commission concluded that the United States could get little to no warning of ballistic missile deployments from several emerging powers. The Commission stated that ''The threat to the U.S. posed by these emerging capabilities is broader, more mature and evolving more rapidly than has been reported in estimates and reports by the intelligence community.'' It also warns that, ''The warning times the U.S. can expect of new, threatening ballistic missile deployments are being reduced. . . . the U.S. might well have little or no warning before operational deployment.''

While it may be difficult, we must admit that we live in an era of unstable international politics. The U.S. should never initiate a ballistic missile attack, but we cannot be sure that other nations are like-minded. The United States must be able to defend itself. I believe the world would be a better place without these weapons. In the meantime though, we must live with the reality that they do exist and in the wrong hands will be used.

The bottom line is that if the United States is on the receiving end of a missile attack, we are defenseless. I believe it is wrong to understate the danger still lurking in the world. We must do all that is possible to protect all Americans. We must develop a true national missile defense as soon as technologically possible. To do anything less would be to shirk our duties to provide for the common defense of the United States and all its citizens.

Mr. FAIRCLOTH. Mr. President, how we vote is not always clear to Americans. For the average citizen it is not easy to keep straight whether a ''yea'' is for or against something—whether it is a vote to pass a bill or table it. It also can be difficult to sort out where their senators stand when a particular vote covers many provisions in one ''package.'' Which provision was the ''yea'' vote for or the ''no'' vote against?

But, Mr. President, the vote on cloture of the American Missile Protection Act (S. 1873) this morning is not at all one of those ''confusing'' votes. I can think of no vote where it can be seen more clearly exactly where each senator stands. This morning's vote was black and white. This morning's vote shows who takes the most important function of the Federal Government—national security—seriously. The Senate failed for a second time this year to invoke cloture on the bill. Forty-one Senators, all Democrats, voted against protecting American families from the greatest threat to our homeland.

Nothing can be more frightening than the thought of an attack on our homes by another nation using nuclear, biological, or chemical weapons. Not thinking about it or pretending that it won't happen are absolutely not grownup ways to deal with this reality.

Opponents of the American Missile Protection Act claim concern with the fact that the bill mandates deployment of a National Missile Defense system. They claim that this bill ties our hands because when we finally do develop the capability to deploy a system, there might not be a need for it.

Might not be a need?? Let me be completely up-front. It's a myth that we have plenty of time to build a missile defense capability and hold off deployment until some potential future threat develops. The American people need to get that scenario out of their minds. The system is needed today, right now, and it is time for this Administration to get off its slow-track development program.

Just two months ago, the Rumsfeld Commission to Assess the Ballistic Missile Threat to the United States concluded that ''ballistic missiles armed with WMD payloads pose a strategic threat to the United States.'' The commission did not say there might be a future threat, it said there is a present threat. Further, India and Pakistan have conducted nuclear tests, North Korea just launched a two-stage missile over Japan, and we don't know Iraq's chemical weapons capability because the inspectors have not been allowed to look. If these events do not convince my colleagues on the other side of the aisle of our need for a National Missile Defense system, what will it take to convince them? Do they actually have to see a missile strike?

So, Mr. President, I do not take seriously this criticism that S. 1873 is flawed because it mandates deployment of a missile defense system that may not be needed. This sounds more like a smoke screen. I believe that the Democrat's real hope is to try and resuscitate the Anti-Ballistic Missile Treaty, which was voided by the break-up of the Soviet Union. Getting back the ABM Treaty seems to be all consuming for some senators, and a U.S. National Missile Defense system gets in the way of their goal.

Mr. President, after today's vote it is very clear to American families that their senators either support real national security action or are trying to convince the citizens that a paper treaty will be sufficient to protect them—there is no middle ground.

The PRESIDING OFFICER. The minority has 15 seconds remaining; the majority a minute and a half.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I rise today to oppose cloture on the Cochran bill.

I will agree at the outset that the many cosponsors of this bill, though haling overwhelmingly from a single party, probably believe they have the best interests of the nation in mind by giving their support to this bill. So I am not here today to challenge their motives or to impugn their character. I am here instead to state as concisely and sincerely as I can how and why I believe they are simply wrong.

This bill is fatally flawed because it bases a profound national security decision—that is, the decision to deploy a missile defense system spanning the entire territory of the United States—upon one single consideration . . . its technological possibility.

Voters across the land sent us here to Washington because here is where the tough decisions are made that face all Americans. They are tough decisions precisely because they rarely if ever involve only one consideration. They are tough because they often entail tough trade-offs in the pursuit of goals that our country simply cannot achieve all at once. As members of Congress, we have to consider politics, economics, short-term and long-term effects, impacts on other policies, legal issues, and other factors. We have to weigh all these considerations and reach a judgment on what will serve the interests of the nation.

Yet here we are today, deliberating a decision that could well lead to the expenditure of tens or potentially hundreds of billions of dollars solely on the basis of a wish on a star. And that star is Star Wars.

This is my main objection to the bill—I just do not think it is wise to base fundamental national security decisions on simply one criterion, especially one so notoriously ill-defined as the notion of a ''technological possibility.''

But I have other concerns as well. These relate to the potential cost of the policy enshrined in this bill. And they focus on the dubious technological objective that lies at the heart of what is known as ''National Missile Defense.'' I think it is certainly appropriate to ask some tough questions—as the Rumsfeld Commission did—about the foreign missile threat to determine if this threat is so grave or so imminent that it requires throwing twin babies out with the bath water: first, by abandoning standard US government procurement laws and procedures when it comes to acquiring major technological systems, and second by setting America on a course that is contary to our nation's arms control treaty obligations. And with respect to the consideration of what is actually possible, I also want to call my colleagues' attention to an article in the New York Times dated July 28 by Richard Garwin, a member of the Rumsfeld Commission. The article makes a persuasive point: that we cannot—must not—depend on a system for our defense which, even under the best circumstances, cannot accomplish its mission. In fact, it is not at all clear that any system we design could ever deal with all of the varied threats from different quarters.

Mr. President, the American people are not dummies. I am convinced that when they listen carefully to both sides on this issue, they will recognize that nobody has yet come up with an improvement on existing US policy for missile defense. They will come to this conclusion precisely because our current policy is premised upon all of the many considerations I have just summarized . . . not just one.

Americans understand that it makes sense not to force the government to buy costly, high-risk technologies that simply have the possibility of being effective.

They understand that America's national security decisions must not be made without considering the impacts of these decisions on the defense choices that will be left open to other countries.

They understand that in an age of balanced budgets, large new public sector commitments will jeopardize funding prospects for a multitude of other precious national goals.

They will know how to assess the incorrect claim so frequently made by missile defense advocates that America is allegedly ''defenseless'' against the foreign missile threat. The closer they look at the $270-plus billion that we are spending each year on the nation's defense (not to mention the additional billions that we are investing in our diplomatic and intelligence capabilities), the sooner they will see the fallacy in the idea of a defensless America.

Mr. COCHRAN. Mr. President, I yield the time remaining on our side to the distinguished Senator from Texas, Senator HUTCHISON, for closing our debate.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President. I thank the Senator from Mississippi for his leadership.

Which of these actions would be the act of a strong and powerful nation led by men and women of vision and foresight: a nation that constantly reassesses its security threats and tailors its defense to meet those threats, or a nation that sits back and says let's see what the threat is, then we will assess it and then we will address it?

Mr. President, it was the latter thinking that caused us to go to a hollow military after World War II, and we paid the price with thousands of lives in the Korean war—lives of our men and women, because we hadn't planned for the future.

Mr. President, we have gotten the wake-up call. It is the Rumsfeld report that Congress commissioned, which said that we have failed to estimate how long it would take rogue nations to develop ballistic missiles. That is the wake-up call. Are we going to meet the security threats of this country? The greatest security threat we have is incoming ballistic missiles. If we put our mind to the technology, we can prioritize our defense spending to say to the American people that we will protect you from incoming ballistic missiles to our shores, or to any theater where our Armed Forces are present. We can do no less if we are men and women of vision and foresight for the greatest Nation on Earth.

I urge your support for the Cochran visionary amendment that would protect our country at the earliest opportunity.

Mr. COCHRAN. Mr. President, I ask unanimous consent that Senator COATS be added as a cosponsor of S. 1873.

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

CLOTURE MOTION

The PRESIDING OFFICER. By unanimous consent, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 345, S. 1873, the Missile Defense System legislation.

Trent Lott, Thad Cochran, Strom Thurmond, Jon Kyl, Conrad Burns, Dirk Kempthorne, Pat Roberts, Larry E. Craig, Ted Stevens, Rick Santorum, Judd Gregg, Tim Hutchinson, Jim Inhofe, Connie Mack, Robert F. Bennett, and Jeff Sessions.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on a motion to proceed

to Senate bill 1873, the missile defense bill, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

The yeas and nays resulted—yeas 59, nays 41, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—59

| | | |
|---|---|---|
| Abraham | Frist | Mack |
| Akaka | Gorton | McCain |
| Allard | Gramm | McConnell |
| Ashcroft | Grams | Murkowski |
| Bennett | Grassley | Nickles |
| Bond | Gregg | Roberts |
| Brownback | Hagel | Roth |
| Burns | Hatch | Santorum |
| Campbell | Helms | Sessions |
| Chafee | Hollings | Shelby |
| Coats | Hutchinson | Smith (NH) |
| Cochran | Hutchison | Smith (OR) |
| Collins | Inhofe | Snowe |
| Coverdell | Inouye | Specter |
| Craig | Jeffords | Stevens |
| D'Amato | Kempthorne | Thomas |
| DeWine | Kyl | Thompson |
| Domenici | Lieberman | Thurmond |
| Enzi | Lott | Warner |
| Faircloth | Lugar | |

NAYS—41

| | | |
|---|---|---|
| Baucus | Feingold | Levin |
| Biden | Feinstein | Mikulski |
| Bingaman | Ford | Moseley-Braun |
| Boxer | Glenn | Moynihan |
| Breaux | Graham | Murray |
| Bryan | Harkin | Reed |
| Bumpers | Johnson | Reid |
| Byrd | Kennedy | Robb |
| Cleland | Kerrey | Rockefeller |
| Conrad | Kerry | Sarbanes |
| Daschle | Kohl | Torricelli |
| Dodd | Landrieu | Wellstone |
| Dorgan | Lautenberg | Wyden |
| Durbin | Leahy | |

The PRESIDING OFFICER. On this vote, the yeas are 59, the nays are 41. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. GORTON. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. ROBERTS). The distinguished Senator from Washington is recognized.

Mr. GORTON. Mr. President, the distinguished President pro tempore has asked for 5 or 10 minutes to speak as in morning business. I ask unanimous consent that you recognize him for that purpose.

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

The distinguished Senator from South Carolina is recognized.

## CONSUMER BANKRUPTCY REFORM ACT

Mr. THURMOND. Mr. President, I rise today in support of cloture on the motion to proceed to S.1301, the Consumer Bankruptcy Reform Act, which will be voted on later today. This legislation is urgently needed to address abuses of our bankruptcy laws and help make sure bankruptcy is reserved for those who truly need it.

We have had Federal bankruptcy laws for 100 years, and no one disputes that some people must file for bankruptcy. Some people fall on hard times and have financial problems that dwarf their financial means. They need to have the debts that they cannot pay forgiven under chapter 7.

However, other people who file for bankruptcy have assets or have the ability to repay their debts over time. These people should reorganize their debts under chapter 13. Bankruptcy should not be an avenue for someone to avoid paying their debts when they have the ability to do so. People should pay what they can.

Unfortunately, too many people today who file for bankruptcy choose to discharge their debts rather than reorganize them and pay what they can. The reason may be because filing for bankruptcy does not have the moral stigma it once had. It may be because the person needs to be educated on how to better manage their money. Maybe attorneys do not encourage enough people to reorganize their debts. Whatever the reason, it is a big problem today.

The problem is becoming more serious because more and more people are filing for bankruptcy every year. In fact, more Americans filed for bankruptcy last year than ever before, about 1.35 million people.

S.1301 addresses the issue by making it easier for judges to transfer cases from chapter 7 discharge to chapter 13 reorganization, based on the income of the debtor and other factors. The bill permits creditors to be involved if they believe the debtor has the ability to repay. However, if a creditor abuses that power and brings such motions without substantial justification, the creditor is penalized. Also, the legislation places more responsibility on attorneys to steer individuals toward paying what they can.

The bill makes reforms without jeopardizing the truly needy. For example, the bill has special provisions to protect mothers who depend on child support by making these payments the top priority for payment in bankruptcy.

Mr. President, it is too easy to file for bankruptcy. It is too easy to get the slate wiped clean. We recognize that some people need a fresh start. But a fresh start should not mean a free ride. We must stop this type of abuse.

It is important to note that we are only attempting to proceed to the bill. It is only appropriate that we consider this legislation on the merits this year.

Under the outstanding leadership of Senator GRASSLEY, we held numerous hearings during this Congress in the Judiciary Committee on bankruptcy and on this bill in particular. We have considered and debated this legislation at the subcommittee and full committee, where it was reported out on a bipartisan vote of 16 to 2. Much work has been invested in this complex issue, and it would be a mistake not to act on this important reform proposal this year. It deserves our consideration and our support.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. AKAKA. Mr. President, I rise to speak during morning business for 5 minutes.

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

## NEW WORLD ALTITUDE RECORD BREAKING FLIGHT

Mr. AKAKA. Mr. President, I rise today to recognize and celebrate the world record breaking achievements of the National Aeronautics and Space Administration's (NASA) Unmanned Aerial Vehicle (UAV) program conducted at the Pacific Missile Range Facility (PMRF) on Kauai. This exemplary program is part of NASA's Environmental Research Aircraft and Sensor Technology (ERAST) program, which first gained national recognition for record breaking Pathfinder flights last year.

Mr. President, on December 10, 1997, I was proud to participate in a ceremony dedicating the previous record breaking flight that reached an altitude of 71,500 feet in memory of Hawaii's beloved hero, Colonel Ellison Onizuka. This was a most fitting tribute to honor Colonel Onizuka and inspire our youth to excellence.

Since that time, the Pathfinder solar electric powered remotely piloted aircraft has undergone design upgrades which have allowed the ERAST Team to once again set a new world altitude record for unmanned solar-powered aircraft. This landmark was accomplished when the solarplane climbed to 80,200 feet above PMRF on August 6, 1998. I am particularly proud of the students and faculty of Kauai Community College and the talented personnel at PMRF who assisted NASA's ERAST Team in attaining this monumental achievement.

The success of Pathfinder and Pathfinder Plus has opened new doors to possible educational, scientific, and technological applications that were not imaginable a few years ago. There are countless implications for advances in the fields of aviation, satellite deployment, solar energy technology, oceanic and atmospheric research and monitoring, and environmental protection.

Mr. President, I commend NASA's ERAST Team, the students and faculty of Kauai Community College and the personnel at PMRF for demonstrating that through our imagination, we can reach unimagined realms in space and near space.

### PRIVILEGE OF THE FLOOR

Mr. WELLSTONE. Mr. President, I ask unanimous consent that Deanna Caldwell and Jennifer Gaib be allowed to be on the floor during the debate on campaign finance reform.

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

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Washington.

MEASURES PLACED ON THE CALENDAR—H.R. 2183 AND H.R. 3682

Mr. GORTON. Mr. President, I understand there are two bills at the desk awaiting their second reading. I now ask for the second reading of the first bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2183) to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes.

Mr. GORTON. I object to further consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

Mr. GORTON. I now ask for the second reading of the second bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3682) to amend title 18, United States Code, to prohibit taking minors across State lines to avoid laws requiring the involvement of parents in abortion decisions.

Mr. GORTON. I object to further consideration of the bill at this time.

The PRESIDING OFFICER. The bill will be placed on the calendar.

DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2237, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2237) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

McCain Amendment No. 3554, to reform the financing of Federal elections.

AMENDMENT NO. 3554

The PRESIDING OFFICER. The Chair will observe that the pending amendment is numbered 3554.

Mr. GORTON. Mr. President, while we are on the Interior appropriations bill, the current amendment is the McCain-Feingold campaign financing amendment. Whether we will use all of the time of the Senate between now and the time for a vote on a motion for cloture on the amendment, I am not certain.

However, it is very unlikely, I say to my colleagues, that we will debate contested amendments to the Interior appropriations bill before we have completed debate on McCain-Feingold. However, we are available to deal with amendments that can be worked out and agreed to which we will send up and deal with if there are any short spaces of time in which Members are not available to discuss the McCain-Feingold bill. Members who have interests in the Interior appropriations bill who have amendments that they think will be accepted or can be worked out should be in contact with me or with staff of the Appropriations Committee, and we will attempt to work them in whenever it is convenient to do so.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, first I mention a scheduling item. I am confident that the agreement we reached yesterday was that there would be a vote either late tomorrow afternoon or early evening. Now I am told that there may be some Members on the other side who want to have an earlier vote. Mr. President, I will not agree to such a thing. I believe that we need more than 2 days' debate on this issue even though we have been over this issue many times before. I just want to tell my colleagues on both sides, but particularly on the other side of the aisle, I understand there are personal commitments and we will try to accommodate those, but to have a vote earlier than very late tomorrow afternoon or tomorrow evening I think would not be in keeping with the agreement that we reached yesterday.

This is not a happy time for America. It is not a happy time for the institutions of government, especially the Presidency, but also the Congress. We are going through a very wrenching and difficult episode which already, I think most of us would agree, ranks in the first order of crises that affect this country. And it affects us. As I have said on numerous occasions, all of us are tarred by a brush when the institutions of government are diminished and affected by scandal. But it also points out the criticality of us addressing this issue of campaign finance reform now rather than later. In today's newspaper, ''Reno Sets 90-day Clinton Probe'':

Attorney General Janet Reno yesterday opened a preliminary investigation of President Clinton that could lead to an independent counsel probe of allegations that he orchestrated a plan to violate spending limits for his 1996 reelection campaign. . . .The new Clinton inquiry was triggered by a preliminary report last month from the Federal Election Commission auditors. The auditors concluded that the DNC ads about issues such as Medicare and the budget amounted to ''electioneering'' on the President's behalf, and the Clinton-Gore campaign should be required to reimburse the government for the entire $13.4 million it received in Federal matching funds.

This morning, in most of the major newspapers in America, there is a poll that is conducted by the Terrence Group and Lake, Snell, Perry and Associates—one Democrat and one Republican polling group: ''What do you think is the number one problem today? Moral-religious issues, 14 percent; crime and drugs, 14 percent; economy and jobs, 13 percent.''

Mr. President, perhaps moral and religious issues have been a No. 1 priority in America before, but I don't think there is any doubt that that is the case today. ''Which of the following issues do you want Congress to focus on? Restoring moral values, 22 percent; improving education, 19 percent; reducing taxes and Federal spending, 13 percent.''

Mr. President, when 22 percent of the American people say they believe that restoring values is the No. 1 issue they want Congress to focus on, I don't believe they are just referring to the problems concerning the Presidency and that crisis. I think they are talking about the fact that they don't believe that they, as individual citizens, are represented here in the Congress in the legislative process. I think they believe that special interests rule. I believe they are concerned that no longer are their concerns paramount, but only those of major contributors.

The effect of this was manifested just yesterday in my home State of Arizona in the primary that was held, as has been true throughout the country. It was the lowest voter turnout, as a percentage, of any time in the history of my State. I don't think that voters didn't turn out to vote in the primary in Arizona yesterday because of their anger—which may be justified—at the President of the United States; I think they didn't turn out because they believe that the present system of financing campaigns results in an exclusion of them in the legislative process; their homes and their dreams and aspirations for themselves and their families are no longer reflected here in the Congress of the United States.

Mr. President, the amendment at the desk, which is commonly known as the McCain-Feingold campaign finance legislation, is amended by Senators SNOWE and JEFFORDS. This amendment would begin to reform a severely broken campaign finance system. Early last month, the Members of the other body did what the Senate has failed to do, and that is to pass genuine campaign finance reform. By so doing, they have given Members of this body who support reform encouragement that Congress, at long last, may accede to the wishes of the majority in both Houses of Congress and to the wishes of the vast majority of the people we represent by repairing a campaign finance system that has become a national embarrassment and assails the integrity of the office that we are privileged to hold.

I want to commend and thank Representatives SHAYS and MEEHAN, and many other Members of the other body, whose courage and determination have given us a chance to reclaim the respect of the American people. I appeal to all Members of the Senate to listen to the majority of our colleagues in the other body, and to the majority of Senators, and seize this historic opportunity to give the Nation a campaign finance system that is worthy of the world's greatest democracy.

Mr. President, no Washington pundit thought that the House would actually

pass campaign finance reform, but it did. It was not an easy fight. But those in favor of reform prevailed. I hope the majority in the Senate that favors reform will be able to prevail here. A majority in the House passed reform because the American people demand it. Members of the House recognized that the current system is awash in money, exploited loopholes, and publicly perceived corruption. It is a system that no Member of Congress should take pride in defending.

Before I discuss the matter more fully, I want to remind my colleagues of three points. One, for reform to become law, it must be bipartisan. This is a bipartisan bill. It is a bill that affects both parties in a fair and equal manner.

Two, reform must seek to reduce the role of money in politics. Spending on campaigns in current inflation-adjusted dollars continues to rise. In constant dollars, the amount spent on House and Senate races in 1976 was $318 million. By 1986 that total had risen to $645 million, and in 1996 it was $765 million. Including the Presidential races, over a billion dollars was spent in the last campaign. As the need for money escalates, the influence of those who have it rises exponentially.

Three, reform must seek a level playing field between challengers and incumbents. Our bill achieves this by recognizing the fact that incumbents must always raise more money than challengers. As a general rule, the candidate with the most money wins the race. If money is forced to play a lesser role, then challengers will have a better chance.

The amendment before the Senate achieves these three points. Is the measure perfect? No. Is it a legitimate start for discussion? Yes. For that reason, I hope my colleagues will support cloture and allow the Senate to work its will, to improve the measure where necessary, and begin a real dialog with the House on what can and should be sent to the President for his signature.

I want to repeat that this is the Senate's opportunity to not only do what is right but what is necessary. Washington has lately become synonymous with scandal, but for all the recent scintillating revelations, the real scandal—a scandal that will not go away—is the money that is and has been corrupting our elections. Unless this Senate finds the courage to act, that scandal will not subside.

Some will come to the floor and state that we do not need to reform how campaigns are run. They will state instead that we should simply enforce the laws that already exist. Mr. President, with all due respect, this argument is specious. Republicans demanded that the welfare system be reformed not only because it was the right thing to do but because the system was riddled with loopholes and was being abused and exploited. We didn't sit back and simply challenge the executive branch to enforce the laws. We acted, we changed the law, and we changed it in our society for the better. Let's do the same now.

I know that many colleagues think this refrain has become all too familiar, and they are correct. This is not the first time our campaign finance system has been in need of reform, and it will undoubtedly not be the last, because as time passes, the flaws and loopholes in the law become more evidence. It is at that time that the Congress has historically done what is needed; it has passed campaign finance reform.

The underlying purpose of this movement for the publication of contributions made for campaign purposes is to limit expenditures in political contests to legitimate purposes and to lessen the use of money in political elections.

So said Senator Culberson in 1908.

Senator Culberson inserted into the RECORD many letters, many of which could have been written today:

For some years there has been earnest agitation of the question of enforcing campaign contributions relating to national elections. A strong public sentiment has been created in favor of this important regulation. In obedience to this sentiment, a bill is now pending in Congress providing for the desired publicity. The question is whether the bill will be passed, defeated, or smothered.

The letter continues:

No party should be afraid to go before the country with a record of its campaign financiering.

No candidate for office should hesitate to have the people know the sources of campaign money. In other words, such contributions should come only from legitimate sources, and only money from such sources would be accepted, if the facts had to be made public: Hence, the great importance of publicity. The people do not want successful candidates to owe their elections to special interests affected by the subsequent administrations of such candidates. Such favors and obligations they involve are absolutely against the principles of honest government, whether that government be national, State, or municipal.

In the House that same year 1908, Congressman Sulzer stated:

In my opinion, this publicity campaign contribution bill is one of the most important measures before this House. It is a bill for more honest elections, to more effectively safeguard the elected franchise, and it affects the entire people of this country. It concerns the honor of the country. The honest people of the land want it passed. All parties should favor it. Recent investigations conclusively demonstrate how important to all the people of the country is the speedy enactment of this bill.

Remember, this statement was made in 1908.

In every national contest of recent years the campaign has been a disgraceful scramble to see which party could raise the most money, not for legitimate expenses but to carry a system of political iniquity that will not and cannot bear the light of publicity. Political corruption dreads the sun of publicity and works in the secret of darkness . . . Napoleon said victory was on the side of the heaviest guns. There are many thoughtful people in this country who have been saying since 1896 that the political victory in our Presidential contest is on the side of the campaign committee which can raise the largest boodle fund.

This important bill for publicity of campaign contributions is a nonpartisan measure. There should be no politics in it. We should all advocate from patriotic motives; but some of the gentlemen on the other side are injecting party politics into it, and are doing everything in their power to prevent the Members of this House who sincerely favor the bill from having the opportunity to vote for it. . . It is a shame the way this bill is being strangled to death.

In 1908, Congress went on to do the people's bidding. It passed the campaign finance reform legislation.

In 1947, Senator Ellender stood on this floor, and stated:

It came to my attention as chairman of that committee—and this feeling is shared by committee members joining me in sponsoring this bill—that the present statutes dealing with elections, campaign expenditures, and contributions, and limitations thereon, are utterly inadequate and unrealistic and as now in force and do not begin to accomplish the purposes for which they were enacted. . .

I may state, Mr. President, that our committee last year found that many corporations and some labor organizations had spent thousands of dollars in Federal elections, but we could not force them to report for the reason that the money expended was not considered as contributions. So this bill requires any money spent to be reported by whoever makes the expenditure.

Experience has shown that some corporations and labor unions have spent money directly on behalf of a party or candidate and thus I invaded the application of the prohibition upon contributions.

In 1947 the Congress, again, responded to the public's disdain for the way our campaigns are financed and passed campaign finance reform legislation.

In 1974, in the aftermath of the Watergate scandal, the Congress again passed campaign finance reform legislation.

Mr. President, after what we know about the last election, it is time again to pass campaign finance reform legislation.

Mr. President, recently there was given to me a memo that is public knowledge: The Democratic National Committee, Democratic National Committee Managing Trustee Events and Membership Requirements Events; two annual Managing Trustee Events where the President in Washington, DC, attended; two annual meetings, trustee event for the Vice President, et cetera. It is kind of a standard thing that you see on these kind of things. But the thing that is interesting about this is the fifth one down, ''Annual Economic Trade Missions.'' ''Managing trustees are invited to participate in foreign trade missions, which affords opportunities to join Party leaders in meeting with business leaders abroad.''

Another memorandum that was given to me of May 5, 1994, to Anne Cahill from Martha Phipps:

White House Activities: In order to reach our very aggressive goal of $40 million this year, it would be very helpful if we could coordinate the following activities between the White House and Democratic National Committee: 1. Two reserved seats on Air Force

One; and, 2. Six seats at all White House private dinners.

No. 4: ''Invitations to participate in official delegation trips abroad. Contact: Alexis Herman.''

Mr. President, that is wrong. We know that is wrong. And the people who did it knew that it was wrong at the time. That is not an appropriate use of official trade missions.

This gives rise to all the speculation and allegations concerning the transfer of technology to China. It makes it much more logical or believable when you read about these kinds of things.

Mr. President, I know this legislation is not perfect. I know that if given the opportunity to offer amendments, many Members would do exactly that, and the measure could be improved.

For example, I think there would be a majority vote in this body that would raise the individual spending limits to the level of $1,000, which it was in 1974, that some here may not agree with. But I believe the majority would.

I believe that the Snowe-Jeffords amendment went a long way towards leveling the playing field as far as unions, businesses, and corporations are concerned. I know that there are other ways we could improve this legislation. I know that we can do that if my colleagues would vote for cloture.

I appeal to my colleagues to muster the courage that led to reform in 1908, 1947, and 1974.

Mr. President, I ran for public office first in 1982. It was not the kind of money in that campaign that I see today. When I meet a young man or woman who is interested in public office nowadays—I used to ask them, ''How do you feel about smaller government, taxes, less regulation?'' We would have discussions of the issues. Now there is only one question you ask a young man or woman who is interested in seeking public office. And I might add it seems to be fewer and fewer. The only question is, ''Where is the money? Where is the money?'' Because, if they don't have the money, obviously no matter how they stand on the issues, no matter how principled they are, and how impressive their resume might be, their chances of achieving public office are dramatically diminished.

I know that many on this side of the aisle don't agree with all of the provisions of the amendment. I know they recognize that there is a problem—a problem that we have to address.

This is our opportunity, and if we opt to gridlock over results, we will only fuel the cynicism of the American electorate.

I want to point out again, every political expert is predicting that we will have the lowest voter turnout in this upcoming election than at any time in history. I think that is a sad commentary.

I hope we will do what is right to take such steps as necessary to pass meaningful campaign finance reform. Should we fail, we will have only ourselves to blame for the low esteem in which we are held by the American people. We will have done our part to degrade the high office to which we have been elected. We will by our inaction contribute to the alienation of the American people from the people who have sworn an oath to defend their interests.

As I mentioned, Mr. President, yesterday was primary day in Arizona. Turn out was an all-time low, indicating another record-setting low turnout election day. I have no doubt whatsoever that the way in which we finance our campaigns has in no small measure contributed to the abysmal commentary of the health of our democracy. The people's contempt—there is no more charitable way to describe it—for us and for the way in which we attain our privileged place in government cannot be sustained perpetually. We will someday pay a high price for our inattention to this problem. We will forfeit our ability to lead the country as we meet the complicated challenges confronting us at the end of this century because we have so badly squandered the public respect necessary to persuade the Nation to take the often difficult actions that are required to defend the Nation's interests.

Our ability to lead depends solely on the public's trust in us. Mr. President, people do not trust us today. And that breach, that calamity, is what the supporters of campaign finance reform intend to repair. I beg all of my colleagues to join in this effort and give our constituents a reason to again trust us, and to take pride in the institution we are so proud to serve.

Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. MCCONNELL. Mr. President, some in the press have suggested there is a sense of momentum for this issue because it passed the House of Representatives. I would remind my colleagues that a measure similar to this passed the House in the 101st Congress, the 102d Congress, and the 103d Congress. So it is not unusual, I would say, for the House of Representatives to pass this kind of legislation. It has happened before, and I would say it does not reveal any sense of momentum behind a plan that is constitutionally flawed. Speaking of the Constitution, we were on this same issue last fall and then we were on it again in February. The outcome was the same during those debates, and in a sense what we are doing is having the same debate once again.

There have been suggestions, particularly on the other side, that the courts might be open to changing the Buckley case or revisiting it in some way. So I think it is always appropriate, when we have these periodic campaign finance debates, to bring my colleagues up to date on what has been happening in the courts. As we all know, the so-called reformers have been out around the country seeking to get new laws on the books at various States and localities, some by referendum, some by State statute. All of those, of course, are subsequently found in the courts, in litigation. So what I would like to do here at the outset is give my colleagues an update on what is happening in the courts; all of these court cases, by the way, reaffirming Buckley in one way or another.

I would remind everyone—I think everyone in this Chamber surely knows the Buckley case, Buckley v. Valeo, the landmark case in the area of campaign finance reform which has not been changed by any of the courts over the last almost 25 years. In fact, court decisions have deepened and broadened areas of permissible political speech over the quarter of a century since this landmark case, widely thought to have been written by Justice Brennan. So let me just run down a few cases that have been decided just since April of this year, since there is a good deal of litigation emanating from these State efforts to restrict the rights of people to be involved in political activity.

On April 17, in Americans for Medical Rights v. Heller, the United States District Court for the District of Nevada held that the Nevada State Constitution could not be enforced so as to prevent issue advocacy groups from contributing more than $5,000 to a ballot initiative. This was a court response to an effort to try to shut up groups in criticizing politicians—very similar to the measure currently before us which seeks to make it essentially impossible for a group to criticize a politician in proximity to an election.

On April 27, in Kruse v. Cincinnati, the United States Court of Appeals for the Sixth Circuit held that a Cincinnati ordinance placing spending caps on campaigns for city council violated the first amendment. This case is noteworthy. Here was a conscious effort on the part of the city council in Cincinnati to get a court, some court, to revisit the question of whether spending limits were permissible. This is something the Buckley case struck down forthwith, and forthrightly. That effort to get the court to reverse its decision was unsuccessful.

On April 29, in North Carolina Right to Life v. Bartlett, the U.S. District Court for the Eastern District of North Carolina held a State statute that attempted to regulate issue advocacy groups as unconstitutional. That is the same issue we have before us in the McCain-Feingold amendment, the effort by the Government to try to regulate constitutionally protected issue advocacy.

On June 1, in FEC v. Akins, the Supreme Court held that voters have standing to challenge the FEC's dismissal of an administrative complaint. Although the Court remanded the case for further proceedings, the Court strongly suggested that a membership organization's communications with

its own members would not meet the definition of ''expenditures'' subject to regulation by Congress.

In another case, on June 1, in Right to Life of Dutchess County v. FEC, the U.S. District Court for the Southern District of New York joined a chorus of many other Federal groups in striking down—striking down—an FEC regulation that prohibited corporate speech, even though that speech stopped short of the ''express advocacy'' standard adopted in the Buckley case.

Then on June 4, in Russell v. Burris, the U.S. Court of Appeals for the Eighth Circuit held that contribution limits of $300 to certain State candidates violated the first amendment and that special privileges to so-called ''small donor'' PACs violated the equal protection clause.

On June 11, in State of Washington v. 119 Vote No!, the Supreme Court of Washington held that a State statute which prohibits a person from sponsoring, with actual malice, a political advertisement containing a false statement of material fact to be facially unconstitutional.

On July 21, in Virginia Society for Human Life v. Caldwell, the U.S. Court of Appeals for the Fourth Circuit held that a Virginia campaign finance statute could not reach the conduct of groups that engaged in issue advocacy.

On July 23, in Shrink Missouri Government PAC v. Adams, the U.S. Court of Appeals for the Eighth Circuit held that a first amendment challenge of a State statute limiting campaign contributions was so likely to succeed that a preliminary injunction should issue preventing Missouri from enforcing the statute.

On July 23, in Suster v. Marshall, the U.S. Court of Appeals for the Sixth Circuit enjoined the enforcement of a provision of the Ohio Code of Judicial Conduct which capped spending in a judicial election for the Ohio Common Pleas Court at $75,000—again, a court decision striking down spending limits.

On August 10, in Alaska Civil Liberties Union v. the State of Alaska, the Superior Court for the State of Alaska granted summary judgment, ruling Alaska's campaign finance reform legislation unconstitutional and, therefore, null and void.

Finally, on August 11, in Vannatta v. Keisling, the U.S. Court of Appeals for the Ninth Circuit held that an Oregon ballot measure passed into law which prohibited State candidates from using or directing any contributions from out-of-district residents and penalizing candidates when more than 10 percent of their total funding comes from such individuals does not survive scrutiny under the first amendment.

My reason for the recitation of these cases is these are cases just since April, and every single one of them, at least three of which are right on the point of issue advocacy, which is what we have before us today, have ruled these government restrictions unconstitutional.

So there is virtually no chance—no chance—that the restrictions on citizens' ability to engage in issue advocacy contained in McCain-Feingold will be upheld as constitutional. There is certainly no evidence that the courts are moving in the direction of allowing governments at any level to restrain the voices of citizens at any time in proximity to an election or any other time.

Mr. President, issue advocacy is, of course, as I said, constitutionally protected speech. The New York Times, the Washington Post, and USA Today are some of the most aggressive users of issue advocacy. These multimillion-dollar corporations express themselves without limitation at any point, both in the news sections and on the editorial pages. They are the practitioners of the first amendment.

The problem with the New York Times, the Washington Post, and USA Today is that they think the first amendment only applies to them. It is amusing to look at the amount of space dedicated over the last 2 years by these three newspapers to their efforts to aid and abet those who would shut up citizens and make it difficult for them to exercise their constitutional rights.

Just looking at the New York Times, they have editorialized on the subject of campaign finance reform between July 1, 1997, and September 9, 1998, 82 times. The average number of days between campaign finance editorials in the New York Times is 8. On the average, every 8 days, the New York Times is lobbying for campaign finance reform, which they have a constitutional right to do. What is particularly amusing is the way in which they do it, which is remarkably similar to issue advocacy that groups engage in frequently on television.

The typical issue ad says at the end of the ad, ''Call Congressman'' so-and-so ''and tell him to either keep on doing what he is doing'' or ''stop doing what he is doing.'' I thought it was particularly amusing that the April 21, 1998, editorial in the New York Times was just like issue advocacy. The same opportunity they would deny to anyone else, they engaged in themselves.

They opined here about the importance of passing their version of campaign finance reform and then listed Members of the House and their phone numbers—exactly the kind of thing they don't want anybody else to do. Exactly the kind of thing they would prohibit every other American citizen from doing in proximity to an election, they are doing right here on the editorial page.

Of course, the newspapers are exempt from the Federal Election Campaign Act. I think they should be exempt, but I find it disingenuous in the extreme for them to engage in the very same practice. This is a huge, multi-, probably billion-dollar, American corporation, a corporation engaging in issue advocacy, putting the heat on elected officials, putting their phone numbers in there, saying call them—call them up and tell them to do this or not to do that. That is what they don't want anybody else in America to be able to do.

Mr. President, part of what is at the root of this debate is: Who is going to have the opportunity to express themselves, who is going to be able to engage in political discourse, in this country? Just newspapers and nobody else? Boy, that would be a good deal for them. That is exactly what they have in mind, because they practice issue advocacy every day, and sometimes it is remarkably similar to the issue ads you see on television run by organized labor, or plaintiffs' lawyers, or you name it. ''Call Congressman'' so-and-so, ''and tell him to do'' this or do that, it said in the New York Times of April 21.

The Washington Post has been not far behind, another megacorporation which exists for the purpose of influencing political discourse in this country. This big corporation, of course, like the other big corporation I just mentioned, the New York Times, is exempt from the Federal Election Campaign Act, and this big corporation, too, would like to restrict the speech of other American citizens in order to enhance its own views.

On the subject of campaign finance reform, going back to January 1, 1997, the Washington Post has written 53 editorials. The average number of days between editorials on campaign finance reform in the Washington Post is 12. So, Mr. President, every 12 days, this great, huge American corporation is lobbying the Congress to take a particular position on campaign finance reform.

I defend their right to do it, but I find it amusing—if not really troubling more than amusing—that this kind of corporation should have this kind of influence and everybody else in society in proximity to an election would be essentially muffled from being able to mention a candidate's name in proximity to an election.

So some big corporations would have an advantage; others a disadvantage. That is what the Washington Post would like—more power and more advantage. USA Today, another huge American corporation—between January 1, 1997, and today, USA Today has run 25 editorials on the subject of campaign finance reform. That is an average of one every 25 days—another major American corporation seeking to influence the course of this legislation, which also supports McCain-Feingold, which would make it impossible for anybody else to do the same thing in proximity to an election.

The USA Today editorial just yesterday was remarkably akin to an issue ad, Mr. President, remarkably akin to an issue ad, just like the New York Times editorial back in April I mentioned awhile ago. They state their case on the editorial page, and then they list all the Republican Senators, and particularly they highlight those

who are up for reelection this year. And they put their phone numbers by their names. Issue advocacy, Mr. President; within 60 days of an election.

Under the bill they support, over at USA Today, nobody else in America could do this, could mention a candidate's name within 60 days of an election. So this big corporation would have its power further enhanced by the quieting of the voices of everybody else in America who sought to express themselves within 60 days of an election by maybe saying something unkind about some Member of Congress.

So, Mr. President, there isn't any question; there is an enormous transfer of influence and power to the part of corporate America that owns and operates newspapers. Of course they are enthusiastic about this kind of legislation. This industry, the newspaper industry, which already has an enormous amount of power, would be dramatically more powerful if the kind of legislation we have before us were passed.

Some would argue there is a media loophole in the Federal Election Campaign Act because they are exempt from all of these restrictions that currently apply to everybody else, and certainly would be exempt of the greater restrictions that this legislation seeks to place on Americans of all kinds.

Mr. President, there are some Americans who believe that newspapers are a bigger problem, a bigger problem than campaign contributors. There was an interesting article back on October 21, 1997—excuse me, Mr. President, it is a Rasmussen poll, an interesting finding.

> More than 80% of Americans would like to place restrictions on the way that newspapers cover political campaigns. In fact, restricting newspaper coverage is far more popular than public funding of campaigns.

Restrictions on newspaper coverage is far more popular than public funding of campaigns. This is the American people in a poll in late 1997 discussing the influence of newspapers on the political process.

Further, in the description of the poll finding, it says:

> One reason for the public desire to restrict newspapers is that Americans think reporters and editorial writers have a bigger impact on elections than campaign contributions.

Mr. FEINGOLD. Mr. President, would the Senator yield for a question?

Mr. MCCONNELL. Not at the moment.

> The Rasmussen Research survey found that 68% of Americans believe newspaper editorials are more important than a $1,000 contribution. Only 17% think such contributions have a bigger impact.
>
> Americans may also support restrictions on reporters because more than seven-out-often believe personal preferences of reporters influence their coverage of politics. In fact, Americans overwhelmingly believe (by a 61% to 19% margin) that a candidate preferred by reporters will beat a candidate who raises more money.

Let me repeat that, Mr. President. This comprehensive poll of American citizens on the influence of newspapers, in late 1997, found that Americans, by a margin of 61 percent to 19 percent, believe that a candidate preferred by reporters will beat a candidate who raises more money.

Mr. President, I am making these points somewhat tongue in cheek because, obviously, I am not advocating restrictions on newspapers. But what I find particularly outrageous is newspapers advocating restrictions on everyone else. Who are they to think that they are the only ones who are to have influence in the American political process?

Richard Harwood of the Washington Post, on October 15, 1997, made some interesting points along those lines. Mr. Harwood said:

> It is fortunate for the press in the United States that the voice of the people is not the voice of God or the Supreme Court.
>
> That is because Americans, in the mass, believe in ''free speech'' and a ''free press'' only in theory. In practice they reject those concepts.
>
> That was the troubling conclusion drawn, ironically, from a major study of public opinion commissioned in 1990 by the American Society of Newspaper Editors as part of the observance of the 200th anniversary of the Bill of Rights. . . .

So this was a survey taken, I guess, by the Louis Harris organization for the Center for Media and Public Affairs. And Mr. Harwood points out the findings are, as he puts it, ''depressing.''

The first point in this survey of the American people, Harwood, in talking about the American people, said:

> If they had their way, ''the people''—meaning a majority of adults—would not allow journalists to practice their trade without first obtaining, as lawyers and doctors must, a license.

The second finding of this survey:

> [The people] would confer on judges the power to impose fines on publishers and broadcasters for ''inaccurate and biased reporting''. . . .

Third:

> They would empower government entities to monitor the work of journalists for fairness and compel us to ''give equal coverage to all sides of a controversial issue.'' They also favor the creation of local and national news councils to investigate complaints against the press and issue ''corrections'' of erroneous news reports.

Harwood further points out, at the end of his article:

> So press freedoms remain, as in the past, dependent not on the goodwill of the masses but on the goodwill and philosophical disposition of the nine men and women of the Supreme Court of the United States.

Mr. President, I make those points to illustrate that the principal beneficiaries of the amendment before us are the huge corporations of America that control the press. They almost uniformly support legislation that would quiet the voices, at least in 60 days' proximity to an election, of all other American citizens, thereby enhancing the ability of newspapers to control the outcome of American elections.

The good news, Mr. President, is we are not going to pass this legislation. The further good news is the courts would not uphold this legislation if we did pass it. I just mentioned three cases that have been handed down in the last 6 months indicating that Government restrictions on issue advocacy, tried by State governments, is clearly unconstitutional.

But what is truly disturbing in this free country, Mr. President, is that these big corporations that own these newspapers are so aggressively advocating efforts to quiet the voices of other American citizens.

It is truly alarming that in 1998 these big corporations, which already have enormous influence in our country, want to have even more. In fact, they want to have a monopoly on influence in proximity to an election. And as we all know, they are perfectly free to do editorials, both on the front page and on the editorial page—and do—up to and including the day before the election. And I defend their right to do it.

But what is disturbing is they do not want to let anybody else have their say. So this legislation, Mr. President, dramatically benefits the fourth estate at the expense of other citizens in our country.

Now, finally, before going to Senator BYRD, I have heard it said that we need to pass this kind of legislation. I have heard for over a decade we need to pass this kind of legislation in order to restore the faith of the American people in the Congress. In October of 1994, in the waning days of the end of Democrat control of this Congress, only 27 percent of the American people approved of the Congress. As of this past week, the congressional approval rating was 55 percent. Now, the 55 percent approval rating Congress has today comes after two Federal elections, 1994 and 1996, with record spending, three intervening filibusters of McCain-Feingold and its ancestor, Boren-Mitchell, and even the Clinton-Gore fundraising scandal.

Clearly, Mr. President, there is no political imperative to pass campaign finance bills that are unconstitutional. To suggest that the Congress is still unpopular—which it isn't—or that when it was unpopular it was somehow related to this issue simply cannot be supported by the facts.

Bill Schneider, a reputable pollster who works for CNN, back in February of this year had an interesting article in the National Journal. This was when the approval rating of Congress began to turn around. He pointed out in February 14 of this year:

> For the first time in at least 25 years, a majority of Americans approve of the way Congress is doing its job. Congress—perhaps the most ridiculed institution in America—has rarely gotten above a 40 per cent job-approval rating since 1974. Now, it's at 56 per cent.

That was then; it is 55 percent now.

''What's going on here?'' said Bill Schneider.

> A balanced budget, a booming economy and—not the least important—a smaller government. ''We have the smallest government

in 35 years, but a more progressive one,'' the President said. Right now, trust in government is at its highest level since the Reagan era, when it was ''morning in America.''

Now, we clearly do not need to pass this unconstitutional legislation in order to deal with cynicism about the Congress, which enjoys a 55 percent approval rating.

I might say that at the end of the Congress in 1994, I was personally involved in an all-night filibuster on September 30, 1994. I will never forget it. It is the only real filibuster we have had here in 10 years. It was an all-nighter. The cots were out. People were blurry eyed. But it was a remarkably uplifting event for those of us who were involved in it. We defeated Boren-Mitchell a mere 5 weeks before the greatest Republican congressional victory of this century.

Suffice it to say, there is no connection between this issue and electoral success. The responses you get on polls on this issue depend on how you ask the question. This is an arcane, complicated subject, and it is the obligation and the responsibility of Members of the Senate to protect the Constitution, to protect political discourse in this country, and to do the right thing one more time.

Mr. President, I am confident that, at the appropriate time, this amendment will be defeated.

Mr. BYRD. Mr. President, will the distinguished Senator yield?

Mr. MCCONNELL. Yes, I yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I wonder if I might get consent to speak on another matter at the conclusion of the Senator's remarks?

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Reserving the right to object, I wonder if the Senator has any notion about approximately how much time he would consume?

Mr. BYRD. I guess it would be 45 minutes to an hour. It would give Senators a chance to get lunch.

Mr. MCCAIN. Mr. President, reserving the right to object, I would say in all due respect to the most respected Senator from West Virginia, we have a limited amount of time to debate this issue. There are Senators who want to talk on it. I say in all respect to the Senator from West Virginia, we have just begun this debate. We just had the first opening statements. If we interrupt for 45 minutes to an hour, I think that would certainly disrupt this entire debate, which is of the greatest importance. I hope the Senator from West Virginia, in all great respect, would understand.

Mr. BYRD. I do understand that. I have to be somewhere else from 1:30 on, for awhile. I had hoped that I might be able to speak out of order earlier.

Mr. FEINGOLD. Mr. President, let me indicate, if I may, I will not object to this Senator's request. But let me say that after this address I do intend to object to any other discussions about other matters that do not have to do with the issue before us, before the scheduled cloture vote. But in this instance I will not object.

Mr. BYRD. Mr. President, I thank the distinguished Senator. I hope that other Senators would permit me to proceed.

Mr. MCCAIN. Mr. President, could the Senator at least wait until 12:30, if he has to be someplace at 1:30? We just began. There have been two statements that have been given on this very important issue. I understand and appreciate the seniority and respect and dignity that the Senator from West Virginia has, but this is incredibly disruptive, which I am sure the Senator from West Virginia can understand.

Mr. BYRD. Mr. President, will the distinguished Senator yield so I might reply?

Mr. MCCONNELL. I yield to the Senator from West Virginia.

Mr. BYRD. Mr. President, I hope the Senator will remember that debate on the Interior bill is being interrupted here. I have no objection to that. And there was a request that there be no amendments until, I believe it was Friday or Thursday, at some point, or until we vote on cloture on this matter. I had no objection to that. But I could have objected. That debate was interrupted. I don't interrupt in debates very often. I hope the Senator will allow me to proceed in this instance.

Mr. MCCAIN. Mr. President, reserving the right to object, and I will not object because of the Senator from West Virginia, but the fact is we are debating an amendment just as we normally do. And we are under a unanimous consent agreement, which we normally do. The Senator from West Virginia could object to us going into session—we all know that—because we function by unanimous consent. I think it is very unfortunate that when we have, really, now, a day and a half, and we just initiated debate on this very, very critical issue, the Senator has to do that at this time. I will not object.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

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

Mr. BYRD. If the Senator from Kentucky will yield, I make the request I be recognized, upon the conclusion of the remarks by the Senator from Kentucky, for not to exceed 1 hour.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. FEINGOLD. Mr. President, will the Senator yield for a question?

Mr. MCCONNELL. I yield the floor.

Mr. FEINGOLD. Will the Senator yield for a question?

Mr. MCCONNELL. I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized.

Mr. FEINGOLD. Mr. President, I ask unanimous consent to make brief remarks before the Senator from West Virginia begins.

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

Mr. FEINGOLD. Mr. President, I repeatedly asked the Senator from Kentucky if he would yield for a question about his statements about the case law, and he refused on several occasions. That is regrettable because I hope we will have a debate here, but I do appreciate his review of the case law. I think it is helpful, and I do want to hear Senator BYRD's remarks very shortly.

Let me quickly point out that I heard the Senator from Kentucky discussing a Nevada case regarding restriction on spending on issue advocacy. But the bill before the Senate has no such restriction. So that case is not applicable to what is before the Senate.

The Senator referred to the Cincinnati spending limits case. The problem is, our bill before the Senate does not have any spending limits in it.

The Senator is arguing case law that has absolutely nothing to do with what we are debating here today. I think that is regrettable because this is supposed to be a debate about the amendment before the Senate.

The Senator discussed a case involving in-state contributions. But there are no in-state limits included in this bill. And the same for the California case involving small donor——

Mr. MCCONNELL. Will the Senator yield?

Mr. FEINGOLD. I will yield for a question, yes.

Mr. MCCONNELL. The Senator from Kentucky—if the Senator from Wisconsin was closely listening—didn't claim the cases were about issue advocacy. What the Senator from Kentucky said is that all the cases were further reinforcement of the Buckley decision and that several of the cases were about issue advocacy.

Mr. FEINGOLD. None of the provisions that were specifically cited with regard to those cases has anything to do with the legislation before us. I will make the point now and continue to make the point throughout this debate that when case law is cited, it ought to have something to do with the matter before the Senate, or that clouds the issue of constitutionality in a way that is a disservice. If the Senator from Kentucky is going to make his arguments based on court cases, he should at least recognize and acknowledge that this version of the bill does not include many of the red herrings that he keeps presenting before the Senate. As we say in the law, these cases are readily distinguishable from the matter before us.

With that, Mr. President, I ask unanimous consent to add as cosponsors to the McCain-Feingold amendment, in addition to Senators THOMPSON, SNOWE, COLLINS, and JEFFORDS, Senators LEVIN, GLENN, LIEBERMAN, and WELLSTONE, who are long-time and vigorous supporters of this bill.

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

Mr. FEINGOLD. Mr. President, I very much look forward to the remarks of the Senator from West Virginia and appreciate his courtesy in allowing me to speak.

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia is recognized for up to 60 minutes.

Mr. BYRD. Mr. President, I thank the distinguished Senator, and I thank, again, all Senators for allowing me to speak at this particular juncture.

(By unanimous consent, the remarks of Mr. BYRD, Mr. GRAMM, Mr. FEINGOLD pertaining to another subject are printed later in today's RECORD.)

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, the McCain-Feingold bill was first introduced in the fall of 1995, just about 3 years ago. To date, thanks to the truly extraordinary efforts of our colleagues in the other House, we are as close as we have ever been to passing that bill and making a start on cleaning up the corrupt campaign finance system that has seemed so intractable for so long. As we stand here today, only eight votes stand between this bill and the President's desk—just eight votes. Only eight Senators out of all Members of the Congress are preventing this body from joining the other body in passing campaign finance reform. Eight Senators are blocking the Senate from banning soft money.

Mr. President, the time for excuses is over. It is time to finish the job. It is time to pass campaign finance reform and send it on to the President.

Let me first take a moment to remind my colleagues of what happened in the other body the week after we in the Senate left for the August recess. This campaign finance reform bill that all the pundits thought was dead and constantly claimed as dead actually passed the other body by a very strong vote. The vote was 252 to 179. That is right, Mr. President, 252 to 179 in the House. It wasn't even close. By any measure, the passage in the House of the Shays-Meehan version of the McCain-Feingold bill was a landslide. Sixty-one Republicans, over one-quarter of the Republican caucus in the entire House, voted for this bill. Mr. President, I think that should answer once and for all the allegation that the McCain-Feingold bill is a partisan piece of legislation. It is not.

Sixty-one Republicans would not vote for a bill that is a Trojan horse for the Democratic Party. No, this bill has now been shown in both Houses to be a bipartisan solution to a bipartisan problem.

The House vote was the culmination of literally months of debate on campaign finance reform. The debate actually started, if you can believe this, on May 21 and did not conclude until August 6. There were 72 amendments offered to the House version of the Shays-Meehan bill. There were a total of 41 rollcall votes on those amendments. The House spent over 50 hours debating campaign finance reform, an amount of time that is almost unprecedented to spend on one bill over there. I think we do it fairly frequently here, but it is almost unprecedented in the House.

The opponents of reform tried to take a page from the Senate playbook and openly proclaimed that they were going to try to kill the bill with amendments. Just like here, they offered poison pills and they tried to overwhelm the reformers with just the sheer number of amendments. They tried to drown them in amendments, but they failed, and they failed miserably.

In the end, a reform bill emerged and passed the House that retained all of the essential features of the McCain-Feingold bill—a ban on soft money, improved disclosure of campaign contributions, codification of the Supreme Court Beck decision, and provisions designed to deal with campaign advertising that is dressed up as issue advertising.

After many months of debate in the House, the bill has come back to the Senate. It is now on the calendar and is awaiting action.

The majority leader objected to bringing up the House-passed version of McCain-Feingold, but, fortunately, that was not the end of the matter. Because we have the right as Senators to offer amendments to pending legislation, we were able to bring it up on this bill, and that is exactly what Senator MCCAIN and I have done. We would have been delighted if the majority leader had agreed to bring up the House-passed version of the bill, and some comments that he made on ''Meet the Press'' this weekend suggested that he was going to do just that. But by offering our amendment, we will assure that the Senate will again vote on this issue, which is what the people of this country want.

Once again, I want to say that I am very proud of the solid, 100-percent support of the Democratic Senators for this bill. I am grateful for the efforts of the minority leader, Senator DASCHLE, to keep this issue on the agenda and line up our caucus in support of the McCain-Feingold bill.

But we are not doing this for partisan reasons. We are doing this because it is the right thing to do for our country. This campaign finance system is sapping the confidence of the American people in their Government. People have seen time and time again that these huge soft money contributions do influence the congressional agenda. They understand that we cannot act in the interest of average people if we are spending too much time trying to woo the big contributors. They know that soft money must be eliminated before it just totally swamps our elections and our legislature.

It is absolutely critical that we finish the job now; that we finish the job now before the end of this Congress, otherwise, we will undoubtedly see an explosion of soft money fundraising as the parties get ready for the next big show, and that is the next Presidential election in the year 2000.

If we go home and allow this soft money system to continue into the next Presidential election cycle, we will reap scandals that will make the scandals of 1996 look pale by comparison.

Look at what has happened in this cycle already will give you a clue as to what is going to happen. Already in this cycle, according to Common Cause, the parties have raised a total of $116 million, and that is the most ever in a non-Presidential cycle. Soft money fundraising more than tripled from 1992 to 1996—from an already troubling amount of $86 million to the now staggering amount of $262 million. Based on that growth, some estimate that the parties could raise $600 million in soft money in the year 2000 cycle—$600 million. Over half a billion dollars in soft money is likely to be the consequence and the disgusting display in the year 2000.

Mr. President, we already have a majority in this body, and with just eight more votes in the Senate we can stop this escalation of soft money. We can say to the political parties, Enough is enough. Go back to raising money under the limits established in the Federal Election Campaign Act. And then if somebody says, ''Well, we need more money,'' then start raising money from more people; get more people involved. Don't just extort more and more money from the major corporations and labor unions that are eager to curry favor with the Congress or the President.

Mr. President, the American people are sick of tales of big money fundraisers. It is a terrible turnoff for a citizen of average means to read that people give $100,000, or $250,000 to sit at the head table with the President, or have a special meeting with the majority leader of the U.S. Senate. They do not want more stories like the story of Roger Tamraz who gave $300,000 to the Democratic National Committee hoping for the special access he needed to promote his pipeline project. Tamraz told the Governmental Affairs Committee that as he thought about it, the next time he would give $600,000 if he thought this would help his business and that getting special access was not just one of the reasons he gave to the DNC, he said it was the only reason he gave the $300,000 and would give $600,000—for special access.

But these kinds of scandals are bound to come back again and again because our political parties, Mr. President, are addicted to soft money. They cannot get enough of it. And the reason is that they have found a way to make soft money work directly for them in Federal elections. This is an incredible

twist of a loophole that was established by the FEC in 1978. Remember that prior to 1996, most of the parties' soft money went into what were called party building activities—get out the vote drives, voter registration efforts, and the like.

But then in 1996, the parties discovered the issue ad, and it was off to the races. Both Presidential campaigns directly benefited from these kinds of ads—you know, the ones that do not explicitly say ''vote for'' or ''vote against'' a candidate, but they are nonetheless obviously aimed at directly influencing an election, obviously intentionally intended to cause someone to vote specifically for one candidate or another. And they used party soft money to pay for the ads.

Now, here is an irony, Mr. President. Just yesterday, Attorney General Reno announced yet another 90-day inquiry into the campaign finance scandals of the 1996 campaign. It has to do with issue ads run by the DNC, a portion of which were paid for with soft money. The allegation is that it was improper for the President to have participated in the development of that ad campaign. The McCain-Feingold amendment that is before us makes it very clear that such ads cannot be paid for with soft money and cannot be coordinated by the parties with their candidates. Yet some of the very people who are calling on the Attorney General to appoint this independent counsel are staunchly opposed to this amendment anyway.

We also already have seen the parties and outside groups preparing to exploit the phony issue ad loophole in this election. Over the next month, more and more election ads will begin appearing around the country, but because of that loophole, in many cases there will be no disclosure either of the spending itself or of the identity of the donors who are really behind the ads. These issue ad campaigns, Mr. President, are blatantly targeted at specific elections, but again their creators intentionally avoid the elections law, but avoiding the so-called magic words of ''vote for'' or ''vote against.''

Here is an example. The Capitol Hill newspaper Roll Call reported in July that the Republican Party is planning a $37 million issue advocacy campaign to begin running after Labor Day designed to help Republicans pick up seats in the House in November. Roll Call described the campaign as follows:

> Republican leaders are calling the plan ''Operation Break-Out:'' a comprehensive strategy to blanket as many as 50 to 60 battleground districts with ''issue advocacy'' television ads touting the GOP's success in balancing the budget, cutting taxes and reforming welfare.

The story then states that Republican officials predict that if Members help raise the $37 million, then the party will pick up as many as 25 additional seats. So they are candid. They are very upfront about the fact that this issue ad campaign is designed specifically to help elect more Republicans to the House, not just to talk about issues.

So here you have the leaders of a national political party designing a huge media plan specifically to elect candidates from that party, and specifically planning to take advantage of the phony issue ad loophole so they can at least partially pay for the campaign with soft money.

This is what the twin loopholes—soft money and phony issue ads—have led us to. And, of course, Mr. President, neither party is exempt. I have consistently maintained a bipartisan approach to this issue in my work with the senior Senator from Arizona and in my other work on this issue. And I will do so today.

A Democratic Party source is quoted in that same Roll Call story as saying that the Democratic Party is budgeting $6 million for issue ads and possibly a lot more. And, of course, the Republican Party justifies its plan as a preemptive strike against the labor unions that spent about $25 million on issue ads in the 1996 elections.

Mr. President, I ask unanimous consent that the entire Roll Call story be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From Roll Call, July 23, 1998]

GOP PLANS TO ''BREAK OUT'' IN FALL ELECTION, LEADERSHIP WANTS $37 MILLION FOR AD CAMPAIGN

(By Jim VandeHei)

Speaker Newt Gingrich (R–Ga) and top GOP leaders have devised a $37 million ''issue advocacy'' media campaign and a detailed communications plan to deliver poll-tested messages to dozens of targeted Congressional districts in coming months, according to internal documents and several Republican sources familiar with the strategy.

The $37 million media campaign, the centerpiece of the Republicans' strategy, will be launched around Labor Day in an effort to preempt an anticipated ad blitz by the AFL–CIO and to define the agenda heading into November. Republican Members are expected to contribute or raise $15 million to $20 million total for the project, including $8 million in hard money in the next few weeks.

Republican leaders are calling the plan ''Operation Break-out:'' a comprehensive strategy to blanket as many as 50 to 60 battleground districts with ''issue advocacy'' television ads touting the GOP's success in balancing the budget, cutting taxes and reforming welfare.

Gingrich and National Republican Congressional Committee Chairman John Linder (Ga) predict that if Members help raise the $37 million, the GOP will pick up as many as 25 additional seats, according to GOP officials.

Operation Break-out, according to GOP leadership sources, also includes a new communications regime and a legislative agenda that caters specifically to the Republicans' financial contributors off Capitol Hill. These contributors, once placated, will be hit up during the August recess to help bankroll the ad campaign.

While Gingrich insisted in an interview that a 40-seat gain is possible, GOP strategists have determined that a net pickup of 15 of 25 seats in ''eminently doable'' if Members cough up millions of dollars for their colleagues before the August break, according to a GOP leadership source close to the effort.

Privately, top GOP leaders expect a net gain of five to ten seats unless the Operation Break-out is implemented.

Gingrich and company rolled out the $37 million issue-advocacy campaign to Members at a private meeting at the Capitol Hill Club yesterday and plan to brief key Members and staffers on the communications plan in coming weeks.

If Republican leaders can overcome internal opposition from key Members—including Majority Whip Tom Delay (Texas) and Conference Vice Chairwoman Jennifer Dunn (Wash)—the new election plan will be the vehicle Gingrich and company hope to ride to an expanded majority in November's elections, the sources said.

''I have always felt that we get weak-kneed in the spring and worry we'll lose seats,'' said Appropriations Chairman Bob Livingston (La), who has pledged $500,000 for the project.

''This is the best economy in 50 years, so it's the incumbents' time. This (new strategy) will help expand (our majority) even further.''

Democrats are not losing any sleep over the GOP's plan.

''Republicans will spend more than us, but we will be competitive in the area of issue advocacy,'' said Democratic Congressional Campaign Committee spokesman Dan Sallick, who added that Democrats will budget more than $6 million for issue advocacy and possibly ''substantially more.''

''As 1996 showed, we do not have to spend more money to be competitive''

SHAKING THE MONEY TREE

As of today, there are roughly 170 Republican incumbents who either have no opposition in November's election or token opposition from an inadequately funded challenger who has little chance of winning. Combined, these Members are sitting on almost $60 million in campaign funds, according to GOP strategists.

If Linder, Gingrich and the rest of the GOP leaders can pry some portion of that money from these Republican incumbents, they are confident that the NRCC can blanket as many as 60 Congressional districts with issue-based ads between Labor Day and Election Day.

''We can sit back, do little on the House floor, get out of here early and probably win five seats,'' said one GOP operative. ''But if we can get Members and (outside groups) to kick in $40 million more than we have budgeted, there's a damn good chance we can expand our majority by 20 to 30 seats.''

That's the message Gingrich and Linder delivered to Republican Members at the closed-door meeting yesterday.

And they promised to lead by example.

Gingrich, Majority Leader Dick Armey (Texas), Livingston and Rep. David Dreier (Calif) all pledged to kick in $500,000 each. Linder promised $200,000 from his personal account and Oversight Chairman Bill Thomas (Calif) pledged $100,000 and will urge other chairmen to follow suit.

Deputy Majority Whip Dennis Hastert (Ill) stood up at Wednesday's meeting and promised $150,000, and Reps. Tom Davis (Va), Jim McCrery (La) and Larry Combest (Texas) vowed to pump in $100,000 each. Even Rep. Chris Shays (Conn), a moderate Republican who has worked closely with Democrats on certain issues, pledged $50,000.

Top political strategists from the NRCC and certain leadership offices are reviewing campaign data from every Republican Member to determine how much money individual Members can afford to ante up. While no

specific targets have been spent, any Republican who is a cinch to win this November will be expected to contribute significantly to the effort.

''Members will be leaned on to help the team,'' said one leadership source.

Gingrich, Armey and Linder have formed a ''whip team'' of about 20 Members who will make sure that Members and outside groups are paying their fair share.

The whip team—which includes top GOP leaders and the party's most aggressive money men, such as Reps. Mark Foley (Fla) and Bill Paxon (NY)—will twist Members' arms for cash and lobby wealthy business leaders for sizable contributions, the sources said.

Their goal is to raise $8 million in hard money by August to prove to business leaders that Republican leaders are dead serious about expanding their majority. ''We know that business leaders are investors. They put their money on the party that will control this place. We want to show them that investing in Democrats is not wise,'' said another GOP leadership source.

By September, Gingrich and Linder predict that Members will have kicked in at least $15 million to $20 million and that corporate America and individual contributors will match that amount.

The last thing they want, according to strategists, is a repeat of the 1996 elections, when GOP Members sat $30 million-plus and the business community failed to raise one-quarter of what it promised for issue-advocacy ads.

SETTING THE AGENDA

A $35 million issues-based ad campaign financed by the AFL–CIO is widely credited with helping Democrats chip away at the Republicans' House majority in 1996.

AFL–CIO president John Sweeney picked about three dozen competitive districts and flooded the airwaves with ads hammering Republicans for gutting Medicare and blocking a minimum wage. The ads, Gingrich and Linder believe, defined the 1996 election before most candidates hit the campaign trails and cost the Republicans nine House seats.

The NRCC fired back with a $20 million issue-ad campaign and the pro-Republican Coalition dumped in $5 million more, but it was too little, too late, Republicans say.

This year, GOP leaders plan to beat the AFL–CIO and the Democrats' allies to the punch, Linder has told Members.

The reason for such an ambitious issue campaign, sources said, was that internal polls found that the Republican message on key issues like education and the budget were more popular than expected in the most competitive districts.

Republican operatives picked the 28 most competitive districts and tested the Republicans' positive message versus the Democrats' positive message; on virtually every topic, Republicans learned they could win a head-to-head debate, sources said.

''The bottom line is . . . we are going to be competitive with labor . . . and we are going to have the debate on our turf,'' said NRCC spokeswoman Mary Crawford. ''And with these two goals in mind we will determine where we need to run these spots and when.''

THE PLAY BOOK

In a recent interview, Gingrich admitted that communications, internally and externally, has been a disaster for Republicans at serveral points since winning the majority in 1994.

The behind-the-scenes battle for control over communications has soured Gingrich's relationship with Conference Chairman John Boehner (Ohio) and has been a source of friction during countless leadership meetings. As late as a month or so ago, control over the message led to a nasty fight between Boehner and Dunn, and their relationship remains icy at best, according to several sources.

Congnizant that communications is the weakness, top advisers for Gingrich, Armey and Boehner have spent the past two months writing a Republican ''playbook,'' which will be distributed to Members soon. The playbook, which provides Members with the party line on a variety of topics, outlines a unified message for the campaigning Republicans, according to a draft copy of the document.

Top Republicans have also revamped the communications structure to make sure the message is filtered down to rank-and-file Members and broadcast outside to Republican supporters and likely voters. Gingrich's office will schedule Members for Sunday talk shows; Armey will control the message on the floor; DeLay will use his whip team to distribute the message du jour to Members; and Boehner will write the overall communications message.

Armey's office is also responsible for making sure that hard feelings between GOP leaders do not interfere with disseminating the message. GOP leadership sources said that will not be an easy task.

Already, there is concern among some GOP leaders that DeLay and Dunn are spending too much time privately briefing Members on a separate communications strategy that could divert Members' attention away from the overall plan, according to leadership sources. While most leaders are confidant that that problem will be taken care of by week's end, other sources said it shows that distrust and competitiveness could hamper the leadership's campaign problems.

But on Wednesday, DeLay spokesman John Feehery said: ''Mr. DeLay supports what they are doing. I think he believes that anything that helps him do his job, like getting more Republicans, is something that should be done. A lot of our concerns have been met.''

Mr. FEINGOLD. This arms race of soft money spending on issue ads has to stop. And the way to do that is to ban soft money and bring these types of ads within the election laws in a fair and reasonable way that respects the constitutional rights of all citizens. That is what we have done in the McCain-Feingold bill. Contrary to the completely inaccurate and sometimes dishonest advertisements that have been run across the country saying that we use a different approach, we, in fact, maintain a clear respect for free speech, which both Senator MCCAIN and I strongly adhere to. We have addressed in our bill, which is in the form of the amendment before us today, the two biggest problems in our campaign finance system—soft money and phony issue ads.

Mr. President, if we do not act on this bill, the exploitation of the loopholes will continue to spiral out of control. In the year 2000, we will see both Presidential candidates promising to limit their private fundraising in order to receive public funds while their parties pursue parallel or even intertwined campaigns with issue ads funded by as much as $600 million in soft money.

Is that the kind of campaign we want to see in the first Presidential election of the next century? I do not think so. We need to make the next campaign a cleaner, less corrupt, less out of control Presidential campaign. We do not want more of the same of what we saw in 1996.

Mr. President, all across the country the American people are telling us that they do, in fact, overwhelmingly support the McCain-Feingold bill. Recent polls conducted in eight States during the month of August by the Mellman Group for the advocacy group Public Campaign showed that strong majorities, ranging from 58 percent in Mississippi to 75 percent in New Hampshire, are in favor of the McCain-Feingold bill. And this support is constant—it is constant, Mr. President—across demographic groups and across party lines. In fact, in seven of the eight States polled, believe it or not, Republican voters were more likely to support the bill than Democrat voters.

Editorial boards across the country are constantly calling on us to act. And it is not just the Washington Post and the New York Times, although they have been wonderful advocates for this much-needed change; it is also the Hartford Courant, the Kansas City Star, the St. Louis Post-Dispatch, The Tennessean, and the Charleston Gazette.

The message from each of these editorial boards is that this body, the Senate, has one last chance to salvage some semblance of respect on the issue of campaign finance reform. After all the investigations, all the allegations, and all the finger-pointing of the last 2 years, this is the chance to show that we care, that we think there is something wrong with such a corrupt system. This is the chance.

Now, these writers know that McCain-Feingold is not perfect, and I agree with that. But they think it will make a difference and that it should be passed and that it should be sent to the President.

Mr. President, I ask unanimous consent recent editorials from each of the fine newspapers I just mentioned be printed in the RECORD.

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

[From the Hartford Courant, Sept. 4, 1998]

LISTEN TO THE PUBLIC, MR. LOTT

After a monthlong summer recess, senators returned to Washington this week to find a full agenda and only a short time to work through it. High on the to-do list should be campaign finance reform. But getting that legislation to the floor for a vote will be a daunting struggle despite the fact reform is favored by a majority of Americans.

Appalled by the fund-raising abuses in the 1996 elections, the public wants change. Republican congressional leaders, however, are comfortable with the status quo.

It would be a pity to let this opportunity to clean up the political system pass by. Reformers must redouble their efforts. Citizens who want the campaign finance cesspool drained must let Congress know how they feel.

Before the August vacation, the House passed the Shays-Meehan bill to eliminate soft money—the unrestricted, unregulated

contributions (in effect, payoffs) from corporations, unions and wealthy individuals that are corrupting politics. House reformers triumphed because there were enough Democratic votes and enough courageous Republicans such as Rep. Chris Shays of Stamford to win the day.

As considerable risk to themselves, Republican House members bucked their party leadership's opposition to change.

The Senate version of the soft-money ban, called the McCain-Feingold bill, was favored by a majority of the 100 senators when the issue was taken up earlier this year. But backers coundn't get the 60 votes needed to shut off a filibuster mounted by Republican leaders.

Quashing a filibuster will again be difficult.

Senate Majority Leader Trent Lott and other top Republicans are ''dead set against reform,'' Sen. Joseph I. Lieberman of Connecticut observed recently. ''They don't feel that they will suffer any consequences if they don't bring it up. They feel that people just don't care.''

That isn't what the polls say. But people have to act on the disgust they feel toward a system under which politicians become the wards of favor-seekers with lots of money. The public should apply pressure on politicians who scoff at the idea of cleaning up the system.

Connecticut's senators—Mr. Lieberman and Christopher J. Dodd—long have favored change in the way campaigns are financed. They should assume high-profile, leadership positions in making the case for the Senate version of reform. These two Democrats should use their powers of persuasion to bring reluctant colleagues of both parties aboard the reform cause.

As Mr. Shays and his Democratic partner, Martin Meehan of Massachusetts, proved, the good fight can be won even against long odds.

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[From the Kansas City Star, Sept. 3, 1998]

VOTE NEEDED ON CAMPAIGN FINANCE

A showdown on campaign finance reform is shaping up in the U.S. Senate. The test will be whether a minority of the Republican-dominated body can continue to block action on legislation that would outlaw the scandalous fund-raising and spending that occurred in the 1996 elections.

The access and influence bought by moneyed interests are contaminating our political system. Ordinary citizens are increasingly locked out of the policy-making decisions on Capitol Hill.

The fight in the Senate is over the McCain-Feingold bill, a measure considered dead until recent weeks. Earlier this year a bipartisan majority of the Senate voted for McCain-Feingold, which is co-sponsored by Sens. John McCain, Arizona Republican, and Russell Feingold, Wisconsin Democrat.

Despite that vote, a GOP-led filibuster prevented the Senate from a final decision on the bill. Reformers, including all Democrats and some Republicans, failed by eight votes to get the 60 necessary to halt the filibuster. Thus a minority of Republicans blocked a measure that would bring genuine reform to the way campaigns are financed.

The issue was revived when the House passed a bill last month similar to McCain-Feingold, setting the stage for new action in the Senate.

Based on previous performance, no help is expected from Missouri and Kansas senators. They seem satisfied with the current arrangement.

The McCain-Feingold bill and the House-passed measure would prohibit ''soft money,'' the funds that are contributed by corporations, labor unions and wealthy individuals to the political parties. Soft money funding, which is not limited or regulated, is supposed to be used for party-building activities, but not specific candidates. This rule was largely ignored in 1996.

The majority votes for campaign finance reform in both houses of Congress this year reflect broad support for change. That sentiment disputes the contention of many members of Congress that the public is not interested in the issue. Opinion polls also show overwhelming public support for reforms.

That is why the Senate Republican leadership is obligated to allow a new vote on campaign finance reform before adjournment.

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[From the St. Louis Post-Dispatch, Aug. 31, 1998]

DO THE RIGHT THING

If the two gentlemen running for the U.S. Senate would stop kicking each other in the shins, each would see a monumental opportunity to serve the public good while serving his own political interest.

Attorney General Jay Nixon should sit down at the negotiating table and not get up until he has a settlement in the St. Louis school desegregation case. A settlement would be good for the schoolchildren and would mend political fences with African-Americans upset by Mr. Nixon's extreme opposition to the desegregation program.

Meanwhile, Sen. Christopher S. Bond, R–Mo., should go back to Washington this week where he holds a key vote for campaign finance reform. Passage of the McCain-Feingold bill would restore people's faith in the political process and spotlight Mr. Bond's willingness to occasionally stand up to misguided GOP leadership.

DESEGREGATION

The Missouri Legislature provided Mr. Nixon with the tools to work out a settlement of the school desegregation case with the NAACP, which represents African-American children. The Legislature passed SB 781, which would provide $2 in new state aid to the St. Louis schools for every additional $1 raised locally in taxes. This would enable the city to fund desegregation programs, like the magnet schools.

SB 781 also continued the transfer program under which about 12,000 black children from the city attend suburban schools.

In this way, SB 781 took away Mr. Nixon's main legal arguments. Across many years and in many courts Mr. Nixon has argued that the transfer program has never been legal and that the state obligation to help fund desegregation programs in St. Louis should end soon.

Legally disarmed, Mr. Nixon should be able to settle pronto.

There have been recent rumblings that some suburban school districts are causing problems behind the scenes by making unreasonable demands to get out of the transfer program. Mr. Nixon should simply sidestep that sideshow and settle the case with the NAACP. Those two sides should be able to obtain a final judgment from the court.

Mr. Nixon has complained recently that his civil rights record is actually better than Mr. Bond's. Yet some African-American leaders seem to want to judge Mr. Nixon on his deeds rather his words.

There is one way for the attorney general to counter: Do something. Settle the case.

CAMPAIGN FINANCE

Distressingly, Mr. Bond joined the GOP leadership to kill the McCain-Feingold campaign finance reform bill earlier this session.

The bill had majority support, but needed eight more Republican votes to escape a filibuster. At the time the bill was killed in the Senate, it didn't look as though it would pass in the House. But in Phoenix-like fashion, the House version of the bill—Shays-Meehan—passed this summer.

Mr. Bond now has an opportunity to reconsider in light of the changed circumstances. Mr. Nixon, who supports the bill, should keep the heat on this issue.

When Mr. Bond helped kill the bill, he said he was acting on First Amendment concerns. Although the free speech questions are not frivolous, the bill appears to be constitutional. The bill would ban ''soft'' money—the huge gobs of dough that political parties raise for campaign purposes from corporate and union treasuries, wealthy individuals and foreign nationals.

Federal law now bars ''hard'' money contributions to individual candidates from corporations, unions and foreign citizens. Extending this ban to soft money simply recognizes that soft money is used for electing candidates, too. There should be no First Amendment problem.

The other main part of the bill regulates issue ads within 60 days of an election or when the ads are clearly intended for campaign purposes. Politically active organizations—like those for or against abortion rights—could not use organization funds for these issue ads. They would have to set up political action committees. That would require disclosure of donors and $5,000 contribution limits. Issue ads are clearly at the core of protected speech, but the Supreme Court has given Congress latitude in regulating speech when it is for campaign purposes.

Frankly, Mr. Bond, the First Amendment arguments do not justify the GOP leadership's morally bankrupt position on campaign finance. Senate Majority Leader Trent Lott talks a lot about President Bill Clinton's campaign abuses, but he won't reform the system that allowed them.

The GOP claims that Mr. Clinton's abuses were illegal. But most of those big $100,000 contributions were legal, soft money contributions, obviously intended to buy access and favorable consideration—and maybe a night between the sheets in the Lincoln bedroom.

In the end it comes down to the voters. Holding Mr. Bond's feet to the fire on campaign finance reform and Mr. Nixon's on school desegregation would be a lot better use of this election than sitting idly by and watching the attack ads that distort, demogogue and demean the entire process.

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[From the Tennessean, Aug. 31, 1998]

SALVAGE SORRY SESSION WITH CAMPAIGN REFORM

The U.S. Senate comes back from recess today with a long agenda, a short calendar, and an even shorter list of accomplishments to date.

It's already snuffed out anti-smoking legislation. It has shoved to the back burner President Clinton's proposal to expand a self-financed form of Medicare to early retirees. It has largely ignored the administration's call to provide more teachers and more federal money to public schools. The prospects for reaching consensus on a massive bankruptcy bill or the so-called Patients Bill of Rights are slim indeed this year.

And with five weeks left on the Senate calendar, some members might be satisfied just to pass the necessary appropriation bills and head for home.

But such a minimalistic approach from the Senate, however, would shortchange the public. The Senate can still salvage this unproductive year by focusing its energy and effort on one extremely worthy area, the McCain-Feingold campaign finance bill.

Since this bill's House counterpart has already passed, the Senate adoption of

McCain-Feingold could send the reform measure to the President's desk.

The heart of the bill is a ban on ''soft money,'' which is now largely unregulated and can therefore be given in unlimited quantities by individuals, unions or corporations. The elimination of soft money would greatly reduce the aggregate amount of political money.

A majority of the Senate is already on record in support of McCain-Feingold. The obstacle, however, comes down to eight votes the number of Republican senators who need to switch their votes on cloture so the bill can come up for a vote.

The opponents to this bill, led by Sen. Mitch McConnell, R-Ky., believe they have made it through the August recess without any defections. And in truth, the opponents are counting on public apathy to help kill the measure. McConnell has remarked on several occasions that the public doesn't really care about campaign finance reform.

It's not too late to prove him wrong. Although the public may not know the intricacies of campaign law, it cares deeply when it sees its leaders kowtowing to big money while they ignore average citizens.

Sen. Fred Thompson has been a strong supporter of McCain-Feingold from the start. Tennesseans who want to see a measure of reason restored to the campaign finance process should contact Sen. Bill Frist, and ask him to vote for cloture on this issue.

The McCain-Feingold bill would not cure all that ails the U.S. political system. But it would greatly weaken the ties between big money and politicians. The result would necessarily be a more responsive government. Eight additional votes needed for cloture.

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[From the Charleston Gazette, Aug. 27, 1998]

POLITICAL CASH CLEAN UP THE CESSPOOL

Americans have turned cynical about Congress, assuming that big-money pressure groups buy influence by lavishing cash on senators and representatives.

High-cost campaigning forces Congress members to be ''bag men,'' carrying home loot from every lobbying interest wanting legislation. Republicans get most industry money, so they resist every attempt to dam the cash river. But they've lost a few battles—and another victory for the public seems within reach.

On Aug. 6, the House strongly passed the Shays-Meehan campaign finance reform bill, which bans unlimited ''soft money'' gifts to political parties. Speaker Newt Gingrich, R-Ga., and other GOP leaders fought it, but 61 Republicans defected and voted with Democrats to pass the bill. (Disgustingly, West Virginia Democrats Nick Rahall and Allan Mollohan jumped the other way and joined the Republicans.) Now it's in the Senate, which returns from summer recess Monday. Passage in the Senate is tougher because a GOP filibuster is likely, and a three-fifths majority is needed to break a filibuster. Twice before, attempts to ban soft money were killed by Republican filibusters despite unanimous Democratic support.

But this is an election year, and GOP senators don't want voters to see them as defenders of the cash sewer. Perhaps a few more will switch sides, creating the three-fifths majority. We surely hope so. After the House victory, the New York Times said: ''The House action was a milestone in a journey that began with the first disclosure of campaign fund-raising excesses in the 1996 presidential election. Hearings into those abuses last year were clouded with partisan acrimony. But on Monday Republicans and Democrats showed they could work together.

''Gingrich and his henchmen, especially Tom DeLay, tried to portray the legislation as revolutionary. In fact, it simply closes loopholes in the existing law by banning unlimited 'soft money' donations to political parties from corporations, unions and rich individuals.'' The newspaper said the House vote ''kindles genuine hope that Congress does listen to the public's yearning for a more accountable political system. Members of the House or the Senate will now ignore that message at their peril.''

Exactly. Any senator who opposes the Shays-Meehan bill is voting to keep the money flood pouring—in effect, voting for disguised bribery. We hope that election-year pressure is enough to push through the cleanup.

Mr. FEINGOLD. Mr. President, again, we are down to 8 votes out of 535 Members of Congress. After a clear demonstration that a bipartisan majority in both Houses support this bill, we are just down to eight votes, eight votes to break the filibuster that is holding up this important reform bill.

This isn't one of those situations where we haven't had votes to see if there might be a majority. We have. We had the votes in March, in February, and it was clear that a bipartisan majority of this body supports McCain-Feingold. So it is only the filibusterers, a minority of this body, who are standing against the majority of this body and the other body. We will soon see whether eight more Senators are ready to do what so desperately needs to be done.

Time and time again the senior Senator from Arizona and I have said we are more than willing to entertain changes to our bill that will allow us to get those eight votes, as long as the basic integrity of the bill remains intact. We reached that kind of agreement with Senators SNOWE, JEFFORDS and CHAFEE, and it led to our proving that a clear majority in this body supports McCain-Feingold.

I say to all of my colleagues, but especially the 48 who have not yet joined the majority, if you are one of the potential eight votes, if before the end of this year you want to show that you do care about the corrupting influence of money in our political process, and if you have a particular concern or problem with the amendment that is on the floor now, please come talk with us. I have had several fruitful conversations with some of these potential Senators and I look forward to more of them. Let's try to come to some agreement that will allow us to give the American people what they so desperately want from this Congress—a campaign finance reform bill that will make the first election of the next century one of which we can all be proud.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. LEVIN. Mr. President, the American body politic has a disease. It is a serious disease that some would argue is a critical disease. It is called ''the money chase.'' No party and few candidates are immune from it. The good news is that it is curable. The bad news is that there may be enough Members in this body—the Senate—who want to block the cure so that the cure cannot succeed.

To inoculate our democratic system against this disease, we passed a series of laws in the 1970s to limit the role of money in Federal elections. It was our intent at that time to protect our democratic form of government which relies so heavily on the interchange of ideas and actions between the government and the private sector and to protect our form of government from the corrosive influence of unlimited and undisclosed political contributions. We wanted to ensure that our elected officials were neither in reality nor in perception beholden to special interests who are able to contribute large sums of money to candidates and their campaigns. These laws were designed to protect the public's confidence in our democratically elected officials.

For many years those laws setting limits on campaign contributions worked fairly well.

The limits that they set were respected, and these limits, indeed, are still on the books today. Those same laws that purportedly set limits on how much people can contribute to campaigns are on the books. And here is what they say.

Individuals aren't supposed to give more than $1,000 to a candidate per election, or $5,000 to a political action committee, or more than $20,000 a year to a national party committee, or $25,000 total in any one year. Corporations and unions are supposed to be prohibited from contributing to any campaign. Contributions from foreign countries, foreign citizens, and foreign corporations are prohibited. And Presidential campaigns are supposed to be financed with public funds.

That is the law. That is what it says on the law books today. Yet in the last few years we have heard story after story after story about contributions of hundreds of thousands of dollars from individuals, corporations, and unions, and even about contributions from foreign sources. And we have heard stories about Presidents and Presidential candidates spending long hours on fundraising tasks.

Now, how is that possible? Well, what has happened is that a pretty good law setting limits on the size and source of contributions had some soft spots which, over the years, both parties took advantage of. Both parties pushed up against those soft spots and created holes in the law, big loopholes that allowed the big money to pour in.

So now there are effectively no limits at all. That is why we hear about a $1.3 million contribution to the RNC from just one company in 1996, and a half-million dollar contribution from just one couple to the DNC the same year.

Some in this Chamber like it that way. They don't want any limits. The majority leader has said it is ''the American way.''

I disagree. We have got to plug those loopholes. We have to make the law whole again and, in making it whole, to make it effective. If we don't do that, we risk losing the faith the American people have that we represent their best interests.

Soft money has blown the lid off the contribution and spending limits of our campaign finance system. Soft money is the 800-pound gorilla sitting right in the middle of this debate. Some want to pretend that it is not there, but it is. Soft money is at the heart of this problem. All soft money means is money which is unregulated and unlimited that, for one reason or another, crawls through that loophole that has been pierced by both parties in our campaign finance limits.

Look at the most recent data. In the 1996 election, Republicans raised $140 million in soft money contributions, while Democrats raised $120 million—almost as much. In the first 18 months of the 1998 election cycle, Republicans have raised about $70 million, and Democrats have raised about $45 million. That was double the amount that both parties raised in the first 18 months of the 1996 elections. That money currently is legal, and it is legal because of the loopholes in the law that we must close with the McCain-Feingold bill.

The way both parties have gotten around the law of the 1970s has been to establish a whole separate world of campaign finance. It is the world of soft money—contributions that are not technically covered by the limits under current law. Once that soft money loophole was opened, once the loophole was viewed as legitimate, the money chase was on by both parties. Couple that with the high cost of television advertising, and you have the money chase involving just about all candidates.

The chase for money has led most of us in public office or seeking public office to push the envelope, to take the law to the limits, to get the necessary contributions.

The money chase led the head of the Republican National Committee, Haley Barbour, to use a subsidiary of the RNC, the National Policy Forum, to obtain some $750,000 in what, practically speaking, became a foreign contribution from a Hong Kong businessman to run ads in key congressional races.

The money chase drove the actions of Roger Tamraz, a large contributor to both parties who, during last year's investigation, became the bipartisan symbol for what is wrong with the current system. Roger Tamraz served as a Republican Eagle in the 1980s during Republican administrations and a Democratic trustee in the 1990s during Democratic administrations. He was unabashed in admitting his political contributions were made for the purpose of getting access to people in power. Tamraz showed us in stark terms the all too common product of the current campaign finance system—using unlimited soft money contributions to buy access. And despite the condemnation by Members of Congress and the press of Tamraz's activities, when asked at a hearing to reflect on his $300,000 contribution to the Democrats in 1996, Tamraz said, ''I think next time I'll give $600,000.''

What happened to the limits? What happened to the $1,000 limit and the $5,000 limit on PAC contributions, and the overall $25,000 limit per year? What happened to the intent of this Senate and the House of Representatives back in the 1970s to establish limits on contributions to candidates? How is it that a Roger Tamraz can unabashedly appear in front of a Senate committee and say, ''Yes, I gave $300,000 to the Democrats. I did it to gain access.'' And when asked, ''Would you do it again?'' indicated that, next time, he'll give $600,000, if necessary.

Now, what do we believe the public feels and senses when they hear and see that? What do we think goes through the average person's mind when they see a Roger Tamraz unabashedly, boldly, without any shame, saying, ''Hey, I can give you guys $300,000, I can give you $600,000, using that loophole, and I will do it again''?

Is that what we want our election system to be—when we have passed a law which says $1,000 to a candidate, $25,000 overall in a year, that somebody can just appear in front of a Senate committee and say, ''Yes, I gave $300,000, nothing illegal about that. I used the soft money loophole, folks. If you don't like it, close it. If you want to put limits on how much money I can give, close the loophole. But until you do it, I am going to keep on giving it''?

That is the Tamraz challenge to us. That is the gauntlet that he has laid down in front of us, both parties. Answering his challenge cannot be done on a partisan basis. There is no way we are going to reform these laws unless enough Democrats and enough Republicans come together, as they did in the House of Representatives, and say enough is enough. We intended limits, we intended limits to apply, and we are going to close the loopholes which have obviated those limits, destroyed them, undermined them and, in the process, undermined the confidence of the American people.

The money chase also pressures political supporters to cross lines they should not in order to help their candidates get needed funds.

The money chase led a national finance chair of Senator Dole's presidential campaign, Simon Fireman, to engage in a 5-year money laundering scheme which funneled $120,000 through a secret Hong Kong trust to his employees who contributed to the candidates he supported. Similarly, the money chase led members of the Lum family, a father, mother and daughter, to funnel $50,000 through company employees and stockholders to Democratic candidates they supported, resulting in the first guilty pleas in the Justice Department's ongoing campaign finance fraud case.

The money chase led a foreign corporation, Korean Airlines, and four U.S. subsidiaries of foreign corporations from the same country to funnel illegal contributions through their employees to a Republican Member of Congress JAY KIM, resulting in $1.6 million in corporate criminal fines.

The money chase in political campaigns is a serious disease that has become chronic and too many of us have been affected by it. Too many of us have spent too much time fund-raising and in the process, pushing the fund-raising rules to their limits. Most of us know in our hearts that the money chase is a bipartisan problem and the bipartisan solution is the McCain-Feingold bill.

But we have been here before. During my career in the Senate I have lost count of the number of times that this body has debated the need for campaign finance reform, been presented with reasonable bipartisan proposals, yet, in the end, failed to get the job done.

Will this time be different?

The Senate has before it a bipartisan campaign reform bill, the McCain-Feingold bill, that would do much to repair our campaign finance system. It is not a new bill. It has been before this body for years now and has received sustained scrutiny from Members on both sides of the aisle.

It is a bill that recognizes that the bulk of troubling campaign activity is not what is illegal, but what is legal—what is currently legal because of the soft money loophole. The McCain-Feingold bill takes direct aim at closing the loopholes that have swallowed the election laws. In particular, it takes aim at closing the soft money and issue advocacy loopholes, while strengthening other aspects of the federal election laws that are too weak to do the job as they now stand.

I have heard experts and my colleagues condemn the excesses of the 1996 elections. I've also heard people bemoaning the lack of tough civil and criminal enforcement action against the wrongdoers. But there is an obvious reason for the lack of strong enforcement—the existing Federal election laws are riddled with loopholes and in many respects unenforceable. And as much as some want to point the finger of blame at those who took advantage of the campaign finance laws during the last election, there is no one to blame but ourselves for the sorry state of the law.

The soft money loophole exists because we in Congress allow it. The so-called issue advocacy loophole exists because we in Congress allow it to exist. Tax-exempt organizations spend millions televising candidate attack

ads days before an election without disclosing who they are or where they got their funds because we in Congress allow it.

It is time to stop pointing fingers at others and take responsibility for our share of the blame. Congress alone writes the laws. Congress alone can shut down the loopholes and reinvigorate the Federal election laws.

The Federal Election Campaign Act was first enacted 20 years ago, in response to campaign abuses uncovered in connection with the Watergate scandal. Congress enacted a comprehensive and tough system of laws, including contribution limits and full public disclosure of all campaign contributions and expenditures.

At the time they were enacted, many people fought against those laws, claiming they were an unconstitutional restriction of First Amendment rights to free speech and free association. The laws' opponents took their case to the Supreme Court. The Supreme Court issued the Buckley decision, which held both contribution limits and disclosure requirements were constitutional.

I want to repeat that, because Buckley is thrown around quite a bit on this floor, so I want to just repeat that last statement. Buckley upheld the constitutionality of contribution limits.

There are those who say we should not, or cannot, limit the amount of contributions. We do limit the amount of contributions, and Buckley said that we can. The question now is whether we close the loopholes which have destroyed those limits. But in terms of the constitutionality under the first amendment, Buckley upheld the constitutionality of limits on campaign contributions.

The Buckley court wrote specifically—relative to disclosure requirements, by the way—that:

> While disclosure requirements serve the many salutary purposes discussed elsewhere in this opinion, Congress was entitled to conclude that disclosure was only a partial measure and that contribution ceilings were a necessary legislative concomitant to deal with the problem.

And the court held in Buckley that:

> We find that under the rigorous standard of review established by our prior decisions, the weighty interests served by restricting the size of financial contributions to political candidates are sufficient to justify the limited effect upon first amendment freedoms caused by the $1,000 contribution ceiling. Congress was justified [the Buckley court wrote] in concluding that the interest in safeguarding against the appearance of impropriety requires that the opportunity for abuse inherent in the process of raising large monetary contributions be eliminated.

That is Buckley explicitly holding that Congress can set and enforce contribution limits, and that the first amendment does not preclude us from doing so. The Buckley court also wrote:

> It is unnecessary to look beyond the Act's primary purpose—to limit the actuality and appearance of corruption resulting from large individual financial contributions—in order to find a constitutionally sufficient justification for the $1,000 contribution limitation. Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign. . . . To the extent that large contributions are given to secure political quid pro quo's from current and potential office holders, the integrity of our system of representative democracy is undermined. . . . Of almost equal concern is . . . the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. . . .

Roger Tamraz spent $300,000 buying access and said, ''I'll double it next time.'' Buckley, the Supreme Court, said:

> Of almost equal concern . . . is the impact of the appearance of corruption stemming from public awareness of the opportunities for abuse inherent in a regime of large individual financial contributions. . . .

Congress [the Buckley court held] could legitimately conclude that the avoidance of the appearance of improper influence . . . is also critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.

That is Buckley. That is Buckley ruling on contribution limits. That is Buckley saying that Congress could legitimately conclude, to use its words, that ''the avoidance of the appearance of improper influence . . . is also critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.''

That is Roger Tamraz' challenge to us.

And when he and others say, ''I can give $300,000 because of that soft money loophole, and I'll double it next time,'' the Supreme Court says that Congress can legitimately conclude that the avoidance of the appearance of improper influence ''is also critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent.''

The Buckley Court also upheld the disclosure limits that we had in the law. In upholding both the contribution limits and the disclosure requirements, the Supreme Court used a balancing test that weighed the first amendment rights against the integrity of Federal elections, and the Court ruled that the integrity of our elections is so compelling a Government interest that contribution limits and disclosure requirements are constitutionally acceptable.

Some have argued that McCain-Feingold is an unconstitutional restriction of free speech, but that analysis leaves out several key legal considerations.

First, although Buckley is often cited in support of that argument, Buckley, as a matter of fact, is the decision that upheld contribution limits and disclosure requirements. Buckley did strike down spending limits, but not contribution limits which Buckley affirmed. Spending limits were stricken by Buckley, but no one is talking about mandatory spending limits in this bill. What we are talking about is contribution limits and disclosure requirements, exactly what Buckley said is a constitutional means to protect the integrity of our elections, to deter corruption and the appearance of corruption, and to inform voters.

Some have correctly cited other court decisions holding that only ads which contain a short list of so-called magic words can be subjected to the Federal election law requirements and limits relative to contributions, but that analysis leaves out a decision in the ninth circuit in the Furgatch case which holds that the list of magic words, which those other courts cited, ''does not exhaust the capacity of the English language to expressly advocate the election or defeat of a candidate.''

The analysis by some relative to issue ads also leaves out, in addition to ignoring the ninth circuit Furgatch case, the fact that the Federal Election Commission has reaffirmed, on a bipartisan basis, its commitment to a broader test that goes beyond the magic words to unmask ads that claim to be discussions of issues but which are clearly intended to advocate the election or defeat of a Federal candidate.

The Supreme Court has yet to rule on the Federal Election Commission regulation or whether the magic words must be present before Federal election laws can be applied to ads that clearly attack or support candidates.

Despite attempts to depict the constitutional picture as providing crystal clear support for unfettered speech, no matter how corrupting of our electoral system, that is not the state of the law. To the contrary. The Supreme Court has repeatedly held that the integrity of our elections is a weighty concern which Congress can consider. The question is how to balance that concern for the integrity of elections against the free speech concerns in the first amendment.

How do you balance the two? In Buckley, the Court balanced them by saying contribution limits are constitutional; disclosure requirements are constitutional; spending limits, expenditure limits are not. That is what the Buckley Court ruled. This bill, our bill, is consistent with Buckley, consistent with Furgatch, and consistent with the Federal Election Commission s reaffirmation of the broader test for candidate advocacy.

The problem with our campaign laws is that candidates and parties have pushed against the limits of the law and found loopholes to such an extent that the law's limits are no longer effective. We intended to establish limits after Watergate. Those limits have been destroyed by the soft money loophole.

The Supreme Court said we can, in fact, limit contributions. The issue before us is whether we will restore those limits on contributions. Individuals can now give parties hundreds of thousands of dollars, millions of dollars at a

time, claiming that they are providing soft money rather than the hard money that has to meet the legal limits. Corporations, which are not supposed to make direct contributions at all, now routinely contribute huge sums to both parties, millions to both parties. While those contributors claim to be providing money that is simply for party-building purposes and not for candidates, the issue advocacy loophole allows parties and others to televise ads that clearly attack or support candidates while claiming to be discussions of issues beyond the reach of the election laws, but which are indistinguishable from candidate ads which are subject to contribution limits and disclosure requirements.

To show the absurd state of the law, at least in some circuits, we can just look at one of the 1996 televised ads that was paid for by the League of Conservation Voters and which referred to House Member GREG GANSKE, a Republican Congressman from Iowa, who was then up for reelection. This is the way the ad read:

> It's our land; our water. America's environment must be protected. But in just 18 months, Congressman Ganske has voted 12 out of 12 times to weaken environmental protections. Congressman Ganske even voted to let corporations continue releasing cancer-causing pollutants into our air. Congressman Ganske voted for the big corporations who lobbied these bills and gave him thousands of dollars in contributions. Call Congressman Ganske. Tell him to protect America's environment. For our families. For our future.

The ad sponsor claimed that was an issue ad, an ad that discussed issues rather than a candidate, and so could be paid for by unlimited and undisclosed funds. If one word were changed, if instead of ''Call Congressman Ganske,'' the ad said, ''Defeat Congressman Ganske,'' it would clearly qualify as a candidate ad subject to contribution limits and disclosure requirements.

In the real world, that one word difference doesn't change the character or substance of that ad at all. Both versions unmistakably advocate the defeat of Congressman GANSKE. But the ad sponsor claims that only one of those ads must comply with election law contribution limits and disclosure requirements. That doesn't make sense, and McCain-Feingold would help close down that interpretation of the law.

This is not the first time that loopholes have eroded the effectiveness of a set of laws. It happens all the time. The election laws are just the latest example. Congress is here partly to oversee the way that laws operate, to close loopholes that have been discovered.

The question is, What are we going to do about it?

The time for crying crocodile tears about campaign fundraising is over. Folks should wipe away those crocodile tears from their eyes, because if they do, they will see a public disgusted with both parties for allowing unlimited fundraising and contributions in our Federal elections. Seventy-three percent of American people in a poll conducted by the Los Angeles Times believe both parties committed campaign finance abuses in the 1996 elections; 81 percent—81 percent—of the American people believe the campaign fundraising system needs to be reformed; 78 percent of the American people believe we should limit the role of soft money.

Campaign finance reform is an issue that can convert a dedicated optimist into a doomsayer, but we have before us a bipartisan bill that provides the key reforms, that has passed the House and that the President will sign.

We have before us a bipartisan bill which a majority in the Senate support, and we have a bipartisan coalition that is willing to fight hard for this bill.

So let us stop complaining about weak enforcement of the election laws when the wording of those laws make them virtually unenforceable. Let us stop feigning shock at the laws' loopholes while allowing them to continue. It is time to enact campaign finance reform. That is our legislative responsibility. Otherwise, we are going to be haunted by the words of Roger Tamraz that in the next election it will be $600,000 instead of $300,000.

Mr. President, I thank the Chair and yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER (Mr. MCCONNELL). The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, let me thank my colleagues. I thank Senator LEVIN for his remarks. I thank him for his unbelievable dedication in trying to push through reform legislation. He has been at this a long time. This is the time to do it; I agree with my colleague. We have an opportunity. We have a bill that was passed on the House side. It is a bipartisan measure. We have a public that is calling for the change. And I agree with you, I say to the Senator; now is the time to pass this legislation.

I also thank my colleagues, Senator MCCAIN, Republican from Arizona, and Senator FEINGOLD, Democrat from Wisconsin. I have a special kind of affection for both of my colleagues. I think Senator MCCAIN is principled; he speaks out for what he believes in; he is a courageous legislator. I think Senator FEINGOLD has emerged here in the U.S. Senate as a leading reformer. He is my neighbor. I am a Senator from Minnesota, and I tell you, people from Minnesota who follow Russ FEINGOLD's work have a tremendous amount of respect for him. I am honored to be an original cosponsor of this legislation.

I do not know exactly where to get started. It is interesting. Senator Barry Goldwater told it like it is. I went to Senator Goldwater's service in Arizona, not because I was necessarily in agreement with him on all the issues. As a matter of fact, some of my good friends, Republican colleagues, who were on the plane with me kept giving me Barry Goldwater's book ''Conscience of a Conservative'' and kept telling me if I had read that book when I was 15 I would be going down the right path. I told them I did read the book when I was 15. I just reached different conclusions.

Senator Goldwater about a decade ago said:

> The fact that liberty depended on honest elections was of the utmost importance to the patriots who founded our nation and wrote the Constitution. They knew that corruption destroyed the prime requisite of constitutional liberty, an independent legislature free from any influence other than that of the people. Applying these principles to modern times, we can make the following conclusions. To be successful, representative government assumes that elections will be controlled by the citizenry at large, not by those who give the most money. Electors must believe their vote counts. Elected officials must owe their allegiance to the people, not to their own wealth or to the wealth of interest groups who speak only for the selfish fringes of the whole community.

Let me just start out with some examples. I was involved in a debate here on the floor of the Senate last week which was emotional. It was kind of heart rending. You had a small group of people who were sitting where some of our citizens are sitting today. And they were from Sierra Blanca. They were disproportionately poor. They were Hispanic. And you know what? They were saying, ''How come when it comes to the question of where a nuclear waste dump site goes, it's put in our community? How come it always seems to be the case that when we figure out what to do with these incinerators or where to put these power lines or where to dump this waste, it almost always goes to the communities where people don't make the big contributions? They are not the heavy hitters. They are disproportionately poor, disproportionately communities of color; thus, the question of environmental justice.

This was a debate where you had the interests of big money, big contributors, corporate utilities, versus low-income minority communities. I would argue different colleagues voted for different reasons, and some voted because it was not their State and they felt a certain kind of, if you will, deference to Senators from other States. I understand that. But my point is a little different.

I tell you that all too often the conclusion is sort of predetermined. Those who have the clout and those who make the big contributions are the ones who have the influence, and those are the ones we listen to. All too often, a whole lot of citizens—in this particular case, the people from Sierra Blanca—are not listened to at all. Big money prevails, special interests prevail, for the same reason that the people in Sierra Blanca cannot get a fair shake in Texas. That is to say, they do

not give the big contributions, they do not have the political clout. For the same reason, they could not get a fair shake here in the U.S. Senate.

In about 20 minutes I am going to be at a meeting with some colleagues from the Midwest. We have an economic convulsion in agriculture. Let me wear my political scientist hat. I really believe that when people look back to 1998, 1999, going into the next century, and raise questions about our economy—because I fear that we are going to be faced with some very difficult times—they are going to be looking at this crisis in agriculture as a sort of precursor.

What has happened in agriculture is record low prices. Not everybody who is watching the debate comes from a State where agriculture is as important as it is in the State of Minnesota, the State I come from. But let me say to people who are listening to the debate, if you are a corn grower and you are getting $1.40 for a bushel of corn, you can be the best manager in the world, you can work from 5 in the morning until midnight, but you and your family will never make it. You will never make it. Record low prices. People are having to give up. They are just leaving. The farm is not only where they work, it is where they live.

It is interesting that we had a farm bill, the 1996 farm bill. It was called the Freedom to Farm bill. I called it then the ''freedom to fail'' bill. It was a great bill—I am not saying anything on the floor of the Senate that I have not said a million times over in the last 2 years. It was a great bill for the grain companies because what this piece of legislation essentially said to family farmers is, ''We're no longer going to give you a loan rate. We're going to cap the loan rate at such a low level that you won't have the bargaining power.''

This sounds a little technocratic, but to make a long story short, you have family farmers faced with a monopoly when it comes to whom they sell their grain to. If they do not have some kind of loan rate that the Government guarantees that brings the price to a certain level, they have no bargaining power in the marketplace.

Not surprisingly, the prices have plummeted. There is no safety net whatsoever. And now we see in our part of the country, in the Midwest, a family farm structure of agriculture which is in real peril. We see an economic convulsion. We see many family farmers who are going to be driven off the land.

We are going to be coming to the floor of the Senate—you better believe we are going to be coming to the floor of the Senate—and we are going to be saying to our colleagues, ''Look, you could have been for the 'freedom to fail' bill or not, but there's going to have to be a modification. You are going to have to cap off the loan rate, and we're going to have to get the prices up for family farmers.''

I would argue that in 1996—and I hope this will not be the debate again—what was going on here was a farm bill that was written by and for big corporate agribusiness interests. That is what it was. It was a great bill for the grain companies, but it was a disaster for family farmers.

So we are going to revisit this debate. And once again, is it going to be the grain companies and the big food processors and the big chemical companies and the transportation companies, or is it going to be the family farmers? I hope it will be the family farmers. I hope our appeal to fairness and justice will work on the floor of the U.S. Senate.

But I tell you, all too often, as I look at these different issues in these different debates, it is no wonder, as Senator LEVIN said, that people are so disappointed and disillusioned with both political parties. It is no wonder that people do not register and do not vote. Because you know what? They have reached the conclusion that if you pay, you play, and if you do not pay, you do not play.

They have reached the conclusion that this political process isn't their political process. I mean, my God, what happens in a representative democracy when people reach the conclusion that they are not stakeholders in the system, that when it comes to their concerns about themselves, about their families and their communities, their concerns are of little concern in the corridors of power in Washington? This is really dangerous. What is at stake is nothing less than our very noble, wonderful, 222-year experiment in self-rule and representative democracy. That is what it is really all about.

(Mr. FRIST assumed the Chair.)

Mr. WELLSTONE. Now, let me give some other examples. We went through a debate about whether or not we were going to do anything to provide our children with some protection from being addicted to tobacco. Guess what happened? Tobacco companies, huge contributors, individual contributions to Senators and Representatives, big soft money, hundreds of thousands of dollars of contributions to the party, and guess what happened? As a special favor to those big tobacco interests, we didn't even provide our children with sensible protection.

I fear as a special favor to the big insurance companies we are not going to eventually provide patients with the kind of protection that they need. I fear that as a special favor to those bottom dwellers of commerce who don't want to raise the minimum wage, we are not even going to raise the minimum wage for hard-pressed working people.

What I see over and over and over again is a political process hijacked by and dominated by big money. I tell you, that is the opposite of the very idea of representative democracy, because the idea of representative democracy is that each person counts as one and no more than one.

What we have instead is something quite different. Let's just think for a moment about what is on the table and what is not on the table, because I think this mix of money and politics, this is the ethical issue of our time. We are not talking about corruption as in the wrongdoing of individual office holders; we are talking about systematic corruption. What systematic corruption is all about is when too few people have the wealth, the power, and the vast majority of people are locked out. Some people march on Washington every day and other people have a voice that is never heard.

Let's just think a little bit about what is on the table and what is not on the table. I think quite often money determines who runs for office. I will talk about who wins, what issues are put on the table, what passes, what doesn't. Let's talk about what is not on the table and maybe should be on the table. What is not on the table is the concentration of power in certain key sectors of our economy which poses such a threat to consumers in America.

Think for a moment about the concentration of power in the telecommunications industry. If there is anything more important than the flow of information in a democracy, I don't know what it is. This is so important to us. Now, we had a telecommunications bill that passed a couple years ago, which, by the way, I think has led to more monopoly. What was interesting is that the anteroom right outside our Chamber was packed wall to wall. You couldn't get in here if you tried to get through that anteroom. Personally, I couldn't find truth, beauty and justice anywhere. There was a group of people representing a billion dollars here, another group of people representing a billion dollars over there. You name it.

What is not on the table is a concentration of power in financial services or a concentration of power in agriculture or all the ways in which conglomerates have muscled their way to the dinner table and are taking over the food industry. What is not on the table is a concentration of power in the health care system, the way in which just a few insurance companies can own and control most of the managed care plans in the United States of America.

Again, I would say that we are moving toward this new century. I hope the brave new world isn't two airline companies. I come from a State where we now have a strike. In Minnesota we don't have a lot of choice. We can't walk from Minnesota to Washington, DC. Northwest Airlines has 85 percent of the flights in and out. What are we going to have—two airlines, two banks, two oil companies, one supermarket, two financial institutions, two health care plans? It is interesting that this isn't even on the table here. Could it be that these powerful economic interests are able to preempt some of the debate and some of the discussion by virtue of the huge contributions they can make with the soft money loophole that can

add up to hundreds of thousands of dollars?

What is not on the table is, I argue, a frightening maldistribution of wealth and income in America. The goal of both political parties, the goal of political leaders, ought to be to improve the standard of living of all the people. Since we started collecting social science data, we have the greatest maldistribution of wealth and income we have ever had in our country. You don't hear a word about it. It is important for people, if they work hard, to be able to participate in the life of our country. It is important for people to be able to receive the fruits of their labor.

We have this huge maldistribution of wealth and income. We are not even going to discuss it. Could it be that some of the people who are the most hard-pressed citizens in this country have basically become invisible? They are out of sight; they are out of mind. They don't have lobbyists. They don't make the big contributions. They don't even register to vote because they don't think either political party has much to say to them. They think both parties have been taken over by the same investors. Unfortunately, there is some truth to that. Unfortunately, we have given people entirely too much justification for that point of view.

What is not on the table? What is not on the table is a set of social arrangements that allow children to be the most poverty-stricken group in America. One out of every four children under the age of 3 is growing up poor in America. One out of every two children of color under the age of 3 is growing up poor in America today. That is a national scandal. That is a betrayal of our heritage. Certainly we can do much better.

Now, there are organizations like the Children's Defense Fund. They do great work. But it is a very unequal fight. It comes to whether or not you are going to have hundreds of billions of dollars of what we call tax expenditures—tax loopholes and deductions, corporation welfare, money that goes to all sorts of financial interests, some of the largest financial institutions, some of the largest corporations in America—or whether or not we are going to make a commitment to make sure that every child has the same opportunity to reach his or her full potential. This is the core issue. I am convinced that so many good things that could happen here get ''trumped'' by the way in which money dominates politics.

Now, the House has passed a good campaign finance reform bill, the Shays-Meehan proposal. It is not everything that some of us would have liked. As a matter of fact, what is interesting is that the original McCain-Feingold bill applied to Senate races. I thought that was one of the most important things. We had voluntary spending caps—you can't mandate it—and at the same time an exchange for media time. That is gone. That was really important. So we are talking about a proposal that is a milder proposal, but it is an enormous step forward. It is an enormous step forward.

There are other things that are going on in the country that I am excited about, that I wish for, that I think eventually we will get to. The clean money, clean election bill that some of us have introduced here on the Senate side is an exciting proposal. We have a lot of energy behind it at the State level. I think New York City will pass it. I think the State of Massachusetts will pass it. The State of Maine already did pass it. The State of Vermont passed it. There are initiatives in other States.

Basically, with the clean money, clean election proposal, we get the big private money out. You say to the citizen, listen, for $5 a year, would you be willing to contribute to a clean money, clean election trust fund? And then those candidates who abide by spending limits and don't raise the private money, this money goes to their campaigns. You have a level playing field, and you own the elections, and you own your State capitol, and you don't have all of this mix of big money in politics. A lot of people in the country really like this proposal. I think the political problem here is we are not ready for it yet because the system is wired. It is wired to people who can raise the big money, and quite often, they are the incumbents. And a lot of people don't like to vote out a system that benefits them. But the McCain-Feingold bill represents a very important step forward—following on the heels of a really exciting victory in the House of Representatives. It is very important, very similar. It bans the soft money as my colleague, Senator LEVIN—and there is nobody with more intellectual capital in this area—discussed. Senator LEVIN knows all of the specifics. I am so impressed with him as a legislator, with his ability. He talked about it. I will just say that this is a huge loophole. It is all very amorphous.

Corporations and unions can make these huge soft money contributions. We all end up calling for this money now because everybody is trapped by the same rotten system. It restricts issue advocacy, these phony issue ads that are disguised as not really election ads. I went through this. I don't mean this in the spirit of whining, but it started in 1996, in the spring in Minnesota, and it went on all summer. There were all of these ads that would come on TV and they bash you for this and bash you for that, but they don't say ''vote against'' whether you are Democrat or Republican; they just say ''call.'' It is unbelievable. They could be financed by soft money. A huge loophole, huge problem. This bill codifies the Beck Supreme Court decision requiring unions to notify their dues-paying members of their right to disallow political use of their dues. It improves disclosure and FEC enforcement. This bill would represent a substantial step forward.

Mr. President, there is a wonderful speech that was given by Bill Moyers in December of 1997, the title of which is ''The Soul of Democracy.'' I want to quote from part of Bill Moyers' speech:

> If Carrie Bolton were here tonight, she could speak to this. The Reverend Carrie Bolton from North Carolina. You'd have a hard time seeing her because she is only so high and her head would barely reach the microphone. But you would hear her, of that I'm sure. The state legislature in North Carolina established a commission to look at campaign financing, and Carrie Bolton came to one of the hearings. She listened patiently as one speaker after another addressed the commissioners. And then it was her time. She spoke softly at first. Then the passion rose, and her words mesmerized her audience. When Carrie Bolton finished, they stood and cheered. This is what she said; listen to what Carrie Bolton said:
>
> ''I was born to a mother and father married to each other, who were sharecroppers, who proceeded to have ten children. I picked cotton, which made some people rich. . . . I pulled tobacco. . .I shook peanuts. . .I dug up potatoes and picked cucumbers, and I went to school * * * with enthusiasm. And with great enthusiasm I memorized the Preamble to the Constitution of the United States, I learned the Pledge of Allegiance to the flag, and I was inspired to believe that somehow those things symbolized hope for me against any odds I might come upon.
>
> ''I am a divorcee, a single parent divorcee, and I earn enough money to take care of my two children and myself. And I have managed to get a high school diploma, a bachelor's degree, two master's degrees, and do post doctoral work.
>
> ''I am energetic. I'm smart. I'm intelligent.
>
> ''But a snowball would stand a better chance surviving in hell than I would running for political office in this country. Because I have no money. My family has no money. My friends do not have money.
>
> ''Yet, I have ideas. I'm strong, I am powerful (with her right hand she lifts her left wrist)—people can feel my pulse. People who are working, and working hard, can feel what I feel.
>
> ''But I can't tell them because I don't know how to get the spotlight to tell them.
>
> ''Because I have no money.''
>
> Anyone who believes Carrie Bolton's cry isn't coming from the soul of democracy is living in a fool's paradise—a rich fool's paradise.

That is from Bill Moyers' speech. He is my hero journalist. I think he has done some of the finest work. He concludes his speech by saying this:

> I have three grandchildren—Henry, 5; Thomas, 3; and 10-month-old Nancy Judith. I want them to grow up in a healthy, civil society, one where their political worth is not measured by their net worth.

That is one of the reasons Bill Moyers goes on to argue that this is his passion, this is his work. He is right. This is the core issue.

Now, Mr. President, I don't know that I would have the eloquence of Carrie Bolton, but I conclude this way because I see other colleagues who may want to speak. I can't forget my own experience. It is not quite Carrie Bolton's experience, but I ran for office in 1990, and it was amazing. I mean, you don't come to the floor to brag, but you don't run for office if you don't

think you have the character and ideas. Basically, everywhere I went, the argument was made, ''you don't have a chance.'' I was a teacher, so I didn't have much money. My father was an unsuccessful writer. My mother was a cafeteria worker, a food service worker. My family didn't have any money. My wife Sheila worked in the library at the high school. Everywhere I would go—including on the Democrat side, not just the Republican side—people were trying to decide whether or not I was a viable candidate. It had nothing to do with content of character, nothing to do with ideas, nothing to do with leadership potential, and it had nothing to do with positions on issues. People just wanted to know how much money you raised. You were viable or you weren't viable. You were a good candidate or you were a bad one based upon how much money you yourself had—and I didn't have it—or how much money you would raise.

It is unbelievable, absolutely unbelievable. There are so many people who can't run for that reason alone. I was lucky. I come from Minnesota, and I am emotional about how much I owe to them. They were an exception to the rule. We were outspent six or seven to one, and we won. Sometimes it happens—if you have a great green schoolbus to campaign in and a great grassroots organization.

I am the son of a Jewish immigrant who fled persecution from Russia. We have had a 222-year, bold, important experiment in self-rule in democracy, representative democracy. That is what is at jeopardy here. I have talked to people about potentially running for office. They don't want to. A lot of people, good people, don't want to run for office any longer because they can't stand the thought of this money chase. They can't stand doing it. Moreover, if you combine what the money is used for, with communication technology becoming the weapon of electoral conflict, people using the money for poison politics, all the attack stuff on TV, a lot of very good, sane people don't run.

I think what is happening is a lot of good people aren't going to be involved in public affairs. A lot of young people are not going to get involved in public affairs. You get to where people are either millionaires or they have to raise millions of dollars. I think you get into this awful self-select where a whole lot of good men and women aren't going to run at all. I am not going to cite the polls because we have the evidence for this. Everybody knows it. Every Democrat and Republican knows full well that people are disengaged and disillusioned with politics in this country, and this is one of the central reasons.

So, Mr. President, I simply say to my colleagues that we have a piece of legislation on the floor that follows up on an exciting victory in the House of Representatives, and we need to pass this legislation. I also say to my colleagues—Democrats and Republicans alike—frankly, I can't figure out the opposition. People want to see this changed. People just hate the way in which they feel like money dominates politics. Those of us in office, and even those of us who are challenged for office, hate it. We hate raising the money; we hate this system. I would think if we wanted the people we represent to have more confidence and faith in us, more confidence and faith in this political process, more confidence and faith in the U.S. Senate, we would vote for the McCain-Feingold piece of legislation.

So the debate will go on. We will have this vote.

I say to my colleagues on the other side—which doesn't mean just Republicans because there are some Republicans who support this legislation—that I think they are making a big mistake filibustering. From my point of view, this should go on and on for the next however many weeks it takes. I don't think we should drop this one. This is the core issue. This is the core question. It speaks to all the issues that are important to people's lives. It speaks as to whether or not we are going to have a functioning democracy or not.

As a Senator from Minnesota, from a good government State, from a reform State, from a progressive State, there is no more important position that I can take than to be for this reform legislation.

Mr. President, I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER (Mr. HAGEL). The Senator from Illinois.

Mr. DURBIN. Mr. President, let me say at the outset that it is tough to follow the Senator from Minnesota. Senator WELLSTONE brings to this body extraordinary talent, and more than that, a conviction and fervent commitment to principle that all of us admire so greatly.

His first campaign for the U.S. Senate was legendary. He was a college professor, I believe, in a small college in Minnesota. He put himself on a school bus—an old, beaten up school bus—and traveled all around the State of Minnesota. He was dramatically outspent by a gentleman who had formerly served in the U.S. Senate, and, yet, prevailed.

His presence on the floor of the Senate indicates his reelection to the U.S. Senate and to the fact that there are Members of the Senate who can basically break the rules. He wasn't supposed to win. You are not supposed to have a chance when somebody outspends you 6 or 7 to 1. It might raise some question in some people's minds. Why we are even debating this if someone like PAUL WELLSTONE can win when he is being so dramatically outspent? Why do we need campaign finance reform? It is just because of the fact that PAUL WELLSTONE, unfortunately, is the exception to the rule. The rule is that at the end of a campaign, if you take a look at the amount of money spent by a candidate, in most instances—the overwhelming majority of instances—the candidate, whether it is the incumbent or the challenger, who spends more money will prevail, will win the election.

That really tells the story of why this bill—the McCain-Feingold bill—the only bipartisan campaign finance reform bill, is so important, because it strikes at the heart of this money chase.

Think about this last Presidential election in 1996—incumbent President Bill Clinton v. Senator Robert Dole, two extraordinarily talented men with a background in public service running for the highest office in the land. They traversed America from one side to the other. They were on every newscast every night. They debated with frequency. There was a great exchange on issues, and a real difference of opinion on many important questions.

We in America—at least the politicians—were focused on a daily basis.

Then came the election in November of 1996. Something historic occurred. I am not talking about who won and lost. What was historic was the fact that we had the lowest percentage turnout of eligible voters casting ballots in the Presidential election than we had in 72 years in America. Think of it. Despite all of the publicity, and all of the attention, when the election day came, Americans—American voters—stayed home.

Let me amend that for a moment.

The reason why 72 years applies is that 72 years before 1996 was the first election in American history when women were eligible to vote, and many did not. If you would take that particular election in 1924 out of the picture, you have to go back into the early part of the 19th century to see a lower turnout of eligible voters. Is that important? Does it mean anything that voters stayed home; that they have decided for the most important election in America that they wouldn't participate? I think it means everything in a democracy, because the voters—the citizens of this country—will not even come forward to express their choice in an election. It is not only a sad commentary on our democracy. It is a threat to our democracy.

The McCain-Feingold bill goes to the heart of the problem. Why did people stay home? Did they assume they already knew the results? That is possible. But I think a lot of them were sickened by this political process. They looked at the way that, in this case, men ran for President; and men and women ran or not for the House and Senate. They basically said, ''We don't care to participate in it. Our family is going to stay home.'' And they did.

What was it about those election campaigns? Was it the groveling that all of us as candidates who were not independently wealthy had to do to raise the money to be viable? I think that is part of it. I think that is the big part of it. They wonder how a man or a woman aspiring to serve in this body,

or the House, can raise literally millions of dollars without dirtying themselves in the process, without sacrificing their own principles and values. They become increasingly skeptical of politicians in general, and the candidates up for election in particular.

There is another element, too—the advertising that we put on television during the course of the campaign. A lot of people are turned off by it. Most campaigns hire sophisticated people to make those ads. They hire pollsters who go out and take legitimate samples of American opinion—samples within a given State—and convert those samples into messages; 30-second messages that go up on television. Some of the messages are positive. Some are negative. It is the negative ones that unfortunately give us the bad name and lead a lot of people to say that this process itself is so fundamentally flawed.

This McCain-Feingold bill has one more aspect. And one important aspect of that says when it comes to these so-called independent expenditures—the issue advocacy ads—at the very minimum let us find out who these people are that are paying for the ads. That is not too much to ask. Let me give you an illustration.

The last time we debated this bill on the floor, I left the debate to go to a meeting of the Senate Judiciary Committee before which we had witnesses who were testifying on a variety of subjects, including the question of term limits. The term limits issue is fairly obvious. It says that we should limit—at least those people argue—that we should limit the number of terms served by Members of the U.S. Senate and Members of the House of Representatives. There is some surface appeal to this that has become a hot issue in a variety of elections. I know the issue myself personally, because in the closing days of my Senate race in the State of Illinois they spent about a quarter of a million dollars on TV ads criticizing me because I opposed the term limits proposal. And those ads were fairly effective. I won. But I had to deal with the criticism that they raised.

So there sat before me this gentleman representing the term limits movement who said he agreed with the opponents of McCain-Feingold that we shouldn't reform our campaign finance system. I said to the gentleman representing the term limits movement, ''Please, since I as a candidate have to disclose every penny that I raise, the source of the amount, and my political party has to do the same, I would like for your term limits movement, having spent millions of dollars to defeat or elect candidates to office, to do the same. Are you prepared to disclose to the American people the sources of the money that paid for those TV ads?'' His answer in a word was ''no.''

Why wouldn't he make a full disclosure? His argument was—follow this one, if you will—that there would be retribution from elected officials whom they disagreed with. I don't buy it.

Men and women organizations come forward on a regular basis to contribute to political campaigns. They understand they have taken a position for a man or woman running for office. The fear of retribution is part of the concern. But it is an illustration of how an organization with some high-sounding purpose like limiting terms for Members of the House and Senate can literally spend millions of dollars of mystery money and never make a full disclosure; never make any disclosure as to the source of those funds.

Is it important? It could be. Who knows who is financing term limits in America? Is it one person? Is it one company? Is it one special interest group? That is a legitimate question. I can guarantee you that you will not see the term limits movement people standing around the shopping centers of America with kettles and bells asking for quarters and dimes. They don't do business that way. They deal in big checks from big players, big expenditures, to make a big impact on the system, and they are totally, totally unregulated. That to me is shameful. It is disgraceful.

What is going on here in this debate on McCain-Feingold is an attempt to change the system, to clean it up, and to restore some character to our political process. I am at the same disadvantage as Senator WELLSTONE of Minnesota and Senator FEINGOLD, one of the cosponsors, of Wisconsin. I was raised in a family that was not wealthy. I had a wealthy background in terms of values and education but not a lot of money. Fortunately, with good education and some good friends, I was able to start a career in public service. But now we find this new emerging phenomenon in American political life on both sides, Democrat and Republican, the so-called middle-aged, crazy millionaire who shows up on the scene bored with his life who decides he is tired of practicing law, he is tired of making lots of money in business and now has dreams of being Governor or Senator or you name it. They then take their personal wealth and, under the existing law, spend it to basically buy a campaign, buy their way into office.

I think there are some genuinely good people who have done this, but I think we have to ask ourselves what will happen to this political process if more and more of this sort of person become the Representatives and Senators of America. I think we will lose something. We would lose something like a PATTY MURRAY, who is a Senator from the State of Washington, who has a background of teaching in a classroom. I am glad Senator PATTY MURRAY is on the floor of the Senate. When we discuss educational issues, I turn to PATTY MURRAY. Time and again, I want her perspective because she has been there. She comes from a family of modest means, but she makes a great contribution because the voters in the State of Washington have allowed her to come to this floor. And when you look around this Chamber you find others, Democrats and Republicans, of similar backgrounds. Unless we are prepared to reform this campaign finance system, I am afraid it will become more elite, more plutocratic, if you will, and limited in terms of the types of people who do serve it.

Let me also, in closing, note the procedural issue that we face here. This is an important issue. It was brought up before the Senate once before, and it was stopped. Some 57 Senators, if I am not mistaken, Democrats and Republicans, came forward saying they supported it, but in this body it really takes 60 in order to stop the filibuster. Sixty votes were not there. Campaign finance died. The House went through heroic efforts to bring this to the floor over the opposition of Speaker GINGRICH. After weeks of debate, weeks of amendment, they passed it, and now this bill sits ready for our approval.

Will we vote on it? That would seem the obvious thing. Let's vote on campaign finance reform, up or down. We are going to have it or we are not. If we can pass it, let's send it to the President. Let's try to make sure that we achieve at least one thing in this legislative session. And yet it is not likely we will ever see that opportunity. It is not likely because under the rules of the Senate procedurally you can basically stop a vote. I hope that doesn't happen. I hope we have an opportunity for the yeas and nays on this question, an up-or-down vote. Let the Senators of both parties be on record before they go home. Are they in favor of reform or would they want to obfuscate this issue, cover it up with rhetoric? Try to say to the voters back home: You just don't understand; it is much more complicated.

I hope that doesn't occur. I hope that we will have the up-or-down vote. I hope the men and women of the Senate, Democrats and Republicans, will cast their vote on this issue of campaign finance reform. I do believe what is at stake here is more than just a bipartisan bill. Senator MCCAIN of Arizona and Senator FEINGOLD of Wisconsin are the chief sponsors. At stake here is the question of the future of this democracy. We are just a few scant weeks away from an important election, an election which will ask the American people to make their choices again.

I guess it sounds almost hackneyed now to talk about the legacy that we have in this country, that we so often take for granted.

I can recall just a few years ago when I was given an opportunity to visit the tiny country where my mother was born, the country of Lithuania. Lithuania, which has for over 50 years been under Soviet domination, was given for the first time a chance at democracy, the first time in half a century. I was there as then-President Gorbachev sent

in the tanks in an effort to quell this democratic movement, and, fortunately, he was not successful. People of that country risked their lives. They certainly risked their political futures because they wanted to vote. They wanted to elect their leaders. It was gratifying that they would invite me and others from the United States, because we represented to them what this was all about—democracy, the people speaking.

I found it curious. As each one of these leaders would emerge in these new countries, they would visit around the world, but the first stop would always be right here in this building, on Capitol Hill, before a joint session of Congress. Whether it was Lech Walesa, Vaclav Havel, the leaders of the Philippines and other places, in order to validate their democratic experiment, in order to come to what they considered to be the cradle of liberty, they came here to this building. They recognized in our country what many of our citizens are failing to recognize—what this democracy really means and what it is all about.

There are some who will argue this issue and say that the speech I have just made is too idealistic, it is way beyond practical politics. They are right. It is about ideals. It is about the democratic ideals that are at stake if we don't reform this system. I hope those who oppose this bill will in all fairness give us a chance for an up-or-down vote.

Mr. President, I yield back the remainder of my time.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, the first amendment to the Constitution of the United States reads in relevant part:

> Congress shall make no law abridging the freedom of speech or of the press.

No law, Mr. President, and I pick up this relatively long and detailed proposal for a new law, and I read the title of one of the sections, the title appearing on page 16: ''Prohibition of Corporate and Labor Disbursements for Electioneering Communications.'' Let me read that once again, Mr. President. Section 200B of this bill is a ''Prohibition of Corporate and Labor Disbursements for Electioneering Communications.''

Now, what is an electioneering communication? According to the bill, and again I quote, ''electioneering communication means any broadcast from a television or radio broadcast station which refers to a clearly identified candidate for Federal office; is made or scheduled to be made within 60 days before a general, special, or runoff election for such Federal office.''

Mr. President, I go back to the first amendment. The first amendment says:

> Congress shall make no law abridging the freedom of speech or of the press.

It is impossible for me to see how the proponents of this legislation can claim that these detailed restrictions on what corporations or labor unions and within the body of the bill, individuals, political parties or organizations, can do when they are communicating about an election and so much as naming a political candidate.

The American Civil Liberties Union, in writing about this provision in connection with last February's debate, wrote:

> This unprecedented provision is an impermissible effort to regulate issue speech which contains not a whisper of express advocacy simply because it refers to a Federal candidate who, more often than not, is a congressional incumbent during an election season.

This argument doesn't even go to the desirability of such a provision but simply to the fact that it is clearly a violation of the first amendment to the Constitution of the United States.

One can go beyond that and wonder why this phrase ''electioneering communication'' only applies to radio and television. I think at the time of our previous debate the definition was broader than that. But here we have a situation in which a particular form of communication about public issues—of speech about public issues—is banned but an identical speech about the same public issues using the same words is not banned or controlled in any respect whatsoever—radio and television; not newspapers, not handbills, not direct mail. I believe it is likely that these provisions would be found unconstitutional if only because of that distinction without a difference between forms of communication; that if one form of communication is allowed, how can you possibly prohibit another form of communication?

The rationale, I believe, is that the sponsors of this provision believe that radio and television communication is somehow more effective than other forms of communication and so they will ban it only. But the fundamental position of the opponents to this bill is that this whole section, the whole subtitle dealing with independent and coordinated expenditures, dealing with what can and cannot be done within 30 days of a primary election and 60 days of the general election, clearly abridges the ''freedom of speech'' clause of the first amendment to the Constitution of the United States.

In both Congress and the courts, there have been frequent appeals to certain limitations on certain forms of speech and the broadest definition of that word when that speech is asserted to be obscene. Much of that debate revolves around whether or not James Madison and the Founding Fathers would have protected certain forms of speech—obscenity, even advertising and the like. We debated that issue in connection with proposed tobacco legislation earlier this year. But clearly the draftsmen of the first amendment, the Founding Fathers, were absolutely certain and clear in their belief that political speech, the debate about political ideas, be absolutely free and unfettered. And they succeeded in doing just exactly that.

In Buckley v. Valeo, the Court said:

> A restriction on the amount of money a person or group can spend on political communication during a campaign necessarily reduces the quantity of expression by restricting the number of issues discussed, the depth of their exploration, and the size of the audience reached. This is because virtually every means of communicating ideas in today's mass society requires the expenditure of money.

I may return to this issue in a few moments, but it does represent only one-half—one section of this bill. The other element of the bill, the prohibition of what is called ''soft money,'' probably is not subject to the same constitutional strictures. It is simply overwhelmingly undesirable. Congress, in 1974, in a portion of its campaign finance regulations passed in that year, limited the amount of money that one individual could give to another individual's political campaign for Federal office. That portion of the 1974 statute was found to be valid, though the limitations on actual expenditures by a given candidate from that candidate's own money or from other sources was found to be invalid, under the Constitution, for the very reasons that I have just read, from the Supreme Court's opinion in Buckley v. Valeo.

What has been the inevitable result of those restrictions? What has been the inevitable result of those restrictions as the limitations passed in 1974 have shrunk by the operation of inflation in our society so that the $1,000 per individual per campaign limitation in 1974 is worth roughly $380 or $390 today? Mr. President, the response on the part of people who feel strongly about political ideas and about political campaigns has been to cause them to switch a great deal of their support from individual candidates to the political parties under whose aegis those candidates run for office.

Now, I think that this is, at least, a modest step in the wrong direction. Why? Because, of course, every dollar spent by a candidate—whether that candidate has written a check out of his or her own pocket or whether or not that money has been solicited from others—every dollar spent by an individual candidate on a communication is subject to criticism from the newspapers, television stations, and from other candidates to exactly the extent that it is deceptive or dodges the perceived real issues in a political campaign. Each candidate, in other words, can be held responsible, and candidates are generally held responsible, for the quality of their own communications. A candidate, however, cannot nearly so easily be held responsible for communications coming from that candidate's party. So to exactly the extent that we have limited—have choked off the ability of candidates other than the wealthiest of those candidates to raise—

Mr. FEINGOLD. Mr. President, will the Senator yield for a question?

Mr. GORTON. Yes.

Mr. FEINGOLD. Let me first express my admiration for the Senator from Washington's interest in first amendment and free speech issues, and his very careful presentation.

I would just like to ask, in light of his earlier comments, if he believes the Buckley v. Valeo decision was correctly decided?

Mr. GORTON. He does, though in this case I am not sure that Buckley v. Valeo would have been so decided, even with respect to the limitation on contributions to individual candidates, had those limitations been, say, $380 or $390 today. That is to say, a restriction or a limitation that is constitutional under one set of circumstances could easily find itself to be unconstitutional under another set of circumstances, if the Court deemed those limitations to be unreasonably restrictive.

Mr. FEINGOLD. Mr. President, I recognize the point that in Buckley v. Valeo the Court did suggest that there was some magnitude of contribution that might be needed to constitute a corrupting influence on the political process. But the Senator apparently accepts the notion that it is constitutional to have some kind of limitation on what a person can give to a candidate.

Mr. GORTON. That is the decision in Buckley v. Valeo, and while I question the wisdom of the limitation, I don't question the constitutionality.

Mr. FEINGOLD. I think the Senator has been—if I can continue, Mr. President—has been very candid on the floor as to whether it would be constitutional to prohibit soft money contributions. I think you have spoken to that. Correct me if I am wrong, but I believe you have indicated you believe that, under Buckley v. Valeo, it would be constitutional to do that although it may not be wise to do so. Is that a fair statement of the Senator's position?

Mr. GORTON. The Senator is correct.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. The point the Senator from Washington was making was simply this, Mr. President: That limitations, constitutional as they may be, on the ability of candidates, other than those who can finance their own campaigns, to solicit money from others, has forced that money into a channel in which the electioneering communications are far less the responsibility of the individual candidate than they are when that candidate spends for himself.

From a public policy point of view, it is the view of this Senator at least that money spent by political parties is less desirable because there is less responsibility for it than money spent by individual candidates. But of course those aren't the only two alternatives for spending money for political purposes.

As and when these limitations on contributions to political parties become law, to the extent they are found constitutional, the interest of those who feel a vital necessity to communicate political ideas to advance causes of either ideas or for candidates is not going to be eliminated, it is not even going to be diminished.

What do we have under those circumstances, Mr. President? Under those circumstances, we have the individual who can no longer give a significant amount of money to a candidate of his or her choice, can no longer give what he or she considers a sufficient amount to the political party of that candidate engaged in one or two other political activities: Either in independent expenditures on behalf of an individual candidate or an idea or in issue advocacy. Under those circumstances, the communications are even less the responsibility of the candidate who benefits from them than they are when the money is spent by that candidate's political party.

The political party is not responsible for the content of any such electioneering communications either, but we then get to the very unconstitutional limitations on express advocacy that are included in this bill. The sponsors of the bill run up against the fact that the limitations that they can impose constitutionally simply force money used on politics into areas that they cannot constitutionally touch because the Constitution says Congress shall make no law abridging the freedom of speech.

The amount of money spent on political ideas and political advocacy is no less—in fact, in many respects it may be more—it is simply that it is, for all practical purposes, impossible to criticize a candidate for money that is, for all practical purposes, being spent on behalf of that candidate.

That, Mr. President, is the fundamental reason that even those portions of this bill which are arguably constitutional are highly undesirable. They will not lessen the amount of money spent during the course of political campaigns. They will make the spending of that money less responsible than it is at the present time. They have nothing to do with an argument about corruption, other than to encourage the kind of subterfuge which so marked the 1996 elections.

If, for example, the money spent in 1996 could have been legally given directly to the candidates and disclosed at the time, we wouldn't be in the midst of one more search for an independent counsel to examine the results of those elections.

The net results of this bill, it seems to me, are twofold: They are to force political money into less and less responsible channels in which disclosure is less than it is at the present time and, to the extent that they attempt to control those expenditures, to come afoul of the first amendment to the Constitution of the United States. No, Mr. President, we would be far, far better off in encouraging, rather than discouraging, contributions directly to candidates and requiring their immediate disclosure, and in encouraging rather than discouraging support of our political parties.

Most of us who are engaged in partisan politics through most of our careers have been exposed to the academic proposition, at least, that one of the shortcomings of the American political system, in comparison with the parliamentary systems of most other democracies, is the almost total absence of party discipline and party responsibility. We are often criticized for the fact that each one of us as an individual—that a voter cannot be at all certain when he or she votes for a candidate of the Republican Party, or the Democratic Party, for that matter, that they will get what they believe to be the platform of that political party adopted, because the candidates, in each case, are independent agents.

Most academics would ask us to increase the power, the degree of influence, of political parties over their members, especially over their elected officials, so that we could have a brighter line of distinction between the parties and their platforms, so that voters would have what they consider to be a more significant choice.

I may say that I don't necessarily buy that argument. I am not sure I buy it at all. But there are few arguments put forward by either academics or, I think, by practicing politicians that political party organizations of the United States should be weaker and of less account than they are today.

This bill, to the extent that it is constitutional, weakens, marginalizes, almost eliminates, the effect of political party organizations, and it does so to exactly the extent that it increases the authority and the influence of nonparty organizations of the most narrow of special interest organizations in political campaigns.

No, Mr. President, we should strengthen the candidates' organizations. We should require candidates to be more responsible for the money that is spent on their behalf, and we should probably be strengthening political party organizations at the same time.

What we do in this bill is to continue the weakening of the candidates, to add to that the weakening of the parties, and we encourage, because of the unconstitutional nature of the second part of this bill, the portion of spending in our political system for which the spenders and the political parties and the candidates are least accountable.

This bill is no better than it was in February when it was defeated. It is no better than it was nearly 2 years ago when it was defeated.

The comments during the course of the debate a year ago last fall from George Will are as applicable today as they were then. And I will conclude by quoting him:

> Nothing in American history—not the left's recent campus ''speech codes,'' nor the right's depredations during 1950s McCarthyism, or the 1920s ''red scare,'' not the Alien

and Sedition Acts of the 1790s—matches the menace to the First Amendment posed by campaign ''reforms'' advancing under the protective coloration of political hygiene.

That was true last year. It is true this year. It will be true next year. It is the fundamental reason that this bill violating first amendment rights of free speech should be rejected by this body once again.

Mr. FEINGOLD. Will the Senator yield for a question?

Mr. GORTON. The Senator has yielded the floor.

Mr. FEINGOLD. I was wondering if the Senator would briefly be willing to continue the discussion of the constitutional issues.

Mr. President, I appreciated the Senator's candid responses on the relationship of the Buckley v. Valeo decision to the issues of contributions. He also talked a little bit about corporate and union spending and what should be done there.

Does the Senator have a constitutional problem with the current law's ban on corporate union spending in connection with Federal elections?

Mr. GORTON. This Senator has some question on that subject, but this Senator is completely convinced that, as undesirable as he regarded the political campaigns in 1996 by labor unions, that they were, are, and will remain completely constitutional, totally within the rights of those unions, and that they cannot be restricted in any respect whatsoever by the Congress.

Mr. FEINGOLD. Is the Senator aware that since 1904 corporations have not been able to make contributions directly, and since 1943 labor unions cannot? That is current law.

Mr. GORTON. That is current law, but that has to do with the direct contribution to a candidate. It has nothing to do with the express advocacy that is covered by the second part of this bill.

Mr. FEINGOLD. If the corporation or union simply ran campaign ads, the prohibition would apply as well, would it not?

Mr. GORTON. It is very difficult to see the difference between what was done during the course of the 1996 elections in direct campaign ads, and they were distinctions without a difference.

Mr. FEINGOLD. That is exactly the point.

To continue, is that not a reason that a majority of this body, as expressed in the Snowe-Jeffords amendment, believes that this is a very simple and logical extension on the ban of corporate and union campaigning by saying that a corporation and union cannot directly fund issue ads that directly mention a candidate's name in the last 60 days? Is that not simply an extension of, in effect, what has always been the law?

Mr. GORTON. No, I do not believe under any circumstances that it is. There is an absolute prohibition against so much as mentioning the name of a candidate in a 60-day period before an election in this bill. I simply refer the Senator to the first amendment. If that is not a law abridging the freedom of speech, we could not pass a law abridging the freedom of speech. Any other limitation or restriction would be valid. It flies directly into the teeth of the plain meaning of the first amendment.

Mr. FEINGOLD. It is interesting that the Senator makes that comment because a few years ago, for example, there was no question that Philip Morris could not write out a million-dollar check and run ads like that, but somehow now it is almost standard practice. Somehow the law has been moved away from almost a century-long prohibition on corporate spending in connection with Federal elections to the ability to have unlimited spending on Federal elections through the ruse of pretending that an issue ad is an issue ad when it actually does everything but say the words, of course, ''vote for'' or ''vote against'' a certain candidate.

Isn't that just, in effect, eliminating the whole corporate prohibition that has existed for such——

Mr. GORTON. The quarrel that the Senator from Wisconsin has is not with this Senator but the Supreme Court of the United States and the first amendment.

Mr. FEINGOLD. Mr. President, that is exactly what we would hope to determine with the passage of this bill. We would find out if in fact the Supreme Court would find that an ad that does everything to promote a candidate or attack a candidate but say ''vote for'' really is an issue ad. That would be a matter for the Supreme Court to determine.

Mr. President, I appreciate the courtesy of the Senator from Washington in responding to a series of questions.

I ask unanimous consent that the Senator from Nevada, Mr. BRYAN, be added as a cosponsor of the McCain-Feingold amendment before the body.

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

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. BRYAN. Mr. President, I thank my colleague from Wisconsin, and I thank him and the senior Senator from Arizona for their leadership on campaign finance reform. They have been faithful to the cause. They have been leaders on the floor and they have, I think, engaged the American people at long last in a colloquy so that I believe, as I will comment later in my remarks, the American public now has a better understanding of what is at issue here.

Mr. President, I rise today as a cosponsor and strong supporter of the legislation brought to the floor by Senators MCCAIN and FEINGOLD. I must say that I am pleased—''overjoyed'' may be an understatement—that the Senate has at last an opportunity to revisit this issue.

Although campaign finance reform has been derailed in the past by a perennial filibuster, the event of passage of the Shays-Meehan legislation in the House has provided us with a golden opportunity to move past the procedural maneuvering that has obstructed this important legislation for far too long.

The volume of evidence from our most recent Federal elections clearly demonstrates that our current system has spiraled completely out of control. It is no longer a system of rules but a system of loopholes, and through these loopholes has poured a staggering amount of money that continues to escalate each and every campaign cycle.

We no longer have a system in which candidates are encouraged to debate their records and their positions on the issues. We no longer have a system in which candidates are encouraged to look for votes by shaking hands at a coffee shop or greeting workers at a factory gate and knocking door to door at residents' homes.

Sadly, the system in place today encourages candidates to look not for votes but for money. It is a money chase, Mr. President. And all of us are part of this unsavory system. And only we can change it. It is a shameless and demeaning system. And that just speaks to the extraordinary sums of money that candidates themselves are required to raise and spend.

Add to that the millions and millions of dollars raised and spent by the national political parties and outside special interest groups who have perfected the art of saturating an entire State with political ads months and months before the election day.

Mr. President, those who continue to oppose meaningful campaign finance reform must be living in a different world. I simply cannot fathom how anyone can look at the chaos of our past and current elections and suggest that the response of the U.S. Senate should be to do nothing.

During the recent August recess, I had the opportunity to travel widely throughout my home State of Nevada and to meet face to face with thousands of my constituents. In fact, by automobile I traveled more than 3,000 miles through Nevada, visiting with some of the smallest communities in our State and holding 17 townhall meetings during the course of this recess.

Time and time again, the issue of campaign finance reform was raised at these townhall meetings. It was deeply unsettling to see firsthand how disgusted the American people are with the absolute scandal taking place in our campaign finance system. These were not politicians talking about the need for reform. These were ordinary people who have become so disillusioned with our political process that they no longer feel any sort of connection to our democratic system. This is a dangerous threat to democracy itself.

Let me also point out that as often as this issue was raised, not a single person, not one, expressed opposition

to the McCain-Feingold bill on campaign finance reform. No one. Absolutely no one.

Thankfully, the House of Representatives has provided us with the opportunity to at least stop the hemorrhaging of our current finance system. Several weeks ago, on a strong, bipartisan vote, the House passed the Shays-Meehan bill which was modeled on the McCain-Feingold legislation before us today. This was not just a handful of Republicans voting with Democrats to pass this legislation. In point of fact, one quarter of the entire House Republican conference voted for that bipartisan bill which passed by a margin of 252–179.

Now, I have heard some of our colleagues, in expressing opposition to campaign finance reform, argue that just because the House has passed this legislation, it does not mean we should do so. I must say I have a different interpretation of the present situation. Shame on the Senate for not passing campaign finance reform in the past; shame on the Senate if we refuse to do so now when we have the opportunity to do so.

Some of us, myself included, would have preferred more comprehensive reform legislation than McCain-Feingold offers. But it is an important step, a vital step, on the road to campaign finance reform. Its centerpiece is the ban on the so-called soft money. Banning these unlimited and unregulated contributions would represent the most important political reform enacted by the Congress in more than two decades. Let me repeat this: Banning these unlimited and unregulated contributions would represent the most important political reform enacted by the Congress in more than two decades.

Despite the 3-year long filibuster of this legislation, we have heard very few opponents come down to the floor and stand up and defend the virtues of a $250,000 in soft money contribution or more. Soft money is an embarrassment to the American political system. It is the mother of all campaign finance loopholes and perhaps the most ingenious money-laundering system in history. Soft money as we know it refers to the unlimited and unregulated contributions from corporations, labor unions and wealthy individuals that flow to the political parties, unchecked and unregulated, outside the accepted contribution limits and reporting requirements of Federal law. This soft money, with little or no disclosure, is then poured into what have become known as issue ads, a nickname given to television and radio advertisements that skirt Federal election laws and fall under no regulations. This money is raised and spent with virtually no limits and no disclosure.

How much soft money can be contributed? Sadly, the sky is truly the limit. In fact, there are no limits to this incredulous, bizarre system. In 1992, just 6 years ago, the two parties raised and spent a combined $86 million in soft money. In just 4 years, soft money more than tripled, exploding from $86 million in 1992 to $262 million in 1996; $260 million that was raised and spent, completely outside the scope of Federal election law.

Perhaps the only thing worse than to know how this soft money is raised is to know how this soft money is being spent. In recent years, the airways have been bombarded, saturated with political ads paid for with soft money. These political ads specialize in shredding various candidates without telling the viewers who paid for the ad, where the money came from, and who was responsible for its content.

It should come as no surprise to any of us that more and more Americans are repulsed by these anonymous assaults and the sheer volume of money pouring into our election system. As a consequence, they are distancing themselves from the political process. That is the greatest tragedy of all. Americans are so turned off by our political system that they don't even vote on election day. When they do vote, often it is not the sense of voting for the better of two candidates; it is a perception that they are voting for the lesser of two evils on the ballot.

With a tidal wave of campaign cash flowing into our political system, the torrent of negative advertising on the airways, and the lack of meaningful disclosure or accountability, it is becoming increasingly difficult, almost impossible, for the American people to feel good about any candidate, or their participation in the democratic process.

Just last week, in my home State of Nevada, we had a critically important primary election. Not only is there an open gubernatorial seat in a hotly contested primary, there were primaries for the U.S. Senate, an open House seat, and a number of seats in the State legislature. I am sad to report that only 28 percent of all registered voters in Nevada turned out for this election—28 percent. Let me make an important distinction. That is not 28 percent of all Nevadans who were eligible to register and to participate in the system. That is 28 percent of those who are actually registered. This is a tragedy. It is not good for our system. Seventy-two percent of all registered voters in Nevada did not vote. And Nevada is not alone.

I have heard it said that if one looks at the entire primary election cycle this year—and I presume they are factoring in those who are eligible to register and chose not to do so, as well as those who are eligible to vote, having registered but chose not to vote—less than 17 percent of the people in America have participated in the electoral process this year. This is a disaster wherever one comes down in the political scale. Whether one registers himself or herself more closely aligned with Democrats or Republicans, independent Americans or Libertarians, wishes to revive the old Know Nothing party, would like to see the old Whig party revived, or want to be part of the avant garde 1990s and become a member of the vegetarian party, wherever one comes down on the political spectrum, 72 percent of those registered to vote not participating is a system that we cannot sustain and still have a representative democracy in America.

In addition to cutting down the soft money system, the McCain-Feingold proposal would place significant restriction on the issue ads which I have just described. Under the Snowe-Jeffords modification, if a radio or television advertisement mentions a candidate's name within 30 days of a primary election or 60 days of a general election, the funds used to pay for that advertisement must be raised under Federal election law and must be fully disclosed. Some outside organizations have suggested that they have a constitutional right to freely discuss an issue with the electorate. I agree. In fact, under this legislation, any organization can run an advertisement on any issue they want—whether it is health care reform, gun control, or any other issue—with no restrictions.

That is a true issue ad and a sort of communication that the Supreme Court has said is free from government regulation, and properly so. The Supreme Court has also said that we can regulate advertisements that are not meant to advocate issues, but instead are meant to advocate candidates. That is what this legislation provides. True issue ads would be exempt from this legislation. However, if an organization chooses to run an ad in the weeks before an election, and if that ad is clearly designed to advocate for or against a particular candidate who is involved in that election, this legislation will define that activity as election related, and the money used for those ads will be required to be raised and spent under the provisions of Federal election law.

Finally, in addition to banning soft money and enacting tough restrictions on candidate ads, the legislation includes a number of provisions that will improve the disclosure of fundraising activities and provide the Federal Election Commission with greater tools to detect and to investigate campaign finance abuses.

Unfortunately, it appears that once again it will require 60 votes to move this important legislation through the U.S. Senate. I, for one, would like to see us move past these procedural games and start having real votes and real issues and debate campaign finance reform on the merits, on the substance. Let's vote on whether or not we should ban all soft money. Let's vote on whether these thinly disguised attack ads should be considered election and campaign ads subject to Federal election law, and let's vote on whether we should strengthen our disclosure requirements under the Federal Election Commission and provide that Commission with greater tools to ensure that

all candidates and all parties and outside groups are playing by the rules.

After the outrageous amount of money spent in the 1996 election, after all the charges and countercharges of abuse, impropriety and quid pro quo, and after what we have already witnessed in the opening months of the election season this year, it would be appalling, in my judgment, if the 105th Congress were to adjourn without passing a single reform of this deplorable system.

Madam President, I urge my colleagues to support the McCain-Feingold legislation and begin the process of restoring a sense of integrity and confidence to our democratic process.

I yield the floor.

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Washington is recognized.

Mr. GORTON. Madam President, I note that at least two Senators are on the floor who wish to introduce a resolution on another subject, a subject that I think is appropriate. At this point, I yield to the Senator from Missouri.

Mrs. BOXER. Madam President, I ask unanimous consent that at the conclusion of the remarks of the Senator from Missouri, I be granted time to express my support for what he is about to do.

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

The Senator from Missouri is recognized.

## RECOGNIZING MARK McGWIRE OF THE ST. LOUIS CARDINALS FOR BREAKING THE HISTORIC HOME RUN RECORD

Mr. BOND. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 273.

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

The clerk will report.

The bill clerk read as follows:

A resolution (S. Res. 273) recognizing the historic home run record set by Mark McGwire of the St. Louis Cardinals on September 8, 1998.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BOND. Madam President, it is a great honor and with pleasure that I introduce this resolution for myself, Mr. ASHCROFT, the Senator from California, and others who may wish to join us.

Yesterday, I was on this floor describing a very difficult predicament that Major League baseball was encountering. It seemed, as of early yesterday morning, that the Internal Revenue Service might say that a fan who caught a historic home run ball hit by Mark McGwire and turned it back to him might be liable for $150,000 or more in gift taxes on that ball. We pointed out that that made no sense. I am proud to say that we had bipartisan support for that proposition, Madam President. There are very few things that have brought this Chamber together more than that one simple proposition.

I was very pleased yesterday afternoon to have a call from Commissioner Rossotti of the IRS, who understood the magnitude of the problem this could cause. He advised me that he has issued a release from the IRS saying that, while resolving gift tax issues is as difficult as figuring out the infield fly rule, it made sense that we congratulate a fan who returns the baseball rather than hit him with taxes. That is particularly good news to Deni Allen, a 22-year-old marketing representative from Ozark, MO, Mike Davidson, a 28-year-old St. Louis native, and Tim Forneris, a 22-year-old from Collinsville, IL, a member of the St. Louis grounds crew. They all just wanted to give Mark McGwire the baseball and didn't want to be taxed on it. Thanks to the support of this body and the action of the Commissioner, they will not be taxed. I am very pleased with that.

I was also pleased to join many friends and colleagues last night in rooting for the historic home run hit by Mark McGwire. Mark McGwire's achievements are there for all to see on television, or to read about in the sports page, because this is one tremendous athlete. He hit home run ball No. 62 in his 144th game of the season.

The purpose of our resolution is to recognize that historic contribution to baseball. But I also want to just spend a minute on Mark McGwire, the person. I have in my hand a copy of Sports Illustrated, which features a picture of Mark McGwire and his son, Matt McGwire. The article is entitled ''One Cool Dad.'' I think a lot of people who watched Mark McGwire in the year he has been in St. Louis, and probably before that in California, know that he is a dedicated father and he is a community leader. He has shown his willingness to serve his community by his generosity.

This man is a great role model for young people in our country today, and the way he approached this record-setting mark, with due recognition for Roger Maris—also a tremendous athlete, one I greatly respected, who held the record prior to him—reflects extremely well on Mr. McGwire. I hope that I will have many cosponsors who will join in this resolution. I see several colleagues on the floor who want to discuss it, but suffice it to say that Mark McGwire has made a historic contribution to baseball. He has brought the country together. The only thing we are talking about in Missouri is Mark McGwire, not a lot of the other problems. His dedication to leadership and family values, his spirit of community contribution and leadership mark him as an outstanding gentleman who I trust all of us in this body are willing to recognize.

Mrs. BOXER addressed the Chair.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Madam President, I thank the Senator from Missouri for his eloquent remarks, and I thank both Senators for introducing this resolution.

I rise to salute a native son of California, a man who grew up in the playing fields of southern California, a graduate of California public schools and honed his skills at the University of Southern California and developed into a mature professional in Oakland, CA, where I saw him play many a game; a man who has since settled in Missouri, but will always remain a favorite son of California; a man who brought immense talent, hard work, energy, enthusiasm and, above all, dignity and grace to one of America's most revered institutions.

I grew up, when I was a kid, six blocks from a Major League ballpark. I heard the sound of those home runs all through the years I was growing up. I went to many a game and sat in the bleachers. I am a baseball fan. Yet, I haven't seen such excitement in so many years that we have seen in the last month or so.

This man has really helped reinvigorate the game of baseball, further enshrining it as our national pastime. He has thrilled countless lifelong fans of baseball, and he has made millions of new fans who knew very little about the game. This is a man who has put us in touch with baseball heroes of the past, and he has inspired baseball heroes of the future—a giant of a man, playing a game that we learned to love as children, and who has made us all feel like little kids again at a time when we need that every once in a while. Of course, I speak of Mark McGwire.

I think it is also important to recognize the Cubs' Sammy Sosa. Both of these men have pursued Babe Ruth's and Roger Maris' home run records, and they did it under intense pressure, but with grace and joy, rooting for each other, appreciating their fan support, and infecting us all with good humor, poise and good sportsmanship.

Today is a day of heroes—one particular hero, Mark McGwire. I wanted to say on behalf of all of California—and I know Senator FEINSTEIN joins me in this—that we are very proud of Mark McGwire.

In closing, I want to say that it is hard to join a nexus between one thing and another here. But I have two heroes here today on the floor of the Senate—RUSS FEINGOLD and JOHN MCCAIN—because I am really proud of the way they have pursued their goal, a goal that I think will make this democracy stronger, a goal of good, solid campaign finance reform.

On the one hand, we laud the baseball heroes. I wanted to laud a couple of Senate heroes of mine on campaign finance reform.

Let me again thank the Senators from Missouri for giving us a chance to get to see this praise in writing in the RECORD for all time.

Thank you. I yield the floor.

Mr. ASHCROFT addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Madam President, let me extend my appreciation to the senior Senator from the State of Missouri, Senator BOND, for having presenting this important resolution; and my thanks as well to the Senator from California, Senator BOXER.

I was elated when I saw what we had all anticipated for so long—that Mark McGwire would learn uniquely how to pay the price for greatness, would achieve something that some had said could never happen. We watched and I watched in anticipation as I believe it was in the fourth inning last evening when the first pitch was, incidentally, not what I would call a home run pitch. It looked to me like it was a borderline strike zone, low and away, and Mark reached out and, on the low and away pitch, pulled the ball like a rifleshot over the wall in Busch Stadium in St. Louis.

I stand today to commend him for his outstanding baseball. To see him and Sammy Sosa embrace and salute each other in a friendly kind of competition that brings out the very best is a story about what America really needs and ought to be—how we don't have to be, because we are opponents, enemies. Those two are opponents in most every way and in every sense of the word. But, my goodness, they are not enemies. They elevate each other's performance, and they bring out the best in each other. What a tremendous thing.

Of course, I was so happy to see this happen in St. Louis, MO, a city whose baseball heritage is—well, frankly, it is just unparalleled; a city with baseball fans who understand the game, who know what it means to take a pitch, to hit behind the runner, to make the sacrifice. They know baseball. They know character. They saluted Mark McGwire last night, and properly so.

I was very thrilled to see the Missouri fans be consistent in wanting to share the achievement with Mark McGwire, but not necessarily to take it from him, and the willingness of Missouri fans over and over again to give the baseballs back—to make them part of Mark's heritage and history, to make them part of the national treasure. It is kind of an inspiration at a time when some would lead us to believe that America is nothing but a place of greed.

Too often, sports heroes themselves have participated in the idea that the memorabilia is so valuable that it is only to be sold. I think of these fans who would sort of teach some of our sports heroes lessons that the memorabilia is so valuable that it is not to be sold but it is to be shared. I salute those in St. Louis who decided that this part of American history was too valuable to be sold but it was so valuable that it ought to be shared.

Let me make a few remarks about Mark.

In the pictures—and I just hope the rest of America sees these pictures, if they haven't seen them—in the pictures we see a picture of what we need to be, how we need to think, and how we need to act. Perspective and balance are perhaps the most important characteristics of life. Knowing where you stand at the magic of the moment is certainly a valuable thing. Understanding where you stand in the perspective of history is a valuable thing. Having a respect for the future is a valuable thing. In just one tight little moment there on national television, as Mark McGwire finished rounding the bases, he showed us that he was a person who not only understood the magic of the moment—driving the ball over the left field wall and celebrating the incredible exhilaration and joy of that personal achievement, the crowning achievement of years of training, practice, and insistent persistence toward a goal—he understood the magic of the moment, but he also told us that he understood his place in history, because he went to the stands and he embraced the family of Roger Maris. Roger, of course, died tragically young as a result of cancer. But his family was there to understand not only his place in history but to understand that history marches on. Mark McGwire not only understood the moment but he understood his place in history. He embraced history.

America needs again to have a lesson in embracing history, in respecting our past and understanding that it is only from the greatness of our past that we draw inspiration for surpassing events in the future.

What a tremendous thing that picture was of Mark McGwire with those huge arms around the Roger Maris family.

Then, perhaps as inspiring as anything else, there was the fact that when he rounded the bases and was trading high fives, really before he got into the serious commendations of the rest of his teammates, Mark picked up Matt, the future. He understood that, yes, the past is important, and the magic of the moment is to be cherished, but there is also always the future that is ahead of us. He picks up young Matt, and he elevates young Matt to a position above his father. What a tremendous picture that is. If we as Americans would have an understanding of our youngsters that we need to place them ahead of ourselves, place their interests above our interests, invest in the future, if we would, indeed, hold up our youngsters and elevate them to a place of understanding and the opportunities for greatness, what a tremendous lesson that would be.

So I really have a degree of excitement that is difficult to contain about the tremendous lesson that we can all take out of the joy and exuberance of celebrating the achievements of one whose acts really just stun us and marvel us.

There is just one last point.

There were lots of people—I have been among them—who have said, ''Well, Babe Ruth's record and Roger Maris' record''—Babe Ruth, if you wanted to count one game at one game level, and Roger Maris at another—''would never be broken.'' I am kind of glad that Mark McGwire straightened me out on the breakability of those records, because I believe that maybe as much as anything else, Mark McGwire tells us that the best is yet to come, that every record in the book is one we should look to break, that America is not a place whose primary and monumental achievements are all behind us, but America is a place where the best is yet to come.

Last night, Mark McGwire set a new record of 62 home runs. He might set another record the next time he bats. I am confident that he will set another record before the end of this season over and over and over again.

I think part of the American spirit is such that we should all think about America as a place where the best is yet to come. When we learn to pay the price, maybe when we have the balance and perspective that Mark demonstrated, understanding the magic of the moment, respecting history, and having a full dedication to the fabulous future, maybe that is when we will begin to understand that the best is yet to come and we can be part of it.

To Mark McGwire, to the fans of St. Louis, to Sammy Sosa, who happened to be there when it happened and who, with such class, saluted Mark, I say thanks for an inspiring game, which turns out to be a lesson teacher far bigger than just a game. I am delighted to commend them and thank them for the greatness that they remind us should be a part of all that America is and stands for.

I yield the floor.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Madam President, the Senator from North Dakota, Mr. CONRAD, wants to be added as a cosponsor to this resolution and to note that Roger Maris, who was a great hero in St. Louis, was a North Dakotan. We are very proud of the Maris family. We extend our very best wishes to Sammy Sosa, and we hope he gets into the sixties.

If there are other Senators asking to add their names to the resolution, I would be happy to do that.

May I add the Presiding Officer, the Senator from Maine, Ms. COLLINS, the Senator from Utah, Senator BENNETT, and I believe the Senator from Connecticut, as cosponsors.

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

Mr. LIEBERMAN. Madam President, I came to the floor to speak about campaign finance reform, and I will do that

in a moment, but I thank my colleague from Missouri for adding me as a cosponsor of the resolution. As is obvious to my colleagues, I am neither from Missouri nor California, so my claim to being added is my status as a baseball fan. And even though my colleagues may think I am reaching, the fact is that when Roger Maris set the record I was in college together with the junior Senator from Missouri. So it gives me some standing.

I do want to identify myself with his comments just to stress the obvious personal achievement here that has inspired the country, and also the way in which Mark McGwire did it. It was an act of fate, but somehow so correct, that he tied the record at the 61st homer on the day of his father's 61st birthday, because baseball, in my experience in this country, is very much a matter of one generation passing on the experience to another.

My own memories of baseball, first memories, come from my dad taking me to games, and they are cherished memories. I can tell my colleagues—I hope I am not violating her privacy—when my youngest child was 4 days old, in March, I held her up to a TV set and said, ''Sweetheart, this is baseball, and you're going to love it.'' Fortunately, for me, she has, and we have shared that experience. As Senator ASHCROFT indicated, Mark McGwire beautifully continued that with his son there as a batboy.

The second is the obvious rapport between Mark McGwire and Sammy Sosa, as they compete for this but do it with extraordinary mutual respect. To make the point that is obvious but maybe still worth making, here we have one person whose family has been in this country a long time, from a family of relative success and comfort, another a new American born in poverty in another country, coming here, joined together in this remarkable American game to I think this year break records that were previously thought to be impossible.

And a final word about Roger Maris, who did set the record in the younger days of both my life and Senator ASHCROFT's life. I felt that Mark McGwire probably brought the whole country to give more tribute to Roger Maris than he ever had before, and we owed it to him. So I am proud to be added as a cosponsor.

Did the Senator from Missouri wish to add anything before I proceed to the topic of campaign finance reform?

Mr. BOND addressed the Chair.

Mr. LIEBERMAN. If so, I yield the floor.

Mr. BOND. Madam President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution be printed in the RECORD.

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

The resolution was agreed to.

The preamble was agreed to.

The resolution (S. Res. 273) with its preamble reads as follows:

S. RES. 273

Whereas, since becoming a St. Louis Cardinal in 1997, Mark McGwire has helped to bring the national pastime of baseball back to its original glory;

Whereas, Mark McGwire has shown leadership, family values, dedication and a love of baseball as a team sport;

Whereas, in April, Mark McGwire began the season with a home run in each of his first four games which tied Willie Mays' 1971 National League record;

Whereas, in May, Mark McGwire hit a 545-foot home run, the longest in Busch Stadium history;

Whereas, in June, Mark McGwire tied Reggie Jackson's record of thirty-seven home runs before the All Star break;

Whereas, in August, Mark McGwire became the only player in the history of baseball to hit fifty home runs in three consecutive seasons;

Whereas, on September 5, Mark McGwire became the third player ever to hit sixty home runs in a season; and

Whereas, on September 8, 1998, Mark McGwire broke Roger Maris' thirty-seven year old home run record of sixty-one by hitting number sixty-two off Steve Trachsel while playing the Chicago Cubs: Now, therefore, be it

*Resolved*, That the Senate recognizes and congratulates St. Louis Cardinal, Mark McGwire, for setting baseballs' revered home run record, with sixty-two, in his 144th game of the season.

Mr. BOND. I thank the Chair, and I thank all of my colleagues for their courtesy in allowing me to proceed.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Madam President, if I may continue the stretch to link the two subject matters, baseball and campaign finance reform, may I say that unlike the Brooklyn Dodgers of old, those of us who support McCain-Feingold are not willing to wait until next year, and since McGwire and Sosa are setting the standard for doing what we thought was impossible, we hope they are an eye-opener for those who think adopting campaign finance reform is impossible for this Chamber this year.

I make the comparison without wanting to set it too closely, but wouldn't it be great when this is over if we could refer to McCain-Feingold as the legislative equivalent of McGwire and Sosa?

I will cease and desist and proceed with my remarks.

## DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3554

Mr. LIEBERMAN. I rise to speak on behalf of McCain-Feingold, the amendment offered, to thank my two colleagues for the extraordinary, principled, persistent, and practical leadership that they have given this critical effort, and to urge my colleagues to support the cloture motion that comes up tomorrow.

Madam President, we have a cherished principle in this country that every person gets one and only one vote, that a citizen's influence on our government's decisions rests on the power of his or her ideas, not the size of his or her pocketbook. The campaign finance system we have on the books protects this privilege. May I repeat, the campaign finance system we have on our law books protects this principle. It imposes strict limits on the amounts individuals can contribute to parties and to campaigns. The law prohibits unions and corporations from making most contributions or expenditures in connection with elections to Federal office, and it requires disclosure of money spent in advocating the election or defeat of candidates for Federal office.

That is what the campaign laws as they are on the books today require. But as we learned sadly during the 1996 campaigns and the various investigations that have followed, those laws appear to be written in invisible ink, which is to say that they have been honored, if one can use the term satirically, only in the breach. They have largely been evaded.

It has been several months since the Governmental Affairs Committee's investigation into the 1996 campaigns ended, but none of us who were part of that investigation will forget, nor I hope will others forget, what we learned there or our feeling of outrage and embarrassment upon learning it. We learned not only of hustlers like Johnny Chung, who saw the White House like a subway—put some money in and the gates will open, he said—or of opportunists like Roger Tamraz, who used big dollar donations to gain access that was originally denied to him by policymakers at the same time he declined even to register to vote because he saw the vote which generations of Americans have fought and died to protect as a meaningless exercise, a process which would gain him no real power, particularly not when compared to the power that $300,000 would give him.

We also learned in the Governmental Affairs hearings last year of something that was in its way even more disturbing because it was more pervasive and had a far greater effect on our elections and on our government. We learned that we no longer have a campaign finance system, that the loopholes have become so large and so many that they have taken over the entirety of the law, leaving us with little more than a free-for-all money chase in its place. We learned last year that it was somehow possible, for example, for wealthy donors to give hundreds of thousands of dollars to finance campaigns, even though the law was clearly intended to limit their contributions to a tiny fraction of those sums. That is what the

law on the books says. It was possible for corporations and unions to donate millions of dollars to the parties at the candidate's request despite the decades-old prohibition on those entities' involvement in Federal campaigns. That is clearly on the law books. It was possible for the two Presidential nominees to spend much of the fall shaking the donor trees, even though they had pledged under the law, in this case the Presidential campaign finance law, not to raise money for their campaigns after receiving $62 million each in taxpayer funds. It was possible for tax-exempt groups to run millions of dollars worth of television ads that clearly endorsed or attacked particular candidates, even though they were just as clearly barred by law from engaging in such partisan activity.

Madam President, the disappearance, if I may call it that, of our campaign finance laws, which is to say the evasion of the clear intent of those laws, has serious consequences that none of us should overlook. Because our current system effectively has no limits on it, our political class, if you will, lives in a world in which a never-ending pursuit for money is often the only road—the only perceived road to survival. With each election cycle the competition for money gets fiercer and fiercer, the amounts needed to be spent get bigger and bigger, and consequently the amount of time Presidential candidates, national party leaders, fundraisers—all of us need to raise for our parties gets greater and greater.

In the 1996 election cycle the national parties raised $262 million in so-called soft or unregulated money, 12 times what they raised in 1984. And what about the current cycle, the 1997–1998 cycle? National party committees in the first 18 months of the 1998 election cycle have raised almost $116 million in soft money, more than double the $50 million raised during a comparable period by national party committees in 1994, which was the last non-Presidential election cycle.

Let none of us deceive ourselves that this unrelenting and ever-escalating money chase has no impact on the integrity of our Government and the impression our constituents have of our Government and those of us who serve in it. That clearly is the sad story, told by the Governmental Affairs investigation last year, and by the host of other investigations, journalistic and otherwise, that have been done of that 1996 election. Our country is focused at this moment in our history on the misconduct which our President acknowledged in his statement on August 17. The consequences of that misconduct were great, but that was the failure of one person. The failure that we speak of today, on the other hand, if we do not act to correct it, belongs to us all. It is systemic, and none of us should doubt that it will get worse unless we do something to change it.

Senator MCCAIN was right, the Senator from Arizona, when he said a while ago that probably the biggest scandal in Washington today is the current state of our campaign finance laws. How can any of us justify a system in which our elected officials repeatedly appear at events exclusively available only to those who can give $50,000 or $100,000 or more, amounts that are obviously out of reach for the average American and above the annual incomes, in fact, of so many of our citizens—the annual incomes of so many of our citizens. How can any of us justify a system in which we, public servants, must divert so much of our time from the people's business to the business of fundraising? How can we justify a system that has so disenchanted our constituents that, according to an October 1997 Gallup survey, only 37 percent of Americans believe that the best candidate wins elections; 59 percent believe elections are generally for sale; in which 77 percent of Americans believe that their national leaders are most influenced by pressure from their contributors, while only 17 percent believe we are influenced by what is in the best interests of our country? That is a searing indictment of what we are devoting our lives to—public service, the national interest; and it comes, I believe, directly from the way in which we raise money for our campaigns, certainly at the Presidential and national level.

How can any of us justify not taking action, some action, to reform our campaign finance system this year, in this 105th session, after all of the time and energy and resources Members of both sides of the aisle have spent investigating, in effect denouncing, the conditions that prevail under the current system? The fact is, I respectfully suggest, that we cannot justify such a system and we cannot justify inaction.

In the additional views that I was privileged to submit to the Government Affairs Committee report on its investigation of the 1996 campaigns, I wrote that I came away from that year-long investigation with an overarching sense that our polity has fallen down a long, dark hole into a place that is far from the vision of values of those who founded our democracy. I find it hard to see how others can come away from that experience, or any other experience which allows them to examine what has become of our campaign finance laws, without reaching a similar conclusion. We no longer live in a system in which every citizen's vote counts equally, or anywhere near equally. Instead, we live in a system in which what seems to matter most is how much money we can raise.

It is time to act to restore a sense of integrity to our campaign finance system, to restore the public's trust in it and us. This is not a radical idea. All we are really asking is to restore our system to what it was meant to be, to what in fact the letter of Federal law is today: a system where individuals can participate in our political system, but they are limited in their ability to use their incomes to influence their Government; where only individuals, not corporations and unions, may use their money to directly influence our elections, and where we all know, through disclosure, who it is that is contributing and the public may judge to what extent those contributions are influencing our actions and our votes.

Madam President, I hope that our colleagues will do what most observers seem to think we will not, which is to vote for cloture tomorrow to take up this bill and to clear this cloud from over our political system.

I yield the floor.

Mr. BENNETT addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Madam President, we have heard a good deal in this debate about people buying access to politicians. Indeed, there has been a tremendous amount of time and printer's ink and television signals spent on debating how you buy access to a politician. I want to turn this debate around, for the sake of looking at it from a different point of view. It may take me some time to do this because there has been so much expenditure in one direction, but I think the core of this issue requires us to look in another direction, and that is not access to the politician, but access to the voters.

Let me develop this for just a minute. We live in a democracy. Ultimate power in a democracy lies with the voters. Madam President, when you and I wished to become an elected official, in order to get here we have to have access to the voters, and this whole political process is about that challenge—how does the Presiding Officer gain access to the voters of Maine in order to get her message across?

How do I get access to the voters of Utah in order to convince them that I am a better person than others who are seeking this opportunity? That is the focus that has never come into this debate. It is always assumed that the politicians are the constant and the voters somehow are the variable. It is, in fact, the other way around. The voters will always be with us in a democracy. It is the politicians who come and go and who are variable, and the question of how a politician becomes an officeholder depends entirely on how effectively the politician can get his or her message across to the voters so the voters can then make a choice.

What I am about to say for the next half hour to 45 minutes, will be focused in a whole new direction than the direction that we have been having in this debate.

I begin, Madam President, by going back to a historical review of the whole issue of money in politics. For this, I am dependent on a number of sources. One is the Wilson Quarterly published in the summer of 1997, with the cover article being entitled ''Money In Politics, The Oldest Connection.'' This gives us a historic point of view that will start us off in this direction that I think we ought to explore.

In this particular article, it points out that in the beginning of our Republic, a politician had access to the voters because he knew them all. They all lived in his neighborhood. George Washington was personally known to the people who voted to put him in Virginia's House of Burgesses. Thomas Jefferson was personally known to the people who he would turn to for political support. He had no problem gaining access to the voters.

I find it interesting, out of this Wilson Quarterly article, that even then, however, the subject of money did come up. If I can quote from the article:

> George Washington spent about 25 pounds apiece on two elections for the House of Burgesses, 39 pounds on another, and nearly 50 pounds on a fourth, which was many times the going price for a house or a plot of land.

Interestingly, many times the price of a house for a seat in the State legislature. Oh, what fun we could have with the rhetoric about that in this Chamber when we are saying that a seat in the House was up for sale.

Quoting from the article again:

> Washington's electioneering expenses included the usual rum punch, cookies and ginger cakes, money for the poll watcher who recorded the votes, even one election-eve ball complete with fiddler.

An interesting footnote about that appears in the article later relating to one of Washington's fellow State members, James Madison. Quoting again from the article:

> James Madison considered ''the corrupting influence of spiritous liquors and other treats . . . inconsistent with the purity of moral and republican principles.'' But Virginians, the future president discovered, did not want ''a more chaste mode of conducting elections.'' Putting him down as prideful and cheap, the voters rejected his candidacy for the Virginia House of Delegates in 1777. Leaders were supposed to be generous gentlemen.

Madison decided to enforce his own form of campaign finance reform, refused to treat the voters in Virginia, and they responded by refusing to send him to Virginia's House of Delegates.

As the country grew, obviously the circumstances changed. We got to the point where no longer could a candidate announce for office and assume he would be known to all the voters. Even if he bought some rum punch or ginger cakes, he still could not sway voters' opinion and, as the article says, quoting again:

> Leadership was no longer just a matter of gentlemen persuading one another; now, politicians had to sway the crowd.

As the article goes on to point out:

> In fact, the more democratic, the more inclusive the campaign, the more it cost.

In that one sentence, we have a summary of the challenge of a politician gaining access to the voters. I will repeat it:

> . . . the more democratic, the more inclusive the campaign, the more it cost.

Stop and think of the challenge today in that context where the Senator from New York has to reach millions, tens of millions, the Senator from California even more millions than that, in campaigns this fall. And the more democratic and more inclusive those campaigns are, the more they will cost.

Cost to do what? To gain access to the voters; to get your message across to the voters. The cost is directly connected with how democratic, how inclusive, and in the case of the larger States, how big the electorate is going to be.

We come into the present century, and we find things are getting worse in terms of the high cost of reaching the voters. One of the things, paradoxically, that has driven the cost of campaigns through the roof has been the cause of campaign finance reform. The reforms themselves have added to the burden of cost on a candidate who is seeking to have access to the voters.

Again from the article:

> Some reforms, such as the push for nomination of presidential and other candidates by primaries, made campaigning even more expensive. Ultimately, the reformers' decades-long efforts to improve the American political system did at least as much harm as good. They weakened the role of parties, lessened faith in popular politics, and hastened the decline of voter participation.

I find that very interesting. A historical analysis of America's politics written in an outstanding academic journal says that it has been the reformers' efforts that have ''weakened the role of parties, lessened faith in popular politics and hastened the decline of voter participation.'' We heard on this floor this morning the statement that voter participation is going down, and the reason is because we do not have campaign finance reform; indeed, that the more money we put into politics, the less people vote and the lower the level of participation and that there is a direct correlation between the money chase and the voters being turned off.

We were told that in the State of Arizona, they just had a primary that set an all-time low for voter participation in this era when we have an all-time high in spending.

Madam President, I offer the case of my own State and what happens with respect to voter participation and money. If I can go back in my own political career, the one career I know better than any other, I can tell the Members of the Senate that the highest voter participation in history in a primary in the State of Utah occurred in 1992 when I was running for the Senate.

We had an open seat for the Senate, and originally five candidates on the Republican side and two on the Democratic side. We had an open seat for Governor, and originally there were five candidates for Governor on the Republican side, and I believe three on the Democratic side, plus an independent thrown in who ran on a third party ticket.

By virtue of the Congressman in the Second District in Utah challenging for the Senate seat, we had an open seat in Salt Lake City, the media center of the State. So even though it was not a statewide office, it nonetheless called for purchase of statewide media.

We had the largest spending amount of money in the history of the State as we went through that primary.

In the Senate primary alone—there were only two candidates, I say, because under Utah's law a convention eliminates all but two—we had the highest expenditures in the State's history. My opponent spent $6.2 million in the primary in the State of Utah, setting an all-time record for money spent per vote. I struggled by with second place in spending with $2 million, which would have beaten the previous high if it had not been for the amount of money my opponent was spending. So that is over $8 million spent on a Senate primary in the State of Utah that has fewer than 1 million voters.

At the same time, we had a heated race for Governor with primaries in both parties. Fortunately, the gubernatorial candidates did not spend in the millions that the senatorial candidates did, but they spent a lot of money for a primary. And we had spending in the House race in the Second Congressional District.

If we believe what we were told on the Senate floor this morning, that should translate into the lowest voter turnout in history, people turned off by the money chase. But in fact it produced, as I said, the largest voter turnout in the history of the State.

Mr. MCCONNELL. Will the Senator yield for a question?

Mr. BENNETT. I am happy to yield to my friend from Kentucky.

Mr. MCCONNELL. Following the astute observations of the Senator from the State of Utah, in fact that is where the correlation is, is it not? Year after year after year, we see that there is a direct correlation between spending and turnout, a fact that makes good sense. If there is a contested election, with two well-financed candidates, the turnout goes up. If very little money is spent, very little interest is generated and turnout goes down.

So I ask my friend from Utah if the Utah experience that he related to us is not almost always the case?

Mr. BENNETT. It is my understanding that it is, Madam President. And I would like to underscore that point by going to the primary in 1998. In 1998, there were no Senate candidates on the primary ballot from either party, I having eliminated my challenger within the party within the convention, and my Democratic opponent having had no challenger in his convention. We did not have a gubernatorial race. There was no challenge in the Second Congressional District, which is in the large media market.

But there was a primary in the Third Congressional District, where the incumbent Congressman was challenged by a gentleman who made it very clear that he not only would not accept PAC

money, he would not accept party contributions, he would not accept individual contributions. He said, ''I will take my message directly to the people without accepting any money''—as he put it, in biblical terms—''gold and silver, from anyone.'' And the result of that primary was the lowest turnout that anyone can recall.

His opponent did not spend any money. I talked to his opponent, the incumbent Congressman. I said, ''Aren't you going to spend anything?'' He said, ''I'm nervous it will look like overkill if I do.'' He did spend a little money on a get-out-the-vote campaign, but he did not buy any ads. There were no television broadsides and no radio ads. Most of the people in the district, by virtue of the lower spending, did not know an election was going on, and you had the lowest turnout in Utah history in that district.

So I submit, Madam President, that at least on the basis of the anecdote with which I am the most familiar, the more participation that you want, the more money you had better be prepared to spend. And if you are in fact decrying the low level of turnout and the low level of participation and you want to do something about that, then you defeat this amendment, because this amendment would take us down the road to further lowering the ability of candidates to access the voters and thereby let the voters know that an election is going on.

If I may go back to the historic pattern that I was outlining as to what has happened in this century, I would refer once again, Madam President, to the quote that I gave from the article in the Wilson Quarterly that ''the reformers' * * * efforts to improve the American political system did at least as much harm as good * * * and hastened the decline of voter participation.''

The article goes on to say:

> Twentieth-century politicking would prove to be far more expensive than 19th-century . . . politics . . . And as the century went on, politicians increasingly had to struggle to be heard above the din from competing forms of entertainment . . .

That is a very interesting way of putting it, Madam President. Politicians had to compete with the din of competing forms of entertainment. If you read the history books, there was a time when politics was the leading form of entertainment in this country. If you were going to have a rally, a bonfire, something to do, you went out and got involved in politics. As other forms of communication and entertainment came along, it became increasingly difficult.

I have a personal experience I can share on this which is perhaps not political but which makes the point. I served as a missionary for the church to which I belong in the early 1950s. And I served in the British Isles, where one of the great traditions of the British Isles is what is known as a street meeting. You stand on a street corner, you talk as loud as you can, and you hope somebody stops and listens to you.

On a good evening in the summertime, when the weather is fine, you could almost always draw a crowd. I would go down to the city square in Edinburgh, and the Salvation Army would be on that corner, and the Church of Scotland would be on that corner, and the Scottish nationalists would be over here, and I and my companions would be here.

The square would be filled with people, and you would compete with each other to see who could draw the biggest crowd and then who could hold the crowd as the other orators were speaking on their issues—the Scottish nationalists demanding that Scotland separate itself from the British tyranny, the Salvation Army putting forth—they were unfair in my book because they had a band. We did not have a band, we just had our own voices to carry it on. It was a great British tradition and still, presumably, goes on in some parts of Hyde Park in London, but I think only rarely now.

What happened to dry up the crowds that would show up and listen to the orators on politics and religion and everything else? Television. As soon they could stay home and watch television, they were not interested in coming down to the city square in Edinburgh to listen to a tall bald kid from America. However entertaining that may have been in an earlier time, all of a sudden there was competition. Politicians used to be at that square. Politicians have discovered, in the words of the article, that they have to ''struggle to be heard above the din from competing forms of entertainment.''

And how are they heard? They buy an ad. They go on television themselves. They go on radio themselves. How are they going to get access to the voters? They are going to have to compete in the same places where the voters are. It makes you feel wonderful to stand on a street corner and give an absolutely brilliant speech, if there is anybody listening.

But I can tell you from real experience, it makes you feel quite foolish to stand on a street corner and give an absolutely brilliant speech to a group of pigeons that keep flying in and out. If you are going to get access to the voters, you have to go where the voters are, and the voters are by their radio sets and in front of their television sets, and that is where you have to be, however much you might not like it.

Back to the article:

> By letting politicians appeal directly and ''personally'' to masses of voters, television made money, not manpower, the key to political success. Campaigns became ''professionalized,'' with ''consultants'' and elaborate ''ad-buys,'' and that added to the cost. So did the fact that as party loyalties diminished, candidates had to build their own individual organizations and ''images.''

I go back to the question of, Why did the party loyalties diminish? Because the reformers showed up and said, ''Parties are evil.'' It was the reform movement that diminished the power of parties, so that it did not make enough difference for an individual to win his party's nomination, he had to have his own organization, his own campaign consultants, and his own ad-buys.

Again, if I can give a personal anecdote to demonstrate this, my first experience with politics was in 1950 when my father ran for the U.S. Senate. Who managed his campaign that first year? It was the Republican State Party chairman who showed up when dad won the nomination and said, ''OK, we have a party organization in place and we are going to run your campaign.'' When my father ran for his last term in the U.S. Senate in 1968, I am not sure I remember who the Republican State chairman was, because by that time we had created our own organization—Volunteers for Bennett, Neighbors for Bennett, our own door-to-door system of handing out information. We had our own advertising budget and our own advertising program. We had to take it all over ourselves if we were going to get access to the voters in a meaningful way. And all of that costs money. It was the cost of the politicians gaining access to the voters that was going up and that was what was driving the fundraising challenge.

Then we got to what is considered the great watershed in American campaign finance problems, Watergate. The article addresses that, as well. If I might quote once again:

> Yet for all the pious hopes, the goal of the Watergate era reforms—to remove the influence of money from presidential elections—was hard and inescapable fact, ridiculous. Very few areas of American life are insulated from the power of money. Politics, which is, after all, about power, had limited potential to be turned into a platonic refuge from the influence of mammon. The new Puritanism of the post-Watergate era often backfired . . . Tinkering with the political system in many cases just made it worse.

I can offer anecdotes about that, as well. Let me give one. We heard in the hearings to which the Senator from Connecticut referred in the Thompson committee with respect to campaign finance reform, we heard there about a campaign that many can argue changed the course of American history. It was the McCarthy campaign in New Hampshire in 1968. Eugene McCarthy, a distinguished member of this body, decided against all political wisdom that he was going to challenge an incumbent President within his own party over an issue he considered to be a moral issue, the Vietnam war. Conventional wisdom said a sitting Senator does not do that to an incumbent President. The sitting Senator does not take on an incumbent President of his own party. But Eugene McCarthy did. He went to New Hampshire. He did not win, but he came close enough to scare Lyndon Johnson and his advisers so badly that within a relatively short period of time after the McCarthy challenge, Lyndon Johnson announced that

he would not run for reelection as President of the United States.

Now, we heard in the Thompson committee this bit about the McCarthy campaign. He went to five individuals, individuals of wealth, and said, ''I want to challenge Lyndon Johnson on the basis of principle; will you support me?'' And each one of those five said yes. Each one gave him $100,000. So he went to New Hampshire with a war chest of half a million dollars—which at the time was sufficient for him to gain access to the voters.

Again, the theme that I am trying to lay down here, the whole issue is not access to the politician; the issue is access to the voters. Eugene McCarthy could not have had access to the voters without that $500,000. We would, perhaps, not have had history changed the way it was as a result of the McCarthy campaign if those five men had not put up $100,000 apiece.

Now, someone connected with the McCarthy campaign testified before our committee and he gave this very interesting comment. He said those who signed the Declaration of Independence were so concerned about their Government that they were willing to pledge, in the words of that declaration, ''their lives, their fortunes and their sacred honor.'' Then he said, in today's world it would say, ''your lives, your fortunes and your sacred honor, just as long as it does not exceed $1,000 per cycle.''

Now, I think the McCarthy campaign and the result of that demonstrates how the reforms of the Watergate era have backfired, how they have made it impossible for many people who would otherwise have a message worth hearing, to gain access to the voters.

Let me give an example out of the last campaign. One of the more energetic of America's politicians is a former Member of the House, former member of the Cabinet named Jack Kemp. He brings to politics the same enthusiasm that he used to display on the football field. Sometimes he has the same suicidal motives that he seemed to have on the football field, but he plays the game with that kind of zest. Jack Kemp dearly wanted to run for President in 1996. He had run once before and he still had it in his blood and he was ready to go. I talked to Jack Kemp and said, ''Are you going to do it?'' And he said, ''No.'' I said, ''Why not?'' He said, ''I can't bring myself to go through the agony of raising the money.''

This is not cowardice on his part. If there is anything Jack Kemp is not, it is a coward. This is not lack of enthusiasm on Jack Kemp's part. It was a recognition of the fact that the so-called reforms out of Watergate meant that he could not do what Eugene McCarthy did. He could not go to five individuals and say, ''Give me $100,000 a piece to get me started.'' He had to do it $1,000 at a time. He said to me, ''BOB, I would have to hold 200 fundraisers between now and the end of the year to do it, and I simply cannot eat that much chicken.''

Mr. MCCONNELL. Will the Senator yield?

Mr. BENNETT. I am happy to yield to the Senator.

Mr. MCCONNELL. The Senator's point, I gather, is that the last reform of the mid-1970s has, in fact, secured the Presidential system to favor either the well-off, for example, Steve Forbes; or the well-known with a nationwide organization, for example, Bob Dole, to the detriment of every other dark horse who might have a regional base or some dramatic issue that they cared about, like Eugene McCarthy.

In fact, is the Senator's point that regional candidates or candidates with a cause are now out of luck as a result of the last reform?

(Mr. GORTON assumed the chair.)

Mr. BENNETT. The Senator is entirely correct. That is my point. If, indeed, we want to increase the amount of public confidence in the system and candidate participation in the system, we should remove the restrictions that now make it virtually impossible for anybody other than the well-known or the well-funded.

I used Jack Kemp as an example. The Senator from Kentucky has mentioned Steve Forbes. It is widely assumed—I have not discussed it with him directly, but I think it is probably accurate—that Steve Forbes would have backed Jack Kemp in the last election if Kemp had been able to run. It is widely assumed —and I think it is correct—that if Jack Kemp, pre-Watergate reforms, had gone to Steve Forbes and said, ''Steve, give me $1 million,'' Steve Forbes would have done it. But because he can't do it under the Watergate reforms, Steve Forbes ends up getting in the race himself because the only way he can make his money available to his causes is to spend it on himself.

The reforms we have make it impossible for him to spend it supporting anybody else, unless, of course, he does it in the terrible, dreaded form of soft money. And I will talk about that in a minute. But right now I want to focus again on the historic fact that, in the name of campaign finance reform, we have restricted rather than expanded the opportunities of politicians to get their message across. We have made it more difficult for a politician to gain access to the voters than it used to be before we had all of these reforms.

Back to the article for just a moment. A summary of this point, and one other aspect of it:

> In an age of growing moral relativism, reformers raised standards in the political realm to new and often unrealistic legal heights. Failure to fill out forms properly became illegal. This growing criminalization of politics, combined with the media scandal-mongering, did not purify politics, but only further undermined faith in politicians and government.

We are all familiar with that, Mr. President. Failure to fill out forms properly—oh boy, what a terrible sin that is, and how dearly we pay for it. I have remained silent on my own experience with the Federal Election Commission, but I suppose the time has come now for me to confess my sins. My campaign in 1992, staffed primarily by volunteers, failed to fill out some forms properly—indeed, they failed to fill some of them out on the proper timeframe. They filled them out properly, they just didn't submit them in the proper timeframe. And for that, after spending about $50,000 in legal fees to convince the Federal Election Commission that I was not some kind of an ax murderer, we finally achieved an out-of-court settlement that cost me another $55,000.

In the negotiations between my campaign and the Federal Election Commission, my attorney made it very clear. He said, ''You will settle at the amount they know is below what it would cost you to litigate this issue.'' It has nothing to do with what constitutes an illegitimate penalty; it has to do with how much they know they can get from you because you would rather spend money to have this thing over than you would spend it for legal fees. As I say, I spent about $50,000 in legal fees. The settlement figure was $55,000. It is clear that it would have gotten to more than $55,000 if I had to go to litigation, and so financially I made the decision to settle. That is another one of the fruits of reforms.

In the words of the article, ''Criminalization of politics, combined with media scandal-mongering, did not purify politics, but only further undermined faith in politicians and government.''

All right. I started this by saying the focus of this is on access to the voters. All of the debate we have had has been on how we must somehow deal with access to the politicians. Let's talk about access to the politicians for just a minute before we come back to the main theme. We are told again and again that the only reason people give any money, the only reason people make any contribution is because they want access. I will again refer to the article, but I will have other references out of a more current publication:

> Wealthy people who purchase status with payoffs to museums are admirable philanthropists. When they plunge into public service, they risk being called ''fat cats'' who want something more in return for their generosity than advancement of their notion of the public good and something more sinister than status by association. Donors are ''angels'' if they champion the right candidate or the right cause, but ''devils'' if they bankroll an opponent.

In this week's issue of Fortune Magazine, Mr. President, there is an article on money and politics that brings up to date that observation from the article I have been quoting. It talks about fundraisers for campaigns and makes this point in concert with the point that was just made:

> Conspiracy theorists will be disappointed to learn that the majority of money raisers don't seek quid pro quos. Most have made

their fortunes and dabble in politics because they are partisans and get a kick out of it.

That has been my experience. The people who give really big money—Rich DeVos of Amway, for example, for the Republicans, and a gentleman I believe named DeMont, who gave over $2 million to George McGovern and the Democrats, were not expecting an ambassadorship and not expecting to be appointed to the Cabinet. They made their fortunes; they are partisans and they get a kick out of it.

What they really crave is status and minor celebrity in the Nation's Capitol. The nastiest battles between fundraisers are often over who gets to sit next to the President or Presidential ''wannabes.'' It may seem absurd to the uninitiated, but among fundraisers, top pols are the rock stars of the beltway. In some ways, the real scandal of the White House coffees and overnights that got President Clinton in such pre-Monica trouble is that many sophisticated people were willing to raise or give so much to be little more than Washington groupies.

Buying access? It is not automatically the motive on the part of those who give. They give because they believe that this is good for the country. They believe in the cause. In this same article in Fortune, there is a specific example of one of these gentlemen—Arnold Hiatt. He is highlighted in the article. Mr. Hiatt believes in many things in which I do not believe. He is of the opposite political persuasion than I, and the article reports that:

In 1996, Arnold S. Hiatt, 71, was the second-largest individual contributor to the Democratic Party. His $500,000 gift was second only to the $600,000 given by Loral's Bernard Schwartz, who is now better known for his Chinese missile connections.

According to the article, Mr. Hiatt has decided not to give any more money to the Democrats. He gave $500,000 a month before the November 1996 election, specifically to help unseat 23 vulnerable House Republicans and return the House to Democratic control. Quoting the article:

It was the failure of his money to produce that result—not just a fit of conscience—that spawned Hiatt's change of heart. Asked why he decided to stop contributing to politicians so soon after giving so much, he admits that it was because his Democrats didn't win.

He gave the money for what he believes is a public-spirited reason, and he stopped giving to the parties because he didn't get the result that he wanted. Being a good businessman—he is the former CEO of Stride Rite, the company that makes Keds—he discovered he wasn't getting a return on his investment—not a return in corruption, not a return in access—I am sure he still has access to all the Democrats he wants—but a return on his ideological investment. He wanted the Democrats to control the House. He gave money to the Democratic National Committee. The Democrats didn't control the House so he decided to do something else.

What is he going to do? He is going to give his money directly to special interest groups. Now, according to the article, he doesn't believe that the groups to which he gives money are special interest groups; it is the groups he opposed that are the special interest groups.

The article says:

Hiatt then having gotten religion, has changed tactics. Rather than relying on the Democrats to press his agenda, he is now giving heavily to organizations like the Washington based public campaign which lobbied for publicly financed elections. Since the business interests that Hiatt so dislikes tend to have more money than the green groups he backs, Hiatt believes taxpayer funded elections would curtail the clout of the bad guys. Both the House and Senate would be controlled by the voters and less by special interests, Hiatt insists. But what he means is that Congress would be controlled by the people he agrees with.

Once again, Mr. President, the issue is access to the voters. Mr. Hiatt thought he could help get his agenda if he gave money to the Democrats. It didn't work. So he is seeking access to the voters through special interest groups. He has decided that the parties are not able to help him advance his agenda, and he is going to fund other groups to help advance his agenda. He has every right to do that. I applaud his willingness to get engaged and involved in American politics. But, if we pass the amendment that is before us, he will be curtailed, and the groups to which he contributes will be curtailed in their effort to gain access to the voters.

Mr. MCCONNELL. Mr. President, will the Senator yield for a question?

Mr. BENNETT. Yes. Certainly.

Mr. MCCONNELL. Mr. President, over the last decade, the Senator from Kentucky asked numerous witnesses at hearings on campaign finance to define what a special interest is. I say to my friend from Utah that I have not yet gotten a good answer. So I have concluded—and I ask the Senator from Utah if he thinks this is a good definition of a special interest—I say to my good friend from Utah that I have concluded that a special interest is a group that is against what I am trying to do. Does the Senator from Utah think that probably is as good a definition of special interest as he has heard?

Mr. BENNETT. Mr. President, I say to the Senator from Kentucky that is what I have heard referred to as a good working definition.

I might add to that a comment that came out of the Thompson committee hearings from my friend from Georgia, Senator CLELAND, when he talked about tainted money and the definition of tainted money in Georgia. He said, ''Taint enough; taint mine.''

Yes. Every man's special interest is the other man's noble cause.

Mr. MCCONNELL. Mr. President, in fact, I ask the Senator from Utah, was it not envisioned by the framers of our Constitution and the founders of this country that America would, in fact, be a seething caldron of interest groups, all of which would enjoy the first amendment right to petition the Congress; that is, to lobby, to involve themselves in political campaigns, and to try to influence, in the best sense of the word, the Government? And in today's America where the Government takes $1.7 trillion a year out of the economy, I ask my friend from Utah, is it not an enduring and important principle that the citizens should be able to have some influence on the political process and the government that may affect their lives?

Mr. BENNETT. Mr. President, the Senator from Kentucky is now getting into grounds that I love but that some others have sometimes scorned in this debate; that is, the basis of the free speech position of the Constitution of the United States.

If I may respond to the Senator from Kentucky by quoting from James Madison and the Federalist Papers that support exactly what he said, they didn't use the term ''special interest'' back in Madison's century. The term of art then was ''faction.''

This is what James Madison had to say:

By a faction I understand a number of citizens, whether amounting to a majority or minority of the whole, who are united and actuated by some common impulse of passion or of interest, adverse to the rights of other citizens.

That sounds like the definition of a special interest group to me.

Madison goes on to say:

There are . . . two methods of removing the causes of faction: The one, by destroying the liberty which is essential to its existence; the other, by giving to every citizen the same opinions, the same passions, and the same interests.

It could never be more truly said than of the first remedy that it was worse than the disease. Liberty is to faction what air is to fire.

Certainly we do not want to eliminate air that we cannot breathe in the name of stopping a fire that might occur, and we do not want to eliminate liberty.

So Madison makes that point.

Referring to the second, giving everyone the same opinions, passions, and interests, Madison says:

The second expedient is as impracticable as the first would be unwise. As long as the reason of man continues fallible, and he is at liberty to exercise it, different opinions will be formed.

Absolutely the Founding Fathers created the Constitution for the sole purpose of protecting the rights of every one to have his own special interest, belong to his own faction, and hold his own opinion. An attempt on the part of the Senate of the United States to destroy that right is clearly going to be held unconstitutional as it has been again and again, as my friend from Kentucky has pointed out so often on the floor.

Mr. MCCONNELL. Mr. President, I ask my friend further is it not the case that the underlying amendment which we have been debating seeks to make it impossible for groups of citizens to criticize the politician by name within

60 days of the election? Is that the understanding of the Senator from Utah?

Mr. BENNETT. Mr. President, it is my understanding that is the way the bill is written. I think James Madison would be turning over in his grave, although I think he would take comfort from the fact that the institution he helped create—the Supreme Court—would clearly strike it down.

Mr. MCCONNELL. I say to my friend, so if you have the situation that on September 3rd of a given year a group of citizens could go out without registering with the Federal Election Commission, without subjecting themselves to that arm of the Federal Government, and criticize a politician by name, but then on September 4th, I ask my friend from Utah, that would become illegal. Is that correct?

Mr. BENNETT. It is my understanding that the bill would make that illegal and improper.

Mr. FEINGOLD. Mr. President, will the Senator from Utah yield for a question?

Mr. BENNETT. Yes.

Mr. FEINGOLD. Does the Senator realize that under the Snowe-Jeffords amendment, which is included in the version of McCain-Feingold that is before the Senate, at this time there is no restriction on individuals such as Mr. Hiatt? Are you aware that was the rule by a majority vote of this body?

Mr. BENNETT. I was unaware that Mr. Hiatt would be allowed to spend his soft money for a faction. I think it is still true that he would not be able to spend his soft money for a party. Is that not the case, I ask my friend?

Mr. FEINGOLD. As I understand it, he would still be able to do it for the types of ads the Senator was indicating. The question that I would ask is, if you have a concern with regard to the bill at this point concerning individuals and groups that are not corporations or unions, the whole purpose of the Snowe-Jeffords amendment was to make it clear. And in the spirit of compromise that it would not affect what the individuals have been able to do in the past in that area, I just wanted to make sure the record is clear, because much of the comments of the Senator from Utah have to do with individuals who are not restricted in the way that the Senator has suggested.

Mr. BENNETT. Mr. President, I would suggest that individuals are seriously restricted under this bill because they cannot exercise their constitutional privilege of giving the money to a political party. Mr. Hiatt has made the choice not to give the money to the political party, if the article is to be believed solely on the basis that it didn't work, not because he was motivated by some other higher spirit. He decided to give the money directly to a faction because he thought it would be more effective.

If this bill passes, as I understand it, Mr. Hiatt would be prohibited from changing that decision. That is, if he were to decide that, ''Gee, I could make things better if I gave it directly to the political party, I want to go back to what I was doing before,'' he would be prohibited from doing that on the grounds that this is soft money, and he is forced by the law to give his money to a special interest group rather than to a political party or to a political candidate.

This puts us in the position of paradoxically strengthening the hands of special interest groups at the expense of political parties and political candidates. This puts us in the position of saying that eventually political discourse in this country will go the way that it is going in California. I lived in California for long enough to know that the California pattern of putting issues directly on the ballot with no spending limitation whatsoever eclipses elections for candidates. The amount of spending that went on in the last California election on the various referenda vastly outstripped and eclipsed the amount that any candidate was able to spend. And if we get to the point where political candidates are squeezed out of access to the voters by groups funded by people like Mr. Hiatt who have unlimited amounts to spend, we are going to be in great difficulty.

Mr. FEINGOLD. Mr. President, I have a question about that very point. Mr. President, I thank the Senator from Utah. Many of his remarks were devoted to the proposition that Mr. Hiatt couldn't give to various groups; independent groups.

Mr. BENNETT. I didn't say he couldn't give to various groups.

Mr. FEINGOLD. I believe I heard several comments to the effect that he would be prevented from doing that. I just want the record clear that the only concern the Senator from Utah has at this point in light of the effect of the Snowe-Jeffords amendment is the amendment's effect on what he can give to parties.

Mr. BENNETT. Exactly.

Mr. FEINGOLD. I want that clear for the record.

Mr. BENNETT. Sure.

Mr. FEINGOLD. Because I was not certain in light of your remarks.

Mr. BENNETT. That is not the only effect. If I can repeat once again, this bill, in light of the Snowe-Jeffords amendment, would hasten the day when people would abandon candidates and abandon parties and give their money directly to special interest groups, as Mr. Hiatt has voluntarily decided to do in this situation, and I think that would be tremendously deleterious to the cause of worthwhile political discourse in this country.

I pause at this example. Let us suppose that in the State of Utah the Sierra Club were to decide that their No. 1 goal was to drain Lake Powell. Indeed, they have announced many places that that is soon to be their No. 1 goal.

## CONSUMER BANKRUPTCY PROTECTION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 4:30 p.m. having arrived, the Senate will now begin 30 minutes of debate on the motion to proceed to S. 1301, which the clerk will report.

Mr. BENNETT. Mr. President, I ask unanimous consent that I be allowed to finish my thought.

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

Mr. FEINGOLD. Mr. President, reserving the right to object, I ask that I be given the opportunity to respond briefly to the Senator's remarks.

The PRESIDING OFFICER. Is there objection?

Mr. BENNETT. I withdraw my request and suggest the absence of a quorum.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. BENNETT. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued the call of the roll.

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

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

The clerk will report.

The legislative clerk read as follows:

Motion to proceed to the consideration of Calendar No. 394, S. 1301, a bill to amend title XI, United States Code, to provide for consumer bankruptcy protection, and for other purposes.

The PRESIDING OFFICER. Time for debate between now and 5 p.m. will be equally divided between the Senator from Iowa and the Senator from Illinois, Mr. DURBIN.

Mr. GRASSLEY. Mr. President, I yield myself such time as I might consume from my portion.

The PRESIDING OFFICER. The Senator is recognized.

Mr. GRASSLEY. Mr. President, I want to say a few words today before we have our cloture vote on S. 1301, and that is the Consumer Bankruptcy Protection Act. That is going to occur, as stated by the Chair, at 5 o'clock. We are going to vote at that time on whether we can even consider this very important piece of legislation that is called the Consumer Bankruptcy Protection Act.

As I said yesterday, I think the necessity of having a cloture vote and the objection to taking this bill up was a desperation tactic. If the opponents of reform want to fight reform, let's have a fight about the merits of bankruptcy reform. I would like to get to the bill. I would like to have everybody vote for cloture on the motion to proceed, and then we are there debating this legislation. When we get to the bill, I want to

assure everyone that I am going to work hard to further accommodate concerns expressed by members of the minority. I have proceeded in this fair way since we started to consider bankruptcy reform, and we have been at this at the subcommittee and committee level probably almost a year to this point.

In subcommittee, when we marked up the bill, I personally saw to it that many of the changes which my distinguished ranking minority member, Senator DURBIN, wanted were inserted into the bill, and at the full committee markup I worked with Senator HATCH to ensure that a number of Democratic amendments were offered. I did not accept these provisions because I supported them or thought these provisions were the best policy choice. I accepted these amendments out of a desire to accommodate the concerns of the Democratic Members. So there is no reason for them to filibuster this bill at all. If the Democratic Members want to be respected, then it seems to me that the members of that party also have to act responsibly when those of us in the majority go out of our way to accommodate the concerns of the minority. There is no need to clutter up the bill with amendments that are totally irrelevant or unrelated to the issue of bankruptcy.

For instance, I have heard that the issue we just left, campaign finance reform, might be offered. I have heard that the minimum wage bill might be offered. I have heard that it is health care reform, that any or all of these could be added to this bill. That is why we have to vote for cloture now and, later on, on the bill. Otherwise, without imposing cloture, the bill becomes a vehicle for people who oppose reform to load this bill up with excess baggage.

As I have said repeatedly here on this floor, the American public overwhelmingly favors bankruptcy reform: 68 percent of the people in a national poll; in my State of Iowa, 78 percent of the people. So let's stop playing games and get to the business of the country. The cloture vote is one of the key votes on bankruptcy reform. A vote against cloture is a vote against a piece of legislation that deals head on with an issue of extreme national importance. The Consumer Bankruptcy Reform Act that we have before us, or will have before us if we vote cloture, is fair and balanced. It passed out of the Judiciary Committee on a 16-to-2 vote. How could a bill that got out of committee 16 to 2 be subject to a filibuster? So, let's get to the bill and, hopefully, pass it.

The Consumer Bankruptcy Reform Act is a bipartisan effort. It is a bipartisan effort which keeps the best of old law while curbing abuses. S. 1301 continues to help those who need the protection of the bankruptcy laws but implements measures to screen out those who use the bankruptcy system to avoid paying debts that they can afford to repay.

The fair nature of this bill is represented by the overwhelming bipartisan support that it received in committee. The near unanimous consensus of the committee action reflects a belief that something must be done to curb the skyrocketing rate of bankruptcies, which reached an all-time high last year, and that this bill is thus a necessary step in restoring common sense to our bankruptcy laws and the system of bankruptcy.

As the prime sponsor of this bill and chairman of the subcommittee with jurisdiction over bankruptcy, I went out of my way to make sure the minority was treated fairly. At my hearing we invited every witness the minority requested. And every time my distinguished friend, Senator DURBIN, sought to insert language into the bill, I personally saw to it that his desires were accommodated. The only time that I could not accommodate his desires was sometimes he asked for certain language to be deleted.

American business lost around $40 billion last year as a result of bankruptcies. This translates into a hidden tax of $400 per family. We need to cut this hidden tax and put more money into the pockets of American families. We do this by reducing or eliminating the costs that we have of goods and services in America to every family of four by a figure of $400.

Efforts to burden this bill with minimum wage and other completely unrelated amendments ought to be resisted. This bill is too important and time too short to allow political stunts and unrelated side issues to impede or delay its passage. As I said, 68 percent of the American people support bankruptcy reform. In its letter to the Judiciary Committee, the administration of President Clinton indicated its support for reform, and I thank the President and his people for helping this legislation along. I think there is a real consensus that now is the time to act. We have a fair, effective, bipartisan bill which deserves to be considered. As I said, we are willing to work with the minority to accommodate their concerns even further.

It comes down to this. Do the Members of this body support bankruptcy reform? Will they vote for cloture today? And will they also follow on voting for cloture of the bill itself? I ask my colleagues to vote ''yes'' at 5 o'clock.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, let me say at the outset, I am going to support this motion for cloture to proceed on the bill because I agree with my colleague and friend, the Senator from Iowa, that this is an important issue that should be addressed by this Congress. He has been eminently fair in all of his dealings with me on this legislation. Being a member of the abject minority, I appreciate that, and that sort of fairness I hope will be rewarded in the passage of a bankruptcy reform bill which both Senator GRASSLEY and I will be proud of.

I am hoping during the course of this debate we can point out those areas of the bill that need to be addressed and address them in a responsible way. I think this is, at its heart, a good bill. I think there are some elements of it which can be changed and improved to make it better.

Let me address at the outset his frustration, and mine, too, over the fact that this bill may become a vehicle for other issues. First, why is this necessary? Why would any Senator want to come and put a measure such as an increase in the minimum wage on the bankruptcy bill? It does not seem to follow very closely. I guess there is some connection to it, but by and large you would think we could vote separately on the minimum wage bill. The honest answer is, we should. The honest answer is, we cannot. The Republican leadership refuses to afford an opportunity for many of the more serious measures that have been brought before this Congress to be considered. Some of my colleagues, in frustration, look for virtually any bill, any vehicle, to move important measures such as reform of HMOs, campaign finance reform, or an increase in the minimum wage. I hope, while Senator GRASSLEY and I address the merits of this legislation, that the Republican and Democratic leadership in a bipartisan fashion can come to an agreement as to the proper time and place for us to consider important measures such as an increase in the minimum wage.

Having said that, let me address the issue of bankruptcy reform. As I mentioned the other day, it is truly an area that deserves our attention. The dramatic increase in the filings in bankruptcy in America suggest that we should look at the bankruptcy system. We have tried to do that in the committee, both in the full committee and the subcommittee. We will address it again on the floor of the Senate. There are many people who have many explanations for the increase in the filings in bankruptcy. One of the most cogent explanations that I have found is demonstrated by this chart.

Why do more people file for bankruptcy in a time when the American economy is expanding and more jobs have been created, people are building homes and starting businesses, and inflation is down? Why in the world would more people be filing for bankruptcy? I think this chart answers that question. Bankruptcy cases track consumer debt. As Americans become more deeply indebted, particularly unsecured debt—not their home or their car, but unsecured debt like credit card debt—they become more vulnerable. One bad occurrence in a person's life—the loss of a job, a divorce, a serious illness in the household —and they find themselves pushed over the edge. A lot of people find that as their debt increases they are more vulnerable to bankruptcy.

Just look at this chart which tries to track the number of filings in bankruptcy per capita along with the debt-to-income ratio. It is no surprise to me that they are in lockstep. So the credit industry that comes to us and talks about bankruptcy reform must accept some share of responsibility for the increases in filing.

Who are the people filing for bankruptcy? There are clearly exceptions to the rule, but if you look at the average person filing for bankruptcy, you will see that consistently the income of the person filing for bankruptcy has been descending, going down over the years; the average income in 1997, $17,652. These are people who are making less than $10 an hour who are filing for bankruptcy. So they are not the fat cats, the ones who are going to the canny attorneys who can find some way to bring them to bankruptcy court. These are genuinely low-income Americans. The average debt of the person filing for bankruptcy is about $28,000. That is the average.

What this bill tries to address is not that average person but the person who is the exception filing for bankruptcy, the one who is, perhaps, trying to take advantage of the system.

The reason this debate is important—and I hope my colleague, the Senator from Iowa, will note in the information that we have shared with him—is our belief that we should address not just the bill as it is written and some changes in it but some other aspects of this question. I do believe, as does Senator SARBANES of Maryland and Senator DODD of Connecticut, who are joining me in offering an amendment, that we should call on the credit card companies to accept more responsibility, too. If the people who are incurring debt are asked to be more responsible, so, too, should these companies.

How many credit card solicitations have you received in the last month or two? You almost have to shovel them away from the mailbox. Whether you have asked for it or not, a lot of people want to offer you credit, perhaps more credit than you should have. Time and again, more people take these credit cards and get more deeply in debt and then struggle to find a way to pay for them.

I also think we have to address the billing system, the minimum monthly payment on your credit card. I think the credit card companies should tell you how long it will take to pay off your balance and how much interest you will pay if you pay the minimum monthly amount. Is that unreasonable? I think it is only fair. It really gives a person at least some sobering message, perhaps, that they cannot continue to pay the minimum monthly balance and expect to ever come out of debt.

Finally, you may not realize it but some of the credit cards that we own, when we go to charge on a purchase, establish a security interest. What does that mean? It means that if you find yourself in hard times, the credit card company can claim the item you purchased. You didn't know that? A lot of people do not. I don't think it is unreasonable that the credit card companies make that disclosure.

We also want to make sure the credit card solicitations are done in an honest way. We find a lot of people, and some nonhumans, I might add, who are receiving credit card solicitations who should not—people who are mentally incompetent, people who are too young to own a credit card in any State. I think this needs to be cleaned up.

We also need to protect retirement income in bankruptcy. If you file for bankruptcy, did you know your 401(k) plan is protected but your IRA is not? Why would that be? One of the amendments we are offering is to make sure that there is equal treatment of retirement income.

We also want to change the area of farm bankruptcy. That has not been touched in 15 years, and it should be.

In the area of reaffirmations, when it comes to the debts that the creditor should convince you that you shouldn't step away from, you should still accept responsibility for, let's make a level playing field. Let's make certain there is not too much pressure on the debtor.

We also talk about tax returns with this bill. As it is written, if you walk into bankruptcy court and file a petition and do not produce within 65 days your income tax returns for the previous 3 years and your pay stubs for the previous 6 months, you are thrown out of court. I asked the Internal Revenue Service, if I asked for my income tax returns, how long would it take me to receive them? They said 60 days, if you are lucky. But you ask somebody who writes to the IRS, and they tell you it takes a lot longer. We ask that there be some provision in the bill that is sensitive to this.

One of the other areas of the bill says you can't file for bankruptcy unless you have been to a consumer credit counselor. That sounds reasonable, but the consumer credit counseling industry came to us and said, ''We can't handle this. We can't handle over 1 million people coming through our doors each year. We can't be the threshold for bankruptcy court.'' That is what this bill does. I am afraid it goes too far.

Another thing that concerns me is, in bankruptcy there are certain categories of debt that are protected. One of them is the area of child support. If we are going to have a mother with children, who was perhaps involved in a divorce and now relies on child support, receive enough money to raise her children, we can't send her into a bankruptcy court that diminishes her ability to recover those child support payments. Unfortunately, this bill does.

I have just outlined a handful of the amendments that we think are important to make this a better bill. I believe that my colleague, the Senator from Iowa, is going to accept some of these or some form of these, as he has been very responsive and open in the past to talk about some changes, constructive changes in the bill.

When it is all said and done, I believe we can pass a good Bankruptcy Reform Act, one that is a credit to both parties that have been involved in this debate, and particularly a credit to the chairman of the subcommittee who has worked so long and hard on this measure.

Mr. President, I yield back the remainder of my time.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Four minutes, 52 seconds.

Mr. GRASSLEY. I probably will not use all that. I can yield back some time. I will comment briefly.

First of all, in order to get to the point where Senator DURBIN needs to be to get consideration of his amendments, we have to get through this cloture vote and a cloture vote on the bill so we can get down to talking about these very serious matters.

Many of the things that Senator DURBIN has stated that he is interested in changing I would not want to say right out that I agree with every one of those. Some of them, I think, maybe go a little bit too far, but I have not seen—maybe I shouldn't say I haven't seen any, but I have seen few issues that he brought up in the course of the last year as we constructed this bill, that it wasn't possible for us to work out a lot of differences, particularly for those things that are included in the bill.

As I said in my opening remarks, some things that he wanted removed, we didn't remove. I look forward to that opportunity, if we get it by getting through two cloture votes, to sitting down with Senator DURBIN and some of his colleagues on his side of the aisle who now have an interest in this legislation to see what we can work out and even minimize the number of votes or the length of debate we ought to have on this bill.

I will make one comment about one of the things Senator DURBIN made reference to about opposition from the National Foundation for Consumer Credit to some of the ideas of Senator SESSIONS. To Senator SESSIONS' credit, he did work out some compromises that needed to be done. We have a letter dated August 6 from the National Foundation for Consumer Credit that says that they support those provisions of the legislation as well, and there is a copy of that letter to Senator DURBIN.

I think we have a process here that has worked so well. If you would stop and think—and Senator DURBIN has worked in this spirit—for the years I have been on this subcommittee, either as chairman or as ranking member—and I served 16 years with the predecessor of Senator DURBIN, and that was

Senator Heflin from Alabama—there has not been a single piece of bankruptcy legislation to get through this body in that 16-year period of time that didn't have the cooperative effort of the Democrat chairman or ranking member and the Republican chairman or ranking member, depending on who was controlling the committee at that time in history. That reputation has been continued through Senator DURBIN at this point.

If we can just get everybody on Senator DURBIN's side of the aisle to be in that same spirit that has promoted good bankruptcy legislation through this body for that period of time, we can be successful, not only with this piece of legislation, but also to emphasize that this is a needed piece of legislation. Even Senator DURBIN, working with us, has helped us develop the first major change in legislation to be considered on the floor of this body since the passage of the 1978 bankruptcy law.

I hope that the spirit that former Senator Heflin of Alabama and I have worked in, and has been continued by Senator DURBIN and me thus far, can be fully accepted by people from his side of the aisle. I know he has to satisfy a lot of interests. I even have, I say to Senator DURBIN, some interests on my side that are not satisfied with the legislation we brought out of committee. So I have some problems with which I have to work.

The point is, if, since 1981, this effort can be successful, it can be successful this time. I just plead with everybody who might want to filibuster this for some extraneous issues that probably can be brought up in some other way on other bills that would satisfy the Senate majority leader, we can get there.

I urge, as Senator DURBIN has, a very positive vote on this. I hope it will be followed, assuming we are successful this time, with a positive vote later this week on cloture on the entire bill.

I yield the floor, and I yield back what few seconds I have remaining.

CLOTURE MOTION

The PRESIDING OFFICER. All time having been yielded back, the hour of 5 p.m. having arrived, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 394, S. 1301, the Consumer Bankruptcy Protection Act.

Trent Lott, Orrin G. Hatch, Charles Grassley, Arlen Specter, Strom Thurmond, Connie Mack, Ben Nighthorse Campbell, Thad Cochran, Tim Hutchinson, Wayne Allard, Christopher Bond, Rod Grams, Rick Santorum, Chuck Hagel, Larry E. Craig, and Jon Kyl.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 1301, the bankruptcy bill, shall be brought to a close? The yeas and nays are required under the rule. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. ABRAHAM). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 99, nays 1, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—99

| | | |
|---|---|---|
| Abraham | Feingold | Lott |
| Akaka | Feinstein | Lugar |
| Allard | Ford | Mack |
| Ashcroft | Frist | McCain |
| Baucus | Glenn | McConnell |
| Bennett | Gorton | Mikulski |
| Biden | Graham | Moseley-Braun |
| Bingaman | Gramm | Moynihan |
| Bond | Grams | Murkowski |
| Boxer | Grassley | Murray |
| Breaux | Gregg | Nickles |
| Bryan | Hagel | Reed |
| Bumpers | Harkin | Reid |
| Burns | Hatch | Robb |
| Byrd | Helms | Roberts |
| Campbell | Hollings | Rockefeller |
| Chafee | Hutchinson | Roth |
| Cleland | Hutchison | Santorum |
| Coats | Inhofe | Sarbanes |
| Cochran | Inouye | Sessions |
| Collins | Jeffords | Shelby |
| Conrad | Johnson | Smith (NH) |
| Coverdell | Kempthorne | Smith (OR) |
| Craig | Kennedy | Snowe |
| D'Amato | Kerrey | Specter |
| Daschle | Kerry | Stevens |
| DeWine | Kohl | Thomas |
| Dodd | Kyl | Thompson |
| Domenici | Landrieu | Thurmond |
| Dorgan | Lautenberg | Torricelli |
| Durbin | Leahy | Warner |
| Enzi | Levin | Wellstone |
| Faircloth | Lieberman | Wyden |

NAYS—1

Brownback

The PRESIDING OFFICER. On this vote, the yeas are 99, the nays are 1. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The pending question is the motion to proceed to S. 1301, the bankruptcy reform bill.

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for 10 minutes.

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

## TRIBUTE TO KIRK O'DONNELL

Mr. KERRY. Mr. President, I want to pause for a few moments to acknowledge that many of us, particularly those of us from Massachusetts, are feeling the loss this week of one of our Nation's most savvy political strategists and one of our most contributing and admirable citizens. Kirk O'Donnell was a man who lived his life in a way that proved not only can you work in politics without losing your soul but that politics from Fields Corner in Dorchester to city hall in the heart of Boston, all the way up to the lofty office of the Speaker of the House of Representatives, can in fact be a most honorable profession.

Mr. President, we all know that we live in very difficult political times, where endless cynicism seems to find too many citizens turning away from political dialog that they seem to find disappoints them. But Kirk O'Donnell, through every fiber of his body and in every step that he took in life, reminded us that political parties can stand for a set of ideals and that politics can still be an art form mastered in order to advance the common good—not individual good, but the common good. That is what Kirk always fought for.

Like so many of us in Massachusetts—and many are Republicans—Kirk O'Donnell was a Democrat by birth. But through his decades in public service he became a Democrat by conviction and a Democrat by sacrifice and by life work. The young man who fell in love with football at the Boston Latin School and at Brown University—so much so that at Boston Latin he was enshrined in their sports hall of fame—found his passions attracted him to an equally rough and tumble game on the field of Boston politics.

Kevin White's 1970 campaign for Governor in Massachusetts inspired Kirk to get involved in politics for what he thought was a ''brief stint.'' That ''brief stint'' became a remarkable career. When Kevin White made good on his promise as mayor of Boston to ''bring city hall to the neighborhoods,'' he turned to Kirk O'Donnell to run his Fields Corner little city hall. From his office in a trailer, Kirk brought city government to street corners, to newsstands, and to neighborhood picnics. He knew how important it was to show his fellow Bostonians that government worked for them, if only they knew how to work within the system. And within that system, Kirk was their devoted guide. Tip O'Neill could not have chosen a more dedicated or more skillful individual to be his counsel than Kirk O'Donnell, a man who said, in his own unassuming way, ''if you can understand Fields Corner, you can understand Congress.'' Kirk was right—and Tip O'Neill knew it. For 8 years, it was Kirk O'Donnell who gave the Speaker the extra set of eyes and ears he needed to hold a Democratic majority together in spite of all of the force of President Reagan and the Reagan era. Kirk talked with Members of Congress the same way he would with a friend of 20 years or a constituent in Fields Corner or West Roxbury—warm, honest, straightforward. Tip O'Neill knew that in Kirk O'Donnell he had found a true friend.

Thousands of people to this day will tell you they were friends with Tip O'Neill, the Speaker. Tip O'Neill was a politician who never forgot a name and

loved to talk with everyone he met. He had more than his share of friends and acquaintances. But Kirk O'Donnell was a special kind of friend and so it was that he was one of the few asked to help carry Tip O'Neill's casket when our beloved Speaker passed away. That gesture alone spoke volumes about the kind of relationship forged between the older, wiser, more experienced Tip O'Neill and the younger, idealistic, and committed Kirk O'Donnell.

Even after he lost his friend, Tip O'Neill, Kirk kept fighting for the Democratic Party and the causes in which he believed so strongly. He breathed life into the Center for National Policy, leading seminars and meetings with Democratic activists, supporters, and even with those who Kirk believed might someday run for office. His message always came from the heart—Democrats stand for something, something real, something which could not be measured alone in an election. And he cared passionately about that something. On the darkest days for our party—and he went through some—Kirk reminded us to never give up the fight. He knew the importance of staying involved, of staying committed. He understood the full measure of democracy—and tried to bring it to others starving for freedom through his work in the National Democratic Institute for Foreign Affairs. Wherever, Kirk went, his message was the same; find out what matters to you and never stop fighting for it.

Kirk O'Donnell never forgot what really mattered in life. More than anything that was his devotion to his family—to his wife of 26 years, Kathryn Holland O'Donnell and their children, Holly and Brendan. That devotion was absolute.

I am proud to say that Brendan was going to join us as an intern in our office. Now that may be somewhat delayed, but, obviously, we look forward to the day when he will be there with us continuing in his father's footsteps.

Whenever I ran into him either in Washington, DC, or in Massachusetts, Kirk's first question wasn't about politics; he always asked me how my daughter was enjoying her education in his alma mater, Brown University. And he was always quick to share with me his latest story about his own daughter—Holly's experience on that same campus, or the story of the last trip to Foxboro Stadium with his son Brendan to watch Patriots football. It goes without saying that as much as all of us will miss him, obviously we feel the special pain that Kathryn, Holly, and Brendan feel at this time with their lost which is so much greater.

Today, we remember Kirk O'Donnell with words that cannot do any justice to a life that was both tragically short and joyfully filled with meaning and with accomplishment. We will miss Kirk O'Donnell, a friend and an adviser to all of us in Massachusetts politics and in the Democratic Party. But we know that his spirit will continue to inspire us with the faith that he had in our common ideals as Americans and in his commitment to working to make life better for other people.

I thank the President.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. KERRY. I yield to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank our friend and colleague for his superb recollections and comments about this son of Massachusetts, Kirk O'Donnell. Kirk O'Donnell was really a committed public servant right from the earliest days. He started out as a schoolteacher. He came from a working-class family. He entered politics. He served with great distinction, as the Senator has pointed out, with a great friend of both of us, Congressman O'Neill, in a very significant time in the history of this country. And then after our friend and colleague, Speaker O'Neill, left, Kirk O'Donnell went to run the Center for National Policy. He kept his interest in public policy, believing that public policy can make a difference in people's lives.

He really was an extraordinary human being in his common sense, his good judgment and his real desire to advance the common interests of working families in our State.

So I wish to commend my colleague, Senator KERRY, for bringing this matter to the Senate. This man was a very rare human being, a rare individual, a very loving person, certainly for his wife and his family but also to his friends. He also cared very deeply about the condition of the people that he met over his journey of life. He had a strong commitment to make this world a better world and our State of Massachusetts a better State.

I thank my colleague for bringing these remarks to the Senate. I commend these remarks to our colleagues and to his family because we miss him not only as a friend, but as an extraordinary public servant. We should not let his name and his memory leave us. Those who knew him and loved him will certainly carry his memory in their hearts throughout their lives.

I thank the Senator.

Mr. KERRY. Mr. President, I thank my colleague. We both benefited enormously from the generous friendship of Kirk O'Donnell and from the remarkable quality of wisdom he had well beyond his years, great common sense, great roots in the streets, the city that he worked for, and of the State that he loved, and we will both miss him. I thank the Chair.

## CONSUMER BANKRUPTCY PROTECTION ACT—MOTION TO PROCEED

The Senate continued with the consideration of the motion.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER (Mr. COATS). The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I understand the parliamentary situation, we are in the post-cloture period, which allocates up to one hour to each Member of the Senate. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KENNEDY. Mr. President, I yield myself such time as I might use.

Mr. President, we have just a few moments ago decided as a Senate to consider the bankruptcy legislation that was reported out of the Judiciary Committee a few weeks ago. I mentioned at the time that this measure was being considered by the leadership, that I had hoped we would have the opportunity at the time that the leadership was considering calling up the bankruptcy legislation to consider other legislation that had been pending for some period of time.

The legislation that I was hoping would be considered is the Patients' Bill of Rights. It has been introduced by the Democratic leader, Senator DASCHLE, and supported by a number of us. Or, alternatively, I had hoped that the Senate would have been able to accept the proposal of the minority leader, Senator DASCHLE, that we would lay down before the Senate the Republican managed care proposal that passed the House of Representatives in July. This would have provided us with an opportunity to debate an issue that is enormously important to families in this country.

I mentioned before, the bankruptcy legislation deals with 1,200,000 people or occasions in this country per year. The Patients' Bill of Rights, however, affects 160 million Americans. The concerns that these families have are very real and very powerful.

Time and again, we hear of insurance company abuses that cripple or kill patients in states around the country. Yet, the response of the Republican leadership has been, well, you can either take it or leave it. That's it. Take the alternative that is advanced by the Republican leadership—which allows one vote on Senator DASCHLE's bill, one vote on the Republican bill, and perhaps three other amendments, but no more than those amendments in number that are designated by the majority leader—or leave it and do nothing. Mr. President, this proposal effectively gags the Senate from having full debate and discussion on this legislation. But, we have been told that was the position of the leadership and that was what we were going to be stuck with.

Mr. President, this is unsatisfactory because it excludes the opportunity to debate the major differences that exist between the Republicans and the Democrats on the issues of health care.

I have here before me a comparison of each of the patient protection bills—the proposal that has been advanced by the Republicans, and also the Patients' Bill of Rights proposal introduced by the Democrats. At the heart of this debate is a very simple concept: Are medical professionals, the doctors and nurses, going to make the health care decisions that affect patients? Or are

insurance company accountants going to make those judgments and make those decisions, which is the case in too many instances in our country today? We believe that in all of these circumstances medical decisions ought to be made by the health professionals who have been trained, qualified, and certified to be able to deal with the health care challenges that will affect our families in this country.

We believe there should be a prohibition on gag practices; access to emergency rooms when there is a need for services, which is not guaranteed in too many instances today; access to the Ob/Gyn providers; the ability to keep your doctor; and guaranteed access to the specialists, including out-of-network providers, when those needs are important.

We believe that there should be standing referrals to specialists or that specialists should be allowed to act as primary care providers when that is important for particular patients, such as cancer patients, or persons with disabilities or HIV; the ability to have access to doctor-prescribed drugs when the various formularies override a physician's decision; and access to clinical trials, which are absolutely essential for patients who have life-threatening conditions—such as breast cancer—that have failed to respond to conventional therapies. The failure to promote and cover routine costs for participation in these clinical trials is something that the Senate ought to make some judgment and decision about.

The interesting point about clinical trials is that it really is not more costly to the HMOs, because the drug and biotechnology companies or the government continue to assume the burden for the experimentation. The HMOs are simply asked to shoulder their fair share of the routine costs that the patient would incur anyway. So it really is not costly to the HMOs to guarantee this access to clinical trials. We ought to have the opportunity to debate that here on the floor of the U.S. Senate.

We ought to be able to ensure there is going to be protection for patient advocacy, and that we are going to have information on plan quality. People need to understand which plans present themselves to be quality plans, and which do not. And, perhaps most importantly, there should be a clear right to a timely and independent appeal process and the ability to hold health plans accountable for their actions. These are the areas of public policy that we ought to have an opportunity to debate and discuss.

We have not heard from the Republican leadership what particular aspect of this list, which basically includes the President's reservations about the Republican proposal, that they object to. All they say is: We are not going to debate it. We are not going to discuss it. You can get one amendment, two amendments, three amendments, but we are just not going to tie the Senate up to debate these particular measures, even though these are the items which have been embraced by not just Members of the U.S. Senate but by nearly 190 organizations across this country that represent—who? Represent the Congress? The Senate? No. They represent the doctors, represent the nurses, represent the researchers, represent the patients and consumers.

Nearly every single major and minor consumer group has effectively endorsed the proposal that we have advanced, and we have not heard of a single group that has endorsed or embraced the Republican proposal—not one. Not one. They do not have a single group—doctors or patients or nurses or health delivery professionals—that endorses their proposal. All of them endorse ours. Yet we are told by the Republican leadership that you are going to be denied the opportunity to even raise these issues in an orderly way, to have debate and discussion and an outcome decided on the floor of the U.S. Senate.

These are the areas that need to be discussed. These are the gaps in the Republican bill. Some of them probably could be worked on through an agreement—not a great number. But they certainly are the ones that have been mentioned and identified by the health professionals in this country that are essential if we are going to provide quality health care for the American people. And we are denied this. We are being stonewalled, those of us who believe the patients' interests should be advanced. The Republican leadership have closed us out. They say, ''No. No.''

They don't mind getting consideration for the bankruptcy bill. They don't say we will take the bankruptcy bill up, but there are only X number of amendments. No. They just went ahead and scheduled the bankruptcy bill, which, interestingly, is supported by major financial institutions and credit companies that have spent over $50 million in support of the legislation. Whom does that bill protect? It protects the banking and the financial interests over, I believe, the interests of the consumers. So we have seen that legislation that protects big business is on the fast track, and the legislation that protects patients and families is being denied the floor of the U.S. Senate for debate and discussion.

I do not think, in the remaining time that we are here, outside of the various appropriations bills, there is any piece of legislation that is more important than this legislation. But we have been in a constant position now, for week after week after week, month after month after month.

We were denied the opportunity to get even a markup in the relevant committee, in the Human Resources Committee. We were denied an opportunity to consider this as an amendment on other legislation. We have been denied the opportunity to have a full debate and discussion. We are told, ''You take it or leave it. You take the three-amendment strategy or you just do not get any debate or discussion.'' That is not satisfactory. Although the leadership has been able to prevent us from the opportunity of having that kind of debate and discussion up to this period of time, they will not be successful in denying us the chance to have the kind of debate that we need in order to protect the consumers of this country.

So I think we have, again, missed an extraordinarily important opportunity to do the public business, to do the people's business, to try to do something about the quality of health care for the American people. We here this evening would like to give the assurance to the American people, as the leader has, as our Democratic leader has, that we will have the opportunity one way or the other to have consideration of this legislation before we adjourn. We should be able to do it in the way in which we deal with important legislation, where we call the legislation up and move toward the consideration of these various amendments, trying to work through a timeframe to get the final resolution. The Democratic leader even indicated that we were prepared to deal with these issues at nighttime, at 6 o'clock tonight, 6 o'clock in the evening. There is no reason in the world that the Senate of the United States should not work tonight, from 6 o'clock to 10 o'clock, for the next 4 hours, debating these particular issues, and do so tomorrow night, too. We could have done it last night as well. There is no reason, no reason in the world. If we believe this legislation is important, why aren't we here debating this issue tonight? What is so important, in terms of Members' schedules, that we are not debating or discussing this?

I have been in the Senate for a period of time and we have had evening sessions. We have had two-track sessions many, many times. At this time in the session when there is important legislation to consider, Senator DASCHLE has proposed that to the majority leader, saying, 6 o'clock this evening, why aren't we out here considering and debating these issues tonight for 3 or 4 hours and having resolution of those? But we have been told no, we cannot do that either. We cannot take the time this evening or tomorrow evening, or Friday evening, or next week, or any of the evenings of next week to try to deal with the issues on the Patients' Bill of Rights—no. We are told we will not do it. You are not entitled to have that kind of debate and discussion. Evidently, the public interest with regard to health care will not be considered by the Republican leadership.

So we will be forced, as the leader pointed out, to take the extraordinary steps that can be taken from a parliamentary point of view to move ahead and consider this at another time. We will continue to press the leadership for that consideration, because we believe that this issue is of such overpowering importance to children, to women, to grandparents, to

members of the family, and it is essential that we deal with it. And we will, as our leader has pointed out.

Now, we are told, as we are moving towards the consideration of the bankruptcy legislation, we will have a cloture motion filed so we will not be able to have debate on various amendments that are relevant to the issue at hand. They may not fall within the particular framework of the technical provisions of the cloture motion. So we are facing the prospect of another cloture vote coming up on this Friday.

I am hopeful that we will be able to consider, on that particular piece of legislation, a modest increase in the minimum wage. But we are told that the leadership will not permit a debate or discussion on any increase in the minimum wage.

I have been asked why we should consider having an amendment on increasing the minimum wage on this legislation. I have been asked, what is its relevancy to bankruptcy? The fact of the matter is that the average wage of people filing for bankruptcy is just over $17,000 a year. One of the principal reasons that individuals file bankruptcy is because their income has declined—their purchasing power has been reduced. No one in this Nation has seen a greater decline in their purchasing power than minimum wage workers.

Mr. President, I have here a chart that reviews where the minimum wage has been in the past 40 years.

As we can see, the real value of the minimum wage went up to $6, and then to $6.50, until it reached $7.38 in the mid to late 1960s. Again, it bounced up and down through the 1970s at about $6 or slightly above. Then we saw a continued decline down to $4.34 in 1989. We saw an increase again in 1991 and then the increases in 1996 and 1997 which brought it up to $5.15.

The proposal I have made will increase the minimum wage in two stages—50 cents on January 1, 1999 and 50 cents on January 1, 2000. That will bring the nominal value of the minimum wage to $6.15, but the real value, because of inflation, will be only $5.76.

Even if this body accepted the increase in the minimum wage, we would still be well below the historical value of the minimum wage for some 20 years in the 1960s and 1970s. These individuals on the lower rung of the economic ladder, the men and women who work 40 hours a week, 52 weeks of the year, hard-working men and women trying to provide for their families—they will still be earning well below what the minimum wage was worth for more than 20 years.

This issue is a woman's issue, because 60 percent of all minimum-wage workers are women. It is a children's issue, because many, many of those women are single moms and, therefore, their income is going to dictate what they can provide for their children. It is a family issue.

I will always remember the witness who described what an increase in the minimum wage would mean to her. She said, ''It is very simple, Senator, we will only have to work two jobs now instead of three.'' Only two jobs instead of three. What that means is increasing the ability of those parents to spend time with their children, increasing the ability of those parents to take a little time and work with their children on homework. The additional money may allow them to take their child to a ball game. Maybe they can afford a birthday present. Maybe they can afford to take a child out to dinner, or even see a movie. Of course, a vacation is completely out of reach—it is not even being considered.

This is what I mean when I talk about family issues. We hear a great deal of discussion about family issues and about family values. The minimum wage is a family value. It is a working family value. It is saying to someone who works 40 hours a week, 52 weeks of the year that we are going to honor their work, and that in the United States of America working people are not going to live in poverty. These are family values.

We are going to hear, Mr. President, when we get a chance to debate this—and I can understand why the Republican leadership does not want to permit us to debate it—we are going to hear that we don't need to have an increase in the minimum wage. The market will take care of these workers. If we do increase the minimum wage, opponents will claim it will add to inflation and unemployment. This is against the background of the most extraordinary economic growth in the history of this country, with the greatest prosperity, the lowest inflation, the lowest unemployment in a generation. We will hear, ''We can't afford it; we're going to lose jobs.'' We will hear that from Members of Congress who have experienced an increase in their own salary of more than $3,000 only last year.

We will hear, ''We just can't afford to do that for working Americans.'' It is the working Americans, the working poor who have fallen further and further behind in their purchasing power—further behind than any group in our society.

I think some of us remember those wonderful charts Secretary Reich used to present at the Joint Economic Committee when he talked about the five different economic groups and what has happened in the postwar period from 1947 right up to 1979. And it showed that the wage rates of these groups increased at similar rates. Incomes of those at the lower rungs went up in percentages as high as if not higher than those at the highest levels. This is not true any more. It is the top 1 percent, the top 5 percent, the top 20 percent. Their incomes are going up through the roof. Those at the lower end have been going right down through the cellar. This is an issue that we have an opportunity to do something about.

Mr. President, I want to take a moment to answer some of the arguments that will be made with regard to an increase in the minimum wage, of what that means in terms of inflation. When we debate this issue, I will review some of the statements that our friends and colleagues made during those final hours of the 1996 debate about the effect on inflation and unemployment of the increase. These were the most extraordinary statements. I will not take the time of the Senate to go through them now, but they are just so out of touch with reality that it really is extraordinary.

Raising the minimum wage does not fuel inflation. This chart shows what the inflation rate was per month during the year or two before the increase in 1996. The rate of inflation was relatively flat between February of 1996 and October 1996. It was pretty flat—it held fairly steady at three-tenths of 1 percent per month.

The minimum wage increased to $4.75, and look what happened to inflation. The rate stayed steady. In October 1996, the inflation rate was maintained at three-tenths of 1 percent. Inflation declined in December 1996, and then went up and down slightly between January and September 1997.

Then the minimum wage increased in September 1997 to $5.15. Here we see the continued decline of inflation. In June of 1998 the inflation rate was one-tenth of 1 percent. This chart puts the lie to claims that the minimum wage increase added to the rate of inflation in the United States.

I believe that the overwhelming power of this argument comes from notions of basic fairness and justice. But if the opponents are going to claim that increasing the minimum wage will increase inflation, let us look at what happened over the period of the last two increases, going back to October 1996 and then the increase in September 1997.

Mr. President, I would like to consider at the other argument that is made in opposition. That is the claim that raising the minimum wage causes unemployment to rise.

Opponents always say, ''If you increase the minimum wage, you're going to see a rise in unemployment.'' I will come to teenage unemployment in a minute. Unemployment overall declined dramatically since the minimum wage increased in October 1996.

And then, after the minimum wage increased again in September 1997, unemployment continued to drop. Now we are at 4.5 percent unemployment, which is virtually the lowest unemployment level in a generation. Since 1996, the nation has experienced the lowest rate of inflation and the lowest rate of inflation in a generation.

So you cannot make the argument, Mr. President, that if we increase the minimum wage, it will add to the rate of inflation or add to the rate of unemployment.

Mr. President, what is always said is, ''Well, all right, you don't really understand it. It is teenagers, teenage unemployment. They are the ones who really get squeezed.'' Let us look at teen unemployment, ages 16 to 19, over this same period. Before the minimum wage increase, you had some 16 percent teenage unemployment in 1996. Since the 1996 and 1997 increases, it has dropped to 15 percent unemployment. The fact of the matter is, Mr. President, that about a quarter of those who earn the minimum wage are teenagers. Many of those teenagers are trying to go out and work their way through their first or second year of community college. They are teenagers. These kids, in many instances, are the ones who are trying to earn in order to continue their education. They need that increase as well.

So, Mr. President, this chart makes the point that the total unemployment for teenagers is down.

Mr. President, the greatest opposition to this has come from the retail industry. But retail employment has grown by leaps and bounds over this period. It is growing 31 percent faster. Before the minimum wage increased, from September 1995 to September 1996—394,000 new retail jobs were added. The minimum wage increased in October 1996, and then again in September 1997.

This is a 1-year period before the minimum wage went up. From September to September, 394,000 new retail jobs were added. Then in the 11 months after the increase took effect, 517,000 new jobs were added. This is very dramatic growth.

The point about it is, Mr. President, that there is not a valid economic argument to be made. I wish we had the opportunity to engage in that debate on the floor of the U.S. Senate with those who are opposed to the increase because they claim they are concerned about teenage unemployment, about inflation and about the effect on people who work in retail stores and will lose their jobs. The facts belie those claims.

Mr. President, we are talking about individuals who are still earning $2,900 below the poverty level for a family of three.

What will this $1 an hour increase mean to minimum wage workers? It would buy almost 7 months of groceries. $1 an hour may not mean much to many in this country. Certainly, it doesn't mean a lot to the people who saw the stock market go up 370 points yesterday, gain over $1 trillion in value in one day. Of course, all of us are glad to have seen the stock market go up these past few days.

$1 an hour might not make so much difference to those who are investing in the stock market, but it represents about 7 months of groceries to an average family of four. It buys about 8 months of rent for that family. It pays three-fourths of a year's tuition and fees at a community college. It is a matter of enormous importance and it is a matter of critical need for working families.

When you come right down to it, this issue is really about dignity. It is about dignity for individuals who can pay their bills. It is about dignity for people who don't have to go on welfare. It is the dignity of a family knowing they will not have their electricity or their water turned off because they can't pay the bill. Raising the minimum wage is really about dignity. It is about a sense of pride. It is the way parents look at children and the way children look at parents. This is an issue of fairness, an issue of whether we as a society honor work, for people who will work and want to work; those people who are the child-care helpers, the teachers' aides in our schools.

We talk a great deal about education. Teachers' aides are important. Many of them earn the minimum wage. We talk about the importance of Medicare and Medicaid and making sure that our parents are going to be able to live in dignity. Much of that dignity is provided for by health aides who earn the minimum wage. The men and women who clean office buildings at nighttime, by and large, are minimum-wage earners. These are people who have a sense of dignity and pride in themselves, as they should.

This is an issue of fundamental fairness. In the past, this body has responded. It has responded at other times when the minimum wage has sunk this low. It has responded with Republican and Democratic leadership, with Republican Presidents and Democratic Presidents, alike. But we are now being told by the Republican leadership that we are going to be denied the opportunity even to address this issue on the floor of the U.S. Senate. We are told, ''We will not give you the time.'' We will not have that debate tonight, here in the U.S. Senate, and vote at 10 o'clock tonight.

What is more important to the 12 million Americans who would benefit from an increase than a debate this evening and a vote at 10 o'clock tonight? I can understand that many of my Republican colleagues don't want to vote on this issue. But that isn't a good enough reason. We are sent here to make choices. This is a choice that ought to be made in the light of day, or even in the evening, but it ought to be made here on the floor of the U.S. Senate. Parliamentary tricks should not be used to deny us the opportunity to address it. This is not a complicated issue, involving constitutional questions. This is a simple issue of fairness and justice. The Members of this body know it. The Members of this body understand it. We don't need any more hearings on this issue.

People know what this issue is all about. It is simple and plain: Here in the U.S. Senate, are we going to take steps that will guarantee some fairness to American workers who need that increase and have been falling further and further behind? Are we going to say, as a society, that we are all going to move together, that we have a sense of common purpose and common direction? Will we make sure that our fellow citizens can participate in this extraordinary economic expansion? Or are we going to say, no, we will let you stay out there in the cold, we won't even debate any kind of increase? Sure, you are providing for your kids, but we will not even permit the U.S. Senate the opportunity to debate this and vote on this, up or down; up or down.

Mr. President, that is why this issue is so important. I believe it is one of fundamental fairness. It is a defining issue. It has been a defining issue at other times, and it is at this time. I am hopeful that we could have a time to debate this issue. We are not interested in prolonged debate and discussion. As I mentioned, we would settle for a reasonable period of time to debate this and have a vote. It is not a complex issue. We are going to continue to pursue it because we believe it is right and it is just and it is fair. Those are values which I think most of us were sent here to uphold in the U.S. Senate.

How much time remains?

The PRESIDING OFFICER. The Senator has used 41 minutes 50 seconds.

Mr. KENNEDY. I reserve the remainder of my time.

Mr. REED. Mr. President, I ask unanimous consent to be recognized to use such time as I may consume with respect to bankruptcy reform.

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

Mr. REED. Mr. President, today we have voted to move to consideration of the Bankruptcy Act. One of the sad but true causes of so many bankruptcies of families throughout this country is the fact that they are overwhelmed by medical bills. Now, this is obvious when it comes to those people without insurance, because for those people, getting sick in America not only means being ill, it also very often means going broke.

But one of the other aspects that is startling to so many is that many families with insurance, particularly health maintenance organization insurance, find themselves in similar situations where the insurance they paid for, they thought they bargained for, evaporates when they actually have a health care crisis.

That is why it is so very, very important to engage in a thorough debate and legislative action with respect to the Patients' Bill of Rights. I join all of my colleagues in issuing a challenge to the leadership of this body to bring up the Patients' Bill of Rights so we can debate it, we can consider it, and hopefully we can pass it.

Indeed, we should be here tonight debating this worthy measure, or the minimum wage, as my colleague from Massachusetts, Senator KENNEDY, has suggested, because that is truly the people's business. When I go back to Rhode Island, people are concerned about many things, but they are most

concerned about the status of the health care and about whether or not working families in my State and across this country can provide for themselves.

The Patients' Bill of Rights, the legislation that we should be debating tonight, is about applying fair rules of the game to health care. When it comes to health care, consumers should get the health care they pay for and they should get it when they need it. But sadly, this is not always the case. In many cases, it is the exception to the rule. It is time for this Congress to accept the President's challenge and pass legislation to enact guarantees for quality health care in this country and important consumer protections.

The Patients' Bill of Rights introduced by Democratic leader DASCHLE, protects patients' rights, while the opposing version introduced by Senator LOTT and Senator NICKLES leaves too many loopholes and does not provide adequate protections for consumers. By addressing only self-funded, non-ERISA plans, the Lott-Nickles bill excludes 113 million Americans from the protections that are necessary, and, indeed, if you follow the logic of their bill, if a portion of Americans need protection in their health care plan, if a portion of Americans need these protections from insurance companies that are too much oriented toward the bottom line and not quality health care, why should all Americans in private health care plans not have these protections?

That is what the Daschle bill does. It would provide coverage for all 161 million Americans who aren't privately insured. This bill submitted by Leader DASCHLE provides full protection to patients, including, for example, access to specialists, pediatric specialists for children, coverage for emergency services, an internal and an independent external appeals process, and allowing patients to hold health plans accountable in court.

All of these protections are important to the health and well-being of all Americans. And all of these protections deserve full debate and consideration on the floor of the U.S. Senate. Now, an offer of a single vote on the bill with an extremely limited opportunity for amendments is not the full, vigorous debate that this issue requires—in fact, that this issue demands. The health care of the American people is too important to try to squeeze in between other issues here on the floor of the Senate. I think we should move today to bring up this legislation, debate it vigorously, pass it and send it forward. Our colleagues in the other body have done so. Now the challenge is with this body to move forward deliberately and purposefully to pass protections that will ensure quality health care and access to all Americans.

There is a particular aspect of this debate that I am extremely interested in, which is ensuring that there are adequate protections in managed care plans for children. Too often, children are ignored in the preparation of these plans. Too often, pediatric illnesses are relegated to just another variation of adult illnesses. Too often, children are just seen through these lenses as smaller adults when, in fact, pediatric care is a very specialized part of the health care delivery system. And too often, parents discover that what they bargain for and what they thought they had in terms of protections evaporate when their child is ill.

Earlier this year I introduced my own legislation that would ensure that children are not left out of this great debate about managed care, that children would, in fact, be the focal point of very specific procedures within managed care plans, that there would be access to pediatric specialists. A family could choose a pediatrician as a primary care provider, and pediatric specialists would evaluate outcomes relative to children. In working with the pediatric hospitals and with the American Academy of Pediatrics, I have come to understand the very specialized care that is necessary to deliver such care to children. Without such care, illnesses that may have been treated successfully and cheaply in children become traumatic and complicated illnesses that are more expensive and more threatening to the health of this child and later to that adult.

My words are less compelling than the words of the people in my home State of Rhode Island who have dealt with this health care morass. A few weeks ago, I had the opportunity to share a podium with Dr. Karen LaMorge. She detailed the problems she had in getting adequate health care for her father and the fact that the insurance company would not provide a second opinion, and they would not make easy referrals to specialists. One of the great ironies of her story is that Dr. LaMorge is a podiatrist and, in fact, a member of the professional panels of this particular HMO. Now, she, a skilled professional, a provider herself, cannot easily and quickly get adequate care for her father.

What happens to the average citizen who confronts this morass of regulations and rules and consents and approvals and daily calls and tracking down people to give the right approval? It becomes a daunting experience. Many, many Americans simply get exhausted trying to get basic health care for their families and themselves. Some give up. Others press on, enduring huge costs in time, efforts and energy. That is not the way our health care system should operate.

With the Patients' Bill of Rights, we will go a long way toward ensuring that it doesn't operate that way, that there is an opportunity for high-quality care that is accessible and, indeed, also affordable, because, frankly, there is a lot of money being spent by these health care plans on administrators and bureaucrats. Maybe more could be directed to health care and to the American citizens.

There is a particular aspect of this which I find particularly compelling, and I mentioned it before; that is, the aspect of pediatric health care. A few weeks ago, I had the opportunity to visit the Hassenfeld Children's Cancer Center at New York University Hospital in New York City. There I saw the care they are giving to dying children. I heard from the frontline professionals, the social workers, nurses, doctors, about the daily frustrations they face and endure in trying to get adequate care for these children from HMOs. The idea that they would spend days trying to get hospice care for a child who is dying, the idea that they would have to get daily approval and reapprovals for a course of treatment that is clear and obvious and has been prescribed is just an example of the state of this system, which is, in many respects, a crisis for so many families in this country.

We can do better. We must do better. But we can only do that if we have the will. We must bring this legislation to the floor. We must bring this legislation to this floor promptly. There are few days left, but in those days it is our obligation to serve the interests of the American people. At the top of their list is a more rational, more appropriate health care system. We are within striking distance of that, if we just act.

As I mentioned before, the other body has acted. It is our responsibility, our turn to step up to the plate and to get a greater hit than even Mark McGwire, because this hit will ensure that every family in America has good access to health care and will help that process to continue along. We should stay here tonight and every night and not simply make speeches with respect to this underlying bankruptcy bill, but actively debating and actively voting on, in a robust, wide-open debate, HMO protections for the people of America. As Senator KENNEDY suggested, we should also take up the minimum wage because that, too, is a way to address the real problems that face America.

I hope that our resolution tonight would be to take up these measures, debate them fairly and honestly, and to vote and give the American people what they so desperately want and deserve—a health care system that works for them, and for those low-income working Americans a decent wage which will lift them out of poverty. I hope we do that. Certainly I think I and my colleagues will continue to urge that action on this Senate, and hopefully these words will take heart and take hold.

Mr. President, I reserve the remainder of my time and yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BROWNBACK). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

The Senator from Delaware is recognized.

Mr. ROTH. I thank the Chair.

(The remarks of Mr. ROTH pertaining to the introduction of S. 2453 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ROTH. Mr. President, I yield back the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

## UNANIMOUS CONSENT REQUEST—H.R. 4250

Mr. DASCHLE. Mr. President, I ask unanimous consent that when the Senate completes its legislative business today, it then proceed to the consideration of Calendar No. 505, H.R. 4250, the House-passed HMO reform bill, that only relevant amendments be in order, and that the bill become the pending business every day thereafter upon completion of legislative business.

Mr. ROTH. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DASCHLE. Mr. President, the hour is again upon us, as it was last night. I suggested last night that we move to a second shift, that at approximately 7 o'clock every night we take up legislation our Republican colleagues say we don't have time for during the day.

I am very disappointed, once again, that our Republican colleagues have objected to doing that. There is absolutely no reason why, with less than 6 weeks left in the session, we leave this Chamber at 10 minutes to 7. There is no reason for that. How many businesses would survive with an incredible amount of production in front of them if they were to say: We are going to take off work early, we are not going to work a second shift, we are not going to work as if we are in a state of emergency, we are going to treat the situation as business as usual?

Mr. President, that is what we are doing with the schedule right now. It is remarkable to me that with little time left in the session, our Republican colleagues are content to go home and in a sense tell the American people: Look, we don't have time to consider your problems. We don't have time to consider the importance of HMO reform or to pass a Patients' Bill of Rights. We don't care; we are going home.

Mr. President, that ought not be the message we send the American people. So that is why we have suggested working a second shift. That is why we have suggested coming to the Senate floor at this hour each evening to pick up where we left off the night before, to recognize that we will never be able to address this and other serious problems unless we are willing to stay here and do our work. We have worked hard to bring the Senate to the point of passing a meaningful Patients' Bill of Rights. More than 170 organizations wait for us to act tonight. Millions and millions of people who have high expectations about the possibility of realistically dealing with this problem wait for us to act tonight.

I am disappointed, disappointed, No. 1, that our Republican colleagues again would rather go home than do their work, disappointed that legislation which has now passed in the House languishes in the Senate without any hope of passing unless we stay here tonight or tomorrow night or the next night. And I am disappointed by what it means in terms of the real prospects for accomplishment, the real prospects for getting something done, the real chance that we can leave and close down the 105th Congress feeling good about having addressed one of the most serious problems facing the American people today.

There are too many insurance companies making decisions for doctors. There are too many women who are being turned out of hospitals too early. There are too many patients who are not being given the opportunity to choose their doctor. There are too many people whose doctors prescribe a medicine only to be overturned by an insurance company.

Mr. President, it goes on and on. The problem we have is that unless we act, unless we are willing to do our work, unless we take this second shift, we will never have the opportunity to bring this important issue to closure.

Obviously, there is one other way to do it, and that is to eat up the day throughout the day. We have already indicated that if we can't take a second shift approach, then we have no other recourse but to offer this legislation in the form of an amendment on any vehicle that comes along. Whatever bill may be pending, we will have no other option but to offer it as an amendment, and we will do that just as we have done it before. We will offer it on a bill that will require our colleagues to vote.

So it is not a question of avoiding the vote. We will either do it in a constructive way on a second shift or we will do it in a confrontational way during the day on the first shift. But we are going to do it. We have said that in the remaining days of this session we must have a vote on minimum wage, we must have a vote on a Patients' Bill of Rights, we must have a vote on campaign finance reform, we must have a vote on pay equity, and we must have a vote on a series of amendments that will improve the crisis in agriculture today. Those are votes we must have, and we must find a way with which to accommodate each other's priorities to allow that to happen.

Again, let me express my disappointment, my sorrow, my frustration at our Republican colleagues' unwillingness to cooperate with us.

Mr. KENNEDY. Will the Senator yield?

Mr. DASCHLE. I would be happy to yield to the Senator from Massachusetts.

Mr. KENNEDY. As the Senator has pointed out, it is 7 o'clock this evening. We had last evening, we will have tomorrow evening. There is no reason we can't go from 7 to 10 or 10:30. The Senator remembers the times where we have had these double sessions. They are not a very unusual process and procedure. I will include in the RECORD tomorrow the instances when we have had these, generally at the end of sessions, but they have been a two-track process by which we deal with certain measures during the day and others during the course of the evening.

Does the Senator agree with me, for example, on the Patients' Bill of Rights that if we took Tuesday and Wednesday and Thursday evenings and did it from 7 to 10, 10:30 probably this week, three different evenings, there would be a good opportunity where we could probably finish that legislation, or perhaps take one or more evenings of next week to address the issues which the Senator has talked about. We could have a good debate on the question of minimum wage—whether it has been inflationary, whether there has been loss of employment, the impact on small employment, the various kinds of arguments that have been made—and we would be able to dispose of that in a fair and reasonable time, as well as the agriculture and farm issues, pay equity, and other issues?

Does the Senator believe, if we knew now that we were going to do this, the membership would become engaged in this legislation, particularly if we had notice that we were going to consider various legislation with due notice, in 2 or 3 nights we would consider X legislation, which is sort of a time-honored way that we have proceeded here? Is that the kind of arrangement that the Senator is looking for so that the membership would have notice of the legislation and we could have that kind of debate during the course of the evenings? Does the Senator think there is any other business that is more important for us to be involved in at this time than those issues which people have expressed an interest and concern about such as the Patients' Bill of Rights issue?

Mr. DASCHLE. I appreciate very much the question of the Senator from Massachusetts. The answer is, ''No.''

I know the Senator, who is a real student of history and has a wealth of experience, can go back to those occasions over many, many years when we have found nighttime debates to be the best debates because there are no interruptions. Why? Because Senators don't have to be in their offices with appointments and phone calls. They can be here on the Senate floor. If we are here, we get more interaction.

There have been some extraordinary debates on the floor of the U.S. Senate after 7 o'clock at night. And the reason for that is because, oftentimes, we do

not have so many other tugs and pulls on our schedules.

So, first of all, the Senator is right when he comments about the historical precedent for this approach. Second, he is correct that not only is it a common Senate practice, but actually the quality of the debate oftentimes is enhanced. Third, unless we do it this way, I fear that we really are not going to have the opportunity to address the issues, as the Senator from Massachusetts has pointed out, that have the highest priority when you ask the American people what we should be addressing.

So from the perspective of priority, from the perspective of quality, from the perspective of history, the Senator from Massachusetts is correct.

Mr. KENNEDY. I thank the Senator. Would he not agree with me that we have a general understanding that Thursday nights are the late night in the Senate? We do that with the idea that we hope we can finish various measures that may go on over to Friday out of consideration to some of those Senators who live in different parts, some distance away from the Nation's Capital, to try at least to accommodate some of their interests.

So the idea that we have a night session is not really unique or special. Members are here during the period of the week. They are on notice now. We have just come back from a good break in the period of August, but we have a limited time that is available. I must say, I fail to find an adequate response by the Republican leadership to the Senator's eminently fair and reasonable proposal. It would seem to me we ought to at least try it for a week, try it for a week or two and find out how we are proceeding. We could consider the Patients' Bill of Rights, for example, a measure of enormous importance to the millions of families in this country. We have been denied that opportunity to have the debate. We have always been told we cannot have that debate because we are not going to take up a lot of the Senate's time.

The way I understand the leader's proposal is we might be able to do that in the evening time until we reach a conclusion on that so we would not interfere with the appropriations legislation.

What is possibly the justification not to do it? Are we saying our own personal requirements are of greater importance than trying to deal with the business of America's families—whether they are in South Dakota or in Massachusetts—who are very, very much affected by what we fail to do here in reaching some resolution on the Patients' Bill of Rights?

I do not know whether the leader had an opportunity to see the list of the various parts of the Patients' Bill of Rights bill that I had on the floor a short time ago, but I know the Senator is very familiar with them. Doesn't he agree that probably 17 or 18 topic areas are about it with regard to the Patients' Bill of Rights, and probably even some of those areas could be accommodated by individual Members on both sides who are really interested in trying to reach a resolution? We could deal with these other measures—whether women are going to be in clinical trials; whether we are going to have appeals procedures; whether we are going to have gag rules—and the various other protections the Senator mentioned earlier.

Doesn't the Senator feel we could work that through in a reasonable period of time if we involved the Senate in debate during these weekday nights?

Mr. DASCHLE. The Senator has asked a couple of very good questions. The first question he asked is why we are quitting work at an hour that could easily accommodate debate on important issues? I think the answer is, we all appreciate a family-friendly environment. We all enjoy being able to go home to our families. By and large, in the last couple of years, we have been able to do that. We have had a family-friendly legislative session that has accommodated personal needs. I think that is understandable, and for the most part, I think I have supported it.

I think there comes a time, though, when you get to this period at the end of the Congress—not the end of a session, we are talking about the end of a Congress. We have just a few weeks left, and our work has to take priority.

As the Senator noted, usually Thursday nights have been nights where we work late. What we are suggesting is that we at least take Tuesday, Wednesday and Thursday nights, for the balance of the time that remains in this session, and use that time productively. Let's take 3 or 4 hours and see what we can accomplish—particularly on something as important as the Patients' Bill of Rights.

The second question is about the degree to which we want to be able to offer amendments. I heard the Senator so compellingly speak about other bills that have required hundreds of amendments, in some cases well over 100 amendments for bills of great import. We are not even asking for that, as the Senator has noted. I think his chart points that out.

There are categories for which there are legitimate differences of opinion. We want to be able to offer amendments in those areas, to be able to have a good debate and discuss them. But to say you are going to be forced into this three-amendment limit with no ability to talk about all the very serious concerns is just unacceptable and does not do justice to the issue. They say we don't have time for a full debate. We have 3 hours of time. They say we have to limit ourselves to three amendments, even though other bills have taken 150 amendments—we have the time. We have the interest. What is holding them up? No one can really answer that for us. Obviously that is the perplexing question. The bill has passed in the House. Why not debate it here in the Senate as well?

Mr. KENNEDY. I thank the leader for, again, his leadership in this important area. Next time there is objection to the proposal—the Republican leadership says we can't afford the time for this; we can't afford the time to debate it— it is going to ring very hollow after we have seen the very reasonable request of the leader to debate those issues this evening. The Senator from South Dakota has introduced the legislation. He is here tonight to debate it, and I welcome the chance to join with him in debating that. We are here ready to go on this legislation. We could do it this evening or any night this week. It is not satisfactory enough for the American people, just to say, as the Republican leadership has, ''No, we are not going to do this, and we are going to refuse to permit this debate and discussion.'' That is not really in the great traditions of this body. This body was supposed to deal with the public interest, the unfinished agenda.

There is nothing more important than protecting American families from decisions being made by insurance companies rather than health professionals. There is nothing more important, in terms of the health care of these families, before the Senate this year. I think it is grossly unfair.

So I commend, again, the leader for bringing this up. I know the leader will bring up the amendment. Then we will hear from the other side, ''Oh, my goodness, we can't do that; we can't do this. It's impossible to do it.'' We could have done it this evening; probably last night and the other nights this week. I certainly join in supporting his efforts to insist that we are going to debate these, and we are going to reach resolution on these matters before we conclude.

I thank the Senator.

Mr. DASCHLE. I thank the Senator from Massachusetts for his thoughtful comments and for his willingness to engage in this colloquy.

I think the legislative history ought to demonstrate that there are those of us who truly want this issue resolved. We really are prepared to put in the time and effort to come to closure on what is the most important health question facing this Congress, and that is, how do we deal with the array of problems we are facing in managed care today.

No one has put more time and effort and leadership into this question than the distinguished Senator from Massachusetts. I am grateful for the partnership and extraordinary effort he has demonstrated and put forth in bringing us to this point.

Mr. President, unless there are further comments, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

## UNANIMOUS-CONSENT AGREEMENT—AMENDMENT NO. 3554 TO S. 2237

Mr. LOTT. Mr. President, we have had a good deal of discussion about how to proceed tomorrow with regard to campaign finance reform, and I think we have something worked out here that is acceptable to all sides. I hoped there would be more time for Senator MCCAIN and others to discuss the issue tomorrow, but there are some conflicts that we are trying to recognize and accommodate.

So I ask unanimous consent that at 10 a.m. on Thursday, the Senate resume the pending McCain amendment, and the time between 10 a.m. and 12 noon be equally divided in the usual form for debate only. I further ask unanimous consent that at 12 noon Senator FEINGOLD be recognized to offer a motion to table the pending amendment.

I further ask unanimous consent that if the amendment is not tabled, the time prior to 1:45 p.m. on Thursday be equally divided in the usual form for debate only, and notwithstanding rule XXII, the cloture vote occur at 1:45 p.m. on Thursday.

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

## CONSUMER BANKRUPTCY REFORM ACT OF 1998—MOTION TO PROCEED

Mr. LOTT. Mr. President, I also just discussed with Senator DASCHLE the possibilities of working out a procedure that we could take up the bankruptcy reform, allow for amendments to be offered, and get some sort of understanding about what those amendments would be and the time that might be involved. There are a number of Senators who are interested in this legislation on both sides of the aisle—Senator GRASSLEY obviously, Senator HATCH, Senator DURBIN; Senator KENNEDY has an amendment he wants to offer.

I had not seen any movement earlier than this afternoon toward working something out, but I believe now that there will be a good-faith effort to see if we can work out some sort of agreement that we will come together on tomorrow. But so that we can get the matter laid down in the proper way, and so that there can be protections for all concerned until we get an agreement worked out, I want to go ahead and do this procedure. But if we get an agreement worked out, obviously I would move to vitiate it. I really would like to get bankruptcy reform done, but I think we need some sort of reasonable agreement in order to accomplish that and in order to not go forward with the cloture vote.

So I understand that there is no further need for debate on the pending motion, and I ask the Chair to put the question.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

## CONSUMER BANKRUPTCY REFORM ACT OF 1998

The PRESIDING OFFICER. The clerk will report the bill.

The bill clerk read as follows:

A bill (S. 1301) to amend title 11, United States Code, to provide for consumer protection, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

***SECTION 1. SHORT TITLE; TABLE OF CONTENTS.***

*(a) SHORT TITLE.—This Act may be cited as the ''Consumer Bankruptcy Reform Act of 1998''.*

*(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:*


*Sec. 1. Short title; table of contents.*

*TITLE I—NEEDS-BASED BANKRUPTCY*

*Sec. 101. Conversion.*
*Sec. 102. Dismissal or conversion.*

*TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS*

*Sec. 201. Allowance of claims or interests.*
*Sec. 202. Exceptions to discharge.*
*Sec. 203. Effect of discharge.*
*Sec. 204. Automatic stay.*
*Sec. 205. Discharge.*
*Sec. 206. Discouraging predatory lending practices.*

*TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM*

*Sec. 301. Notice of alternatives.*
*Sec. 302. Fair treatment of secured creditors under chapter 13.*
*Sec. 303. Discouragement of bad faith repeat filings.*
*Sec. 304. Timely filing and confirmation of plans under chapter 13.*
*Sec. 305. Application of the codebtor stay only when the stay protects the debtor.*
*Sec. 306. Improved bankruptcy statistics.*
*Sec. 307. Audit procedures.*
*Sec. 308. Creditor representation at first meeting of creditors.*
*Sec. 309. Fair notice for creditors in chapter 7 and 13 cases.*
*Sec. 310. Stopping abusive conversions from chapter 13.*
*Sec. 311. Prompt relief from stay in individual cases.*
*Sec. 312. Dismissal for failure to timely file schedules or provide required information.*
*Sec. 313. Adequate time for preparation for a hearing on confirmation of the plan.*
*Sec. 314. Discharge under chapter 13.*
*Sec. 315. Nondischargeable debts.*
*Sec. 316. Credit extensions on the eve of bankruptcy presumed nondischargeable.*
*Sec. 317. Definition of household goods and antiques.*
*Sec. 318. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.*
*Sec. 319. Adequate protection of lessors and purchase money secured creditors.*
*Sec. 320. Limitation.*
*Sec. 321. Miscellaneous improvements.*
*Sec. 322. Bankruptcy judgeships.*
*Sec. 323. Preferred payment of child support in chapter 7 proceedings.*
*Sec. 324. Preferred payment of child support in chapter 13 proceedings.*
*Sec. 325. Payment of child support required to obtain a discharge in chapter 13 proceedings.*
*Sec. 326. Child support and alimony collection.*
*Sec. 327. Nondischargeability of certain debts for alimony, maintenance, and support.*
*Sec. 328. Enforcement of child and spousal support.*
*Sec. 329. Dependent child defined.*

*TITLE IV—TECHNICAL CORRECTIONS*

*Sec. 401. Definitions.*
*Sec. 402. Adjustment of dollar amounts.*
*Sec. 403. Extension of time.*
*Sec. 404. Who may be a debtor.*
*Sec. 405. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.*
*Sec. 406. Limitation on compensation of professional persons.*
*Sec. 407. Special tax provisions.*
*Sec. 408. Effect of conversion.*
*Sec. 409. Automatic stay.*
*Sec. 410. Amendment to table of sections.*
*Sec. 411. Allowance of administrative expenses.*
*Sec. 412. Priorities.*
*Sec. 413. Exemptions.*
*Sec. 414. Exceptions to discharge.*
*Sec. 415. Effect of discharge.*
*Sec. 416. Protection against discriminatory treatment.*
*Sec. 417. Property of the estate.*
*Sec. 418. Limitations on avoiding powers.*
*Sec. 419. Preferences.*
*Sec. 420. Postpetition transactions.*
*Sec. 421. Technical amendment.*
*Sec. 422. Setoff.*
*Sec. 423. Disposition of property of the estate.*
*Sec. 424. General provisions.*
*Sec. 425. Appointment of elected trustee.*
*Sec. 426. Abandonment of railroad line.*
*Sec. 427. Contents of plan.*
*Sec. 428. Discharge under chapter 12.*
*Sec. 429. Extensions.*
*Sec. 430. Bankruptcy cases and proceedings.*
*Sec. 431. Knowing disregard of bankruptcy law or rule.*
*Sec. 432. Effective date; application of amendments.*


***TITLE I—NEEDS-BASED BANKRUPTCY***

***SEC. 101. CONVERSION.***

*Section 706(c) of title 11, United States Code, is amended by inserting ''or consents to'' after ''requests''.*

***SEC. 102. DISMISSAL OR CONVERSION.***

*(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—*

*(1) by striking the section heading and inserting the following:*

***''§ 707. Dismissal of a case or conversion to a case under chapter 13'';***

*and*

*(2) in subsection (b)—*

*(A) by inserting ''(1)'' after ''(b)''; and*

*(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—*

*(i) in the first sentence—*

*(I) by striking ''but not'' and inserting ''or'';*

*(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 13 of this title,'' after ''consumer debts''; and*

*(III) by striking ''substantial abuse'' and inserting ''abuse''; and*

*(ii) by striking the last sentence and inserting the following:*

*''(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—*

*''(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 20 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or*

''(B) the debtor filed a petition for the relief in bad faith.

''(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection and the court grants that motion and finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified, the court shall order the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees.

''(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

''(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

''(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

''(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

''(ii) determined that the petition—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1) of this subsection.

''(4)(A) Except as provided in subparagraph (B), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee) under this subsection (including reasonable attorneys' fees) if—

''(i) the court does not grant the motion; and

''(ii) the court finds that—

''(I) the position of the party that brought the motion was not substantially justified; or

''(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

''(B) A party in interest that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A).

''(5) However, a party in interest may not bring a motion under this section if the debtor and the debtor's spouse combined, as of the date of the order for relief, have current monthly total income equal to or less than the national median household monthly income calculated on a monthly basis for a household of equal size. However, for a household of more than 4 individuals, the median income shall be that of a household of 4 individuals plus $583 for each additional member of that household.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

''707. Dismissal of a case or conversion to a case under chapter 13.''.

## TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

### SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.

Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court may award the debtor reasonable attorneys' fees and costs if, after an objection is filed by a debtor, the court—

''(A)(i) disallows the claim; or

''(ii) reduces the claim by an amount greater than 20 percent of the amount of the initial claim filed by a party in interest; and

''(B) finds the position of the party filing the claim is not substantially justified.

''(2) If the court finds that the position of a claimant under this section is not substantially justified, the court may, in addition to awarding a debtor reasonable attorneys' fees and costs under paragraph (1), award such damages as may be required by the equities of the case.''.

### SEC. 202. EXCEPTIONS TO DISCHARGE.

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(A), by striking ''a false representation'' and inserting ''a material false representation upon which the defrauded person justifiably relied''; and

(2) by striking subsection (d) and inserting the following:

''(d)(1) Subject to paragraph (3), if a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys' fees and costs.

''(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court may award reasonable attorneys' fees and costs under paragraph (1) and such damages as may be required by the equities of the case.

''(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a)(2) if—

''(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

''(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

''(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

''(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

''(ii) the refusal to negotiate by the creditor involved to was not reasonable.''.

### SEC. 203. EFFECT OF DISCHARGE.

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).

''(j) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

''(1) the greater of—

''(A)(i) the amount of actual damages; multiplied by

''(ii) 3; or

''(B) $5,000; and

''(2) costs and attorneys' fees.''.

### SEC. 204. AUTOMATIC STAY.

Section 362(h) of title 11, United States Code, is amended to read as follows:

''(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

''(A) actual damages; and

''(B) reasonable costs, including attorneys' fees.

''(2) In addition to recovering actual damages, costs, and attorneys' fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.''.

### SEC. 205. DISCHARGE.

Section 727 of title 11, United States Code, is amended—

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

''(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a) if—

''(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

''(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

''(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

''(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

''(ii) the refusal to negotiate by the creditor involved to was not reasonable.''; and

(2) by adding at the end the following:

''(f)(1) The court may award the debtor reasonable attorneys' fees and costs in any case in which a creditor files a motion to deny relief to a debtor under this section and that motion—

''(A) is denied; or

''(B) is withdrawn after the debtor has replied.

''(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court may assess against the creditor such damages as may be required by the equities of the case.''.

### SEC. 206. DISCOURAGING PREDATORY LENDING PRACTICES.

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(10) the claim is based on a secured debt if the creditor has failed to comply with the requirements of subsection (a), (b), (c), (d), (e), (f), (g), (h), or (i) of section 129 of the Truth in Lending Act (15 U.S.C. 1639).''.

## TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

### SEC. 301. NOTICE OF ALTERNATIVES.

(a) IN GENERAL.—Section 342 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter 1 of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28. The notice shall contain the following:

''(1) A brief description of chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters.

''(2) A brief description of services that may be available to that individual from an independent nonprofit debt counseling service.

''(3)(A) The name, address, and telephone number of each nonprofit debt counseling service with an office located in the district in which the petition is filed, if any.

''(B) Any nonprofit debt counseling service described in subparagraph (A) that has registered with the clerk of the bankruptcy court on or before December 10 of the preceding year shall be included in the list referred to in that clause, unless the chief bankruptcy judge of the district involved, after giving notice to the debt counseling service and the United States trustee and opportunity for a hearing, orders, for good cause, that a particular debt counseling service shall not be so listed.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The debtor shall—'';

(2) by striking paragraph (1) and inserting the following:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

''(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition pursuant to section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

''(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

''(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

''(vi) a statement of the amount of projected monthly net income, itemized to show how calculated; and

''(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;''; and

(3) by adding at the end the following:

''(b)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

''(2) At any time, a creditor, in a case under chapter 13, may file with the court notice that the creditor requests the plan filed by the debtor in the case and the court shall make that plan available to the creditor who requests that plan.

''(c) An individual debtor in a case under chapter 7 or 13 shall file with the court—

''(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

''(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

''(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

''(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

''(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

''(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

''(d)(1) A statement referred to in subsection (c)(4) shall disclose—

''(A) the amount and sources of income of the debtor;

''(B) the identity of any persons responsible with the debtor for the support of any dependents of the debtor; and

''(C) the identity of any persons who contributed, and the amount contributed, to the household in which the debtor resides.

''(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (e).

''(e)(1) Not later than 30 days after the date of enactment of the Consumer Bankruptcy Reform Act of 1998, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

''(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

''(3) Not later than 1 year after the date of enactment of the Consumer Bankruptcy Reform Act of 1998, the Director of the Administrative Office of the United States Courts shall prepare, and submit to Congress a report that—

''(A) assesses the effectiveness of the procedures under paragraph (1); and

''(B) if appropriate, includes proposed legislation—

''(i) to further protect the confidentiality of tax information; and

''(ii) to provide penalties for the improper use by any person of the tax information required to be provided under this section.''.

(c) TITLE 28.—Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(7) on or before January 1 of each calendar year, and also not later than 30 days after any change in the nonprofit debt counseling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(3) of title 11 for each district included in the region.''.

**SEC. 302. FAIR TREATMENT OF SECURED CREDITORS UNDER CHAPTER 13.**

(a) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking the matter preceding subparagraph (A) and inserting the following:

''(5) with respect to an allowed claim provided for by the plan that is secured under applicable nonbankruptcy law by reason of a lien on property in which the estate has an interest or is subject to a setoff under section 553—''; and

(2) by adding at the end of the subsection the following flush sentence:

''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph.''.

(b) PAYMENT OF HOLDERS OF CLAIMS SECURED BY LIENS.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(B)(i) the plan provides that the holder of such claim retain the lien securing such claim until the debt that is the subject of the claim is fully paid for, as provided under the plan; and''.

(c) DETERMINATION OF SECURED STATUS.—Section 506 of title 11, United States Code, is amended by adding at the end the following:

''(e) Subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor during the 90-day period preceding the date of filing of the petition.''.

**SEC. 303. DISCOURAGEMENT OF BAD FAITH REPEAT FILINGS.**

Section 362(c) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' before ''Except as'';

(2) by striking ''(1) the stay'' and inserting ''(A) the stay'';

(3) by striking ''(2) the stay'' and inserting ''(B) the stay'';

(4) by striking ''(A) the time'' and inserting ''(i) the time'';

(5) by striking ''(B) the time'' and inserting ''(ii) the time''; and

(6) by adding at the end the following:

''(2) Except as provided in subsections (d) through (f), the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case if—

''(A) a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13; and

''(B) a single or joint case of that debtor (other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)) was pending during the preceding year but was dismissed.

''(3) If a party in interest so requests, the court may extend the stay in a particular case with respect to 1 or more creditors (subject to such conditions or limitations as the court may impose) after providing notice and a hearing completed before the expiration of the 30-day period described in paragraph (2) only if the party in interest demonstrates that the filing of the later case is in good faith with respect to the creditors to be stayed.

''(4) A case shall be presumed to have not been filed in good faith (except that such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) with respect to the creditors involved, if—

''(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending during the 1-year period described in paragraph (1);

''(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within the period specified in paragraph (2) after—

''(I) the debtor, after having received from the court a request to do so, failed to file or amend the petition or other documents as required by this title; or

''(II) the debtor, without substantial excuse, failed to perform the terms of a plan that was confirmed by the court; or

''(iii)(I) during the period commencing with the dismissal of the next most previous case under chapter 7, 11, or 13 there has not been a substantial change in the financial or personal affairs of the debtor;

''(II) if the case is a chapter 7 case, there is no other reason to conclude that the later case will be concluded with a discharge; or

''(III) if the case is a chapter 11 or 13 case, there is not a confirmed plan that will be fully performed; and

''(B) with respect to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor, if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay with respect to actions of that creditor.

''(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and the request is granted in whole or in part, the court may, in addition to making any other order under this subsection, order that the relief so granted shall be in rem either—

''(i) for a definite period of not less than 1 year; or

''(ii) indefinitely.

''(B)(i) After an order is issued under subparagraph (A), the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor.

''(ii) If an in rem order issued under subparagraph (A) so provides, the stay shall, in addition to being inapplicable to the debtor involved, not apply with respect to an entity under this title if—

''(I) the entity had reason to know of the order at the time that the entity obtained an interest in the property affected; or

''(II) the entity was notified of the commencement of the proceeding for relief from the stay, and at the time of the notification, no case in which the entity was a debtor was pending.

''(6) For purposes of this section, a case is pending during the period beginning with the issuance of the order for relief and ending at such time as the case involved is closed.''.

**SEC. 304. TIMELY FILING AND CONFIRMATION OF PLANS UNDER CHAPTER 13.**

(a) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

**''§ 1321. Filing of plan**

''The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.''.

(b) CONFIRMATION OF HEARING.—Section 1324 of title 11, United States Code, is amended by adding at the end the following: ''That hearing shall be held not later than 45 days after the filing of the plan, unless the court, after providing notice and a hearing, orders otherwise.''.

**SEC. 305. APPLICATION OF THE CODEBTOR STAY ONLY WHEN THE STAY PROTECTS THE DEBTOR.**

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2)(A) Notwithstanding subsection (c) and except as provided in subparagraph (B), in any case in which the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) shall apply to that creditor for a period not to exceed 30 days beginning on the date of the order for relief, to the extent the creditor proceeds against—

''(i) the individual that received that consideration; or

''(ii) property not in the possession of the debtor that secures that claim.

''(B) Notwithstanding subparagraph (A), the stay provided by subsection (a) shall apply in any case in which the debtor is primarily obligated to pay the creditor in whole or in part with respect to a claim described in subparagraph (A) under a legally binding separation or property settlement agreement or divorce or dissolution decree with respect to—

''(i) an individual described in subparagraph (A)(i); or

''(ii) property described in subparagraph (A)(ii).

''(3) Notwithstanding subsection (c), the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan, in any case in which the plan of the debtor provides that the debtor's interest in personal property subject to a lease with respect to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease.''.

**SEC. 306. IMPROVED BANKRUPTCY STATISTICS.**

(a) AMENDMENT.—Chapter 6 of part I of title 28, United States Code, is amended by adding at the end the following:

**''§ 159. Bankruptcy statistics**

''(a) The clerk of each district shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Office').

''(b) The Director shall—

''(1) compile the statistics referred to in subsection (a);

''(2) make the statistics available to the public; and

''(3) not later than October 31, 1998, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

''(c) The compilation required under subsection (b) shall—

''(1) be itemized, by chapter, with respect to title 11;

''(2) be presented in the aggregate and for each district; and

''(3) include information concerning—

''(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

''(B) the current total monthly income, projected monthly net income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

''(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case;

''(E) for the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

''(III) of those cases, the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders determining the value of property securing a claim issued;

''(ii) the number of cases dismissed for failure to make payments under the plan; and

''(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing; and

''(G) the extent of creditor misconduct and any amount of punitive damages awarded by the court for creditor misconduct.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''159. Bankruptcy statistics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

**SEC. 307. AUDIT PROCEDURES.**

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), as amended by section 301 of this Act, by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and''; and

(2) by adding at the end the following:

''(f)(1)(A) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

''(B) The audits described in subparagraph (A) shall be made in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. Those procedures shall—

''(i) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform those audits;

''(ii) establish a method of randomly selecting cases to be audited according to generally accepted auditing standards, except that not less than 1 out of every 500 cases in each Federal judicial district shall be selected for audit;

''(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed; and

''(iv) establish procedures for—

''(I) reporting the results of those audits and any material misstatement of income, expenditures, or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate;

''(II) providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

''(III) fully funding those audits, including procedures requiring each debtor with sufficient available income or assets to contribute to the payment for those audits, as an administrative expense or otherwise.

''(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

''(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things, or property belonging to the debtor as the auditor requests and that are reasonably necessary to facilitate the audit to be made available for inspection and copying.

''(4)(A) The report of each audit conducted under this subsection shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1).

''(B) If a material misstatement of income or expenditures or of assets is reported under subparagraph (A), a statement specifying that misstatement shall be filed with the court and the United States trustee shall—

''(i) give notice thereof to the creditors in the case; and

''(ii) in an appropriate case, in the opinion of the United States trustee, that requires investigation with respect to possible criminal violations, the United States Attorney for the district.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

**SEC. 308. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.**

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than one creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

**SEC. 309. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND 13 CASES.**

*Section 342 of title 11, United States Code, is amended—*

*(1) in subsection (c), by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and*

*(2) by adding at the end the following:*

*''(d)(1) If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor that is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include that account number in any notice to the creditor required to be given under this title.*

*''(2) If the creditor has specified to the debtor, in the last communication before the filing of the petition, an address at which the creditor wishes to receive correspondence regarding the debtor's account, any notice to the creditor required to be given by the debtor under this title shall be given at such address.*

*''(3) For purposes of this section, the term 'notice' shall include—*

*''(A) any correspondence from the debtor to the creditor after the commencement of the case;*

*''(B) any statement of the debtor's intention under section 521(a)(2);*

*''(C) notice of the commencement of any proceeding in the case to which the creditor is a party; and*

*''(D) any notice of a hearing under section 1324.*

*''(e)(1) At any time, a creditor, in a case of an individual under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case.*

*''(2) If the court or the debtor is required to give the creditor notice, not later than 5 days after receipt of the notice under paragraph (1), that notice shall be given at that address.*

*''(f) An entity may file with the court a notice stating its address for notice in cases under chapter 7 or 13. After the date that is 30 days following the filing of that notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.*

*''(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor.*

*''(2) If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to that department or person, notice shall not be brought to the attention of the creditor until that notice is received by that person or department.''.*

**SEC. 310. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.**

*Section 348(f)(1) of title 11, United States Code, is amended—*

*(1) in subparagraph (A), by striking ''and'' at the end;*

*(2) in subparagraph (B)—*

*(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and*

*(B) by striking the period and inserting ''; and''; and*

*(3) by adding at the end the following:*

*''(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding.''.*

**SEC. 311. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.**

*Section 362(e) of title 11, United States Code, is amended—*

*(1) by inserting ''(1)'' after ''(e)''; and*

*(2) by adding at the end the following:*

*''(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—*

*''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or*

*''(B) that 60-day period is extended—*

*''(i) by agreement of all parties in interest; or*

*''(ii) by the court for such specific period of time as the court finds is required for good cause.''.*

**SEC. 312. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.**

*Section 707 of title 11, United States Code, as amended by section 102 of this Act, is amended by adding at the end the following:*

*''(c)(1) Notwithstanding subsection (a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under section 521(a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.*

*''(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. The court shall, if so requested, enter an order of dismissal not later than 5 days after that request.*

*''(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 20 days to file the information required under section 521(a)(1) if the court finds justification for extending the period for the filing.''.*

**SEC. 313. ADEQUATE TIME FOR PREPARATION FOR A HEARING ON CONFIRMATION OF THE PLAN.**

*Section 1324 of title 11, United States Code, as amended by section 304 of this Act, is amended—*

*(1) by striking ''After'' and inserting the following:*

*''(a) Except as provided in subsection (b) and after''; and*

*(2) by adding at the end the following:*

*''(b) If not later than 5 days after receiving notice of a hearing on confirmation of the plan, a creditor objects to the confirmation of the plan, the hearing on confirmation of the plan may be held no earlier than 20 days after the first meeting of creditors under section 341(a).''.*

**SEC. 314. DISCHARGE UNDER CHAPTER 13.**

*Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:*

*''(1) provided for under section 1322(b)(5);*

*''(2) of the kind specified in paragraph (2), (4), (5), (8), or (9) of section 523(a);*

*''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or*

*''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.*

**SEC. 315. NONDISCHARGEABLE DEBTS.**

*Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:*

*''(14A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228 (a) or (b), or 1328(b), or any other provision of this subsection, except for any debt incurred to pay such a nondischargeable debt in any case in which—*

*''(A)(i) the debtor who paid the nondischargeable debt is a single parent who has 1 or more dependent children at the time of the order for relief; or*

*''(ii) there is an allowed claim for alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor payable under a judicial or administrative order to that spouse or child (but not to any other person) that was unpaid by the debtor as of the date of the petition; and*

*''(B) the creditor is unable to demonstrate that the debtor intentionally incurred the debt to pay the nondischargeable debt;''.*

**SEC. 316. CREDIT EXTENSIONS ON THE EVE OF BANKRUPTCY PRESUMED NONDISCHARGEABLE.**

*Section 523(a)(2) of title 11, United States Code, as amended by section 202 of this Act, is amended—*

*(1) in subparagraph (A), by striking the semicolon at the end and inserting the following: ''(and, for purposes of this subparagraph, consumer debts owed in an aggregate amount greater than or equal to $400 incurred for goods or services not reasonably necessary for the maintenance or support of the debtor or a dependent child of the debtor to a single creditor that are incurred during the 90-day period preceding the date of the order for relief shall be presumed to be nondischargeable under this subparagraph); or'';*

*(2) in subparagraph (B), by striking ''or'' at the end; and*

*(3) by striking subparagraph (C).*

**SEC. 317. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.**

*Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:*

*''(27A) 'household goods' has the meaning given that term in section 444.1(i) of title 16, of the Code of Federal Regulations (as in effect on the effective date of this paragraph), which is part of the regulations issued by the Federal Trade Commission that are commonly known as the 'Trade Regulation Rule on Credit Practices', except that the term shall also include any tangible personal property reasonably necessary for the maintenance or support of a dependent child;''.*

**SEC. 318. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.**

*(a) AUTOMATIC STAY.—Section 362 of title 11, United States Code, as amended by section 303, is amended—*

*(1) in subsection (c)(1), in the matter preceding subparagraph (A), by striking ''(e) and (f)'' and inserting ''(e), (f), and (h)'';*

*(2) by redesignating subsection (h) as subsection (i); and*

*(3) by inserting after subsection (g) the following:*

*''(h) In an individual case under chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim that is in an amount greater than $3,000, or subject to an unexpired lease with a remaining term of at least 1 year (in any case in which the debtor owes at least $3,000 for a 1-year period), if within 30 days after the expiration of the applicable period under section 521(a)(2)—*

*''(1)(A) the debtor fails to timely file a statement of intention to surrender or retain the property; or*

*''(B) if the debtor indicates in the filing that the debtor will retain the property, the debtor fails to meet an applicable requirement to—*

*''(i) either—*

''(I) redeem the property pursuant to section 722; or

''(II) reaffirm the debt the property secures pursuant to section 524(c); or

''(ii) assume the unexpired lease pursuant to section 365(d) if the trustee does not do so; or

''(2) the debtor fails to timely take the action specified in a statement of intention referred to in paragraph (1)(A) (as amended, if that statement is amended before expiration of the period for taking action), unless—

''(A) the statement of intention specifies reaffirmation; and

''(B) the creditor refuses to reaffirm the debt on the original contract terms for the debt.''.

(b) DEBTOR'S DUTIES.—Section 521(a)(2) of title 11, United States Code, as redesignated by section 301(b) of this Act, is amended—

(1) in the matter preceding subparagraph (A), by striking ''consumer'';

(2) in subparagraph (B)—

(A) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first meeting of creditors under section 341(a)''; and

(B) by striking ''forty-five-day period'' and inserting ''30-day period''; and

(3) in subparagraph (C), by inserting '', except as provided in section 362(h)'' before the semicolon.

**SEC. 319. ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.**

(a) IN GENERAL.—Chapter 13 of title 11, United States Code, is amended by adding after section 1307 the following:

**''§1307A. Adequate protection in chapter 13 cases**

''(a)(1)(A) On or before the date that is 30 days after the filing of a case under this chapter, the debtor shall make cash payments in an amount determined under paragraph (2)(A), to—

''(i) any lessor of personal property; and

''(ii) any creditor holding a claim secured by personal property to the extent that the claim is attributable to the purchase of that property by the debtor.

''(B) The debtor or the plan shall continue making the adequate protection payments until the earlier of the date on which—

''(i) the creditor begins to receive actual payments under the plan; or

''(ii) the debtor relinquishes possession of the property referred to in subparagraph (A) to—

''(I) the lessor or creditor; or

''(II) any third party acting under claim of right, as applicable.

''(2) The payments referred to in paragraph (1)(A) shall be determined by the court.

''(b)(1) Subject to the limitations under paragraph (2), the court may, after notice and hearing, change the amount and timing of the dates of payment of payments made under subsection (a).

''(2)(A) The payments referred to in paragraph (1) shall be payable not less frequently than monthly.

''(B) The amount of a payment referred to in paragraph (1) shall not be less than the reasonable depreciation of the personal property described in subsection (a)(1), determined on a month-to-month basis.

''(c) Notwithstanding section 1326(b), the payments referred to in subsection (a)(1)(A) shall be continued in addition to plan payments under a confirmed plan until actual payments to the creditor begin under that plan, if the confirmed plan provides—

''(1) for payments to a creditor or lessor described in subsection (a)(1); and

''(2) for the deferral of payments to such creditor or lessor under the plan until the payment of amounts described in section 1326(b).

''(d) Notwithstanding sections 362, 542, and 543, a lessor or creditor described in subsection (a) may retain possession of property described in that subsection that was obtained in accordance with applicable law before the date of filing of the petition until the first payment under subsection (a)(1)(A) is received by the lessor or creditor.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1307A. Adequate protection in chapter 13 cases.''.

**SEC. 320. LIMITATION.**

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following new subsection:

''(n)(1) Except as provided in paragraph (2), as a result of electing under subsection (b)(2)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds in the aggregate $100,000 in value in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(C) a burial plot for the debtor or a dependent of the debtor.

''(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer.''.

**SEC. 321. MISCELLANEOUS IMPROVEMENTS.**

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

''(h) Notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 90-day period preceding the date of filing of the petition of that individual, made a good-faith attempt to create a debt repayment plan outside the judicial system for bankruptcy law (commonly referred to as the 'bankruptcy system'), through a credit counseling program (offered through credit counseling services described in section 111(a)) that has been approved by—

''(1) the United States trustee; or

''(2) the bankruptcy administrator for the district in which the petition is filed.''.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking ''or'' at the end;

(2) in paragraph (10), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111 that was administered or approved by—

''(A) the United States trustee; or

''(B) the bankruptcy administrator for the district in which the petition is filed.''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

''(f) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111 that was administered or approved by—

''(1) the United States trustee; or

''(2) the bankruptcy administrator for the district in which the petition is filed.''.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 301(b) and 318(b) of this Act, is amended by adding at the end the following:

''(e) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

''(1) a certificate from the credit counseling service that provided the debtor services under section 109(h) or other substantial evidence of a good-faith attempt to create a debt repayment plan outside the bankruptcy system in the manner prescribed in section 109(h); and

''(2) a copy of the debt repayment plan developed under section 109(h) through the credit counseling service referred to in paragraph (1).''.

(e) EXCEPTIONS TO DISCHARGE.—Section 523(d) of title 11, United States Code, as amended by section 202 of this Act, is amended by striking paragraph (3)(A)(i) and inserting the following:

''(i) before the filing of the petition, the debtor made a good faith attempt pursuant to section 109(h) to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and''.

(f) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

**''§111. Credit counseling services; financial management instructional courses**

''(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and that have been approved by—

''(1) the United States trustee; or

''(2) the bankruptcy administrator for the district.

''(b) The United States trustee or each bankruptcy administrator referred to in subsection (a)(1) shall—

''(1) make available to debtors who are individuals an instructional course concerning personal financial management, under the direction of the bankruptcy court; and

''(2) maintain a list of instructional courses concerning personal financial management that are operated by a private entity and that have been approved by the United States trustee or that bankruptcy administrator.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. Credit counseling services; financial management instructional courses.''.

(g) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section 317 of this Act, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence'—

''(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

''(B) includes an individual condominium or co-operative unit;''; and

(2) by inserting after paragraph (27A), as added by section 318 of this Act, the following:

''(27B) 'incidental property' means, with respect to a debtor's principal residence—

''(A) property commonly conveyed with a principal residence in the area where the real estate is located;

''(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

''(C) all replacements or additions;''.

**SEC. 322. BANKRUPTCY JUDGESHIPS.**

(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 1998''.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

*(A) One additional bankruptcy judgeship for the eastern district of California.*

*(B) Four additional bankruptcy judgeships for the central district of California.*

*(C) One additional bankruptcy judgeship for the southern district of Florida.*

*(D) Two additional bankruptcy judgeships for the district of Maryland.*

*(E) One additional bankruptcy judgeship for the eastern district of Michigan.*

*(F) One additional bankruptcy judgeship for the southern district of Mississippi.*

*(G) One additional bankruptcy judgeship for the district of New Jersey.*

*(H) One additional bankruptcy judgeship for the eastern district of New York.*

*(I) One additional bankruptcy judgeship for the northern district of New York.*

*(J) One additional bankruptcy judgeship for the southern district of New York.*

*(K) One additional bankruptcy judgeship for the eastern district of Pennsylvania.*

*(L) One additional bankruptcy judgeship for the middle district of Pennsylvania.*

*(M) One additional bankruptcy judgeship for the western district of Tennessee.*

*(N) One additional bankruptcy judgeship for the eastern district of Virginia.*

*(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) that—*

*(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and*

*(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1);*

*shall not be filled.*

*(c) EXTENSIONS.—*

*(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under section 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—*

*(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;*

*(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;*

*(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;*

*(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and*

*(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.*

*(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship position.*

*(d) TECHNICAL AMENDMENT.—The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: ''Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located.''.*

*(e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—Section 156 of title 28, United States Code, is amended by adding at the end the following new subsection:*

*''(g)(1) In this subsection, the term 'travel expenses'—*

*''(A) means the expenses incurred by a bankruptcy judge for travel that is not directly related to any case assigned to such bankruptcy judge; and*

*''(B) shall not include the travel expenses of a bankruptcy judge if—*

*''(i) the payment for the travel expenses is paid by such bankruptcy judge from the personal funds of such bankruptcy judge; and*

*''(ii) such bankruptcy judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.*

*''(2) Each bankruptcy judge shall annually submit the information required under paragraph (3) to the chief bankruptcy judge for the district in which the bankruptcy judge is assigned.*

*''(3)(A) Each chief bankruptcy judge shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each bankruptcy judge assigned to the applicable district (including the travel expenses of the chief bankruptcy judge of such district).*

*''(B) The annual report under this paragraph shall include—*

*''(i) the travel expenses of each bankruptcy judge, with the name of the bankruptcy judge to whom the travel expenses apply;*

*''(ii) a description of the subject matter and purpose of the travel relating to each travel expense identified under clause (i), with the name of the bankruptcy judge to whom the travel applies; and*

*''(iii) the number of days of each travel described under clause (ii), with the name of the bankruptcy judge to whom the travel applies.*

*''(4)(A) The Director of the Administrative Office of the United States Courts shall—*

*''(i) consolidate the reports submitted under paragraph (3) into a single report; and*

*''(ii) annually submit such consolidated report to Congress.*

*''(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each bankruptcy judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B).''.*

***SEC. 323. PREFERRED PAYMENT OF CHILD SUPPORT IN CHAPTER 7 PROCEEDINGS.***

*Section 507(a) of title 11, United States Code, is amended in the matter preceding paragraph (1), by inserting '', except that, notwithstanding any other provision of this title, any expense or claim entitled to priority under paragraph (7) shall have first priority over any other expense or claim that has priority under any other provision of this subsection'' before the colon.*

***SEC. 324. PREFERRED PAYMENT OF CHILD SUPPORT IN CHAPTER 13 PROCEEDINGS.***

*Section 1322(b)(1) of title 11, United States Code, is amended by striking the semicolon at the end and inserting the following: ''and provide for the payment of any claim entitled to priority under section 507(a)(7) before the payment of any other claim entitled to priority under section 507(a), notwithstanding the priorities established under section 507(a).''.*

***SEC. 325. PAYMENT OF CHILD SUPPORT REQUIRED TO OBTAIN A DISCHARGE IN CHAPTER 13 PROCEEDINGS.***

*Title 11, United States Code, is amended—*

*(1) in section 1325(a)—*

*(A) in paragraph (5), by striking ''and'' at the end;*

*(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and*

*(C) by adding at the end the following:*

*''(7) if the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under that order for alimony, maintenance, or support that are due after the date on which the petition is filed.''; and*

*(2) in section 1328(a), as amended by section 314 of this Act, in the matter preceding paragraph (1), by inserting '', and with respect to a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, only after the debtor certifies as of the later of the date of that completion or the date of certification that all amounts payable under that order for alimony, maintenance, or support that are due before the date of that certification have been paid in accordance with the plan if applicable, or if the underlying debt is not treated by the plan, paid in full'' after ''completion by the debtor of all payments under the plan''.*

***SEC. 326. CHILD SUPPORT AND ALIMONY COLLECTION.***

*Section 362(b) of title 11, United States Code, is amended—*

*(1) in paragraph (17), by striking ''or'' at the end;*

*(2) in paragraph (18), by striking the period at the end and inserting a semicolon; and*

*(3) by adding at the end the following:*

*''(19) under subsection (a) with respect to the withholding of income pursuant to an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or*

*''(20) under subsection (a) with respect to the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law, as specified in section 466(a)(15) of the Social Security Act (42 U.S.C. 666(a)(15)) or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7)).''.*

***SEC. 327. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.***

*Section 523 of title 11, United States Code, as amended by section 202 of this Act, is amended—*

*(1) in subsection (a), by striking paragraph (5) and inserting the following:*

*''(5) to a spouse, former spouse, or child of the debtor—*

*''(A) for actual alimony to, maintenance for, or support of that spouse or child;*

*''(B) that was incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, property settlement agreement, divorce decree, other order of a court of record, or determination made in accordance with State or territorial law by a governmental unit; or*

*''(C) that is described in subparagraph (A) or (B) and that is assigned pursuant to section 408(a)(3) of the Social Security Act (42 U.S.C. 608(a)(3)), or to the Federal Government, a State, or any political subdivision of a State,*

*but not to the extent that the debt (other than a debt described in subparagraph (C)) is assigned to another entity, voluntarily, by operation of law, or otherwise;''; and*

*(2) in subsection (c), by striking ''(6), or (15)'' and inserting ''or (6)''.*

***SEC. 328. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.***

*Section 522(c)(1) of title 11, United States Code, is amended by inserting '', except that, notwithstanding any other Federal law or State law relating to exempted property, such exempt property shall be liable for debts of a kind specified in paragraph (1) or (5) of section 523(a)'' before the semicolon at the end of the paragraph.*

***SEC. 329. DEPENDENT CHILD DEFINED.***

*Section 101 of title 11, United States Code, is amended by inserting after paragraph (14) the following:*

*''(14A) 'dependent child' means, with respect to an individual, a child who has not attained the age of 18 and who is a dependent of that individual, within the meaning of section 152 of the Internal Revenue Code;''.*

## *TITLE IV—TECHNICAL CORRECTIONS*

***SEC. 401. DEFINITIONS.***

*Section 101 of title 11, United States Code, as amended by section 317, is amended—*

*(1) by striking ''In this title—'' and inserting ''In this title:'';*

*(2) in each paragraph, by inserting ''The term'' after the paragraph designation;*

*(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';*

*(4) in each of paragraphs (35A) and (38), by striking ''; and'' at the end and inserting a period;*

*(5) in paragraph (51B)—*

*(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and*

*(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph;*

*(6) by amending paragraph (54) to read as follows:*

*''(54) The term 'transfer' means—*

*''(A) the creation of a lien;*

*''(B) the retention of title as a security interest;*

*''(C) the foreclosure of a debtor's equity of redemption; or*

*''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—*

*''(i) property; or*

*''(ii) an interest in property;'';*

*(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (56A) (including paragraph (54), as amended by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and*

*(8) by redesignating paragraphs (4) through (56A) in entirely numerical sequence, so as to result in numerical paragraph designations of (4) through (72), respectively.*

***SEC. 402. ADJUSTMENT OF DOLLAR AMOUNTS.***

*Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3), 707(b)(5),'' after ''522(d),'' each place it appears.*

***SEC. 403. EXTENSION OF TIME.***

*Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all that follows through ''or'', and inserting ''922, 1201, or''.*

***SEC. 404. WHO MAY BE A DEBTOR.***

*Section 109(b)(2) of title 11, United States Code, is amended by striking ''subsection (c) or (d) of''.*

***SEC. 405. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.***

*Section 110(j)(3) of title 11, United States Code, is amended by striking ''attorney's'' and inserting ''attorneys' ''.*

***SEC. 406. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.***

*Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.*

***SEC. 407. SPECIAL TAX PROVISIONS.***

*Section 346(g)(1)(C) of title 11, United States Code, is amended by striking '', except'' and all that follows through ''1986''.*

***SEC. 408. EFFECT OF CONVERSION.***

*Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.*

***SEC. 409. AUTOMATIC STAY.***

*Section 362(b) of title 11, United States Code, as amended by section 326 of this Act, is amended—*

*(1) in paragraph (19), by striking ''or'' at the end;*

*(2) in paragraph (20), by striking the period at the end and inserting a semicolon; and*

*(3) by adding at the end the following:*

*''(21) under subsection (a) of this section of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;*

*''(22) under subsection (a)(3) of this section, of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement; or*

*''(23) under subsection (a)(3) of this section, of the commencement of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated.''.*

***SEC. 410. AMENDMENT TO TABLE OF SECTIONS.***

*The table of sections for chapter 5 of title 11, United States Code, is amended by striking the item relating to section 556 and inserting the following:*

*''556. Contractual right to liquidate a commodities contract or forward contract.''.*

***SEC. 411. ALLOWANCE OF ADMINISTRATIVE EXPENSES.***

*Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.*

***SEC. 412. PRIORITIES.***

*Section 507(a) of title 11, United States Code, as amended by section 323 of this Act, is amended—*

*(1) in paragraph (3)(B), by striking the semicolon at the end and inserting a period; and*

*(2) in paragraph (7), by inserting ''unsecured'' after ''allowed''.*

***SEC. 413. EXEMPTIONS.***

*Section 522 of title 11, United States Code, as amended by section 320 of this Act, is amended—*

*(1) in subsection (f)(1)(A)(ii)(II)—*

*(A) by striking ''includes a liability designated as'' and inserting ''is for a liability that is designated as, and is actually in the nature of,''; and*

*(B) by striking '', unless'' and all that follows through ''support''; and*

*(2) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.*

***SEC. 414. EXCEPTIONS TO DISCHARGE.***

*Section 523 of title 11, United States Code, is amended—*

*(1) in subsection (a)(3), by striking ''or (6)'' each place it appears and inserting ''(6), or (15)'';*

*(2) as amended by section 304(e) of Public Law 103–394 (108 Stat. 4133), in paragraph (15), by transferring such paragraph so as to insert it after paragraph (14) of subsection (a);*

*(3) in subsection (a)(9), by inserting '', watercraft, or aircraft'' after ''motor vehicle'';*

*(4) in subsection (a)(15), as so redesignated by paragraph (2) of this subsection, by inserting ''to a spouse, former spouse, or child of the debtor and'' after ''(15)'';*

*(5) in subsection (a)(17)—*

*(A) by striking ''by a court'' and inserting ''on a prisoner by any court'';*

*(B) by striking ''section 1915 (b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915''; and*

*(C) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears; and*

*(6) in subsection (e), by striking ''a insured'' and inserting ''an insured''.*

***SEC. 415. EFFECT OF DISCHARGE.***

*Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1) of this title, or that''.*

***SEC. 416. PROTECTION AGAINST DISCRIMINATORY TREATMENT.***

*Section 525(c) of title 11, United States Code, is amended—*

*(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and*

*(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.*

***SEC. 417. PROPERTY OF THE ESTATE.***

*Section 541(b)(4) of title 11, United States Code, is amended—*

*(1) in subparagraph (B)(ii), by inserting ''365 or'' before ''542''; and*

*(2) by adding ''or'' at the end.*

***SEC. 418. LIMITATIONS ON AVOIDING POWERS.***

*Section 546 of title 11, United States Code, is amended by redesignating the second subsection (g) (as added by section 222(a) of the Bankruptcy Reform Act of 1994; 108 Stat. 4129) as subsection (h).*

***SEC. 419. PREFERENCES.***

*Section 547 of title 11, United States Code, is amended—*

*(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (h)''; and*

*(2) by adding at the end the following:*

*''(h) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.*

***SEC. 420. POSTPETITION TRANSACTIONS.***

*Section 549(c) of title 11, United States Code, is amended—*

*(1) by inserting ''an interest in'' after ''transfer of'';*

*(2) by striking ''such property'' and inserting ''such real property''; and*

*(3) by striking ''the interest'' and inserting ''such interest''.*

***SEC. 421. TECHNICAL AMENDMENT.***

*Section 552(b)(1) of title 11, United States Code, is amended by striking ''product'' each place it appears and inserting ''products''.*

***SEC. 422. SETOFF.***

*Section 553(b)(1) of title 11, United States Code, is amended by striking ''362(b)(14)'' and inserting ''362(b)(17)''.*

***SEC. 423. DISPOSITION OF PROPERTY OF THE ESTATE.***

*Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.*

***SEC. 424. GENERAL PROVISIONS.***

*Section 901(a) of title 11, United States Code, is amended by inserting ''1123(d),'' after ''1123(b),''.*

***SEC. 425. APPOINTMENT OF ELECTED TRUSTEE.***

*Section 1104(b) of title 11, United States Code, is amended—*

*(1) by inserting ''(1)'' after ''(b)''; and*

*(2) by adding at the end the following:*

*''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election. Upon the filing of a report under the preceding sentence—*

*''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and*

*''(ii) the service of any trustee appointed under subsection (d) shall terminate.*

*''(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute.''.*

***SEC. 426. ABANDONMENT OF RAILROAD LINE.***

*Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.*

***SEC. 427. CONTENTS OF PLAN.***

*Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.*

***SEC. 428. DISCHARGE UNDER CHAPTER 12.***

*Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking ''1222(b)(10)'' each place it appears and inserting ''1222(b)(9)''.*

***SEC. 429. EXTENSIONS.***

*Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—*

*(1) in subparagraph (A), in the matter following clause (ii), by striking ''or October 1, 2002, whichever occurs first''; and*

*(2) in subparagraph (F)—*

*(A) in clause (i)—*

*(i) in subclause (II), by striking ''or October 1, 2002, whichever occurs first''; and*

*(ii) in the matter following subclause (II), by striking ''October 1, 2003, or''; and*

*(B) in clause (ii), in the matter following subclause (II)—*

*(i) by striking ''before October 1, 2003, or''; and*

*(ii) by striking '', whichever occurs first''.*

***SEC. 430. BANKRUPTCY CASES AND PROCEEDINGS.***

*Section 1334(d) of title 28, United States Code, is amended—*

*(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and*

*(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.*

***SEC. 431. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.***

*Section 156(a) of title 18, United States Code, is amended—*

*(1) in the first undesignated paragraph—*

*(A) by inserting ''(1) the term'' before '''bankruptcy''; and*

*(B) by striking the period at the end and inserting ''; and''; and*

*(2) in the second undesignated paragraph—*

*(A) by inserting ''(2) the term'' before '''document''; and*

*(B) by striking ''this title'' and inserting ''title 11''.*

***SEC. 432. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.***

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

*(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply only with respect to cases commenced under title 11, United States Code, on or after the date of enactment of this Act.*

AMENDMENT NO. 3559

(Purpose: In the nature of a substitute)

Mr. LOTT. On behalf of Senator GRASSLEY, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Mississippi [Mr. LOTT] for Mr. GRASSLEY, for himself and Mr. HATCH, proposes an amendment numbered 3559.

Mr. LOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LOTT. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provision of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the substitute amendment to Calendar No. 394, S. 1301, the Consumer Bankruptcy Protection Act:

Trent Lott, Orrin G. Hatch, Charles Grassley, Arlen Specter, Strom Thurmond, Connie Mack, Ben Nighthorse Campbell, Thad Cochran, Tim Hutchinson, Wayne Allard, Christopher Bond, Rick Santorum, Chuck Hagel, Larry E. Craig, and Jon Kyl.

Mr. LOTT. Mr. President, for the information of all Senators, this cloture vote would occur, then, on Friday 1 hour after the Senate convenes unless changed by unanimous consent or unless we get something worked out.

I yield to Senator DASCHLE for his comments on this or his suggestions as to how we might proceed.

Mr. DASCHLE. Mr. President, I appreciate the leader's comments earlier. I do believe that there is an opportunity here for us to come to some procedural conclusion on how we might address this bill. I think that Senators GRASSLEY and DURBIN have been working in good faith. I have had the opportunity to discuss this matter with Senator KENNEDY. I personally don't believe the cloture motion is the most constructive approach, but I also recognize that the majority leader has noted that that could be vitiated were we to come to some agreement.

I think it is a fair statement that if we are forced into a cloture motion, nothing will happen. If we can reach an agreement, there may be an opportunity for us to have a good debate and to have some votes on key amendments, both directly relevant to the bill and perhaps not as directly relevant, but certainly relevant to the American agenda.

I am hopeful that we can accommodate the needs of Senators who have expressed an interest in amending this bill. I am confident that we can, and I hope this cloture motion will not be necessary.

Mr. LOTT. Mr. President, just in conclusion, once again, I urge all of the Senators that are interested in this legislation that they begin work right away, tomorrow, so that we will not let the whole day pass without trying to work something out. Senator DASCHLE and I will talk as the day progresses. That would be the wise thing to do, I think, if we can work something out that is reasonable, to allow us to continue to complete campaign finance reform, and so we can go on and hopefully complete the Interior appropriations bill.

This is a positive move and I appreciate the opportunity to work on it to see if we can get something agreed to.

Mr. President, at this point, I ask that the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. On behalf of the managers of the bankruptcy bill, I hope Members will file their amendments in a timely manner. I know there are amendments that Senators are very interested in that would even be relevant postcloture, and then there are others that obviously Members are interested in, too. I hope they will file them. The managers are attempting to clear as many amendments as possible and would like to reach a consent agreement limiting amendments, if that is at all possible, and perhaps that could be taken care of in our agreement that we are working on.

## MORNING BUSINESS

Mr. LOTT. Mr. President, I ask there be a period for morning business, with Members permitted to speak for up to 10 minutes each.

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

## NO RUSH TO JUDGMENT

Mr. BYRD. Mr. President, we appear to be only days away from receiving the Independent Counsel's report on President Clinton. The pressure on Congress is escalating. Talk of impeachment is in the air along with suggestions of resolutions of reprimand and censure. Some have even suggested that we ought to get on with impeachment and ''get this thing behind us.''

There had to come a time, sooner or later, when the boil would be lanced. The problem is, that with the lancing, a hemorrhaging may be only one of those continuing symptoms of a greater lancing—perhaps even an amputation—that still lurks in the shadows up ahead.

There is no question but that the President, himself, has sown the wind, and he is reaping the whirlwind. His televised speech of August 17 heaped hot coals upon himself, coals causing wounds which continue to inflame and burn ever more deeply. Coming, as the speech did, so soon after the President's appearance before the Grand Jury, his words were ill-timed, ill-formed, and ill-advised. Perhaps if he had only delayed his televised speech for 24 hours, he may have, upon reflection, avoided some self-inflicted wounds that have since festered and continue to fester.

The Moving Finger writes; and, having writ,
Moves on: nor all thy Piety nor Wit
Shall lure it back to cancel half a Line,
Nor all thy Tears wash out a Word of it.

When the scribes and Pharisees brought before Jesus a woman taken in adultery, saying that, under Moses, the law commanded that she be stoned, they sought to tempt Jesus that they might accuse him. He said unto them: ''He that is without sin among you, let him first cast a stone at her.'' And that ancient admonition, that he who is without sin should cast the first stone, applies to every human being in this country today. Someone else has said: ''No man's life will bear looking into.'' These admonishments should give all of us pause and should encourage reflection and self-examination. In this instance, the President, himself, has, by his own actions and words, thrown the first stone at himself and thus made himself vulnerable to the stoning by others.

What a sorrowful spectacle! To maintain that Presidents have private lives

is, of course, not to be denied, but the Oval Office of the White House is not a private office; it is where much of the business of the Nation is conducted daily; it is the people's office; and the only real privacy that any President can realistically claim is in the third-floor living quarters of the White House with his family. What the President had hoped to claim was ''nobody else's business'' has now become everybody else's business.

His speech was a lawyer-worded effort—as in the reference to ''legally accurate'' testimony—and the people have long since grown tired of having to pick and sift among artfully crafted words that have too often obscured the truth rather than revealed it.

The White House's apparent strategy of delay and attack over so many long months has only succeeded in stringing out a judgment day that is increasingly threatening, and has only made bad matters worse. Former President Nixon, in an earlier tragedy for the Nation and for all of us who were here and lived through it, tried the same thing—delay, delay, delay, and counter-attack, attack, attack—and it failed in the end.

We seem to be living recent history all over again. As the Book of Ecclesiastes plainly tells us, ''There is no new thing under the sun.'' Time seems to be turning backward in its flight, and many of the mistakes that President Nixon made are being made all over again.

We also must stop and remember that this is a sad time for the President and his family, a sad time for his friends and supporters throughout the country, a sad time for the devoted members of his staff who have labored and sacrificed and given so much for a man in whom they implicitly believed. It is a sad time for members of his cabinet and heads of agencies who publicly defended him and who depended on his word.

But it is an even sadder time for the country. As a schoolboy, I looked upon George Washington and Thomas Jefferson and James Madison and Abraham Lincoln as my idols to be emulated; I looked upon Babe Ruth and Jack Dempsey and Charles Lindbergh and Benjamin Franklin and Thomas Edison and Nathan Hale and Daniel Morgan and Nathaniel Green and Stonewall Jackson as my heroes. I was taught, as most of us were, to revere God. I was taught to believe the Bible, and that a judgment day would surely come when we would all be punished for our sins or be saved by our faith and good works.

The old couple who raised me taught me by their example and their words not to lie but to tell the truth, not to cheat but to be honest; but what will parents tell their children today? Can they tell them to plow a straight furrow and that honesty is still the best policy? To whom can our young people look for inspiration?

I recently asked a question on this floor, ''Where have all the heroes gone?'' I ask that question again today. Where have all the heroes gone? Fortunately, we do have a Mark McGwire and a Sammy Sosa, both of whom have captured the Nation's admiration with their home runs. But where are the Nation's leaders to whom the children can look and be inspired to work hard and live clean lives?

The political and social environment in which parents must today raise their children is, unfortunately, an environment in which anything goes; politicians try to be all things to all people; family values and religious values which made us a great Nation are looked upon as old-fashioned, unsophisticated, and the product of ignorance and rusticness. Profanity and vulgarity, sex and violence are pervasive in television programming, in the movies, and in much of today's books that pretend to pass for literature. The Nation is inexorably sinking toward the lowest common denominator in its standards and values. Haven't we had enough?

I think our country sinks beneath the yoke;
It weeps, it bleeds, and each new day
A gash is added to her wounds.

Yes, talk of impeachment and censure and resignation is in the air. It is on almost everybody's mind with whom I have talked.

As we find ourselves being brought nearer and nearer, as it would seem, to a yawning abyss, I urge that we all step back and give ourselves and the country a little pause in which to reflect and meditate before we cast ourselves headlong over the precipice.

To say we ought to get on with impeachment and ''get the thing behind us'' is a bold thing to say; but boldness, to the point of cavalierness, can come back to haunt us.

I suggest that we Senators should let the House do its work and wait to see what action that body takes. The Senate cannot vote on Articles of Impeachment—we all know that—until the House formulates such articles and presents them by its managers to the Senate—if it ever does so. I also suggest that putting ''this thing behind us'' is not going to be an easy thing to do. If Congress reaches that stage of voting on Articles of Impeachment it is going to be a traumatic experience for all of us, both here in this city and throughout the country. The House is in no position to formulate Articles of Impeachment prior to its receipt and consideration of—and I emphasize consideration—the Starr report. The Judiciary Committee—I am talking about the Judiciary Committee in the House—will undoubtedly want to hold hearings before it formulates any Articles of Impeachment if such appear to be called for.

That is the House's charge; that is the House's responsibility, not ours. If and when such Articles are presented here to the Senate—they are not amendable here, and the Senate, in such cases, is limited to an up-or-down vote on each Article—that will be a matter of the utmost gravity. All Senators will be sworn. I tell you. That will be a matter of the utmost gravity. Caution should be the order of the day.

If, sometime in the future, the American people should come to believe that this President, or any other President, has been driven out of office for what they may perceive to be political reasons, their wrath will fall upon those who jumped to judgment prematurely. That is not something that we can so easily ''put behind us.'' Both the media and those of us who may ultimately be called upon to sit in judgment should exercise restraint in pressing toward a particular conclusion before all of the facts are known. There is a constitutional process in place. We should all let it work.

It is my suggestion that everyone should exercise some self-restraint against calling for impeachment or censure or for the President's resignation.

Who knows? I may do that before it is all over. But not now. We should exercise some self-restraint against calling for impeachment, or censure, or for resignation—until the other body has had an opportunity to study and sift through the Starr report.

There are many avenues down which we could travel as we grapple with this matter. Among them is the path of official censure which some have suggested. Others may think that censure is ''meaningless.'' Let me state for the record that that is not my view. I have written in my work on the Senate that censure has no constitutional basis.

It doesn't mean that censure is unconstitutional. Just as ''holds'' that are placed on bills and resolutions have no basis in the Senate rules, they nevertheless have grown up as a custom here, and such ''holds'' are practiced.

I have observed that censure is not mentioned in the Constitution. But, certainly censure is not ''meaningless.'' It is a serious and emphatic expression of condemnation and disapproval. Censure by the Congress is a major blot on the record and reputation of a public official. While at this point, I prefer to reserve judgment on that course, it should not be simply brushed off as ''meaningless.''

And we must not fail to consider the lessons of history. For my part, I have seen history repeat itself. I served on the Senate Judiciary Committee and was the Democratic Whip during the weeks and months of the Nixon tragedy. Some of the aspects of that tragedy can be seen in the problems that are today confronting us. Some aspects are different. Much is the same.

By April 1973, there had been talk of impeachment of President Nixon, with some people saying that he should resign. On May 23 of that year, I said, ''As of now, there is no reason for President Nixon to resign, and talk of impeachment is at best, premature, and, at worst, reckless.'' Citing the lack of hard evidence ''to date,'' I also

said, ''It is a time for restraint and sobriety in our words, our actions, and our judgments.''

I later said that impeachment would require ''hard evidence'' of Nixon's complicity in Watergate and would also require strong ''public opinion to support'' impeachment and conviction. And I say to my colleagues here today, it will require strong ''public opinion to support'' impeachment and conviction of any President in the future.

''We all shrink from taking a step that is the most drastic step authorized in the Constitution,'' I said. I added that ''the bare possibility of resignation of Mr. Nixon at some point is a more likely event than impeachment.'' Those are my quotes as I look back.

On January 28, 1974, I was a guest on ''Washington's Straight Talk,'' a 30-minute public television interview show. In reference to the impact that the Watergate Affair was having on the President, I stated: ''There is no question but that his influence has been greatly eroded. I doubt that he can ever regain the confidence of the American people.'' I also said that impeachment of the President ''is becoming a more realistic possibility, but there is still no groundswell for impeachment.'' I was talking about a Republican President in that instance. ''There is an uneasiness on impeachment because of the paralysis that would come with it,'' I said then.

I cosponsored a resolution directing the Committee on Rules and Administration—on which I served and still serve—to review all existing rules and precedents that applied to impeachment trials in order to recommend any revisions to the rules that might be necessary. The result of our work was an exhaustively researched publication, titled, ''Procedure and Guidelines for Impeachment Trials in the United States Senate.'' The Senate was, indeed, gearing up for an impeachment trial—if needed.

But, on Thursday, August 8, 1974—almost a quarter of a century ago—President Nixon resigned, his resignation to be effective at noon the next day. And promptly after noon on Friday, August 9, Gerald Ford was sworn in as the 38th President.

Mr. President, just as I urged caution and patience in 1973 and 1974, I urge that same course now. I suggest that we try to restrain ourselves and wait until the House of Representatives has had an opportunity to examine the contents of Mr. Starr's report. It will be forthcoming soon, I hear. Perhaps before the week is out. Let us, as Senators, remember that if the House ultimately votes to impeach this President—and we all should be careful not to attempt to influence the other body—when I say ''we all'' I have reference to ourselves, to the executive branch and to the media—in any way in a decision which should rest with the House, and it alone—we Senators, who must sit as jurors if the worst ever comes to worst, will carry a heavy burden in that event. We must not compromise any final decision by rushing to judgment in advance. I trust that we will all weigh carefully, in our own minds and hearts, the possible consequences to the nation of our words and actions and judgments if that duty ultimately should beckon us. If it does, there will be many difficult questions.

What is an impeachable offense? We read in last weekend's newspaper. And what is meant by ''high crimes and misdemeanors''? We heard the question asked on television. Gerald Ford, in remarks to the House of Representatives in April 1970, stated: ''The only honest answer is that an impeachable offense is whatever a majority of the House of Representatives considers [it] to be at a given moment in history; conviction results from whatever offense or offenses two-thirds''—not just 60—''of the other body considers to be sufficiently serious to require removal of the accused from office.''

Even though the debates and actions at the Philadelphia Convention regarding impeachment appear on the record to have been comparatively sparse, they seem to indicate clearly enough that the framers intended the phrase ''high Crimes and Misdemeanors'' to subsume corruption, maladministration, gross and wanton neglect of duty, misuse of official power, and other violations of the public trust by officeholders.''

The interpretation of the Constitution's clause on impeachable offenses entered into the ratification debates. James Iredell, speaking at the North Carolina Convention, declared that the ''power of impeachment'' given by the Constitution was ''to bring great offenders to punishment. . . . for crime which it is not easy to describe, but which every one must be convinced is a high crime and misdemeanor against the government.'' Iredell, who would later serve as a Supreme Court justice, said that the ''occasion'' for exercise of the impeachment power ''will arise from acts of great injury to the community, and the objects of it may be such as cannot be easily reached by an ordinary tribunal.''

Alexander Hamilton, hoping to influence the critical New York decision on ratification, explained in The Federalist No. 65:

> A well constituted court for the trial of impeachments, is an object not more to be desired than difficult to be obtained in a government wholly elective. The subjects of its jurisdiction are those offenses which proceed from the misconduct of public men, or in other words from the abuse or violation of some public trust. They are of a nature which may with peculiar propriety to be denominated political, as they relate chiefly to injuries done immediately to the society itself. . . . What it may be asked is the true spirit of the institution itself? Is it not designed as a method of national inquest into the conduct of public men?

A misconception that has surfaced during impeachment trials is the notion that criminal or civil standards of proof are somehow required in order to convict. Such standards run the gamut from the lowest threshold, proof by ''preponderance of the evidence,'' which must be met by plaintiffs in most civil cases; to the next highest standard, proof by ''clear and convincing evidence,'' employed in some classes of civil cases; to the most rigorous standard, ''proof beyond a reasonable doubt,'' imposed for criminal cases. Of course, Mr. President, a Senator may apply any standard of proof he or she desires, or may choose to apply no set standard whatever. But, given the history of impeachment in the United States and the fact that neither civil penalties nor criminal punishments are applicable in impeachment cases, any talk of standards of proof seems rather pointless and likely to be unproductive.

If they have taught us nothing else, the events of recent months at least should have taught us the essential importance of restraint. As Members of this body, we are all likely to be sorely tested in this matter. The nation will look to us for leadership. And in critical times, real leadership often requires one to turn one's back on the daily hue and cry and quietly sort through the noise of competing interests for the one overriding, essential interest. Such a course demands restraint and discipline. We, who may one day be called upon to bear the brunt of the responsibility of deciding the fate of a president, must reach for those qualities at this time.

And so, I respectfully urge everyone in this town to calm down for a little while and contemplate with seriousness the impact that our actions may have on the well-being of the nation, and the paralysis which we may be spawning if we continue to be mesmerized with each new rumor, and each new titillating whisper. The President's situation—and the Congress', the media's, and the public's all-consuming obsession with it—has contributed to a loss of focus on, and attention to, many aspects of our national life that have far-reaching consequences; and we shall see a continuation of that loss of focus when and if the time ever comes that we have to vote on an impeachment resolution. Nowhere is this more true than in the realm of foreign policy. In the few snippets of newspaper and news shows which attempt to turn our attention from our unfortunate domestic travails and focus instead on events overseas, we can see the troubling signs of a long and difficult winter ahead.

In the Balkans, the Serb-dominated Yugoslav Army has reportedly rounded up ethnic Albanian men and boys of fighting age in the province of Kosovo, labeling them all ''terrorists.'' This action bears the bloody stains of earlier Serbian ''ethnic cleansing'' in neighboring Bosnia that eventually led to a massive intervention by NATO. What action, if any, should the U.S. take? I fear that our lack of attention may

allow the situation to get even further out of hand.

In Iraq, troubling questions have been raised about an unwillingness to deal with continued Iraqi intransigence over weapons inspections. Russia's economy and indeed her very government appear on the verge of dissolution. North Korea has launched a long range missile right over our ally, Japan. In China and elsewhere, many tens of thousands of people face the coming winter hungry and homeless as a result of floods and fires and droughts. And, not least, acts of terrorism against U.S. embassies and interests continue to threaten. All of these unhappy circumstances will challenge the U.S. economy and U.S. leadership. It ill behooves us all to become so enmeshed in the current web of scandal that we ignore or obscure opportunities to deal with these serious challenges before they escalate into full-blown crises.

We cannot continue to swirl in this miasma of misery if we are to judiciously carry out our duties as the representatives of the people. Impeachment is among the most serious, if not the most serious, duty meted out to us in the Constitution that we are sworn to support and defend. Let us wait for the facts to come out before we rush to judgment as to the action we should take. Let us wait for the House to determine those facts from the report that will shortly be presented to it. And then, hopefully, we can all see what the facts are.

There are serious challenges to our nation ahead. Here in the Senate, we may be called upon to help restore such forgotten qualities as courage, integrity, dignity, fairness, and thoughtfulness to a situation marked, for the most part, by the absence of those characteristics. For my part, I shall pray that we who serve here will do our best to restore the sense of serious contemplation and quiet duty expected of us under the Constitution and by the good people of this nation during times of testing and crisis.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Texas.

Mr. GRAMM. Mr. President, I wanted to respond, if I might, for just a minute, to Senator BYRD. First of all, I would like to thank him for the lesson of his speech today. Our founders did not write the Constitution and then sit down and wonder about what they would do about corruption in public men. In fact, when they wrote the Constitution the first power enumerated for the House of Representatives in the Constitution is the power to impeach. This was no afterthought. When the founders wrote, in article I, section 3, about the first power of the Senate, it was the power to try all impeachments. So Senator BYRD, I would like to thank you for reminding us that this is a high constitutional responsibility.

None of us will be judged based on what the President did or did not do, but we will be judged on what we do or what we do not do. One of the quotes from the Federalist Paper No. 65, from Alexander Hamilton, that you did not use, which I think defines the role you have taken in this debate, is the line where Hamilton sees a Senate which is ''unawed and uninfluenced.'' I think your lesson today to us is we should be unawed, but we should also be uninfluenced. And I can say that if I were to be tried in the Senate, if I were innocent, I would look to Senator BYRD as my greatest hope; if I were guilty, I would look to him as my greatest fear.

Finally, before yielding the floor, the Senator asked, Where are the heroes? I would like to say that for those who know him, ROBERT C. BYRD is a hero. When I think of great men and women who have sat in this body as Senators whose names you might want to put up next to Cicero and Cato, I include the name of ROBERT C. BYRD on that list. I am very proud to serve in the Senate with him.

I think his comments today really reflect on the posture that the Senate should take. I have no doubt that Senator BYRD will take that posture. I intend to do my best to take it as well. I yield the floor.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his words, which I take very seriously, and for his kindness, as always, to me.

I hope that I have spoken wisely. I hope that I will not be misunderstood. I simply think that before we reach a judgment on this President or any other President—and I said this when Mr. Nixon was in the docks, as it were—I hope that we Senators will not advocate impeachment or censure or resignation at least until the Starr report has reached the House and the House has had an opportunity to conduct hearings, if it so chooses, and has formulated articles, if it so chooses. There will be plenty of time then for Senators to reach that judgment. In the meantime, we have much to do. I thank the distinguished Senator.

Mr. FEINGOLD addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I appreciate the remarks of the Senator from West Virginia, obviously, as fundamental a matter as we can have before us, but I share the Senator's view that prior to the release of the report, there are many matters that need our attention. First on that list is what we have been debating today and will be debating tomorrow, and that is the extremely urgent need to pass campaign finance reform.

## THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, September 8, 1998, the federal debt stood at $5,548,700,311,164.48 (Five trillion, five hundred forty-eight billion, seven hundred million, three hundred eleven thousand, one hundred sixty-four dollars and forty-eight cents).

One year ago, September 8, 1997, the federal debt stood at $5,411,319,000,000 (Five trillion, four hundred eleven billion, three hundred nineteen million).

Five years ago, September 8, 1993, the federal debt stood at $4,391,317,000,000 (Four trillion, three hundred ninety-one billion, three hundred seventeen million).

Ten years ago, September 8, 1988, the federal debt stood at $2,605,450,000,000 (Two trillion, six hundred five billion, four hundred fifty million).

Fifteen years ago, September 8, 1983, the federal debt stood at $1,355,323,000,000 (One trillion, three hundred fifty-five billion, three hundred twenty-three million) which reflects a debt increase of more than $4 trillion—$4,193,377,311,164.48 (Four trillion, one hundred ninety-three billion, three hundred seventy-seven million, three hundred eleven thousand, one hundred sixty-four dollars and forty-eight cents) during the past 15 years.

## COMPREHENSIVE TEST BAN TREATY

Mr. BIDEN. Mr. President, I want to commend to my colleagues the exceptionally thoughtful lead editorial in yesterday morning's Washington Post. It is entitled ''The Test Ban and Arms Control,'' and it makes some cogent points about the Comprehensive Test-Ban Treaty and a Senate where few objections are raised to the Treaty itself, but most Republicans still cast symbolic votes against it.

The Post notes correctly that leading Senate Republicans seem to assume that a national missile defense is the only answer to the problems of nuclear proliferation and the risk of nuclear war.

As the Post concludes, however, treaties like the Chemical Weapons Convention and the Comprehensive Test-Ban Treaty ''are capable of serving American requirements well.'' Whatever one's views on national missile defense, those treaties ''would strengthen the American position in the world.''

I would note two areas in which I disagree with the Post editorial. First of all, the Test-Ban Treaty was signed 2 years ago, rather than ''earlier this year.'' The Treaty was submitted to the Senate nearly a full year ago, and has languished because the Republican leadership is afraid to let it come up.

I do not accept the Post's pessimistic view, moreover, of the Test-Ban Treaty's chances on the floor. In last week's vote, moderate Republicans could support their Leader without doing any tangible harm.

When the Test-Ban Treaty finally comes up for a vote on ratification, however, I am confident that at least 67 members will support it, just as they supported the Chemical Weapons Convention last year.

With those two caveats, I strongly urge my colleagues to read Tuesday's Post editorial and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial ordered to be printed in the RECORD, as follows:

[From the Washington Post, Sept. 8, 1998]

THE TEST BAN AND ARMS CONTROL

An early Senate vote on funds for implementation of the comprehensive nuclear test ban treaty indicates that the two-thirds majority needed to ratify the test ban may be lacking. There would be some votes from the Republican majority for a treaty, but at this moment the dominant blocking position of the party leadership looks strong. The evident resistance to ratification is attributed not simply to dissatisfaction with some of the treaty's terms—there isn't all that much dissatisfaction—but to a fundamental and wrongheaded quarrel with the premises of arms control itself.

Modern arms control was invented during the Cold War to restrict the nuclear armories of the then-two great powers and, if not to bring something deserving of the name of peace between them, then to lessen the risks and costs of their preparing for nuclear war. There were ups and downs, and their ultimate worth can be argued, but there is no denying that at a certain point Ronald Reagan demolished arms control as everyone had known it.

From being a policy aimed at producing nuclear parity or stalemate in a condition of reduced but continuing political hostility, arms control became under President Reagan a bold program to end Soviet-American nuclear competition and beyond that, to close out the Cold War itself by seeing to the transformation of the Soviet Union. Many other hands, especially Mikhail Gorbachev's, shared in this task. But Ronald Reagan was a leading contributor to the different state of affairs we enjoy with Russia to this day.

Since the Cold War's demise, the urgency has gone out of classical arms control. The United States, far from deterring Russia and preserving a balance of terror, is helping Russia dismantle its excessive and expensive nuclear capability, concentrating on the specter of ''loose nukes''—weapons under uncertain official control and vulnerable to private theft and misuse. Still, the weapons that most trouble the United States and Russia are those in the hands, or in the aspirations, of third countries. Nonproliferation or counter-proliferation is at the heart of post-Cold War arms control.

This is the context in which the comprehensive test ban treaty, which was decades in the making, finally was signed earlier this year. This arms-control perennial had changed from being a check on Russian and American arms programs into a restraint on the spread of weapons of mass destruction among assorted regimes around the world. This is the test ban's 21st century mission: to give the multitude of nations an additional lever with which to press Iran and Iraq, North Korea, India, Pakistan and Israel—and rogues elsewhere—to abandon or slow their nuclear urges.

Leading Senate Republicans perversely persist in blaming the test ban, and by extension the whole updated post-Cold War framework of arms control, for nuclear and chemical and other programs being pursued by various countries. These naive senators seem to believe that arms-control measures are magically self-enforcing. They fail to understand that the signatories of arms-control agreements must take upon themselves the burdens of observing their terms and of enforcing compliance to others' formal pledges of self-denial. If the signatories fall short, the responsibility falls on them, not on the agreements.

The senators also profess to rely on American power and American technology alone—especially on a new national missile defense—to ensure the security of the United States. Such a missile defense is in the works, but questions remain about its strategic purpose, efficacy and cost. The pace of pondering these questions has itself become a sharp political issue. Meanwhile, some senators carelessly would throw away the increments to American security that could be added by cooperation with other friendly countries in matters such as the chemical weapons treaty, the nuclear nonproliferation treaty and the test ban.

These are imperfect instruments, but they are capable of serving American requirements well. Even if a missile defense of minimal cost, deadly accuracy and reliability were ready today, which it is not, those instruments would strengthen the American position in the world.

## THE PROPOSED UNANIMOUS CONSENT AGREEMENT FOR REPUBLICAN JUVENILE CRIME BILL, S. 10

Mr. LEAHY. Mr. President, last Thursday, after Senators had been informed that there would be no more votes that day and after I had already headed for home to Vermont, Republicans came to the floor to propose a narrow procedural device in connection with the Republican juvenile crime bill, S.10.

No one had advised me that the Senate Republican leadership planned to proceed to S.10 on Thursday. After a year of inaction on this bill—which was voted on by the Judiciary Committee in July 1997—the Republicans did not even seek a response to their proposal. Instead, they rushed to the floor in ambush fashion.

The failure of this Congress to take up and pass responsible juvenile crime legislation does not rest with the Democrats, and no procedural floor gimmick by the Republican majority can change that fact.

Over the past year, I have spoken on the floor of the Senate and at hearings on several occasions about my concerns with this legislation. At the same time, I have expressed my willingness to work with the Chairman in a bipartisan manner to improve this juvenile crime bill.

I am not alone in my criticisms and in wanting to see changes in this bill. It has been blasted by virtually every major newspaper in the United States. The Philadelphia Inquirer concluded that the bill ''is fatally flawed and should be rejected.'' The Los Angeles Times described the bill as ''peppered with ridiculous poses and penalties'' and as taking a ''rigid, counter-productive approach'' to juvenile crime prevention. The St. Petersburg Times called the bill ''an amalgam of bad and dangerous ideas.''

The bill has also been criticized by national leaders ranging from Chief Justice Rehnquist to Marian Wright Edelman, President of the Children's Defense Fund.

In May, the Chief Justice criticized S.10 because it would ''eviscerate this traditional deference to state prosecutions, thereby increasing substantially the potential workload of the federal judiciary.'' Earlier in the year, the Chief Justice raised concerns about ''federalizing'' certain juvenile crimes, noting that ''federal prosecutions should be limited to those offenses that cannot and should not be prosecuted in the state courts.''

The National District Attorneys Association (NDAA) and other law enforcement agencies have also written me with their concerns about this bill. In May, William Murphy, President of the NDAA, expressed NDAA's serious concerns about parts of S.10, including the fact that ''S.10 goes too far'' in changing the ''core mandates'' which have kept juveniles safer and away from adults while in jail for over 25 years. Mr. Murphy also criticized S.10's new juvenile record keeping requirements as ''burdensome and contrary to most state laws.'' He further noted that S.10 failed to provide ''any lee way to give juveniles a second chance by providing for the option to seal or expunge records.''

I have also heard from numerous State and local officials across the U.S., including the National Governors' Association, the Council of State Governments (Eastern Regional Conference), the U.S. Conference of Mayors, the National Association of Counties and the National Conference of State Legislatures. All of them have expressed concerns about the restrictions this bill would place on their ability to combat and prevent juvenile crime effectively. Last June, the President of the National Conference of State Legislatures cautioned that the new mandates placed on the States by S.10 could ''imbalance the constitutionally designed relationship between the federal government and the states.''

He further noted that ''[s]tates handle crime in a more flexible and more responsive manner than the federal government'' and urged the Senate not to impose a single ''federal 'fix' upon all fifty states and the territories.''

In short, S.10 as reported by the Judiciary Committee is a bill laden with problems—so much so that, at last count, the bill has lost a quarter of its Republican cosponsors since introduction.

The unanimous consent agreement proposed by the Republicans would limit debate of juvenile justice and other crime matters. Ironically, it would permit the Republicans to offer a substitute to their own bill, but not allow Democrats the same opportunity. The only additional amendments in order under their plan would be five on each side.

When the Judiciary Committee Chairman indicated on the floor that the minority has had the text of the proposed Hatch-Sessions substitute for ''well over a month,'' he was incorrect. In fact, we only got a copy of the substitute on the same day that the Republicans proposed their unanimous

consent agreement and had not had an opportunity to review it.

While I appreciate that we are short of time in this Congress and that, consequently, the Republican leadership would like to limit the number of amendments the Democrats may offer, I must point out that the Hatch-Sessions substitute alone contains substantial changes to over 160 separate paragraphs of this reported bill.

While I do not believe that Democrats will have close to 160 additional amendments to the bill, I believe that we will want to offer more than five.

We are continuing to pare down the amendments that Democrats plan to offer to S.10 to address the substantial criticisms leveled at this bill. We are continuing to negotiate in good faith on a unanimous consent agreement to ensure that Senate consideration of this legislation is fair, full and productive. The attempted ambush at the outset of this process, however, suggests that the Republican leadership is more interested in placing blame for its inaction than in actually moving to consideration of the bill.

## BOSTON UNIVERSITY SCHOOL OF MEDICINE CELEBRATES 150 YEARS

Mr. KENNEDY. Mr. President, I rise today to pay tribute to Boston University School of Medicine on its 150 anniversary. The School of Medicine has a long and distinguished history, and I am proud to join in paying tribute to its remarkable leadership for the city of Boston and the nation.

Boston University School of Medicine was founded in 1848 as the New England Female Medical College, and was the first institution in the world to offer medical education to women. In 1864, the school graduated its first African-American female physician, Rebecca Lee. In 1873, Boston University merged with the New England Female Medical College to establish a co-educational School of Medicine.

In addition to being the first medical school to graduate women, Boston University School of Medicine was also the first school to establish Home Medical Services, an educational and patient care service that continues today. The School of Medicine has constantly introduced innovations in medical education and played a central role in developing the Boston University School of Public Health.

Down through the years, Boston University School of Medicine has provided outstanding service to our community. It is renowned for its clinical care and its professional training in a vast network of affiliated hospitals including Boston Medical Center, community health centers, and physicians' offices. In 1995, this commitment to service earned the school the Association of American Medical College's Outstanding Community Service Award.

Mr. President, I congratulate Boston University School of Medicine on its 150 years of excellence, and I know that its outstanding tradition, professional commitment, and community service will continue in the years ahead.

## CORRECTIONS TO THE LIST OF OBJECTIONABLE PROVISIONS IN THE FISCAL YEAR 1999 INTERIOR APPROPRIATIONS BILL

Mr. MCCAIN. Mr. President, yesterday I submitted a list of objectionable provisions in the FY'99 Interior Appropriations bill for the RECORD. I wish to make two clarifications to that list which came to my attention.

First, I learned that the Navajo Indian Irrigation Project was not requested for a funding level of more than $97 million. Instead, the allocated amount for the NIIP project was equal to the requested level of $25.5 million, but this information was not clear in the committee bill. I removed this item from my list of objectionable provisions.

Second, two separate listings for the removal of the Elwha dam removal project were requested for funding, based on its authorization in P.L. 102–495. These items should not have been listed as objectionable according to my established ''pork criteria.'' These two items are removed from the list: (1) $29,500,000 for the purchase of the Elwha Project and Glines Canyon Project; and, (2) $2,000,000 for planning and design, removal of Elwha Dam in Olympic National Park, WA.

I wish to thank the individuals who brought these matters to my attention and for providing the necessary information to clarify this mistake.

Mr. President, I wish to state that the revised total amount of $222.4 million included in this bill still represents an inordinately high level of wasteful spending. I sincerely hope that we will do better by the American people with stricter fiscal spending that abides by the appropriate legislative process.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. McCathran, one of his secretaries.

### EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## MESSAGES FROM THE HOUSE

### ENROLLED BILLS SIGNED

At 6:24 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1379. An act to amend section 552, United States Code, and the National Security Act of 1947 to require disclosure under the Freedom of Information Act regarding certain persons, disclosure Nazi war criminal records without impairing any investigation or prosecution conducted by the Department of Justice or certain intelligence, and for other purposes.

H.R. 629. An act to grant the consent of the Congress to the Texas Low-Level Radioactive Waste Disposal Compact.

H.R. 4059. An act making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 1999, and for other purposes.

## MEASURES PLACED ON THE CALENDAR

The following bills were read the second time and placed on the calendar:

H.R. 2183. An act to amend the Federal Election Campaign Act of 1971 to reform the financing of campaigns for elections for Federal office, and for other purposes.

H.R. 3682. An act to amend title 18, United States Code, to prohibit taking minors across State lines to avoid law requiring the involvement of parents in abortion decisions.

## EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–6671. A communication from the Secretary of Agriculture transmitting a draft of proposed legislation entitled ''The Department of Agriculture Working Capital Fund Act''; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6672. A communication from the Secretary of the Judicial Conference of the United States, transmitting a draft of proposed legislation regarding the restructuring of the District Court of the Virgin Islands as an Article III court; to the Committee on the Judiciary.

EC–6673. A communication from the Acting Clerk of the United States Court of Federal Claims, transmitting, pursuant to law, a Review Panel report regarding a settlement in the case of Menominee Indian Tribe of Wisconsin v. The United States (Docket 93–649X); to the Committee on the Judiciary.

EC–6674. A communication from the Acting Clerk of the United States Court of Federal Claims, transmitting, pursuant to law, a Review Panel report regarding the case of Inslaw, Inc. v. The United States (Docket 95–338X); to the Committee on the Judiciary.

EC–6675. A communication from the Acting Assistant Attorney General, Department of Justice, transmitting a draft of proposed legislation entitled ''The Threat Protection for Former Presidents Act''; to the Committee on the Judiciary.

EC–6676. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Modification of Significant New Use Rules for Certain Substances'' (FRL6019–2) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6677. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection

Agency, transmitting, pursuant to law, the report of a rule entitled ''Public Water System Program; Removal of Obsolete Rule'' (FRL6121–7) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6678. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, a report on the Ala Kahakai Trail, Hawaii; to the Committee on Energy and Natural Resources.

EC–6679. A communication from the Policy and Regulations Specialist, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule regarding correcting amendments to Alaska Subsistence Taking of Fish and Wildlife Regulations (RIN1018–AE12) received on August 28, 1998; to the Committee on Energy and Natural Resources.

EC–6680. A communication from the Assistant Secretary for Land and Minerals Management, Department of the Interior, transmitting, pursuant to law, the Department's annual report on royalty management and delinquent account collection activities for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC–6681. A communication from the General Counsel of the Department of the Treasury, transmitting a draft of proposed legislation to allow for regulations prescribing an alternative interest accounting methodology; to the Committee on Finance.

EC–6682. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Weighted Average Interest Rate Update'' (Notice 98–44) received on August 28, 1998; to the Committee on Finance.

EC–6683. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Requirements Incident to Adoption and Use of LIFO Inventory Method'' (Notice 98–46) received on August 28, 1998; to the Committee on Finance.

EC–6684. A communication from the Chief of the Regulations Division, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, transmitting, pursuant to law, the report of a rule regarding hard cider, semi-generic wine designations, and wholesale liquor dealer's signs (RIN1512–A71) received on August 28, 1998; to the Committee on Finance.

EC–6685. A communication from the Commissioner of Social Security, transmitting an updated version of the report entitled ''Social Security and Supplemental Security Income Statistics by Congressional District''; to the Committee on Finance.

EC–6686. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Hazardous Waste Recycling; Land Disposal Restrictions; Final Rule; Administrative Stay'' (FRL6153–2) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6687. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans and Section 111(d) Plan; State of Missouri'' (FRL6150–8) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6688. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule regarding the delegation of authority for new source performance standards under the Clean Air Act State Implementation Plan for North Dakota (FRL6150–6) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6689. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Conditional Limited Approval of Major VOC Source RACT and Minor VOC Source Requirements'' (FRL6148–9) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6690. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Yolo-Solano Air Quality Management District'' (FRL6150–9) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6691. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; Commonwealth of Kentucky'' (FRL6152–9) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6692. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''1998 Reporting Notice and Technical Amendment; Partial Updating of TSCA Inventory Data Base; Production and Site Reports'' (FRL6028–3) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6693. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Pennsylvania; Enhanced Motor Vehicle Inspection and Maintenance Program'' (FRL6148–3) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6694. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Maryland; Amendments to VOC Regulations for Dry Cleaning and Stage I Vapor Recovery'' (FRL6148–1) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6695. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania: Attainment Demonstration and Contingency Measures for the Liberty Borough PM–10 Nonattainment Area'' (FRL6149–1) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6696. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plan for New Mexico: General Conformity Rules'' (FRL6152–4) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6697. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision, South Coast Air Quality Management District'' (FRL6142–5) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6698. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''National Emission Standards for Hazardous Air Pollutants; Aerospace Manufacturing and Rework Facilities'' (FRL6154–1) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6699. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Early-Seasons and Bag and Possession Limits for Certain Migratory Game Birds in the Contiguous United States, Alaska, Hawaii, Puerto Rico, and the Virgin Islands'' (RIN1018–AE93) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6700. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Final Frameworks for Early-Season Migratory Bird Hunting Regulations'' (RIN1018–AE93) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6701. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, an alteration prospectus for the U.S. Customhouse in New Orleans, LA (Number PLA–99004) received on August 28, 1998; to the Committee on Environment and Public Works.

EC–6702. A communication from the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Revision to Recordkeeping and Reporting Requirements'' (RIN0648–AK36) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6703. A communication from the Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/''Other Flatfish'' Fishery Category by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands'' (I.D. 081498A) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6704. A communication from the Assistant Secretary for Export Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Revocation of Reexport Authorizations Issued Prior to June 15, 1996'' (RIN0694–AB74) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6705. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Personal Communications Industry

Association's Broadband Personal Communications Services Alliance's Petition for Forbearance For Broadband Personal Communications Services'' (Docket 98–100) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6706. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Table of Allotments; FM Broadcast Stations (Ashton, Idaho and West Yellowstone, Montana)'' (Docket 97–200) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6707. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Table of Allotments; FM Broadcast Stations (Albion, Honeoye Falls and South Bristol Township, New York)'' (Docket 97–200) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6708. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Table of Allotments; FM Broadcast Stations (Nassawadox, Virginia)'' (Docket 97–189) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6709. A communication from the Associate Managing Director for Performance Evaluation and Records Management, Federal Communications Commission, transmitting, pursuant to law, the report of a rule entitled ''Review of the Commission's Rules Regarding the Main Studio and Local Public Inspection Files of Broadcast Television and Radio Stations'' (Docket 97–138) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6710. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety and Security Zones; Presidential Visit, Martha's Vineyard, MA'' (Docket 01–98–115) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6711. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety and Security Zone; Presidential Visit, Martha's Vineyard, MA'' (Docket 01–98–114) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6712. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Gulf of Alaska, Southeast of Narrow Cape, Kodiak Island, Alaska (COTP Western Alaska 98–003)'' received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6713. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Suisun Bay, Sacramento River, San Joaquin River, San Francisco, CA (COTP San Francisco Bay; 98–021)'' received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6714. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Connections Unlimited Fireworks, New York Harbor, Upper Bay'' (Docket 01–98–123) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6715. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; San Juan Harbor, San Juan, PR'' (Docket 07–98–023) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6716. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Kennedy Fireworks, New York Harbor, Upper Bay'' (Docket 01–98–113) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6717. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone: Baptiste Collette Bayou from Lower Mississippi River Mile 11.3 to Lighted Buoy #21 in Breton Sound (COTP New Orleans, LA 98–019)'' received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6718. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Bell Helicopter Textron, Inc. Model 214B, 214B–1, and 214ST Helicopters'' (Docket 94–SW–29–AD) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6719. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Sikorsky Aircraft Corporation Model S–61A, D, E, L, N, NM, R, and V Helicopters; Correction'' (Docket 97–SW–18–AD) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6720. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Federal Motor Vehicle Safety Standards; Occupant Crash Protection; Anthropomorphic Test Dummy'' (Docket NHTSA–98–4358) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6721. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations: Lake Champlain, VT'' (Docket 01–98–124) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6722. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations: Anacostia River, Washington D.C.'' (Docket 05–98–017) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6723. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulation: Fireworks Displays Within the First Coast Guard District'' (Docket 01–98–127) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6724. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zones, Security Zones, and Special Local Regulations'' (Docket 1998–4306) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6725. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Riverbend Festival, Tennessee River Miles 463.5 to 464.5, Chattanooga, TN'' (Docket 08–98–027) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6726. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Riverfest; Mississippi River Miles 51.0–53.0, Cape Girardeau, MO'' (Docket 08–98–026) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6727. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; ''Duckin' Down the River''; Arkansas River Mile 308.0–309.0, Ft. Smith, AR'' (Docket 08–98–016) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6728. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Key West, Florida'' (Docket 07–98–030) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6729. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Fort Lauderdale, FL'' (Docket 07–98–026) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6730. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zone Regulations'' (RIN2115–AA97) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6731. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 747 and 767 Series Airplanes Equipped with Rolls-Royce Model RB211G/H Engines'' (Docket 98–NM–194–AD) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6732. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Revision of the Legal Description of the Memphis Class B Airspace Area; TN'' (RIN2120–AA66) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6733. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Eurocopter France Model SA 3180, SA 318B, SA 318C, SE 3130, SE 313B, SA.315B, SA.316B, SA.316C, SA.319B, and SE.3160 Helicopters'' (Docket 98–SW–36–AD) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6734. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; British Aerospace (Jetstream) Model 4100 Series Airplanes'' (Docket 98–NM–86–AD) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6735. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Textron Lycoming and Teledyne Continental Motors Reciprocating Engines'' (Docket 98–ANE–27–AD) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6736. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Prohibition Against Certain Flights Within The Territory and Airspace of Afghanistan'' (Docket 27744) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6737. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Prohibition Against Certain Flights Within The Territory and Airspace of Sudan'' (Docket 29317) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6738. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Financial Responsibility Requirements for Licensed Launch Activities'' (Docket 28635) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6739. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment of Class E Airspace; Savannah, TN'' (Docket 98–ASO–7) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6740. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Hartford, KY'' (Docket 98–ASO–10) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6741. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Clinton, IA'' (Docket 98–ACE–26) received on August 28, 1998; to the Committee on Commerce, Science, and Transportation.

EC–6742. A communication from the Secretary of the Interior, transmitting, pursuant to law, the Department's report on implementation of provisions of the Small Business Regulatory Enforcement Fairness Act; to the Committee on Energy and Natural Resources.

EC–6743. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, a National Trails System report on the El Camino Real de los Tejas Trail; to the Committee on Energy and Natural Resources.

EC–6744. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, a draft of proposed legislation entitled ''Hoover Dam Miscellaneous Sales Act''; to the Committee on Energy and Natural Resources.

EC–6745. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Replacement Housing Factor in Modernization Funding—Final Rule'' (FR–4125–F–02) received on September 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6746. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Uniform Physical Condition Standards and Physical Inspection Requirements for Certain HUD Housing'' (FR–4280) received on September 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6747. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Uniform Financial Reporting Standards for HUD Housing Programs'' (FR–4321) received on September 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6748. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Public Housing Assessment System'' (FR–4313) received on September 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6749. A communication from the General Counsel of the Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled ''Termination of an Approved Mortgagee's Original Approval Agreement'' (FR4239) received on September 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6750. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency and Administrator of the Banks, transmitting, pursuant to law, the report of a rule entitled ''Risk Based Capital Standards: Unrealized Holding Gains on Certain Equity Securities'' (Docket 98–75) received on September 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6751. A communication from the Legislative and Regulatory Activities Division, Comptroller of the Currency and Administrator of the Banks, transmitting, pursuant to law, the report of a rule entitled ''Extended Examination Cycle for U.S. Branches and Agencies of Foreign Banks'' (RIN3064–AC15) received on September 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6752. A communication from the Federal Register Liaison Officer, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Risk-Based Capital Standards: Unrealized Holding Gains on Certain Equity Securities'' (RIN1550–AB11) received on September 07, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–6753. A communication from the Administrator of the Rural Utilities Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Year 2000 Compliance, Telecommunications Program'' (RIN0572–AB43) received on September 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6754. A communication from the Administrator of the Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Refrigeration and Labeling Requirements for Shell Eggs'' (RIN0583–AC04) received on September 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6755. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Pork Promotion, Research, and Consumer Information Order—Decrease in Importer Assessments'' (No. LS–98–004) received on September 7, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6756. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Nectarines and Peaches Grown in California; Revision of Handling and Reporting Requirements for Fresh Nectarines and Peaches'' (No. FV98–916–1 FIR) received on September 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6757. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Kiwifruit grown in California; Decreased Assessment Rate'' (Docket FV98–920–3 IFR) received on September 7, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6758. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Animal Welfare; Marine Mammals, Swim-with-the-Dolphin Programs'' (Docket 93–076–10) received on September 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6759. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Brucellosis; Increased Indemnity for Cattle and Bison'' (Docket 98–016–2) received on September 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6760. A communication from the Deputy Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Maintenance of Minimum Financial Requirements by Futures Commission Merchants and Introducing Brokers'' received on September 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6761. A communication from the Deputy Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled ''Orders Eligible for Post-Execution Allocation'' received on September 2, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–6762. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled ''Federal Employees Health Benefits Program: Contributions and Witholdings'' (RIN3206–AI33) received on September 2, 1998; to the Committee on Governmental Affairs.

EC–6763. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports issued or released in July 1998; to the Committee on Governmental Affairs.

EC–6764. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a report entitled ''Financial Audit; Capitol Preservation Fund's Fiscal Years 1997 and 1996 Financial Statements''; to the Committee on Governmental Affairs.

EC–6765. A communication from the Mayor of the District of Columbia, transmitting, pursuant to law, notice of the Mayor's response to the legislative recommendations of the District of Columbia Financial Responsibility and Management Assistance Authority; to the Committee on Governmental Affairs.

EC–6766. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, notice of the Council's response to the legislative recommendations of the District of Columbia Financial Responsibility and Management Assistance Authority; to the Committee on Governmental Affairs.

EC–6767. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 1998–99 Early Season'' (RIN1018–AE93) received on September 2, 1998; to the Committee on Indian Affairs.

EC–6768. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, the Administration's report on the cost of operating privately owned vehicles; to the Committee on Governmental Affairs.

EC–6769. A communication from the Chairman of the Commission for the Preservation of America's Heritage Abroad, transmitting, pursuant to law, the Commission's report under the Inspector General Act and the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–6770. A communication from the Executive Director of the Committee for Purchase From People Who Are Blind or Severely Disabled, transmitting, pursuant to law, the report of additions and deletions to the Committee's Procurement List; to the Committee on Governmental Affairs.

EC–6771. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Department's report ''Health, United States, 1998''; to the Committee on Labor and Human Resources.

EC–6772. A communication from the Assistant Secretary of Labor for Mine Safety and Health, transmitting, pursuant to law, the report of a rule entitled ''Improving and Eliminating Regulations: Flame Safety Lamps and Single-Shot Blasting Units'' (RIN1219–AA98) received on September 7, 1998; to the Committee on Labor and Human Resources.

EC–6773. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medical Device Reporting; Manufacturer Reporting, Importer Reporting, User Facility Reporting, Distributer Reporting'' (Docket 98N–0170) received on September 2, 1998; to the Committee on Labor and Human Resources.

EC–6774. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers (polymer stabilizer)'' (Docket 98F–0057) received on September 2, 1998; to the Committee on Labor and Human Resources.

EC–6775. A communication from the Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Radiology Devices; Classifications for Five Medical Image Management Devices; Correction'' (Docket 96N–0320) received on September 2, 1998; to the Committee on Labor and Human Resources.

EC–6776. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Natural Rubber-Containing Medical Devices; User Labeling; Cold Seal Adhesives, Partial Stay'' (Docket 96N–0119) received on September 7, 1998; to the Committee on Labor and Human Resources.

EC–6777. A communication from the Acting Director of the Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Amended Economic Impact Analysis of Final Rule Requiring Use of Labeling on Natural Rubber Containing Devices'' (Docket 96N–0119) received on September 7, 1998; to the Committee on Labor and Human Resources.

## REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1736. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for vessel BETTY JANE (Rept. No. 105–314).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 1802. A bill to authorize appropriations for the Surface Transportation Board for fiscal years 1999, 2000, and 2001 (Rept. No. 105–315).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2096. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel FOILCAT (Rept. No. 105–316).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, with amendments:

S. 2124. A bill to authorize appropriations for fiscal year 1999 for the Maritime Administration and for other purposes (Rept. No. 105–317).

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 2139. A bill to authorize the Secretary of Transportation to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel YESTERDAYS DREAM (Rept. No. 105–318).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute and an amendment to the title:

S. 1770. A bill to elevate the position of Director of the Indian Health Service to Assistant Secretary of Health and Human Services, to provide for the organizational independence of the Indian Health Service within the Department of Health and Human Services, and for other purposes (Rept. No. 105–319).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, with an amendment:

S. 469. A bill to designate a portion of the Sudbury, Assabet, and Concord Rivers as a component of the National Wild and Scenic River System (Rept. No. 105–320).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 1663. A bill to clarify the intent of the Congress in Public Law 93–632 to require the Secretary of Agriculture to continue to provide for the maintenance of 18 concrete dams and weirs that were located in the Emigrant Wilderness at the time the wilderness area was designated as wilderness in that Public Law (Rept. No. 105–321).

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

S. 1998. A bill to authorize an interpretive center and related visitor facilities within the Four Corners Monument Tribal Park, and for other purposes (Rept. No. 105–322).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources, without amendment:

H.R. 2186. A bill to authorize the Secretary of the Interior to provide assistance to the National Historic Trails Interpretive Center in Casper, Wyoming (Rept. No. 105–323).

S. 2272. A bill to amend the boundaries of Grant-Kohrs Ranch National Historic Site in the State of Montana (Rept. No. 105–324).

## INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WARNER (for himself and Mr. ROBB):

S. 2450. A bill to make technical corrections to the National Capital Revitalization and Self-Government Improvement Act of 1997; to the Committee on Governmental Affairs.

By Mr. COVERDELL:

S. 2451. A bill to improve protection and management of the Chattahoochee River National Recreation Area in the State of Georgia; to the Committee on Energy and Natural Resources.

By Mrs. BOXER:

S. 2452. A bill to amend the Child Abuse Prevention and Treatment Act to require States receiving funds under section 106 of such Act to have in effect a State law providing for a criminal penalty on an individual who fails to report witnessing another individual engaging in sexual abuse of a child; to the Committee on Labor and Human Resources.

By Mr. ROTH:

S. 2453. A bill to amend the Internal Revenue Code of 1986 to extend the credit for producing electricity from certain renewable resources; to the Committee on Finance.

By Mr. MCCONNELL (for himself, Mr. MOYNIHAN, Mr. LIEBERMAN, and Mr. NICKLES):

S. 2454. A bill to provide for competition between forms of motor vehicle insurance, to permit an owner of a motor vehicle to choose the most appropriate form of insurance for that person, to guarantee affordable premiums, to provide for more adequate and timely compensation for accident victims, and for other purposes; read the first time.

## SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BOND (for himself, Mr. ASHCROFT, Mrs. BOXER, Mr. CONRAD, Ms. COLLINS, Mr. BENNETT, Mr. LIEBERMAN, Ms. SNOWE, Mr. KERREY, and Mr. DASCHLE):

S. Res. 273. A resolution recognizing the historic home run record set by Mark McGwire of the St. Louis Cardinals on September 8, 1998; considered and agreed to.

By Mr. FORD:

S. Res. 274. A resolution to express the sense of the Senate that the Louisville Festival of Faiths should be commended and should serve as model for similar festivals in other communities throughout the United States; to the Committee on the Judiciary.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WARNER (for himself and Mr. ROBB):

S. 2450. A bill to make technical corrections to the National Capital Revitalization and Self-Government Improvement Act of 1997; to the Committee on Governmental Affairs.

THE LORTON TECHNICAL CORRECTIONS ACT OF 1998

● Mr. WARNER. Mr. President, today I introduce the Lorton Technical Corrections Act of 1998, along with my colleague Senator ROBB.

As you know, I along with my colleague Congressman TOM DAVIS and the rest of the delegation from the Commonwealth of Virginia succeeded in 1997, in passing the National Capital Revitalization and Self-Government Improvement Act to close the Lorton Complex in its entirety, and relocate prisoners to other facilities outside of northern Virginia.

Under this act, transfer of the Lorton facility would go to the control of the U.S. Department of the Interior after 2001. Since that time, however, discussions with both the affected communities and the Department of Interior have concluded that this is not the best option for ultimate disposal of this property, and that the General Services Administration would be a better agency to assume title to the property for ultimate disposal.

Fairfax County would then be able to submit a reuse plan to the General Services Administration delineating preferred permissible or required uses of the land. It should also be noted that the Department of Interior will still have the authority to use a portion of this property for land exchange, to expand the properties of the U.S. Fish and Wildlife Service properties, as originally envisioned.

I look forward to working with my colleagues to resolve this most important issue.●

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By Mr. COVERDELL:

S. 2451. A bill to improve protection and management of the Chattahoochee River National Recreation Area in the State of Georgia; to the Committee on Energy and Natural Resources.

CHATTAHOOCHEE NATIONAL RECREATION AREA BOUNDARIES LEGISLATION

● Mr. COVERDELL. Mr. President, today I introduce legislation which would modify the boundaries of the Chattahoochee River National Recreation Area to protect and preserve the endangered Chattahoochee River and provide additional recreation opportunities for the citizens of Georgia and our nation. This legislation authorizes the creation of a greenway buffer between the river and private development to prevent further pollution from continued development, provide flood and erosion control, and maintain water quality for safe drinking water and for the fish and wildlife dependent on the river system. In addition, this legislation promotes private-public partnerships by authorizing $25 million in federal funds for land acquisition for the recreation area. This $25 million will be matched by private funds but only if Congress acts quickly. The State of Georgia, private foundations, corporate entities, private individuals, and others have already given or pledged tens of millions of dollars to protect and preserve the Chattahoochee River for future generations of Georgians to enjoy.

The legislation I introduce today is a Senate companion to legislation introduced by Speaker of the House NEWT GINGRICH. I applaud the leadership Speaker GINGRICH has shown on this important issue. It is crucial for Congress to act quickly on this legislation in order to protect the Chattahoochee River, a vital natural resource. I look forward to working with my colleagues in the Senate on this proposal and urge its speedy consideration.●

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By Mrs. BOXER:

S. 2452. A bill to amend the Child Abuse Prevention and Treatment Act to require States receiving funds under section 106 of such act to have in effect a State law providing for a criminal penalty on an individual who fails to report witnessing another individual engaging in sexual abuse of a child; to the Committee on Labor and Human Resources.

SHERRICE IVERSON ACT

● Mr. BOXER. Mr. President, I am pleased to join Congressman NICK LAMPSON of Texas today in introducing the Sherrice Iverson Act. This ''good samaritan'' legislation is named in honor of the 7-year old girl molested and murdered in a Nevada casino in May of 1997, while a bystander did nothing.

Nevada authorities report this vicious attack was at least partially witnessed by David Cash, Jr. the best friend of the assailant. Mr. Cash was in a position to stop this brutal murder, yet he did nothing. He then failed to report the crime to the proper authorities. Nevada officials considered prosecuting Mr. Cash for his callous disregard of human life but found no legal basis for a criminal prosecution.

Nevada officials had no legal recourse because the state does not have a ''good Samaritan'' law requiring witnesses to report crimes to the proper authorities.

This is wrong and we need to address that aspect of our laws. That is exactly what the Service Iverson Act does. It requires that states pass laws requiring witnesses of child sexual abuse to report that crime to the police. If they do not pass such laws, states would become ineligible for federal Child Abuse Prevention and Treatment Act funds. The details of these laws, including the penalties imposed, are left to the states.

The bill only requires people to report the crimes they witness; it does not require them to intervene in potentially dangerous situations. Only two states, Vermont and Minnesota, currently have such ''good samaritan'' laws.

I want to thank Representative NICK LAMPSON for all his hard work on this issue, and I look forward to working with him to pass this important legislation; I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2452

*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 ''Sherrice Iverson Act''.

**SEC. 2. REQUIREMENT ON STATES RECEIVING GRANTS FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.**

(a) IN GENERAL.—Section 106(b)(2) of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106a(b)(2)) is amended—

(1) in subparagraph (C), by striking ''and'' at the end;

(2) in subparagraph (D), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(E) an assurance in the form of a certification by the chief executive officer of the State that the State has in effect and is enforcing a State law providing for a criminal penalty on an individual 18 years of age or older who fails to report to a State or local law enforcement official that the individual has witnessed another individual in the State engaging in sexual abuse of a child.''.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2004.●

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By Mr. ROTH:

S. 2453. A bill to amend the Internal Revenue Code of 1986 to extend the credit for producing electricity from certain renewable resources; to the Committee on Finance.

POULTRY ELECTRIC ENERGY POWER LEGISLATION

Mr. ROTH. Mr. President, today I introduce legislation that would amend section 45 of the Internal Revenue Code to provide a tax credit to biomass energy facilities that use chicken manure as fuel.

Joining me as original cosponsors are Senators BIDEN, MIKULSKI, SARBANES, JEFFORDS, HARKIN, HELMS, HUCHINSON, and BUMPERS.

Mr. President, I am bullish on poultry's future in America. It is hard not to be with world-wide poultry consumption growing at double-digit rates.

In the United States, poultry production has tripled since 1975. We now produce almost 8 billion chickens a year to feed the growing world-wide demand for poultry.

In particular, Delaware, Maryland, and Virginia produce some of the world's finest poultry. Just last year Delmarva poultry farmers produced over 600 million chickens. Our poultry farmers are among the most productive and efficient in the world.

As the amount of chickens we produce as a nation has grown, so too has the amount of manure.

Due to environmental pressures, spreading manure on land is no longer an option in some areas for our rapidly growing poultry industry.

In the United Kingdom, several companies have been able to do what medieval alchemists dreamed of—turning a base element into gold—in this case an agricultural waste product into electricity.

The UK has two utility plants that use poultry manure to generate electricity. These two poultry power plants will, when combined with a third scheduled to open this fall, burn 50 percent of the UK's total volume of chicken manure.

The electricity generated by these plants will supply enough power for 100,000 homes. These plants have the support of both the poultry industry and the international environmental community.

The way this system works is simple.

Power stations buy poultry manure from surrounding poultry farmers and transport it to the power station. At the station the manure is burned in a furnace at high temperatures, heating water in a boiler to produce steam which drives a turbine linked to a generator. The electricity is then transfered to the local electricity grid.

It is then used to supply electricity to commercial and residential customers.

There are no waste products created through this process. Instead, a valuable by-product emerges in the form of a nitrogen-free ash, which is marketed as an environmentally friendly fertilizer.

The legislation I am introducing today will provide a tax credit to energy facilities that use poultry manure as a fuel to generate electricity.

It will build on concepts in the tax code that provide incentives for environmentally friendly energy production.

I am introducing this legislation in an effort to encourage the development of another environmentally-friendly method of producing electricity, while at the same time tackling a thorny animal waste disposal problem.

This legislation will provide incentives to build an energy plant that will not only dispose of poultry manure and create clean electricity, but will also supply our nation's farmers with a clean fertilizer free of nitrates.

I urge my colleagues to join me in cosponsoring my bill, the Poultry Electric Energy Power Act, affectionately known as the PEEP Act. It is important for future generations that we continue to explore green technologies that will protect our environment.

## ADDITIONAL COSPONSORS

S. 466

At the request of Mr. LAUTENBERG, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 466, a bill to reduce gun trafficking by prohibiting bulk purchases of handguns.

S. 1295

At the request of Mr. REID, his name was added as a cosponsor of S. 1295, a bill to provide for dropout prevention.

S. 1873

At the request of Mr. COCHRAN, the name of the Senator from Indiana (Mr. COATS) was added as a cosponsor of S. 1873, a bill to state the policy of the United States regarding the deployment of a missile defense system capable of defending the territory of the United States against limited ballistic missile attack.

S. 1993

At the request of Ms. COLLINS, the name of the Senator from Michigan (Mr. ABRAHAM) was added as a cosponsor of S. 1993, a bill to amend title XVIII of the Social Security Act to adjust the formula used to determine costs limits for home health agencies under medicare program, and for other purposes.

S. 2017

At the request of Mr. D'AMATO, the names of the Senator from South Carolina (Mr. HOLLINGS) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 2017, a bill to amend title XIX of the Social Security Act to provide medical assistance for breast and cervical cancer-related treatment services to certain women screened and found to have breast or cervical cancer under a Federally funded screening program.

S. 2083

At the request of Mr. GRASSLEY, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of S. 2083, A bill to provide for Federal class action reform, and for other purposes.

S. 2180

At the request of Mr. LOTT, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2201

At the request of Mr. TORRICELLI, the names of the Senator from Missouri (Mr. BOND) and the Senator from Kansas (Mr. ROBERTS) were added as cosponsors of S. 2201, a bill to delay the effective date of the final rule promulgated by the Secretary of Health and Human Services regarding the Organ Procurement and Transplantation Network.

S. 2233

At the request of Mr. CONRAD, the names of the Senator from West Virginia (Mr. ROCKEFELLER) the Senator from Ohio (Mr. GLENN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 2233, a bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities.

S. 2296

At the request of Mr. MACK, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2296, a bill to amend the Internal Revenue Code of 1986 to repeal the limitation on the amount of receipts attributable to military property which may be treated as exempt foreign trade income.

S. 2308

At the request of Mr. GRAHAM, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 2308, a bill to amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

S. 2323

At the request of Mr. GRASSLEY, the names of the Senator from North Carolina (Mr. HELMS) and the Senator from Michigan (Mr. ABRAHAM) were added as cosponsors of S. 2323, a bill to amend title XVIII of the Social Security Act to preserve access to home health services under the medicare program.

S. 2422

At the request of Mr. MACK, the name of the Senator from New Mexico (Mr. DOMENICI) was added as a cosponsor of S. 2422, a bill to provide incentives for states to establish and administer periodic teacher testing and merit pay programs for elementary school and secondary teachers.

S. 2432

At the request of Mr. JEFFORDS, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2432, a bill to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

S. 2448

At the request of Mr. KERRY, the names of the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 2448, a bill to amend title V of the Small Business Investment Act of 1958, relating to public policy goals and real estate appraisals, to amend section 7(a) of the Small Business Act, relating to interest rates and real estate appraisals, and to amend section 7(m) of the Small Business Act with respect to the loan loss reserve requirements for intermediaries, and for other purposes.

SENATE CONCURRENT RESOLUTION 108

At the request of Mr. DORGAN, the names of the Senator from North Carolina (Mr. FAIRCLOTH) and the Senator from Florida (Mr. MACK) were added as cosponsors of Senate Concurrent Resolution 108, a concurrent resolution recognizing the 50th anniversary of the National Heart, Lung, and Blood Institute, and for other purposes.

AMENDMENT NO. 3554

At the request of Mr. FEINGOLD the names of the Senator from Michigan (Mr. LEVIN), the Senator from Ohio (Mr. GLENN), the Senator from Connecticut (Mr. LIEBERMAN), and the Senator from Minnesota (Mr. WELLSTONE) were added as cosponsors of amendment No. 3554 proposed to S. 2237, an

original bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes.

## SENATE RESOLUTION 273—RECOGNIZING THE HISTORIC HOME RUN RECORD SET BY MARK MCGWIRE OF THE ST. LOUIS CARDINALS ON SEPTEMBER 8, 1998

Mr. BOND (for himself, Mrs. BOXER, Mr. CONRAD, Ms. COLLINS, Mr. BENNETT, Mr. LIEBERMAN, and Mrs. SNOWE) submitted the following resolution; which was considered and agreed to:

S. RES. 273

Whereas, since becoming a St. Louis Cardinal in 1997, Mark McGwire has helped to bring the national pastime of baseball back to its original glory;

Whereas, Mark McGwire has shown leadership, family values, dedication and a love of baseball as a team sport;

Whereas, in April, Mark McGwire began the season with a home run in each of his first four games which tied Willie Mays' 1971 National League record;

Whereas, in May, Mark McGwire hit a 545-foot home run, the longest in Busch Stadium history;

Whereas, in June, Mark McGwire tied Reggie Jackson's record of thirty-seven home runs before the All Star break;

Whereas, in August, Mark McGwire became the only player in the history of baseball to hit fifty home runs in three consecutive seasons;

Whereas, on September 5, Mark McGwire became the third player ever to hit sixty home runs in a season; and

Whereas, on September 8, 1998, Mark McGwire broke Roger Maris' thirty-seven year old home run record of sixty-one by hitting number sixty-two off Steve Trachsel while playing the Chicago Cubs: Now, therefore, be it Resolved, that the Senate—recognizes and congratulates St. Louis Cardinal, Mark McGwire, for setting baseball's revered home run record, with sixty-two, in his 144th game of the season.

## SENATE RESOLUTION 274—EXPRESSING THE SENSE OF THE SENATE THAT THE LOUISVILLE FESTIVAL OF FAITHS SHOULD BE COMMENDED AND SHOULD SERVE AS A MODEL FOR SIMILAR FESTIVALS IN OTHER COMMUNITIES THROUGHOUT THE UNITED STATES

Mr. FORD submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 274

Whereas a Festival of Faiths celebrating the diversity of religion has been held in Louisville, Kentucky, in the month of November of each of the last 3 years;

Whereas the Louisville Festival of Faiths has provided an opportunity for representatives of different faiths to communicate with each other and learn about each other's heritage, experiences, and beliefs;

Whereas more than 60 faiths have participated in the Louisville Festival of Faiths over the past 3 years;

Whereas the freedom to practice religion in diverse ways is a principle that the United States was founded on and one that the United States has embraced throughout its history;

Whereas religious diversity, in addition to its other benefits, expands the perspectives and experiences available to this Nation as a whole;

Whereas the communication of diverse perspectives and experiences between representatives of different religions can enrich the lives of such individuals and can assist such individuals in developing an appreciation of the commonality between different religions;

Whereas such communication can also diminish the potential for conflict between religious groups at a time when the dangers of religious conflict pose increasingly serious problems throughout the world; and

Whereas the Louisville Festival of Faiths experience can be replicated without great difficulty in other communities; Now, therefore, be it

*Resolved,* That it is the sense of the Senate that the Louisville Festival of Faiths—

(1) should be commended for its concept and its achievements to date; and

(2) should serve as a model for similar festivals in other communities throughout the United States.

## AMENDMENTS SUBMITTED

### DEPARTMENT OF THE INTERIOR AND RELATED AGENCIES APPROPRIATIONS ACT, 1999

### CLELAND AMENDMENT NO. 3558

(Ordered to lie on the table.)

Mr. CLELAND submitted an amendment intended to be proposed by him to the bill (S. 2237) making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1999, and for other purposes; as follows:

On page 154, between lines 3, insert the following:

**SEC. 3___. CUMBERLAND ISLAND NATIONAL SEASHORE, GEORGIA.**

Of funds made available under title V of the Department of the Interior and Related Agencies Appropriations Act, 1998 (111 Stat. 1610), $6,400,000 shall be made available for the Cumberland Island National Seashore, Georgia.

### CONSUMER BANKRUPTCY REFORM ACT OF 1998

### GRASSLEY (AND HATCH) AMENDMENT NO. 3559

Mr. LOTT (for Mr. GRASSLEY for himself and Mr. HATCH) proposed an amendment to the bill (S. 1301) to amend title 11, United States Code, to provide for consumer bankruptcy protection, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Consumer Bankruptcy Reform Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NEEDS-BASED BANKRUPTCY

Sec. 101. Conversion.
Sec. 102. Dismissal or conversion.

TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

Sec. 201. Allowance of claims or interests.
Sec. 202. Exceptions to discharge.
Sec. 203. Effect of discharge.
Sec. 204. Automatic stay.
Sec. 205. Discharge.
Sec. 206. Discouraging predatory lending practices.

TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

Sec. 301. Notice of alternatives.
Sec. 302. Fair treatment of secured creditors under chapter 13.
Sec. 303. Discouragement of bad faith repeat filings.
Sec. 304. Timely filing and confirmation of plans under chapter 13.
Sec. 305. Application of the codebtor stay only when the stay protects the debtor.
Sec. 306. Improved bankruptcy statistics.
Sec. 307. Audit procedures.
Sec. 308. Creditor representation at first meeting of creditors.
Sec. 309. Fair notice for creditors in chapter 7 and 13 cases.
Sec. 310. Stopping abusive conversions from chapter 13.
Sec. 311. Prompt relief from stay in individual cases.
Sec. 312. Dismissal for failure to timely file schedules or provide required information.
Sec. 313. Adequate time for preparation for a hearing on confirmation of the plan.
Sec. 314. Discharge under chapter 13.
Sec. 315. Nondischargeable debts.
Sec. 316. Credit extensions on the eve of bankruptcy presumed nondischargeable.
Sec. 317. Definition of household goods and antiques.
Sec. 318. Relief from stay when the debtor does not complete intended surrender of consumer debt collateral.
Sec. 319. Adequate protection of lessors and purchase money secured creditors.
Sec. 320. Limitation.
Sec. 321. Miscellaneous improvements.
Sec. 322. Bankruptcy judgeships.
Sec. 323. Preferred payment of child support in chapter 7 proceedings.
Sec. 324. Preferred payment of child support in chapter 13 proceedings.
Sec. 325. Payment of child support required to obtain a discharge in chapter 13 proceedings.
Sec. 326. Child support and alimony collection.
Sec. 327. Nondischargeability of certain debts for alimony, maintenance, and support.
Sec. 328. Enforcement of child and spousal support.
Sec. 329. Dependent child defined.

TITLE IV—FINANCIAL INSTRUMENTS

Sec. 401. Definitions of certain contracts and agreements.
Sec. 402. Definitions of financial institution and forward contract merchant.
Sec. 403. Master netting agreement and master netting agreement participant defined.
Sec. 404. Swap agreements, securities contracts, commodity contracts, forward contracts, repurchase agreements and master netting agreements under an automatic stay.
Sec. 405. Limitation of avoidance powers under master netting agreement.

Sec. 406. Fraudulent transfers of master netting agreements.
Sec. 407. Liquidation, termination, or acceleration of certain instruments.
Sec. 408. Municipal bankruptcies.
Sec. 409. Securities contracts, commodity contracts, and forward contracts.
Sec. 410. Ancillary proceedings.
Sec. 411. Liquidations.
Sec. 412. Setoff.
Sec. 413. Recordkeeping requirements.
Sec. 414. Damage measure.
Sec. 415. Asset-backed securitizations.
Sec. 416. Applicability.

TITLE V—ANCILLARY AND OTHER CROSS-BORDER CASES

Sec. 501. Amendment to add a chapter 6 to title 11, United States Code.
Sec. 502. Amendments to other chapters in title 11, United States Code.

TITLE VI—MISCELLANEOUS

Sec. 601. Executory contracts and unexpired leases.
Sec. 602. Expedited appeals of bankruptcy cases to courts of appeals.
Sec. 603. Creditors and equity security holders committees.
Sec. 604. Repeal of sunset provision.
Sec. 605. Cases ancillary to foreign proceedings.
Sec. 606. Limitation.

TITLE VII—TECHNICAL CORRECTIONS

Sec. 701. Definitions.
Sec. 702. Adjustment of dollar amounts.
Sec. 703. Extension of time.
Sec. 704. Who may be a debtor.
Sec. 705. Penalty for persons who negligently or fraudulently prepare bankruptcy petitions.
Sec. 706. Limitation on compensation of professional persons.
Sec. 707. Special tax provisions.
Sec. 708. Effect of conversion.
Sec. 709. Automatic stay.
Sec. 710. Amendment to table of sections.
Sec. 711. Allowance of administrative expenses.
Sec. 712. Priorities.
Sec. 713. Exemptions.
Sec. 714. Exceptions to discharge.
Sec. 715. Effect of discharge.
Sec. 716. Protection against discriminatory treatment.
Sec. 717. Property of the estate.
Sec. 718. Preferences.
Sec. 719. Postpetition transactions.
Sec. 720. Technical amendment.
Sec. 721. Disposition of property of the estate.
Sec. 722. General provisions.
Sec. 723. Appointment of elected trustee.
Sec. 724. Abandonment of railroad line.
Sec. 725. Contents of plan.
Sec. 726. Discharge under chapter 12.
Sec. 727. Extensions.
Sec. 728. Bankruptcy cases and proceedings.
Sec. 729. Knowing disregard of bankruptcy law or rule.
Sec. 730. Effective date; application of amendments.

## TITLE I—NEEDS-BASED BANKRUPTCY

**SEC. 101. CONVERSION.**

Section 706(c) of title 11, United States Code, is amended by inserting ''or consents to'' after ''requests''.

**SEC. 102. DISMISSAL OR CONVERSION.**

(a) IN GENERAL.—Section 707 of title 11, United States Code, is amended—

(1) by striking the section heading and inserting the following:

**''§ 707. Dismissal of a case or conversion to a case under chapter 13''**;

and

(2) in subsection (b)—

(A) by inserting ''(1)'' after ''(b)''; and

(B) in paragraph (1), as redesignated by subparagraph (A) of this paragraph—

(i) in the first sentence—

(I) by striking ''but not'' and inserting ''or'';

(II) by inserting '', or, with the debtor's consent, convert such a case to a case under chapter 13 of this title,'' after ''consumer debts''; and

(III) by striking ''substantial abuse'' and inserting ''abuse''; and

(ii) by striking the last sentence and inserting the following:

''(2) In considering under paragraph (1) whether the granting of relief would be an abuse of the provisions of this chapter, the court shall consider whether—

''(A) under section 1325(b)(1), on the basis of the current income of the debtor, the debtor could pay an amount greater than or equal to 20 percent of unsecured claims that are not considered to be priority claims (as determined under subchapter I of chapter 5); or

''(B) the debtor filed a petition for the relief in bad faith.

''(3)(A) If a panel trustee appointed under section 586(a)(1) of title 28 brings a motion for dismissal or conversion under this subsection and the court grants that motion and finds that the action of the counsel for the debtor in filing under this chapter was not substantially justified, the court shall order the counsel for the debtor to reimburse the trustee for all reasonable costs in prosecuting the motion, including reasonable attorneys' fees.

''(B) If the court finds that the attorney for the debtor violated Rule 9011, at a minimum, the court shall order—

''(i) the assessment of an appropriate civil penalty against the counsel for the debtor; and

''(ii) the payment of the civil penalty to the panel trustee or the United States trustee.

''(C) In the case of a petition referred to in subparagraph (B), the signature of an attorney shall constitute a certificate that the attorney has—

''(i) performed a reasonable investigation into the circumstances that gave rise to the petition; and

''(ii) determined that the petition—

''(I) is well grounded in fact; and

''(II) is warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law and does not constitute an abuse under paragraph (1) of this subsection.

''(4)(A) Except as provided in subparagraph (B), the court may award a debtor all reasonable costs in contesting a motion brought by a party in interest (other than a panel trustee) under this subsection (including reasonable attorneys' fees) if—

''(i) the court does not grant the motion; and

''(ii) the court finds that—

''(I) the position of the party that brought the motion was not substantially justified; or

''(II) the party brought the motion solely for the purpose of coercing a debtor into waiving a right guaranteed to the debtor under this title.

''(B) A party in interest that has a claim of an aggregate amount less than $1,000 shall not be subject to subparagraph (A).

''(5) However, a party in interest may not bring a motion under this section if the debtor and the debtor's spouse combined, as of the date of the order for relief, have current monthly total income equal to or less than the national median household monthly income calculated on a monthly basis for a household of equal size. However, for a household of more than 4 individuals, the median income shall be that of a household of 4 individuals plus $583 for each additional member of that household.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 11, United States Code, is amended by striking the item relating to section 707 and inserting the following:

''707. Dismissal of a case or conversion to a case under chapter 13.''.

## TITLE II—ENHANCED PROCEDURAL PROTECTIONS FOR CONSUMERS

**SEC. 201. ALLOWANCE OF CLAIMS OR INTERESTS.**

Section 502 of title 11, United States Code, is amended by adding at the end the following:

''(k)(1) The court may award the debtor reasonable attorneys' fees and costs if, after an objection is filed by a debtor, the court—

''(A)(i) disallows the claim; or

''(ii) reduces the claim by an amount greater than 20 percent of the amount of the initial claim filed by a party in interest; and

''(B) finds the position of the party filing the claim is not substantially justified.

''(2) If the court finds that the position of a claimant under this section is not substantially justified, the court may, in addition to awarding a debtor reasonable attorneys' fees and costs under paragraph (1), award such damages as may be required by the equities of the case.''.

**SEC. 202. EXCEPTIONS TO DISCHARGE.**

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(2)(A), by striking ''a false representation'' and inserting ''a material false representation upon which the defrauded person justifiably relied''; and

(2) by striking subsection (d) and inserting the following:

''(d)(1) Subject to paragraph (3), if a creditor requests a determination of dischargeability of a consumer debt under this section and that debt is discharged, the court shall award the debtor reasonable attorneys' fees and costs.

''(2) In addition to making an award to a debtor under paragraph (1), if the court finds that the position of a creditor in a proceeding covered under this section is not substantially justified, the court may award reasonable attorneys' fees and costs under paragraph (1) and such damages as may be required by the equities of the case.

''(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a)(2) if—

''(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

''(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

''(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

''(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

''(ii) the refusal to negotiate by the creditor involved to was not reasonable.''.

**SEC. 203. EFFECT OF DISCHARGE.**

Section 524 of title 11, United States Code, is amended by adding at the end the following:

''(i) The willful failure of a creditor to credit payments received under a plan confirmed under this title (including a plan of reorganization confirmed under chapter 11 of this title) in the manner required by the plan (including crediting the amounts required under the plan) shall constitute a violation of an injunction under subsection (a)(2).

''(j) An individual who is injured by the failure of a creditor to comply with the requirements for a reaffirmation agreement under subsections (c) and (d), or by any willful violation of the injunction under subsection (a)(2), shall be entitled to recover—

''(1) the greater of—

''(A)(i) the amount of actual damages; multiplied by

''(ii) 3; or

''(B) $5,000; and

''(2) costs and attorneys' fees.''.

**SEC. 204. AUTOMATIC STAY.**

Section 362(h) of title 11, United States Code, is amended to read as follows:

''(h)(1) An individual who is injured by any willful violation of a stay provided in this section shall be entitled to recover—

''(A) actual damages; and

''(B) reasonable costs, including attorneys' fees.

''(2) In addition to recovering actual damages, costs, and attorneys' fees under paragraph (1), an individual described in paragraph (1) may recover punitive damages in appropriate circumstances.''.

**SEC. 205. DISCHARGE.**

Section 727 of title 11, United States Code, is amended—

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

''(3)(A) A creditor may not request a determination of dischargeability of a consumer debt under subsection (a) if—

''(i) before the filing of the petition, the debtor made a good faith effort to negotiate a reasonable alternative repayment schedule (including making an offer of a reasonable alternative repayment schedule); and

''(ii) that creditor refused to negotiate an alternative payment schedule, and that refusal was not reasonable.

''(B) For purposes of this paragraph, the debtor shall have the burden of proof of establishing that—

''(i) an offer made by that debtor under subparagraph (A)(i) was reasonable; and

''(ii) the refusal to negotiate by the creditor involved to was not reasonable.''; and

(2) by adding at the end the following:

''(f)(1) The court may award the debtor reasonable attorneys' fees and costs in any case in which a creditor files a motion to deny relief to a debtor under this section and that motion—

''(A) is denied; or

''(B) is withdrawn after the debtor has replied.

''(2) If the court finds that the position of a party filing a motion under this section is not substantially justified, the court may assess against the creditor such damages as may be required by the equities of the case.''.

**SEC. 206. DISCOURAGING PREDATORY LENDING PRACTICES.**

Section 502(b) of title 11, United States Code, is amended—

(1) in paragraph (8), by striking ''or'' at the end;

(2) in paragraph (9), by striking the period at the end and inserting ''; or''; and

(3) by adding at the end the following:

''(10) the claim is based on a secured debt if the creditor has failed to comply with the requirements of subsection (a), (b), (c), (d), (e), (f), (g), (h), or (i) of section 129 of the Truth in Lending Act (15 U.S.C. 1639).''.

## TITLE III—IMPROVED PROCEDURES FOR EFFICIENT ADMINISTRATION OF THE BANKRUPTCY SYSTEM

**SEC. 301. NOTICE OF ALTERNATIVES.**

(a) IN GENERAL.—Section 342 of title 11, United States Code, is amended by striking subsection (b) and inserting the following:

''(b) Before the commencement of a case under this title by an individual whose debts are primarily consumer debts, that individual shall be given or obtain (as required in section 521(a)(1), as part of the certification process under subchapter 1 of chapter 5) a written notice prescribed by the United States trustee for the district in which the petition is filed pursuant to section 586 of title 28. The notice shall contain the following:

''(1) A brief description of chapters 7, 11, 12, and 13 and the general purpose, benefits, and costs of proceeding under each of those chapters.

''(2) A brief description of services that may be available to that individual from a credit counseling service that is approved by the United States trustee or the bankruptcy administrator for that district.''.

(b) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, is amended—

(1) by inserting ''(a)'' before ''The debtor shall—'';

(2) by striking paragraph (1) and inserting the following:

''(1) file—

''(A) a list of creditors; and

''(B) unless the court orders otherwise—

''(i) a schedule of assets and liabilities;

''(ii) a schedule of current income and current expenditures;

''(iii) a statement of the debtor's financial affairs and, if applicable, a certificate—

''(I) of an attorney whose name is on the petition as the attorney for the debtor or any bankruptcy petition preparer signing the petition pursuant to section 110(b)(1) indicating that such attorney or bankruptcy petition preparer delivered to the debtor any notice required by section 342(b); or

''(II) if no attorney for the debtor is indicated and no bankruptcy petition preparer signed the petition, of the debtor that such notice was obtained and read by the debtor;

''(iv) copies of any Federal tax returns, including any schedules or attachments, filed by the debtor for the 3-year period preceding the order for relief;

''(v) copies of all payment advices or other evidence of payment, if any, received by the debtor from any employer of the debtor in the period 60 days prior to the filing of the petition;

''(vi) a statement of the amount of projected monthly net income, itemized to show how calculated; and

''(vii) a statement disclosing any reasonably anticipated increase in income or expenditures over the 12-month period following the date of filing;''; and

(3) by adding at the end the following:

''(b)(1) At any time, a creditor, in the case of an individual under chapter 7 or 13, may file with the court notice that the creditor requests the petition, schedules, and a statement of affairs filed by the debtor in the case and the court shall make those documents available to the creditor who requests those documents.

''(2) At any time, a creditor, in a case under chapter 13, may file with the court notice that the creditor requests the plan filed by the debtor in the case and the court shall make that plan available to the creditor who requests that plan.

''(c) An individual debtor in a case under chapter 7 or 13 shall file with the court—

''(1) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, with respect to the period from the commencement of the case until such time as the case is closed;

''(2) at the time filed with the taxing authority, all tax returns, including any schedules or attachments, that were not filed with the taxing authority when the schedules under subsection (a)(1) were filed with respect to the period that is 3 years before the order for relief;

''(3) any amendments to any of the tax returns, including schedules or attachments, described in paragraph (1) or (2); and

''(4) in a case under chapter 13, a statement subject to the penalties of perjury by the debtor of the debtor's income and expenditures in the preceding tax year and monthly income, that shows how the amounts are calculated—

''(A) beginning on the date that is the later of 90 days after the close of the debtor's tax year or 1 year after the order for relief, unless a plan has been confirmed; and

''(B) thereafter, on or before the date that is 45 days before each anniversary of the confirmation of the plan until the case is closed.

''(d)(1) A statement referred to in subsection (c)(4) shall disclose—

''(A) the amount and sources of income of the debtor;

''(B) the identity of any persons responsible with the debtor for the support of any dependents of the debtor; and

''(C) the identity of any persons who contributed, and the amount contributed, to the household in which the debtor resides.

''(2) The tax returns, amendments, and statement of income and expenditures described in paragraph (1) shall be available to the United States trustee, any bankruptcy administrator, any trustee, and any party in interest for inspection and copying, subject to the requirements of subsection (e).

''(e)(1) Not later than 30 days after the date of enactment of the Consumer Bankruptcy Reform Act of 1998, the Director of the Administrative Office of the United States Courts shall establish procedures for safeguarding the confidentiality of any tax information required to be provided under this section.

''(2) The procedures under paragraph (1) shall include restrictions on creditor access to tax information that is required to be provided under this section.

''(3) Not later than 1 year after the date of enactment of the Consumer Bankruptcy Reform Act of 1998, the Director of the Administrative Office of the United States Courts shall prepare, and submit to Congress a report that—

''(A) assesses the effectiveness of the procedures under paragraph (1); and

''(B) if appropriate, includes proposed legislation—

''(i) to further protect the confidentiality of tax information; and

''(ii) to provide penalties for the improper use by any person of the tax information required to be provided under this section.''.

(c) TITLE 28.—Section 586(a) of title 28, United States Code, is amended—

(1) in paragraph (5), by striking ''and'' at the end;

(2) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(3) by adding at the end the following:

''(7) on or before January 1 of each calendar year, and also not later than 30 days after any change in the nonprofit debt counseling services registered with the bankruptcy court, prescribe and make available on request the notice described in section 342(b)(3) of title 11 for each district included in the region.''.

**SEC. 302. FAIR TREATMENT OF SECURED CREDITORS UNDER CHAPTER 13.**

(a) RESTORING THE FOUNDATION FOR SECURED CREDIT.—Section 1325(a) of title 11, United States Code, is amended—

(1) in paragraph (5), by striking the matter preceding subparagraph (A) and inserting the following:

''(5) with respect to an allowed claim provided for by the plan that is secured under applicable nonbankruptcy law by reason of a lien on property in which the estate has an interest or is subject to a setoff under section 553—''; and

(2) by adding at the end of the subsection the following flush sentence:

''For purposes of paragraph (5), section 506 shall not apply to a claim described in that paragraph.''.

(b) PAYMENT OF HOLDERS OF CLAIMS SECURED BY LIENS.—Section 1325(a)(5)(B)(i) of title 11, United States Code, is amended to read as follows:

''(B)(i) the plan provides that the holder of such claim retain the lien securing such claim until the debt that is the subject of the claim is fully paid for, as provided under the plan; and''.

(c) DETERMINATION OF SECURED STATUS.—Section 506 of title 11, United States Code, is amended by adding at the end the following:

''(e) Subsection (a) shall not apply to an allowed claim to the extent attributable in whole or in part to the purchase price of personal property acquired by the debtor during the 90-day period preceding the date of filing of the petition.''.

**SEC. 303. DISCOURAGEMENT OF BAD FAITH REPEAT FILINGS.**

Section 362(c) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' before ''Except as'';

(2) by striking ''(1) the stay'' and inserting ''(A) the stay'';

(3) by striking ''(2) the stay'' and inserting ''(B) the stay'';

(4) by striking ''(A) the time'' and inserting ''(i) the time'';

(5) by striking ''(B) the time'' and inserting ''(ii) the time''; and

(6) by adding at the end the following:

''(2) Except as provided in subsections (d) through (f), the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case if—

''(A) a single or joint case is filed by or against an individual debtor under chapter 7, 11, or 13; and

''(B) a single or joint case of that debtor (other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b)) was pending during the preceding year but was dismissed.

''(3) If a party in interest so requests, the court may extend the stay in a particular case with respect to 1 or more creditors (subject to such conditions or limitations as the court may impose) after providing notice and a hearing completed before the expiration of the 30-day period described in paragraph (2) only if the party in interest demonstrates that the filing of the later case is in good faith with respect to the creditors to be stayed.

''(4) A case shall be presumed to have not been filed in good faith (except that such presumption may be rebutted by clear and convincing evidence to the contrary)—

''(A) with respect to the creditors involved, if—

''(i) more than 1 previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was pending during the 1-year period described in paragraph (1);

''(ii) a previous case under any of chapters 7, 11, or 13 in which the individual was a debtor was dismissed within the period specified in paragraph (2) after—

''(I) the debtor, after having received from the court a request to do so, failed to file or amend the petition or other documents as required by this title; or

''(II) the debtor, without substantial excuse, failed to perform the terms of a plan that was confirmed by the court; or

''(iii)(I) during the period commencing with the dismissal of the next most previous case under chapter 7, 11, or 13 there has not been a substantial change in the financial or personal affairs of the debtor;

''(II) if the case is a chapter 7 case, there is no other reason to conclude that the later case will be concluded with a discharge; or

''(III) if the case is a chapter 11 or 13 case, there is not a confirmed plan that will be fully performed; and

''(B) with respect to any creditor that commenced an action under subsection (d) in a previous case in which the individual was a debtor, if, as of the date of dismissal of that case, that action was still pending or had been resolved by terminating, conditioning, or limiting the stay with respect to actions of that creditor.

''(5)(A) If a request is made for relief from the stay under subsection (a) with respect to real or personal property of any kind, and the request is granted in whole or in part, the court may, in addition to making any other order under this subsection, order that the relief so granted shall be in rem either—

''(i) for a definite period of not less than 1 year; or

''(ii) indefinitely.

''(B)(i) After an order is issued under subparagraph (A), the stay under subsection (a) shall not apply to any property subject to such an in rem order in any case of the debtor.

''(ii) If an in rem order issued under subparagraph (A) so provides, the stay shall, in addition to being inapplicable to the debtor involved, not apply with respect to an entity under this title if—

''(I) the entity had reason to know of the order at the time that the entity obtained an interest in the property affected; or

''(II) the entity was notified of the commencement of the proceeding for relief from the stay, and at the time of the notification, no case in which the entity was a debtor was pending.

''(6) For purposes of this section, a case is pending during the period beginning with the issuance of the order for relief and ending at such time as the case involved is closed.''.

**SEC. 304. TIMELY FILING AND CONFIRMATION OF PLANS UNDER CHAPTER 13.**

(a) FILING OF PLAN.—Section 1321 of title 11, United States Code, is amended to read as follows:

**''§ 1321. Filing of plan**

''The debtor shall file a plan not later than 90 days after the order for relief under this chapter, except that the court may extend such period if the need for an extension is attributable to circumstances for which the debtor should not justly be held accountable.''.

(b) CONFIRMATION OF HEARING.—Section 1324 of title 11, United States Code, is amended by adding at the end the following: ''That hearing shall be held not later than 45 days after the filing of the plan, unless the court, after providing notice and a hearing, orders otherwise.''.

**SEC. 305. APPLICATION OF THE CODEBTOR STAY ONLY WHEN THE STAY PROTECTS THE DEBTOR.**

Section 1301(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2)(A) Notwithstanding subsection (c) and except as provided in subparagraph (B), in any case in which the debtor did not receive the consideration for the claim held by a creditor, the stay provided by subsection (a) shall apply to that creditor for a period not to exceed 30 days beginning on the date of the order for relief, to the extent the creditor proceeds against—

''(i) the individual that received that consideration; or

''(ii) property not in the possession of the debtor that secures that claim.

''(B) Notwithstanding subparagraph (A), the stay provided by subsection (a) shall apply in any case in which the debtor is primarily obligated to pay the creditor in whole or in part with respect to a claim described in subparagraph (A) under a legally binding separation or property settlement agreement or divorce or dissolution decree with respect to—

''(i) an individual described in subparagraph (A)(i); or

''(ii) property described in subparagraph (A)(ii).

''(3) Notwithstanding subsection (c), the stay provided by subsection (a) shall terminate as of the date of confirmation of the plan, in any case in which the plan of the debtor provides that the debtor's interest in personal property subject to a lease with respect to which the debtor is the lessee will be surrendered or abandoned or no payments will be made under the plan on account of the debtor's obligations under the lease.''.

**SEC. 306. IMPROVED BANKRUPTCY STATISTICS.**

(a) AMENDMENT.—Chapter 6 of part I of title 28, United States Code, is amended by adding at the end the following:

**''§ 159. Bankruptcy statistics**

''(a) The clerk of each district shall compile statistics regarding individual debtors with primarily consumer debts seeking relief under chapters 7, 11, and 13 of title 11. Those statistics shall be in a form prescribed by the Director of the Administrative Office of the United States Courts (referred to in this section as the 'Office').

''(b) The Director shall—

''(1) compile the statistics referred to in subsection (a);

''(2) make the statistics available to the public; and

''(3) not later than October 31, 1998, and annually thereafter, prepare, and submit to Congress a report concerning the information collected under subsection (a) that contains an analysis of the information.

''(c) The compilation required under subsection (b) shall—

''(1) be itemized, by chapter, with respect to title 11;

''(2) be presented in the aggregate and for each district; and

''(3) include information concerning—

''(A) the total assets and total liabilities of the debtors described in subsection (a), and in each category of assets and liabilities, as reported in the schedules prescribed pursuant to section 2075 of this title and filed by those debtors;

''(B) the current total monthly income, projected monthly net income, and average income and average expenses of those debtors as reported on the schedules and statements that each such debtor files under sections 111, 521, and 1322 of title 11;

''(C) the aggregate amount of debt discharged in the reporting period, determined as the difference between the total amount of debt and obligations of a debtor reported on the schedules and the amount of such debt reported in categories which are predominantly nondischargeable;

''(D) the average period of time between the filing of the petition and the closing of the case;

''(E) for the reporting period—

''(i) the number of cases in which a reaffirmation was filed; and

''(ii)(I) the total number of reaffirmations filed;

''(II) of those cases in which a reaffirmation was filed, the number in which the debtor was not represented by an attorney; and

''(III) of those cases, the number of cases in which the reaffirmation was approved by the court;

''(F) with respect to cases filed under chapter 13 of title 11, for the reporting period—

''(i)(I) the number of cases in which a final order was entered determining the value of property securing a claim in an amount less than the amount of the claim; and

''(II) the number of final orders determining the value of property securing a claim issued;

''(ii) the number of cases dismissed for failure to make payments under the plan; and

''(iii) the number of cases in which the debtor filed another case within the 6 years previous to the filing; and

''(G) the extent of creditor misconduct and any amount of punitive damages awarded by the court for creditor misconduct.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 6 of title 28, United States Code, is amended by adding at the end the following:

''159. Bankruptcy statistics.''.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

**SEC. 307. AUDIT PROCEDURES.**

(a) AMENDMENTS.—Section 586 of title 28, United States Code, is amended—

(1) in subsection (a), as amended by section 301 of this Act, by striking paragraph (6) and inserting the following:

''(6) make such reports as the Attorney General directs, including the results of audits performed under subsection (f); and''; and

(2) by adding at the end the following:

''(f)(1)(A) The Attorney General shall establish procedures for the auditing of the accuracy and completeness of petitions, schedules, and other information which the debtor is required to provide under sections 521 and 1322 of title 11, and, if applicable, section 111 of title 11, in individual cases filed under chapter 7 or 13 of such title.

''(B) The audits described in subparagraph (A) shall be made in accordance with generally accepted auditing standards and performed by independent certified public accountants or independent licensed public accountants. Those procedures shall—

''(i) establish a method of selecting appropriate qualified persons to contract with the United States trustee to perform those audits;

''(ii) establish a method of randomly selecting cases to be audited according to generally accepted auditing standards, except that not less than 1 out of every 500 cases in each Federal judicial district shall be selected for audit;

''(iii) require audits for schedules of income and expenses which reflect greater than average variances from the statistical norm of the district in which the schedules were filed; and

''(iv) establish procedures for—

''(I) reporting the results of those audits and any material misstatement of income, expenditures, or assets of a debtor to the Attorney General, the United States Attorney and the court, as appropriate;

''(II) providing, not less frequently than annually, public information concerning the aggregate results of such audits including the percentage of cases, by district, in which a material misstatement of income or expenditures is reported; and

''(III) fully funding those audits, including procedures requiring each debtor with sufficient available income or assets to contribute to the payment for those audits, as an administrative expense or otherwise.

''(2) The United States trustee for each district is authorized to contract with auditors to perform audits in cases designated by the United States trustee according to the procedures established under paragraph (1).

''(3) According to procedures established under paragraph (1), upon request of a duly appointed auditor, the debtor shall cause the accounts, papers, documents, financial records, files and all other papers, things, or property belonging to the debtor as the auditor requests and that are reasonably necessary to facilitate the audit to be made available for inspection and copying.

''(4)(A) The report of each audit conducted under this subsection shall be filed with the court, the Attorney General, and the United States Attorney, as required under procedures established by the Attorney General under paragraph (1).

''(B) If a material misstatement of income or expenditures or of assets is reported under subparagraph (A), a statement specifying that misstatement shall be filed with the court and the United States trustee shall—

''(i) give notice thereof to the creditors in the case; and

''(ii) in an appropriate case, in the opinion of the United States trustee, that requires investigation with respect to possible criminal violations, the United States Attorney for the district.''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 18 months after the date of enactment of this Act.

**SEC. 308. CREDITOR REPRESENTATION AT FIRST MEETING OF CREDITORS.**

Section 341(c) of title 11, United States Code, is amended by inserting after the first sentence the following: ''Notwithstanding any local court rule, provision of a State constitution, any other Federal or State law that is not a bankruptcy law, or other requirement that representation at the meeting of creditors under subsection (a) be by an attorney, a creditor holding a consumer debt or any representative of the creditor (which may include an entity or an employee of an entity and may be a representative for more than one creditor) shall be permitted to appear at and participate in the meeting of creditors in a case under chapter 7 or 13, either alone or in conjunction with an attorney for the creditor. Nothing in this subsection shall be construed to require any creditor to be represented by an attorney at any meeting of creditors.''.

**SEC. 309. FAIR NOTICE FOR CREDITORS IN CHAPTER 7 AND 13 CASES.**

Section 342 of title 11, United States Code, is amended—

(1) in subsection (c), by striking '', but the failure of such notice to contain such information shall not invalidate the legal effect of such notice''; and

(2) by adding at the end the following:

''(d)(1) If the credit agreement between the debtor and the creditor or the last communication before the filing of the petition in a voluntary case from the creditor to a debtor who is an individual states an account number of the debtor that is the current account number of the debtor with respect to any debt held by the creditor against the debtor, the debtor shall include that account number in any notice to the creditor required to be given under this title.

''(2) If the creditor has specified to the debtor, in the last communication before the filing of the petition, an address at which the creditor wishes to receive correspondence regarding the debtor's account, any notice to the creditor required to be given by the debtor under this title shall be given at such address.

''(3) For purposes of this section, the term 'notice' shall include—

''(A) any correspondence from the debtor to the creditor after the commencement of the case;

''(B) any statement of the debtor's intention under section 521(a)(2);

''(C) notice of the commencement of any proceeding in the case to which the creditor is a party; and

''(D) any notice of a hearing under section 1324.

''(e)(1) At any time, a creditor, in a case of an individual under chapter 7 or 13, may file with the court and serve on the debtor a notice of the address to be used to notify the creditor in that case.

''(2) If the court or the debtor is required to give the creditor notice, not later than 5 days after receipt of the notice under paragraph (1), that notice shall be given at that address.

''(f) An entity may file with the court a notice stating its address for notice in cases under chapter 7 or 13. After the date that is 30 days following the filing of that notice, any notice in any case filed under chapter 7 or 13 given by the court shall be to that address unless specific notice is given under subsection (e) with respect to a particular case.

''(g)(1) Notice given to a creditor other than as provided in this section shall not be effective notice until that notice has been brought to the attention of the creditor.

''(2) If the creditor has designated a person or department to be responsible for receiving notices concerning bankruptcy cases and has established reasonable procedures so that bankruptcy notices received by the creditor will be delivered to that department or person, notice shall not be brought to the attention of the creditor until that notice is received by that person or department.''.

**SEC. 310. STOPPING ABUSIVE CONVERSIONS FROM CHAPTER 13.**

Section 348(f)(1) of title 11, United States Code, is amended—

(1) in subparagraph (A), by striking ''and'' at the end;

(2) in subparagraph (B)—

(A) by striking ''in the converted case, with allowed secured claims'' and inserting ''only in a case converted to chapter 11 or 12 but not in a case converted to chapter 7, with allowed secured claims in cases under chapters 11 and 12''; and

(B) by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(C) with respect to cases converted from chapter 13, the claim of any creditor holding security as of the date of the petition shall continue to be secured by that security unless the full amount of that claim determined under applicable nonbankruptcy law has been paid in full as of the date of conversion, notwithstanding any valuation or determination of the amount of an allowed secured claim made for the purposes of the chapter 13 proceeding.''.

**SEC. 311. PROMPT RELIEF FROM STAY IN INDIVIDUAL CASES.**

Section 362(e) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(e)''; and

(2) by adding at the end the following:

''(2) Notwithstanding paragraph (1), in the case of an individual filing under chapter 7, 11, or 13, the stay under subsection (a) shall terminate on the date that is 60 days after a request is made by a party in interest under subsection (d), unless—

''(A) a final decision is rendered by the court during the 60-day period beginning on the date of the request; or

''(B) that 60-day period is extended—

''(i) by agreement of all parties in interest; or

''(ii) by the court for such specific period of time as the court finds is required for good cause.''.

**SEC. 312. DISMISSAL FOR FAILURE TO TIMELY FILE SCHEDULES OR PROVIDE REQUIRED INFORMATION.**

Section 707 of title 11, United States Code, as amended by section 102 of this Act, is amended by adding at the end the following:

''(c)(1) Notwithstanding subsection (a), and subject to paragraph (2), if an individual debtor in a voluntary case under chapter 7 or 13 fails to file all of the information required under section 521(a)(1) within 45 days after the filing of the petition commencing the case, the case shall be automatically dismissed effective on the 46th day after the filing of the petition.

''(2) With respect to a case described in paragraph (1), any party in interest may request the court to enter an order dismissing the case. The court shall, if so requested, enter an order of dismissal not later than 5 days after that request.

''(3) Upon request of the debtor made within 45 days after the filing of the petition commencing a case described in paragraph (1), the court may allow the debtor an additional period of not to exceed 20 days to file the information required under section 521(a)(1) if the court finds justification for extending the period for the filing.''.

**SEC. 313. ADEQUATE TIME FOR PREPARATION FOR A HEARING ON CONFIRMATION OF THE PLAN.**

Section 1324 of title 11, United States Code, as amended by section 304 of this Act, is amended—

(1) by striking ''After'' and inserting the following:

''(a) Except as provided in subsection (b) and after''; and

(2) by adding at the end the following:

''(b) If not later than 5 days after receiving notice of a hearing on confirmation of the plan, a creditor objects to the confirmation of the plan, the hearing on confirmation of the plan may be held no earlier than 20 days after the first meeting of creditors under section 341(a).''.

**SEC. 314. DISCHARGE UNDER CHAPTER 13.**

Section 1328(a) of title 11, United States Code, is amended by striking paragraphs (1) through (3) and inserting the following:

''(1) provided for under section 1322(b)(5);

''(2) of the kind specified in paragraph (2), (4), (5), (8), or (9) of section 523(a);

''(3) for restitution, or a criminal fine, included in a sentence on the debtor's conviction of a crime; or

''(4) for restitution, or damages, awarded in a civil action against the debtor as a result of willful or malicious injury by the debtor that caused personal injury to an individual or the death of an individual.''.

**SEC. 315. NONDISCHARGEABLE DEBTS.**

Section 523(a) of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A) incurred to pay a debt that is nondischargeable by reason of section 727, 1141, 1228 (a) or (b), or 1328(b), or any other provision of this subsection, except for any debt incurred to pay such a nondischargeable debt in any case in which—

''(A)(i) the debtor who paid the nondischargeable debt is a single parent who has 1 or more dependent children at the time of the order for relief; or

''(ii) there is an allowed claim for alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor payable under a judicial or administrative order to that spouse or child (but not to any other person) that was unpaid by the debtor as of the date of the petition; and

''(B) the creditor is unable to demonstrate that the debtor intentionally incurred the debt to pay the nondischargeable debt;''.

**SEC. 316. CREDIT EXTENSIONS ON THE EVE OF BANKRUPTCY PRESUMED NONDISCHARGEABLE.**

Section 523(a)(2) of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subparagraph (A), by striking the semicolon at the end and inserting the following: ''(and, for purposes of this subparagraph, consumer debts owed in an aggregate amount greater than or equal to $400 incurred for goods or services not reasonably necessary for the maintenance or support of the debtor or a dependent child of the debtor to a single creditor that are incurred during the 90-day period preceding the date of the order for relief shall be presumed to be nondischargeable under this subparagraph); or'';

(2) in subparagraph (B), by striking ''or'' at the end; and

(3) by striking subparagraph (C).

**SEC. 317. DEFINITION OF HOUSEHOLD GOODS AND ANTIQUES.**

Section 101 of title 11, United States Code, is amended by inserting after paragraph (27) the following:

''(27A) 'household goods' has the meaning given that term in section 444.1(i) of title 16, of the Code of Federal Regulations (as in effect on the effective date of this paragraph), which is part of the regulations issued by the Federal Trade Commission that are commonly known as the 'Trade Regulation Rule on Credit Practices', except that the term shall also include any tangible personal property reasonably necessary for the maintenance or support of a dependent child;''.

**SEC. 318. RELIEF FROM STAY WHEN THE DEBTOR DOES NOT COMPLETE INTENDED SURRENDER OF CONSUMER DEBT COLLATERAL.**

(a) AUTOMATIC STAY.—Section 362 of title 11, United States Code, as amended by section 303, is amended—

(1) in subsection (c)(1), in the matter preceding subparagraph (A), by striking ''(e) and (f)'' and inserting ''(e), (f), and (h)'';

(2) by redesignating subsection (h) as subsection (i); and

(3) by inserting after subsection (g) the following:

''(h) In an individual case under chapter 7, 11, or 13 the stay provided by subsection (a) is terminated with respect to property of the estate securing in whole or in part a claim that is in an amount greater than $3,000, or subject to an unexpired lease with a remaining term of at least 1 year (in any case in which the debtor owes at least $3,000 for a 1-year period), if within 30 days after the expiration of the applicable period under section 521(a)(2)—

''(1)(A) the debtor fails to timely file a statement of intention to surrender or retain the property; or

''(B) if the debtor indicates in the filing that the debtor will retain the property, the debtor fails to meet an applicable requirement to—

''(i) either—

''(I) redeem the property pursuant to section 722; or

''(II) reaffirm the debt the property secures pursuant to section 524(c); or

''(ii) assume the unexpired lease pursuant to section 365(d) if the trustee does not do so; or

''(2) the debtor fails to timely take the action specified in a statement of intention referred to in paragraph (1)(A) (as amended, if that statement is amended before expiration of the period for taking action), unless—

''(A) the statement of intention specifies reaffirmation; and

''(B) the creditor refuses to reaffirm the debt on the original contract terms for the debt.''.

(b) DEBTOR'S DUTIES.—Section 521(a)(2) of title 11, United States Code, as redesignated by section 301(b) of this Act, is amended—

(1) in the matter preceding subparagraph (A), by striking ''consumer'';

(2) in subparagraph (B)—

(A) by striking ''forty-five days after the filing of a notice of intent under this section'' and inserting ''30 days after the first meeting of creditors under section 341(a)''; and

(B) by striking ''forty-five-day period'' and inserting ''30-day period''; and

(3) in subparagraph (C), by inserting '', except as provided in section 362(h)'' before the semicolon.

**SEC. 319. ADEQUATE PROTECTION OF LESSORS AND PURCHASE MONEY SECURED CREDITORS.**

(a) IN GENERAL.—Chapter 13 of title 11, United States Code, is amended by adding after section 1307 the following:

**''§ 1307A. Adequate protection in chapter 13 cases**

''(a)(1)(A) On or before the date that is 30 days after the filing of a case under this chapter, the debtor shall make cash payments in an amount determined under paragraph (2)(A), to—

''(i) any lessor of personal property; and

''(ii) any creditor holding a claim secured by personal property to the extent that the claim is attributable to the purchase of that property by the debtor.

''(B) The debtor or the plan shall continue making the adequate protection payments until the earlier of the date on which—

''(i) the creditor begins to receive actual payments under the plan; or

''(ii) the debtor relinquishes possession of the property referred to in subparagraph (A) to—

''(I) the lessor or creditor; or

''(II) any third party acting under claim of right, as applicable.

''(2) The payments referred to in paragraph (1)(A) shall be determined by the court.

''(b)(1) Subject to the limitations under paragraph (2), the court may, after notice and hearing, change the amount and timing of the dates of payment of payments made under subsection (a).

''(2)(A) The payments referred to in paragraph (1) shall be payable not less frequently than monthly.

''(B) The amount of a payment referred to in paragraph (1) shall not be less than the reasonable depreciation of the personal property described in subsection (a)(1), determined on a month-to-month basis.

''(c) Notwithstanding section 1326(b), the payments referred to in subsection (a)(1)(A) shall be continued in addition to plan payments under a confirmed plan until actual payments to the creditor begin under that plan, if the confirmed plan provides—

''(1) for payments to a creditor or lessor described in subsection (a)(1); and

''(2) for the deferral of payments to such creditor or lessor under the plan until the payment of amounts described in section 1326(b).

''(d) Notwithstanding sections 362, 542, and 543, a lessor or creditor described in subsection (a) may retain possession of property described in that subsection that was obtained in accordance with applicable law before the date of filing of the petition until the first payment under subsection (a)(1)(A) is received by the lessor or creditor.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 11, United States Code, is amended by inserting after the item relating to section 1307 the following:

''1307A. Adequate protection in chapter 13 cases.''.

**SEC. 320. LIMITATION.**

Section 522 of title 11, United States Code, is amended—

(1) in subsection (b)(2)(A), by inserting ''subject to subsection (n),'' before ''any property''; and

(2) by adding at the end the following new subsection:

''(n)(1) Except as provided in paragraph (2), as a result of electing under subsection

(b)(2)(A) to exempt property under State or local law, a debtor may not exempt any amount of interest that exceeds in the aggregate $100,000 in value in—

''(A) real or personal property that the debtor or a dependent of the debtor uses as a residence;

''(B) a cooperative that owns property that the debtor or a dependent of the debtor uses as a residence; or

''(C) a burial plot for the debtor or a dependent of the debtor.

''(2) The limitation under paragraph (1) shall not apply to an exemption claimed under subsection (b)(2)(A) by a family farmer for the principal residence of that farmer.''.

**SEC. 321. MISCELLANEOUS IMPROVEMENTS.**

(a) WHO MAY BE A DEBTOR.—Section 109 of title 11, United States Code, is amended by adding at the end the following:

''(h)(1) Subject to paragraphs (2) and (3) and notwithstanding any other provision of this section, an individual may not be a debtor under this title unless that individual has, during the 90-day period preceding the date of filing of the petition of that individual, received credit counseling, including, at a minimum, participation in an individual or group briefing that outlined the opportunities for available credit counseling and assisted that individual in performing an initial budget analysis, through a credit counseling program (offered through an approved credit counseling service described in section 111(a)) that has been approved by—

''(A) the United States trustee; or

''(B) the bankruptcy administrator for the district in which the petition is filed.''.

''(2)(A) Paragraph (1) shall not apply with respect to a debtor who resides in a district for which the chief judge of the bankruptcy court of that district determines that the approved credit counseling services for that district are not able to provide adequate services to the additional individuals who would otherwise seek credit counseling from those programs by reason of the requirements of paragraph (1).

''(B) Each chief judge that makes a determination described in subparagraph (A) shall review that determination not later than 180 days after the date of that determination, and not less frequently than every 180 days thereafter.

''(3)(A) Subject to subparagraph (B), the requirements of paragraph (1) shall not apply with respect to a debtor who submits to the court a certification that—

''(i) describes exigent circumstances that merit a waiver of the requirements of paragraph (1);

''(ii) states that the debtor requested credit counseling services from an approved credit counseling service, but was unable to obtain the services referred to in paragraph (1) during the 5-day period beginning on the date on which the debtor made that request; and

''(iii) is satisfactory to the court.

''(B) With respect to a debtor, an exemption under subparagraph (A) shall cease to apply to that debtor on the date on which the debtor meets the requirements of paragraph (1), but in no case may the exemption apply to that debtor after the date that is 30 days after the debtor files a petition.''.

(b) CHAPTER 7 DISCHARGE.—Section 727(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking ''or'' at the end;

(2) in paragraph (10), by striking the period and inserting ''; or''; and

(3) by adding at the end the following:

''(11) after the filing of the petition, the debtor failed to complete an instructional course concerning personal financial management described in section 111 that was administered or approved by—

''(A) the United States trustee; or

''(B) the bankruptcy administrator for the district in which the petition is filed.''.

(c) CHAPTER 13 DISCHARGE.—Section 1328 of title 11, United States Code, is amended by adding at the end the following:

''(f) The court shall not grant a discharge under this section to a debtor, unless after filing a petition the debtor has completed an instructional course concerning personal financial management described in section 111 that was administered or approved by—

''(1) the United States trustee; or

''(2) the bankruptcy administrator for the district in which the petition is filed.''.

(d) DEBTOR'S DUTIES.—Section 521 of title 11, United States Code, as amended by sections 301(b) and 318(b) of this Act, is amended by adding at the end the following:

''(e) In addition to the requirements under subsection (a), an individual debtor shall file with the court—

''(1) a certificate from the credit counseling service that provided the debtor services under section 109(h); and

''(2) a copy of the debt repayment plan, if any, developed under section 109(h) through the credit counseling service referred to in paragraph (1).''.

(e) EXCEPTIONS TO DISCHARGE.—Section 523(d) of title 11, United States Code, as amended by section 202 of this Act, is amended by striking paragraph (3)(A)(i) and inserting the following:

''(i) within the applicable period of time prescribed under section 109(h), the debtor received credit counseling through a credit counseling program in accordance with section 109(h); and''.

(f) GENERAL PROVISIONS.—

(1) IN GENERAL.—Chapter 1 of title 11, United States Code, is amended by adding at the end the following:

**''§ 111. Credit counseling services; financial management instructional courses**

''(a) The clerk of each district shall maintain a list of credit counseling services that provide 1 or more programs described in section 109(h) and that have been approved by—

''(1) the United States trustee; or

''(2) the bankruptcy administrator for the district.

''(b) The United States trustee or each bankruptcy administrator referred to in subsection (a)(1) shall—

''(1) make available to debtors who are individuals an instructional course concerning personal financial management, under the direction of the bankruptcy court; and

''(2) maintain a list of instructional courses concerning personal financial management that are operated by a private entity and that have been approved by the United States trustee or that bankruptcy administrator.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 11, United States Code, is amended by adding at the end the following:

''111. Credit counseling services; financial management instructional courses.''.

(g) DEFINITIONS.—Section 101 of title 11, United States Code, as amended by section 317 of this Act, is amended—

(1) by inserting after paragraph (13) the following:

''(13A) 'debtor's principal residence'—

''(A) means a residential structure, including incidental property, without regard to whether that structure is attached to real property; and

''(B) includes an individual condominium or co-operative unit;''; and

(2) by inserting after paragraph (27A), as added by section 318 of this Act, the following:

''(27B) 'incidental property' means, with respect to a debtor's principal residence—

''(A) property commonly conveyed with a principal residence in the area where the real estate is located;

''(B) all easements, rights, appurtenances, fixtures, rents, royalties, mineral rights, oil or gas rights or profits, water rights, escrow funds, or insurance proceeds; and

''(C) all replacements or additions;''.

**SEC. 322. BANKRUPTCY JUDGESHIPS.**

(a) SHORT TITLE.—This section may be cited as the ''Bankruptcy Judgeship Act of 1998''.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENTS.—The following judgeship positions shall be filled in the manner prescribed in section 152(a)(1) of title 28, United States Code, for the appointment of bankruptcy judges provided for in section 152(a)(2) of such title:

(A) One additional bankruptcy judgeship for the eastern district of California.

(B) Four additional bankruptcy judgeships for the central district of California.

(C) One additional bankruptcy judgeship for the southern district of Florida.

(D) Two additional bankruptcy judgeships for the district of Maryland.

(E) One additional bankruptcy judgeship for the eastern district of Michigan.

(F) One additional bankruptcy judgeship for the southern district of Mississippi.

(G) One additional bankruptcy judgeship for the district of New Jersey.

(H) One additional bankruptcy judgeship for the eastern district of New York.

(I) One additional bankruptcy judgeship for the northern district of New York.

(J) One additional bankruptcy judgeship for the southern district of New York.

(K) One additional bankruptcy judgeship for the eastern district of Pennsylvania.

(L) One additional bankruptcy judgeship for the middle district of Pennsylvania.

(M) One additional bankruptcy judgeship for the western district of Tennessee.

(N) One additional bankruptcy judgeship for the eastern district of Virginia.

(2) VACANCIES.—The first vacancy occurring in the office of a bankruptcy judge in each of the judicial districts set forth in paragraph (1) that—

(A) results from the death, retirement, resignation, or removal of a bankruptcy judge; and

(B) occurs 5 years or more after the appointment date of a bankruptcy judge appointed under paragraph (1);

shall not be filled.

(c) EXTENSIONS.—

(1) IN GENERAL.—The temporary bankruptcy judgeship positions authorized for the northern district of Alabama, the district of Delaware, the district of Puerto Rico, the district of South Carolina, and the eastern district of Tennessee under section 3(a) (1), (3), (7), (8), and (9) of the Bankruptcy Judgeship Act of 1992 (28 U.S.C. 152 note) are extended until the first vacancy occurring in the office of a bankruptcy judge in the applicable district resulting from the death, retirement, resignation, or removal of a bankruptcy judge and occurring—

(A) 8 years or more after November 8, 1993, with respect to the northern district of Alabama;

(B) 10 years or more after October 28, 1993, with respect to the district of Delaware;

(C) 8 years or more after August 29, 1994, with respect to the district of Puerto Rico;

(D) 8 years or more after June 27, 1994, with respect to the district of South Carolina; and

(E) 8 years or more after November 23, 1993, with respect to the eastern district of Tennessee.

(2) APPLICABILITY OF OTHER PROVISIONS.—All other provisions of section 3 of the Bankruptcy Judgeship Act of 1992 remain applicable to such temporary judgeship position.

(d) TECHNICAL AMENDMENT.—The first sentence of section 152(a)(1) of title 28, United States Code, is amended to read as follows: ''Each bankruptcy judge to be appointed for a judicial district as provided in paragraph (2) shall be appointed by the United States court of appeals for the circuit in which such district is located.''.

(e) TRAVEL EXPENSES OF BANKRUPTCY JUDGES.—Section 156 of title 28, United States Code, is amended by adding at the end the following new subsection:

''(g)(1) In this subsection, the term 'travel expenses'—

''(A) means the expenses incurred by a bankruptcy judge for travel that is not directly related to any case assigned to such bankruptcy judge; and

''(B) shall not include the travel expenses of a bankruptcy judge if—

''(i) the payment for the travel expenses is paid by such bankruptcy judge from the personal funds of such bankruptcy judge; and

''(ii) such bankruptcy judge does not receive funds (including reimbursement) from the United States or any other person or entity for the payment of such travel expenses.

''(2) Each bankruptcy judge shall annually submit the information required under paragraph (3) to the chief bankruptcy judge for the district in which the bankruptcy judge is assigned.

''(3)(A) Each chief bankruptcy judge shall submit an annual report to the Director of the Administrative Office of the United States Courts on the travel expenses of each bankruptcy judge assigned to the applicable district (including the travel expenses of the chief bankruptcy judge of such district).

''(B) The annual report under this paragraph shall include—

''(i) the travel expenses of each bankruptcy judge, with the name of the bankruptcy judge to whom the travel expenses apply;

''(ii) a description of the subject matter and purpose of the travel relating to each travel expense identified under clause (i), with the name of the bankruptcy judge to whom the travel applies; and

''(iii) the number of days of each travel described under clause (ii), with the name of the bankruptcy judge to whom the travel applies.

''(4)(A) The Director of the Administrative Office of the United States Courts shall—

''(i) consolidate the reports submitted under paragraph (3) into a single report; and

''(ii) annually submit such consolidated report to Congress.

''(B) The consolidated report submitted under this paragraph shall include the specific information required under paragraph (3)(B), including the name of each bankruptcy judge with respect to clauses (i), (ii), and (iii) of paragraph (3)(B).''.

**SEC. 323. PREFERRED PAYMENT OF CHILD SUPPORT IN CHAPTER 7 PROCEEDINGS.**

Section 507(a) of title 11, United States Code, is amended in the matter preceding paragraph (1), by inserting '', except that, notwithstanding any other provision of this title, any expense or claim entitled to priority under paragraph (7) shall have first priority over any other expense or claim that has priority under any other provision of this subsection'' before the colon.

**SEC. 324. PREFERRED PAYMENT OF CHILD SUPPORT IN CHAPTER 13 PROCEEDINGS.**

Section 1322(b)(1) of title 11, United States Code, is amended by striking the semicolon at the end and inserting the following: ''and provide for the payment of any claim entitled to priority under section 507(a)(7) before the payment of any other claim entitled to priority under section 507(a), notwithstanding the priorities established under section 507(a).''.

**SEC. 325. PAYMENT OF CHILD SUPPORT REQUIRED TO OBTAIN A DISCHARGE IN CHAPTER 13 PROCEEDINGS.**

Title 11, United States Code, is amended—

(1) in section 1325(a)—

(A) in paragraph (5), by striking ''and'' at the end;

(B) in paragraph (6), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(7) if the debtor is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, the debtor has paid all amounts payable under that order for alimony, maintenance, or support that are due after the date on which the petition is filed.''; and

(2) in section 1328(a), as amended by section 314 of this Act, in the matter preceding paragraph (1), by inserting '', and with respect to a debtor who is required by a judicial or administrative order to pay alimony to, maintenance for, or support of a spouse, former spouse, or child of the debtor, only after the debtor certifies as of the later of the date of that completion or the date of certification that all amounts payable under that order for alimony, maintenance, or support that are due before the date of that certification have been paid in accordance with the plan if applicable, or if the underlying debt is not treated by the plan, paid in full'' after ''completion by the debtor of all payments under the plan''.

**SEC. 326. CHILD SUPPORT AND ALIMONY COLLECTION.**

Section 362(b) of title 11, United States Code, is amended—

(1) in paragraph (17), by striking ''or'' at the end;

(2) in paragraph (18), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

''(19) under subsection (a) with respect to the withholding of income pursuant to an order as specified in section 466(b) of the Social Security Act (42 U.S.C. 666(b)); or

''(20) under subsection (a) with respect to the withholding, suspension, or restriction of drivers' licenses, professional and occupational licenses, and recreational licenses pursuant to State law, as specified in section 466(a)(15) of the Social Security Act (42 U.S.C. 666(a)(15)) or with respect to the reporting of overdue support owed by an absent parent to any consumer reporting agency as specified in section 466(a)(7) of the Social Security Act (42 U.S.C. 666(a)(7)).''.

**SEC. 327. NONDISCHARGEABILITY OF CERTAIN DEBTS FOR ALIMONY, MAINTENANCE, AND SUPPORT.**

Section 523 of title 11, United States Code, as amended by section 202 of this Act, is amended—

(1) in subsection (a), by striking paragraph (5) and inserting the following:

''(5) to a spouse, former spouse, or child of the debtor—

''(A) for actual alimony to, maintenance for, or support of that spouse or child;

''(B) that was incurred by the debtor in the course of a divorce or separation or in connection with a separation agreement, property settlement agreement, divorce decree, other order of a court of record, or determination made in accordance with State or territorial law by a governmental unit; or

''(C) that is described in subparagraph (A) or (B) and that is assigned pursuant to section 408(a)(3) of the Social Security Act (42 U.S.C. 608(a)(3)), or to the Federal Government, a State, or any political subdivision of a State,

but not to the extent that the debt (other than a debt described in subparagraph (C)) is assigned to another entity, voluntarily, by operation of law, or otherwise;''; and

(2) in subsection (c), by striking ''(6), or (15)'' and inserting ''or (6)''.

**SEC. 328. ENFORCEMENT OF CHILD AND SPOUSAL SUPPORT.**

Section 522(c)(1) of title 11, United States Code, is amended by inserting '', except that, notwithstanding any other Federal law or State law relating to exempted property, such exempt property shall be liable for debts of a kind specified in paragraph (1) or (5) of section 523(a)'' before the semicolon at the end of the paragraph.

**SEC. 329. DEPENDENT CHILD DEFINED.**

Section 101 of title 11, United States Code, is amended by inserting after paragraph (14) the following:

''(14A) 'dependent child' means, with respect to an individual, a child who has not attained the age of 18 and who is a dependent of that individual, within the meaning of section 152 of the Internal Revenue Code;''.

## TITLE IV—FINANCIAL INSTRUMENTS

**SEC. 401. BANKRUPTCY CODE AMENDMENTS.**

(a) DEFINITIONS OF SWAP AGREEMENT, SECURITIES CONTRACT, FORWARD CONTRACT, COMMODITY CONTRACT, AND REPURCHASE AGREEMENT.—Title 11, United States Code, is amended—

(1) in section 101—

(A) in paragraph (25)—

(i) by striking ''means a contract'' and inserting ''means—

''(A) a contract'';

(ii) by striking '', or any combination thereof or option thereon;'' and inserting '', or any other similar agreement;''; and

(iii) by adding at the end the following new subparagraphs:

''(B) any combination of agreements or transactions referred to in subparagraphs (A) and (C);

''(C) any option to enter into any agreement or transaction referred to in subparagraph (A) or (B);

''(D) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B) or (C), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a forward contract under this paragraph, except that the master agreement shall be considered to be a forward contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B) or (C); or

''(E) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in subparagraph (A), (B), (C) or (D);'';

(B) by amending paragraph (47) to read as follows:

''(47) the term 'repurchase agreement' (which definition also applies to a reverse repurchase agreement)—

''(A) means—

''(i) an agreement, including related terms, which provides for the transfer of 1 or more certificates of deposit, mortgage-related securities (as such term is defined in the Securities Exchange Act of 1934), mortgage loans, interests in mortgage-related securities or mortgage loans, eligible bankers' acceptances, qualified foreign government securities or securities that are direct obligations of, or that are fully guaranteed as to principal and interest by, the United States or any agency of the United States against the transfer of funds by the transferee of such certificates of deposit, eligible bankers' acceptances, securities, loans or interests with a simultaneous agreement by such transferee

to transfer to the transferor thereof certificates of deposit, eligible bankers' acceptances, securities, loans, or interests as described above, at a date certain not later than 1 year after such transfers or on demand, against the transfer of funds; or any other similar agreement; and

''(ii) any combination of agreements or transactions referred to in clauses (i) and (iii);

''(iii) any option to enter into any agreement or transaction referred to in clause (i) or (ii);

''(iv) a master agreement that provides for an agreement or transaction referred to in clauses (i), (ii) or (iii), together with all supplements, without regard to whether the master agreement provides for an agreement or transaction that is not a repurchase agreement under this subparagraph, except that the master agreement shall be considered to be a repurchase agreement under this subparagraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii) or (iii); or

''(v) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in clauses (i), (ii), (iii) or (iv); and

''(B) does not include any repurchase obligation under a participation in a commercial mortgage loan,

and, for purposes of this paragraph, the term 'qualified foreign government security' means a security that is a direct obligation of, or that is fully guaranteed by, the central government of a member of the Organization for Economic Cooperation and Development.''; and

(C) by amending paragraph (53B) to read as follows:

''(53B) the term 'swap agreement'—

''(A) means—

''(i) any agreement, including the terms and conditions incorporated by reference in any such agreement, which is an interest rate swap, option, future, or forward agreement, including a rate floor, rate cap, rate collar, cross-currency rate swap, and basis swap; a spot, same day-tomorrow, tomorrow-next, forward, or other foreign exchange or precious metals agreement; a currency swap, option, future, or forward agreement; an equity index or equity swap, option, future, or forward agreement; a debt index or debt swap, option, future, or forward agreement; a credit spread or credit swap, option, future, or forward agreement; a commodity index or commodity swap, option, future, or forward agreement;

''(ii) any agreement similar to any other agreement or transaction referred to in this subparagraph that—

''(I) is presently, or in the future becomes, regularly entered into in the swap agreement market (including terms and conditions incorporated by reference therein); and

''(II) is a forward, swap, future, or option on 1 or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, or economic indices or measures of economic risk or value;

''(iii) any combination of agreements or transactions referred to in this subparagraph;

''(iv) any option to enter into any agreement or transaction referred to in this subparagraph;

''(v) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), or (iv), together with all supplements to any such master agreement, without regard to whether the master agreement contains an agreement or transaction that is described in any of such clause, except that the master agreement shall be considered to be a swap agreement only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), or (iv); or

''(C) is applicable for purposes of this title only and shall not be construed or applied to challenge or affect the characterization, definition, or treatment of any swap agreement or any instrument defined as a swap agreement herein, under any other statute, regulation, or rule, including the Securities Act of 1933, the Securities Exchange Act of 1934, the Public Utility Holding Company Act of 1935, the Trust Indenture Act of 1939, the Investment Company Act of 1940, the Investment Advisers Act of 1940, the Securities Investor Protection Act of 1970, the Commodity Exchange Act, and the regulations prescribed by the Securities and Exchange Commission or the Commodity Futures Trading Commission.'';

(2) by amending section 741(7) to read as follows:

''(7) the term 'securities contract'—

''(A) means—

''(i) a contract for the purchase, sale, or loan of a security, a certificate of deposit, a mortgage loan or any interest in a mortgage loan, or a group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index or option;

''(ii) any option entered into on a national securities exchange relating to foreign currencies;

''(iii) the guarantee by or to any securities clearing agency of any settlement of cash, securities, certificates of deposit, mortgage loans or interest therein, or group or index of securities, certificates of deposit, or mortgage loans or interests therein (including any interest therein or based on the value thereof) or option on any of the foregoing, including any option to purchase or sell any such security, certificate of deposit, loan, interest, group or index or option;

''(iv) any margin loan;

''(v) any other agreement or transaction that is similar to any agreement or transaction referred to in this subparagraph;

''(vi) any combination of the agreements or transactions referred to in this subparagraph;

''(vii) any option to enter into any agreement or transaction referred to in this subparagraph;

''(viii) a master agreement that provides for an agreement or transaction referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a securities contract under this subparagraph, except that the master agreement shall be considered to be a securities contract under this subparagraph only with respect to each agreement or transaction under the master agreement that is referred to in clause (i), (ii), (iii), (iv), (v), (vi), or (vii); and

''(ix) any security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this subparagraph; and

''(B) does not include any purchase, sale, or repurchase obligation under a participation in or servicing agreement for a commercial mortgage loan.''; and

(3) in section 761(4)—

(A) by striking ''or'' at the end of subparagraph (D); and

(B) by adding at the end the following new subparagraphs:

''(F) any other agreement or transaction that is similar to any agreement or transaction referred to in this paragraph;

''(G) any combination of the agreements or transactions referred to in this paragraph;

''(H) any option to enter into any agreement or transaction referred to in this paragraph;

''(I) a master agreement that provides for an agreement or transaction referred to in subparagraph (A), (B), (C), (D), (E), (F), (G) or (H), together with all supplements to any such master agreement, without regard to whether the master agreement provides for an agreement or transaction that is not a commodity contract under this paragraph, except that the master agreement shall be considered to be a commodity contract under this paragraph only with respect to each agreement or transaction under the master agreement that is referred to in subparagraph (A), (B), (C), (D), (E), (F), (G) or (H); or

''(J) a security agreement or arrangement or other credit enhancement related to any agreement or transaction referred to in this paragraph;''.

(b) DEFINITIONS OF FINANCIAL INSTITUTION, FINANCIAL PARTICIPANT, AND FORWARD CONTRACT MERCHANT.—Section 101 of title 11, United States Code, is amended—

(1) by amending paragraph (22) to read as follows:

''(22) the term 'financial institution' means a Federal reserve bank, or a person that is a commercial or savings bank, industrial savings bank, savings and loan association, trust company, or receiver or conservator for such person and, when any such Federal reserve bank, receiver, or conservator or person acting as agent or custodian for a customer in connection with a securities contract, as defined in section 741(7) of this title, such customer;'';

(2) by inserting after paragraph (22) the following new paragraph:

''(22A) the term 'financial participant' means any entity that, at the time it enters into a securities contract, commodity contract or forward contract, or at the time of the filing of the petition, has 1 or more agreements or transactions that is described in section 561(a)(2) with the debtor or any other entity (other than an affiliate) of a total gross dollar value of at least $1,000,000,000 in notional or actual principal amount outstanding on any day during the previous 15-month period, or has gross mark-to-market positions of at least $100,000,000 (aggregated across counterparties) in 1 or more such agreements or transactions with the debtor or any other entity (other than an affiliate) on any day during the previous 15-month period;''; and

(3) by amending paragraph (26) to read as follows:

''(26) the term 'forward contract merchant' means a Federal reserve bank, or a person whose business consists in whole or in part of entering into forward contracts as or with merchants or in a commodity, as defined or in section 761(8) of this title, or any similar good, article, service, right, or interest which is presently or in the future becomes the subject of dealing or in the forward contract trade;''.

(c) DEFINITION OF MASTER NETTING AGREEMENT AND MASTER NETTING AGREEMENT PARTICIPANT.—Section 101 of title 11, United States Code, is amended by inserting after paragraph (38) the following new paragraphs:

''(38A) the term 'master netting agreement' means an agreement providing for the exercise of rights, including rights of netting, setoff, liquidation, termination, acceleration, or closeout, under or in connection with 1 or more contracts that are described in any 1 or more of paragraphs (1) through (5) of section 561(a), or any security agreement

or arrangement or other credit enhancement related to 1 or more of the foregoing. If a master netting agreement contains provisions relating to agreements or transactions that are not contracts described in paragraphs (1) through (5) of section 561(a), the master netting agreement shall be deemed to be a master netting agreement only with respect to those agreements or transactions that are described in any 1 or more of the paragraphs (1) through (5) of section 561(a);

''(38B) the term 'master netting agreement participant' means an entity that, at any time before the filing of the petition, is a party to an outstanding master netting agreement with the debtor;''.

(d) SWAP AGREEMENTS, SECURITIES CONTRACTS, COMMODITY CONTRACTS, FORWARD CONTRACTS, REPURCHASE AGREEMENTS, AND MASTER NETTING AGREEMENTS UNDER THE AUTOMATIC-STAY.—

(1) IN GENERAL.—Section 362(b) of title 11, United States Code, is amended—

(A) in paragraph (6), by inserting '', pledged to, and under the control of,'' after ''held by'';

(B) in paragraph (7), by inserting '', pledged to, and under the control of,'' after ''held by'';

(C) by amending paragraph (17) to read as follows:

''(17) under subsection (a), of the setoff by a swap participant of any mutual debt and claim under or in connection with 1 or more swap agreements that constitute the setoff of a claim against the debtor for any payment due from the debtor under or in connection with any swap agreement against any payment due to the debtor from the swap participant under or in connection with any swap agreement or against cash, securities, or other property of the debtor held by, pledged to, and under the control of, or due from such swap participant to guarantee, secure, or settle any swap agreement;'';

(D) in paragraph (18), by striking the period and inserting ''; or''; and

(E) by inserting after paragraph (18) the following new paragraph:

''(19) under subsection (a), of the setoff by a master netting agreement participant of a mutual debt and claim under or in connection with 1 or more master netting agreements to the extent such participant could offset the claim under paragraph (6), (7), or (17) for each individual contract covered by the master netting agreement in issue.''.

(2) LIMITATION.—Section 362 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(i) LIMITATION.—The exercise of rights not subject to the stay arising under subsection (a) pursuant to paragraph (6), (7), (17), or (19) of subsection (b) shall not be stayed by any order of a court or administrative agency in any proceeding under this title.''.

(e) LIMITATION OF AVOIDANCE POWERS UNDER MASTER NETTING AGREEMENT.—Section 546 of title 11, United States Code, is amended—

(1) in subsection (g) (as added by section 103 of Public Law 101–311)—

(A) by striking ''under a swap agreement'';

(B) by striking ''in connection with a swap agreement'' and inserting ''under or in connection with any swap agreement'';

(2) by redesignating subsection (g) (as added by section 222(a) of Public Law 103–394) as subsection (i); and

(3) by inserting before subsection (i) (as redesignated) the following new subsection:

''(h) Notwithstanding sections 544, 545, 547, 548(a)(2), and 548(b) of this title, to the extent that under subsection (e), (f), or (g), the trustee may not avoid a transfer made by or to a master netting agreement participant under or in connection with each individual contract covered by any master netting agreement that is made before the commencement of the case, the trustee may not avoid a transfer made by or to such master netting agreement participant under or in connection with the master netting agreement in issue, except under section 548(a)(1) of this title.''.

(f) FRAUDULENT TRANSFERS OF MASTER NETTING AGREEMENTS.—Section 548(d)(2) of title 11, United States Code, is amended—

(1) in subparagraph (C), by striking ''and'';

(2) in subparagraph (D), by striking the period and inserting ''; and''; and

(3) by adding at the end the following new subparagraph:

''(E) a master netting agreement participant that receives a transfer in connection with a master netting agreement takes for value to the extent of such transfer, but only to the extent that such participant would take for value under paragraph (B), (C), or (D) for each individual contract covered by the master netting agreement in issue.''.

(g) TERMINATION OR ACCELERATION OF SECURITIES CONTRACTS.—Section 555 of title 11, United States Code, is amended—

(1) by amending the section heading to read ''**Contractual right to liquidate, terminate, or accelerate a securities contract**''; and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(h) TERMINATION OR ACCELERATION OF COMMODITIES OR FORWARD CONTRACTS.—Section 556 of title 11, United States Code, is amended—

(1) by amending the section heading to read ''**Contractual right to liquidate, terminate, or accelerate a commodities contract or forward contract**''; and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(i) TERMINATION OR ACCELERATION OF REPURCHASE AGREEMENTS.—Section 559 of title 11, United States Code, is amended—

(1) by amending the section heading to read ''**Contractual right to liquidate, terminate, or accelerate a repurchase agreement**''; and

(2) in the first sentence, by striking ''liquidation'' and inserting ''liquidation, termination, or acceleration''.

(j) LIQUIDATION, TERMINATION, OR ACCELERATION OF SWAP AGREEMENTS.—Section 560 of title 11, United States Code, is amended—

(1) by amending the section heading to read ''**Contractual right to liquidate, terminate, or accelerate a swap agreement**''; and

(2) in the first sentence, by striking ''termination of a swap agreement'' and inserting ''liquidation, termination, or acceleration of 1 or more swap agreements''; and

(3) by striking ''in connection with any swap agreement'' and inserting ''in connection with the termination, liquidation, or acceleration of 1 or more swap agreements''.

(k) LIQUIDATION, TERMINATION, ACCELERATION, OR OFFSET UNDER A MASTER NETTING AGREEMENT AND ACROSS CONTRACTS.—Title 11, United States Code, is amended by inserting after section 560 the following new section:

**''§ 561. Contractual right to terminate, liquidate, accelerate, or offset under a master netting agreement and across contracts**

''(a) IN GENERAL.—Subject to subsection (b), the exercise of any contractual right, because of a condition of the kind specified in section 365(e)(1), to cause the termination, liquidation, or acceleration of or to offset, or net termination values, payment amounts or other transfer obligations arising under or in connection with the termination, liquidation, or acceleration of 1 or more—

''(1) securities contracts, as defined in section 741(7);

''(2) commodity contracts, as defined in section 761(4);

''(3) forward contracts;

''(4) repurchase agreements;

''(5) swap agreements; or

''(6) master netting agreements,

shall not be stayed, avoided, or otherwise limited by operation of any provision of this title or by any order of a court or administrative agency in any proceeding under this title.

''(b) EXCEPTION.—

''(1) A party may exercise a contractual right described in subsection (a) to terminate, liquidate, or accelerate only to the extent that such party could exercise such a right under section 555, 556, 559, or 560 for each individual contract covered by the master netting agreement in issue.

''(2)(A) A party may not exercise a contractual right described in subsection (a) to offset or to net obligations arising under, or in connection with, a commodity contract against obligations arising under, or in connection with, any instrument listed in subsection (a) if the obligations are not mutual.

''(B) If a debtor is a commodity broker subject to subchapter IV of chapter 7 of this title, a party may not net or offset an obligation to the debtor arising under, or in connection with, a commodity contract against any claim arising under, or in connection with, other instruments listed in subsection (a) if the party has no positive net equity in the commodity account at the debtor, as calculated under subchapter IV.

''(c) DEFINITION.—As used in this section, the term 'contractual right' includes a right set forth in a rule or bylaw of a national securities exchange, a national securities association, or a securities clearing agency, a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right whether or not evidenced in writing arising under common law, under law merchant, or by reason of normal business practice.''.

(l) MUNICIPAL BANKRUPTCIES.—Section 901 of title 11, United States Code, is amended—

(1) by inserting '', 555, 556'' after ''553''; and

(2) by inserting '', 559, 560, 561, 562'' after ''557''.

(m) ANCILLARY PROCEEDINGS.—Section 304 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(d) Any provisions of this title relating to securities contracts, commodity contracts, forward contracts, repurchase agreements, swap agreements, or master netting agreements shall apply in a case ancillary to a foreign proceeding under this section or any other section of this title so that enforcement of contractual provisions of such contracts and agreements in accordance with their terms will not be stayed or otherwise limited by operation of any provision of this title or by order of a court in any proceeding under this title, and to limit avoidance powers to the same extent as in a proceeding under chapter 7 or 11 of this title (such enforcement not to be limited based on the presence or absence of assets of the debtor in the United States).''.

(n) COMMODITY BROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 766 the following new section:

**''§ 767. Commodity broker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

''Notwithstanding any other provision of this title, the exercise of rights by a forward

contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of such rights or affect the provisions of this subchapter IV regarding customer property or distributions.''.

(o) STOCKBROKER LIQUIDATIONS.—Title 11, United States Code, is amended by inserting after section 752 the following new section:

**''§ 753. Stockbroker liquidation and forward contract merchants, commodity brokers, stockbrokers, financial institutions, securities clearing agencies, swap participants, repo participants, and master netting agreement participants**

''Notwithstanding any other provision of this title, the exercise of rights by a forward contract merchant, commodity broker, stockbroker, financial institution, securities clearing agency, swap participant, repo participant, or master netting agreement participant under this title shall not affect the priority of any unsecured claim it may have after the exercise of rights or affect the provisions of this subchapter regarding customer property or distributions.''.

(p) SETOFF.—Section 553 of title 11, United States Code, is amended—

(1) in subsection (a)(3)(C), by inserting ''(except for a setoff of a kind described in section 362(b)(6), 362(b)(7), 362(b)(17), 555, 556, 559, 560, or 561 of this title)'' before the period; and

(2) in subsection (b)(1), by striking ''362(b)(14),'' and inserting ''362(b)(17), 555, 556, 559, 560, 561''.

(q) SECURITIES CONTRACTS, COMMODITY CONTRACTS, AND FORWARD CONTRACTS.—Title 11, United States Code, is amended—

(1) in section 362(b)(6), by striking ''financial institutions,'' each place such term appears and inserting ''financial institution, financial participant'';

(2) in section 546(e), by inserting ''financial participant'' after ''financial institution,'';

(3) in section 548(d)(2)(B), by inserting ''financial participant'' after ''financial institution,'';

(4) in section 555—

(A) by inserting ''financial participant'' after ''financial institution,''; and

(B) by inserting before the period '', a right set forth in a bylaw of a clearing organization or contract market or in a resolution of the governing board thereof, and a right, whether or not in writing, arising under common law, under law merchant, or by reason of normal business practice''; and

(5) in section 556, by inserting '', financial participant'' after ''commodity broker''.

(r) TECHNICAL AND CONFORMING AMENDMENT.—Section 104 of title 11, United States Code, is amended by adding at the end the following new subsection:

''(c) EXCEPTION FOR CERTAIN DEFINED TERMS.—No adjustments shall be made under this section to the dollar amounts set forth in the definition of the term 'financial participant' in section 101(22A).''.

**SEC. 9. RECORDKEEPING REQUIREMENTS.**

Section 11(e)(8) of the Federal Deposit Insurance Act (12 U.S.C. 1821(e)(8)) is amended by adding at the end the following new subparagraph:

**SEC. 402. DAMAGE MEASURE.**

(a) Title 11, United States Code, is amended by inserting after section 561 (as added by section 7(k)) the following new section:

**''§ 561. Damage measure in connection with swap agreements, securities contracts, forward contracts, commodity contracts, repurchase agreements, or master netting agreements**

''If the trustee rejects a swap agreement, securities contract as defined in section 741 of this title, forward contract, repurchase agreement, or master netting agreement pursuant to section 365(a) of this title, or if a forward contract merchant, stockbroker, financial institution, securities clearing agency, repo participant, master netting agreement participant, or swap participant liquidates, terminates, or accelerates any such contract or agreement, damages shall be measured as of the earlier of—

''(1) the date of such rejection; or

''(2) the date of such liquidation, termination, or acceleration.''.

(b) CLAIMS ARISING FROM REJECTION.—Section 502(g) of title 11, United States Code, is amended—

(1) by designating the existing text as paragraph (1); and

(2) by adding at the end the following new paragraph:

''(2) A claim for damages calculated in accordance with section 562 of this title shall be allowed under subsection (a),(b), or (c) of this section or disallowed under subsection (d) or (e) of this section as if such claim had arisen before the date of the filing of the petition.''.

**SEC. 403. ASSET-BACKED SECURITIZATIONS.**

Section 541 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''or'' at the end of paragraph (4);

(2) by redesignating paragraph (5) of subsection (b) as paragraph (6);

(3) by inserting after paragraph (4) of subsection (b) the following new paragraph:

''(5) any eligible asset (or proceeds thereof), to the extent that such eligible asset was transferred by the debtor, before the date of commencement of the case, to an eligible entity in connection with an asset-backed securitization, except to the extent such asset (or proceeds or value thereof) may be recovered by the trustee under section 550 by virtue of avoidance under section 548(a); or''; and

(4) by adding at the end the following new subsection:

''(e) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

''(1) ASSET-BACKED SECURITIZATION.—The term 'asset-backed securitization' means a transaction in which eligible assets transferred to an eligible entity are used as the source of payment on securities, the most senior of which are rated investment grade by 1 or more nationally recognized securities rating organizations, issued by an issuer;

''(2) ELIGIBLE ASSET.—The term 'eligible asset' means—

''(A) financial assets (including interests therein and proceeds thereof), either fixed or revolving, including residential and commercial mortgage loans, consumer receivables, trade receivables, and lease receivables, that, by their terms, convert into cash within a finite time period, plus any rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders;

''(B) cash; and

''(C) securities.

''(3) ELIGIBLE ENTITY.—The term 'eligible entity' means—

''(A) an issuer; or

''(B) a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and transferring eligible assets directly or indirectly to an issuer and taking actions ancillary thereto;

''(4) ISSUER.—The term 'issuer' means a trust, corporation, partnership, or other entity engaged exclusively in the business of acquiring and holding eligible assets, issuing securities backed by eligible assets, and taking actions ancillary thereto.

''(5) TRANSFERRED.—The term 'transferred' means the debtor, pursuant to a written agreement, represented and warranted that eligible assets were sold, contributed, or otherwise conveyed with the intention of removing them from the estate of the debtor pursuant to subsection (b)(5), irrespective, without limitation of—

''(A) whether the debtor directly or indirectly obtained or held an interest in the issuer or in any securities issued by the issuer;

''(B) whether the debtor had an obligation to repurchase or to service or supervise the servicing of all or any portion of such eligible assets; or

''(C) the characterization of such sale, contribution, or other conveyance for tax, accounting, regulatory reporting, or other purposes.''.

**SEC. 404. APPLICABILITY.**

The amendments made by this title shall apply with respect to cases commenced or appointments made under any Federal or State law after the date of enactment of this Act.

## TITLE V—ANCILLARY AND OTHER CROSS-BORDER CASES

**SEC. 501. AMENDMENT TO ADD A CHAPTER 6 TO TITLE 11, UNITED STATES CODE.**

(a) IN GENERAL.—Title 11, United States Code, is amended by inserting after chapter 5 the following:

### ''CHAPTER 6—ANCILLARY AND OTHER CROSS-BORDER CASES

''Sec.
''601. Purpose and scope of application.
''SUBCHAPTER I—GENERAL PROVISIONS
''602. Definitions.
''603. International obligations of the United States.
''604. Commencement of ancillary case.
''605. Authorization to act in a foreign country.
''606. Public policy exception.
''607. Additional assistance.
''608. Interpretation.
''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT
''609. Right of direct access.
''610. Limited jurisdiction.
''611. Commencement of bankruptcy case under section 301 or 303.
''612. Participation of a foreign representative in a case under this title.
''613. Access of foreign creditors to a case under this title.
''614. Notification to foreign creditors concerning a case under this title.
''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF
''615. Application for recognition of a foreign proceeding.
''616. Presumptions concerning recognition.
''617. Order recognizing a foreign proceeding.
''618. Subsequent information.
''619. Relief that may be granted upon petition for recognition of a foreign proceeding.
''620. Effects of recognition of a foreign main proceeding.
''621. Relief that may be granted upon recognition of a foreign proceeding.
''622. Protection of creditors and other interested persons.
''623. Actions to avoid acts detrimental to creditors.
''624. Intervention by a foreign representative.
''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES
''625. Cooperation and direct communication between the court and foreign courts or foreign representatives.

''626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives.
''627. Forms of cooperation.
''SUBCHAPTER V—CONCURRENT PROCEEDINGS
''628. Commencement of a case under this title after recognition of a foreign main proceeding.
''629. Coordination of a case under this title and a foreign proceeding.
''630. Coordination of more than 1 foreign proceeding.
''631. Presumption of insolvency based on recognition of a foreign main proceeding.
''632. Rule of payment in concurrent proceedings.

**''§ 601. Purpose and scope of application**

''(a) The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of—

''(1) cooperation between—

''(A) United States courts, United States Trustees, trustees, examiners, debtors, and debtors in possession; and

''(B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;

''(2) greater legal certainty for trade and investment;

''(3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor;

''(4) protection and maximization of the value of the debtor's assets; and

''(5) facilitation of the rescue of financially troubled businesses, thereby protecting investment and preserving employment.

''(b) This chapter applies where—

''(1) assistance is sought in the United States by a foreign court or a foreign representative in connection with a foreign proceeding;

''(2) assistance is sought in a foreign country in connection with a case under this title;

''(3) a foreign proceeding and a case under this title with respect to the same debtor are taking place concurrently; or

''(4) creditors or other interested persons in a foreign country have an interest in requesting the commencement of, or participating in, a case or proceeding under this title.

''(c) This chapter does not apply to—

''(1) a proceeding concerning an entity identified by exclusion in subsection 109(b); or

''(2) a natural person or a natural person and that person's spouse who have debts within the limits specified in under section 109(e) and who are citizens of the United States or aliens lawfully admitted for permanent residence in the United States.

''SUBCHAPTER I—GENERAL PROVISIONS

**''§ 602. Definitions**

''For the purposes of this chapter, the term—

''(1) 'debtor' means an entity that is the subject of a foreign proceeding;

''(2) 'establishment' means any place of operations where the debtor carries out a nontransitory economic activity;

''(3) 'foreign court' means a judicial or other authority competent to control or supervise a foreign proceeding;

''(4) 'foreign main proceeding' means a foreign proceeding taking place in the country where the debtor has the center of its main interests;

''(5) 'foreign nonmain proceeding' means a foreign proceeding, other than a foreign main proceeding, taking place in a country where the debtor has an establishment;

''(6) 'trustee' includes a trustee, a debtor in possession in a case under any chapter of this title, or a debtor under chapters 9 or 13 of this title; and

''(7) 'within the territorial jurisdiction of the United States' when used with reference to property of a debtor refers to tangible property located within the territory of the United States and intangible property deemed to be located within that territory, including any property that may properly be seized or garnished by an action in a Federal or State court in the United States.

**''§ 603. International obligations of the United States**

''To the extent that this chapter conflicts with an obligation of the United States arising out of any treaty or other form of agreement to which it is a party with 1 or more other countries, the requirements of the treaty or agreement prevail.

**''§ 604. Commencement of ancillary case**

''A case under this chapter is commenced by the filing of a petition for recognition of a foreign proceeding under section 615.

**''§ 605. Authorization to act in a foreign country**

''A trustee or another entity designated by the court may be authorized by the court to act in a foreign country on behalf of an estate created under section 541. An entity authorized to act under this section may act in any way permitted by the applicable foreign law.

**''§ 606. Public policy exception**

''Nothing in this chapter prevents the court from refusing to take an action governed by this chapter if the action would be manifestly contrary to the public policy of the United States.

**''§ 607. Additional assistance**

''(a) Nothing in this chapter limits the power of the court, upon recognition of a foreign proceeding, to provide additional assistance to a foreign representative under this title or under other laws of the United States.

''(b) In determining whether to provide additional assistance under this title or under other laws of the United States, the court shall consider whether such additional assistance, consistent with the principles of comity, will reasonably assure—

''(1) just treatment of all holders of claims against or interests in the debtor's property;

''(2) protection of claim holders in the United States against prejudice and inconvenience in the processing of claims in such foreign proceeding;

''(3) prevention of preferential or fraudulent dispositions of property of the debtor;

''(4) distribution of proceeds of the debtor's property substantially in accordance with the order prescribed by this title; and

''(5) if appropriate, the provision of an opportunity for a fresh start for the individual that such foreign proceeding concerns.

**''§ 608. Interpretation**

''In interpreting this chapter, the court shall consider its international origin, and the need to promote an application of this chapter that is consistent with the application of similar statutes adopted by foreign jurisdictions.

''SUBCHAPTER II—ACCESS OF FOREIGN REPRESENTATIVES AND CREDITORS TO THE COURT

**''§ 609. Right of direct access**

''(a) A foreign representative is entitled to commence a case under section 604 by filing a petition for recognition under section 615, and upon recognition, to apply directly to other Federal and State courts for appropriate relief in those courts.

''(b) Upon recognition, and subject to section 610, a foreign representative has the capacity to sue and be sued.

''(c) Recognition under this chapter is prerequisite to the granting of comity or cooperation to a foreign proceeding in any State or Federal court in the United States. Any request for comity or cooperation in any court shall be accompanied by a sworn statement setting forth whether recognition under section 615 has been sought and the status of any such petition.

''(d) Upon denial of recognition under this chapter, the court may issue appropriate orders necessary to prevent an attempt to obtain comity or cooperation from courts in the United States without such recognition.

**''§ 610. Limited jurisdiction**

''The sole fact that a foreign representative files a petition under sections 604 and 615 does not subject the foreign representative to the jurisdiction of any court in the United States for any other purpose.

**''§ 611. Commencement of bankruptcy case under section 301 or 303**

''(a) Upon filing a petition for recognition, a foreign representative may commence—

''(1) an involuntary case under section 303; or

''(2) a voluntary case under section 301 or 302, if the foreign proceeding is a foreign main proceeding.

''(b) The petition commencing a case under subsection (a) of this section must be accompanied by a statement describing the petition for recognition and its current status. The court where the petition for recognition has been filed must be advised of the foreign representative's intent to commence a case under subsection (a) of this section prior to such commencement.

''(c) A case under subsection (a) shall be dismissed unless recognition is granted.

**''§ 612. Participation of a foreign representative in a case under this title**

''Upon recognition of a foreign proceeding, the foreign representative in that proceeding is entitled to participate as a party in interest in a case regarding the debtor under this title.

**''§ 613. Access of foreign creditors to a case under this title**

''(a) Foreign creditors have the same rights regarding the commencement of, and participation in, a case under this title as domestic creditors.

''(b)(1) Subsection (a) of this section does not change or codify law in effect on the date of enactment of this chapter as to the priority of claims under section 507 or 726, except that the claim of a foreign creditor under those sections shall not be given a lower priority than the class of general unsecured claims without priority solely because the holder of such claim is a foreign creditor.

''(2)(A) Subsection (a) of this section and paragraph (1) of this subsection do not change or codify law in effect on the date of enactment of this chapter as to the allowability of foreign revenue claims or other foreign public law claims in a proceeding under this title.

''(B) Allowance and priority as to a foreign tax claim or other foreign public law claim shall be governed by any applicable tax treaty of the United States, under the conditions and circumstances specified therein.

**''§ 614. Notification to foreign creditors concerning a case under this title**

''(a) Whenever in a case under this title, notice is to be given to creditors generally or to any class or category of creditors, such notice shall also be given to the known

creditors generally, or to creditors in the notified class or category, that do not have addresses in the United States. The court may order that appropriate steps be taken with a view to notifying any creditor whose address is not yet known.

''(b) The notification to creditors with foreign addresses described in subsection (a) shall be given individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other similar formality is required.

''(c) When a notification of commencement of a case is to be given to foreign creditors, the notification shall—

''(1) indicate the time period for filing proofs of claim and specify the place for their filing;

''(2) indicate whether secured creditors need to file their proofs of claim; and

''(3) contain any other information required to be included in such a notification to creditors pursuant to this title and the orders of the court.

''(d) Any rule of procedure or order of the court as to notice or the filing of a claim shall provide such additional time to creditors with foreign addresses as is reasonable under the circumstances.

''SUBCHAPTER III—RECOGNITION OF A FOREIGN PROCEEDING AND RELIEF

**''§ 615. Application for recognition of a foreign proceeding**

''(a) A foreign representative applies to the court for recognition of the foreign proceeding in which the foreign representative has been appointed by filing a petition for recognition.

''(b) A petition for recognition shall be accompanied by—

''(1) a certified copy of the decision commencing the foreign proceeding and appointing the foreign representative;

''(2) a certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or

''(3) in the absence of evidence referred to in paragraphs (1) and (2), any other evidence acceptable to the court of the existence of the foreign proceeding and of the appointment of the foreign representative.

''(c) A petition for recognition shall also be accompanied by a statement identifying all foreign proceedings with respect to the debtor that are known to the foreign representative.

''(d) The documents referred to in paragraphs (1) and (2) of subsection (b) must be translated into English. The court may require a translation into English of additional documents.

**''§ 616. Presumptions concerning recognition**

''(a) If the decision or certificate referred to in section 615(b) indicates that the foreign proceeding is a foreign proceeding within the meaning of section 101(23) and that the person or body is a foreign representative within the meaning of section 101(24), the court is entitled to so presume.

''(b) The court is entitled to presume that documents submitted in support of the petition for recognition are authentic, whether the documents have been subjected to legal processing under applicable law.

''(c) In the absence of evidence to the contrary, the debtor's registered office, or habitual residence in the case of an individual, is presumed to be the center of the debtor's main interests.

**''§ 617. Order recognizing a foreign proceeding**

''(a) Subject to section 606, an order recognizing a foreign proceeding shall be entered if—

''(1) the foreign proceeding is a foreign main proceeding or foreign nonmain proceeding within the meaning of section 602 and is a foreign proceeding within the meaning of section 101(23);

''(2) the person or body applying for recognition is a foreign representative within the meaning of section 101(24); and

''(3) the petition meets the requirements of section 615.

''(b) The foreign proceeding shall be recognized—

''(1) as a foreign main proceeding if it is taking place in the country where the debtor has the center of its main interests; or

''(2) as a foreign nonmain proceeding if the debtor has an establishment within the meaning of section 602 in the foreign country where the proceeding is pending.

''(c) A petition for recognition of a foreign proceeding shall be decided upon at the earliest possible time. Entry of an order recognizing a foreign proceeding shall constitute recognition under this chapter.

''(d) The provisions of this subchapter do not prevent modification or termination of recognition if it is shown that the grounds for granting it were fully or partially lacking or have ceased to exist, but in considering such action the court shall give due weight to possible prejudice to parties that have relied upon the granting of recognition. The foreign proceeding may be closed in the manner prescribed for a case under section 350.

**''§ 618. Subsequent information**

''From the time of filing the petition for recognition of the foreign proceeding, the foreign representative shall file with the court promptly a notice of change of status concerning—

''(1) any substantial change in the status of the foreign proceeding or the status of the foreign representative's appointment; and

''(2) any other foreign proceeding regarding the debtor that becomes known to the foreign representative.

**''§ 619. Relief that may be granted upon petition for recognition of a foreign proceeding**

''(a) From the time of filing a petition for recognition until the petition is decided upon, the court may, at the request of the foreign representative, where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including—

''(1) staying execution against the debtor's assets;

''(2) entrusting the administration or realization of all or part of the debtor's assets located in the United States to the foreign representative or another person designated by the court, including an examiner, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy; and

''(3) any relief referred to in paragraph (3), (4), or (7) of section 621(a).

''(b) Unless extended under section 621(a)(6), the relief granted under this section terminates when the petition for recognition is decided upon.

''(c) It is a ground for denial of relief under this section that such relief would interfere with the administration of a foreign main proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

''(e) The standards, procedures, and limitations applicable to an injunction shall apply to relief under this section.

**''§ 620. Effects of recognition of a foreign main proceeding**

''(a) Upon recognition of a foreign proceeding that is a foreign main proceeding—

''(1) section 362 applies with respect to the debtor and that property of the debtor that is within the territorial jurisdiction of the United States; and

''(2) transfer, encumbrance, or any other disposition of an interest of the debtor in property within the territorial jurisdiction of the United States is restrained as and to the extent that is provided for property of an estate under sections 363, 549, and 552.

Unless the court orders otherwise, the foreign representative may operate the debtor's business and may exercise the powers of a trustee under section 549, subject to sections 363 and 552.

''(b) The scope, and the modification or termination, of the stay and restraints referred to in subsection (a) of this section are subject to the exceptions and limitations provided in subsections (b), (c), and (d) of section 362, subsections (b) and (c) of section 363, and sections 552, 555 through 557, 559, and 560.

''(c) Subsection (a) of this section does not affect the right to commence individual actions or proceedings in a foreign country to the extent necessary to preserve a claim against the debtor.

''(d) Subsection (a) of this section does not affect the right of a foreign representative or an entity to file a petition commencing a case under this title or the right of any party to file claims or take other proper actions in such a case.

**''§ 621. Relief that may be granted upon recognition of a foreign proceeding**

''(a) Upon recognition of a foreign proceeding, whether main or nonmain, where necessary to effectuate the purpose of this chapter and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including—

''(1) staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights, obligations or liabilities to the extent they have not been stayed under section 620(a);

''(2) staying execution against the debtor's assets to the extent it has not been stayed under section 620(a);

''(3) suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under section 620(a);

''(4) providing for the examination of witnesses, the taking of evidence or the delivery of information concerning the debtor's assets, affairs, rights, obligations or liabilities;

''(5) entrusting the administration or realization of all or part of the debtor's assets within the territorial jurisdiction of the United States to the foreign representative or another person, including an examiner, designated by the court;

''(6) extending relief granted under section 619(a); and

''(7) granting any additional relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) Upon recognition of a foreign proceeding, whether main or nonmain, the court may, at the request of the foreign representative, entrust the distribution of all or part of the debtor's assets located in the United States to the foreign representative or another person, including an examiner, designated by the court, provided that the court is satisfied that the interests of creditors in the United States are sufficiently protected.

''(c) In granting relief under this section to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in

the foreign nonmain proceeding or concerns information required in that proceeding.

''(d) The court may not enjoin a police or regulatory act of a governmental unit, including a criminal action or proceeding, under this section.

**''§ 622. Protection of creditors and other interested persons**

''(a) In granting or denying relief under section 619 or 621, or in modifying or terminating relief under subsection (c) of this section, the court must find that the interests of the creditors and other interested persons or entities, including the debtor, are sufficiently protected.

''(b) The court may subject relief granted under section 619 or 621 to conditions it considers appropriate.

''(c) The court may, at the request of the foreign representative or an entity affected by relief granted under section 619 or 621, or at its own motion, modify or terminate such relief.

**''§ 623. Actions to avoid acts detrimental to creditors**

''(a) Upon recognition of a foreign proceeding, the foreign representative has standing in a pending case under another chapter of this title to initiate actions under sections 522, 544, 545, 547, 548, 550, and 724(a).

''(b) When the foreign proceeding is a foreign nonmain proceeding, the court must be satisfied that an action under subsection (a) of this section relates to assets that, under United States law, should be administered in the foreign nonmain proceeding.

**''§ 624. Intervention by a foreign representative**

''Upon recognition of a foreign proceeding, the foreign representative may intervene in any proceedings in a State or Federal court in the United States in which the debtor is a party.

''SUBCHAPTER IV—COOPERATION WITH FOREIGN COURTS AND FOREIGN REPRESENTATIVES

**''§ 625. Cooperation and direct communication between the court and foreign courts or foreign representatives**

''(a) In all matters included within section 601, the court shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the trustee.

''(b) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives, subject to the rights of parties in interest to notice and participation.

**''§ 626. Cooperation and direct communication between the trustee and foreign courts or foreign representatives**

''(a) In all matters included in section 601, the trustee or other person, including an examiner, designated by the court, shall, subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.

''(b) The trustee or other person, including an examiner, designated by the court is entitled, subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

''(c) Section 1104(d) shall apply to the appointment of an examiner under this chapter. Any examiner shall comply with the qualification requirements imposed on a trustee by section 322(a).

**''§ 627. Forms of cooperation**

''Cooperation referred to in sections 625 and 626 may be implemented by any appropriate means, including—

''(1) appointment of a person or body, including an examiner, to act at the direction of the court;

''(2) communication of information by any means considered appropriate by the court;

''(3) coordination of the administration and supervision of the debtor's assets and affairs;

''(4) approval or implementation of agreements concerning the coordination of proceedings; and

''(5) coordination of concurrent proceedings regarding the same debtor.

''SUBCHAPTER V—CONCURRENT PROCEEDINGS

**''§ 628. Commencement of a case under this title after recognition of a foreign main proceeding**

''After recognition of a foreign main proceeding, a case under another chapter of this title may be commenced only if the debtor has assets in the United States. The effects of that case shall be restricted to the assets of the debtor that are within the territorial jurisdiction of the United States and, to the extent necessary to implement cooperation and coordination under sections 625, 626, and 627, to other assets of the debtor that are within the jurisdiction of the court under sections 541(a) and 1334(e), to the extent that such other assets are not subject to the jurisdiction and control of a foreign proceeding that has been recognized under this chapter.

**''§ 629. Coordination of a case under this title and a foreign proceeding**

''Where a foreign proceeding and a case under another chapter of this title are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) When the case in the United States is taking place at the time the petition for recognition of the foreign proceeding is filed—

''(A) any relief granted under sections 619 or 621 must be consistent with the case in the United States; and

''(B) even if the foreign proceeding is recognized as a foreign main proceeding, section 620 does not apply.

''(2) When a case in the United States under this title commences after recognition, or after the filing of the petition for recognition, of the foreign proceeding—

''(A) any relief in effect under sections 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the case in the United States; and

''(B) if the foreign proceeding is a foreign main proceeding, the stay and suspension referred to in section 620(a) shall be modified or terminated if inconsistent with the case in the United States.

''(3) In granting, extending, or modifying relief granted to a representative of a foreign nonmain proceeding, the court must be satisfied that the relief relates to assets that, under the law of the United States, should be administered in the foreign nonmain proceeding or concerns information required in that proceeding.

''(4) In achieving cooperation and coordination under sections 628 and 629, the court may grant any of the relief authorized under section 305.

**''§ 630. Coordination of more than 1 foreign proceeding**

''In matters referred to in section 601, with respect to more than one foreign proceeding regarding the debtor, the court shall seek cooperation and coordination under sections 625, 626, and 627, and the following shall apply:

''(1) Any relief granted under section 619 or 621 to a representative of a foreign nonmain proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding.

''(2) If a foreign main proceeding is recognized after recognition, or after the filing of a petition for recognition, of a foreign nonmain proceeding, any relief in effect under section 619 or 621 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding.

''(3) If, after recognition of a foreign nonmain proceeding, another foreign nonmain proceeding is recognized, the court shall grant, modify, or terminate relief for the purpose of facilitating coordination of the proceedings.

**''§ 631. Presumption of insolvency based on recognition of a foreign main proceeding**

''In the absence of evidence to the contrary, recognition of a foreign main proceeding is for the purpose of commencing a proceeding under section 303, proof that the debtor is generally not paying its debts.

**''§ 632. Rule of payment in concurrent proceedings**

''Without prejudice to secured claims or rights in rem, a creditor who has received payment with respect to its claim in a foreign proceeding pursuant to a law relating to insolvency may not receive a payment for the same claim in a case under any other chapter of this title regarding the debtor, so long as the payment to other creditors of the same class is proportionately less than the payment the creditor has already received.''.

(b) CLERICAL AMENDMENT.—The table of chapters for title 11, United States Code, is amended by inserting after the item relating to chapter 5 the following:

**''6. Ancillary and Other Cross-Border Cases ..... 601''.**

**SEC. 502. AMENDMENTS TO OTHER CHAPTERS IN TITLE 11, UNITED STATES CODE.**

(a) APPLICABILITY OF CHAPTERS.—Section 103 of title 11, United States Code, is amended—

(1) in subsection (a), by inserting before the period the following: ''and this chapter, sections 307, 555 through 557, 559, and 560 apply in a case under chapter 6''; and

(2) by adding at the end the following:

''(j) Chapter 6 applies only in a case under that chapter, except that section 605 applies to trustees and to any other entity designated by the court, including an examiner, under chapters 7, 11, and 12, to debtors in possession under chapters 11 and 12, and to debtors or trustees under chapters 9 and 13 who are authorized to act under section 605.''.

(b) DEFINITIONS.—Section 101 of title 11, United States Code, is amended by striking paragraphs (23) and (24) and inserting the following:

''(23) 'foreign proceeding' means a collective judicial or administrative proceeding in a foreign state, including an interim proceeding, pursuant to a law relating to insolvency in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation;

''(24) 'foreign representative' means a person or body, including 1 appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of the foreign proceeding;''.

(c) AMENDMENTS TO TITLE 28, UNITED STATES CODE.—

(1) PROCEDURES.—Section 157(b)(2) of title 28, United States Code, is amended—

(A) in subparagraph (N), by striking ''and'' at the end;

(B) in subparagraph (O), by striking the period at the end and inserting ''; and''; and

(C) by adding at the end the following:

''(P) recognition of foreign proceedings and other matters under chapter 6.''.

(2) BANKRUPTCY CASES AND PROCEEDINGS.—Section 1334(c) of title 28, United States Code, is amended by striking ''Nothing in'' and inserting ''Except with respect to a case under chapter 6 of title 11, nothing in''.

(3) DUTIES OF TRUSTEES.—Section 586(a)(3) of title 28, United States Code, is amended by inserting ''6,'' after ''chapter''.

## TITLE VI—MISCELLANEOUS

**SEC. 601. EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

Section 365(d)(4) of title 11, United States Code, is amended to read as follows:

''(4)(A) Subject to subparagraph (B), in any case under any chapter of this title, an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected and the trustee shall immediately surrender that nonresidential real property to the lessor if the trustee does not assume or reject the unexpired lease by the earlier of—

''(i) the date that is 120 days after the date of the order for relief; or

''(ii) the date of the entry of an order confirming a plan.

''(B) The court may extend the period determined under subparagraph (A) only upon a motion of the lessor.''.

**SEC. 602. EXPEDITED APPEALS OF BANKRUPTCY CASES TO COURTS OF APPEALS.**

(a) IN GENERAL.—Section 158 of title 28, United States Code, is amended—

(1) by redesignating subsection (d) as subsection (e);

(2) by inserting after subsection (c) the following new subsection:

''(d)(1) Any final judgment, decision, order, or decree of a bankruptcy judge entered for a case in accordance with section 157 may be appealed by any party in such case to the appropriate court of appeals if—

''(A) an appeal from such judgment, decision, order, or decree is first filed with the appropriate district court of the United States; and

''(B) the decision on the appeal described under subparagraph (A) is not filed by a district court judge within 30 days after the date such appeal is filed with the district court.

''(2) On the date that an appeal is filed with a court of appeals under paragraph (1), the chief judge for such court of appeals shall issue an order to the clerk for the district court from which the appeal is filed. Such order shall direct the clerk to enter the final judgment, decision, order, or decree of the bankruptcy judge as the final judgment, decision, order, or decree of the district court.''; and

(3) in subsection (e), (as redesignated by paragraph (1) of this section) by striking ''subsections (a) and (b)'' and inserting ''subsections (a), (b), and (d)''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Section 305(c) of title 11, United States Code, is amended by striking ''section 158(d)'' and inserting ''section 158(e)''.

(2) Section 1334(d) of title 28, United States Code, is amended by striking ''section 158(d)'' and inserting ''section 158(e)''.

(3) Section 1452(b) of title 28, United States Code, is amended by striking ''section 158(d)'' and inserting ''section 158(e)''.

**SEC. 603. CREDITORS AND EQUITY SECURITY HOLDERS COMMITTEES.**

Section 1102(a)(2) of title 11, United States Code, is amended by inserting before the first sentence the following: ''On its own motion or on request of a party in interest, and after notice and hearing, the court may order a change in the membership of a committee appointed under this subsection, if the court determines that the change is necessary to ensure adequate representation of creditors or equity security holders.''.

**SEC. 604. REPEAL OF SUNSET PROVISION.**

Section 302 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended by striking subsection (f).

**SEC. 605. CASES ANCILLARY TO FOREIGN PROCEEDINGS.**

Section 304 of title 11, United States Code, as amended by section 410 of this Act, is amended by adding at the end the following:

''(e)(1) In this subsection—

''(A) the term 'domestic insurance company' means a domestic insurance company, as that term is used in section 109(b)(2);

''(B) the term 'foreign insurance company' means a foreign insurance company, as that term is used in section 109(b)(3);

''(C) the term 'United States claimant' means a beneficiary of any deposit referred to in paragraph (2)(A) or any multibeneficiary trust referred to in subparagraph (B) or (C) of paragraph (2);

''(D) the term 'United States creditor' means, with respect to a foreign insurance company—

''(i) a United States claimant; or

''(ii) any business entity that operates in the United States and that is a creditor; and

''(E) the term 'United States policyholder' means a holder of an insurance policy issued in the United States.

''(2) Notwithstanding subsections (b) and (c), the court may not grant relief under subsection (b) to a foreign insurance company that is not engaged in the business of insurance or reinsurance in the United States with respect to any claim made by a United States creditor against—

''(A) a deposit required by an applicable State insurance law;

''(B) a multibeneficiary trust required by an applicable State insurance law to protect United States policyholders or claimants against a foreign insurance company; or

''(C) a multibeneficiary trust authorized under an applicable State insurance law to allow a domestic insurance company that cedes reinsurance to the debtor to reflect the reinsurance as an asset or deduction from liability in the ceding insurer's financial statements.''.

**SEC. 606. LIMITATION.**

Section 546(c)(1)(B) of title 11, United States Code, is amended by striking ''20'' and inserting ''45''.

## TITLE VII—TECHNICAL CORRECTIONS

**SEC. 701. DEFINITIONS.**

Section 101 of title 11, United States Code, as amended by section 317, is amended—

(1) by striking ''In this title—'' and inserting ''In this title:'';

(2) in each paragraph, by inserting ''The term'' after the paragraph designation;

(3) in paragraph (35)(B), by striking ''paragraphs (21B) and (33)(A)'' and inserting ''paragraphs (23) and (35)'';

(4) in each of paragraphs (35A) and (38), by striking ''; and'' at the end and inserting a period;

(5) in paragraph (51B)—

(A) by inserting ''who is not a family farmer'' after ''debtor'' the first place it appears; and

(B) by striking ''thereto having aggregate'' and all that follows through the end of the paragraph;

(6) by amending paragraph (54) to read as follows:

''(54) The term 'transfer' means—

''(A) the creation of a lien;

''(B) the retention of title as a security interest;

''(C) the foreclosure of a debtor's equity of redemption; or

''(D) each mode, direct or indirect, absolute or conditional, voluntary or involuntary, of disposing of or parting with—

''(i) property; or

''(ii) an interest in property;'';

(7) in each of paragraphs (1) through (35), in each of paragraphs (36) and (37), and in each of paragraphs (40) through (56A) (including paragraph (54), as amended by paragraph (6) of this section), by striking the semicolon at the end and inserting a period; and

(8) by redesignating paragraphs (4) through (56A) in entirely numerical sequence, so as to result in numerical paragraph designations of (4) through (77), respectively.

**SEC. 702. ADJUSTMENT OF DOLLAR AMOUNTS.**

Section 104 of title 11, United States Code, is amended by inserting ''522(f)(3), 707(b)(5),'' after ''522(d),'' each place it appears.

**SEC. 703. EXTENSION OF TIME.**

Section 108(c)(2) of title 11, United States Code, is amended by striking ''922'' and all that follows through ''or'', and inserting ''922, 1201, or''.

**SEC. 704. WHO MAY BE A DEBTOR.**

Section 109(b)(2) of title 11, United States Code, is amended by striking ''subsection (c) or (d) of''.

**SEC. 705. PENALTY FOR PERSONS WHO NEGLIGENTLY OR FRAUDULENTLY PREPARE BANKRUPTCY PETITIONS.**

Section 110(j)(3) of title 11, United States Code, is amended by striking ''attorney's'' and inserting ''attorneys' ''.

**SEC. 706. LIMITATION ON COMPENSATION OF PROFESSIONAL PERSONS.**

Section 328(a) of title 11, United States Code, is amended by inserting ''on a fixed or percentage fee basis,'' after ''hourly basis,''.

**SEC. 707. SPECIAL TAX PROVISIONS.**

Section 346(g)(1)(C) of title 11, United States Code, is amended by striking '', except'' and all that follows through ''1986''.

**SEC. 708. EFFECT OF CONVERSION.**

Section 348(f)(2) of title 11, United States Code, is amended by inserting ''of the estate'' after ''property'' the first place it appears.

**SEC. 709. AUTOMATIC STAY.**

Section 362(b) of title 11, United States Code, as amended by section 326 of this Act, is amended—

(1) in paragraph (21), by striking ''or'' at the end;

(2) in paragraph (22), by striking the period at the end and inserting a semicolon; and

(3) by inserting after paragraph (22) the following:

''(23) under subsection (a) of this section of any transfer that is not avoidable under section 544 and that is not avoidable under section 549;

''(24) under subsection (a)(3) of this section, of the continuation of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement; or

''(25) under subsection (a)(3) of this section, of the commencement of any eviction, unlawful detainer action, or similar proceeding by a lessor against a debtor involving residential real property in which the debtor resides as a tenant under a rental agreement that has terminated.''.

**SEC. 710. AMENDMENT TO TABLE OF SECTIONS.**

The table of sections for chapter 5 of title 11, United States Code, is amended by striking the item relating to section 556 and inserting the following:

''556. Contractual right to liquidate a commodities contract or forward contract.''.

**SEC. 711. ALLOWANCE OF ADMINISTRATIVE EXPENSES.**

Section 503(b)(4) of title 11, United States Code, is amended by inserting ''subparagraph (A), (B), (C), (D), or (E) of'' before ''paragraph (3)''.

**SEC. 712. PRIORITIES.**

Section 507(a) of title 11, United States Code, as amended by section 323 of this Act, is amended—

(1) in paragraph (3)(B), by striking the semicolon at the end and inserting a period; and

(2) in paragraph (7), by inserting ''unsecured'' after ''allowed''.

**SEC. 713. EXEMPTIONS.**

Section 522 of title 11, United States Code, as amended by section 320 of this Act, is amended—

(1) in subsection (f)(1)(A)(ii)(II)—

(A) by striking ''includes a liability designated as'' and inserting ''is for a liability that is designated as, and is actually in the nature of,''; and

(B) by striking '', unless'' and all that follows through ''support''; and

(2) in subsection (g)(2), by striking ''subsection (f)(2)'' and inserting ''subsection (f)(1)(B)''.

**SEC. 714. EXCEPTIONS TO DISCHARGE.**

Section 523 of title 11, United States Code, is amended—

(1) in subsection (a)(3), by striking ''or (6)'' each place it appears and inserting ''(6), or (15)'';

(2) as amended by section 304(e) of Public Law 103–394 (108 Stat. 4133), in paragraph (15), by transferring such paragraph so as to insert it after paragraph (14) of subsection (a);

(3) in subsection (a)(9), by inserting '', watercraft, or aircraft'' after ''motor vehicle'';

(4) in subsection (a)(15), as so redesignated by paragraph (2) of this subsection, by inserting ''to a spouse, former spouse, or child of the debtor and'' after ''(15)'';

(5) in subsection (a)(17)—

(A) by striking ''by a court'' and inserting ''on a prisoner by any court'';

(B) by striking ''section 1915 (b) or (f)'' and inserting ''subsection (b) or (f)(2) of section 1915''; and

(C) by inserting ''(or a similar non-Federal law)'' after ''title 28'' each place it appears; and

(6) in subsection (e), by striking ''a insured'' and inserting ''an insured''.

**SEC. 715. EFFECT OF DISCHARGE.**

Section 524(a)(3) of title 11, United States Code, is amended by striking ''section 523'' and all that follows through ''or that'' and inserting ''section 523, 1228(a)(1), or 1328(a)(1) of this title, or that''.

**SEC. 716. PROTECTION AGAINST DISCRIMINATORY TREATMENT.**

Section 525(c) of title 11, United States Code, is amended—

(1) in paragraph (1), by inserting ''student'' before ''grant'' the second place it appears; and

(2) in paragraph (2), by striking ''the program operated under part B, D, or E of'' and inserting ''any program operated under''.

**SEC. 717. PROPERTY OF THE ESTATE.**

Section 541(b)(4)(B)(ii) of title 11, United States Code, is amended by inserting ''365 or'' before ''542''.

**SEC. 718. PREFERENCES.**

Section 547 of title 11, United States Code, is amended—

(1) in subsection (b), by striking ''subsection (c)'' and inserting ''subsections (c) and (h)''; and

(2) by adding at the end the following:

''(h) If the trustee avoids under subsection (b) a security interest given between 90 days and 1 year before the date of the filing of the petition, by the debtor to an entity that is not an insider for the benefit of a creditor that is an insider, such security interest shall be considered to be avoided under this section only with respect to the creditor that is an insider.''.

**SEC. 719. POSTPETITION TRANSACTIONS.**

Section 549(c) of title 11, United States Code, is amended—

(1) by inserting ''an interest in'' after ''transfer of'';

(2) by striking ''such property'' and inserting ''such real property''; and

(3) by striking ''the interest'' and inserting ''such interest''.

**SEC. 720. TECHNICAL AMENDMENT.**

Section 552(b)(1) of title 11, United States Code, is amended by striking ''product'' each place it appears and inserting ''products''.

**SEC. 721. DISPOSITION OF PROPERTY OF THE ESTATE.**

Section 726(b) of title 11, United States Code, is amended by striking ''1009,''.

**SEC. 722. GENERAL PROVISIONS.**

Section 901(a) of title 11, United States Code, as amended by section 408, is amended by inserting ''1123(d),'' after ''1123(b),''.

**SEC. 723. APPOINTMENT OF ELECTED TRUSTEE.**

Section 1104(b) of title 11, United States Code, is amended—

(1) by inserting ''(1)'' after ''(b)''; and

(2) by adding at the end the following:

''(2)(A) If an eligible, disinterested trustee is elected at a meeting of creditors under paragraph (1), the United States trustee shall file a report certifying that election. Upon the filing of a report under the preceding sentence—

''(i) the trustee elected under paragraph (1) shall be considered to have been selected and appointed for purposes of this section; and

''(ii) the service of any trustee appointed under subsection (d) shall terminate.

''(B) In the case of any dispute arising out of an election under subparagraph (A), the court shall resolve the dispute.''.

**SEC. 724. ABANDONMENT OF RAILROAD LINE.**

Section 1170(e)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

**SEC. 725. CONTENTS OF PLAN.**

Section 1172(c)(1) of title 11, United States Code, is amended by striking ''section 11347'' and inserting ''section 11326(a)''.

**SEC. 726. DISCHARGE UNDER CHAPTER 12.**

Subsections (a) and (c) of section 1228 of title 11, United States Code, are amended by striking ''1222(b)(10)'' each place it appears and inserting ''1222(b)(9)''.

**SEC. 727. EXTENSIONS.**

Section 302(d)(3) of the Bankruptcy, Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (28 U.S.C. 581 note) is amended—

(1) in subparagraph (A), in the matter following clause (ii), by striking ''or October 1, 2002, whichever occurs first''; and

(2) in subparagraph (F)—

(A) in clause (i)—

(i) in subclause (II), by striking ''or October 1, 2002, whichever occurs first''; and

(ii) in the matter following subclause (II), by striking ''October 1, 2003, or''; and

(B) in clause (ii), in the matter following subclause (II)—

(i) by striking ''before October 1, 2003, or''; and

(ii) by striking '', whichever occurs first''.

**SEC. 728. BANKRUPTCY CASES AND PROCEEDINGS.**

Section 1334(d) of title 28, United States Code, is amended—

(1) by striking ''made under this subsection'' and inserting ''made under subsection (c)''; and

(2) by striking ''This subsection'' and inserting ''Subsection (c) and this subsection''.

**SEC. 729. KNOWING DISREGARD OF BANKRUPTCY LAW OR RULE.**

Section 156(a) of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting ''(1) the term'' before '''bankruptcy''; and

(B) by striking the period at the end and inserting ''; and''; and

(2) in the second undesignated paragraph—

(A) by inserting ''(2) the term'' before '''document''; and

(B) by striking ''this title'' and inserting ''title 11''.

**SEC. 730. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.**

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

(b) APPLICATION OF AMENDMENTS.—The amendments made by this title shall apply only with respect to cases commenced under title 11, United States Code, on or after the date of enactment of this Act.

## NOTICES OF HEARINGS

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that a full committee hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will take place on Thursday, September 17, 1998, at 9:30 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to consider the nominations of Gregory H. Friedman to be Inspector General of the Department of Energy; Charles G. Groat to be Director of the United States Geological Survey, Department of the Interior; and to consider any other pending nominations which are ready for consideration before the Committee.

For further information, please contact Gary Ellsworth of the committee staff at (202) 224–7141.

### COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce that an oversight hearing has been scheduled before the Committee on Energy and Natural Resources. The purpose of this hearing is to receive testimony on the recent midwest electricity price spikes.

The hearing will take place on Thursday, September 24, 1998, at 10:00 A.M. in room SD–366 of the Dirksen Senate Office Building in Washington, D.C.

Those who wish to testify or submit a written statement should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Julie McCaul or Howard Useem at (202) 224–7875.

## AUTHORITY FOR COMMITTEES TO MEET

### COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, September 9, 1998, at 9:30 a.m. on auto choice.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, September 9, 1998, at 10:00 a.m. for a hearing on the Inspector General Act of 1978 on its 20th Anniversary.

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

COMMITTEE ON THE JUDICIARY

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, September 9, 1998, at 2:00 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: ''Judicial Nominations.''

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

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet in executive session during the session of the Senate on Wednesday, September 9, 1998, at 9:30 a.m.

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

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts, of the Senate Judiciary Committee, be authorized to meet during the session of the Senate on Wednesday, September 9, 1998, at 10:00 a.m. to hold a hearing in room 226, Senate Dirksen Building, on ''Impeachment or Indictment: Is a Sitting President Subject to the Compulsory Criminal Process?''

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

SUBCOMMITTEE ON NEAR EASTERN AND SOUTH ASIAN AFFAIRS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Subcommittee on Near Eastern and South Asian Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 9, 1998, at 2:00 p.m. to hold a hearing.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, September 9, 1998, at 2:30 p.m. to hold a closed hearing on intelligence matters.

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

## ADDITIONAL STATEMENTS

### ENVIRONMENTAL RESTORATION AT LAKE TAHOE

● Mrs. FEINSTEIN. Mr. President, I rise today to convey my strong support for the $3,000,000 this bill contains for land acquisition at Lake Tahoe. This funding is crucial if we are to control the erosion problem that is robbing Lake Tahoe of its striking water clarity.

Lake Tahoe is the crown jewel of the Sierra Nevada. The clarity of its blue waters, and the beauty of its surrounding forests and high mountains, inspired Mark Twain to call it ''the fairest view the whole earth affords.''

Mark Twain would still recognize the Lake Tahoe Basin today, but it is no longer a pristine wilderness surrounding a perfectly clear lake. Today Lake Tahoe is a year-round recreational mecca, drawing millions annually to its ski slopes, hiking trails, and crystal clear waters. Lake Tahoe is a major economic force in both California and Nevada, contributing $1.6 billion annually to the economy from tourism alone.

The environment and the economy are inextricably linked at Lake Tahoe. The famous azure lake and its surrounding pristine forests are the primary reasons that people visit the region. Protecting environmental quality at Lake Tahoe is key to preserving the economy of the Sierra region.

Scientists agree that the Lake is in the midst of an environmental crisis. Lake Tahoe is one of the largest, deepest, and clearest lakes in the world, but that remarkable clarity is disappearing at the rate of over a foot a year.

In the 1960s, you could drop a white plate into Lake Tahoe and watch it fall 105 feet before it disappeared. Now you can watch the same plate fall only 70 feet. As the Lake's water clarity decreases, algae is taking over. In 10 years, the effects could be irreversible.

Why the troubling decline? The answers are quite simple: air pollution and erosion. Algae is fed by nitrogen, a key component in car exhaust, and phosphorous, a key component of runoff that flows into Lake Tahoe from streams, paved roads, old logging roads, golf courses, and even private homes.

Lake Tahoe was once ringed by wetlands that filtered out most of this harmful sediment and debris. But most of the wetlands have been filled in to provide more lakefront property. The lake's clarity continues to deteriorate.

For nearly 20 years, the Forest Service has been slowing this deterioration by acquiring environmentally sensitive land at Lake Tahoe—land especially prone to the erosion that is slowly strangling the Lake—and protecting it from development. Since 1980, the Forest Service has purchased 11,000 acres at Lake Tahoe. This acquisition program has the wholehearted support of Lake Tahoe's elected officials, as well as both environmental and business groups.

The $3 million for land acquisition contained in this bill will help buy parcels like the Wells property, an 18.5 acre site adjacent to a County park that includes some of the few remaining wetlands surrounding Lake Tahoe, as well as a stretch of Burke Creek that provides a vital wildlife corridor. If the Forest Service is not able to buy this property, it may end up being developed into 50 condominium units.

Land acquisition funds may also be used for a phased-in purchase of High Meadows, a 2300-acre parcel that remains the largest private inholding in the Lake Tahoe Basin. The meadows include the headwaters for Cold Creek, one of Lake Tahoe's most sensitive watersheds. Protecting the property could dramatically reduce the amount of sediment and debris that flows currently flow into Lake Tahoe from Cold Creek.

I commend the Committee for including these land acquisition funds for Lake Tahoe in this bill. I am disappointed that the House did not include any funds in its version of the bill. I intend to urge the Senate conferees on this legislation to protect the full $3 million in conference.

Unfortunately, this $3 million barely scratches the surface of what is needed to restore the environment at Lake Tahoe. The region's environmental problems extend well beyond its famous azure lake.

Insect infestations have killed over 25 percent of the trees in the forests surrounding Lake Tahoe, creating a severe risk of catastrophic wildfire that could destroy communities and have a devastating impact on water quality at the Lake. The millions of cars that visit the Lake Tahoe Basin each year worsen erosion problems from roads and produce nitrogen that ends up feeding algae in the Lake.

The Federally-chartered Tahoe Regional Planning Agency estimates that preserving the Lake's water quality, restoring its fragile forest ecosystem, and establishing a public transportation system that would reduce air pollution and road run-off could cost $900 million in Federal, State, local, and private funds.

The Federal government, through the United States Forest Service, owns nearly 80 percent of the land in the Lake Tahoe Basin. Therefore, we have a unique responsibility for protecting Lake Tahoe. Two important Federal reports that are currently pending will help determine what steps the Forest Service must take to stop the environmental decline at the Lake.

One report is the Watershed Assessment, a study being conducted by an independent team of scientists, that will create a model of Lake Tahoe's ecosystem to help us determine the impact of proposed environmental restoration projects. Lake Tahoe is so fragile that we need to be sure prescribed burning to reduce the risk of

catastrophic fire at one end of the lake does not cause too much erosion or air pollution in another part of the Lake. The Watershed Assessment will provide the Forest Service with the tools to make those tough judgment calls.

The other Federal effort underway is an interagency review of the Environmental Improvement Program, a list of more than 500 environmental improvement projects that the Tahoe Regional Planning Agency proposes to implement at Lake Tahoe. The Environmental Improvement Program has the full support of Lake Tahoe's local governments, business leaders, and environmental groups. Now the Federal government is assessing which of the environmental projects on this list should have high priority for Federal funding, and whether new programs are needed to provide that funding.

I plan to act upon the results of these studies as soon as they are complete in December 1998. I am hoping to offer legislation in the next session that would authorize a new Federal initiative, led by the U.S. Forest Service, to address Lake Tahoe's erosion and forest health problems. I am working with a bi-partisan group of Tahoe's business, environmental, and community leaders to develop a proposal, and I hope that the Forest Service will become an active player in the process as well.

In 1997, President Clinton and Vice President GORE visited Lake Tahoe. I attended the Forum they sponsored, as did Senators BOXER, REID and BRYAN. We applauded the President as he announced an ambitious Tahoe initiative that included $50 million over two years for land acquisition, prescribed burning, watershed restoration, public transportation, upgrades to wastewater pipelines, erosion control, and scientific research at the Lake.

Unfortunately, since then, Lake Tahoe seems to have dropped off the Administration's radar screen. The Administration never even fulfilled the $50 million in commitments the President made at Tahoe, let alone extend those commitments to fiscal year 1999.

In his 1999 budget request, President Clinton did not make any specific requests for Tahoe, and the Forest Service will be lucky if they receive $5 million from the Administration next year for forest health and erosion control projects.

Forest Service officials at Lake Tahoe are doing a heroic job of reducing fire risk in the forest while simultaneously protecting Lake Tahoe's water quality. They need more resources if they are going to reverse declining environmental quality at the Lake and its surrounding forests.

Time is running out for Lake Tahoe. If we do not act quickly with a full commitment of Federal resources, the crown jewel of the Sierra could become permanently tarnished. I urge my colleagues in the Senate to join me in preserving this national treasure for generations to come. Let's look at this $3 million for land acquisition as a down payment, not the last word.●

## OUR LADY QUEEN OF ALL SAINTS 40TH ANNIVERSARY

● Mr. ABRAHAM. Mr. President, I rise today to honor a special church in Fraser, Michigan. Our Lady Queen of All Saints Parish celebrated its 40th Anniversary on August 23, 1998.

Since its beginning, Our Lady Queen of All Saints Parish has been selflessly dedicated to serving God and the Fraser community. The members of the Parish demonstrate their commitment to their faith through providing valuable human services to those in need. They have done so under the guidance and leadership of Our Lady Queen of All Saints' founding father Reverend Father Joseph J. Szmaszek and former pastors Monsignor Ferdinand J. DeCneudt, Father J. Michael McGough and Father Arthur W. Fauser. The parish continues this service under the present pastor, Father Ronald J. Babich. It is my great pleasure to recognize the contributions these men have made to the parish, ensuring its prosperity and longevity.

I want to express my congratulations and best wishes to all of the clergy and members of Our Lady Queen of All Saints parish. May they enjoy continued success.●

## 75TH ANNIVERSARY OF ROWAN UNIVERSITY

● Mr. TORRICELLI. Mr. President, I rise today to recognize Rowan University as it celebrates its 75th Anniversary. This year marks the 75th year that Rowan will provide quality education to residents in New Jersey and across the country. It is a pleasure for me to be able to recognize this important milestone.

Rowan provides an exceptional environment for achievement and fulfillment through rigorous academic training and vigorous personal interaction among the members of its diverse learning community. As a regional public university committed to teaching, Rowan combines liberal education with professional preparation and offers programs from the undergraduate through doctoral levels. Rowan University seeks to achieve knowledge through ambition, responsibility through service, and character through challenge. The University is a constantly expanding resource for the State of New Jersey, developing as a community of learners with a curriculum that integrates professional and liberal education. Rowan has succeeded in developing values, shaping character, and enhancing the capacity for a fulfilling and socially responsible life among its graduates. Rowan University alumni are well prepared to assume positions of leadership within their communities and professional fields.

Rowan University has become an extraordinary comprehensive institution that has improved the quality of life for the citizens of New Jersey, and it has long been an example of the standard that we set for our nation's universities. Through hard work and dedication, the faculty have illustrated their commitment to building the leaders of tomorrow, and their success over the past 75 years serve as an inspiration to all educators.

I am proud to recognize Rowan University on its anniversary, and I look forward to another 75 years of quality education from this institution.●

## TRIBUTE TO THE COVENANT HOUSE ON ITS 25TH ANNIVERSARY

● Mr. BOND. Mr. President, I rise today to pay tribute to the Covenant House in St. Louis, Missouri on its 25th Anniversary. Over the years, Covenant House has been an important and integral part of the low-moderate income housing community for the elderly. The Anniversary celebration will take place on September 13, with special honorees Harvey and Wilma Gerstein.

The Gersteins have dedicated a great deal of their lives to the development of quality housing for the elderly. Harvey was the first-ever President of the Covenant House and still serves on the Board of Directors. Wilma is a member of the Board and serves as Chair of the Volunteer Committee.

Covenant House is publicly financed and has 434 units of housing to serve its 484 elderly residents. With the continuing need for more establishments like the Covenant House, they founded the Community Aging Corporation. This Corporation provides a variety of social services to guarantee safety for the elderly in an independent setting.

It is a great privilege to honor this high caliber living community and its special honorees. Dedication to one's community has become an increasingly rare quality in our society. The St. Louis community is lucky to have such a facility and I want to express my sincere appreciation to everyone who makes the Covenant House excel.●

## TRIBUTE TO HERBERT MABRY, THE 1998 RICHARD B. RUSSELL PUBLIC SERVICE AWARD RECIPIENT

● Mr. CLELAND. Mr. President, I rise today to honor the 1998 Richard B. Russell Public Service Award recipient, Herbert Mabry of Sandy Springs, Georgia.

Herb is a man who truly defines public service. Over the years, he has been actively involved in serving the people in many capacities, including his own campaign for public office.

The Richard B. Russell Award is given each year to an individual who truly ''raises the bar'' for us all and goes the extra mile for his or her community and state. The honor is bestowed upon an individual who works tirelessly to promote the ideals of the State of Georgia and who strengthens and shapes our State for the future. Senator Russell understood that public service and political involvement is a

tool of citizenship, and this year's honoree is a man who believes that being an active public servant defines citizenship.

Herb has been the President of the Georgia State AFL–CIO since 1972, and has truly defined and shaped the labor movement throughout Georgia during the past several decades. He is also very involved in other organizations including the Georgia Labor Committee, the Georgia Trade Union Council for Histradut, the AFL–CIO Appalachian Council, the Georgia Democratic Party and the Fulton County Personnel Board. He has been a member of Carpenter's Local Union #225 since 1950 and served as its President for the past 25 years. He also serves as the President of the Southeastern Regional Council of Carpenters.

Herb Mabry is a native of Fulton County, Georgia. He and his wife Colleen have six children and 11 grandchildren.

Mr. President, I ask that you join me and our colleagues in honoring Herbert Mabry's innumerable contributions and unselfish and inspiring hard work and dedication to the State of Georgia and our Nation. Herb personifies the definition of a true and loyal American and sets the standard for all citizens to live by.●

## PONTIAC AREA HISTORICAL AND GENEALOGICAL SOCIETY CITIZEN OF THE YEAR

● Mr. ABRAHAM. Mr. President, I rise today to recognize the Pontiac Area Historical and Genealogical Society's Citizen of the Year, Mr. John A. Riley of Pontiac, Michigan.

Mr. Riley, born December 8, 1912 has been chosen as the Citizen of the Year on the basis that he has given tremendously of his time and resources to many causes. His professional career consisted of 40 years of service to the Pontiac Daily Press as vice-president of marketing. Additionally, Riley has served voluntarily in many positions. He was a member of the Pontiac Osteopathic Hospital Board for 36 years, president of the Pontiac J.C.s, president of the Pontiac Chamber of Commerce, member of the Boys Club and a 50 year member of the Kiwanis Club of Pontiac.

Currently, Mr. Riley sits on the committees for the Key Club for Pontiac High Schools and the Terrific Kids Program. He also serves as Chairman of the Board for the General Hospital Authority, First Chairman of the Economic Development Commission for the City of Pontiac. He was instrumental in the raising of the funds to build the Pontiac Silverdome. In addition, John Riley is a man of strong faith as reflected in his service to All Saints Episcopal Church where he is Senior Warden for the Vestry.

Mr. Riley's accomplishments are numerous. It is clear to see that he commits himself selflessly and completely to many causes. He is undoubtedly deserving of the Citizen of the Year award being given to him by the Pontiac Historical and Genealogical Society. It is with great pleasure that I extend my congratulations to Mr. John A. Riley on this special occasion.●

## REFORMING THE RESOURCE CONSERVATION AND RECOVERY ACT

● Mr. LAUTENBERG. Mr. President, late last week the Majority Leader indicated that the Senate would be unable to complete efforts this year to reform the Resource Conservation and Recovery Act as it pertains to remediation waste. For many months, Senators LOTT, CHAFEE, SMITH, BAUCUS, BREAUX and I have worked on ''rifleshot'' legislation in this area. I regret that we were unable to bring these negotiations to a successful conclusion. However, I believe that we made a lot of progress in narrowing differences and developing a bill that could have improved the RCRA hazardous waste cleanup program through a series of responsible reforms. Our work provides a solid foundation upon which to build in the next Congress.

Mr. President, last fall, in October, the GAO issued a report recommending targeted reforms which, in conjunction with adequate resources for state and federal agencies, could have resulted in substantial savings in cleanup costs; encouraged treatment remedies; and sparked brownfields cleanup and redevelopment efforts. As Chairman of the Subcommittee in the Senate with jurisdiction over these issues for many years, and more recently as Ranking Democratic Member, one of my priorities has been to encourage such efforts, and to return these contaminated parcels to valuable uses. I believe such reforms can yield substantial national economic and environmental benefits while protecting human health and the environment. Such reforms would especially benefit my state of New Jersey, which is one of the five states with the largest volume of remediation waste.

For these reasons, I was pleased that Senators LOTT, CHAFEE and SMITH invited Senator BAUCUS and me to join in developing a targeted consensus reform package. We spent many hours at this effort and we reached agreement in a number of areas. I regret that we did not come to final closure on this legislation. I want to thank my colleagues and the Administration for the considerable efforts they all made in thoughtfully resolving many of the complicated issues in this debate. I want to also thank Senator BREAUX, who has been instrumental in championing reform in this area. Finally, I want to thank the many and varied stakeholders—representatives from industry, environmental organizations, as well as state and local agencies and community groups—that provided us with inestimable assistance in understanding this highly complex statute.

Mr. President, I regret that we did not have the chance to resolve all of the issues this year. We made significant progress in resolving a host of thorny questions. The Resource Conservation and Recovery Act has significantly reduced the generation of hazardous waste, and prevented new generations of Superfund toxic waste sites. I am optimistic that we can resume this process next year and achieve responsible reforms at that time. I pledge myself to these efforts.●

## TRIBUTE TO BERTIE SWEENEY GAMMELL PARISH

● Mr. SHELBY. Mr. President, I rise today to pay tribute to my friend Bertie Sweeney Gammell Parish, a lifelong resident of Clayton, Alabama, hardworking wife and mother, dedicated member of the community, newspaper professional, and an inspiration to all who knew her. Bertie passed away at her home on Wednesday, August 26, 1998.

Born on June 4, 1915 in Dothan, Alabama, Bertie was the daughter of William Lee and Pearle Ennis Gammell. From her earliest beginnings, Bertie was an active member of the Clayton United Methodist Church where she combined her love of music with her service to God as organist and choir director for almost 50 years. Bertie held a bachelor's degree in music from Alabama College, teaching music briefly at Montgomery County High School and later in Clayton.

A former member of the Eufaula Music Guild, Bertie was a Paul Harris fellow of the Rotary Foundation of Rotary International—-an award presented by the Clayton Rotary Club, a lifetime member of the Alabama Federation of Garden Clubs and a member of the Clayton Garden Club.

In addition to the many awards and community service position she held, Bertie is probably best known as the editor and publisher of The Clayton Record—-a post she assumed in 1960 after the deaths of her father and later her mother—-both held the position in consecutive terms before her. She passed this torch to her daughter Rebecca Parish Beasley who holds the position today. The Clayton RECORD is one of only a few remaining family-owned and operated newspapers.

Bertie's column ''One Comment,'' which appeared on the front page of The Clayton RECORD, was a favorite of subscribers. From her astute observations on everything from politics to gardening, Bertie thrilled, inspired and delighted her readers, including local gardeners who hoped to receive mention in one of her columns.

Bertie was well known not only in Clayton, but across Alabama. She received many awards and kudos from colleagues in the news business including a listing in Who's Who of American Women, and the News Media Service to Education Award. She was also a staunch preservationist who worked diligently to preserve history and local historic structures in and around Clayton.

Despite a demanding schedule, Bertie never forgot what matters most: family and friends. She is survived by her husband Thomas William Parish, Sr.—-to whom she would have been married for 59 years on August 30, 1998; three children: Dr. Thomas William Parish, Jr., of Geneva, Joseph Edward Parish, Sr., of Clayton; and Rebecca Parish Beasley of Clayton; six grandchildren: Joseph Edward Parish, Jr. of Montgomery; Lucile Martin Parish of Columbus, Georgia; Edna Elane Parish Gulledge of Virginia Beach, Virginia; Thomas Frank Kelly, Jr., of Montgomery; Rebecca Parish Kelly of Clayton; and Thomas William Parish, III, of Geneva; three great-grandchildren; other relatives and friends too numerous to mention.

I will miss Bertie. She was a good friend for many years. My heart goes out to her family as they remember her love, her many accomplishments, and the important role she set for them and for others in and around Clayton, Alabama. My prayers are with you.●

## THE PROGRESS OF PEACE IN NORTHERN IRELAND

● Mr. FEINGOLD. Mr. President, I would like to reflect for a moment on recent events in Northern Ireland, highlighted by the President's trip there last week. As every member of this body knows, the violent political and religious conflict in Northern Ireland has claimed the lives of more than 3,200 people since 1969. In April of this year, after many failed attempts at a political solution to this violence, a settlement was announced that was deemed acceptable to all sides of this conflict. The so-called Good Friday peace agreement is an historic achievement in the struggle for peace in Northern Ireland. It seemed that finally, peace had won out over war and intolerance, and that the children of Northern Ireland, both Protestant and Catholic, would finally be able to move hand-in-hand toward a shared future.

As a member of the Senate Committee on Foreign Relations, I have closely monitored that Northern Ireland peace process, and I welcomed this peace agreement, which was expertly brokered by our former colleague, and the former Majority Leader of this body, Senator George Mitchell.

In a May 22, 1998, referendum, a convincing majority of the people of Northern Ireland and the Irish Republic embraced this peace plan. On June 25, 1998, the people of Northern Ireland went to the polls and elected representatives from Protestant, Catholic, and non-sectarian parties to sit in the newly created Assembly, which will gradually assume rule of Northern Ireland from Great Britain.

This election was perhaps one of the most historic aspects of the Northern Ireland peace agreement. For the first time, the people of Northern Ireland elected representatives for an Assembly that will not be located in Westminster, but rather in Northern Ireland itself. The British Parliament must still draft and adopt legislation that will transfer the necessary powers to the Assembly that will make that body truly independent from Westminster, and I hope this will be done at the earliest possible time.

This brief but promising time of peace and cooperation was shattered on July 5, 1998, during the annual and often contentious ''Marching Season,'' during which time it is common for Protestant groups to conduct sectarian marches throughout Northern Ireland. Tensions rose as many would-be marchers resisted a Parades Commission decision to reroute a march through a Catholic neighborhood in Drumcree planned by a Protestant group to commemorate the Battle of the Boyne, a 1690 skirmish in which the Protestant King William III of Orange defeated the Catholic King James II. The ensuing riots and violence culminated in a firebombing on July 11 in Ballymoney that left three young Catholic brothers dead. Both the Protestant and Catholic communities denounced this attack, which has been attributed to a loyalist paramilitary group.

This senseless attack was particularly ironic because it appears that the house of the three young victims was targeted because their family was mixed—part Catholic and part Protestant.

Violence ripped through Northern Ireland again one month later, on August 11, when a car bomb exploded in a busy marketplace in the town of Omagh. Twenty-eight people, including an elderly woman, her pregnant daughter, and her young granddaughter, were killed, and more than 200 were injured. It is ironic that the most horrible act of violence to occur in the last 30 years in a country that has suffered so much throughout its tumultuous history occurred just as the people of Northern Ireland finally embarked on the road to peace.

Reports indicate that a warning was issued to police prior to the bombing, but that the terrorists gave false information which lead police to move those in the marketplace to the site where the bomb was located, thereby increasing the number of casualties.

A fringe group which calls itself the ''Real IRA'' has claimed responsibility for this monstrous attack. This group, and one other anti-British fringe group, have since announced ceasefires. It is my strong hope that those responsible for this cowardly act will be identified and prosecuted for their crimes.

Recently, British Prime Minister Tony Blair and Irish Prime Minister Bertie Ahern recommitted themselves to the success of the Northern Ireland peace agreement and vowed that this attack would not destroy the progress of the last several months. They also announced new security measures that will be put in place to help prevent future attacks, and that the British Parliament plans to take a hard look at ways to improve security.

I am pleased that President Clinton visited Northern Ireland, and the town of Omagh, last week and met with some of the victims of the attack in Omagh and their families, as he did last Thursday. The United States has invested much in the long and sometimes harrowing journey toward a lasting peace in Northern Ireland, and we must remain engaged there and continue to offer our encouragement and friendship to the people of Northern Ireland. While tremendous progress has been made in the last year, there is still much work to be done as the people of Northern Ireland strive to live and govern together in peace.●

## CBO COST ESTIMATE—S. 2375

● Mr. D'AMATO. Mr. President, I ask that the Congressional Budget Office Cost Estimate for S. 2375 the ''International Anti-Bribery Act of 1998'' be printed in the RECORD.

The cost estimate follows:

### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

### INTERNATIONAL ANTI-BRIBERY ACT OF 1998

CBO estimates that implementing this legislation would not result in any significant cost to the federal government. Because enactment of the bill could affect direct spending and receipts, pay-as-you-go procedures would apply. However, CBO estimates that any impact on direct spending and receipts would not be significant.

CBO has determined that this legislation is excluded from the application of the Unfunded Mandates Reform Act (UMRA) under section 4 of that act, because it would amend the Foreign Corrupt Practices Act (FCPA) in ways that are necessary to implement the Organization for Economic Cooperation and Development Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. Section 4 of UMRA excludes from the application of that act any legislative provisions that are necessary for the ratification or implementation of international treaty obligations.

The bill would expand the FCPA to cover additional offenses relating to corporate bribery of foreign officials. As a result, the federal government would be able to pursue cases that it otherwise would not be able to prosecute. CBO expects that the government probably would not pursue many such cases, however, so we estimate that any increase in federal costs for law enforcement, court proceedings, or prison operations would not be significant. Any such additional costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under the bill could be subject to civil and criminal fines, the federal government might collect additional fines (which are categorized as governmental receipts) if the bill is enacted. However, CBO expects that any additional fines would be negligible because of the small number of cases involved. Collections of criminal fines are deposited in the Crime Victims Fund and spent in the following year. Because any increase in direct spending would equal the fines collected with a one-year lag, the additional direct spending from the Crime Victims Fund also would be negligible.

The CBO staff contact for this estimate is Mark Grabowicz, who can be reached at 226–

2860. This estimate was approved by Paul N. Van de Water, Assistant Director for Budget Analysis.●

## TRIBUTE TO ELIZABETH SNYDER

● Mrs. FEINSTEIN. Mr. President, I rise today to honor Elizabeth Snyder, a longtime civic leader who helped pave the way for women to assume positions of leadership in California. She died in Los Angeles on August 26, 1998.

Elizabeth first came to national attention in 1954, when she was elected Chair of the California Democratic Party, becoming the first woman in the United States to be elected chair of a major political party in any state. In a career that spanned more than half a century, Elizabeth worked prominently in the California presidential campaigns of Harry Truman, Adlai Stevenson, and Lyndon Johnson and served as the California Co-Chair of President Jimmy Carter's 1976 Presidential campaign.

Born on April 8, 1914, in Minnesota of immigrant parents, Elizabeth and her family moved to San Diego in the early 1920s. Following the collapse of her father's business at the outset of the Great Depression, Elizabeth, her mother and two brothers relocated to East Los Angeles where life was, in her words, ''lean, precarious and hard.'' Elizabeth graduated with honors from Garfield High School in 1931. She studied at Los Angeles City College and graduated as a political science major from the University of California at Los Angeles in 1933. She went on to become one of the first two doctoral candidates in UCLA's political science department.

After World War II, Elizabeth became involved in the first of many Congressional campaigns on behalf of her lifelong friend and mentor, Congressman Chet Holifield. In 1959, she co-founded one of California's first political campaign management firms, Snyder-Smith. Although she remained committed to what she believed were the true ideals and principles of the Democratic Party, Elizabeth never hesitated in non-partisan races to support Republicans whom she believed to be best qualified to serve in office.

None of her political activities was more important to Elizabeth than her lifelong effort to bring about greater participation by women in the political arena. During the 1970s, Elizabeth devoted herself to the mentoring of Los Angeles women in politics, holding weekly luncheon meetings of The Thursday Group at her Bunker Hill apartment.

Her dedication to improving our society extended beyond the realm of politics. She was especially proud of her work on the prevention of fetal alcohol syndrome which culminated in ordinances requiring the restaurants and bars to post warnings to women regarding the dangers of alcohol consumption during pregnancy. In addition to all her varied civic activities, Elizabeth will be remembered fondly by the literally thousands of men and women to whom she provided comfort and assistance in overcoming the adversities of alcoholism and substance abuse.

In 1994, she received the prestigious CORO Public Affairs Award in recognition of her lifelong commitment to the reform of the American system of government in which she so deeply believed. As Elizabeth herself once wrote, In the last analysis, the most significant single political activity is not winning elections and defeating opponents, it is improving, expanding and correcting government structure, so that democracy works.

On behalf of my colleagues in the Senate, I extend my heartfelt condolences to her husband, Nathan, and her daughter, United States District Judge, Christina A. Snyder.●

## MEASURE READ THE FIRST TIME—S. 2454

Mr. LOTT. I understand that S. 2454, which was introduced earlier by Senator MCCONNELL and others, is at the desk, and I ask it be read for the first time.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2454) to provide for competition between forms of motor vehicle insurance, to permit an owner of a motor vehicle to choose the most appropriate form of insurance for that person, to guarantee affordable premiums, to provide for more adequate and timely compensation for accident victims, and for other purposes.

Mr. LOTT. I ask now for its second reading, and would object to my own request.

The PRESIDING OFFICER. The objection is heard. The bill will be read the second time on the next legislative day.

## CHILD CUSTODY PROTECTION ACT—MOTION TO PROCEED

Mr. LOTT. I ask unanimous consent that the Senate now turn to consideration of S. 1645, the child custody bill.

Mr. DASCHLE. I object.

The PRESIDING OFFICER. The objection is heard.

### CLOTURE MOTION

Mr. LOTT. In light of the objection, I move to proceed to S. 1645, and send a cloture motion to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

### CLOTURE MOTION

We the undersigned Senators, in accordance with the provision of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to S. 1645, the Child Custody Protection Act:

Trent Lott, Orrin Hatch, Spencer Abraham, Charles Grassley, Slade Gorton, Judd Gregg, Wayne Allard, Pat Roberts, Bob Smith, Paul Coverdell, Craig Thomas, James Jeffords, Jeff Sessions, Rick Santorum, Mitch McConnell, Chuck Hagel.

Mr. LOTT. For the information of all Senators, this cloture vote will occur on Friday, 1 hour after the Senate convenes, unless changed by unanimous consent. I am making an effort to make sure that we have some votes on Friday, but as is usually the case, we would do our best to accommodate Members and have the votes before noon on Friday so we could have cloture vote on this bill, possibly on bankruptcy reform, but I am still hoping we can work that out.

I now ask that the mandatory quorum under rule XXII be waived.

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

Mr. LOTT. I now withdraw the motion.

The PRESIDING OFFICER. The motion is withdrawn.

Mr. LOTT. I yield the floor.

Mr. DASCHLE. Mr. President, I think that a short explanation may be in order with regard to the objection I just made to the motion that has just been filed by the majority leader.

Obviously, there are varied opinions about the nature of this legislation and its propriety and how we might pursue some resolution to the issue of individuals transported from one State to another. I think the fundamental question, once more, is simply procedural. Can we find a way to take into account legitimate concerns that should be raised under a debate of this nature? I believe that there are many relevant amendments that will be declared nongermane but that are certainly relevant to this very complex question.

If a cloture motion on the bill were to be successful, it would preclude those amendments. It is for that reason that I objected.

It is also worth noting that we are being asked to proceed to yet another bill that has had little debate at the same time we are being told that there is not enough time left in the session to debate HMO reform. That causes me concern as well.

Perhaps we could explore the possibility of coming up with a definitive list on this legislation as we are attempting to do on bankruptcy. I don't know. But I do know this, that filing cloture prior to the time we had a debate, filing cloture prior to the time we have even considered whether that option is available to us, in my view, is premature, and for that reason I had to object.

I yield the floor.

Mr. LOTT. Mr. President, could I just inquire of Senator DASCHLE, the Democratic leader, is there some Senator that I should get Senator ABRAHAM to contact about this particular bill, or just talk through you?

Mr. DASCHLE. There are a number of Senators, and I will certainly provide the Senator with the information. I wouldn't want to preclude somebody

by simply giving him a name off the cuff, but there are some Senators that will address this issue, and I am willing to share that with you.

Mr. LOTT. Or if you ask them if they would get in touch with us tomorrow, maybe we can work something out.

## ORDERS FOR THURSDAY, SEPTEMBER 10, 1998

Mr. LOTT. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, September 10. I further ask that when it reconvenes on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and Senator BROWNBACK then be recognized to speak in morning business until 10 a.m.

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

Mr. LOTT. I further ask unanimous consent following the cloture vote on the McCain amendment, Senator GRAHAM of Florida be recognized to speak for up to 1 hour as if in morning business.

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

## PROGRAM

Mr. LOTT. For the information of all Senators, when the Senate reconvenes on Thursday, Senator BROWNBACK will be recognized to speak in morning business until 10 a.m. Following morning business, the Senate will resume the McCain amendment with the time until 12:00 noon equally divided for debate. At noon, Senator FEINGOLD will be recognized to offer a motion to table the McCain amendment. If the amendment is not tabled, the debate time will continue equally divided until 1:45 p.m. At that time, a cloture vote will occur on the McCain campaign finance amendment.

Following that vote, assuming cloture is not invoked, there will be a brief period of morning business, and then the Senate will continue offering and debating amendments to the Interior bill. Therefore, Senators should expect rollcall votes throughout Thursday afternoon and into the night, with the first vote, of course, occurring at 12:00 noon on Thursday.

I really hope that we can make some progress on the Interior appropriations bill. If Senators have amendments they would like to offer, I urge them to come to the floor on Thursday afternoon and Thursday night and we could possibly even carry over a vote or two until Friday and have a sequence of stacked votes. Of course, that will depend on what we are able to get done Thursday afternoon and Friday morning. This is an important bill. There are some important amendments that need to be debated and voted on. I hope we can get started.

Unfortunately, it has kind of been sandwiched between campaign finance reform amendments and cloture votes on national missile defense and also bankruptcy. These are all important, but we need to get more focused on Interior appropriations tomorrow afternoon and tomorrow night.

## ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. LOTT. If there is no further business to come before the Senate, I now ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:38 p.m., adjourned until Thursday, September 10, 1998, at 9:30 a.m.

## NOMINATIONS

Executive nominations received by the Senate September 9, 1998:

### DEPARTMENT OF STATE

DAVID G. CARPENTER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE, VICE ERIC JAMES BOSWELL, RESIGNED, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

DAVID G. CARPENTER, OF VIRGINIA, TO BE DIRECTOR OF THE OFFICE OF FOREIGN MISSIONS, AND TO HAVE THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE, VICE ERIC JAMES BOSWELL, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

WILLIAM LACY SWING, OF NORTH CAROLINA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DEMOCRATIC REPUBLIC OF THE CONGO, TO WHICH POSITION HE WAS APPOINTED DURING THE LAST RECESS OF THE SENATE.

### THE JUDICIARY

MARGARET B. SEYMOUR, OF SOUTH CAROLINA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF SOUTH CAROLINA, VICE WILLIAM B TRAXLER, JR.